

**APPENDICES
TSAWWASSEN FIRST NATION
FINAL AGREEMENT**



TSAWWASSEN FIRST NATION



TABLE OF CONTENTS

INTRODUCTION	1
APPENDIX A	MAP OF TSAWWASSEN TERRITORY.....	3
APPENDIX B	MAP OF TSAWWASSEN LANDS, OTHER TSAWWASSEN LANDS AND RIGHTS OF REFUSAL LANDS	5
APPENDIX C	TSAWWASSEN LANDS.....	7
APPENDIX C-1	Map of Tsawwassen Lands	
APPENDIX C-1-1	Map of Detail of Former Provincial Crown Lands – Parcels 1, 2, 10, 11, 12 and 13	
APPENDIX C-1-2	Map of Detail of Former Provincial Crown Lands – Parcels 3 and 4	
APPENDIX C-1-3	Map of Detail of Former Provincial Crown Lands – Parcels 5, 6, 7, 8 and 9	
APPENDIX C-2	Map of Detail of Tsawwassen Lands – Eagle Way and Lot 34	
APPENDIX C-3	Map of Detail of Tsawwassen Lands – Former Tsawwassen Reserve	
APPENDIX C-4	Parcel Description of Tsawwassen Lands	
APPENDIX C-5	Mines and Minerals Under English Bluff	
APPENDIX D	INTERESTS ON TSAWWASSEN LANDS	27
APPENDIX D-1	List of Locatee Interests on the Former Tsawwassen Reserve	
APPENDIX D-2	List of Leases on Locatee Interests on the Former Tsawwassen Reserve	
APPENDIX D-3	List of Public Utility Transmission and Distribution Works Rights of Way and Other Interests	
	Part 1 Former Provincial Crown Lands	
	Part 2 Former Tsawwassen Reserve	
APPENDIX D-4	List of Beach Lot Interests	
APPENDIX D-5	List of Stahaken Interests	
	Part 1 Phase I	
	Part 2 Phase II	
	Part 3 Phase III	
APPENDIX D-6	List of Tsatsu Shores Interests	
APPENDIX D-7	List of Leases on Former Provincial Crown Lands Included in Tsawwassen Lands	
APPENDIX D-8	Applicable Form of Document Evidencing Interests in Appendix D-1	
APPENDIX D-9	Applicable Forms of Document for Interests on Tsawwassen Lands	
Document 1	Anode Bed Right of Way Agreement (Corporation of Delta)	
Document 2	Public Access Right of Way Agreement (British Columbia)	
Document 3	Transmission Right of Way Agreement (British Columbia Hydro and Power Authority)	

Document 4	Distribution Right of Way Agreement (British Columbia Hydro and Power Authority and Telus Communications Inc.)
Document 5	Natural Gas Distribution Works Right of Way Agreement (Terasen Gas Inc.)
Document 6	Broadband Communications Distribution Works Right of Way Agreement (Delta Cable Communications Ltd.)
Document 7	Cable Landing Site Lease (British Columbia Hydro and Power Authority)
Document 8	Drainage Ditch Right of Way Agreement (Corporation of Delta)

APPENDIX E OTHER TSAWWASSEN LANDS..... 199

APPENDIX E-1-1	Map of Other Tsawwassen Lands – Boundary Bay Parcels
APPENDIX E-1-2	Map of Other Tsawwassen Lands – Fraser River Parcels
APPENDIX E-2	Parcel Description of Other Tsawwassen Lands
	Part 1 Fraser River Parcels
	Part 2 Boundary Bay Parcels
APPENDIX E-3	List of Interests on Other Tsawwassen Lands
	Part 1 Fraser River Parcels
	Part 2 Boundary Bay Parcels
	Part 3 Leases on Boundary Bay Parcels

APPENDIX F TSAWWASSEN WATER LOTS 211

APPENDIX F-1	Map of Tsawwassen Water Lots
APPENDIX F-2	Form of Water Lot Lease

APPENDIX G APPLICATION OF THE AGRICULTURAL LAND RESERVE 227

APPENDIX G-1	Map of Agricultural Land Reserve Designation on Tsawwassen Lands
APPENDIX G-2	Parcel Description of Tsawwassen Lands Included in the Agricultural Land Reserve
APPENDIX G-3	Parcel Description of Tsawwassen Lands Excluded from Agricultural Land Reserve

APPENDIX H RIGHTS OF REFUSAL LANDS 235

APPENDIX H-1	Map of Rights of Refusal Lands
APPENDIX H-2	Parcel Description of Rights of Refusal Lands
APPENDIX H-3	Forms of Rights of Refusal Documents
Document 1	Right of Refusal to Purchase (Standard)
Document 2	Right of Refusal to Purchase (Parcel A)

APPENDIX I SPECIFIED LANDS267

APPENDIX I-1	Map of Specified Lands
APPENDIX I-2	Parcel Description of Specified Lands

APPENDIX J	TSAWWASSEN FISHING	273
APPENDIX J-1	Map of Tsawwassen Fishing Area and Tsawwassen Intertidal Bivalve Fishing Area	
APPENDIX J-2	Tsawwassen Allocations for Fish and Aquatic Plants	
APPENDIX J-3	Principles for Calculating Overages and Underages	
APPENDIX K	TSAWWASSEN WILDLIFE HARVEST AREA	281
APPENDIX K-1	Map of Tsawwassen Wildlife Harvest Area	
APPENDIX L	TSAWWASSEN MIGRATORY BIRD HARVEST AREA	285
APPENDIX L-1	Map of Tsawwassen Migratory Bird Harvest Area	
APPENDIX M	TSAWWASSEN PLANT GATHERING AREAS.....	289
APPENDIX M-1	Map of Tsawwassen Plant Gathering Areas	
APPENDIX M-2	List of Tsawwassen Plant Gathering Areas	
APPENDIX N	NATIONAL PARKS WITHIN TSAWWASSEN TERRITORY...295	
APPENDIX N-1	Map of National Parks within Tsawwassen Territory	
APPENDIX O	TSAWWASSEN HERITAGE SITES AND KEY GEOGRAPHIC FEATURES	299
APPENDIX O-1	Map of Beach Grove Parcels	
APPENDIX O-2	Parcel Description of Beach Grove Parcels	
APPENDIX O-3	List of Cultural and Historic Sites of Significance to Tsawwassen First Nation to be Designated as Provincial Heritage Sites	
APPENDIX O-4	List of Geographic Features to be Named with Tsawwassen Names	
APPENDIX P	DISPUTE RESOLUTION PROCEDURES	309
APPENDIX P-1	Collaborative Negotiations	
APPENDIX P-2	Mediation	
APPENDIX P-3	Technical Advisory Panel	
APPENDIX P-4	Neutral Evaluation	
APPENDIX P-5	Elders Advisory Council	
APPENDIX P-6	Arbitration	
APPENDIX Q	HIGHWAY 17 CORRIDOR	359
APPENDIX Q-1	Map of Highway 17 Corridor	
APPENDIX Q-2	List of Public Utility Works within Highway 17 Corridor	
APPENDIX R	MAP OF DELTAPORT WAY CORRIDOR	365

INTRODUCTION

These appendices form part of the Tsawwassen First Nation Final Agreement entered into between:

Tsawwassen First Nation;

**Her Majesty the Queen
in Right of Canada;**

and

**Her Majesty the Queen
in Right of
British Columbia**

APPENDIX A
MAP OF TSAWWASSEN TERRITORY

APPENDIX B

**MAP OF TSAWWASSEN LANDS, OTHER TSAWWASSEN LANDS
AND RIGHTS OF REFUSAL LANDS**

APPENDIX C

TSAWWASSEN LANDS

APPENDIX C-1	Map of Tsawwassen Lands
APPENDIX C-1-1	Map of Detail of Former Provincial Crown Lands – Parcels 1, 2, 10, 11, 12 and 13
APPENDIX C-1-2	Map of Detail of Former Provincial Crown Lands – Parcels 3 and 4
APPENDIX C-1-3	Map of Detail of Former Provincial Crown Lands – Parcels 5, 6, 7, 8 and 9
APPENDIX C-2	Map of Detail of Tsawwassen Lands – Eagle Way and Lot 34
APPENDIX C-3	Map of Detail of Tsawwassen Lands – Former Tsawwassen Reserve
APPENDIX C-4	Parcel Description of Tsawwassen Lands
APPENDIX C-5	Mines and Minerals Under English Bluff

APPENDIX C-1
MAP OF TSAWWASSEN LANDS

APPENDIX C-1-1

**MAP OF DETAIL OF FORMER PROVINCIAL CROWN LANDS
PARCELS 1, 2, 10, 11, 12 AND 13**

APPENDIX C-1-2

MAP OF DETAIL OF FORMER PROVINCIAL CROWN LANDS – PARCELS 3 AND 4

APPENDIX C-1-3

**MAP OF DETAIL OF FORMER PROVINCIAL CROWN LANDS
PARCELS 5, 6, 7, 8 AND 9**

APPENDIX C-2

MAP OF DETAIL OF TSAWWASSEN LANDS – EAGLE WAY AND LOT 34

APPENDIX C-3

MAP OF DETAIL OF TSAWWASSEN LANDS – FORMER TSAWWASSEN RESERVE

APPENDIX C – 4

PARCEL DESCRIPTION OF TSAWWASSEN LANDS

Note: Information will be updated before the Effective Date. The description of the parcels may change following a resurvey of the parcels that is satisfactory to the Parties before the Effective Date.

Parcel Description	Land Title Office Parcel Identifier
Parcel "3" (Reference Plan 9694), District Lot 183, Group 2 Except: Part Subdivided by Plan 19032, New Westminster District	009-187-634
Lot 1, District Lot 183, Group 2, New Westminster District, Plan 19032	009-292-276
Lot 2, District Lot 183, Group 2, New Westminster District, Plan 19032	009-292-292
Lot 3, District Lot 183, Group 2, New Westminster District, Plan 19032	009-292-322
Lot 5, Except: Firstly: Parcel A, Statutory Right of Way Plan 42153, Secondly: Part Dedicated Road on Plan LMP40488, District Lot 183, Group 2, New Westminster District, Plan 31806	006-677-711
That part of Parcel "2" (Reference Plan 7637), District Lot 183, Group 2, Except: Firstly: Part Subdivided by Plan 19032, Secondly: Parcel "C" (Plan 38001), New Westminster District, as shown for illustrative purposes only in Appendix C-1-1	009-188-126
Parcel "C" (Reference Plan 6995) District Lot 183, Group 2, Except: Firstly: Parcel "2" (Reference Plan 7637, Secondly: Parcel "3" (Reference Plan 9694), Thirdly: Part on Statutory Right of Way Plan 38797, New Westminster District	009-188-266
Parcel "C" (Statutory Right of Way Plan 30741) of Parcel "One" (Reference Plan 6994) District Lot 183, Group 2, New Westminster District	009-188-011
That part of Parcel "One" (Reference Plan 6994) of Parcel "A" (Reference Plan 4574), District Lot 183, Group 2, New Westminster District Except: Firstly: Part Subdivided by Plan 28898, Secondly: Parcel "C" (Reference Plan 30741), Thirdly: Parcel "A" (Plan 38001), Fourthly: Parcel "B" (Plan 38001), Fifthly: Parcel "D" (Plan 42153), Sixthly: Part on Statutory Right of Way Plan 49448, Seventhly: Part on Statutory Right of Way Plan 77524, Eighthly: Part on Statutory Right of Way Plan 38797, Ninthly: Part Dedicated Road on Plan LMP40488, as shown for illustrative purposes only in Appendix C-1-1	009-187-715

Parcel Description	Land Title Office Parcel Identifier
That part of Lot 3, Except: Firstly: Parcel D (Plan 38001), Secondly: Part Dedicated Road on Plan LMP40488, District Lot 184, Group 2, New Westminster District, Plan 839, as shown for illustrative purposes only in Appendix C-1-1	009-286-462
Lot 1, District Lot 108, Group 2, New Westminster District, Plan 20071	008-640-602
Lot 2, District Lot 108, Group 2, New Westminster District, Plan 20071	008-640-611
Lot 3, Except: Part Dedicated Road on Plan LMP40488, District Lot 108, Group 2, New Westminster District, Plan 20071	008-640-629
Parcel "A" (Reference Plan 7741) Lot 10, Except: Southerly 15 Feet (Plan with Bylaw Filed 40665), District Lots 108 & 109, Group 2, New Westminster District, Plan 3033	009-182-322
Southerly 15 feet (Plan with Bylaw Filed 40665) of Parcel "A" (Reference Plan 7741) Lot 10, District Lots 108 & 109, Group 2, New Westminster, Plan 3033	009-182-365
Parcel "A" (Reference Plan 4632) District Lot 107, Group 2 Except: Part Subdivided by Plan 40534, New Westminster District	009-187-065
Parcel "B" (Explanatory Plan 5633) of District Lot 107, Group 2, New Westminster District	009-187-081
Parcel "C" (Plan with Fee Deposited 52551F) of District Lot 107, Group 2, New Westminster District	009-187-111
Lot 6, District Lot 183, Group 2, New Westminster District, Plan 42391	006-473-865
District Lot 833, Group 2, New Westminster District	009-189-262
Southerly Half Parcel "B" (Reference Plan 4554), South West Quarter Section 22, Township 5, New Westminster District	009-189-513
Northerly Half Parcel "B" (Explanatory Plan 4554), South West Quarter Section 22, Township 5 Except: part subdivided by Plan 23543, New Westminster District	009-189-548
Lot "D" Section 22, Township 5, New Westminster District, Plan 23543	009-209-352
Part (40 chains by 28.55 chains) South West Quarter, Section 22, Township 5, Having a Frontage of 40 Chains on the North boundary and 28.55 Chains of the East Boundary, New Westminster District	009-189-599
North West Quarter, Section 15, Township 5, New Westminster District, except 1 ha area, as shown for illustrative purposes only in Appendix C-1-3	009-189-386
Parcel "E" (W156021E) South West Quarter, Section 15, Township 5, New Westminster District Except: Part on Highway Statutory Right of Way Plan 42535	009-189-459

Parcel Description	Land Title Office Parcel Identifier
Lot "B", District Lot 185, Group 2 New Westminster District, Plan 17089	009-185-372
District Lot 185, Group 2 Except: Firstly: Parcel "A" (Reference Plan 7696), Secondly: Part Subdivided by Plan 17089, New Westminster District	011-827-891
West 33 Feet, District Lot 183, Group 2, New Westminster District	009-187-901
Tsawwassen Indian Reserve, Map of Reserve recorded as 4111 RSBC	
Eagle Way, Road Plan CLSR RD1801	
Lot 34, Plan CLSR 71091	008-001-979

APPENDIX C – 5

MINES AND MINERALS UNDER ENGLISH BLUFF

All mines and minerals, whether precious or base, and whether solid, liquid or gaseous, including any coal, petroleum, and any gas or gases, that may be found in, under or upon those parcels of land the surface interests for which were surrendered for sale under Order-in-Council P.C. 1957-499 dated April 11, 1957, and under Order-in-Council P.C. 1957-1576 dated November 28, 1957, and that are legally described as:

Parcel 1, Plan 4444 CLSR, DL 169, Group 2, New Westminster District (87.9 acres); and

Parcel A, Plan 4751 CLSR, DL 169, Group 2, New Westminster District (5.31 acres).

APPENDIX D

INTERESTS ON TSAWWASSEN LANDS

APPENDIX D-1	List of Locatee Interests on the Former Tsawwassen Reserve
APPENDIX D-2	List of Leases on Locatee Interests on the Former Tsawwassen Reserve
APPENDIX D-3	List of Public Utility Transmission and Distribution Works Rights of Way and Other Interests
Part 1	Former Provincial Crown Lands
Part 2	Former Tsawwassen Reserve
APPENDIX D-4	List of Beach Lot Interests
APPENDIX D-5	List of Stahaken Interests
Part 1	Phase I
Part 2	Phase II
Part 3	Phase III
APPENDIX D-6	List of Tsatsu Shores Interests
APPENDIX D-7	List of Leases on Former Provincial Crown Lands Included in Tsawwassen Lands
APPENDIX D-8	Applicable Form of Document Evidencing Interests in Appendix D-1
APPENDIX D-9	Applicable Forms of Document for Interests on Tsawwassen Lands
Document 1	Anode Bed Right of Way Agreement (Corporation of Delta)
Document 2	Public Access Right of Way Agreement (British Columbia)
Document 3	Transmission Right of Way Agreement (British Columbia Hydro and Power Authority)
Document 4	Distribution Right of Way Agreement (British Columbia Hydro and Power Authority and Telus Communications Inc.)
Document 5	Natural Gas Distribution Works Right of Way Agreement (Terasen Gas Inc.)
Document 6	Broadband Communications Distribution Works Right of Way Agreement (Delta Cable Communications Ltd.)
Document 7	Cable Landing Site Lease (British Columbia Hydro and Power Authority)
Document 8	Drainage Ditch Right of Way Agreement (Corporation of Delta)

APPENDIX D – 1

LIST OF LOCATEE INTERESTS ON THE FORMER TSAWWASSEN RESERVE

Note: Information will be updated before the Effective Date.

Parcel Description and First Nation Land Register System Parcel Identification (PIN) Number	Interest Holder
Lot 2-1-1 CLSR 74105 PIN 902001991	Williams, Cory Russell & Williams, Darren Benedict (undivided ½ each) (NETI) ¹
Lot 2-2-1 RSBC 2266 PIN 902002339	Williams, Cory Russell (CP 53401) ²
Lot 3-1-1 RSBC 2209 PIN 902002342	Larden, Phyllis Shirley (CP 53191)
Lot 3-4 CLSR 76355 PIN 902002344	Jacobs, Frederick Lewis (CP 109000)
Lot 7-4 CLSR 64050 PIN 902002057	Jacobs, Frederick Anthony (CP 29173)
Lot 7-7 CLSR 76869 PIN 902004680	Jacobs, Frederick Lewis (CP 109008)
Lot 7-8-1 RSBC 3271R PIN 902501412	Jacobs, Andrea Coral (CP 136673)
Lot 7-8-2 RSBC 3271R PIN 902501413	Jacobs, Frederick Lewis (CP 136674)
Lot 7-9 CLSR 80940 PIN 902013589	Jacobs, Deanna Gay (CP 126808)
Lot 7-10 CLSR 80940 PIN 902013603	Jacobs, Deanna Gay (CP 126828)
Lot 7-11 CLSR 80940 PIN 902013600	Jacobs, Deanna Gay (CP 126822)
Lot 7-12 CLSR 80940 PIN 902013604	Jacobs, Deanna Gay (CP 126829)
Lot 7-13-1 RSBC 3034R PIN 902016706	Jacobs, Frederick Lewis (CP 132388)
Lot 7-13-2 RSBC 3034R PIN 902016707	Jacobs, Frederick Lewis (CP 132389)

¹ NETI - No Evidence of Title Issued

² CP - Certificate of Possession

Parcel Description and First Nation Land Register System Parcel Identification (PIN) Number	Interest Holder
Lot 7-13-3 RSBC 3034R PIN 902016708	Grann, John James (CP 144750)
Lot 7-13-4 RSBC 3034R PIN 902016709	Grann, John James (CP 144753)
Lot 7-13-5 RSBC 3034R PIN 902016710	Grann, Deanne Faye Kathren (CP 144754)
Lot 7-13-6 RSBC 3034R PIN 902016705	Grann, Deanne Faye Kathren (CP 144856)
Lot 7-13-7 RSBC 3034R PIN 902016711	Jacobs, Frederick Lewis (CP 132393)
Lot 7-13-8 RSBC 3034R PIN 902016703	Jacobs, Frederick Anthony (CP 132385)
Lot 7-13-9 RSBC 3034R PIN 902016704	Jacobs, Andrea Coral (CP 132386)
Lot 7-13-10 RSBC 3034R PIN 902016712	Jacobs, Frederick Lewis (CP 132394)
Lot 7-13-11 RSBC 3034R PIN 902016713	Jacobs, Frederick Lewis (CP 132395)
Lot 9-1 CLSR 63244 PIN 902002124	Koller, Leileani Tina (CP 142387)
Lot 9-6 CLSR 73672 PIN 902005676	Koller, Leileani Tina (CP 108188) & Legge (Williams), Tammy Faye (CP 108189) (undivided ½ each)
Lot 9-7 CLSR 73672 PIN 902005677	Baird, Terry William (CP 130406)
Lot 9-8 CLSR 73672 PIN 902005678	Baird, Kimberley Carolyn (CP 110335)
Lot 9-9 CLSR 73672 PIN 902005679	Baird, Edith Marilyn (CP 108193)
Lot 9-10 CLSR 73672 PIN 902005680	Baird, Michael Simon (CP 123485)
Lot 9-11 CLSR 73672 PIN 902005681	Baird, Kenneth Lorne (CP 130407)
Lot 9-12 CLSR 73672 PIN 902005682	Joe, David James (CP 108205) & Joe, Marvin Andrew (CP 108204) (undivided ½ each)
Lot 9-13 CLSR 73672 PIN 902005683	Watson, Cynthia Ann (CP 108207)
Lot 9-14 CLSR 73672 PIN 902005684	Cardinal, James Brian (CP 108210) & Cardinal, Renee Rosanne (CP 108209) & Eely, Gina Fern (CP 108208) (undivided 1/3 each)

Parcel Description and First Nation Land Register System Parcel Identification (PIN) Number	Interest Holder
Lot 9-15-2 CLSR 90937 PIN 902518885	Jacobs, Deanna Gay
Lot 10-1-2 CLSR 74686 PIN 902009877	Williams, Bessie Marion (CP 119362) & Williams, Gordon George (CP 119363) & Williams, Marvin Wray (CP 119364) (undivided $\frac{1}{3}$ each)
Lot 10-2-1 RSBC 3273R PIN 902007882	Williams, Gordon George (CP 136436) & Williams, Marvin Wray (CP 136435) (undivided $\frac{1}{2}$ each)
Lot 10-7 RSBC 3273R PIN 902502251	Williams, Laura Marie Cassidy (CP 137383)
Lot 10-8 RSBC 3273R PIN 902502252	Williams, Gordon George (CP 137385) & Williams, Marvin Wray (CP 137384) (undivided $\frac{1}{2}$ each)
Lot 11 CLSR 50147 PIN 902002074	Williams, Joanne Lynn
Lot 12 CLSR 50147 PIN 902002075	Williams, Dorothy (Estate) (CP 52467)
Lot 13-2-1 CLSR 74578 PIN 902002105	Williams, Tammy Faye (CP 47728)
Lot 13-3 CLSR 63244 PIN 902002101	Williams, Russell Isaac (CP 6551)
Lot 13-4-1 RSBC 2576R PIN 902006922	Williams, Cory Russell (CP 112654) (undivided $\frac{1}{4}$) & Williams, Darren Benedict (CP 112655) (undivided $\frac{1}{4}$) & Williams, Russell Isaac (CP 112653) (undivided $\frac{1}{2}$)
Lot 13-4-2 RSBC 2576R PIN 902006921	Williams, Emily Merle (CP 112652)
Lot 14 CLSR 50147 PIN 902002076	Jacobs, Herman Albert (Estate) (CP 31603)
Lot 15 CLSR 50147 PIN 902002077	Williams, Dorothy (Estate) (CP 52466)
Lot 16-1-2 CLSR 74579 PIN 902002081	Williams, Mabel Charleen (CP 70604)
Lot 16-1-4 RSBC 2965R PIN 902016082	Williams, Bertha Marie (CP 130454)
Lot 16-1-5 RSBC 2965R PIN 902014823	Williams, Bertha Marie (CP 127998)
Lot 16-1-6 RSBC 2965R PIN 902014815	Williams, Bertha Marie (CP 130455)
Lot 16-1-7 RSBC 2965R PIN 902014816	Williams, Dorothy (Estate) (CP 127991)

Parcel Description and First Nation Land Register System Parcel Identification (PIN) Number	Interest Holder
Lot 16-1-8 RSBC 2965R PIN 902014821	Williams, Bertha Marie (CP 129925)
Lot 16-2 RSBC 520 PIN 902002080	Williams, Bertha Marie (CP 129848)
Lot 17 CLSR 50147 PIN 902002086	Williams, Dorothy (Estate) (CP 52468)
Lot 18 CLSR 50147 PIN 902002087	Splockton, Joseph Jr. (Estate) (CP 9232)
Lot 19-1 RSBC 3475R PIN 902505480	Jacobs, John William (CP 140067)
Lot 19-2 RSBC 3475R PIN 902505481	Jacobs, Margaret Alice (CP 140068)
Lot 20-5-2 RSBC 3116R PIN 902016700	Gurniak, Clint Allan (CP 133852)
Lot 20-6 RSBC 70940 PIN 902015229	Gurniak, Clint Allan (CP 128925)
Lot 21-1 CLSR 73686 Pin 902005686	Baird, Edith Marilyn (CP 108219)
Lot 21-2 CLSR 73686 PIN 902005687	Eely, Gina Fern (CP 108241) & Cardinal, James Brian (CP 108226) & Cardinal, Renee Rosanne (CP 108242) (undivided $\frac{1}{3}$ each)
Lot 21-3 CLSR 73686 PIN 902005688	Watson, Cynthia Ann (CP 108227)
Lot 21-4 CLSR 73686 PIN 902005689	Gurniak, Chrystalynn (CP 130408)
Lot 21-5 CLSR 73686 PIN 902005693	Legge, Tammy Faye (CP 108239) & Koller, Leileani Tina Monica (CP 108240) (undivided $\frac{1}{2}$ each)
Lot 21-6-2 RSBC 3413R PIN 902508049	Joe, David James (CP 141951) & Joe, Marvin Andrew (CP 141950) (undivided $\frac{1}{2}$ each)
Lot 21-7 CLSR 73686 PIN 902005691	Joe, David James (CP 108231) & Joe, Marvin Andrew (CP 108234) (undivided $\frac{1}{2}$ each)
Lot 22 CLSR 50147 PIN 902002093	Jacobs, Frederick Lewis (CP 6467)
Lot 23-1 CLSR 74105 PIN 902001992	Williams, Cory Russell (CP 119886) & Williams, Darren Benedict (CP 119885) (undivided $\frac{1}{2}$ each)
Lot 23-3 RSBC 3563R PIN 902507823	Williams, Cory Russell (CP 142365) & Williams, Darren Benedict (CP 142366) (undivided $\frac{1}{2}$ each)
Lot 46-1-1 RSBC 2710R PIN 902007819	Bak, Jason Daniel (CP 133461)

Parcel Description and First Nation Land Register System Parcel Identification (PIN) Number	Interest Holder
Lot 46-1-3 RSBC 2710R PIN 902007820	Bak, Andrew Simon (CP 133462)
Lot 46-2-2 RSBC 3012R PIN 902511067	Bak, Andrew Simon (CP 145881)
Lot 46-2-3 RSBC 3012R PIN 902511068	Bak, Fraeser Steven (CP 145882)
Lot 46-3 RSBC 3143R PIN 902511066	Bak, Andrew Simon (CP 145878) & Bak, Fraeser Steven (CP 145876) & Bak, Jason Daniel (CP 145877) (undivided $\frac{1}{3}$ each)
Lot 46-4 RSBC 3143R PIN 902511069	Larden, Phyllis Shirley (CP 145883)
Lot 155 CLSR 74027 PIN 902009244	Grann, Peter Clay
PCL U CLSR 65242 PIN 902002120	Joe, David James (CP 38766)
PCL V CLSR 65242 PIN 902002121	Joe, David James & Joe, Marvin Andrew [CP 30704 (joint tenants) & CP 31706 (undivided $\frac{1}{2}$ each)]
PCL W CLSR 65242 PIN 902002126	Joe, David James & Joe, Marvin Andrew (CP 30703) (joint tenants)
Private Road CLSR 57946 PIN 902002855	Joe, David James (CP 101637) & Joe, Marvin Andrew (CP 101638) (undivided $\frac{1}{2}$ each)

APPENDIX D – 2

**LIST OF LEASES ON LOCATEE INTERESTS ON THE
FORMER TSAWWASSEN RESERVE**

Note: Information will be updated before the Effective Date.

Parcel Description and FNLRS³ Parcel Identification (PIN) Number	Lessee(s)	FNLRS Lease Number	Term	FNLRS Mortgage(s) Number
Lot 9-12-2 CLSR 76069 PIN 902005878 and Road R/W Lot 9-12-3 CLSR 76069 PIN 902005880	F440 Racing Challenge Ltd.	223073 247436	April 1, 1994 to March 31, 2009	
Lot 153 CLSR 69264 PIN 902002129; Lot 9-12-1 CLSR 75049 PIN 902004859; and R/W shown on CLSR 75049	Splashdown Waterparks Inc.	989832 298447	October 1, 2001 to September 30, 2006	98934 LMA03828
Lot 154 RSBC 1148 PIN 902002131	Triple O Holdings Ltd.	112452	Month to Month	101188
Lot 46-3-1 RSBC 3857R PIN 902514466	600911 BC Ltd. (Tsatsu Gas)	LMA02351	July 1, 2004 to June 30, 2053	
Portion Lot 7-6-1 CLSR 74027 PIN 902005372R	Tsawwassen Park & Sail Ltd.	218771	June 1, 1993 to April 31, 2003	

³ FNLRS – First Nation Land Register System

PART 1 OF APPENDIX D – 3

LIST OF PUBLIC UTILITY TRANSMISSION AND DISTRIBUTION WORKS RIGHTS OF WAY AND OTHER INTERESTS ON FORMER PROVINCIAL CROWN LANDS

Note: Information will be updated before the Effective Date.

Interest Holder	Interest	Location (Land Title Office Parcel Identifier)	Land Title Office Document Reference Number
British Columbia Hydro and Power Authority	Transmission Line Statutory Right of Way	009-187-715 009-286-462	BW71193
British Columbia Hydro and Power Authority	Transmission Line Statutory Right of Way	009-187-715	C69487
British Columbia Hydro and Power Authority	Transmission Line Statutory Right of Way	009-187-715 009-286-462 009-189-459	J22376
British Columbia Hydro and Power Authority	Transmission Line Statutory Right of Way	009-185-372 009-187-901 009-187-715 009-286-462	N26854
British Columbia Hydro and Power Authority	Cable Landing Site Easement	006-677-711 009-188-011	C69484 Plan 30857
Corporation of Delta	Dyke and Drainage Ditch Statutory Right of Way (Expiry Date: August 21, 2007)	009-185-372 009-187-901 009-187-715 006-677-711 011-827-891	BX378101 Plan 55804 Plan LMP49838 Plan LMP49486
Corporation of Delta	Drainage Ditch and Telecommunications Equipment Statutory Right of Way (Expiry Date: August 21, 2007)	006-473-865 009-187-065 009-187-081 009-187-111	BX570387 Plan LMP44765
Corporation of Delta	Drainage Ditch Statutory Right of Way (Expiry Date: August 21, 2007)	009-189-386 009-189-459	BX570388 Plan LMP44766
Corporation of Delta	Dyke and Drainage Ditch Statutory Right of Way (Expiry Date: August 21, 2007)	009-188-266	BX570389 Plan LMP49838

Interest Holder	Interest	Location (Land Title Office Parcel Identifier)	Land Title Office Document Reference Number
Corporation of Delta	Drainage Ditch Statutory Right of Way (Expiry Date: August 21, 2007)	009-187-715 009-286-462	BX570390 Plan LMP40545
Corporation of Delta	Drainage Ditch Statutory Right of Way (Expiry Date: March 22, 2053)	009-189-386 009-189-459 009-189-513	BG332824 Plan 51239

PART 2 OF APPENDIX D-3

LIST OF PUBLIC UTILITY TRANSMISSION AND DISTRIBUTION WORKS RIGHTS OF WAY AND OTHER INTERESTS ON FORMER TSAWWASSEN RESERVE

Note: Information will be updated before the Effective Date.

Interest Holder	Interest	Location	Document Reference Number
British Columbia Hydro and Power Authority	Transmission Line Right of Way DC1 and Cable Landing Site Lease (Expiry Date of Lease: 999 years from June 1, 1969)	As per Plan CLSR 56017 as amended by Plan CLSR 73245	FNLRS ⁴ 1833-32 and 57562
British Columbia Hydro and Power Authority	Distribution Line Permit	As per Plan CLSR M3683 and RSBC 2281	FNLRS 7572-248, 271724, 207238 and BCR ⁵ 007-99/00
British Columbia Hydro and Power Authority	Distribution Line Permit	Extension of CLSR M3683 through Beach Lot 44 Plan CLSR 50443	FNLRS 7574-248
British Columbia Hydro and Power Authority	Distribution Line Permit	Along Tsawwassen Drive South	BCR 0058-97/98
British Columbia Hydro and Power Authority	Distribution Line Permit	Along Falcon Way, Raven Lane and Eagle Lane as per Drawing D412-D08-D284	BCR (20/Jan/89)
British Columbia Hydro and Power Authority	Distribution Line Permit	Pacific Drive (Stahaken)	Stahaken Developments Ltd. Lease
Terasen Gas Inc.	Distribution Line Permit IR -016 (1994)	Lots 9-12, 9-12-2, 9-12-3 CLSR 73672 as per Drawing A1-3384	BCR 0001-94/95
Terasen Gas Inc.	Distribution Line Permit IR-026 & IR-037 (1982)	Pacific Drive (Stahaken)	Stahaken Developments Ltd. Lease
Terasen Gas Inc.	Distribution Line Permit IR -032 (1972)	Beach Lots 27 & 28 CLSR 50443 as per Drawing CG0-2923-C	FNLRS X10012

⁴ FNLRS - First Nation Land Register System

⁵ BCR – Band Council Resolution

Interest Holder	Interest	Location	Document Reference Number
Terasen Gas Inc.	Distribution Line Right of Way IR-033 (1968)	Beach Lots 44 & 46 CLSR 50443, as per Drawing GCO-821-C	FNLRS 1363 BCR (17/Oct/67)
Terasen Gas Inc.	Distribution Line Lease IR -050 (1996)	Tsatsu Shores as per SHO Drawing 13439	BCR 0004-96/97
Terasen Gas Inc.	Distribution Line Permit IR-065 (1998)	Lot 20 CLSR 50147, as per Drawing MCO-280166	BCR 0086-96/97
Terasen Gas Inc.	Distribution Line Permit IR-094 (2000)	Along Tsawwassen Drive, as per Drawing MCO-305532	BCR 0095-00/01
Telus Communications Inc.	Distribution Line Permit	As per Plan CLSR M3683	FNLRS 7572-248
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CX-0-1150 (Stahaken)	FNLRS 103640 BCR (22/May/85)
Telus Communications Inc.	Distribution Line Permit	As per Drawing CC-2-13895 superceded by RSBC 2217	BCR (31/May/88)
Telus Communications Inc.	Distribution Line Permit	As per Drawing CP-1-22075	BCR (21/May/96)
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-1-21896M	BCR (23/Jul/96)
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-1-2212	BCR (8/Aug/96)
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-1-19973	BCR 0052-97/98 (21/Dec/98)
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-40094A	BCR 0011-9/2000 (9/Feb/99)
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-3-22466	BCR 0024-97/98 (8/Jul/97)

Interest Holder	Interest	Location	Document Reference Number
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-1-21917	Letter (22/Feb/96)
Telus Communications Inc.	Distribution Line Permit	As per BC Tel Drawing CP-2-40094A	BCR (9/Feb/99)
Delta Cable Communications Ltd.	Distribution Line Permit	Along aerial and underground works owned by Telus, as per Delta Cable Drawing	Support Structure Agreement with Telus
Corporation of Delta	Ditch, Pump Station and Licensed Radio Equipment Right of Way	Intersection of Eagle Way and Tsawwassen Drive	FNLRS 7560-247 Radio Licence #3043040 XLP 310 (Registered with Transport Canada)
Corporation of Delta	Storm Pipe Permit	As per Plan CLSR 53298	FNLRS 8037
Corporation of Delta	Water Line Permit	As per Plan CLSR 52164 LTO 27682 (Stahaken)	FNLRS 7573-248 and 72365
Corporation of Delta	Drainage Easement	As per LTO Plan 75032 (Stahaken)	LTO AA127374 LTO AA127375 LTO AA127376 LTO AA127377 LTO AA127378
Corporation of Delta	Drainage Easement	As per LTO Plan 77167 (Stahaken)	LTO AB030975
Corporation of Delta	Drainage Easement	As per LTO Plan 77168 (Stahaken)	LTO AB030976
Corporation of Delta	Entry Way Easement	As per LTO Plan 65888 (Stahaken)	LTO Y111998 LTO Y111999
Corporation of Delta	Water Works Statutory Right of Way	As per LTO Plan 64863 (Stahaken)	LTO AA127370
Corporation of Delta	Water, Sanitary Sewer and Drainage Statutory Right of Way	As per LTO Plan 75031 (Stahaken)	LTO AA127371

Interest Holder	Interest	Location	Document Reference Number
Corporation of Delta	Sanitary Sewer Statutory Right of Way	Lots 4, 5, 16, 17, 18 and 19 CLSR 71091 and Lots 1 to 27 CLSR 77165 (Stahaken)	LTO AA127372
Corporation of Delta	Water, Sanitary Sewer and Drainage Statutory Right of Way	As per LTO Plan 79357 (Stahaken)	LTO AB206884
Corporation of Delta	Storm Pipe Easement	Beach Lots 39, 40, 45 and 46 CLSR 50443 (Beach Lots)	Plan CLSR 51044
Corporation of Delta	Watermain Right of Way	Lots 45 and 46 CLSR 50443 (Beach Lots)	Plan CLSR 65622
Corporation of Delta	Drainage Ditch Right of Way	Lot 3-1-1 RSBC 2209; Lot 3-4 CLSR 76355; Lot 7-7 CLSR 76869; Lot 23-1 CLSR 74105; Lot 23-3 RSBC 3563R	Plan CLSR 68283
Beach Lots 24, 25 and 26 CLSR 50443	Access Easement	Beach Lot 27 CLSR 50443	FNLRS 308446
Beach Lots 24, 25, 26 and 27 CLSR 50443	Access Easement	Beach Lot 28 CLSR 50443	FNLRS 306887
482433 BC Ltd.	Access Easement (concrete footings, drain tiles and support) (Expiry Date: June 22, 2093)	R4 RW Lot 161-2 CLSR 78840 as relates to Lot 161-1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 245652 and 245984
482433 BC Ltd.	Access Easement (services) (Expiry Date: June 22, 2093)	Lot 16-2 CLSR 78840 as relates to Lot 161-1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 245631 and 245984
482433 BC Ltd.	Access Easement (landscaping and services) (Expiry Date: June 22, 2093)	Lot 161-4 CLSR 78840 as relates to Lot 161- 1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 245634 and 245984

Interest Holder	Interest	Location	Document Reference Number
483071 BC Ltd.	Access Easement (services)	Lot 161-1 less Lot 161-1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 299656
Tsatsu Development Corporation	Access Easement (services) (Expiry Date: May 8, 2023)	Lot 161-1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 245629
Tsatsu Shores Development Ltd.	Access Easement (boardwalk) (Expiry Date: May 8, 2023)	R2 RW Lot 161-1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 245655
Tsatsu Development Corporation	Access Easement (boardwalk) (Expiry Date: May 8, 2023)	R2 RW Lot 161-1-1 CLSR 74880 (Tsatsu Shores)	FNLRS 245688
Crown (Canada)	Access Easement (storm outfall and services) (Expiry Date: June 22, 2093)	R1 RW Lot 161-1-1 CLSR 78840 (Tsatsu Shores)	FNLRS 245614
Tsatsu Shores Development Ltd.	Access Easement (services and support)	Lot 161-1-1 CLSR 78841 (Tsatsu Shores)	FNLRS 245634
Tsatsu Shores Development Ltd.	Access Easement (concrete footings, drain tiles and support)	Lot 161-2 CLSR 78841 (Tsatsu Shores)	FNLRS 245652
Tsatsu Shores Development Ltd.	Access Easement (services) (Expiry Date: June 22, 2093)	R1 RW Lot 161-1-1 CLSR 78841 (Tsatsu Shores)	FNLRS 245637
Tsatsu Development Corporation	Access Easement (services)	Lot 161-1-1, 161-2 and 161-3 CLSR 78840 (Tsatsu Shores)	Plan CLSR 78840
Tsatsu Shores Development Ltd.	Access Easement	Block "C" DL 797 (Tsatsu Shores)	
Tsatsu Shores Development Ltd.	Access Easement (services)	Block "C" DL 797 & DL 920 (Tsatsu Shores)	
Tsatsu Shores Development Ltd.	Access Easement (boardwalk)	Block "C" DL 797 (Tsatsu Shores)	
Tsatsu Development Corporation	Access Easement (boardwalk)	Block "C" DL 797 (Tsatsu Shores)	
Tsatsu Shores Development Ltd.	Access Easement (storm outfall)	Block "C" DL 797 (Tsatsu Shores)	

Interest Holder	Interest	Location	Document Reference Number
Tsawwassen First Nation	Sewer Right of Way	Lots 7-11 and 7-12 CLSR 80940	FNLRS 286177
Tsawwassen First Nation	Sewer Right of Way	Lot 9-1 CLSR 63244	FNLRS 286181
Tsawwassen First Nation	Sewer Right of Way	Lot 9-9 CLSR 73672	FNLRS 286180
Tsawwassen First Nation	Sewer Right of Way	Lot 9-10 CLSR 73672	FNLRS 286179
Tsawwassen First Nation	Sewer Right of Way	Lot 9-12 CLSR 73672	FNLRS 286182
Lot 7-13-6 RSBC 3034R	Access Right of Way Agreement	Lot 7-13-10 RSBC 3034R	FNLRS 278822
Lot 7-13-8 RSBC 3034R	Access Right of Way Agreement	Lot 7-13-10 RSBC 3034R	FNLRS 278820
Lot 7-13-9 RSBC 3034R	Access Right of Way Agreement	Lot 7-13-10 RSBC 3034R	FNLRS 278821
Lot 10-1-1 CLSR 74686	Access Easement	Lot 10-1-2 CLSR 74686	FNLRS 249061 Plan RSBC 3273R
Lot 21-1 CLSR 73686	Access Right of Way	Lot 21-4 CLSR 73686	Plan CLSR 73686
Lot 21-2 CLSR 73686	Access Right of Way	Lots 21-1 and 21-4 CLSR 73686	Plan CLSR 73686
Lot 21-3 CLSR 73686	Access Right of Way	Lots 21-1, 21-2, 21-4, 21-5 and 21- 7 CLSR 73686	Plan CLSR 73686
Lot 21-4 CLSR 73686	Access Right of Way	Lot 21-1 CLSR 73686	Plan CLSR 73686
Lot 21-5 CLSR 73686	Access Right of Way	Lot 21-1, 21-2 and 21-4 CLSR 73686	Plan CLSR 73686
Lot 21-7 CLSR 73686	Access Right of Way	Lots 21-1, 21-2, 21-3, 21-4 and 21-5 CLSR 73686	Plan CLSR 73686

Interest Holder	Interest	Location	Document Reference Number
Heirs of the Estate of Albert Joseph Jacobs	Agreement of Heirs	Beach Lots 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 44 and 159 CLSR 50443; Beach Lots 41-1, 41-2 and 42-1 CLSR 51129; Beach Lot 158 CLSR 73586; and Beach Lots 163 and 164 CLSR 79235	FNLRS 120482

APPENDIX D – 4

LIST OF BEACH LOT INTERESTS

Note: Information will be updated before the Effective Date.

Lot Number	First Nation Land Register System (FNLRS) Parcel Identification Number	Lease and Assignment FNLRS Number	Mortgage(s) FNLRS Number
Beach Lot 24 CLSR 50443	902001909	300315	
Beach Lot 25 CLSR 50443	902001911	300316	
Beach Lot 26 CLSR 50443	902001913	299838	
Beach Lot 27 CLSR 50443	902001914	313639 299839	313640
Beach Lot 28 CLSR 50443	902001915	242107 290530 116231	242108 308438
Beach Lot 29 CLSR 50443	902001916	LMA02707 290547 251781 116233	LMA02708
Beach Lot 32 CLSR 50443	902001922	LMA03895 290543 116237	
Beach Lot 33 CLSR 50443	902001921	LMA02642 290544 116239	LMA02643
Beach Lot 34 CLSR 50443	902001923	LMA03840 290542 126107	LMA03883
Beach Lot 35 CLSR 50443	902001926	283323 290502 116242	LMA03169 LMA03176
Beach Lot 36 CLSR 50443	902001927	283289 290504 116244	LMA03733
Beach Lot 37 CLSR 50443	902001930	LMA01539 290509 116246	LMA03292 LMA03424 LMA03741
Beach Lot 38 CLSR 50443	902001931	290511 116248	LMA03821

Lot Number	First Nation Land Register System (FNLRS) Parcel Identification Number	Lease and Assignment FNLRS Number	Mortgage(s) FNLRS Number
Beach Lot 39 CLSR 50443	902001932	LMA03195 290506 116250	LMA03196
Beach Lot 40 CLSR 50443	902001933	266238 290512 116252	266241
Beach Lot 41-1 CLSR 51129	902001934	129586 290513 116254	
Beach Lot 41-2 CLSR 51129	902001937	LMA02988 290518 116256	LMA02989
Beach Lot 42-1 CLSR 51129	902001941	255920 290518 116256	
Beach Lot 44 CLSR 50443	902001944	LMA02854 307716	
Beach Lot 158 CLSR 73586	902002578	314931 295122 290527 207239 116235	314932
Beach Lot 159 CLSR 50443	902002582	261615 290520 207241 127901	261617
Beach Lot 163 CLSR 79235	902001942	228313 252046 290514 116258	309653
Beach Lot 164 CLSR 79235	902001943	311093	311194
Lot 45 (Road) CLSR 50443		298441 52725	
Lot 46 (Road) CLSR 50443		298441 52725	
Lot 165 (Road) CLSR 81794		298441	

PART 1 OF APPENDIX D - 5

LIST OF STAHAKEN INTERESTS - PHASE I

Note: Information will be updated before the Effective Date.

PHASE I - CLSR 68397 - LTO PLAN 65431						
Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 50	Z96041E	001-828-002	902001706	Y83159 109677	BG150150 213515	
Lot 51	Z96042E	001-828-011	902001713	AA176774 117827	AA176775 117828	
Lot 52	Z96043E	001-282-029	902001717	Y83160 118790	BP155833 281843	BX502673 LMA02366
Lot 53	Z96044E	001-828-037	902001718	Y83161 109049	BK494877 LMA03173	BX494878 LMA03174
Lot 54	Z96045E	001-828-045	902001720	Y83162 117767	BK125267 241737	BM273835 265453
Lot 55	Z96046E	001-492-781	902001721	Y83163 109044	BV450087 313162	BV450088 313167
Lot A (Y4976 9) formerly Lots 56 & 57	Z96047E	001-492-772	902001862 & 902001864	Y83164	BL158735 251835	
Lot 58	Z96048E	001-492-799	902001724	Y83165 109054	BJ205157 234713	BW57616
Lot 59	Z96049E	001-492-811	902001730	Y83166 109055	BT88939 297632	BT88940 297633 BW329293 LMA01936 BW329294 LMA01937
Lot 60	Z96050E	001-828-053	902001731	Y83167 109052	AA16443 118490	

PHASE I - CLSR 68397 - LTO PLAN 65431						
Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 61	ZZ96051 E	001-828-061	902001733	Y83168 109051	BK372504 247826	BX259668 LMA02985 BV317290 311245
Lot 62	Z96052E	001-828-070	902001734	Y83169 109050	BX592778 AA169096	BL115622
Lot 63	Z96053E	001-828-088	902001735	Y83170 109056	BP149569 281965	BP149570 281966 BX402536 LMA02286
Lot 64	Z96054E	001-828-096	902001736	Y8317110905 7	BL37088025 6519	
Lot 65	Z96055E	001-828-100	902001738	Y83172 118792	BL266624 256137	BT17149 213840
Lot 66	Z96056E	001-282-118	902001740	Y83173 111784	AA196498 LMA02415 BX430300 LMA02563	
Lot 67	Z96057E	001-828-126	902001760	Y83174 109070	AA17965	
Lot 68	Z96058E	001-828-134	902001766	Y83175 113740	BV400585 312405	
Lot 69	Z96059E	001-828-142	902001768	Y83176 113782	A 254684 BL273467	
Lot 70	Z96060E	001-828-151	902001769	Y83177 110123	BE70105 134578	BW284684 LMA01742
Lot 71	Z96061E	001-828-169	902001773	Y83178 109873	AC272191 128646	BE145428
Lot 72	Z96062E	001-828-177	902001777	Y83179 109729	BT227160 300802	BT227161 300804
Lot 73	Z96063E	001-828-185	902001841	Y83180 109045	AA226740 116941	
Lot 74	Z96064E	001-828-193	902001842	Y83181 109046	BR38628 287116	
Lot 75	Z96050E	001-828-207	902001843	Y83182 109885	BJ334185 236812	BJ334186 BW183919

PHASE I - CLSR 68397 - LTO PLAN 65431

Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 76	Z96066E	001-828-215	902001846	Y83183 113635	AC104873 209507	BT282276
Lot 77	Z96067E	001-828-223	902001847	Y83184 110099	BV341866 311297	BV341867 311298
Lot 78	Z96068E	001-828-231	902001848	Y83185 109048	Y186148 307992	BV111685
Lot 79	Z96069E	001-828-240	902001849	Y8318611363 4	BF385938 210373	
Lot 80	Z96070E	001-828-258	902001851	Y83187 110080	BG386006 217022	BG386007
Lot 81	Z96071E	001-828-266	902001852	Y83188 109047	BR216986 291020 Z145373 111029	
Lot 82	Z96072E	001-828-274	902001854	Y83189 109053	BM154699 261606	
Lot 83	Z96073	001-828-282	902001853	Y83190 109673	Z16981 109675	

PART 2 OF APPENDIX D – 5

LIST OF STAHAKEN INTERESTS - PHASE II

Note: Information will be updated before the Effective Date.

PHASE II - CLSR 71091 - LTO PLAN 74746						
Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 01	AA147766	008-001-642	902001662	AA127337 118824	BP47095 278978	BV206258 312061
Lot 02	AA147767	008-001-651	902001663	AA127338 118827	BL147957 251621	BL147958 BL147959
Lot 03	AA147768	008-001-669	902001664	AA127339 118830	BV134372 308488	
Lot 04	AA147769	008-001-677	902001665	AA127340 118833	AA144999 118834	BL380730
Lot 05	AA147770	008-001-685	902001666	AA127341 118836	BR184869 290577	BT60090
Lot 06	AA147771	008-001-693	902001673	AA127342 118840	BV373044 311979	BV373045 311980
Lot 07	AA147772	008-001-707	902001674	AA127343 118843	BG278987 216057	BG278989 216059
Lot 08	AA147773	008-001-715	902001675	AA127344 118846	BF235441 208695	
Lot 09	AA147774	008-001-723	902001676	AA127345 118849	BV422780 312854	
Lot 10	AA147775	008-001-731	902001677	AA127346 118852	BK304567 246469	
Lot 11	AA147776	008-001-740	902001678	AA127347 118856	BT339980 303127	BT339981 303129
Lot 12	AA147777	008-001-758	902001679	AA127348 118859	LMA03253 BX580775	BX580776 LMA03254
Lot 13	AA147778	008-001-766	902001680	AA127349 118863	BV334530 311118	BV334531
Lot 14	AA147779	008-001-774	902001681	AA127350 118866	BK99155 240510	
Lot 15	AA147780	008-001-782	902001682	AA127351 118870	BH9391 218503	BW65191
Lot 16	AA147781	008-001-791	902001686	AA127352 118874	BL49746 249564	

PHASE II - CLSR 71091 - LTO PLAN 74746						
Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 17	AA147782	008-001-804	902001687	AA127353 118877	BF244904 209649	
Lot 18	AA147783	008-001-812	902001688	AA127354 118880	BV012369 306022	
Lot 19	AA147784	008-001-821	902001689	AA127355118 882	AA19595611 8883	
Lot 20	AA147785	008-001-839	902001690	AA127356 118885	BW415670 LMA02171	BW415671 LMA02172
Lot 21	AA147786	008-001-847	902001691	AA127357 1187888	BJ242694 235479	BJ242695
Lot 22	AA147787	008-001-855	902001693	AA127358 118892	BN205758 272988	
Lot 23	AA147788	008-001-863	902001694	AA127359 118895	AD11587 131962	AD112911 131963
Lot 24	AA147789	008-001-871	902001695	AA127360 118899	BM120349 260942	BV296811 CA119208 LMA03422
Lot 25	AA147790	008-001-880	902001696	AA127361 118903	BH204537 222761	BL318882
Lot 26	AA147791	008-001-898	902001697	AA127362 118906	AC120597 129887	
Lot 27	AA147792	008-001-901	902001698	AA127363 118910	BT317487 314279	
Lot 28	AA147793	008-001-910	902001699	AA127364 118913	AC130957	
Lot 29	AA147794	008-001-928	902001700	AA127365 118916	BK115951 240743 BJ65505 231274	
Lot 30	AA47795	008-001-936	902001701	AA127366 118920	A176623 118921	
Lot 31	AA147796	008-001-944	902001702	AA127367 118923	BX314585 LMA02489	BX314586
Lot 32	AA147797	008-001-952	902001703	AA127368 118927	BV237474 309918	

PART 3 OF APPENDIX D – 5

LIST OF STAHAKEN INTERESTS - PHASE III

Note: Information will be updated before the Effective Date.

PHASE III - CLSR 71545 - LTO PLAN 77165						
Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 01	AB30945	010-197-397	902001866	AB30978 119514	BX124167 LMA02524	BX124168
Lot 02	AB30946	010-197-419	902001868	AB30979 119517	BR131911 289709	
Lot 03	AB30947	010-197-435	902001869	AB30980 119518	BN2176 267397	
Lot 04	AB30948	010-197-451	902001871	AB30981 119519	BX329551 LMA02705	BX329552 LMA02706
Lot 05	AB30949	010-197-460	902001870	AB30981 119519	BJ207707 235084	
Lot 06	AB30950	010-197-486	902001875	AB30983 119521	AC90372 124884	BJ392147 238064 BV511297
Lot 07	AB30951	001-197-516	902001876	AB30984 119522	BW74318 LMA01395	BW322188 LMA01999
Lot 08	AB30952	010-197-532	902001877	AB30985 119523	AB240352 123195	AB240353
Lot 09	AB30953	010-197-567	902001882	AB30986 119525	AC325950 128799	BF7035 2107314
Lot 10	AB30954	010-197-591	902001883	AB30987 119526	BR2279 286170	BW352295 LMA01862 BL366532 256426
Lot 11	AB30955	010-197-702	902001884	AB30988 119527	BH347853 226640	
Lot 12	AB30956	010-197-711	902001885	AB30989 119529	BN223669 273510	BN223670 273514
Lot 13	AB30957	010-197-729	902001886	AB30990 119532	AB87248 124885	AB87249 AB87250

PHASE III - CLSR 71545 - LTO PLAN 77165						
Lot #	Land Title Office (LTO) Title Number	LTO Parcel Identifier (PID)	First Nation Land Register System (FNLRS) Parcel Identification Number (PIN)	Head Lease LTO No. FNLRS No.	Assignment LTO No. FNLRS No.	Mortgage LTO No. FNLRS No.
Lot 14	AB30958	010-197-737	902001887	AB30991 19533	BV352356 311526	
Lot 15	AB30959	010-197-745	902001888	AB30992 119535	BP225314 283792	BP225315 283793
Lot 16	AB30960	010-197-753	902001889	AB30993 119537	BW249900 LMA01797	BV56975 306941 BV56976 306942
Lot 17	AB30961	001-197-761	902001890	AB30994 119538	AB155233 122904	AB155234 122905
Lot 18	AB30962	010-197-788	902001891	AB30995 119540	BH74103 220020	BR317901 BR317902
Lot 19	AB30963	010-197-818	902001892	AB30996 119542	BT2687 295187	BT2688 295188
Lot 20	AB30964	010-197-826	902001893	AB30997 119544	BW224377 LMA01741	
Lot 21	AB30965	010-197-842	902001895	AB30998 119546 1988-01-11	BJ223804 235139	BP144585 282555
Lot 22	AB30966	010-197-851	902001896	AB30999 119547	BJ280487 235922	BJ280489 235926 BA156483
Lot 23	AB30967	010-197-869	902001897	AB31000 119549	BT401784 304345	
Lot 24	AB30968	010-197-877	902001898	AB31001 119551	BV16319 305970	BT61262 298203 BT61263 298204
Lot 25	AB30969	010-197-893	902001899	AB31002 119553	BW157272 LMA01537	BW157273 LMA01538
Lot 26	AB30970	010-197-907	902001901	AB31003 119555	BN328321 276551	
Lot 27	AB30971	010-197-923	902001906	AB31004 119557	BV83200 307311	

APPENDIX D – 6

TSATSU SHORES INTERESTS

Note: Information will be updated before the Effective Date.

1.	The legal structure for each lot is as follows:
1.	Head Lease (dated November 1, 1994) between Canada and Tsatsu Development Corporation was registered under FNLRS ⁶ 230863 for Lot 161-1 CLSR 76530.
2.	An Assignment of Head Lease (dated January 25, 1995) was issued by Tsatsu Development Corporation to Tsatsu Shores Development Ltd. and registered under FNLRS 233969 for Lot 161-1 CLSR 76530.
3.	On July 19, 1996, Lot 161-1 was resurveyed into Lot 161-1-1 and Lot 161-1-2 CLSR 78840.
4.	On July 24, 1996, Lot 161-1-1 was divided into 86 individual units by CLSR 78854. The parcel description of each unit is “Unit [number] within Lot 161-1-1 CLSR 78854”.
5.	Subleases (dated July 30, 1996) for the 86 units were issued by Tsatsu Shores Development Ltd to 483071 BC Ltd.
6.	Assignments of the Subleases were issued by 483071 BC Ltd. to the first or current owner of the units.

Unit Number	FNLRS Parcel Identification Number	Sublease and Assignment FNLRS Number	Shareholder Agreement FNLRS Number	Mortgage(s) FNLRS Number
1	902008444	245015 LMA01362	LMA02796	
2	902008474	245117 245960	286015	311295
3	902008475	245118 255623	285989	LMA03744
4	902008476	245119 298869	286011	298870
5	902008469	245109 253391	286010	
6	902008470	245111 246962		LMA03356

⁶ FNLRS – First Nation Land Register System

Unit Number	FNLRS Parcel Identification Number	Sublease and Assignment FNLRS Number	Shareholder Agreement FNLRS Number	Mortgage(s) FNLRS Number
7	902008471	245113 LMA01698		LMA01699
8	902008466	245103 LMA02211		LMA01279 248093
9	902008467	245105 290580		
10	902008454	245081 260891	285997	LMA02368
11	902008456	245086 246844		246845
12	902008457	245088 245836	285994	LMA01405
13	902008459	245091 254649		
14	902008460	245094 LMA02607		
15	902008462	245095 246842	285992	246843
16	902008463	245096 LMA02407		
17	902008464	245100 245835	285991	
18	902008515	245207 LMA02799		301220
19	902008516	245208 286295		286296
20	902008517	245209 264743	286000	312951
21	902008518	245211 312625	285999	262257
22	902008519	245213 271037	285996	271036
23	902008520	245214 280225		280227
24	902008521	245216 247344	286002	
25	902008522	245217 247842	286072	
26	902008478	245121 298305		298307
27	902008479	245122 252821	286073	LMA02581
28	902008483	245130 255855	286074	

Unit Number	FNLRS Parcel Identification Number	Sublease and Assignment FNLRS Number	Shareholder Agreement FNLRS Number	Mortgage(s) FNLRS Number
29	902008484	245242 LMA03693		
30	902008485	245132 259409	286239	LMA02487
31	902008486	245133 LMA01874		LMA01875
32	902008487	245134 264246	286078	312525
33	902008488	245136 301821		304856
34	902008489	245137 307665		307667
35	902008490	245139 304882		
36	902008491	245140 260347	286085	293746
37	902008492	245142 LMA03934		
38	902008537	245237 257277		
39	902008538	245238 296402	286061	259392
40	902008539	245239 247341	286063	247342
41	902008535	245235 257270	286064	257272
42	902008536	245236 306685		306687
43	902008540	245241 LMA02650		
44	902008541	245242 266106	286067	266107
45	902008542	245244 264231	286068	264323
46	902008543	245246 294581		294583
47	902008544	245247 LMA01363	LMA02797	LMA01498
48	902008545	245250 312672		313204
49	902008546	245251 308838		308842

Unit Number	FNLRS Parcel Identification Number	Sublease and Assignment FNLRS Number	Shareholder Agreement FNLRS Number	Mortgage(s) FNLRS Number
50	902008547	245257 LMA01755		LMA01756
51	902008548	245258 300188		
52	902008549	245259 299599		29960
53	902008550	245260 255773	286023	LMA02936
54	902008553	245265 253026	286033	
55	902008554	245267 246856	286242	LMA03158
56	902008555	245268 314356		
57	902008557	245271 245826	286030	
58	902008560	245275 245822	286029	
59	902008562	245277 262540	286051	
60	902008563	245280 256199	286049	256201
61	902008564	245284 298252		298253
62	902008565	245284 301282		301283
63	902008551	245262 245812	286043	
64	902008552	245264 283800		283801
65	90208556	245270 310828		310829
66	902008558	245272 309013		
67	902008559	245274 LMA01961		LMA01962
68	902008561	245276 264654	286243	264656
69	902008493	245149 272795	286020	272796
70	902008494	245151 245952	286019	312159
71	902008496	245154 245964	286018	

Unit Number	FNLRS Parcel Identification Number	Sublease and Assignment FNLRS Number	Shareholder Agreement FNLRS Number	Mortgage(s) FNLRS Number
72	902008497	245154 291905		291908
73	902008498	245155 LMA02367	286004	295183
74	902008499	245156 279974	286035	296275
75	902008550	245157 246965	286060	
76	902008502	245165 256111	286057	
77	902008523	245219 264940	286042	298323
78	902008524	245220 247806	286041	
79	902008525	245221 266108	286039	
80	902008528	245227 301845	LMA02798	
81	902008529	245228 246838	286037	246839 314357
82	902008530	245229 263008	268056	LMA03255
83	902008531	245230 252937 LMA02984	286054	252938
84	902008532	245231 272231	286052	272232 309475
85	902008533	245232 292725		293040
86	902008534	245233 315764		315766

APPENDIX D - 7

LIST OF LEASES ON FORMER PROVINCIAL CROWN LANDS

Note: Information will be updated before the Effective Date.

Lease No.	Parcel Description (Lease)	Expiration Date
1018	That portion of the SW ¼ of Sec 22 TWP 5 having frontage of 40 chains on the North Boundary and 28.5 chains on the East Boundary of the said Quarter NWD	August 31, 2007
1019	Part of the SW 3 of Section 22 Township 5	August 31, 2007
1020	Lot D SW 3 Section 22 Township 5 NWD Plan 23543	August 31, 2007
1030	Parcel C (Ref Plan 6995) Except Firstly: Parcel 2 (Ref Plan 7634) and Secondly: Parcel 3 (Ref Plan 9694) District Lot 183, Group 2, NWD	August 31, 2007
1031	Parcel One (Ref Plan 6994) Parcel A, District Lot 183, Group 2, Except Firstly: Part subdivided by PL 28898, Secondly: Parcel C (Ref Plan 30741), Thirdly: Parcels A and B (PL 38001), Fourthly: Parcel D (PL 42153), Fifthly: PL 49448 NWD	August 31, 2007
1037	Lot 3, Except Part dedicated road on Plan LMP 40488, District Lot 108, Group 2, NWD, Plan 20071	March 31, 2007
1058	That portion of the SW ¼ Section 15, Township 5 Lying North of Highway Plan 22977 NWD	March 31, 2007
1059	The NW ¼ of Section 15 Township 5, NWD (save and except a portion of about 200'x250')	January 31, 2007
1060	(40 chains x 28.55 chains) of SW ¼ Section 22 Twp 5 S&E Firstly: portion of NE corner 900'x270', Secondly: strip N-S 100'x1800' and a shed and cabin at 4820-28 th Ave adjacent and East of aforementioned strip as shown in sketch B	March 31, 2008
1061	The North Half of Parcel B (Ref. Plan 4554) of the Southwest quarter, Section 22, Township 5, NWD, being all that portion lying north of a straight line bisecting the east and west boundaries thereof, except part subdivided by Plan 23543.	March 31, 2008
1062	The southerly half of Parcel B (Ref. Plan 4554) of the SW ¼ of section 22, Township 5, NWD and being all that portion lying south of a straight line bisecting the east and west boundaries	January 31, 2008

Lease No.	Parcel Description (Lease)	Expiration Date
1066	Parcel C, District Lot 107, Group 2, Plan 52551F, Except a 3 acre portion with buildings situated thereon, having a civic address of 4440-28 Ave	March 31, 2009
1067	Parcel A (Ref Plan 4632) of Lot 107, Group 2 NWD., Except: Part subdivided by PL 40534 also Save and Except portion of the NE corner of the premises have a frontage of 372' on 27B Ave. and being approximately 315' deep, occupied by Wideski, 4790 – 27B St.	March 31, 2007
1068	Lot B (Expl PL 5633) District Lot 107 Group 2 NWD and Lot 6 District Lot 183, NWD PL 42391	March 31, 2007
1069	Parcel A (Ref Plan 7741) of Lot 10 of District Lot 108 and 109 Group 2, Plan 3033, NWD (Except: the southerly 15 ft shown on Plan with bylaw filed 40665)	March 31, 2007
1071	<p>R66 – Lot B of Lot 185, Group 2, Plan 17089, NWD;</p> <p>R54 – Parcel 1 (Ref Plan 6994 of Parcel A of Lot 183, Group 2, except: Firstly: part subdivided by Plan 28898 and Secondly: Parcel C (Ref Plan 30741) NWD, also S&E those portions now occupied by railways, public roads, private access roads, the fenced site of BC Hydro's Terminal Station and the land between the Railway and 28th Ave but the vegetable storage building and access to it are not excluded from the agreement. The private access road to the residence and its site known as Deltaport Way and its occupants are excluded;</p> <p>R51 – Parcel 3 (Ref Plan 9694) of Lot 183, Group 2 NWD Except: part subdivided by Plan 19032 of Parcel 2, Ref Plan 7637;</p> <p>R52 – Parcel C (Ref Plan 6995) of Lot 183, Group 2, Except: Firstly: Parcel 2, (Ref Plan 7637) thereof and Secondly: Parcel 3 (Ref Plan 9694) thereof, NWD Save and Except: the dwelling with a civic address of 2625-41B Street and its site of approx 120'X100';</p> <p>R56 – Parcel 2 (Ref Plan 7637) of DL 183, Group 2, Except: part subdivided by Plan 19032 NWD, Save and Except: the site with a civic address of 2825-41B Street of approximately 50'X150' (building demolished); and</p> <p>R057-58 – Lots 1 and 2 of Lot 183, Group 2, Plan 19032, NWD</p>	March 31, 2007

Lease No.	Parcel Description (Lease)	Expiration Date
1073	Lot 3 of District Lot 184 Group 2 Plan 839, NWD Except: Firstly: Parcel D (Plan 38001) and Secondly: dwelling and its site of 150' x 225' and access thereto, with the dwelling having a civic address of 2981-41B St. Delta	March 31, 2007
1087	A portion of the SW ¼ of Section 22, Township 5, NWD	August 31, 2007
1089	Part of Parcel C (Plan with fee deposited 52551F) District Lot 107, Group 2, NWD	August 31, 2006
1090	Lot 1 District Lot 108 Group 2 Plan 20071, NWD	August 31, 2007
1091	Lot 2 District Lot 108, Group 2 Plan 20071 NWD	August 31, 2007
1095	A strip running in a North-South direction being about 100' wide with a depth of about 1600' with the 100' frontage on 28 th Ave., and a shed adjacent to the said strip; the strip and shed are located on the SW ¼ of Section 22	March 31, 2007
1099	A portion of Parcel A (Ref Plan 4632) District Lot 107 Group 2 NWD Except Plan 40534	May 31, 2007
1103	Lot 3 Parcel 2 District Lot 183 Group 2, Plan 19032 NWD	August 31, 2007

APPENDIX D – 9

DOCUMENT 1

ANODE BED RIGHT OF WAY AGREEMENT

(CORPORATION OF DELTA)

LAND TITLE ACT
FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

PAGE 1 of 12 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:*

(PID)

(LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST: *

DESCRIPTION

DOCUMENT REFERENCE

(Page and paragraph)

PERSON

ENTITLED TO

INTEREST

RIGHT OF WAY

TRANSFeree

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): *

TSAWWASSEN FIRST NATION

6. TRANSFeree(S): (including postal address(es) and postal code(s))

THE CORPORATION OF DELTA, 4500 CLARENCE TAYLOR CRESCENT, DELTA, BRITISH COLUMBIA, V4K 3E2

7. ADDITIONAL OR MODIFIED TERMS: *

N/A

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

Officer Signature(s)	Execution Date	Party(ies) Signature(s)						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center;">Y</td> <td style="width: 33%; text-align: center;">M</td> <td style="width: 33%; text-align: center;">D</td> </tr> <tr> <td style="height: 100px;"></td> <td></td> <td></td> </tr> </table>	Y	M	D				<p>TSAWWASSEN FIRST NATION by its authorized signatory(ies)</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p>Name:</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p>Name:</p>
Y	M	D						
(as to all signatures)								

Officer Signature(s)	Execution Date	Party(ies) Signature(s)						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center;">Y</td> <td style="width: 33%; text-align: center;">M</td> <td style="width: 33%; text-align: center;">D</td> </tr> <tr> <td style="height: 100px;"></td> <td></td> <td></td> </tr> </table>	Y	M	D				<p>THE CORPORATION OF DELTA by its authorized signatory(ies)</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p>Name:</p> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> <p>Name:</p>
Y	M	D						
(as to all signatures)								

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

LAND TITLE ACT

FORM E

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

2. Parcel Identifier(s) and Legal Descriptions of Land

TERMS OF INSTRUMENT—PART 2

THIS AGREEMENT made [month, day, year]

BETWEEN:

[Tsawwassen First Nation]

(the “Transferor”)

AND:

[Corporation of Delta]

(the “Transferee”)

WHEREAS

- a. The Transferor is the registered owner of that certain parcel or tract of land and premises known and described as follows:

INSERT LEGAL DESCRIPTION

(hereinafter called the “Lands”)

- b. Section 218 of the *Land Title Act*, R.S.B.C. 1996, c. 250 enables the Transferor to grant in favour of the Transferee an easement without a dominant tenement to be known as a statutory right of way;
- c. The Transferee desires to obtain from the Transferor a statutory right of way to construct certain Works on, over and under the hereinafter described portion of the Lands;
- d. The statutory right of way herein granted is necessary for the operation and maintenance of the Transferee's undertaking.

2. DEFINITIONS

- a. In these terms of instrument and the pages attached hereto (either before or after this page), which together comprise the document (herein the “Document”):
- i. “Agreement” means and includes the covenants, agreements and executions contained in the Document;
 - ii. “Transferee” means the Corporation of Delta and is named as the Transferee in Item 6 of the attached Form C;
 - iii. “Transferor” means the Tsawwassen First Nation and is named as the Transferor in Item 5 of the attached Form C;
 - iv. “Works” means an anode bed situated on and under the Lands;

3. GRANT

- a. The Transferor hereby grants to the Transferee the full, free and uninterrupted right, licence, liberty, privilege, easement and right of way in common with the Transferor over those portions of the Lands (which portions are collectively called the “Statutory Right of Way”) which are shown outlined in heavy black on Explanatory Plan No. [number] filed concurrently with this Agreement, a reduced copy of which plan is attached to this Agreement as Schedule A:

- i. to enter over, on, in, and under the Statutory Right of Way for the purposes of using, constructing, operating, removing, replacing, reconstructing, repairing and safeguarding thereon an anode bed;
- ii. to bring on to the Statutory Right of Way all materials and equipment the Transferee requires or desires for the Works;
- iii. to clear the Statutory Right of Way and keep it clear of anything which in the opinion of the Transferee constitutes or may constitute an obstruction to the use of the Statutory Right of Way or to the Works;
- iv. to cross over the Lands for reasonable access to the Statutory Right of Way and make reasonable ancillary use of the Lands for carrying out the Works; and
- v. to do all acts which in the opinion of the Transferee are incidental to the foregoing.

4. DURATION

- a. The duration of the Right of Way and the rights herein granted shall be for a term of for so long as required commencing on [Effective Date] (herein called the "**Commencement Date**") unless cancelled in accordance with the terms hereof.

5. RESTRICTION OF RIGHT OF WAY

- a. The Transferee acknowledges and agrees that the Right of Way over the Lands will be exercised only over those portions shown outlined in bold on the Statutory Right of Way Plan attached as Schedule "A";
- b. This Agreement shall not entitle the Transferee to exclusive possession of the Right of Way and the Transferor reserves the right to grant other dispositions of the Right of Way, or any part of it, for the purposes of public utilities, roads, water, sewer and drainage pipe systems, or any other purpose, so long as the grant does not materially affect or interfere with the exercise of the Transferee's rights hereunder.
- c. If a dispute should arise as to whether a subsequent disposition materially affects or interferes with the exercise of the Transferee's rights hereunder then the dispute shall be referred to dispute resolution pursuant to Section 13 of this Agreement.

6. RELOCATION OF THE WORKS

- a. If the Transferor for any reason whatsoever wishes to relocate the Works to a New Location (the "New Location") it shall provide 180 days written notice to the Transferee of its intention to do so.
- b. The New Location must be of sufficient size to accommodate the Works and be equally suitable for the purposes of the Transferee.
- c. The Transferor will pay for any reasonable costs of moving the Works to the New Location. As full compensation for all other costs, expenses and damages that the Transferee may incur in connection with the relocation, including disruption and loss of business, the parties shall agree on a lump sum payment and failing agreement, the matter shall be referred to dispute resolution pursuant to Section 13.
- d. The Parties will do all acts and execute all required documents, including a new or amended statutory right of way plan, to give effect to the New Location.
- e. All other terms and condition of this Agreement will apply to the New Location for the balance of the original term.

7. COVENANTS OF THE TRANSFEREE

- a. The Transferee covenants with the Transferor:
- i. to pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of the Transferee which relate to the Works (herein called "**Realty Taxes**"), and which the Transferee is liable to pay;
 - ii. to pay when due all charges for electricity, gas, water and other utilities supplied to the Lands for use by, on behalf of or with the permission of the Transferee;
 - iii. to pay all accounts and expenses as they become due for work performed on or materials supplied to the Statutory Right of Way at the request, on the behalf or with the permission of the Transferee, except for money that the Transferee is required to hold back under the *Builders Lien Act*;
 - iv. if any claim of lien over the Lands is made under the *Builders Lien Act* for work performed on or materials supplied to the Statutory Right of Way at the request, on the behalf or with the permission of the Transferee, the Transferee shall immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by the Transferee and the Transferee has taken the steps necessary to ensure that the claim of lien will not subject the Lands or any interest of the Transferee under this Agreement to sale or forfeiture;
 - v. to observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Statutory Right of Way and the Works;
 - vi. not to commit or suffer any wilful or voluntary waste, spoil or destruction on the portions of the Statutory Right of Way or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to the Transferor, except to the extent required by the Transferee acting reasonably, to exercise its rights under this Agreement;
 - vii. to take all reasonable steps and precautions to minimize the disturbance of any archaeological material discovered by the Transferee on the Lands and to immediately notify the Transferor;
 - viii. not to bury debris or rubbish of any kind on the Lands in excavations or backfill, and to remove shoring and similar temporary structures as backfilling proceeds;
 - ix. to deliver to the Transferor from time to time, upon demand, proof of insurance provided for in subsection 7(a)(xvii) and receipts or other evidence of payment of Realty Taxes, insurance premiums and other monetary obligations of the Transferee required to be observed by the Transferee pursuant to this Agreement;
 - x. to indemnify and save the Transferor harmless from and against all losses, damages, costs and liabilities including fees of solicitors and other professional advisors arising out of:
 - (a) any breach, violation or non-performance by the Transferee of any of the Transferee's covenants, conditions or obligations under this Agreement, or

- (b) any act or omission on the part of the Transferee in respect of or in relation to its Works including the construction, maintenance, operation or decommissioning or removal of its Works;
 - x. to keep the Statutory Right of Way in a safe, clean and sanitary condition to the extent the condition relates to the use or occupation of the Lands by the Transferee, and on written notice from the Transferor, rectify any failure to comply with such a covenant by making the Statutory Right of Way or any portion of the Lands or any Works thereon safe, clean and sanitary;
 - xii. to permit the Transferor, or his authorized representative to enter upon the Statutory Right of Way at any time to examine its condition;
 - xiii. to use and occupy the Statutory Right of Way in accordance with the provisions of this Agreement;
 - xiv. exercise care not to damage the Lands or any improvements on the Lands and if the Transferee should cause any such damage, restore such damaged Lands or improvements thereon to as close to their pre-damaged condition as is reasonably practical with reasonable dispatch or where the Transferee deems restoration to be impractical, reimburse the Transferor for all damage the Transferee has caused but not restored;
 - xv. on the expiration or at the earlier cancellation of this Agreement,
 - (a) to quit peaceably and deliver possession of the Statutory Right of Way to the Transferor;
 - (b) to restore the Lands and Statutory Right of Way used by the Transferee to the reasonable satisfaction of the Transferor; and
 - (c) to remove the Works and all buildings, machinery, apparatus, plant equipment, fixtures and other improvements to or things on the Statutory Right of Way from the Lands within 90 days, and any of the aforesaid improvements and things that remain thereafter shall be absolutely forfeited to and become the property of the Transferor;
- and to the extent necessary, this covenant shall survive the expiration or cancellation of this Agreement;
- xvi. to effect and keep in force during the term of this agreement, insurance protecting the Transferor and the Transferee (without any rights of cross-claim or subrogation against the Transferor) against any claims for personal injury, death, property damage or third party, or public liability claims arising from any accident or occurrence on the Lands to an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) except that so long as the Transferee is The Corporation of Delta, the Transferor will waive the requirements of this sub-section on the delivery to the Transferor of confirmation that the Transferee is self-insured;
 - xvii. notwithstanding Section 7(a)(xvii), the Transferor may from time to time notify the Transferee that the amount of insurance posted by the Transferee pursuant to that sub-section be changed and the Transferee shall, within 60 days of receiving such notice, cause the amount of insurance posted, pursuant to Section 7(a)(xvii) to be changed to the amount specified by the Transferor acting reasonably, in the notice and deliver to the Transferor written confirmation of the change, except that when the Transferee is self-insuring this sub-section shall not apply; and

- xviii. not to interfere with the rights of any other person to enter on and use the Statutory Right of Way and Lands under a prior or subsequent disposition granted by the Transferor so long as such use does not materially affect or interfere with the exercise of the Transferee's rights under this Agreement.

4. ASSIGNMENT

- a. The Transferee shall not assign this Agreement or the interest of the Transferee in it or grant a license to occupy any part of the Lands without the prior written consent of the Transferor, which consent shall not be unreasonably withheld.
- b. Notwithstanding section 8(a), the Transferee may, without the prior written consent of the Transferor:
 - i. assign its interest in all or a part of the Lands to another local governmental authority; or
 - ii. sublicense its interest in all or part of the Lands to a Federal, Provincial or other governmental agency or department.

5. CANCELLATION

- a. Should the Transferee omit, fail or neglect to carry out one of its obligations contained in this Agreement or do some act contrary to its obligations contained in this Agreement or otherwise breaches this agreement:
 - i. the Transferor shall provide notice of such breach in writing to the Transferee; and
 - ii. the Transferee shall within thirty days of the receipt of notice or such longer period of time to which the parties may mutually agree, remedy the breach; and
 - iii. if the breach is not remedied within thirty days or such further time as mutually agreed, then the Transferor may at its option either
 - (a) cancel this Agreement and, notwithstanding subsection 7(a) (xvi), the Works shall be forfeited to and become, the property of the Transferor, or
 - (b) enter onto the Lands and rectify such default to the extent considered necessary by it and the cost of doing so shall be a debt due and owing to the Transferor by the Transferee with interest to accrue at the prime rate of *[bank]* as of the date of the notice.
- b. If this Agreement is taken in execution or attachment by any person, or the Transferee commits an act of bankruptcy, becomes insolvent, is petitioned into bankruptcy or voluntarily enters into an arrangement with his creditors, the Transferor may, on 90 days written notice to the Transferee, cancel this Agreement and the rights herein granted.
- c. If the Transferee ceases to use the Statutory Right of Way for the purposes permitted herein and the Transferee does not recommence its use of the Statutory Right of Way within 180 days of receipt of written notice from the Transferor, the Transferor may immediately cancel this Agreement and the rights herein granted.
- d. The rights of the Transferor under section 10 shall survive the expiration or earlier cancellation of this Agreement.

6. SECURITY

- a. The security in the sum of \$1.00 and all rights, privileges, benefits and interests accruing thereto delivered by the Transferee to the Transferor (herein called the "**Security**") to guarantee the performance of the Transferee's obligations under this Agreement shall be maintained in effect until such time as the Transferor certifies in writing that such obligations have been fully performed. So long as the Transferee is The Corporation of Delta or other local governmental authority, the Transferor will waive the requirement of this section.
- b. In the event the Transferee should default in the performance of any of its obligations hereunder, it shall be lawful for the Transferor, in its sole discretion, to sell, call in and convert the Security, or any part of it, and such Security shall be deemed to have been absolutely forfeited to the Transferor.
- c. The rights of the Transferor under this Section shall be deemed to continue in full force and effect notwithstanding the expiration or cancellation of this Agreement.
- d. Notwithstanding any amount of Security stated to be required under Section 10(a) the Transferor may from time to time by notice to the Transferee, demand the amount to be changed to that specified in a notice and the Transferee shall, within 60 days of such notice change the Security to that specified and provide the Transferor with evidence of the change, except that while Security is waived under Section 10(a), this section shall not apply.

7. NOTICE

- a. Where service of a notice or a document is required under this Agreement, the notice or document shall be in writing and shall be forwarded to the addresses for the Transferor and the Transferee specified on the first page of this Agreement.
- b. If any question arises as to the date on which such notice or document was communicated to any party, it will be deemed to have been given:
 - i. on the next business day if it is delivered personally, or sent by courier or by fax; or
 - ii. on the eighth day after its deposit in a Canada Post office at any place in Canada, if sent by registered mail.
- c. If there is a disruption in mail services caused by labour dispute, civil unrest or other events beyond the control of the parties, between mailing and actual receipt of such notice, the party sending such notice will re-send by courier, fax or other electronic means and such notice will only be effective if actually received.
- d. Either party may, by notice in writing to the other, specify another address for service of notices under this Agreement and where another address is specified under this section, notices shall be delivered or mailed to that address in accordance with this Section.

8. MISCELLANEOUS

- a. A breach of any term, condition, covenant or other provision herein may only be waived in writing and any such waiver shall not be construed as or constitute a waiver of any further or other breach. Consent or approval of any act where consent or approval is required under this Agreement, shall not be construed as consent to or approval of any subsequent similar act.

- b. No remedy set out in this Agreement is exclusive of any other remedy herein or provided by law, but such remedy shall be cumulative and shall be in addition to any other remedy herein or hereafter existing at law, in equity, or by statute.
- c. The terms and provisions of this Agreement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
- d. Time is of the essence in this Agreement.

9. DISPUTE RESOLUTION

- a. In this section, "dispute" means any dispute arising out of or in connection with this Agreement.
- b. The parties agree to attempt to resolve all disputes by negotiations conducted in good faith and to provide timely disclosure of all relevant facts, information and documents to further those negotiations.
- c. If a dispute is not settled through direct negotiations either party may request the British Columbia International Commercial Arbitration Centre (BCICAC) to appoint a mediator to conduct mediation under its mediation rules of procedure.
- d. If a dispute is not settled within 30 days of the appointment of the mediator or any further period of time agreed to by the parties, the parties may, by agreement, submit the dispute to a single arbitrator for final arbitration in accordance with the arbitration rules of procedure of the BCICAC.
- e. If the parties fail to agree to submit the dispute to arbitration under paragraph 12(d), or the BCICAC is unavailable or unable to administer the mediation or arbitration of a dispute under its rules of procedure, either party may commence proceedings in relation to the dispute in any court of competent jurisdiction.

10. INTERPRETATION

- a. In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- b. The captions and headings contained in this Agreement are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the provisions herein.
- c. Where in this Agreement there is a reference to an enactment of the Province of British Columbia or of Canada, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires all statutes referred to herein are enactments of the Province of British Columbia.
- d. If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts or sections, as the case may be, shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.

11. IT IS MUTUALLY UNDERSTOOD, AGREED AND DECLARED by and between the Parties hereto that

- a. the covenants herein contained shall be covenants running with the Lands, and

- b. none of the covenants herein contained shall be personal or binding upon the parties hereto **SAVE AND EXCEPT** during the Transferor's ownership of the Lands but that the Lands shall, during the term of this agreement nevertheless, be and remain at all times charged therewith.
12. **AND THAT**, save as aforesaid, nothing in these presents shall be interpreted so as to restrict or prevent the Transferor from using the Statutory Right of Way in any manner that does not interfere with functioning and access to the Works.
13. **AND THAT** nothing herein contained shall be deemed to authorize the Transferee to construct, install or maintain any other a public works or utilities, other than the Works, in the Statutory Right of Way.
14. The expressions "Transferor" and "Transferee" herein contained shall be deemed to include the executors, administrators, successors and assigns of such Parties wherever the context or the Parties hereto so require.
15. This indenture shall enure to the benefit of and be binding upon the Parties hereto, their executors, administrators, successors and permitted assigns respectively.
16. **IN WITNESS THEREOF** the Agreement contained in the Document has been executed on one or more pages of the Document.

SCHEDULE "A"
[Statutory Right of Way Plan]

END OF DOCUMENT

APPENDIX D – 9

DOCUMENT 2

**PUBLIC ACCESS RIGHT OF WAY AGREEMENT
(BRITISH COLUMBIA)**

LAND TITLE ACT
FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

PAGE 1 of 10 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND: *
(PID) (LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST:

DESCRIPTION

DOCUMENT REFERENCE
(Page and paragraph)

PERSON
ENTITLED TO
INTEREST

STATUTORY RIGHT OF WAY

TRANSFeree

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):

TSAWWASSEN FIRST NATION

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as
represented by THE MINISTER OF ●**

7. ADDITIONAL OR MODIFIED TERMS: *

N/A

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

<p>Officer Signature(s)</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/>	<p>Execution Date</p> <table border="1" style="width: 100%; height: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center;">Y</td> <td style="width: 33%; text-align: center;">M</td> <td style="width: 33%; text-align: center;">D</td> </tr> <tr> <td style="height: 150px;"></td> <td></td> <td></td> </tr> </table>	Y	M	D				<p>Party(ies) Signature(s)</p> <p>TSAWWASSEN FIRST NATION by its authorized signatory(ies)</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p>Name:</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p>Name:</p>
Y	M	D						
<p>(as to all signatures)</p>								

<p>Officer Signature(s)</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/>	<p>Execution Date</p> <table border="1" style="width: 100%; height: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center;">Y</td> <td style="width: 33%; text-align: center;">M</td> <td style="width: 33%; text-align: center;">D</td> </tr> <tr> <td style="height: 150px;"></td> <td></td> <td></td> </tr> </table>	Y	M	D				<p>Party(ies) Signature(s)</p> <p>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by THE MINISTER OF ● by its authorized signatory(ies)</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p>Name:</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p>Name:</p>
Y	M	D						
<p>(as to all signatures)</p>								

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

LAND TITLE ACT

FORM E

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

2. Parcel Identifier(s) and Legal Descriptions of Land

TERMS OF INSTRUMENT – PART 2

WITNESS THAT WHEREAS the Transferor has agreed to grant to the Transferee a statutory right of way over that parcel of land described in item 2 of Part 1 of this instrument (hereinafter referred to as the "**Land**") for the purpose of public access to the dike on the Land for which the Transferor is the *Diking Authority*;

AND WHEREAS the statutory right of way herein granted is necessary for the operation and maintenance of the Transferee's undertaking;

NOW THEREFORE, for valuable consideration and the covenants of the Transferee, the parties agree as follows:

1. GRANT OF STATUTORY RIGHT OF WAY

1.1. The Transferor, on the terms set forth herein, hereby grants to the Transferee, in perpetuity, the non-exclusive statutory right of way (herein called the "**Right of Way**") over the Land for the Transferee, its licensees, agents, employees, invitees and permittees (including the general public) between dawn and dusk at their will and pleasure to:

- (a) enter, go, be, return, pass and repass on, over, through and along the Land by foot, for access to and use of the Land, for recreational activity purposes; and
- (b) do all acts or things necessary or incidental to the foregoing;

to have and to hold unto the Transferee, from and after the date of this Agreement, unless and until discharged by the Transferee in accordance with Section 1.2, provided that nothing in this Agreement grants to the Transferee, its licensees, agents, employees, invitees and permittees (including the general public) the right to construct any improvements or destroy any vegetation in or on the Land.

1.2. All of the rights, licences, liberties, privileges, easements and statutory rights of way granted in this Agreement will exist and continue in perpetuity unless and until discharged by the Transferee.

1.3. The rights, licences, liberties, privileges, easements, statutory rights of way and covenants in this Agreement will run with and bind the Land, in perpetuity.

2. RESTRICTION OF RIGHT OF WAY

2.1. The Transferee acknowledges and agrees that the Right of Way over the Land set forth in section 1.1 will be exercised only over those portions of the Land shown outlined in bold on the sketch plan attached as Schedule "A" ("**Right of Way Area**"), and the Transferee will not otherwise exercise or otherwise attempt to exercise its Right of Way over the Land under section 1.1.

2.2. The Right of Way granted by Section 1.1 will be subject to the right of the Transferor to:

- (a) use the Right of Way Area in a manner that does not disrupt or interfere with the Transferee, its licensees, agents, employees, invitees and permittees (including the general public) in the exercise of rights under this Agreement; and
- (b) restrict access to the Right of Way Area on a temporary basis from time to time as may be reasonably required for the maintenance and operation of the dike.

3. COVENANTS OF THE TRANSFEROR

3.1. The Transferor covenants with the Transferee that, subject to Section 2.2:

- (a) the Transferee shall and may peaceably enjoy and hold the rights granted in this Agreement without interruption, disturbance, molestation or hindrance whatsoever from the Transferor or any other person lawfully claiming from or under the Transferor;
- (b) the Transferor will not permit or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, pile of material, obstruction, equipment, thing or inflammable substance, or plant any growth upon the Right of Way Area, if any such action or thing, in the reasonable opinion of the Transferee:
 - (i) may obstruct access to the Right of Way Area or any part thereof by those authorized by the Transferee; or
 - (ii) may by its operation, use, maintenance or existence on the Right of Way Area create or increase any hazard to persons or property in relation to the Right of Way Area.

4. NOTICES

- 4.1. Where service of a notice or a document is required under this Agreement, the notice or document shall be in writing and shall be deemed to have been served if delivered to, or if sent by prepaid registered mail addressed to, the Transferor and the Transferee, as the case may be, at the addresses specified for each on the first page of this Agreement, and where service is by registered mail the notice or document shall be conclusively deemed to be served on the eighth day after its deposit in a Canada Post office at any place in Canada. If there is a disruption in mail services caused by labour dispute, civil unrest or other events beyond the control of the parties, between mailing and actual receipt of such notice, the party sending such notice will re-send by courier, fax or other electronic means and such notice will only be effective if actually received.
- 4.2. Either party may, by notice in writing to the other, specify another address for service of notices under this Agreement and where another address is specified under this section, notices shall be mailed to that address in accordance with this Section.

5. MISCELLANEOUS

- 5.1. A breach of any term, condition, covenant or other provision herein may only be waived in writing and any such waiver shall not be construed as or constitute a waiver of any further or other breach. Consent or approval of any act where consent or approval is required under this Agreement, shall not be construed as consent to or approval of any subsequent similar act.
- 5.2. The terms and provisions of this Agreement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 5.3. Time is of the essence in this Agreement.

6. INTERPRETATION

- 6.1. In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- 6.2. The captions and headings contained in this Agreement are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the provisions herein.
- 6.3. Where in this Agreement there is a reference to an enactment of the Province of British Columbia or of Canada, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires all statutes referred to herein are enactments of the Province of British Columbia.
- 6.4. If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts or sections, as the case may be, shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.

SCHEDULE "A"

[Sketch Plan showing Location of the Right of Way Area]

END OF DOCUMENT

APPENDIX D - 9

DOCUMENT 3

**TRANSMISSION RIGHT OF WAY AGREEMENT
(BRITISH COLUMBIA HYDRO AND POWER AUTHORITY)**

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. Parcel Identifier and Legal Description of Land:

(PID)

(Legal Description)

3. Nature of Interest: *
Description

Document Reference
(page and paragraph)

Person Entitled to
Interest

RIGHT OF WAY

TRANSFeree

4. Terms: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this
instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. Transferor(s):

TSAWWASSEN FIRST NATION

6. Transferee(s): (including occupation(s), postal address(es) and postal code(s))

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, 8th Floor - 333 Dunsmuir Street,
Vancouver, BC, V6B 5R3

7. Additional or Modified Terms: *

* If space insufficient, continue executions on additional page(s) in Form D.

8. Execution(s): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officers Signature(s)

Y	M	D
---	---	---

Party(ies) Signature(s)

Officer Certification:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

TRANSMISSION RIGHT OF WAY

This Agreement is made as of _____, 200_____.

Between:

Tsawwassen First Nation
131 North Tsawwassen Drive, Delta, BC, V4M 4G2

(the "Grantor")

And:

British Columbia Hydro and Power Authority, a corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c.212

("Hydro")

WHEREAS:

- A. The Grantor, Canada and British Columbia have entered into a Final Agreement as hereinafter defined.
- B. In accordance with the Final Agreement, the Grantor wishes to provide the grants, as herein provided, to Hydro with respect to the Grantor's Lands as hereinafter defined,

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties hereto covenant and agree as follows:

1.0 Definitions

1.1 In this Agreement:

- (a) "**Access Improvements**" has the meaning ascribed to it in subparagraph 2.1(c)(v)(A);
- (b) "**Affiliate**" has the meaning ascribed it in the *Business Corporations Act*, S.B.C. 2002, c. 57, as amended or replaced from time to time;
- (c) "**Area of the Works**" means the Right of Way Area and those portions of the Lands located within 10 metres on both sides of the Right of Way Area;
- (d) "**Agreement**" means this Agreement and all schedules attached to it;
- (e) "**Effective Date**" means the date upon which the Final Agreement will take effect;
- (f) "**Environment**" means all the components of the earth including, without limitation, all layers of the atmosphere, air, land (including, without limitation, all underground spaces and cavities and all lands submerged under water), soil, water (including, without limitation, surface and underground water), organic and inorganic matter and living organisms, the interacting natural systems that include the foregoing and all other external conditions or influences under which humans, animals and plants live or are

developed;

- (g) **“Excluded Right of Way Areas”** means any right of way area or corridor that is not part of the Lands but in whole or in part passes through the Lands or is adjacent to such Lands;
- (h) **“Final Agreement”** means the Tsawwassen First Nation Final Agreement among the Grantor, Canada and British Columbia;
- (i) **“Lands”** means the lands and premises as are legally described in Schedule “A” and as are shown in Schedule “B”, which are both attached to this Agreement;
- (j) **“Right of Way Area”** means those portions of the Lands described in Schedule “C” attached to this Agreement, as they may be modified under this Agreement; and
- (k) **“Works”** means all things and components, using any type of technology from time to time, necessary or convenient for the purposes of distributing and/or transmitting electricity, telecommunications or communications by any method or process whatsoever, including poles, towers, antennae (except for monopole free standing antennae), anchors, guy wires, brackets, cross arms, insulators, foundations, overhead and underground conductors, wires, lines, cables and transformers, underground conduits and pipes, access nodes, cabinets all ancillary appliances and fittings, reasonably required associated protective installations, and related works such as fencing for safety or security, devices and identifying colours for aircraft warning, and utility services for the operation of any of the foregoing.

1.2 With respect to any obligation on the part of Hydro under this Agreement, any reference to Hydro includes its respective servants, officers, employees, agents, contractors, sub-contractors, invitees, licensees, successors, permitted assigns, and those for whom Hydro is responsible in law.

2.0 Rights Related to Right of Way Area

2.1 The Grantor grants over the Lands to Hydro and its employees, representatives, contractors, agents, licensees, successors and assigns for so long as required the uninterrupted right, liberty and right of way to:

- (a) use the Right of Way Area as follows:
 - (i) excavate for, construct, install, erect, abandon, replace, extend, upgrade, operate, maintain, remove and repair the Works on, over, under, across and through the Right of Way Area; and
 - (ii) clear the Right of Way Area and keep it cleared (including removal or pruning) of any vegetation, including without limitation trees, at any time located therein; and
- (b) use the Area of the Works as follows:
 - (i) enter, work, inspect, pass and repass upon, on, and along the Area of the Works;
 - (ii) construct, maintain, repair, replace and use trails, roads, lanes, and bridges on the Area of the Works including in addition any portions reasonably required adjacent to the Area of the Works for the sake of continuity, with or without

equipment, machinery and materials to such extent as may reasonably be required by Hydro in relation to this Agreement;

- (iii) clear the Area of the Works and keep it cleared of all or any part of any obstruction, improvement or other matter which, in the reasonable opinion of Hydro might interfere with or endanger the Works, disrupt service to Hydro's customers, or pose a hazard to persons or property in relation to the Works; and
 - (iv) clear the Area of the Works and keep it cleared (including removal or pruning) of all or any part of any vegetation, including without limitation trees, which do or might, in the reasonable opinion of Hydro interfere with or endanger the Works, disrupt service to Hydro's customers, or pose a hazard to persons or property in relation to the Works;
- (c) to enjoy further rights as follows:
- (i) Hydro may, cut vegetation, including without limitation trees, outside the Area of the Works, if in the opinion of Hydro such vegetation and/or trees, might interfere with or endanger the Works (whether on or off the Lands) or pose a hazard to persons or property in relation to the Works. Hydro will, except in an emergency, give the Grantor written notice prior to exercising its rights under this subsection;
 - (ii) Hydro may install, maintain and use gates in all fences which are now, or hereafter shall be on the Right of Way Area, and in fences affecting access to the Area of the Works;
 - (iii) Hydro may ground any structures, installation or things, by whomsoever owned, from time to time situated anywhere on the Right of Way Area or adjacent Lands where, in the reasonable opinion of Hydro, such grounding will eliminate or reduce hazard to persons or property in relation to the Works;
 - (iv) Hydro may pass and repass over, and maintain, repair, replace and use all trails, roads, lanes, and bridges on the Lands outside the Area of the Works with or without equipment, machinery and materials to such extent as may reasonably be required by Hydro in relation to this Agreement;
 - (v) where there are no suitable trails, roads, lanes, or bridges under paragraph 2.1(c)(iv), Hydro may either:
 - A. construct, maintain, repair, replace, use, pass and repass over trails, roads, lanes, and bridges on the Lands, (collectively referred to as "Access Improvements"); or
 - B. pass and repass over the Lands elsewhere than on trails, roads, lanes, and bridges, with or without equipment, machinery and materials to such extent as may reasonably be required by Hydro in relation to this Agreement, subject to approval of the route by the Grantor, such approval not to be unreasonably withheld, conditioned or delayed, provided that in the case of an emergency or reasonably apprehended emergency Hydro does not require the prior approval of the Grantor under this subsection but will report to the Grantor the purpose and extent of the access as soon as practicable;
 - (vi) to conduct vegetation management upon the Area of the Works, such as the planting of vegetation compatible with the undertakings of Hydro, and the application of pesticides on the Lands; and

- (vii) Hydro may enter onto the Lands outside the Area of the Works for the purpose of undertaking works to protect any Works located within the Lands or within the Excluded Right of Way Areas or to protect persons or property that may be at risk from such Works, provided that:
 - A. Hydro will before commencing such works deliver to the Grantor for approval a written work plan describing the proposed work on the Lands;
 - B. the Grantor will not unreasonably withhold, condition or delay approval of such work plan, and shall take into consideration the effect of the proposed work, the cost of the proposed work compared to the cost of alternate solutions and the extent of the risk of not undertaking the work. If Hydro and the Grantor, each acting reasonably, cannot agree on a work plan requested by Hydro within 30 days of receipt by the Grantor of the proposed work plan, then either party may refer the disagreement to dispute resolution under section 14.1 of this Agreement;
 - C. Hydro will pay compensation for any damage to the Lands resulting from the implementation of the work plan;
 - D. in the case of an emergency or reasonably apprehended emergency Hydro may, without the approval of the Grantor, undertake works and take such steps on the Lands as are reasonably required to be taken immediately in order to protect the Works, or to protect persons or property that may be at risk from the Works, and in that event Hydro will as soon as reasonably possible thereafter notify the Grantor; and
 - E. generally, do all such other acts or things as may reasonably be necessary or incidental to the business of Hydro in connection with any of the foregoing.

3.0 Right of Way Area

- 3.1 The parties acknowledge that they have made reasonable efforts to identify all the existing Works and related Right of Way Area as of the date of this Agreement. However, as there may still be some Works that were missed in the identification process the parties agree that for such Works the Grantor grants to Hydro for so long as required, a right of way over those portions of the Lands upon which such Works are located on the following terms:
 - (a) for such Works, Hydro holds the same rights, privileges and obligations as apply to Hydro for the use of the Right of Way Area and the Area of the Works under this Agreement, including the right of reasonable access over the Lands for the purpose of gaining access to such Works; and
 - (b) the Grantor may at any time require Hydro to attach a revised survey plan to this Agreement to include those additional portions of the Lands.

4.0 Non-Exclusive Use

- 4.1 This Agreement will not entitle Hydro to exclusive possession of the Hydro Right of Way Area or other parts of the Lands and the Grantor reserves the right to grant other dispositions of any Lands affected by this Agreement, so long as the grant does not materially affect or interfere with the exercise of Hydro's rights under this Agreement.

5.0 Protection of the Environment

5.1 Hydro will undertake activities permitted under this Agreement having regard for the impact on the Environment, and will take prudent measures to minimize the danger or disruption to the Environment.

6.0 Covenants of Hydro

6.1 Hydro covenants separately with the Grantor that:

- (a) Hydro shall pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of Hydro which relate to the Works and which Hydro is liable to pay;
- (b) Hydro shall keep the portions of the Lands used by Hydro under this Agreement in a safe, clean and sanitary condition to the extent the condition relates to the use or occupation of the Lands by Hydro, and on written notice from the Grantor, to make safe, clean, and sanitary any portion of them that contravene the provisions of this covenant, provided that Hydro has no obligation to keep any portion of the Lands suitable for use by anyone except Hydro;
- (c) Hydro shall bury and maintain all underground works as may be required so as not to unduly interfere with the drainage of the Lands;
- (d) Hydro shall take all reasonable steps and precautions to minimize disturbance of any archaeological material discovered by Hydro on the Right of Way Area, and to immediately notify the Grantor;
- (e) Hydro shall not bury debris or rubbish of any kind on the Lands in excavations or backfill, and to remove shoring and similar temporary structures as backfilling proceeds;
- (f) Hydro shall not commit or suffer any wilful or voluntary waste, spoil or destruction on the Right of Way Area, or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to the Grantor, except to the extent required by Hydro acting reasonably, to exercise its rights under this Agreement; and
- (g) Hydro shall permit the Grantor to enter upon the Right of Way Area at any time to examine its condition.

7.0 Work Plans

7.1 Except in the case of an emergency or reasonably apprehended emergency, Hydro will provide to the Grantor a written work plan describing the proposed work located on, outside or related to the Right of Way Area prior to undertaking any of the following work under this Agreement:

- (a) construction of any new Works;
- (b) relocation of any Works; and
- (c) construction or relocation of any Access Improvements.

In accordance with this section 7.1, prior to undertaking any work, Hydro will deliver a copy of the work plan to the Grantor for comment by the Grantor. The Grantor will no more than thirty (30) days after receiving the work plan, provide to Hydro in writing any comments that it may have, and Hydro will use reasonable efforts to accommodate any suggestions or requests presented by

the Grantor to Hydro provided they do not result in delays, increased costs or technical difficulties.

8.0 Relocation of Works Due to Change

8.1 If a material change occurs to the Lands, such as erosion, which for any reason makes the continued use of any portion of the Right of Way Area or the Excluded Right of Way Area unsuitable for any of the Works, then the Grantor will consent to the relocation and replacement of such Works to a new location on the Lands, as follows:

- (a) Hydro will before undertaking any work, deliver a work plan to the Grantor indicating the contemplated relocation of the Works for approval by the Grantor, which approval will not be unreasonably withheld, delayed or conditioned;
- (b) Hydro will take into account any likely material effect of the relocated Works on adjacent lands, and the Grantor will take into account the cost efficiencies of the location selected by Hydro for the relocated Works in relation to alternative locations;
- (c) the relocated Works will be covered by the terms and conditions of this Agreement; and
- (d) if Works are relocated from the Excluded Right of Way Area to the Lands Hydro will pay the Grantor the fair market value of the new Right of Way Area provided the Grantor has not caused any portion of such Excluded Right of Way Area to become unsuitable for any of the Works.

9.0 Relocation of Works at the Request of the Grantor

9.1 If the Grantor requires a portion of the Right of Way Area for other purposes, then upon written request by the Grantor, Hydro will relocate any Works in the Right of Way Area to a new location on the Lands, provided that:

- (a) the new location is, in the reasonable opinion of Hydro, suitable for use for the relocated Works considering construction, maintenance and operation, and cost factors;
- (b) the Grantor gives Hydro reasonable notice to permit proper design, planning and construction of the Works to be relocated;
- (c) the Grantor agrees to pay all reasonable costs and expenses, including costs of design, supervision and construction (before any relocation, the Grantor will pay the costs and expenses as estimated by Hydro, with appropriate adjustments based on actuals after the relocation is complete); and
- (d) the rights, liberties and rights of way under this Agreement will extend to the relocated Works and associated areas.

10.0 Removal of Works

10.1 If Hydro no longer requires all or a portion of the Right of Way Area, then Hydro shall, in respect of such Right of Way Area:

- (a) quit peaceably such Right of Way Area;
- (b) remove any Access Improvements no longer required in relation to such Right of Way Area;

- (c) remove all above ground Works from such Right of Way Area within a reasonable period of time and any Works remaining on that portion of the Right of Way Area will be absolutely forfeited to and become the property of the Grantor. If the Grantor removes any remaining above ground Works within four (4) years, Hydro will, on demand by the Grantor, reimburse the Grantor for all reasonable costs of removal; and
- (d) remain liable for any environmental damage to the Lands arising from any below ground Works that remain on or in such Right of Way Area, except if the Grantor uses or authorizes the use of any of the remaining below ground Works for any purpose then Hydro will not be liable for any environmental damage caused by the Grantor's use, or authorized use; and to the extent necessary, this covenant will survive the termination of this Agreement.

11.0 Covenants of the Grantor

11.1 The Grantor covenants with Hydro that:

- (a) Hydro shall and may peaceably enjoy and hold its rights under this Agreement without interruption, disturbance, molestation or hindrance whatsoever from the Grantor or any other person lawfully claiming from or under the Grantor, provided however that nothing in this subsection 11.1(a) shall limit the Grantor's right of inspection pursuant to subsection 6.1(h);
- (b) the Grantor will not permit or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, fill, pile of material, obstruction, equipment, thing or inflammable substance, or plant any vegetation upon the Area of the Works, if any such action or thing, in the reasonable opinion of Hydro:
 - (i) may interfere with or endanger the Works or any part thereof or the installation, operation, maintenance, removal or replacement of the Works or any part thereof;
 - (ii) may obstruct access to the Works or any part thereof by those authorized by Hydro; or
 - (iii) may by its operation, use, maintenance or existence on the Area of the Works, create or increase any hazard to persons or property in relation to the Works;
- (c) the Grantor will not diminish or increase the ground elevation in the Right of Way Area by any method, including piling any material or creating any excavation, drain, or ditch in the Right of Way Area, unless permission in writing from Hydro has first been received, which permission will not be unreasonably withheld, conditioned or delayed;
- (d) the Grantor will not carry out blasting or aerial logging operations on or adjacent to the Area of the Works without prior written permission from Hydro, which permission will not be unreasonably withheld, conditioned or delayed;
- (e) the Grantor will not use or authorize the use of the portions of the Right of Way Area for the regular, or organized parking of vehicles without the prior written permission from Hydro, which permission will not be unreasonably withheld, conditioned or delayed, provided that nothing in this subsection is intended to prevent safe temporary parking of vehicles;
- (f) the Grantor will not park, or authorize to be parked on the Right of Way Area any vehicle or equipment if the parking of such vehicle does not comply with the requirements of the

Canadian Standards Association's Canadian Electrical Code, as may be amended from time to time; and

- (g) the Grantor will not use, or authorize the use of the Right of Way Area for fuelling any vehicle or equipment.

12.0 Compensation for Damages

12.1 Subject to the rights granted in this Agreement, Hydro covenants with the Grantor that if Hydro or its contractors, damage any structures, buildings, fixtures, improvements, or chattels outside of the Area of the Works, or damage any crops, merchantable timber, livestock, drains, ditches, culverts, fences, trails, bridges, or roads on the Lands, and such damage is not caused as a result of the Grantor's breach of the terms of this Agreement or the negligence or willful act of the Grantor or its contractors, agents or permittees, that Hydro will:

- (a) compensate the Grantor for such damages, to the extent caused by Hydro; or
- (b) within a reasonable period of time, repair in a good and workman-like manner any damaged structure, building or improvement, as closely as is practicable to its condition immediately prior to the damage.

12.2 Compensation paid to the Grantor for merchantable timber pursuant to section.12.1 will be in accordance with generally accepted principles of timber valuation and the parties agree that on payment, title to any timber cut on the Lands under this Agreement will vest in Hydro.

13.0 Indemnity

13.1 Hydro will save harmless and indemnify the Grantor from and against all claims, demands, actions, suits or other legal proceedings by whomsoever made or brought against the Grantor by reason of or arising out of:

- (a) any breach, violation or non-performance by Hydro of any of Hydro's covenants, conditions or obligations under this Agreement; and
- (b) any act or omission on the part of Hydro in respect of or in relation to its Works including the construction, maintenance, operation or decommissioning of its Works, but only to the extent any such matter is found to be the responsibility of Hydro and was not contributed to by the negligence of, or breach, violation or non-performance by, the Grantor or those for whom the Grantor is responsible at law, and not for any matters based on nuisance or the rule in *Rylands v. Fletcher* unless Hydro was negligent.

14.0 Dispute Resolution

14.1 Any dispute arising out of or in connection with this Agreement will be resolved as follows:

- (a) the parties will attempt to resolve disputes by negotiations, including timely disclosure of all relevant facts, information and documents;
- (b) either party may, at any time, by written notice request that the dispute be referred to mediation, conducted by a mediator, knowledgeable about the matters in dispute;
- (c) if the dispute is not resolved within thirty (30) days of the notice to mediate under subsection (b) or any further period of time agreed to by the parties, then, on the agreement of the parties, the dispute may be referred to a single arbitrator for final resolution in accordance with the provisions of the British Columbia **Commercial Arbitration Act**. If the parties do not agree to arbitration, then any party may refer the

matter to a court of competent jurisdiction; except that it is not incompatible with this subsection for a party to apply to a court of competent jurisdiction at any time for interim or conservatory relief and for the court to grant that relief.

15.0 Runs With the Land

15.1 This Agreement runs with and binds the Lands to the extent necessary to give full force and effect to this Agreement.

16.0 Notice

16.1 Whenever it is required or permitted that notice or demand be given by any party to the other, the same will be in writing and will be forwarded to the following addresses:

To the Grantor: Tsawwassen First Nation
131 North Tsawwassen Drive
Delta, BC V4M 4G2
Attn: ■
Fax: 604-943-■

To Hydro: Manager, Properties
B.C. Hydro
8th Floor - 333 Dunsmuir Street
Vancouver, British Columbia
V6B 5R3

Fax: (604) 623-3951

16.2 If any question arises as to the date on which such notice was communicated to any party, it will be deemed to have been given on the earlier of:

- (a) if it was delivered personally or by courier, on the next business day;
- (b) if it was sent by fax, on the next business day; or
- (c) if it was sent by mail, on the sixth day after the notice was mailed.

In the event of postal disruption or an anticipated postal disruption, notices may not be given by mail.

16.3 A change of address by any party may be given to the others in accordance with this provision.

17.0 General

17.1 A breach of any term, condition, covenant or other provision of this Agreement may only be waived in writing, and any waiver will not be construed as a waiver of any subsequent breach. Consent to or approval of any act, where consent or approval is required under this Agreement, will not be construed as consent to or approval of any subsequent act.

17.2 No remedy set out in this Agreement is exclusive of any other remedy provided by law, but will be in addition to any other remedy existing at law, in equity, or by statute.

17.3 The terms and provisions of this Agreement will extend to, be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.

- 17.4 Each party to this Agreement may register this Agreement in any land registry system established or used by the Grantor for lands within its jurisdiction. At the request of any party to this Agreement, both parties will cooperate in executing any documents or plans required to accomplish the registration of this Agreement and to preserve the substance and priority of this Agreement in relation to those portions of the Lands affected by this Agreement.
- 17.5 Hydro may grant licences respecting its rights under this Agreement to anyone, in whole or in part, without the prior written consent of the Grantor provided that no licence will act as a release of any of Hydro's obligations set out in this Agreement.
- 17.6 The parties acknowledge that, pursuant to agreements designated under the **Transmission Corporation Act**, British Columbia Transmission Corporation ("BCTC") is responsible for management and maintenance of Hydro's transmission system, and accordingly BCTC may exercise discretion conferred upon Hydro and discharge obligations assumed by Hydro under this Agreement.
- 17.7 A delegate appointed by the Grantor may provide Hydro with all commentary, authorizations and approvals required pursuant to this Agreement including without limitation, all commentary, authorizations or approvals required in relation to work plans, approval of access routes, and relocations or replacements of any Works as contemplated in this Agreement.
- 17.8 This Agreement may not be amended except by written agreement signed by all parties to this Agreement.

18.0 Interpretation

- 18.1 In this Agreement:
- (a) all attached schedules form an integral part of this Agreement;
 - (b) the headings are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of this Agreement;
 - (c) a reference to "party" or "parties" in this Agreement is a reference to Grantor or Hydro, or both, as the context requires; and
 - (d) if any provision is determined by a court or arbitrator of competent jurisdiction to be illegal or unenforceable, that provision will be considered separate and severable, and the legality or enforceability of the remaining provisions will not be affected by that determination.

IN WITNESS WHEREOF the parties have duly executed this Agreement, as of the date first referred to above.

British Columbia Hydro and Power Authority by its authorized signatory:

Signature: _____

Name (Printed): _____

Title: _____

Tsawwassen First Nation, by its authorized signatory

Signature: _____

Name (Printed): _____

Title: _____

SCHEDULE "A"

(Insert Legal description of Lands)

SCHEDULE "B"

(Surveyed Plan of Lands)

SCHEDULE "C"

(Surveyed Plan of Right of Way Areas)

APPENDIX D - 9

DOCUMENT 4

DISTRIBUTION RIGHT OF WAY AGREEMENT

**(BRITISH COLUMBIA HYDRO AND POWER AUTHORITY AND
TELUS COMMUNICATIONS INC.)**

Land Title Act

**Land Title Act
Form C**

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART I

(This area for Land Title Office use)

Page 1 of 16 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. Parcel Identifier and Legal Description of Land:

(PID)

(Legal Description)

3. Nature of Interest: *
Description

Document Reference
(page and paragraph)

Person Entitled to
Interest

RIGHT OF WAY

TRANSFeree

4. Terms: Part 2 of this instrument consists of (select one only)

- (a) Filed Standard Charge Terms
- (b) Express Charge Terms
- (c) Release

D.F. No.
Annexed as Part 2
There is no Part 2 of this
instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. Transferor(s):

TSAWWASSEN FIRST NATION

6. Transferee(s): (including occupation(s), postal address(es) and postal code(s))

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, 8th Floor - 333 Dunsmuir Street,
Vancouver, BC, V6B 5R3 and **TELUS COMMUNICATIONS INC.**

7. Additional or Modified Terms: *

* If space insufficient, continue executions on additional page(s) in Form D.

8. Execution(s): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officers Signature(s)

Y	M	D
---	---	---

Party(ies) Signature(s)

Officer Certification:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

DISTRIBUTION RIGHT OF WAY

This Agreement is made as of _____, 200__.

Among:

Tsawwassen First Nation
131 North Tsawwassen Drive, Delta, BC, V4M 4G2

(the "Grantor")

And:
British Columbia Hydro and Power Authority, a corporation continued under the *Hydro and Power Authority Act*, R.S.B.C. 1996, c.212

("Hydro")

And:
TELUS Communications Inc., a corporation incorporated under the laws of Canada

("TELUS")

WHEREAS:

- A. The Grantor, Canada and British Columbia have entered into a Final Agreement as hereinafter defined.
- B. In accordance with the Final Agreement, the Grantor wishes to provide the grants, as herein provided, to each of Hydro and TELUS with respect to the Grantor's Lands as hereinafter defined,

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties hereto covenant and agree as follows:

1.0 Definitions

1.1 In this Agreement:

- (a) "**Affiliate**" will have the meaning ascribed to it in the *Business Corporations Act*, S.B.C. 2002, c. 57, as amended or replaced from time to time and, in the case of TELUS, includes an affiliate (as defined in that Act) of TELUS and any partnership or other unincorporated association in which TELUS or any affiliate (as defined in that Act) of TELUS has a controlling interest;
- (b) "**Agreement**" means this Right of Way Agreement and all schedules attached to it;
- (c) "**Area of the Works**" means those portions of the Lands located within six (6) metres of either side of the center of the alignment of the Works and includes the Right of Way Area;
- (d) "**Effective Date**" means the date upon which the Final Agreement will take effect;

- (e) **“Environment”** means all the components of the earth including, without limitation, all layers of the atmosphere, air, land (including, without limitation, all underground spaces and cavities and all lands submerged under water), soil, water (including, without limitation, surface and underground water), organic and inorganic matter and living organisms, the interacting natural systems that include the foregoing and all other external conditions or influences under which humans, animals and plants live or are developed;
- (f) **“Excluded Right of Way Area”** means any right of way area or corridor that is not part of the Lands but in whole or in part passes through the Lands or is adjacent to such Lands;
- (g) **“Final Agreement”** means the Tsawwassen First Nation Final Agreement among the Grantor, Canada and British Columbia;
- (h) **“Lands”** means the lands and premises as are legally described in Schedule “A” and as are shown in Schedule “B”, which are both attached to this Agreement;
- (i) **“Right of Way Area”** means those portions of the Lands more particularly described in Section 3 of this Agreement, as may be modified under this Agreement; and
- (j) **“Works”** means:
 - (i) as it relates to the rights and responsibilities of Hydro, all things and components, using any type of technology from time to time, necessary or convenient for the purposes of transmitting and distributing electricity and for the purpose of telecommunications, including: poles, towers, antennae (except for monopole free standing antennae), guy wires, brackets, crossarms, insulators, above ground or underground transformers, anchors, attachments, lines, access nodes and cables, including underground or fibre optic cables, underground conduits, lines and pipes of every kind, cabinets, all ancillary appliances and fittings, reasonably required associated protective installations and related works such as fencing for safety or security, devices and identifying colours for aircraft warning, and utility services for the operation of any of the foregoing;
 - (ii) as it relates to the rights and responsibilities of TELUS, all things and components, using any type of technology from time to time, necessary or convenient for the purpose of telecommunications, including: poles, towers, guy wires, brackets, crossarms, insulators, transformers, anchors, attachments, lines, access nodes and cables, including fibre optic cables, in whole or in part and underground conduits, lines and pipes of every kind, underground cables, including fibre optic cables, together with all ancillary appliances, fittings and cabinets and above ground or underground equipment shelters.

1.2 With respect to any obligation on the part of Hydro or TELUS under this Agreement, any reference to Hydro or TELUS includes their respective servants, officers, employees, agents, contractors, sub-contractors, invitees, licensees, successors, permitted assigns, and those for whom either or both of them is responsible in law.

2.0 Grant of Right of Way

2.1 The Grantor grants over the Lands separately to each of Hydro and TELUS and their respective employees, representatives, contractors, agents, licensees, successors and assigns, for so long as required, the uninterrupted right, liberty and right of way to:

- (a) use the Right of Way Area as follows:
 - (i) excavate for, construct, install, erect, abandon, replace, extend, upgrade, operate, maintain, alter, remove and repair the Works on, over, in, under, across and through the Right of Way Area; and
 - (ii) clear the Right of Way Area and keep it cleared (including pruning or removal) of any trees or growth at any time located therein;
- (b) use the Area of the Works as follows:
 - (i) enter, work, pass and repass upon, on, and along the Area of the Works;
 - (ii) construct, maintain, repair, replace and use trails, roads, lanes, and bridges on the Area of the Works including, in addition, any portions reasonably required adjacent to the Area of the Works for the sake of continuity, with or without equipment, machinery and materials to such extent as may reasonably be required by Hydro or TELUS in relation to this Agreement;
 - (iii) clear the Area of the Works and keep it cleared of all or any part of any obstruction, improvement or other matter which, in the reasonable opinion of Hydro or TELUS, does or might interfere with or endanger the Works, disrupt service to Hydro's or TELUS's customers, or pose a hazard to persons or property in relation to the Works; and
 - (iv) clear the Area of the Works and keep it cleared (including pruning or removal) of all or any part of any trees or growth which do or might, in the opinion of Hydro or TELUS, interfere with or endanger the Works, disrupt service to Hydro's or TELUS's customers, or pose a hazard to persons or property in relation to the Works;
- (c) to enjoy further rights as follows:
 - (i) Hydro and TELUS may, with the prior approval of the Grantor and any party with a registered interest in the affected areas,, such approval not to be unreasonably withheld, delayed or conditioned, cut trees or growth outside the Area of the Works, if in the reasonable opinion of Hydro or TELUS such trees or growth might interfere with or endanger the Works (whether on or off the Lands) or pose a hazard to persons or property in relation to the Works;
 - (ii) Hydro and TELUS may pass and repass over, and maintain, repair replace and use, all roads, lanes and bridges on the Lands outside of the Area of the Works with or without equipment, machinery and materials to such extent as may reasonably be required by Hydro or TELUS in relation to this Agreement;
 - (iii) if there are no suitable roads, lanes or bridges under paragraph 2.1(c) (ii), Hydro and TELUS may either:
 - A. construct, maintain, repair, replace and pass and repass over roads, lanes or bridges on the Lands; or
 - B. pass and repass over the Lands elsewhere than on roads, lanes and bridges, with or without equipment, machinery and materials to such

extent as may reasonably be required by Hydro or TELUS in relation to this Agreement, subject to prior approval of the route by the Grantor, such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Hydro and TELUS do not require such approval if there is an emergency or a reasonably apprehended emergency or for the determination of electricity consumption, but will report to the Grantor the purpose and extent of the access as soon as practicable;

- (iv) to conduct vegetation management upon the Area of the Works, such as the planting of vegetation compatible with the undertakings of Hydro or TELUS, and the application of herbicides and pesticides, provided that Hydro and TELUS will not conduct any aerial application of herbicides or pesticides on the Lands;
 - (v) to install, maintain and use gates in all fences which are now or hereafter shall be on the Right of Way Area and in fences affecting access to the Area of the Works;
 - (vi) to ground any structures, installation or things, by whomsoever owned, from time to time situated anywhere on the Right of Way Area or adjacent Lands where, in the reasonable opinion of Hydro and TELUS, such grounding will eliminate or reduce hazards to persons or property in relation to the Works;
 - (vii) Hydro and TELUS may enter onto the Lands outside the Area of the Works for the purpose of undertaking works to protect any Works located within the Lands or within an Excluded Right of Way Area or to protect persons or property that may be at risk from such Works, provided that:
 - A. Hydro or TELUS will before commencing such works deliver to the Grantor for approval a written work plan describing the proposed work on the Lands;
 - B. the Grantor will not unreasonably withhold, condition or delay approval of such work plan, and shall take into consideration the effect of the proposed work, the cost of the proposed work compared to the cost of alternate solutions and the extent of the risk of not undertaking the work. If Hydro or TELUS, as the case may be, and the Grantor cannot agree on a work plan requested by Hydro or TELUS within 30 days of receipt by the Grantor of the proposed work plan, then either party may refer the disagreement to dispute resolution under section 18.1 of this Agreement;
 - C. Hydro or TELUS, as the case may be, will pay compensation for any damage to the Lands resulting from the implementation of the work plan;
 - D. if Hydro or TELUS, as the case may be, determines in its reasonable judgment that an emergency situation exists or there are imminent safety concerns, Hydro and TELUS may, without approval of the Grantor, undertake works and take such steps on the Lands as are reasonably required to be taken immediately in order to protect the Works, or to protect persons or property that may be at risk from the Works, and in that event Hydro or TELUS will as soon as reasonably possible thereafter notify the Grantor; and
- (d) generally, do all such other acts or things as may reasonably be necessary or incidental to the business of Hydro or TELUS in connection with any of the above.

3.0 Right of Way Area

3.1 The Right of Way Area consists of:

- (a) all portions of the Lands reasonably required for the following:
 - (i) those Works existing at the date of this Agreement;
 - (ii) any additional Works constructed adjacent to, along the sides of or across any roads, lanes or bridges from time to time existing on or through the Lands;
 - (iii) any additional Works that provide service to any lands adjacent to any roads, lanes, or bridges from time to time existing on or through the Lands;
 - (iv) any additional Works that provide service to any lands or customers where the landowners of any intervening parcels consent to the installation of any such Works; and
- (b) any such other portions of the Lands as may from time to time be consented to in writing by the Grantor, or by any delegate appointed by the Grantor.

3.2 The parties agree that the sketch plan attached to this Agreement as Schedule "C" reasonably represents the approximate location of the Works existing as of the date of this Agreement. As and when new works are added to the Lands by either or both of Hydro or TELUS, the parties will update Schedule "C", it being the intention of the parties that this Agreement, and all of its terms and provisions, apply to such new works in their entirety.

3.3 Nothing in this Part 3.0 is intended to affect the rights of Hydro or TELUS to make arrangements directly with a person in legal possession of any lands for the construction, operation and maintenance of the Works and all matters incidental thereto.

4.0 Non-Exclusive Use

4.1 Notwithstanding anything else in this Agreement, Hydro and TELUS acknowledge and agree that:

- (a) this Agreement does not grant a fee simple interest in the Lands, but rather grants a non-exclusive use over the Area of the Works; and
- (b) subject to the rights granted to Hydro and TELUS in this Agreement, the Grantor may grant to third parties other interests on the Area of the Works, provided that any such grant of other interests shall not compromise or, by action of the Grantor or the grantee, damage, disrupt, adversely affect or interfere with the use by Hydro and TELUS of the Works or Area of the Works.

5.0 Protection of the Environment

5.1 Hydro and TELUS will undertake activities permitted under this Agreement having regard for the impact on the Environment, and will take prudent measures to minimize any danger or disruption to the Environment.

6.0 Covenants of Hydro and TELUS

6.1 Hydro and TELUS each covenant separately with the Grantor to:

- (a) pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of Hydro or TELUS, as the case may be, which relate to the Right of Way Area and which Hydro or TELUS is liable to pay;
- (b) keep the portions of the Lands used by Hydro or TELUS under this Agreement in a safe, clean and sanitary condition to the extent the condition relates to the use or occupation by Hydro or TELUS of such Lands, as the case may be, provided that Hydro and TELUS have no obligation to keep any roads within the Area of the Works suitable for use by anyone except Hydro and TELUS;
- (c) bury and maintain all underground works as may be required so as not to unduly interfere with the drainage of the Lands;
- (d) take all reasonable steps and precautions to minimize disturbance of any archaeological material discovered by Hydro or TELUS on the Right of Way Area, and to immediately notify the Grantor;
- (e) not bury debris or rubbish of any kind on the Lands in excavations or backfill, and to remove shoring and similar temporary structures as backfilling proceeds; and
- (f) not commit or suffer any willful or voluntary waste, spoil or destruction on the Right of Way Area, or do or suffer to be done thereon anything that may be or become a nuisance to the Grantor, except to the extent required by Hydro or TELUS, acting reasonably, to exercise the rights granted under this Agreement.

7.0 New Works Constructed by Hydro or TELUS

7.1 Prior to undertaking construction on the Lands of any new Works which are not alterations, extensions or additions to existing Works, Hydro or TELUS, as the case may be, will deliver to the Grantor for prior approval, a sketch plan showing with reasonable accuracy the location of such new Works, which approval will not be unreasonably withheld, delayed or conditioned.

8.0 Relocation of Hydro and TELUS Works Due to Change

8.1 If a material change occurs to the Lands, such as erosion, which for any reason makes the continued use of any portion of the Right of Way Area or an Excluded Right of Way Area unsuitable for any of the Works, then the Grantor will, at no cost to Hydro and TELUS, consent to the relocation and replacement of such Works to a new location on the Lands, as follows:

- (a) Hydro or TELUS, as the case may be, will, before undertaking any work, deliver a sketch plan to the Grantor indicating the contemplated relocation of the Works for approval by the Grantor, which approval will not be unreasonably withheld, delayed or conditioned;
- (b) Hydro or TELUS, as the case may be, will take into account any likely material effect of the relocated Works on adjacent lands, and the Grantor will take into account the cost efficiencies of the location selected by Hydro or TELUS for the relocated Works in relation to alternative locations;
- (c) the relocated Works will be covered by the terms and conditions of this Agreement; and
- (d) subject to the foregoing, the cost of such relocation will be borne by Hydro or TELUS, as the case may be.

9.0 Relocation of Hydro Works at the Request of the Grantor

- 9.1 If the Grantor requires a portion of the Right of Way Area for other purposes, then upon written request by the Grantor, Hydro will relocate any Works in the Right of Way Area to a new location on the Lands, provided that:
- (a) the new location is, in the reasonable opinion of Hydro, suitable for use for the relocated Works considering construction, maintenance and operation, and cost factors;
 - (b) the Grantor gives Hydro reasonable notice to permit proper design, planning and construction of the Works to be relocated;
 - (c) before any relocation, the Grantor has paid the reasonable costs and expenses of the relocation, including costs of design, supervision and construction as estimated by Hydro, with appropriate adjustments made, based on actuals, after the relocation is complete; and
 - (d) the relocated Hydro Works will be covered by the terms and conditions of this Agreement.

10.0 Relocation of TELUS Works at the Request of the Grantor

- 10.1 If the Grantor requires a portion of the Right of Way Area for other purposes, then upon written request by the Grantor, TELUS will relocate any Works in the Right of Way Area to a new location on the Lands, provided that:
- (a) the new location is, in the reasonable opinion of TELUS, suitable for use for the relocated Works considering construction, maintenance and operation, and cost factors;
 - (b) the Grantor gives TELUS reasonable notice to permit proper design, planning and construction of the Works to be relocated;
 - (c) before any relocation, the Grantor has paid the reasonable costs and expenses of the relocation as estimated by TELUS, including costs of design, supervision and construction with appropriate adjustments made, based on actuals, after the relocation is complete; and
 - (d) the relocated TELUS Works will be covered by the terms and conditions of this Agreement.

11.0 Fencing

- 11.1 With the exception of transformer stations and equipment shelters, Hydro and TELUS will not fence the Area of the Works without the prior consent of the Grantor, which consent will not be unreasonably withheld, delayed or conditioned.

12.0 Inspections

- 12.1 It will be lawful for the Grantor at all reasonable times to enter upon the Right of Way Area for the purposes of inspecting the Right of Way Area and the Works.

13.0 Restoration

13.1 When a portion of the Right of Way Area is no longer required for the Works, Hydro or TELUS, as the case may be, will restore the ground surface of the affected portion of the Right of Way Area, as near as is reasonably practicable to its condition prior to the installation of the Works, including the removal of any above ground Works, underground transformers and, where practicable and at the request of the Grantor, any cables located within underground ducts in such portion of the Right of Way Area.

13.2 This Section will survive the expiration of the Agreement.

14.0 Removal of Works

14.1 If certain Works are no longer required by Hydro and TELUS under this Agreement:

- (a) Hydro or TELUS, as the case may be, may, subject to the consent of the Grantor, abandon the Works and transfer to the Grantor all ownership, right and interest in the whole or part of the Works. If the consent of the Grantor is not obtained within one year after the date of the expiration of the Agreement, Hydro or TELUS, as the case may be, will remove the above ground Works, underground transformers and, where practicable and at the request of the Grantor, any cables located within underground ducts as soon as reasonably possible in the circumstances; and
- (b) Hydro or TELUS, as the case may be, will decommission any roads created by either Hydro or TELUS pursuant to paragraph 2.1(c)(iii), which are no longer required in relation to such Works, unless the Grantor requests otherwise.

14.2 Hydro will remain liable for any environmental damage to the Lands arising from any below ground Works that remain on or in the Right of Way Area after the expiration of this Agreement, except that if the Grantor uses or authorizes the use of the remaining below ground Works for any purpose, then Hydro will not be liable for any environmental damage caused by the Grantor's use, or authorized use.

14.3 TELUS will remain liable for any environmental damage to the Lands arising from any below ground Works that remain on or in the Right of Way Area after the expiration of this Agreement, except that if the Grantor uses or authorizes the use of the remaining below ground Works for any purpose, then TELUS will not be liable for any environmental damage caused by the Grantor's use, or authorized use.

14.4 Sections 14.1, 14.2 and 14.3 will survive the expiration of this Agreement.

15.0 Covenants of the Grantor

15.1 The Grantor covenants with Hydro and TELUS that:

- (a) Hydro and TELUS shall and may peaceably enjoy and hold the rights granted in this Agreement without interruption, disturbance, molestation or hindrance whatsoever from the Grantor or any other person lawfully claiming from or under the Grantor, provided however that nothing in this section 15.1 shall limit the Grantor's right of inspection pursuant to section 12.1;
- (b) the Grantor will not permit or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, pile of material, fill, obstruction, equipment, thing or inflammable substance, or plant any growth upon the Area of the Works, if any such action or thing, in the reasonable opinion of Hydro or TELUS:

- (i) may interfere with or endanger the Works or any part thereof or the installation, operation, maintenance, removal or replacement of the Works or any part thereof;
 - (ii) may obstruct access to the Works or any part thereof by those authorized by Hydro or TELUS; or
 - (iii) may by its operation, use, maintenance or existence on the Area of the Works create or increase any hazard to persons or property in relation to the Works;
- (c) the Grantor will not carry out blasting or aerial logging operations on or adjacent to the Area of the Works without prior written permission from Hydro and TELUS, which permission will not be unreasonably withheld, conditioned or delayed; and
- (d) the Grantor will not diminish or increase the ground elevation in the Area of the Works by any method, including piling any material or creating any excavation, drain, or ditch in the Area of the Works, unless permission in writing from Hydro and TELUS has first been received, which permission will not be unreasonably withheld, conditioned or delayed.

16.0 Compensation for Damages

- 16.1 Subject to the rights granted in this Agreement, Hydro and TELUS covenant with the Grantor that if Hydro or TELUS damage any structures, buildings, fixtures, improvements, or chattels outside of the Area of the Works, or damage any crops, merchantable timber, livestock, drains, ditches, culverts, fences, trails, bridges, or roads on the Lands, and such damage is not caused as a result of the Grantor's breach of the terms of this Agreement or the negligence or willful act of the Grantor or its contractors, agents or permittees, then Hydro or TELUS, as the case may be, will:
- (a) compensate the Grantor for such damages, to the extent caused by Hydro or TELUS; or
 - (b) within a reasonable period of time, repair in a good and workman-like manner any damaged structure, building or improvement, as closely as is practicable to its condition immediately prior to the damage.
- 16.2 Despite section 16.1, Hydro and TELUS covenant with the Grantor to pay compensation to the Grantor, in accordance with generally accepted principles of timber valuation, for any merchantable timber cut or damaged by Hydro or TELUS on the Lands or outside of the Area of the Works and the parties agree that on payment, title to any timber cut on the Lands under this Agreement will vest in Hydro or TELUS, as the case may be.

17.0 Indemnity

- 17.1 Hydro will at all times save harmless and indemnify and keep indemnified the Grantor from and against all claims, demands, actions, suits or other legal proceedings by whomsoever made or brought against the Grantor by reason of or arising out of:
- (a) any breach, violation or non-performance by Hydro of any of Hydro's covenants, conditions or obligations under this Agreement; and
 - (b) any act or omission on the part of Hydro in respect of or in relation to its Works including the construction, maintenance, operation or decommissioning of its Works, but only to the extent any such matter is found to be the responsibility of Hydro and was not contributed to by the negligence, breach, violation or non-performance of the Grantor, and not for any matters based on nuisance or the rule in *Rylands v. Fletcher* unless Hydro was negligent.

- 17.2 TELUS will at all times save harmless and indemnify and keep indemnified the Grantor from and against all claims, demands, actions, suits or other legal proceedings by whomsoever made or brought against the Grantor by reason of or arising out of:
- (a) any breach, violation or non-performance by TELUS of any of TELUS' covenants, conditions or obligations under this Agreement; or
 - (b) any act or omission on the part of TELUS in respect of or in relation to its Works including the construction, maintenance, operation or decommissioning of its Works, but only to the extent any such matter is found to be the responsibility of TELUS and was not contributed to by the negligence, breach, violation or non-performance of the Grantor.

18.0 Dispute Resolution

- 18.1 Any dispute arising out of or in connection with this Agreement will be resolved as follows:
- (a) the parties will attempt to resolve disputes by negotiations, including timely disclosure of all relevant facts, information and documents;
 - (b) either party may, at any time, by written notice request that the dispute be referred to mediation, conducted by a mediator, knowledgeable about the matters in dispute;
 - (c) if the dispute is not resolved within 30 days of the notice to mediate under subsection (b) or any further period of time agreed to by the parties, then, on the agreement of the parties, the dispute may be referred to a single arbitrator for final resolution in accordance with the provisions of the British Columbia **Commercial Arbitration Act**. If the parties do not agree to arbitration, then any party may refer the matter to a court of competent jurisdiction; except that it is not incompatible with this subsection for a party to apply to a court of competent jurisdiction at any time for interim or conservatory relief and for the court to grant that relief; and
 - (d) for the purposes of this section 18.1, Hydro and TELUS will only be considered as one party where the dispute arises between the Grantor, on the one hand, and Hydro and TELUS jointly, on the other.

19.0 Runs With the Land

- 19.1 This Agreement runs with and binds the Lands to the extent necessary to give full force and effect to this Agreement.

20.0 Assignment

- 20.1 This Agreement:
- (a) may not be assigned in part or in whole or otherwise transferred without the prior written consent of the Grantor, which consent will not be unreasonably withheld, conditioned or delayed; but
 - (b) may be assigned or otherwise transferred to an Affiliate without consent.
- 20.2 During any time that TELUS carries on business as a telecommunications services provider in partnership with an Affiliate of TELUS, TELUS may allow that partnership and its members to exercise some or all of the rights granted to TELUS in this Agreement, provided that TELUS ensures that the partnership and its members comply with TELUS' obligations in this Agreement. For greater certainty, TELUS shall remain fully liable for all of its obligations under this Agreement in such circumstances.

21.0 Notice

21.1 Whenever it is required or permitted that notice or demand be given by any party to the other, the same will be in writing and will be forwarded to the following addresses:

To the Grantor: Tsawwassen First Nation
131 North Tsawwassen Drive
Delta, BC, V4M 4G2.
Attn: ■

Fax: 604-943-9226

To Hydro: Manager, Properties
B.C. Hydro
8th Floor - 333 Dunsmuir Street
Vancouver, British Columbia
V6B 5R3

Fax: (604) 623-3951

To TELUS: Manager, Real Estate
TELUS
15-3777 Kingsway
Burnaby, British Columbia
V5H 3Z7

Fax: (604) 599-0396

21.2 If any question arises as to the date on which such notice was communicated to any party, it will be deemed to have been given on the earlier of:

- (a) if it was delivered personally or by courier, on the next business day;
- (b) if it was sent by fax, on the next business day; or
- (c) if it was sent by mail, on the sixth day after the notice was mailed.

In the event of postal disruption or an anticipated postal disruption, notices may not be given by mail.

21.3 A change of address by any party may be given to the others in accordance with this provision.

22.0 General

22.1 A breach of any term, condition, covenant or other provision of this Agreement may only be waived in writing, and any waiver will not be construed as a waiver of any subsequent breach. Consent to or approval of any act, where consent or approval is required under this Agreement, will not be construed as consent to or approval of any subsequent act.

22.2 No remedy set out in this Agreement is exclusive of any other remedy provided by law, but will be in addition to any other remedy existing at law, in equity, or by statute.

22.3 The terms and provisions of this Agreement will extend to, be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.

- 22.4 Any party to this Agreement may register this Agreement in any land registry system established or used by the Grantor for lands within its jurisdiction. At the request of any party to this Agreement, all parties will cooperate in executing any documents or plans required to accomplish the registration of this Agreement and to preserve the substance and priority of this Agreement in relation to those portions of the Lands affected by this Agreement.
- 22.5 Hydro or TELUS may grant licences respecting their rights under this Agreement to anyone, in whole or in part, without the prior written consent of the Grantor provided that no licence will act as a release of any of Hydro's or TELUS's obligations set out in this Agreement.
- 22.6 A delegate appointed by the Grantor may provide Hydro and TELUS with all commentary, authorizations and approvals required pursuant to this Agreement including without limitation, all commentary, authorizations or approvals required in relation to sketch plans, access to the Area of the Works, and relocations or replacements of any Works.
- 22.7 This Agreement may not be amended except by written agreement signed by all parties to this Agreement.

23.0 Interpretation

23.1 In this Agreement:

- (a) all attached schedules form an integral part of this Agreement;
- (b) the headings are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of this Agreement;
- (c) if any provision is determined by a court or arbitrator of competent jurisdiction to be illegal or unenforceable, that provision will be considered separate and severable, and the legality or enforceability of the remaining provisions will not be affected by that determination.

IN WITNESS WHEREOF the parties have duly executed this Agreement, as of the date first referred to above.

British Columbia Hydro and Power

Authority **by its authorized signatory:**

Signature: _____

Name (Printed): _____

Title: _____

TELUS Communications Inc. by its authorized signatory:

Signature: _____

Name (Printed): _____

Title: _____

Tsawwassen First Nation, by its authorized signatory:

Signature: _____

Name: _____

Title: _____

SCHEDULE "A"

[Insert Legal description of the Lands]

SCHEDULE "B"

(Sketch Plan of the Lands)

SCHEDULE "C"

(Surveyed Plan of Works, pursuant to Section. 3.2 of the Agreement)

APPENDIX D - 9

DOCUMENT 5

**NATURAL GAS DISTRIBUTION WORKS
RIGHT OF WAY AGREEMENT**

(TERASEN GAS INC.)

Land Title Act

Form C

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART I

(This area for Land Title Office use)

Page 1 of 16 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. Parcel Identifier and Legal Description of Land:

(PID)

(Legal Description)

3. Nature of Interest: *

Description

Document Reference

Person Entitled to Interest

(page and paragraph)

RIGHT OF WAY

TRANSFeree

4. Terms: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. Transferor(s):

TSAWWASSEN FIRST NATION

6. Transferee(s): (including occupation(s), postal address(es) and postal code(s))

TERASEN GAS INC., 3700 2nd Avenue, Burnaby, BC, V5C 6S4

7. Additional or Modified Terms: *

* If space insufficient, continue executions on additional page(s) in Form D.

8. Execution(s): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officers Signature(s)

Y	M	D
---	---	---

Party(ies) Signature(s)

Officer Certification:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

**RIGHT-OF-WAY AGREEMENT FOR NATURAL GAS
DISTRIBUTION WORKS**

This Agreement is made as of _____, 200____,

Between

Tsawwassen First Nation
131 North Tsawwassen Drive, Delta, BC, V4M 4G2

(the "Grantor")

And:

Terasen Gas Inc., a corporation incorporated under the laws of the Province of British Columbia having an office at 3700 2nd Avenue, Burnaby, British Columbia, V5C 6S4

("Terasen")

WHEREAS:

- A. The Grantor, Canada and the Province of British Columbia have entered into a Final Agreement as hereinafter defined; and
- B. In accordance with the Final Agreement, the Grantor wishes to grant to Terasen a right-of-way with respect to the Grantor's Lands as hereinafter defined,

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties hereto covenant and agree as follows:

1.0 Definitions

1.1 In this Agreement:

"**Area of the Works**" means those portions of the Lands located within one (1) metre of either side from the diameter of the Works;

"**Affiliate**" has the meaning ascribed to it in the *Business Corporations Act*, S.B.C. 2002, c.57, as amended or replaced from time to time;

"**Agreement**" means this right-of-way agreement and all schedules attached to it;

"**Environment**" means all the components of the earth including, without limitation, all layers of the atmosphere, air, land (including, without limitation, all underground spaces and cavities and all lands submerged under water), soil, water (including, without limitation, surface and underground water), organic and inorganic matter and living organisms, the interacting natural systems that include the foregoing and all other external conditions or influences under which humans, animals and plants live or are developed;

"**Excluded Area**" means any right-of-way area or corridor that is not part of the Lands but in whole or in part passes through the Lands or is adjacent to such Lands;

"Final Agreement" means the Tsawwassen First Nation Final Agreement among the Grantor, Canada and British Columbia;

"Lands" means the lands and premises as are legally described in Schedule "A" and as are shown in Schedule "B", which are both attached to this Agreement;

"Right-of-Way" means the tenure and those rights, privileges, licenses, liberties and permits granted to and held by Terasen as set out in this Agreement;

"Right-of-Way Area" means, collectively, the Works Area and the Area of the Works;

"Works" means all above ground or underground things and components owned or operated by Terasen, necessary or convenient for the purpose of transmitting, transporting and distributing natural and artificial gas and other gaseous or liquid hydrocarbons or any product or by-product thereof on, over, under, across and through the Works Area, in whole or in part, by any means, including one or more underground pipelines of any kind or dimension with any above ground and underground valves, structures, meters and other appliances and fittings, and devices for inspection, controlling corrosion and erosion, all for use in connection with such pipeline(s), all as they may exist from time to time, and for greater certainty, includes alterations, extensions and additions to such Works as required from time to time;

"Works Area" means those portions of the Lands more particularly described in Part 3.0 of this Agreement.

- 1.2 With respect to any obligation on the part of Terasen under this Agreement, any reference to Terasen includes its servants, officers, employees, agents, contractors, sub-contractors, invitees, licensees, successors, permitted assigns, and those for whom Terasen is responsible in law.

2.0 Grant of Right-of-Way

- 2.1 Effective as of the date of this Agreement, the Grantor grants a Right-of-Way over the Lands to Terasen commencing on the date written above and continuing for so long as any of the Right-of-Way is required by Terasen, which Right-of-Way shall confer on Terasen, the right, privilege, liberty and permit to:

(a) use the Works Area as follows:

- (i) to excavate for, construct, install, erect, abandon, replace, extend, upgrade, operate, maintain, alter, remove and repair the Works on, over, under, across and through the Works Area;
- (ii) to clear the Works Area and keep it cleared (including pruning or removal) of any trees or growth at any time located therein; and
- (iii) generally, to do all such other acts or things on the Works Area as may reasonably be necessary or incidental to the business of Terasen in connection with any of the foregoing;

(b) use the Area of the Works as follows:

- (i) to enter, work, inspect, patrol, pass and repass upon, on, and along the Area of the Works;
- (ii) to clear the Area of the Works and keep it cleared of all or any part of any obstruction, improvement or other matter which, in the reasonable opinion of

Terasen, might interfere with or endanger the Works, disrupt service to Terasen's customers, or pose a hazard to the Works or persons in relation to the Works;

- (iii) to clear the Area of the Works and keep it cleared (including pruning or removal) of all or any part of any trees or growth which do or might, in the reasonable opinion of Terasen, interfere with or endanger the Works, disrupt service to Terasen's customers, or pose a hazard to the Works or persons in relation to the Works; and

(c) to enjoy further rights as follows:

- (i) Terasen may, with the prior written consent of the Grantor, and any party with a registered interest in the affected areas, such consent not to be unreasonably withheld, delayed or conditioned, cut trees outside the Area of the Works, if in the reasonable opinion of Terasen such trees would threaten to damage the Works or pose a hazard to the Works or persons in relation to the Works;
- (ii) Terasen may pass and repass over existing roads on the Lands for access to and from the Area of the Works, and in the event that such roads become closed to the public for any reason, the Grantor shall nonetheless provide Terasen access to such roads for the purpose for ingress and egress to and from the Area of the Works, to the extent reasonably practicable, or to such alternative access as may be available, at no additional cost to Terasen;
- (iii) If no such road access is available, Terasen may have access to and over other portions of the Lands for access to and from the Area of the Works, provided that such access has been approved by the Grantor, such approval not to be unreasonably withheld or delayed, and by any other person having an interest in such portion or portions; provided that such approval is not required if access is necessary for determining consumption or usage of services, in emergency situations or for normal surveillance or safety inspection purposes;
- (iv) Terasen may enter onto the Lands outside the Area of the Works for the purpose of undertaking works to protect any Works located within the Lands or within an Excluded Area or to protect persons and property that may be at risk from such Works, provided that:
 - A. Terasen will deliver to the Grantor for prior approval a written work plan describing the proposed work on the Lands;
 - B. the Grantor will not unreasonably withhold or delay approval of such work plan and will not impose any unreasonable conditions relating to the granting of such approval and shall take into consideration the effect of the proposed work, the cost of the proposed work compared to the cost of alternate solutions and the extent of the risk of not undertaking the work. If Terasen and the Grantor, each acting reasonably, cannot agree on a work plan within 30 days of receipt by the Grantor of the work plan proposed by Terasen, then either party may refer the disagreement to dispute resolution under section 17.1 of this Agreement; and
 - C. in the event that any damage to the Lands results from the implementation of the work plan by Terasen, Terasen will repair and restore the damaged portion of the Lands as near as is reasonably feasible, to their condition prior to the implementation of the work plan or, at Terasen's discretion, pay to the Grantor appropriate compensation in respect of such damage.

2.2 Notwithstanding the foregoing, if Terasen determines in its reasonable judgment that an emergency situation exists or there are imminent safety concerns or risk of public harm, Terasen may, without approval of the Grantor, undertake works and take such steps on the Lands as are reasonably required to be taken immediately in order to protect the Works located within the Lands or within an Excluded Area, or to protect persons and property that may be at risk from such Works, and in that event Terasen will as soon as reasonably possible thereafter notify the Grantor.

3.0 Works Area

3.1 The Works Area consists of all portions of the Lands reasonably required by Terasen for the following:

- (a) those Works existing at the date of this Agreement;
- (b) any additional Works constructed adjacent to, along the sides of and across any of the Grantor's roads from time to time existing on or through the Lands;
- (c) any additional Works that provide services to any lands adjacent to any roads from time to time existing on or through the Lands; and

any such other portions of the Lands as are from time to time consented to in writing by the Grantor, or any delegate appointed by the Grantor.

3.2 The parties agree that the sketch plan attached to this Agreement as Schedule "C" reasonably represents the Works existing as of the date of this Agreement. As and when new works are added to the Lands by Terasen, the parties will update Schedule "C" to reflect such new works, it being the intention of the parties for this Agreement and all of its terms and provisions to apply to such new works in their entirety.

3.3 Nothing in this Part 3.0 is intended to affect the rights of Terasen to make arrangements directly with a person in legal possession of any lands for the construction, operation and maintenance of the Works and all matters incidental thereto.

4.0 Non-Exclusive Use

4.1 Notwithstanding anything else in this Agreement, Terasen acknowledges and agrees that:

- (a) this Agreement does not grant a fee simple interest in the Lands to or in favour of Terasen; and
- (b) the Grantor may grant to third parties other interests on the Right-of-Way Area upon prior written notice to Terasen, provided that any such grant of other interests shall not compromise or, by action of the Grantor or the grantee, damage, disrupt, adversely affect or interfere with the use by Terasen of the Works or Right-of-Way Area.

5.0 Protection of the Environment

5.1 Terasen will undertake activities permitted under this Agreement having regard for the impact on the Environment, and will take prudent measures to minimize the danger or disruption to the Environment.

6.0 Covenants of Terasen

6.1 Terasen covenants with the Grantor to:

- (a) pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of Terasen, which relate to the Right-of-Way Area and which Terasen is liable to pay;
- (b) keep the Right-of-Way Area, and any Works, in a safe, clean and sanitary condition to the extent the condition relates to the use or occupation of the Right-of-Way Area by Terasen, provided that Terasen has no obligation to keep any roads within the Right-of-Way Area suitable for use by anyone except Terasen;
- (c) bury and maintain all underground Works as may be required so as not to unduly interfere with the drainage of the Lands;
- (d) take all reasonable steps and precautions to minimize disturbance of any archaeological material discovered by Terasen on the Right-of-Way Area, and to immediately notify the Grantor;
- (e) not bury debris or rubbish of any kind on the Lands in excavations or backfill, and to remove shoring and similar temporary structures as backfilling proceeds; and
- (f) not commit or suffer any willful or voluntary waste, spoil or destruction on the Right-of-Way Area, or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to the Grantor, except to the extent required by Terasen, acting reasonably, to exercise the rights granted herein.

7.0 New Works Constructed by Terasen

- 7.1 Prior to undertaking construction on the Lands of any new Works which are not alterations, extensions or additions to existing Works, Terasen, will deliver to the Grantor for prior approval, a sketch plan showing with reasonable accuracy the location of any new Works, which approval will not be unreasonably withheld, delayed or conditioned.

8.0 Relocation of Works Due to Change

- 8.1 If a material change occurs to the Lands, such as erosion, which for any reason makes the continued use of any portion of the Right-of-Way Area unsuitable for the continued operation and maintenance of any of the Works, then the Grantor will consent, which consent will be, at no cost to Terasen, to the relocation and replacement of such Works to a new location on the Lands, as follows:
 - (a) Terasen will, before undertaking any work, deliver a sketch plan to the Grantor indicating the contemplated relocation of the Works for approval by the Grantor, which approval will not be unreasonably withheld, delayed or made subject to any unreasonable conditions;
 - (b) Terasen will take into account any likely material adverse effect of the relocated Works on adjacent lands, and the Grantor will take into account the cost efficiencies of the location selected by Terasen for the relocated Works in relation to alternative locations;
 - (c) the relocated Works will be covered by the terms and conditions of this Agreement; and
 - (d) subject to the foregoing, the cost of such relocation will be borne by Terasen.

9.0 Relocation of Works at the request of the Grantor

- 9.1 If the Grantor requires a portion of the Right-of-Way Area for other purposes, then upon written request by the Grantor, Terasen will relocate any Works in the Right-of-Way Area to a new location on the Lands, provided that:
- (a) the new location is, in the reasonable opinion of Terasen, suitable for use for the relocated Works considering construction, maintenance and operation, and cost factors;
 - (b) the Grantor gives Terasen reasonable notice to permit proper design, planning and construction of the Works to be relocated;
 - (c) the Grantor agrees to pay all reasonable costs and expenses, including costs of design, supervision and construction (before any relocation, the Grantor will pay the costs and expenses as estimated by Terasen, with appropriate adjustments made based on actuals after the relocation is complete); and
 - (d) without any further action required on the part of the parties, a new Right-of-Way will be deemed to have been established upon the terms and conditions of this Agreement, which will apply to and cover such relocated Works.

10.0 Fencing and Use of the Right-of-Way Area

- 10.1 Except for the purpose of protecting any necessary above ground Works, Terasen will not fence the Right-of-Way Area without the prior consent of the Grantor. Any present or future lessees or permittees having any rights with respect to the Right-of-Way Area are, subject to the rights granted to Terasen herein, to be allowed free access to the Right-of-Way Area and the use of the same except for:
- (a) making, placing, erecting or maintaining any building, structure, excavation, pile of material or obstruction or planning any growth on the Area of the Works which, in the reasonable opinion of Terasen might interfere with or endanger the construction, operation, maintenance or removal of the Works or might reasonably obstruct access by Terasen to the Works; or
 - (b) doing any act or thing that might reasonably interfere with or damage the Works or create or increase any hazards to persons in relation to the Works; or
 - (c) doing anything that would contravene the provisions of the **Gas Utility Act, Pipeline Act**, or Gas Safety Regulations pursuant to the **Safety Standards Act**, all as amended from time to time.

11.0 Inspections

- 11.1 It will be lawful for the Grantor at all reasonable times to enter upon the Right-of-Way Area for the purpose of examining the Works Area and the Works.

12.0 Restoration

- 12.1 When a portion of the Works Area is no longer required for the Works, Terasen will restore the ground surface to the affected portion of the Works Area, as near as is reasonably possible to its condition prior to the installation of the Works, including the removal of any above ground Works.
- 12.2 Section 12.1 will survive the termination or expiration of this Agreement.

13.0 Removal of Works

- 13.1 On the termination or expiration of this Agreement, Terasen may, subject to the consent of the Grantor, abandon the Works and transfer to the Grantor all ownership, right and interest in the whole or in part of the Works. If the consent of the Grantor is not obtained within one year after the date of the termination or expiration of this Agreement, Terasen will remove the Works, where practicable, as soon as reasonably possible in the circumstances.
- 13.2 Terasen will remain liable for any environmental damage to the Lands arising from any below ground Works that remain on or in that portion of the Right-of-Way Area after the termination or expiration of this Agreement, except that if the Grantor uses or authorizes the use of the remaining below ground Works for any purpose, then Terasen will not be liable for any environmental damage caused by the Grantor's use or other use authorized by the Grantor.
- 13.3 Sections 13.1 and 13.2 will survive the termination or expiration of this Agreement.

14.0 Covenants of the Grantor

14.1 The Grantor covenants with Terasen that:

- (a) subject to subsection 4.1(b), Terasen shall and may peaceably enjoy and hold the Right-of-Way without interruption, disturbance, molestation or hindrance whatsoever from the Grantor or any other person lawfully claiming from or under the Grantor, provided however that nothing in this section 14.1 shall limit the Grantor's right of inspection pursuant to section 11.1.
- (b) the Grantor will not permit or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, pile of material, fill, obstruction, equipment, thing or inflammable substance, or plant any growth upon the Area of the Works, if any such action or thing:
- (i) may reasonably interfere with or endanger the Works or any part thereof or the installation, operation, maintenance, removal or replacement of the Works or any part thereof;
 - (ii) may reasonably obstruct access to the Works or any part thereof by those authorized by Terasen;
 - (iii) may by its operation, use, maintenance or existence on the Area of the Works, reasonably create or increase any hazard to persons or property in relation to the Works; or
 - (iv) contravene the provisions of the **Gas Utility Act, Pipeline Act** or Gas Safety Regulations pursuant to the **Safety Standards Act**, all as amended from time to time;
- (c) the Grantor will not carry out blasting or aerial logging operations on or adjacent to the Area of the Works without prior written permission from Terasen, which permission will not be unreasonably withheld, delayed or accompanied by unreasonable conditions; and
- (d) the Grantor will not diminish or increase the ground elevation in the Right-of-Way Area by any method, including piling any material or creating any excavation, drain or ditch in the Right-of-Way Area, unless permission in writing from Terasen has first been received, which permission will not be unreasonably withheld, delayed or accompanied by unreasonable conditions.

15.0 Compensation for Damages

- 15.1 Subject to the Right-of-Way granted herein, Terasen covenants with the Grantor that if Terasen damages any structures, buildings, fixtures, improvements, chattels, animals, crops or merchantable timber owned by the Grantor anywhere on the Lands, and such damage is not caused as a result of the Grantor's breach of the terms of this Agreement or the negligent or willful act of the Grantor or its contractors, agents or permittees, that Terasen will:
- (a) compensate the Grantor for such damage to structures, buildings, fixtures, improvements, chattels, animals, crops, or merchantable timber; or
 - (b) within a reasonable period of time, repair in a good and workman-like manner any damaged structure, building or improvement, as closely as is practicable to its condition immediately prior to the occurrence of the damage.
- 15.2 Despite section 15.1, Terasen covenants with the Grantor that Terasen will pay compensation to the Grantor, in accordance with generally accepted principles of timber valuation, for any merchantable timber cut or damaged by Terasen on the Lands or adjacent to the Right-of-Way Area and the parties agree that on payment, title to any timber cut on the Lands under this Agreement will vest in Terasen.

16.0 Indemnity and Interest

- 16.1 Terasen will at all times save harmless, indemnify and keep indemnified the Grantor against and be responsible for all claims, demands, actions, suits or other legal proceedings by whomsoever made or brought against the Grantor by reason of or arising out of:
- (a) the escape, ignition or explosion from whatever cause whatsoever of natural gas from the Works;
 - (b) any breach, violation or non-performance by Terasen of any of Terasen's covenants, conditions or obligations under this Agreement; or
 - (c) any act or omission on the part of Terasen in respect of or in relation to the Works including the construction, maintenance, operation, decommissioning or removal of same.
- 16.2 Terasen will at all times hereafter pay to the Grantor the amount of any loss or damage which may be suffered or sustained by the Grantor by reason of or arising out of the matters set forth in section 16.1, including reasonable administration and legal costs, provided that Terasen has the right to take up the defense of any such matters and the Grantor agrees not to admit liability for, settle or compromise any such matters without the express written consent of Terasen.

17.0 Dispute Resolution

- 17.1 Any dispute arising out of or in connection with this Agreement will be resolved as follows:
- (a) the parties will attempt to resolve disputes by negotiations, including timely disclosure of all relevant facts, information and documents;
 - (b) either party may, at any time, by written notice request that the dispute be referred to mediation, conducted by a mediator, knowledgeable about the matters in dispute; and
 - (c) if the dispute is not resolved within 30 days of the notice to mediate under subsection (b) or any further period of time agreed to by the parties, then, on the agreement of the parties, the dispute may be referred to a single arbitrator for final resolution in accordance

with the provisions of the British Columbia **Commercial Arbitration Act**. If the parties do not agree to arbitration, then any party may refer the matter to a court of competent jurisdiction; except that it is not incompatible with this subsection for a party to apply to a court of competent jurisdiction at any time for interim or conservatory relief and for the court to grant that relief.

18.0 Runs With the Land

18.1 This Agreement runs with and binds the Lands to the extent necessary to give full force and effect to this Agreement.

19.0 Assignment

19.1 This Agreement and the Right-of-Way granted herein:

- (a) may not be assigned in part or in whole or otherwise transferred without the prior written consent of the Grantor, which consent will not be unreasonably withheld, delayed or accompanied by unreasonable conditions; but
- (b) may be assigned or otherwise transferred to an Affiliate without the consent of the Grantor.

20.0 Notice

20.1 Whenever it is required or permitted that notice or demand be given by any party to the other, the same will be in writing and will be forwarded to the following addresses:

To the Grantor: Tsawwassen First Nation
131 North Tsawwassen Drive
Delta, BC V4M 4G2
Attn: ■
Fax: 604-943-■

To Terasen: Terasen Gas Inc.
3700 2nd Avenue,
Burnaby, British Columbia
V5C 6S4

Fax: (604) 293-8640
Attention: Senior Counsel

20.2 If any question arises as to the date on which such notice was communicated to any party, it will be deemed to have been given on the earlier of:

- (a) if it was delivered personally or by courier, on the next business day;
- (b) if it was sent by fax, on the next business day; or
- (c) if it was sent by mail, on the sixth day after the notice was mailed.

In the event of postal disruption or an anticipated postal disruption, notices may not be given by mail.

20.3 A change of address by a party may be given to the other in accordance with this provision.

21.0 General

- 21.1 A breach of any term, condition, covenant or other provision of this Agreement may only be waived in writing, and any waiver will not be construed as a waiver of any subsequent breach. Consent to or approval of any act, where consent or approval is required under this Agreement, will not be construed as consent to or approval of any subsequent act.
- 21.2 No remedy set out in this Agreement is exclusive of any other remedy provided by law, but will be in addition to any other remedy existing at law, or by statute.
- 21.3 The terms and provisions of this Agreement will extend to, be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.
- 21.4 Any party to this Agreement may register this Agreement in any land registry system established or used by the Grantor for lands within its jurisdiction. At the request of any party to this Agreement, all parties will cooperate in executing any documents or plans required to accomplish the registration of this Agreement and to preserve the substance and priority of this Agreement in relation to those portions of the Lands affected by this Agreement.
- 21.5 A delegate appointed by the Grantor may provide Terasen with all commentary, authorizations and approvals required pursuant to this Agreement including without limitation, all commentary, authorizations or approvals required in relation to work plans, sketch plans, access to the Area of the Works, and relocations or replacements of any Works as contemplated in this Agreement.
- 21.6 This Agreement may not be amended except by written agreement signed by both parties to this Agreement

22.0 Interpretation

- 22.1 In this Agreement:
 - (a) all attached schedules form an integral part of this Agreement;
 - (b) the headings are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of this Agreement; and
 - (c) if any provision is determined by a court or arbitrator of competent jurisdiction to be illegal or unenforceable, that provision will be considered separate and severable, and the legality or enforceability of the remaining provisions will not be affected by that determination.

IN WITNESS WHEREOF the parties have duly executed this Agreement, as of the date first reference above.

Terasen Gas Inc.
by its authorized signatory,

(Signature)

(Name of signatory -- printed)

Title

Tsawwassen First Nation
by its authorized signatory,

(Signature)

(Name of signatory -- printed)

Title

SCHEDULE "A"

[Legal Description of Lands]

SCHEDULE "B"

[Map of the Lands]

SCHEDULE "C"

[Plan and Description of Existing Works, to be amended as per section 3.2]

APPENDIX D - 9

DOCUMENT 6

**BROADBAND COMMUNICATIONS DISTRIBUTION WORKS
RIGHT OF WAY AGREEMENT**

(DELTA CABLE COMMUNICATIONS LTD.)

LAND TITLE ACT
FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT – PART 1

(This area for Land Title Office use)

PAGE 1 of 10 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND: *
(PID) (LEGAL DESCRIPTION)

3. NATURE OF INTEREST:
DESCRIPTION

DOCUMENT REFERENCE
(Page and paragraph)

PERSON
ENTITLED TO
INTEREST

RIGHT OF WAY

TRANSFeree

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): *

TSAWWASSEN FIRST NATION

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) *

DELTA CABLE COMMUNICATIONS LTD., 5381 48th Avenue, Delta BC V4K 1W7

7. ADDITIONAL OR MODIFIED TERMS: *

N/A

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

Officers Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	

Officer Certification:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E

** If space insufficient, continue executions on additional page(s) in Form D.

**RIGHT-OF-WAY AGREEMENT
FOR BROADBAND COMMUNICATIONS
DISTRIBUTION WORKS**

This Agreement is made as of _____, 200____,

Between

Tsawwassen First Nation
131 North Tsawwassen Drive, Delta, BC, V4M 4G2

(the "Grantor")

And:

Delta Cable Communications Ltd., a corporation incorporated under the laws of the Canada
("Delta Cable")

WHEREAS:

- A. The Grantor, Canada and the Province of British Columbia have entered into a Final Agreement as hereinafter defined; and
- B. In accordance with the Final Agreement, the Grantor wishes to grant to Delta Cable a right-of-way with respect to the Grantor's Lands as hereinafter defined.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the premises and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties, the parties hereto covenant and agree as follows:

1.0 Definitions

1.1 In this Agreement:

"Area of the Works" means those portions of the Lands located within six (6) metres of either side of the center of the alignment of the Works;

"Affiliate" has the meaning ascribed to it in the **Business Corporations Act**, S.B.C. 2002, c.57, as amended or replaced from time to time;

"Agreement" means this right-of-way agreement and all schedules attached to it;

"Broadband Communications Works" means all things and components, using any type of technology, necessary or convenient for the purpose of broadband communications on, over, under, across and through the Works Area, in whole or in part, by any means, including poles, guy wires, brackets, crossarms, insulators, transformers, anchors, attachments, lines, access nodes and cables, including fibre optic cables, in whole or in part and underground conduits, lines and pipes of every kind, underground cables, including fibre optic cables, together with all ancillary appliances, fittings and cabinets and above ground or underground equipment shelters, but excluding towers;

"Environment" means all the components of the earth including, without limitation, all layers of the atmosphere, air, land (including, without limitation, all underground spaces and cavities and

all lands submerged under water), soil, water (including, without limitation, surface and underground water), organic and inorganic matter and living organisms, the interacting natural systems that include the foregoing and all other external conditions or influences under which humans, animals and plants live or are developed;

"Excluded Area" means any right-of-way area or corridor that is not part of the Lands but in whole or in part passes through the Lands or is adjacent to such Lands;

"Final Agreement" means the Tsawwassen First Nation Final Agreement among the Grantor, Canada and British Columbia;

"Lands" means the lands and premises as are legally described in Schedule "A" and as are shown in Schedule "B", which are both attached to this Agreement;

"Right-of-Way" means the tenure and those rights, privileges, licenses, liberties and permits granted to and held by Delta Cable as set out in Part 2.0 of this Agreement;

"Right-of-Way Area" means, collectively, the Works Area and the Area of the Works;

"Works" as it relates to the rights and responsibilities of Delta Cable means the Broadband Communications Works of Delta Cable and its Affiliates, all as they may exist from time to time; and

"Works Area" means those portions of the Lands more particularly described in Part 3.0 of this Agreement.

1.2 With respect to any obligation on the part of Delta Cable under this Agreement, any reference to Delta Cable includes its servants, officers, employees, agents, contractors, sub-contractors, invitees, licensees, successors, permitted assigns, and those for whom Delta Cable is responsible in law.

2.0 Grant of Right-of-Way

2.1 Effective as of the date of this Agreement, the Grantor grants a Right-of-Way over the Lands to Delta Cable commencing on the date written above and continuing for so long as any of the Right-of-Way is required by Delta Cable, which Right-of-Way shall confer on Delta Cable, the right, privilege, liberty and permit to:

(a) use the Works Area as follows:

- (i) to excavate for, construct, install, erect, abandon, replace, extend, upgrade, operate, maintain, alter, remove and repair the Works on, over, under, across and through the Works Area;
- (ii) to clear the Works Area and keep it cleared (including pruning or removal) of any trees or growth at any time located therein; and
- (iii) generally, to do all such other acts or things on the Works Area as may reasonably be necessary or incidental to the business of Delta Cable in connection with any of the foregoing;

(b) use the Area of the Works as follows:

- (i) to enter, work, inspect, pass and repass upon, on, and along the Area of the Works;

- (ii) to clear the Area of the Works and keep it cleared of all or any part of any obstruction, improvement or other matter which, in the reasonable opinion of Delta Cable, might interfere with or endanger the Works, disrupt service to Delta Cable's customers, or pose a hazard to the Works or persons in relation to the Works;
 - (iii) to clear the Area of the Works and keep it cleared (including pruning or removal) of all or any part of any trees or growth which do or might, in the reasonable opinion of Delta Cable, interfere with or endanger the Works, disrupt service to Delta Cable's customers, or pose a hazard to the Works or persons in relation to the Works; and
- (c) to enjoy further rights as follows:
 - (i) Delta Cable may, with the prior written consent of the Grantor, and any party with a registered interest in the affected areas, such consent not to be unreasonably withheld, delayed or conditioned, cut trees outside the Area of the Works, if in the reasonable opinion of Delta Cable such trees would threaten to damage the Works or pose a hazard to the Works or persons in relation to the Works;
 - (ii) Delta Cable may pass and repass over existing roads on the Lands for access to and from the Area of the Works, and in the event that such roads become closed to the public for any reason, the Grantor shall nonetheless provide Delta Cable access to such roads for the purpose for ingress and egress to and from the Area of the Works, to the extent reasonably practicable, or to such alternative access as may be available, at no additional cost to Delta Cable;
 - (iii) If no such road access is available, Delta Cable may have access to and over other portions of the Lands for access to and from the Area of the Works, provided that such access has been approved by the Grantor, such approval not to be unreasonably withheld or delayed, and by any other person having an interest in such portion or portions; provided that such approval is not required if access is necessary for determining consumption or usage of services, in emergency situations or for normal surveillance or safety inspection purposes;
 - (iv) Delta Cable may enter onto the Lands outside the Area of the Works for the purpose of undertaking works to protect any Works located within the Lands or within an Excluded Area or to protect persons and property that may be at risk from such Works, provided that:
 - A. Delta Cable will deliver to the Grantor for prior approval a written work plan describing the proposed work on the Lands;
 - B. the Grantor will not unreasonably withhold or delay approval of such work plan and will not impose any unreasonable conditions relating to the granting of such approval and shall take into consideration the effect of the proposed work, the cost of the proposed work compared to the cost of alternate solutions and the extent of the risk of not undertaking the work. If Delta Cable and the Grantor, each acting reasonably, cannot agree on a work plan within 30 days of receipt by the Grantor of the work plan proposed by Delta Cable, then either party may refer the disagreement to dispute resolution under section 17.1 of this Agreement; and
 - C. in the event that any damage to the Lands results from the implementation of the work plan by Delta Cable, Delta Cable will repair

and restore the damaged portion of the Lands as near as is reasonably feasible, to their condition prior to the implementation of the work plan or, at Delta Cable's discretion, pay to the Grantor appropriate compensation in respect of such damage.

- 2.2 Notwithstanding the foregoing, if Delta Cable determines in its reasonable judgment that an emergency situation exists or there are imminent safety concerns or risk of public harm, Delta Cable may, without approval of the Grantor, undertake works and take such steps on the Lands as are reasonably required to be taken immediately in order to protect the Works located within the Lands or within an Excluded Area, or to protect persons and property that may be at risk from such Works, and in that event Delta Cable will as soon as reasonably possible notify thereafter the Grantor.

3.0 Works Area

- 3.1 The Works Area consists of all portions of the Lands reasonably required by Delta Cable for the following:

- (a) those Works existing at the date of this Agreement;
- (b) any additional Works constructed adjacent to, along the sides of and across any of the Grantor's roads from time to time existing on or through the Lands;
- (c) any additional Works that provide services to any lands adjacent to any roads from time to time existing on or through the Lands; and

any such other portions of the Lands as are from time to time consented to in writing by the Grantor, or any delegate appointed by the Grantor.

- 3.2 The parties agree that the sketch plan attached to this Agreement as Schedule "C" reasonably represents the Works existing as of the date of this Agreement. As and when new works are added to the Lands by Delta Cable, the parties will update Schedule "C" to reflect such new works, it being the intention of the parties for this Agreement and all of its terms and provisions to apply to such new works in their entirety.

- 3.3 Nothing in this Part 3.0 is intended to affect the rights of Delta Cable to make arrangements directly with a person in legal possession of any lands for the construction, operation and maintenance of the Works and all matters incidental thereto.

4.0 Non-Exclusive Use

- 4.1 Notwithstanding anything else in this Agreement, Delta Cable acknowledges and agrees that:

- (a) this Agreement does not grant a fee simple interest in the Lands to or in favour of Delta Cable; and
- (b) the Grantor may grant to third parties other interests on the Right-of-Way Area upon prior written notice to Delta Cable, provided that any such grant of other interests shall not compromise or, by action of the Grantor or the grantee, damage, disrupt, adversely affect or interfere with the use by Delta Cable of the Works or Right-of-Way Area.

5.0 Protection of the Environment

- 5.1 Delta Cable will undertake activities permitted under this Agreement having regard for the impact on the Environment, and will take prudent measures to minimize the danger or disruption to the Environment.

6.0 Covenants of Delta Cable

6.1 Delta Cable covenants with the Grantor to:

- (a) pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of Delta Cable, which relate to the Right-of-Way Area and which Delta Cable is liable to pay;
- (b) keep the Right-of-Way Area, and any Works, in a safe, clean and sanitary condition to the extent the condition relates to the use or occupation of the Right-of-Way Area by Delta Cable, provided that Delta Cable has no obligation to keep any roads within the Right-of-Way Area suitable for use by anyone except Delta Cable;
- (c) bury and maintain all underground Works as may be required so as not to unduly interfere with the drainage of the Lands;
- (d) take all reasonable steps and precautions to minimize disturbance of any archaeological material discovered by Delta Cable on the Right-of-Way Area, and to immediately notify the Grantor;
- (e) not bury debris or rubbish of any kind on the Lands in excavations or backfill, and to remove shoring and similar temporary structures as backfilling proceeds; and
- (f) not commit or suffer any willful or voluntary waste, spoil or destruction on the Right-of-Way Area, or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to the Grantor, except to the extent required by Delta Cable, acting reasonably, to exercise the rights granted herein.

7.0 New Works Constructed by Delta Cable

7.1 Prior to undertaking construction on the Lands of any new Works which are not alterations, extensions or additions to existing Works, Delta Cable, will deliver to the Grantor for prior approval, a sketch plan showing with reasonable accuracy the location of any new Works, which approval will not be unreasonably withheld, delayed or conditioned.

8.0 Relocation of Works Due to Change

8.1 If a material change occurs to the Lands, such as erosion, which for any reason makes the continued use of any portion of the Right-of-Way Area unsuitable for the continued operation and maintenance of any of the Works, then the Grantor will consent, which consent will be, at no cost to Delta Cable, to the relocation and replacement of such Works to a new location on the Lands, as follows:

- (a) Delta Cable will, before undertaking any work, deliver a sketch plan to the Grantor indicating the contemplated relocation of the Works for approval by the Grantor, which approval will not be unreasonably withheld, delayed or made subject to any unreasonable conditions;
- (b) Delta Cable will take into account any likely material adverse effect of the relocated Works on adjacent lands, and the Grantor will take into account the cost efficiencies of the location selected by Delta Cable for the relocated Works in relation to alternative locations;
- (c) the relocated Works will be covered by the terms and conditions of this Agreement; and

- (d) subject to the foregoing, the cost of such relocation will be borne by Delta Cable.

9.0 Relocation of Works at the request of the Grantor

- 9.1 If the Grantor requires a portion of the Right-of-Way Area for other purposes, then upon written request by the Grantor, Delta Cable will relocate any Works in the Right-of-Way Area to a new location on the Lands, provided that:
 - (a) the new location is, in the reasonable opinion of Delta Cable, suitable for use for the relocated Works considering construction, maintenance and operation, and cost factors;
 - (b) the Grantor gives Delta Cable reasonable notice to permit proper design, planning and construction of the Works to be relocated;
 - (c) the Grantor agrees to pay all reasonable costs and expenses, including costs of design, supervision and construction (before any relocation, the Grantor will pay the costs and expenses as estimated by Delta Cable, with appropriate adjustments made, based on actuals, after the relocation is complete); and
 - (d) without any further action required on the part of the parties, a new Right-of-Way will be deemed to have been established upon the terms and conditions of this Agreement, which will apply to and cover such relocated Works.

10.0 Fencing and Use of the Right-of-Way Area

- 10.1 Except for the purpose of protecting any necessary above ground Works, Delta Cable will not fence the Right-of-Way Area without the prior consent of the Grantor. Any present or future lessees or permittees having any rights with respect to the Right-of-Way Area are, subject to the rights granted to Delta Cable herein, to be allowed free access to the Right-of-Way Area and the use of the same except for:
 - (a) making, placing, erecting or maintaining any building, structure, excavation, pile of material or obstruction or planning any growth on the Area of the Works which, in the reasonable opinion of Delta Cable might interfere with or endanger the construction, operation, maintenance or removal of the Works or might reasonably obstruct access by Delta Cable to the Works; or
 - (b) doing any act or thing that might reasonably interfere with or damage the Works or create or increase any hazards to persons in relation to the Works.

11.0 Inspections

- 11.1 It will be lawful for the Grantor at all reasonable times to enter upon the Right-of-Way Area for the purpose of examining the Works Area and the Works.

12.0 Restoration

- 12.1 When a portion of the Works Area is no longer required for the Works, Delta Cable will restore the ground surface to the affected portion of the Works Area, as near as is reasonably possible to its condition prior to the installation of the Works, including the removal of any above ground Works.
- 12.2 Section 12.1 will survive the termination or expiration of this Agreement.

13.0 Removal of Works

- 13.1 On the termination or expiration of this Agreement, Delta Cable may, subject to the consent of the Grantor, abandon the Works and transfer to the Grantor all ownership, right and interest in the whole or in part of the Works. If the consent of the Grantor is not obtained within one year after the date of the termination or expiration of this Agreement, Delta Cable will remove the Works, where practicable, as soon as reasonably possible in the circumstances.
- 13.2 Delta Cable will remain liable for any environmental damage to the Lands arising from any below ground Works that remain on or in that portion of the Right-of-Way Area after the termination or expiration of this Agreement, except that if the Grantor uses or authorizes the use of the remaining below ground Works for any purpose, then Delta Cable will not be liable for any environmental damage caused by the Grantor's use or other use authorized by the Grantor.
- 13.3 Sections 13.1 and 13.2 will survive the termination or expiration of this Agreement.

14.0 Covenants of the Grantor

14.1 The Grantor covenants with Delta Cable that:

- (a) subject to subsection 4.1(b), Delta Cable shall and may peaceably enjoy and hold the Right-of-Way without interruption, disturbance, molestation or hindrance whatsoever from the Grantor or any other person lawfully claiming from or under the Grantor, provided however that nothing in this section 14.1 shall limit the Grantor's right of inspection pursuant to section 11.1.
- (b) the Grantor will not permit or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, pile of material, fill, obstruction, equipment, thing or inflammable substance, or plant any growth upon the Area of the Works, if any such action or thing:
 - (i) may reasonably interfere with or endanger the Works or any part thereof or the installation, operation, maintenance, removal or replacement of the Works or any part thereof;
 - (ii) may reasonably obstruct access to the Works or any part thereof by those authorized by Delta Cable; or
 - (iii) may by its operation, use, maintenance or existence on the Area of the Works, reasonably create or increase any hazard to persons or property in relation to the Works;
- (c) the Grantor will not carry out blasting or aerial logging operations on or adjacent to the Area of the Works without prior written permission from Delta Cable, which permission will not be unreasonably withheld, delayed or accompanied by unreasonable conditions; and
- (d) the Grantor will not diminish or increase the ground elevation in the Right-of-Way Area by any method, including piling any material or creating any excavation, drain or ditch in the Right-of-Way Area, unless permission in writing from Delta Cable has first been received, which permission will not be unreasonably withheld, delayed or accompanied by unreasonable conditions.

15.0 Compensation for Damages

15.1 Subject to the Right-of-Way granted herein, Delta Cable covenants with the Grantor that if Delta Cable damages any structures, buildings, fixtures, improvements, chattels, animals, crops or merchantable timber owned by the Grantor anywhere on the Lands, and such damage is not caused as a result of the Grantor's breach of the terms of this Agreement or the negligent or willful act of the Grantor or its contractors, agents or permittees, that Delta Cable will:

- (a) compensate the Grantor for such damage to structures, buildings, fixtures, improvements, chattels, animals, crops, or merchantable timber; or
- (b) within a reasonable period of time, repair in a good and workman-like manner any damaged structure, building or improvement, as closely as is practicable to its condition immediately prior to the occurrence of the damage.

15.2 Despite section 15.1, Delta Cable covenants with the Grantor that Delta Cable will pay compensation to the Grantor, in accordance with generally accepted principles of timber valuation, for any merchantable timber cut or damaged by Delta Cable on the Lands or adjacent to the Right-of-Way Area and the parties agree that on payment, title to any timber cut on the Lands under this Agreement will vest in Delta Cable.

16.0 Indemnity and Interest

16.1 Delta Cable will at all times save harmless, indemnify and keep indemnified the Grantor against and be responsible for all claims, demands, actions, suits or other legal proceedings by whomsoever made or brought against the Grantor by reason of or arising out of:

- (a) any breach, violation or non-performance by Delta Cable of any of Delta Cable's covenants, conditions or obligations under this Agreement; or
- (b) any act or omission on the part of Delta Cable in respect of or in relation to the Works including the construction, maintenance, operation, decommissioning or removal of same.

16.2 Delta Cable will at all times hereafter pay to the Grantor the amount of any loss or damage which may be suffered or sustained by the Grantor by reason of or arising out of the matters set forth in section 16.1, including reasonable administration and legal costs, provided that Delta Cable has the right to take up the defense of any such matters and the Grantor agrees not to admit liability for, settle or compromise any such matters without the express written consent of Delta Cable.

17.0 Dispute Resolution

17.1 Any dispute arising out of or in connection with this Agreement will be resolved as follows:

- (a) the parties will attempt to resolve disputes by negotiations, including timely disclosure of all relevant facts, information and documents;
- (b) either party may, at any time, by written notice request that the dispute be referred to mediation, conducted by a mediator, knowledgeable about the matters in dispute; and
- (c) if the dispute is not resolved within 30 days of the notice to mediate under subsection (b) or any further period of time agreed to by the parties, then, on the agreement of the parties, the dispute may be referred to a single arbitrator for final resolution in accordance with the provisions of the British Columbia **Commercial Arbitration Act**. If the parties do not agree to arbitration, then any party may refer the matter to a court of competent jurisdiction; except that it is not incompatible with this subsection for a party to apply to a

court of competent jurisdiction at any time for interim or conservatory relief and for the court to grant that relief.

18.0 Runs With the Land

18.1 This Agreement runs with and binds the Lands to the extent necessary to give full force and effect to this Agreement.

19.0 Assignment

19.1 This Agreement and the Right-of-Way granted herein:

- (a) may not be assigned in part or in whole or otherwise transferred without the prior written consent of the Grantor, which consent will not be unreasonably withheld, delayed or accompanied by unreasonable conditions, but
- (b) may be assigned or otherwise transferred to an Affiliate without the consent of the Grantor.

20.0 Notice

20.1 Whenever it is required or permitted that notice or demand be given by any party to the other, the same will be in writing and will be forwarded to the following addresses:

To the Grantor: Tsawwassen First Nation
131 North Tsawwassen Drive
Delta, BC V4M 4G2

Attn: ■
Fax: 604-943-■

To Delta Cable: Delta Cable Communications Ltd.
5381 48th Avenue,
Delta, British Columbia
V4K 1W7

Fax: 604- 946-5627
Attention: General Manager

20.2 If any question arises as to the date on which such notice was communicated to any party, it will be deemed to have been given on the earlier of:

- (a) if it was delivered personally or by courier, on the next business day;
- (b) if it was sent by fax, on the next business day; or
- (c) if it was sent by mail, on the sixth day after the notice was mailed.

In the event of postal disruption or an anticipated postal disruption, notices may not be given by mail.

20.3 A change of address by a party may be given to the other in accordance with this provision.

21.0 General

- 21.1 A breach of any term, condition, covenant or other provision of this Agreement may only be waived in writing, and any waiver will not be construed as a waiver of any subsequent breach. Consent to or approval of any act, where consent or approval is required under this Agreement, will not be construed as consent to or approval of any subsequent act.
- 21.2 No remedy set out in this Agreement is exclusive of any other remedy provided by law, but will be in addition to any other remedy existing at law, or by statute.
- 21.3 The terms and provisions of this Agreement will extend to, be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns.
- 21.4 Any party to this Agreement may register this Agreement in any land registry system established or used by the Grantor for lands within its jurisdiction. At the request of any party to this Agreement, all parties will cooperate in executing any documents or plans required to accomplish the registration of this Agreement and to preserve the substance and priority of this Agreement in relation to those portions of the Lands affected by this Agreement.
- 21.5 A delegate appointed by the Grantor may provide Delta Cable with all commentary, authorizations and approvals required pursuant to this Agreement including without limitation, all commentary, authorizations or approvals required in relation to work plans, sketch plans, access to the Area of the Works, and relocations or replacements of any Works as contemplated in this Agreement.
- 21.6 This Agreement may not be amended except by written agreement signed by both parties to this Agreement

22.0 Interpretation

- 22.1 In this Agreement:
- (d) all attached schedules form an integral part of this Agreement;
 - (e) the headings are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of this Agreement; and
 - (f) if any provision is determined by a court or arbitrator of competent jurisdiction to be illegal or unenforceable, that provision will be considered separate and severable, and the legality or enforceability of the remaining provisions will not be affected by that determination.

IN WITNESS WHEREOF the parties have duly executed this Agreement, as of the date first reference above.

Delta Cable Communications Ltd.
by its authorized signatory,

(Signature)

(Name of signatory -- printed)

Title

TSAWWASSEN FIRST NATION, by its authorized signatory

Signature: _____

Name (Printed): _____

Title: _____

SCHEDULE "A"

[Legal Description of Lands]

SCHEDULE "B"

[Insert Map of Lands]

SCHEDULE "C"

[Plan and Description of Existing Works, to be amended as per section 3.2]

APPENDIX D - 9

DOCUMENT 7

CABLE LANDING SITE LEASE

(BRITISH COLUMBIA HYDRO AND POWER AUTHORITY)

**Land Title Act
Form C**

(Section 233)

Province of British Columbia

GENERAL INSTRUMENT - PART I

(This area for Land Title Office use)

Page 1 of 16 pages

1. Application: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. Parcel Identifier and Legal Description of Land:

(PID)

(Legal Description)

3. Nature of Interest: *

Description

Document Reference

Person Entitled to
Interest

(page and paragraph)

LEASE

ENTIRE DOCUMENT

LESSOR/LESSEE

4. Terms: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No.

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this
instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. Transferor(s):

TSAWWASSEN FIRST NATION

6. Transferee(s): (including occupation(s), postal address(es) and postal code(s))

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, 8th Floor - 333 Dunsmuir Street,
Vancouver, BC, V6B 5R3

7. Additional or Modified Terms: *

* If space insufficient, continue executions on additional page(s) in Form D.

8. Execution(s): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officers Signature(s)

Y	M	D
---	---	---

Party(ies) Signature(s)

Officer Certification:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

LEASE

THIS LEASE dated for reference the ___ day of _____ 20___,

BETWEEN:

TSAWWASSEN FIRST NATION

131 North Tsawwassen Drive, Delta, BC, V4M 4G2

(the "Lessor")

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, 333 Dunsmuir
Street, Vancouver, British Columbia V6B 5R3

("Hydro")

WHEREAS:

- A. Due to proposed development in 1969 of the Roberts Bank area in the vicinity of the Tsawwassen First Nation Indian Reserve by the National Harbours Board ("NHB"), it was determined between the Minister of Indian Affairs and Northern Development ("DIAND") and NHB that the most appropriate site for the location of a proposed Hydro transmission cable installation and cable landing site was on the Tsawwassen Indian Reserve;
- B. As authorized by Order in Council P.C. 1969-1036 (Registration No. 7575-248) and approved by Tsawwassen First Nation, DIAND and NHB entered into an agreement whereby Tsawwassen First Nation ("TFN") would receive payment in the amount of \$130,000 and the transfer of 13 acres of additional land in exchange for a right-of-way of 11.962 acres for Hydro's transmission cable installation for so long as required, and a lease of 1.13 acres for the cable landing site for a term of 999 years, both of which commenced on June 1, 1969 (collectively referred to as the "Original Grant");
- C. The Original Grant is registered in the First Nations Land Registry System under Registration No. 1833-32;
- D. The transfer of the Original Grant to Hydro was approved by TFN and authorized by Privy Council Order P.C. 1978-283 (Registration No. 57562);
- E. As of [DATE], TFN, Canada and British Columbia have entered into a Final Agreement as hereinafter defined.
- F. In accordance with the Final Agreement and the above Recitals, the parties intend for the lease for the cable landing site granted under the Original Grant to remain in effect and accordingly, the Lessor wishes to provide a replacement lease for the cable landing site to Hydro on substantially the same terms and conditions as contemplated in the Original Grant, as herein provided,

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the covenants and agreements hereinafter contained, the Lessor hereby demises and leases the Leased Area to Hydro upon and subject to the following terms, conditions and covenants:

PART 1 - DEFINITIONS

Defined Terms

- 1.1 In this Lease:

- (a) **“Access Road”** means the portion of the Adjacent Lands shown outlined and hatched on the plan attached hereto as Schedule D and identified as the Access Road;
- (b) **“Adjacent Lands”** means those portions of the Lands adjacent to the Leased Area;
- (c) **“Effective Date”** means the date upon which the Final Agreement will take effect;
- (d) **“Environmental Laws”** means any government laws, rules, ordinances, regulations, orders or other edicts having the force of law now or hereafter in force (including without limitation the *Environmental Management Act* (British Columbia) and any amendments or replacements legislation and regulations thereto, and the principles of common law and equity) relating to the environment, health, safety, product liability or Hazardous Substances (including without limitation the use, manufacture, handling, transportation, production, disposal, discharge, storage or emission of Hazardous Substance or the terms of any permit issued for it) or the environmental conditions in, on, under or about the Leased Area, or in, on under or about adjoining lands but generated from the Leased Area;
- (e) **“Final Agreement”** means the Tsawwassen First Nation Final Agreement among the Lessor, Canada and British Columbia;
- (f) **“Hazardous Substance”** means any pollutants, contaminants, wastes, special wastes, or hazardous or toxic substances or materials including, without limitation those defined, judicially interpreted or identified in any federal, provincial, or local laws, by-laws, regulations, orders, guidelines and policies relating to the protection of the natural environment or public health and safety, including without limitation the Environmental Laws;
- (g) **“Lands”** means the lands and premises as are legally described in Schedule A and as are shown in Schedule C, which are both attached to this Lease;
- (h) **“Leased Area”** means the lands and premises as are legally described in Schedule B and as are shown in Schedule C, which are both attached to this Lease;
- (i) **“Permitted Encumbrances”** means the encumbrances more particularly described on Schedule B hereto;
- (j) **“Term”** means the term of 962 years commencing on June 1, 2006;
- (k) **“Unavoidable Delay”** means a delay in the performance of an act or compliance with a covenant caused by fire, strike, lock-out, or other casualty or contingency beyond the reasonable control of the party obligated to perform or comply with a provision of this Lease, but does not include any insolvency, lack of funds or other financial reason; and
- (l) **“Works”** means the submarine terminal cable landing facilities including without limitation all things and components, using any type of technology from time to time, necessary or convenient, for the purposes of distributing and/or transmitting electricity, telecommunications or communications by any method or process whatsoever, including poles, towers, antennae (except for monopole free standing antennae), anchors, guy wires, brackets, cross arms, insulators, foundations, overhead and underground conductors, wires, lines, cables and transformers, underground conduits and pipes, underground vaults, access nodes, cable protectors (metallic or concrete), gutters, sluices, splices, ballasts, support substances cabinets all ancillary appliances and fittings, reasonably required associated protective installations, and related works such as fencing for safety or security, devices and identifying colours for aircraft warning, and utility services for the operation of any of the foregoing.

PART 2 – DEMISE AND TERM

Demise

- 2.1 Subject to the Permitted Encumbrances, the Lessor leases the Leased Area to Hydro, and Hydro leases the Leased Area from the Lessor, to have and to hold for and during the Term and upon and subject to the terms of this Lease.

As Is/Where Is

- 2.2 Hydro is leasing the Leased Area on an as is/where is basis and acknowledges that the Lessor has made no representations to the fitness of the Leased Area for any purpose or the environmental condition of the Leased Area.

Access Easement

- 2.3 The Lessor hereby grants to Hydro a non-exclusive easement to access and egress to and from the Leased Area over the Access Road for the duration of the Term.

PART 3 - USE OF LEASED AREA AND COVENANTS

Permitted Use

- 3.1 Hydro will use the Leased Area for the purpose of a submarine terminal cable landing and related functions, including without limitation the right to excavate for, construct, install, erect, abandon, replace, extend, upgrade, operate, maintain, remove and repair the Works on, over, in, under, across and through the Leased Area.
- 3.2 Hydro in the exercise of rights under this Lease is only subject to industry standards, and applicable statutes, regulations, by-laws, and lawful requirements of any one or combination of federal and/or provincial authorities.

Management of Leased Area

- 3.3 Hydro may clear the Leased Area and keep it cleared of all or any part of any trees, growth, buildings or obstruction now or hereafter on the Leased Area which might, in the reasonable opinion of Hydro, interfere with or endanger the construction, erection, stringing, excavation for, installation, operation or maintenance of the Works or any part thereof.
- 3.4 Hydro may conduct vegetation management upon the Leased Area, such as the planting of vegetation compatible with the undertakings of Hydro, and the application of herbicides and pesticides, provided that Hydro will not conduct any aerial application of herbicides or pesticides on the Lands.
- 3.5 Hydro may ground any structures, installation or things, by whomsoever owned, from time to time situated anywhere on the Lands where, in the reasonable opinion of Hydro, such grounding will eliminate or reduce hazards to persons or property in relation to the Works.
- 3.6 Hydro may enter onto the Lands adjacent to the Leased Area for the purpose of undertaking works to protect any Works located within the Leased Area or to protect persons or property that may be at risk from such Works, provided that:
- (a) Hydro will before commencing such works deliver to the Lessor for approval a written work plan describing the proposed work on the Lands;

- (b) the Lessor will not unreasonably withhold, condition or delay approval of such work plan, and shall take into consideration the effect of the proposed work, the cost of the proposed work compared to the cost of alternate solutions and the extent of the risk of not undertaking the work;
- (c) Hydro will pay compensation for any damage to the Lands resulting from the implementation of the work plan; and
- (d) if Hydro determines in its reasonable judgement that an emergency situation exists or there are imminent safety concerns, then Hydro may, without approval of the Lessor, undertake works and take such steps on the Lands as are reasonably required to be taken immediately in order to protect the Works, or to protect persons or property that may be at risk from the Works, and in that event Hydro will as soon as reasonably possible thereafter notify the Lessor.

Covenants of Hydro

3.7 Hydro covenants with the Lessor to:

- (a) keep the Leased Area in a clean, orderly and sanitary condition;
- (b) not permit any debris, garbage, trash or refuse to be placed or left outside or on the Leased Area;
- (c) pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of Hydro which relate to the Leased Area and which Hydro is liable to pay;
- (d) take all reasonable steps and precautions to minimize disturbance of any archaeological material discovered by Hydro on the Leased Area, and to immediately notify the Lessor; and
- (e) not commit or suffer any wilful or voluntary waste, spoil or destruction on the Leased Area, or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to the Lessor, except to the extent required by Hydro acting reasonably, to exercise its rights under this Lease.

Environmental Requirements

3.8 Hydro agrees not to store, use, manufacture, sell, release, dispose, transport, handle, bring or allow to remain on, in or under any part of the Lands or the Leased Area any Hazardous Substance.

Covenants of Lessor

3.9 The Lessor agrees as follows:

- (a) not to make, place, erect or maintain any building, structure, pile of material or obstruction or plant any growth on areas adjacent to the Leased Area which, in the opinion of Hydro might interfere with or endanger the construction, erection, stringing, excavation for, installation, operation or maintenance of the Works or any part thereof, or might obstruct access by Hydro's employees, agents, or licensees to the Works or any part therefore; and

- (b) not to carry out blasting or aerial logging operations on or adjacent to the Leased Area without permission in writing first received from Hydro, which permission shall not be unreasonably withheld.

PART 4 - INDEMNITY

Hydro's Contractor's Insurance

- 4.1 Hydro will require any contractor performing work on the Leased Area to carry and maintain, at no expense to the Lessor, commercial general liability insurance and other insurance in amounts and on terms reasonably determined by the Lessor and provide the Lessor with satisfactory proof of that insurance from time to time.

Indemnity

- 4.2 Hydro will not hold the Lessor liable in any way or claim against the Lessor for any loss of life, personal injury or damage to Leased Area arising from any occurrence in, on or related to the Leased Area, or occupancy or use of the Leased Area, except where caused by the Lessor or those for whom the Lessor is in law responsible.
- 4.3 Hydro will indemnify the Lessor and save it harmless from and against all claims, actions, damages, liabilities, costs and expenses in connection with the loss of life, personal injury or damage to Leased Area arising from Hydro's occupancy or use of the Leased Area, or occasioned wholly or in part by an act or omission of the Hydro, its officers, employees, agents, customers, contractors or other invitees except where caused by the Lessor or those for whom the Lessor is in law responsible.
- 4.4 The indemnity provisions contained in section 4.3 are deemed to survive the expiry or earlier termination of this Lease.

Limitation of Liability

- 4.5 The Lessor will not be liable to Hydro in respect of any loss, injury or damage to Hydro or any other person for any loss, injury or damage arising from any occurrence in, on or related to the Leased Area, or any loss or damage to Leased Area (including loss of use thereof) howsoever except where the injury, loss, or damage is caused by the Lessor or those for whom the Lessor is in law responsible.

PART 5 - ASSIGNMENT AND SUBLETTING

Assignment and Subletting by Hydro

- 5.1 Hydro may, without the consent of the Lessor, assign, mortgage, or encumber this Lease in whole or in part, or sublease all or any part of the Leased Area or permit the Leased Area to be used or occupied by any other person provided that such assignment, mortgage, encumbrance or subletting is necessary or desirable in Hydro's sole discretion, to fulfill Hydro's mandate under the *Hydro Power and Authority Act* or as may be further mandated by the Province of British Columbia, and provided Hydro provides written notice of same and in the event of any assignment, the assignee enters into an agreement with the Lessor where either the assignee assumes the obligations of Hydro under the Lease, or Hydro agrees in writing to retain all such obligations.

PART 6 - MAINTENANCE

Hydro's Maintenance

- 6.1 Hydro will at its costs:
- (a) keep the Leased Area, in reasonably good, substantial and safe state of repair; and
 - (b) immediately reimburse the Lessor for the repair of any damage caused to any part of the Leased Area caused by or through the wilful act, negligence or omission of the Hydro, its officers, employees, agents, customers, contractors or other invitees.

Ownership of Improvements, Fixtures, Appurtenances and Attachments

- 6.2 The ownership of all improvements, fixtures, appurtenances and attachments on the Leased Area shall remain vested in Hydro until the end of the Lease.

Removal of Leasehold Improvements

- 6.3 Upon expiry of this Lease or if Hydro no longer requires the Leased Area Hydro will:
- (a) dismantle and remove the Works with the exception of underground Works;
 - (b) remain liable for any environmental damage to the Leased Area arising from any underground Works that remain on or in the Leased Area, except that if the Lessor uses or authorizes the use of any of the remaining below ground Works for any purpose then Hydro will not be liable for any environmental damage caused by the Lessor's use, or authorized use and to the extent necessary, this covenant will survive the expiry or earlier termination of this Lease; and
 - (c) in its absolute discretion, be entitled to remove any improvements, fixtures, appurtenances and attachments present on the Leased Area from the Leased Area prior to the expiry of the Lease and any improvements, fixtures, appurtenances and attachments so removed shall continue to be owned by Hydro. Any improvements, leasehold improvements, fixtures, appurtenances and attachments not so removed shall be conveyed to the Lessor at the end of the Term.

PART 7 - MISCELLANEOUS

Quiet Enjoyment

- 7.1 Subject to the observance and performance by Hydro of all its obligations under this Lease, Hydro may use the Leased Area in accordance with the provisions of this Lease without interference by the Lessor, or any party claiming through the Lessor.

No Partnership

- 7.2 The Lessor does not in any way or for any purpose become a partner of, or joint venturer or a member of a joint enterprise of Hydro. No provision of this Lease is intended to create a relationship between the parties other than that of lessor and lessee.

Interpretation

- 7.3 Where the context requires, the singular includes the plural and vice versa, and the masculine, feminine and neuter include each other.

Registration

- 7.4 Hydro may register this Lease in any land registry system established or used by the Lessor for lands within its jurisdiction. At the request of either party to this Lease, both parties will cooperate in executing any documents or plans required to accomplish the registration of this Lease and to preserve the substance and priority of this Lease in relation to those portions of the Lands affected by this Lease.

No Waiver

- 7.5 The remedy by the Lessor or Hydro of a breach of an obligation in this Lease will not be considered to be a waiver of a subsequent breach of that or another obligation. No obligation in this Lease will be considered to have been waived by the Lessor or Hydro unless the waiver is in writing and signed.

Unavoidable Delay

- 7.6 If either the Lessor or Hydro is delayed, hindered in, or prevented from performing an act or complying with a covenant under this Lease by reason of Unavoidable Delay, the time for the doing of the act or complying with the covenant will be extended for a period equal to the period for which that Unavoidable Delay operates to prevent the act or thing required to be done or complied with. The party obligated to do the act or comply with the covenant will not be in default until the expiration of the time so extended. Each party will promptly notify the other of the occurrence of any Unavoidable Delay

Notices

- 7.7 All notices to be given pursuant to this Lease shall be in writing and shall be given by delivery or facsimile of the same to the address or facsimile number designated hereunder or to such other address or facsimile number as may be substituted therefore from time to time for the proper notice to a party hereunder. Where a notice is sent by facsimile, if it is received by a party prior to 4:00 p.m. local time on a business day, it shall be deemed to have been received on that business day, and otherwise such notice shall be deemed to be received on the business day next following its actual receipt. A party may change its address or facsimile number from time to time by giving written notice of such change to the other party in accordance with this paragraph. The respective addresses and facsimile numbers of the parties are as follows:

Lessor:	Tsawwassen First Nation 131 North Tsawwassen Drive Delta, B.C. V4M 4G2
	Attention: Facsimile: 604-943-█
Hydro:	British Columbia Hydro and Power Authority 8 th Floor - 333 Dunsmuir Street Vancouver, B.C. V6B 5R3
	Attention: Manager, Properties Facsimile:

Time of Essence

- 7.8 Time will be of the essence in this Lease.

Severance

7.9 If any provision of this Lease or the application to any person of any provision is held to be invalid or unenforceable, the remainder of this Lease or its application will not be affected.

No Modification

7.10 No representation, understanding or agreement has been made or relied upon except as expressly set out in this Lease. This Lease may only be modified in writing signed by each party against whom the modification is enforceable.

Successors

7.11 This Lease binds and benefits the parties and their respective successors and permitted assigns.

Peaceful Surrender

7.12 Hydro will at the expiration of the Term, immediately surrender the Leased Area in a peaceable way and in the state of repair specified in this Lease.

Schedules

7.13 The Schedules attached to this Lease form part of this Lease.

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:

Authorized Signatory

**TSAWWASSEN FIRST NATION, by its
authorized signatory**

Signature: _____

Name (Printed): _____

Title: _____

SCHEDULE A

DESCRIPTION OF THE LANDS

[Insert Legal Description]

SCHEDULE B

DESCRIPTION OF THE LEASED AREA

[Insert Legal Description].

Permitted Encumbrances:

- (a) subsisting conditions, provisos, restrictions, exceptions and reservations, including royalties, contained in the original grant or contained in any other grant or disposition from the Crown;
- (b) registered rights of way in favour of utilities and public authorities; and
- (c) charges registered on title to the Leased Area, at the time of the making of this Lease.

SCHEDULE C

[INSERT MAP SHOWING LANDS and LEASED AREA]

SCHEDULE D

[INSERT PLAN OF THE ACCESS ROAD AREA]

APPENDIX D – 9

DOCUMENT 8

DRAINAGE DITCH RIGHT OF WAY AGREEMENT

(CORPORATION OF DELTA)

LAND TITLE ACT
FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT – PART 1 (This area for Land Title Office use)

PAGE 1 of 10 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND: *
(PID) (LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST:

<i>DESCRIPTION</i>	<i>DOCUMENT REFERENCE</i> (Page and paragraph)	<i>PERSON ENTITLED TO INTEREST</i>
RIGHT OF WAY		TRANSFeree

4. TERMS: Part 2 of this instrument consists of (select one only)

- | | | |
|---------------------------------|-------------------------------------|---------------------------------------|
| (a) Filed Standard Charge Terms | <input type="checkbox"/> | D.F. No. |
| (b) Express Charge Terms | <input checked="" type="checkbox"/> | Annexed as Part 2 |
| (c) Release | <input type="checkbox"/> | There is no Part 2 of this instrument |

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): *

TSAWWASSEN FIRST NATION

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) *

THE CORPORATION OF DELTA, 4500 CLARENCE TAYLOR CRESCENT, DELTA, BRITISH COLUMBIA, V4K 3E2

7. ADDITIONAL OR MODIFIED TERMS: *

N/A

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

Officer Signature(s)	Execution Date		Party(ies) Signature(s)
	Y	M	D
			<p>TSAWWASSEN FIRST NATION by its authorized signatory(ies)</p> <p>_____ Name:</p> <p>_____ Name:</p>
(as to all signatures)			

Officer Signature(s)	Execution Date		Party(ies) Signature(s)
	Y	M	D
			<p>THE CORPORATION OF DELTA, 4500 CLARENCE TAYLOR CRESCENT, DELTA, BRITISH COLUMBIA, V4K 3E2</p> <p>by its authorized signatory(ies)</p> <p>_____ Name:</p> <p>_____ Name:</p>
(as to all signatures)			

OFFICER CERTIFICATION:
 Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

LAND TITLE ACT

FORM E

SCHEDULE

Enter the Required Information in the Same order as the Information Must Appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

2. Parcel Identifier(s) and Legal Descriptions of Land

TERMS OF INSTRUMENT—PART 2

THIS AGREEMENT made [month, day, year]

BETWEEN:

[Tsawwassen First Nation]

(the "Transferor")

AND:

[Corporation of Delta]

(the "Transferee")

WHEREAS

- a. The Transferor is the registered owner of that certain parcel or tract of land and premises known and described as follows:

INSERT LEGAL DESCRIPTION

(hereinafter called the "Lands")

- b. Section 218 of the *Land Title Act*, R.S.B.C. 1996, c. 250 enables the Transferor to grant in favour of the Transferee an easement without a dominant tenement to be known as a statutory right of way;
- c. The Transferee desires to obtain from the Transferor a statutory right of way to construct certain Works on, over and under the hereinafter described portion of the Lands for drainage and irrigation purposes;
- d. The statutory right of way herein granted is necessary for the operation and maintenance of the Transferee's undertaking.

2. DEFINITIONS

- a. In these terms of instrument and the pages attached hereto (either before or after this page), which together comprise the document (herein the "Document"):
 - i. "Agreement" means and includes the covenants, agreements and executions contained in the Document.
 - ii. "Transferee" means the Corporation of Delta and is named as the Transferee in Item 6 of the attached Form C;
 - iii. "Transferor" means the Tsawwassen First Nation and is named as the Transferor in Item 5 of the attached Form C;
 - iv. "Works" means drainage and irrigation ditches, together with ancillary appliances, fittings building, fixtures, machinery, plant, equipment, apparatus or other improvements power poles, transmission lines, pipes, culverts, retaining walls, wing walls, manholes, meters, pumps, valves, and similar equipment, or any of them;

3. **GRANT**

a. The Transferor hereby grants to the Transferee the full, free and uninterrupted right, licence, liberty, privilege, easement and right of way in common with the Transferor over those portions of the Lands (which portions are collectively called the "Statutory Right of Way") which are shown outlined in heavy black on Explanatory Plan No. *[number]* filed concurrently with this Agreement, a reduced copy of which plan is attached to this Agreement as Schedule A:

i. to enter over, on, in, and under the Statutory Right of Way to:

(a) conduct surveys and examinations;

(b) dig up, remove and replace soil;

(c) construct, install, operate, maintain, clean, cover with soil, alter, relocate, renew, inspect and replace the Works;

for the purpose of conveying, draining, containing, protecting, metering and disposing of *[water/storm water]* in connection with the provision of *[water drainage service]* to the Lands;

ii. to bring on to the Statutory Right of Way all materials and equipment the Transferee requires or desires for the Works;

iii. to clear the Statutory Right of Way and keep it clear of anything which in the opinion of the Transferee constitutes or may constitute an obstruction to the use of the Statutory Right of Way or to the Works;

iv. to cross over the Lands for reasonable access to the Statutory Right of Way and make reasonable ancillary use of the Lands for carrying out the Works; and

v. to do all acts which in the opinion of the Transferee are incidental to the foregoing.

4. **DURATION**

a. The duration of the Right of Way and the rights herein granted shall be for a term of twenty (20) years commencing on [Effective Date]● (herein called the "**Commencement Date**") unless cancelled in accordance with the terms hereof.

5. **RESTRICTION OF RIGHT OF WAY**

a. The Transferee acknowledges and agrees that the Right of Way over the Lands will be exercised only over those portions shown outlined in bold on the Statutory Right of Way Plan attached as Schedule "A";

b. This Agreement shall not entitle the Transferee to exclusive possession of the Right of Way and the Transferor reserves the right to grant other dispositions of the Right of Way, or any part of it, for the purposes of public utilities, roads, water, sewer and drainage pipe systems, or any other purpose, so long as the grant does not materially affect or interfere with the exercise of the Transferee's rights hereunder.

c. If a dispute should arise as to whether a subsequent disposition materially affects or interferes with the exercise of the Transferee's rights hereunder then the dispute shall be referred to dispute resolution pursuant to Section 13 of this Agreement.

6. **RELOCATION OF THE WORKS**

- a. If the Transferor for any reason whatsoever wishes to relocate the Works to a New Location (the "New Location") it shall provide 180 days written notice to the Transferee of its intention to do so.
- b. The New Location must be of sufficient size to accommodate the Works and be equally suitable for the purposes of the Transferee.
- c. The Transferor will pay for any reasonable costs of moving the Works to the New Location. As full compensation for all other costs, expenses and damages that the Transferee may incur in connection with the relocation, including disruption and loss of business, the parties shall agree on a lump sum payment and failing agreement, the matter shall be referred to dispute resolution pursuant to Section 13.
- d. The Parties will do all acts and execute all required documents, including a new or amended statutory right of way plan, to give effect to the New Location.
- e. All other terms and condition of this Agreement will apply to the New Location for the balance of the original term.

7. **COVENANTS OF THE TRANSFEREE**

- a. The Transferee covenants with the Transferor:
 - i. to pay and discharge when due all applicable taxes, levies, charges and assessments now or hereafter assessed, levied or charged to the account of the Transferee which relate to the Works (herein called "**Realty Taxes**"), and which the Transferee is liable to pay;
 - ii. that no taxes, fees or other terms for the use of water for irrigation or for any other purpose shall be directly or indirectly charged to the Transferor by the Transferee other than as expressly authorized by this Agreement and the Transferee shall indemnify and hold harmless the Transferor for any taxes, fees or other terms the Transferee in the exercise of its statutory powers levies upon the Transferor.
 - iii. to pay when due all charges for electricity, gas, water and other utilities supplied to the Lands for use by, on behalf of or with the permission of the Transferee;
 - iv. to pay all accounts and expenses as they become due for work performed on or materials supplied to the Statutory Right of Way at the request, on the behalf or with the permission of the Transferee, except for money that the Transferee is required to hold back under the *Builders Lien Act*,
 - v. if any claim of lien over the Lands is made under the *Builders Lien Act* for work performed on or materials supplied to the Statutory Right of Way at the request, on the behalf or with the permission of the Transferee, the Transferee shall immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by the Transferee and the Transferee has taken the steps necessary to ensure that the claim of lien will not subject the Lands or any interest of the Transferee under this Agreement to sale or forfeiture;

- vi. to observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting the Statutory Right of Way and the Works;
- vii. not to commit or suffer any wilful or voluntary waste, spoil or destruction on the portions of the Statutory Right of Way or do or suffer to be done thereon anything that may be or become a nuisance or annoyance to the Transferor, except to the extent required by the Transferee acting reasonably, to exercise its rights under this Agreement;
- viii. to take all reasonable steps and precautions to minimize the disturbance of any archaeological material discovered by the Transferee on the Lands and to immediately notify the Transferor;
- ix. not to bury debris or rubbish of any kind on the Lands in excavations or backfill, and to remove shoring and similar temporary structures as backfilling proceeds;
- x. to deliver to the Transferor from time to time, upon demand, proof of insurance provided for in subsection 7(a)(xvii) and receipts or other evidence of payment of Realty Taxes, insurance premiums and other monetary obligations of the Transferee required to be observed by the Transferee pursuant to this Agreement;
- xi. to indemnify and save the Transferor harmless from and against all losses, damages, costs and liabilities including fees of solicitors and other professional advisors arising out of:
 - (a) any breach, violation or non-performance by the Transferee of any of the Transferee's covenants, conditions or obligations under this Agreement, or
 - (b) any act or omission on the part of the Transferee in respect of or in relation to its Works including the construction, maintenance, operation or decommissioning or removal of its Works;
- xii. to keep the Statutory Right of Way in a safe, clean and sanitary condition to the extent the condition relates to the use or occupation of the Lands by the Transferee, and on written notice from the Transferor, rectify any failure to comply with such a covenant by making the Statutory Right of Way or any portion of the Lands or any Works thereon safe, clean and sanitary;
- xiii. to permit the Transferor, or his authorized representative to enter upon the Statutory Right of Way at any time to examine its condition;
- xiv. to use and occupy the Statutory Right of Way in accordance with the provisions of this Agreement;
- xv. exercise care not to damage the Lands or any improvements on the Lands and if the Transferee should cause any such damage, restore such damaged Lands or improvements thereon to as close to their pre-damaged condition as is reasonably practical with reasonable dispatch or where the Transferee deems restoration to be impractical, reimburse the Transferor for all damage the Transferee has caused but not restored;
- xvi. on the expiration or at the earlier cancellation of this Agreement,

- (a) to quit peaceably and deliver possession of the Statutory Right of Way to the Transferor;
- (b) to restore the Lands and Statutory Right of Way used by the Transferee to the reasonable satisfaction of the Transferor; and
- (c) to remove the Works and all buildings, machinery, apparatus, plant equipment, fixtures and other improvements to or things on the Statutory Right of Way from the Lands within 90 days, and any of the aforesaid improvements and things that remain thereafter shall be absolutely forfeited to and become the property of the Transferor;

and to the extent necessary, this covenant shall survive the expiration or cancellation of this Agreement;

xvii. to effect and keep in force during the term of this agreement, insurance protecting the Transferor and the Transferee (without any rights of cross-claim or subrogation against the Transferor) against any claims for personal injury, death, property damage or third party, or public liability claims arising from any accident or occurrence on the Lands to an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) except that so long as the Transferee is The Corporation of Delta, the Transferor will waive the requirements of this sub-section on the delivery to the Transferor of confirmation that the Transferee is self-insured;

xviii. notwithstanding Section 7(a)(xvii), the Transferor may from time to time notify the Transferee that the amount of insurance posted by the Transferee pursuant to that sub-section be changed and the Transferee shall, within 60 days of receiving such notice, cause the amount of insurance posted, pursuant to Section 7(a)(xvii) to be changed to the amount specified by the Transferor acting reasonably, in the notice and deliver to the Transferor written confirmation of the change, except that when the Transferee is self-insuring this sub-section shall not apply; and

xix. not to interfere with the rights of any other person to enter on and use the Statutory Right of Way and Lands under a prior or subsequent disposition granted by the Transferor so long as such use does not materially affect or interfere with the exercise of the Transferee's rights under this Agreement.

8. ASSIGNMENT

- a. The Transferee shall not assign this Agreement or the interest of the Transferee in it or grant a license to occupy any part of the Lands without the prior written consent of the Transferor, which consent shall not be unreasonably withheld.
- b. Notwithstanding section 8(a), the Transferee may, without the prior written consent of the Transferor:
 - i. assign its interest in all or a part of the Lands to another local governmental authority; or
 - ii. sublicense its interest in all or part of the Lands to a Federal, Provincial or other governmental agency or department.

9. **CANCELLATION**

- a. Should the Transferee omit, fail or neglect to carry out one of its obligations contained in this Agreement or do some act contrary to its obligations contained in this Agreement or otherwise breaches this agreement:
 - i. the Transferor shall provide notice of such breach in writing to the Transferee; and
 - ii. the Transferee shall within thirty days of the receipt of notice or such longer period of time to which the parties may mutually agree, remedy the breach; and
 - iii. if the breach is not remedied within thirty days or such further time as mutually agreed, then the Transferor may at its option either
 - (a) cancel this Agreement and, notwithstanding subsection 7(a) (xvi), the Works shall be forfeited to and become, the property of the Transferor, or
 - (b) enter onto the Lands and rectify such default to the extent considered necessary by it and the cost of doing so shall be a debt due and owing to the Transferor by the Transferee with interest to accrue at the prime rate of *[bank]* as of the date of the notice.
- b. If this Agreement is taken in execution or attachment by any person, or the Transferee commits an act of bankruptcy, becomes insolvent, is petitioned into bankruptcy or voluntarily enters into an arrangement with his creditors, the Transferor may, on 90 days written notice to the Transferee, cancel this Agreement and the rights herein granted.
- c. If the Transferee ceases to use the Statutory Right of Way for the purposes permitted herein and the Transferee does not recommence its use of the Statutory Right of Way within 180 days of receipt of written notice from the Transferor, the Transferor may immediately cancel this Agreement and the rights herein granted.
- d. The rights of the Transferor under section 10 shall survive the expiration or earlier cancellation of this Agreement.

10. **SECURITY**

- a. The security in the sum of \$1.00 and all rights, privileges, benefits and interests accruing thereto delivered by the Transferee to the Transferor (herein called the "**Security**") to guarantee the performance of the Transferee's obligations under this Agreement shall be maintained in effect until such time as the Transferor certifies in writing that such obligations have been fully performed. So long as the Transferee is The Corporation of Delta or other local governmental authority, the Transferor will waive the requirement of this section.
- b. In the event the Transferee should default in the performance of any of its obligations hereunder, it shall be lawful for the Transferor, in its sole discretion, to sell, call in and convert the Security, or any part of it, and such Security shall be deemed to have been absolutely forfeited to the Transferor.
- c. The rights of the Transferor under this Section shall be deemed to continue in full force and effect notwithstanding the expiration or cancellation of this Agreement.
- d. Notwithstanding any amount of Security stated to be required under Section 10(a) the Transferor may from time to time by notice to the Transferee, demand the amount to be

changed to that specified in a notice and the Transferee shall, within 60 days of such notice change the Security to that specified and provide the Transferor with evidence of the change, except that while Security is waived under Section 10(a), this section shall not apply.

11. NOTICE

- a. Where service of a notice or a document is required under this Agreement, the notice or document shall be in writing and shall be forwarded to the addresses for the Transferor and the Transferee specified on the first page of this Agreement.
- b. If any question arises as to the date on which such notice or document was communicated to any party, it will be deemed to have been given:
 - i. on the next business day if it is delivered personally, or sent by courier or by fax; or
 - ii. on the eighth day after its deposit in a Canada Post office at any place in Canada, if sent by registered mail.
- c. If there is a disruption in mail services caused by labour dispute, civil unrest or other events beyond the control of the parties, between mailing and actual receipt of such notice, the party sending such notice will re-send by courier, fax or other electronic means and such notice will only be effective if actually received.
- d. Either party may, by notice in writing to the other, specify another address for service of notices under this Agreement and where another address is specified under this section, notices shall be delivered or mailed to that address in accordance with this Section.

12. MISCELLANEOUS

- a. A breach of any term, condition, covenant or other provision herein may only be waived in writing and any such waiver shall not be construed as or constitute a waiver of any further or other breach. Consent or approval of any act where consent or approval is required under this Agreement, shall not be construed as consent to or approval of any subsequent similar act.
- b. No remedy set out in this Agreement is exclusive of any other remedy herein or provided by law, but such remedy shall be cumulative and shall be in addition to any other remedy herein or hereafter existing at law, in equity, or by statute.
- c. The terms and provisions of this Agreement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and permitted assigns.
- d. Time is of the essence in this Agreement.

13. DISPUTE RESOLUTION

- a. In this section, "dispute" means any dispute arising out of or in connection with this Agreement.
- b. The parties agree to attempt to resolve all disputes by negotiations conducted in good faith and to provide timely disclosure of all relevant facts, information and documents to further those negotiations.

- c. If a dispute is not settled through direct negotiations either party may request the British Columbia International Commercial Arbitration Centre (BCICAC) to appoint a mediator to conduct mediation under its mediation rules of procedure.
- d. If a dispute is not settled within 30 days of the appointment of the mediator or any further period of time agreed to by the parties, the parties may, by agreement, submit the dispute to a single arbitrator for final arbitration in accordance with the arbitration rules of procedure of the BCICAC.
- e. If the parties fail to agree to submit the dispute to arbitration under paragraph 12(d), or the BCICAC is unavailable or unable to administer the mediation or arbitration of a dispute under its rules of procedure, either party may commence proceedings in relation to the dispute in any court of competent jurisdiction.

14. **INTERPRETATION**

- a. In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- b. The captions and headings contained in this Agreement are for convenience only and are not to be construed as defining or in any way limiting the scope or intent of the provisions herein.
- c. Where in this Agreement there is a reference to an enactment of the Province of British Columbia or of Canada, that reference shall include a reference to any subsequent enactment of like effect, and unless the context otherwise requires all statutes referred to herein are enactments of the Province of British Columbia.
- d. If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, shall be considered separate and severable and the remaining parts or sections, as the case may be, shall not be affected thereby and shall be enforceable to the fullest extent permitted by law.

15. **IT IS MUTUALLY UNDERSTOOD, AGREED AND DECLARED** by and between the Parties hereto that

- a. the covenants herein contained shall be covenants running with the Lands, and
- b. none of the covenants herein contained shall be personal or binding upon the parties hereto **SAVE AND EXCEPT** during the Transferor's ownership of the Lands but that the Lands shall, during the term of this agreement nevertheless, be and remain at all times charged therewith.

16. **AND THAT**, save as aforesaid, nothing in these presents shall be interpreted so as to restrict or prevent the Transferor from using the Statutory Right of Way in any manner that does not interfere with functioning and access to the Works.

17. **AND THAT** nothing herein contained shall be deemed to authorize the Transferee to construct, install or maintain any other a public works or utilities, other than the Works, in the Statutory Right of Way.

18. The expressions "Transferor" and "Transferee" herein contained shall be deemed to include the executors, administrators, successors and assigns of such Parties wherever the context or the Parties hereto so require.

19. This indenture shall enure to the benefit of and be binding upon the Parties hereto, their executors, administrators, successors and permitted assigns respectively.

20. **IN WITNESS THEREOF** the Agreement contained in the Document has been executed on one or more pages of the Document.

SCHEDULE "A"
[Statutory Right of Way Plan]

END OF DOCUMENT

APPENDIX E OTHER TSAWWASSEN LANDS

APPENDIX E-1-1	Map of Other Tsawwassen Lands – Boundary Bay Parcels
APPENDIX E-1-2	Map of Other Tsawwassen Lands – Fraser River Parcels
APPENDIX E-2	Parcel Description of Other Tsawwassen Lands
Part 1	Fraser River Parcels
Part 2	Boundary Bay Parcels
APPENDIX E-3	List of Interests on Other Tsawwassen Lands
Part 1	Fraser River Parcels
Part 2	Boundary Bay Parcels
Part 3	Leases on Boundary Bay Parcels

APPENDIX E-1-1

MAP OF OTHER TSAWWASSEN LANDS – BOUNDARY BAY PARCELS

APPENDIX E-1-2

MAP OF OTHER TSAWWASSEN LANDS – FRASER RIVER PARCELS

PART 1 OF APPENDIX E - 2

PARCEL DESCRIPTION OF FRASER RIVER PARCELS

Note: Information will be updated before the Effective Date. The description of the parcels may change following a resurvey of the parcels that is satisfactory to the Parties before the Effective Date.

Parcel Description	Land Title Office Parcel Identifier
Lot 29, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-733-001
Lot 30, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-710-396
Lot 31, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-710-400
Lot 32, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-710-418
Lot 33, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-710-451
Lot 34, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-710-477
Lot 35, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-252
Lot 36, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-309
Lot 37, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-350
Lot 38, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-376
Lot 39, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-392

PART 2 OF APPENDIX E - 2

PARCEL DESCRIPTION OF BOUNDARY BAY PARCELS

Note: Information will be updated before the Effective Date. The description of the parcels may change following a resurvey of the parcels that is satisfactory to the Parties before the Effective Date.

Parcel Description	Land Title Office Parcel Identifier
That part of Parcel "A" (Explanatory Plan 30794), Lot 13, Except: Parcel "One" (Reference Plan 38003), Section 24, Township 5, New Westminster District, Plan 25196, as shown for illustrative purposes only in Appendix E-1-1	008-728-950
Lot 3, Section 24, Township 5, New Westminster District, Plan 1715	009-181-849
Lot 4, Section 24, Township 5, New Westminster District, Plan 1715	009-181-857
Lot 5, Section 24, Township 5, New Westminster District, Plan 1715	009-181-873
Lot 6, Section 24, Township 5, New Westminster District, Plan 1715	009-181-890
Lot 7, Section 24, Township 5, New Westminster District, Plan 1715	009-181-911
Lot 8, Section 24, Township 5, New Westminster District, Plan 1715	009-181-938
Lot 9, Section 24, Township 5, New Westminster District, Plan 1715	009-181-962
Lot 10, Section 24, Township 5, New Westminster District, Plan 1715	009-181-971

PART 1 OF APPENDIX E - 3

LIST OF INTERESTS ON FRASER RIVER PARCELS

Note: Information will be updated before the Effective Date.

Interest Holder	Interest	Location (Land Title Office Parcel Identifier)	Land Title Office Document Reference Number
Corporation of Delta	Statutory Right of Way for dyke and drainage ditch (Expiry Date: August 20, 2018)	009-733-001 009-710-396 009-710-400 009-710-418 009-710-451 009-710-477 009-711-252 009-711-309 009-711-350 009-711-376 009-711-392	BR334440 Plan 50333
Transport Canada	Zoning Regulation	009-733-001 009-710-396 009-710-400 009-710-418 009-710-451 009-710-477 009-711-252 009-711-309 009-711-350 009-711-376 009-711-392	LTO T54793 Plan 61884

PART 2 OF APPENDIX E - 3

LIST OF INTERESTS ON BOUNDARY BAY PARCELS

Note: Information will be updated before the Effective Date.

Interest Holder	Interest	Location (Land Title Office Parcel Identifier)	Land Title Office Document Reference Number
British Columbia Hydro & Power Authority	Statutory Right of Way Transmission, Distribution and Communications	008-728-950	217890C B49836 N26855
Corporation of Delta	Statutory Right of Way Dyke	008-728-950 009-181-971	BK68263 Plan NWP 56667
Corporation of Delta	Statutory Right of Way Pump Station and Drainage Ditch (Expiry Date: August 16, 2020)	008-728-950	BP217316 Plan LMP41783
Greater Vancouver Regional District	Statutory Right of Way Regional Park Purposes	008-728-950 009-181-971	BX529248 Rights cover only those parts of the Boundary Bay Parcels that are encumbered by the Delta dyke SRW (shown on Plan NWP56667).
Transport Canada	Legal Notation Zoning Regulation Pursuant to the Aeronautics Act (Canada)	008-728-950 009-181-857 009-181-873 009-181-890 009-181-911 009-181-938 009-181-962 009-181-971	T54793 Plan 61884

PART 3 OF APPENDIX E - 3

LIST OF LEASES ON BOUNDARY BAY PARCELS

Note: Information may be updated before the Effective Date.

Lease Number	Parcel Description (Lease)	Expiration Date
1047	Westerly 2,600 ft with frontage on 64 th street approximately 1,349 ft of Parcel A (Exp plan 30794) of Lot 13 of Section 24, Township 5, Plan 25196 Except Parcel 1 (Plan 38003) NWD	August 31, 2007
1053	Lots 4-10 Section 24 Township 5 Plan 1715, NWD	August 31, 2007
1054	Lot 3 Section 24 Township 5, NWD, Plan 1715	March 31, 2009

APPENDIX F

TSAWWASSEN WATER LOTS

APPENDIX F-1 Map of Tsawwassen Water Lots

APPENDIX F-2 Form of Water Lot Lease

APPENDIX F-1

MAP OF TSAWWASSEN WATER LOTS



APPENDIX F – 2
WATER LOT LEASE

LEASE

Lease No.:

File No.:

Disposition No.:

THIS AGREEMENT is dated for reference _____ and is made under the **Land Act, R.S.B.C. 1996 Chapter 245**

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
represented by the minister responsible for the Land Act Parliament Buildings, Victoria,
British Columbia

(the “Province”)

AND:

TSAWWASSEN FIRST NATION

(the “Lessee”)

WHEREAS:

Tsawwassen First Nation, Canada and British Columbia have entered into a treaty,
referred to as the “Tsawwassen First Nation Final Agreement”, which provides that, on
its effective date, British Columbia will enter into this Tsawwassen Water Lot Lease,

The parties agree as follows:

**ARTICLE 1
INTERPRETATION**

1.1 In this Agreement, the following words and phrases have the following meanings:

“**Commencement Date**” means the effective date of the Tsawwassen First Nation Final
Agreement;

“Contaminant” means any dangerous, hazardous, or toxic substance the storage, manufacture, handling, disposal, treatment, use or remediation of which is from time to time prohibited, regulated or controlled under any Federal or Provincial laws relating to the protection of the environment, health, occupational health and safety or the protection of any form of plant or animal life;

“Improvements” includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land by the Lessee;

“Land” means those lands identified as [insert legal description] by a survey accepted and confirmed under section 72 of the *Land Act* and deposited in the Crown Land Registry under number _____, a copy of which is attached as Schedule A;

“Nominal Annual Rent” means the sum of \$1.00 for each year of the Term;

“Realty Taxes” means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any government authority having jurisdiction which relate to the Land, the Improvements or both of them and which you are liable to pay under applicable laws;

“Term” means the term of the leasehold interest created by this Agreement and includes the initial term and all renewal terms as set out in section 2.2;

“Tsawwassen Public Institution” has the same meaning as Tsawwassen Public Institution in the Tsawwassen First Nation Final Agreement;

“we”, “us” or “our” refers to the Province alone and never refers to the combination of the Province and the Lessee: that combination is referred to as **“the parties”**;
and

“you” or “your” refers to the Lessee.

1.2 For the purposes of this Agreement, except as otherwise expressly provided:

- (a) "this Agreement" means this agreement, including the Schedules, as they may from time to time be supplemented or amended and in effect;
- (b) wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require;
- (c) the captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement;
- (d) where there is a reference to an enactment of the Province of British Columbia or of Canada, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia; and
- (e) Wherever this Agreement provides that an action may be taken, a consent or approval must be obtained or a determination must be made, then you or we, as the case may be, will act reasonably and without delay in taking such action, deciding whether to provide such consent or approval or making such

determination.

- 1.3 The following schedules are annexed to and form a part of this Agreement: Schedule A (copy of survey describing Land).

ARTICLE 2 GRANT, TERM AND PERMITTED USE

- 2.1 On the terms and conditions set out in this Agreement, we grant you a lease of the Land for the permitted uses set out in section. 2.
- 2.2 The term of this Agreement commences on the Commencement Date and terminates on the Ninety-ninth (99th) anniversary of that date (the “initial term”).
- 2.3 You may at your option renew this Agreement for one or more additional 99-year periods (any one of which may be referred to as a “renewal term”) in perpetuity.
- 2.4 You will be conclusively deemed to have exercised this right of renewal during the initial term and each successive renewal term unless you give us written notice to the contrary on or before the fifth (5th) year prior to the end of the initial term or any particular renewal term as the case may be. Any renewal includes the terms and conditions of this Agreement with the modifications that are necessary to reflect the commencement date of the extended term.
- 2.5 You may use and occupy the Land only for recreational and other community uses which are not carried out for a business or commercial purpose. For greater certainty and without limitation you may not use or occupy the Land to carry out an industrial, commercial or other activity for the purpose of generating revenues and profits.

ARTICLE 3 COVENANTS

- 3.1 You must:
- (a) pay, to us at the address set out in Article 8, the Nominal Annual Rent, when due and other amounts that you are required to pay to us under this Agreement;
 - (b) pay, on or before the date due the Realty Taxes and all charges for electricity, gas, water and other utilities supplied to the Land;
 - (c) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;
 - (d) observe, abide by and comply with all applicable laws, bylaws, orders, directions, ordinances and regulations of any government authority having jurisdiction in any way affecting your use or occupation of the Land or Improvements;
 - (e) not commit any wilful or voluntary waste, spoil or destruction on the Land;
 - (f) on the expiry or earlier termination of this Agreement, or at any other time if requested by us, promptly at your own cost, remove from the Land any Contaminant, and remediate any contamination caused by a Contaminant, where the Contaminant has been brought onto, used at, or released from Land by you, any person to whom you have given permission to use the Land or any other

person for whom you are in law responsible;

- (g) not to do anything on the Land that may be or become a nuisance to an owner or occupier of land in the vicinity of the Land;
- (h) pay all accounts and expenses as they become due for labour or services performed on, or materials supplied to, the Land except for money that you are required to hold back under the *Builders Lien Act*;
- (i) if any claim of lien over the Land is made under the *Builders Lien Act*, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (j) not without prior written consent from us deposit on the Land, or any part of it, any earth, fill or other material for the purpose of filling in or raising the level of the Land;
- (k) not make, construct, erect, alter or remove (except as provided in subsection n) any Improvements unless you have first given us notice and obtained our written consent and without limitation we may, as a condition of consent, require you to provide us with plans and other reasonable details describing the Improvement alteration or removal;
- (l) in accordance with applicable laws and after giving reasonable notice to you, permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements, provided that in regard to our inspection of the Improvements we take reasonable steps to minimize any disruption to your operations;
- (m) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of:
 - (i) your breach, violation or non-performance of a provision of this Agreement, and
 - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,

and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and

- (n) on the termination of this Agreement,
 - (i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii) and (iii), the Improvements in a safe, clean and sanitary condition,
 - (ii) within 120 days, remove from the Land any Improvement that was placed on or made to the Land by you, or anyone acting by or under your authority and is in the nature of a tenant's fixture,
 - (iii) remove from the Land any Improvement that we, in writing, direct or

permit you to remove, and

- (iv) restore the surface of the Land as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove an Improvement under paragraph (iii), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

and, except to the extent provided in any notice directing you to remove an Improvement, all of your right, interest and estate in any Improvement remaining on the Land will be absolutely forfeited to us.

- 3.2 You will not permit any person to do anything you are restricted from doing under this Article.
- 3.3 Subject to the limitations provided in this Agreement we will provide you with quiet enjoyment of the Land.

ARTICLE 4 LIMITATIONS

- 4.1 You agree with us that:
 - (a) we are under no obligation to provide access or services to the Land;
 - (b) this Agreement is subject to the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
 - (c) without limitation to the preceding subsections, this Agreement and your use of the Lands are subject to and may be affected by:
 - (i) Exploratory Oil and Gas Permit 802 issued under the *Petroleum Natural Gas Act*,
 - (ii) Statutory Right of Way No. 0238 202 in favour of British Columbia Hydro and Power Authority, and
 - (iii) rights of navigation over the waters that lie above the Land;
 - (d) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any lawful interference with your use of the Land under this Agreement that arises as a result of the exercise or operation of the interests, rights, privileges, titles and dispositions described in subsection (b),(c) and (e);
 - (e) any interference with your use of the Land under this Agreement as a result of the exercise or operation of the interests, rights, privileges, titles and dispositions described in subsections (b),(c) and (e) will not constitute a breach of our covenant of quiet enjoyment and you release and discharge us from all claims for loss or damage arising directly or indirectly out of any such interference;
 - (f) this Agreement creates a lease of the Land under the authority provided under the *Land Act* and does not constitute an approval, licence, authorization or permission under any other enactment and does not interfere with, influence, encroach upon or fetter the jurisdiction, processes or discretion of any minister, public official, agency or decision maker who may be entitled or required to make any other decision or take any other action in regard to your use of the Land;

- (g) any interest you may have in the Improvements ceases to exist and becomes our property upon termination of this Agreement, except where an Improvement may be removed under paragraph 3.1(m)(ii) or (iii) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 3.1(m)(ii) or the time period provided for in the direction or permission given under paragraph 3.1(m)(iii) unless we have specified otherwise in the direction or permission given under paragraph 3.1(mo)(iii); and
- (h) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law. In the absence of any written agreement to the contrary you will be deemed to be a monthly tenant only and to be subject to and bound by all of the provisions of this Agreement other than the Term.

ARTICLE 5 INSURANCE

5.1 You must

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, effect and keep in force during the Term:
 - (i) Comprehensive/Commercial General Liability insurance protecting us as an additional insured in an amount of not less than \$_____ inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) or property damage, and claims for liability assumed under contract, arising from all accidents or occurrences on the Land or the Improvements; and
 - (ii) Pollution Legal Liability insurance in an amount of not less than \$_____ insuring against on-site clean up for new pollution conditions and third party claims for on-site or off-site property damage or bodily injury (including death);
- (b) on the Commencement Date and immediately upon demand, deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance required to be maintained by you under this Agreement;
- (c) ensure that all insurance required to be maintained by you under this Agreement is
 - (i) placed with insurers licensed in British Columbia,
 - (ii) primary and does not require the sharing of any loss by any insurer that insures us, and
 - (iii) endorsed to provide us with 30 days' advance written notice of cancellation or material change; and
- (d) deliver or cause to be delivered to us, upon demand, certified copies of all policies of insurance required to be maintained by you under this Agreement.

- 5.2 We may, from time to time, notify you to
- (a) change the amount of insurance set out in subsection 6.6(a); and
 - (b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

- 5.3 Despite subsections 5.1(a) to (d) and section 5.2, your obligations under those sections are suspended for so long as we in our sole discretion accept your decision to self insure in respect of the matters covered by those sections. If we no longer accept your decision to self-insure we will provide notice to you of our decision and you must, within 30 days of such notice, obtain the insurance described in section 5.1(a) or otherwise required by us under section 5.2.

ARTICLE 6 ASSIGNMENT AND SUBLEASES

- 6.1 The parties have entered into this Agreement to give effect to the agreement described in the Tsawwassen Final Agreement. It is the intent of the parties that this Agreement remain between the Province and the Lessee for the duration of the Term. Accordingly the parties agree that this Agreement and the leasehold interest in the Land created by this Agreement may only be assigned, mortgaged or otherwise transferred to a Tsawwassen Public Institution
- 6.2 We agree that you may grant subleases of the Land and you may permit others to use the land provided:
- (a) the sublease or permission to use the Lands is reasonably required to allow the Land to be used in the manner provided in section 2.5;
 - (b) the sublease is in writing and subject to all of the terms and conditions of this Agreement;
 - (c) the sublease is to a corporation wholly owned and controlled by the Tsawwassen First Nation;
 - (d) you do not grant any sublease of the Lands unless you have first given us notice and obtained our prior written approval to any sublease and without limitation we may as a condition of approval require you to provide reasonable details with respect to the proposed sublease; and
 - (e) you provide us with a copy of any sublease promptly after it has been entered into and thereafter provide us with any additional documents or information relating to the sublease which we may request.

ARTICLE 7 TERMINATION AND DISPUTE RESOLUTION

- 7.1 If you fail to comply with any of your obligations under this Agreement (a "default"), and the default has not been cured within 60 days after we give written notice of the default to you, or within such longer period allowed by section 7.2, this Agreement will, at our option and with or without entry, terminate, and all your right interest or estate in the Land will be absolutely forfeited to us.
- 7.2 If a default (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, then the 60 day period referred to in section 7.1 will be extended for so long as is reasonably required to cure the default provided you commence curing the default within the 60 day period and you continue to diligently take steps to cure the default.
- 7.3 You will make no claim for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 7.1.
- 7.4 If any dispute arises under this Agreement, including the issuance of a notice of default as provided in section 7.1, the parties will make all reasonable efforts to resolve the dispute within 60 days of the dispute arising or the notice, as the case may be (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.
- 7.5 If a dispute under this Agreement cannot be resolved under section 7.4, the parties may agree to refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act* but absent any such agreement either party may take any steps or commence any legal proceedings to which it may be entitled in respect of the dispute.

**ARTICLE 8
NOTICE**

- 8.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered by hand to the address of the other as follows:

to us

Ministry of Agriculture and Lands

to you

Tsawwassen First Nation

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 8.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 8.1.
- 8.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 9 GENERAL

- 9.1 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law. The Parties will make their best efforts to amend this Agreement to remedy or replace that section or part of that section as the case may be.
- 9.2 This Agreement constitutes the entire agreement between the parties with respect to the lease of the Land and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 9.3 Where this Agreement contains the forms of words contained in Column I of Schedule 4 of the *Land Transfer Form Act*, those words will have the same effect and be construed as if the appropriate forms of words contained in Column II of that Schedule were contained in this Agreement, unless the context requires another construction of those words.
- 9.4 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 9.5 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 9.6 We are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with your use of the Land and the Improvements for the purposes set out in this Agreement.

9.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any applicable law.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA** by
the authorized representative of the
minister responsible for the *Land Act*

TSAWWASSEN FIRST NATION

Schedule "A"

[Copy of Survey Plan of Water Lot]

APPENDIX G

APPLICATION OF THE AGRICULTURAL LAND RESERVE

- | | |
|--------------|--|
| APPENDIX G-1 | Map of Agricultural Land Reserve Designation on Tsawwassen Lands |
| APPENDIX G-2 | Parcel Description of Tsawwassen Lands Included in the Agricultural Land Reserve |
| APPENDIX G-3 | Parcel Description of Tsawwassen Lands Excluded from Agricultural Land Reserve |

APPENDIX G-1

**MAP OF AGRICULTURAL LAND RESERVE DESIGNATION
ON TSAWWASSEN LANDS**

APPENDIX G - 2

PARCEL DESCRIPTION OF TSAWWASSEN LANDS INCLUDED IN THE AGRICULTURAL LAND RESERVE

Note: Information will be updated before the Effective Date. The description of the parcels may change following a resurvey of the parcels that is satisfactory to the Parties before the Effective Date.

Parcel Description	Land Title Office Parcel Identifier
Lot 5 Except: Firstly: Parcel A, Statutory Right of Way Plan 42153, Secondly: Part Dedicated Road on Plan LMP40488, District Lot 183, Group 2, New Westminster District, Plan 31806	006-677-711
That part of Parcel "One" (Reference Plan 6994) of Parcel "A" (Reference Plan 4574), District Lot 183, Group 2, New Westminster District Except: Firstly: Part Subdivided by Plan 28898, Secondly: Parcel "C" (Reference Plan 30741), Thirdly: Parcel "A" (Plan 38001), Fourthly: Parcel "B" (Plan 38001), Fifthly: Parcel "D" (Plan 42153), Sixthly: Part on Statutory Right of Way Plan 49448, Seventhly: Part on Statutory Right of Way Plan 77524, Eighthly: Part on Statutory Right of Way Plan 38797, Ninthly: Part Dedicated Road on Plan LMP40488, as shown for illustrative purposes only in Appendix G-1	009-187-715
That part of Lot 3 Except: Firstly: Parcel D (Plan 38001), Secondly: Part Dedicated Road on Plan LMP40488, District Lot 184, Group 2, New Westminster District, Plan 839, as shown for illustrative purposes only in Appendix G-1	009-286-462
That part of Parcel "A" (Reference Plan 4632) District Lot 107, Group 2 Except: Part Subdivided by Plan 40534, New Westminster District, as shown for illustrative purposes only in Appendix G-1	009-187-065
Southerly Half Parcel "B" (Reference Plan 4554), South West Quarter Section 22, Township 5, New Westminster District	009-189-513
Northerly Half Parcel "B" (Explanatory Plan 4554), South West Quarter Section 22, Township 5 Except: part subdivided by Plan 23543, New Westminster District	009-189-548
Lot "D" Section 22, Township 5, New Westminster District, Plan 23543	009-209-352
Part (40 chains by 28.55 chains) South West Quarter, Section 22, Township 5, Having a Frontage of 40 Chains on the North boundary and 28.55 Chains of the East Boundary, New Westminster District	009-189-599

Parcel Description	Land Title Office Parcel Identifier
That part of North West Quarter, Section 15, Township 5, New Westminster District except 1 ha area shown for illustrative purposes only in Appendix C-1-3, as shown for illustrative purposes only in Appendix G-1	009-189-386
Lot "B", District Lot 185, Group 2 New Westminster District, Plan 17089	009-185-372
District Lot 185, Group 2 Except: Firstly: Parcel "A" (Reference Plan 7696), Secondly: Part Subdivided by Plan 17089, New Westminster District	011-827-891
West 33 Feet, District Lot 183, Group 2, New Westminster District	009-187-901

APPENDIX G - 3

PARCEL DESCRIPTION OF TSAWWASSEN LANDS EXCLUDED FROM THE AGRICULTURAL LAND RESERVE⁷

Note: Information will be updated before the Effective Date. The description of the parcels may change following a resurvey of the parcels that is satisfactory to the Parties before the Effective Date.

Parcel Description	Land Title Office Parcel Identifier
Parcel "3" (Reference Plan 9694), District Lot 183, Group 2 Except: Part Subdivided by Plan 19032, New Westminster District	009-187-634
Lot 1, District Lot 183, Group 2, New Westminster District, Plan 19032	009-292-276
Lot 2, District Lot 183, Group 2, New Westminster District, Plan 19032	009-292-292
Lot 3, District Lot 183, Group 2, New Westminster District, Plan 19032	009-292-322
Parcel "2" (Reference Plan 7637), District Lot 183, Group 2, Except: Firstly: Part Subdivided by Plan 19032, Secondly: Parcel "C" (Plan 38001), New Westminster District	009-188-126
Parcel "C" (Reference Plan 6995) District Lot 183, Group 2, Except: Firstly: Parcel "2" (Reference Plan 7637), Secondly: Parcel "3" (Reference Plan 9694), Thirdly: Part on Statutory Right of Way Plan 38797, New Westminster District	009-188-266
Parcel "C" (Statutory Right of Way Plan 30741) of Parcel "One" (Reference Plan 6994) District Lot 183, Group 2, New Westminster District	009-188-011
That part of Parcel "One" (Reference Plan 6994) of Parcel "A" (Reference Plan 4574), District Lot 183, Group 2, New Westminster District Except: Firstly: Part Subdivided by Plan 28898, Secondly: Parcel "C" (Reference Plan 30741), Thirdly: Parcel "A" (Plan 38001), Fourthly: Parcel "B" (Plan 38001), Fifthly: Parcel "D" (Plan 42153), Sixthly: Part on Statutory Right of Way Plan 49448, Seventhly: Part on Statutory Right of Way Plan 77524, Eighthly: Part on Statutory Right of Way Plan 38797, Ninthly: Part Dedicated Road on Plan LMP40488, as shown for illustrative purposes only in Appendix G-1	009-187-715
That part of Lot 3 Except: Firstly: Parcel D (Plan 38001), Secondly: Part Dedicated Road on Plan LMP40488, District Lot 184, Group 2, New Westminster District, Plan 839, as shown for illustrative purposes only in Appendix G-1	009-286-462

⁷ The Former Tsawwassen Reserve is not within the Agricultural Land Reserve.

Parcel Description	Land Title Office Parcel Identifier
Lot 1, District Lot 108, Group 2, New Westminster District, Plan 20071	008-640-602
Lot 2, District Lot 108, Group 2, New Westminster District, Plan 20071	008-640-611
Lot 3 Except: Part Dedicated Road on Plan LMP40488, District Lot 108, Group 2, New Westminster District, Plan 20071	008-640-629
Parcel "A" (Reference Plan 7741) Lot 10, Except: Southerly 15 Feet (Plan with Bylaw Filed 40665), District Lots 108 & 109, Group 2, New Westminster District, Plan 3033	009-182-322
Southerly 15 feet (Plan with Bylaw Filed 40665) of Parcel "A" (Reference Plan 7741) Lot 10, District Lots 108 & 109, Group 2, New Westminster, Plan 3033	009-182-365
That part of Parcel "A" (Reference Plan 4632) District Lot 107, Group 2 Except: Part Subdivided by Plan 40534, New Westminster District, as shown for illustrative purposes only in Appendix G-1	009-187-065
Parcel "B" (Explanatory Plan 5633) District Lot 107, Group 2, New Westminster District	009-187-081
Parcel "C" (Plan with Fee Deposited 52551F) District Lot 107, Group 2, New Westminster District	009-187-111
Lot 6, District Lot 183, Group 2, New Westminster District, Plan 42391	006-473-865
District Lot 833, Group 2, New Westminster District	009-189-262
That part of North West Quarter, Section 15, Township 5, New Westminster District except 1 ha area shown for illustrative purposes only in Appendix C-1-3, as shown for illustrative purposes only in Appendix G-1	009-189-386
Parcel "E" (W156021E) South West Quarter, Section 15, Township 5, New Westminster District Except: Part of Highway Statutory Right of Way Plan 42535	009-189-459
Eagle Way, Road Plan CLSR RD1801	
Lot 34, Plan CLSR 71091	008-001-979

APPENDIX H

RIGHTS OF REFUSAL LANDS

APPENDIX H-1	Map of Rights of Refusal Lands
APPENDIX H-2	Parcel Description of Rights of Refusal Lands
APPENDIX H-3	Forms of Rights of Refusal Documents
Document 1	Right of Refusal to Purchase (Standard)
Document 2	Right of Refusal to Purchase (Parcel A)

APPENDIX H-1
MAP OF RIGHTS OF REFUSAL LANDS

APPENDIX H - 2

PARCEL DESCRIPTION OF RIGHTS OF REFUSAL LANDS

Note: The parcel descriptions listed below are based on the most accurate information available to define the parcels. The information will be updated before the Effective Date following a survey of some or all of the parcels. In some cases, the parcel descriptions will be amended to include road dedications and the granting of rights of ways or easements for existing interests. This could result in the area of some or all of the parcels being slightly reduced and the corresponding titles being slightly more encumbered. Before the readying of the parcels for disposition, British Columbia will meet with Tsawwassen First Nation to discuss steps to be taken for readying the parcels for disposition.

Parcel Description	Land Title Office Parcel Identifier
Lot 99, District Lot 61A, Group 2 New Westminster District, Plan BCP16059	026-210-070
Lot 28, District Lot 61A, West of the Coast Meridian Group 2 New Westminster, District Plan 2816	009-710-353
Lot 3, District Lot 61, West of the Coast Meridian, Group 2 New Westminster, District Plan 2816	009-709-401
Lot 4, District Lot 60 and 61A, West of the Coast Meridian, Group 2 New Westminster, District Plan 2816	009-709-452
Lot 5, District Lot 60, Group 2 New Westminster District, Plan 2816	009-709-568
Lot 6, District Lot 60, Group 2 New Westminster District, Plan 2816	009-709-584
Lot 7, District Lot 60, West of the Coast Meridian, Group 2 New Westminster, District Plan 2816	009-709-606
Lot 8, District Lot 60, Group 2 New Westminster District, Plan 2816	009-709-631
Lot 9, District Lot 60, Group 2 New Westminster District, Plan 2816	009-709-657
Lot 10, District Lot 60 and 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-709-754
Lot 11, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	010-269-533
Lot 12, District Lot 60, Group 2 New Westminster District, Plan 2816	009-709-894
Lot 13, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-709-908

Parcel Description	Land Title Office Parcel Identifier
Lot 14, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-709-983
Lot 15, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-027
Lot 16, Except Firstly: Parcel "C" (Reference Plan 8407) Secondly: Part On Reference Plan 8723, District Lot 61A West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-094
Parcel "C" (Reference Plan 8407) Lot 16, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-060
Parcel "B" (Explanatory Plan 8723) Lots 16 And 17 Except: Parcel "One" (Explanatory Plan 9755), District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	010-269-568
Parcel "One" (Explanatory Plan 9755) Of Parcel "B" (Explanatory Plan 8723) Lots 16 And 17, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-116
Lot 18, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-124
Lot 19, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-141
Lot 20, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-167
Lot 21, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-709-509
Lot 25, Except: Part Subdivided By Plan 32186, District Lot 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-281
Lot 26, Except: Part Subdivided By Plan 32186, District Lot 69 and 61A, West of the Coast Meridian, Group 2 New Westminster District, Plan 2816	009-710-329
Lot "B", District Lot 61A, Group 2 West of the Coast Meridian New Westminster District, Plan 11394	009-184-112
Lot 2, District Lot 187, Group 2 New Westminster District, Plan 16007	009-185-224
Lot 3, District Lot 187, Group 2 New Westminster District, Plan 16007	009-185-232
Lot 1, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-763
Lot 2, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-780
Lot 3, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-810

Parcel Description	Land Title Office Parcel Identifier
Lot 4, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-828
Lot 5, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-844
Lot 6, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-861
Lot 7, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-887
Lot 8, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-895
Lot 9, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-925
Lot 10, District Lot 186, Group 2, New Westminster District, Plan19488	009-185-933
Lot "A", District Lot 185, Group 2, New Westminster District, Plan 17089	009-185-321
Lot "A", (Reference Plan 7696), District Lot 185, Group 2, New Westminster District	009-188-371
Parcel "B" (Plan With Fee Deposited 9406F), District Lot 186, Group 2, Except: Part Subdivided By Plan 19488, New Westminster District	009-188-592
Parcel "A" (Explanatory Plan 987A), District Lot 186, Group 2 New Westminster District	009-188-495
Parcel "B" (Reference Plan 42392), District Lot 61A, Group 2 West of the Coast Meridian, New Westminster District	009-186-913
District Lot 187, Group 2, Except: Firstly: Parcel "A" (Plan With Absolute Fees Parcels Book Volume 11 Folio 529 No. 2255F) Secondly: Part Subdivided By Plan 16007 and Road, New Westminster District	009-189-106
Parcel "A" (Plan In Absolute Fees Parcels Book Volume 11 Folio 529 No. 2255F), District Lot 187, Group 2 West of the Coast Meridian, New Westminster District	009-189-050

APPENDIX H – 3

DOCUMENT 1

RIGHT OF REFUSAL TO PURCHASE (STANDARD)

LAND TITLE ACT

FORM C

(Section 233)

Grantor of

British Columbia

GENERAL INSTRUMENT – PART 1 (This area for Land Title Office use) PAGE 1 of 14 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND: *
(PID) (LEGAL DESCRIPTION)
SEE SCHEDULE

NATURE OF INTEREST: *	DOCUMENT REFERENCE	PERSON ENTITLED TO INTEREST
DESCRIPTION	(Page and paragraph)	TO INTEREST
RIGHT OF FIRST REFUSAL TO PURCHASE		TRANSFeree

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms	<input type="checkbox"/>	D.F. No.
(b) Express Charge Terms	<input checked="" type="checkbox"/>	Annexed as Part 2
(c) Release	<input type="checkbox"/>	There is no Part 2 of this instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): *
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of ●

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) *
TSAWWASSEN FIRST NATION

GENERAL INSTRUMENT – PART 1

7. ADDITIONAL OR MODIFIED TERMS: *
N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
<hr/>				HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of ●, or his duly authorized designate <hr/> Name: <hr/> Name: (as transferor)

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

**LAND TITLE ACT
FORM D
EXECUTIONS CONTINUED**

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
_____				TSAWWASSEN FIRST NATION by its authorized signatory(ies) _____ Name: _____ Name: (as transferee)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 4 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

TERMS OF INSTRUMENT – PART 2
RIGHT OF FIRST REFUSAL TO PURCHASE

THIS AGREEMENT dated for reference this ____ day of _____, _____.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of ●

(the "Grantor")

AND:

TSAWWASSEN FIRST NATION

(the "First Nation")

WITNESSES WHEREAS:

- A. The Grantor is the registered owner of the Lands (hereinafter defined);
- B. The Lands are presently leased by the Grantor to the Leaseholders (hereinafter defined);
- C. The Grantor intends to offer to each Leaseholder the right to purchase the lands to which each such Leaseholder's leasehold interest applies; and
- D. Pursuant to its obligations in the Final Agreement (hereinafter defined), the Grantor has agreed to grant to the First Nation this Right of First Refusal (the "RFR") to purchase the Lands, in accordance with the terms of this instrument.

NOW THEREFORE that in consideration of the premises and \$1.00 now paid by the First Nation to the Grantor and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by the Grantor), the Grantor grants to the First Nation a right of first refusal to purchase the Lands on the following terms and conditions:

1. Definitions

In this Agreement:

- (a) "**adoption**" means for the purposes of the definition of Related Person, persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship (otherwise than as a brother or sister) to the other;
- (b) "**Arm's-length**" has the same meaning as that term has in the Income Tax Act of Canada (as may be amended);
- (c) "**blood relationship**" means for the purposes of the definition of Related Person, persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;

- (d) **"business day"** means Monday to Friday inclusive except for those excluded days declared by lawful authority as holidays, excluding any day that the Land Title Office is not open for business;
- (e) **"Bona Fide Offer"** means an offer to purchase the Lands or an offer to lease the Lands for a term, including renewals, exceeding 30 years:
 - (i) in writing,
 - (ii) signed by an Outside Offeror, and
 - (iii) in a form legally enforceable against the Outside Offeror and subject to no conditions which are not capable of being waived by the Outside Offeror.
- (f) **"common-law partnership"** means for the purposes of the definition of Related Person, persons are connected by common-law partnership if one is in a common-law partnership with the other or with a person who is connected by blood relationship to the other;
- (g) **"Expiry Time"** with respect to any offer made by the Grantor to the First Nation under paragraph 5, will be 5 o'clock in the afternoon on the thirtieth (30) calendar day after the receipt by the First Nation of the Notice under paragraph 4. In determining that time the day the Notice is received will be excluded;
- (h) **"Fair Market Value"** means the fair market value of the Lands as determined in accordance with the procedure set out in paragraph 11;
- (i) **"Final Agreement"** means the Tsawwassen First Nation Final Agreement;
- (j) **"Lands"** means those certain lands described in Schedule "A";
- (k) **"Lease Offer"** means a Bona Fide Offer that is an offer to lease the Lands for a term, including renewals, exceeding 30 years;
- (l) **"Leaseholders"** means the holders of leases of the Lands as identified in Schedule "B" and **"Leaseholder"** means any one of them;
- (m) **"marriage"** means for the purposes of the definition of Related Person, persons are connected by marriage if one person is married to the other or to a person who is so connected by blood relationship to the other;
- (n) **"Outside Offeror"** means a purchaser or tenant, as the case may be, who deals at Arm's-length with the Grantor and a Leaseholder;
- (o) **"related group"** means a group of persons each member of which is related to every other member of the group;
- (p) **"Related Person"** means:
 - (i) individuals connected by blood relationship, marriage or common-law partnership or adoption;
 - (ii) a corporation and
 - (A) a person who controls the corporation, if it is controlled by one person,

- (B) a person who is a member of a related group that controls the corporation, or
 - (C) any person related to a person described in subparagraph (A) or (B); and
- (iii) any two corporations
- (A) if they are controlled by the same person or group of persons,
 - (B) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
 - (C) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
 - (D) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
 - (E) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
 - (F) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation;
- (q) **"Statutory Declaration"** means a statutory declaration given pursuant to subparagraph 3(d) hereof whereby a person swears that he/she is a Leaseholder or a Related Person, as applicable;
- (r) **"Term"** means that period of time from and after **[Effective Date]** to and including • [80 years]; and
- (s) **"Transfer"** means any transaction:
- (i) purporting to transfer or grant by any method or by the operation of any enactment or law:
 - (A) an estate in fee simple referred to Section 23(2) of the *Land Title Act*,
 - (B) a life estate in land;
 - (C) a right to occupy land under a lease agreement with a term, including renewals, exceeding 30 years;
 - (ii) extending the term of a lease agreement by a lease modification agreement that has the effect of extending the term of a lease, including renewals, for a period that exceeds 30 years in total;
 - (iii) between a lessor and a lessee of lands, such that, following the transaction, that lessee and any other person, if any, having the right to occupy the land under a

lease agreement, will have the right to occupy the land for a period that exceeds 30 years in total; and

- (iv) involving two or more lease agreements or options to lease which when taken together have the right to occupy land (including any renewals) for a period that exceeds 30 years in total if:
 - (A) those transactions are in respect of the same land,
 - (B) the application for registration of the transactions are made at a Land Title Office within 6 months of each other, and
 - (C) each of the transactions apply either a term during which a person is given a right to occupy the land or, in the case of an option to lease, a right to enter into a lease agreement under which a person will be given a right to occupy the land for a term specified in the option to lease.
- (t) **"unrelated group"** means a group of persons that is not a related group.

2. Restrictions on Transfer

- (a) During the Term, the Grantor will not Transfer the Lands except:
 - (i) for consideration payable entirely in lawful money of Canada;
 - (ii) to an Outside Offeror;
 - (iii) pursuant to a Bona Fide Offer; and
 - (iv) in accordance with, and to the extent permitted by, this Agreement.

3. Transfer to a Leaseholder or a Related Person

This Agreement does not apply to a Transfer from:

- (a) the Grantor to a Leaseholder,
- (b) a Leaseholder to a Related Person, or
- (c) a Related Person to a Related Person,

provided such Leaseholder or Related Person, as the case may be, delivers to the First Nation:

- (d) five (5) business days prior to the completion date for the Transfer, a Statutory Declaration, and
- (e) on the completion date for the Transfer, an agreement to assume and be bound by the terms of this Agreement.

4. Notice of Bona Fide Offer

If at any time and from time to time during the Term, the Grantor receives a Bona Fide Offer from an Outside Offeror, which Bona Fide Offer the Grantor is willing to accept, then the Grantor will deliver written notice (the **"Notice"**) immediately to the First Nation that the Grantor has received a Bona Fide

Offer, and will deliver to the First Nation with the Notice a copy of the Bona Fide Offer, certified by the Grantor to be a true copy.

5. Notice as Offer

The Notice will be deemed to constitute an offer by the Grantor to the First Nation to:

- (a) sell or lease, as the case may be, the Lands to the First Nation on and subject to all the terms and conditions set forth in the Bona Fide Offer; and
- (b) if the Bona Fide Offer is a Lease Offer, then at the First Nation's option, either:
 - (i) lease the Lands to the First Nation on and subject to all the terms and conditions set forth in the Lease Offer, in which case this Agreement will remain as a charge on the Lands; or
 - (ii) sell the Lands to the First Nation for their Fair Market Value.

6. Offer Irrevocable

The offer made by the Grantor to the First Nation under paragraph 5 will be irrevocable and may not be withdrawn by the Grantor until after the Expiry Time.

7. Acceptance of Offer

Upon receipt of the Notice, the First Nation will have the exclusive first right, exercisable up to and including but not after the Expiry Time, to deliver to the Grantor written notice (the "**Acceptance**") that the First Nation will purchase or lease, as the case may be, the Lands for:

- (a) the price and upon the terms and conditions set forth in the Bona Fide Offer, in the case of an Acceptance of an offer under subparagraphs 5(a) or 5(b)(i); and
- (b) the Fair Market Value with a closing date on that date which is 30 days after the date that the Fair Market Value is established under paragraph 11 in the case of an Acceptance of an offer under subparagraph 5(b)(ii).

8. Binding Agreement

Upon receipt by the Grantor of the Acceptance, a binding contract of purchase and sale or binding lease, as the case may be, for the Lands will be constituted between the First Nation and the Grantor, which contract will be completed:

- (a) in the manner provided in the Bona Fide Offer as if the First Nation were the Outside Offeror, in the case of an Acceptance of an offer under subparagraphs 5(a) or 5(b)(i); or
- (b) in the manner provided in Canadian Bar Association's standard form Contract of Purchase and Sale, then in use in Vancouver, British Columbia, in the case of an Acceptance of an offer under subparagraph 5(b)(ii).

9. Environmental Testing

After receipt of the Notice but before the Expiry Time, the First Nation will have the right to enter upon the portion of the Lands being offered in order to conduct reasonable environmental testing.

10. Transfer to Outside Offeror

If the Grantor does not receive the Acceptance before the Expiry Time, then the Grantor may complete the Transfer with the Outside Offeror as provided for in the Bona Fide Offer to purchase or lease, as the case may be, in strict accordance with the terms stated and set forth in the Bona Fide Offer and this Agreement. In the case of a Bona Fide Offer to purchase, the First Nation will cause its solicitors to deliver a discharge of this Agreement for the Lands subject to the Bona Fide Offer to purchase to the solicitors for the Grantor on receipt of a satisfactory undertaking from the solicitors for the Grantor that the discharge will only be registered if that Transfer to the Outside Offeror is completed strictly in compliance with the terms of the Bona Fide Offer to purchase. If the Transfer to the Outside Offeror is not completed strictly in compliance with the terms of the Bona Fide Offer to purchase or lease, as the case may be, within ninety (90) calendar days from the date the First Nation received the Notice, then any subsequent Transfer to any person or corporation may be made only if all the requirements of this Agreement are again complied with, and the RFR will survive and continue in full force and effect.

11. Determination of Fair Market Value

The Fair Market Value will be the average of the fair market values of the Lands as determined by two independent qualified appraisers, one nominated by the Grantor and one nominated by the First Nation. Each party will provide to the other party a copy of the appraisal commissioned by it within thirty (30) calendar days from the date the Grantor received the Acceptance of an offer under subparagraph 5(b)(ii). Unless the parties agree otherwise, the Fair Market Value will be deemed to be established on the 30th calendar day from the date the Grantor received the Acceptance. Each party will be responsible for all costs and expenses of the appraisal commissioned by it.

12. Notices

All notices required or permitted to be given under this Agreement will be in writing and will be given by personal service or by pre-paid registered post, at the following addresses:

To the Grantor:



To the First Nation:

Tsawwassen First Nation
Attention: Chief, Tsawwassen First Nation
131 North Tsawwassen Drive
Delta, British Columbia
V4M 4G2

or to such other address as either party may provide in writing to the other under this paragraph. Any notice will be deemed to have been received by the party to whom it is addressed if personally served, when served, and if mailed, on the fourth business day after such mailing (exclusive of Saturdays, Sundays and statutory holidays) provided that if mailed, should there be at the time of mailing or between the time of mailing and the deemed receipt of the notice, a mail strike, slowdown, labour or other dispute which might affect the delivery of such notice by the mails, then such notice will only be effective if actually delivered.

13. Time

Time is of the essence.

14. Governing Law

This Agreement will be governed by and construed in accordance with the laws of British Columbia.

15. References

Wherever the singular or masculine is used in this Agreement the same will be deemed to include references to the plural, feminine or body corporate, as the case may be.

16. Construction

The division of this Agreement into articles and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

17. Enduring Effect

This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, successors, administrators and permitted assigns of the parties.

SCHEDULE "A"

LANDS

SCHEDULE "B"
LEASEHOLDERS

END OF DOCUMENT

APPENDIX H – 3

DOCUMENT 2

RIGHT OF REFUSAL TO PURCHASE (PARCEL A)

LAND TITLE ACT

FORM C

(Section 233)

Grantor of

British Columbia

GENERAL INSTRUMENT – PART 1 (This area for Land Title Office use) PAGE 1 of 9 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:*

(PID)

009-189-050

(LEGAL DESCRIPTION)

Parcel "A" (Plan in Absolute Fees Parcels Book
Volume 11 Folio 529 No.225F) District Lot 187
Group 2 West of the Coast Meridian
New Westminster District

3. NATURE OF INTEREST: *

DESCRIPTION

DOCUMENT REFERENCE

PERSON ENTITLED

(Page and paragraph)

TO INTEREST

RIGHT OF FIRST REFUSAL
TO PURCHASE

TRANSFeree

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

D.F. No. ●

(b) Express Charge Terms

Annexed as Part 2

(c) Release

There is no Part 2 of this

instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S): *

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of ●

6. TRANSFEREE(S): (including postal address(es) and postal code(s)) *

TSAWWASSEN FIRST NATION

7. ADDITIONAL OR MODIFIED TERMS: *
N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any:

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
_____				HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of ●, or his duly authorized designate _____ Name: _____ Name: (as transferor)

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

**LAND TITLE ACT
FORM D
EXECUTIONS CONTINUED**

Officer Signature(s)	Execution Date			Party(ies) Signature(s)
	Y	M	D	
_____				TSAWWASSEN FIRST NATION by its authorized signatory(ies) _____ Name: _____ Name: (as transferee)

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 4 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

TERMS OF INSTRUMENT – PART 2
RIGHT OF FIRST REFUSAL TO PURCHASE

THIS AGREEMENT dated for reference this ____ day of _____, _____.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of ●

(the "Grantor")

AND:

TSAWWASSEN FIRST NATION

(the "First Nation")

WITNESSES WHEREAS:

- A. The Grantor is the registered owner of the Lands (hereinafter defined); and
- B. Pursuant to its obligations in the Final Agreement (hereinafter defined), the Grantor has agreed to grant to the First Nation this Right of First Refusal (the "**RFR**") to purchase the Lands, in accordance with the terms of this instrument.

NOW THEREFORE that in consideration of the premises and \$1.00 now paid by the First Nation to the Grantor and other good and valuable consideration (the receipt and sufficiency of which are acknowledged by the Grantor), the Grantor grants to the First Nation a right of first refusal to purchase the Lands on the following terms and conditions:

1. Definitions

In this Agreement:

- (a) "**Arm's-length**" has the same meaning as that term has in the Income Tax Act of Canada (as may be amended);
- (b) "**Bona Fide Offer**" means an offer to purchase the Lands:
 - (i) in writing,
 - (ii) signed by an Outside Offeror, and
 - (iii) in a form legally enforceable against the Outside Offeror and subject to no conditions which are not capable of being waived by the Outside Offeror.
- (c) "**business day**" means Monday to Friday inclusive except for those excluded days declared by lawful authority as holidays, excluding any day that the Land Title Office is not open for business;

- (d) **"Expiry Time"** with respect to any offer made by the Grantor to the First Nation under paragraph 4, will be 5 o'clock in the afternoon on the thirtieth (30) calendar day after the receipt by the First Nation of the Notice under paragraph 3. In determining that time the day the Notice is received will be excluded;
- (e) **"Final Agreement"** means the Tsawwassen First Nation Final Agreement;
- (f) **"Lands"** means those certain lands described in Schedule "A";
- (g) **"Outside Offeror"** means a purchaser who deals at Arm's-length with the Grantor;
- (h) **"Term"** means that period of time from and after **[Effective Date]** to and including ● [80 years]; and

2. Restrictions on Sale

- (a) During the Term, the Grantor will not sell, transfer, or otherwise convey or offer to sell, transfer, or otherwise convey the Lands except:
 - (i) for consideration payable entirely in lawful money of Canada;
 - (ii) to an Outside Offeror;
 - (iii) pursuant to a Bona Fide Offer; and
 - (iv) in accordance with, and to the extent permitted by, this Agreement.

3. Notice of Bona Fide Offer

If at any time and from time to time during the Term, the Grantor receives a Bona Fide Offer from an Outside Offeror, which Bona Fide Offer the Grantor is willing to accept, then the Grantor will deliver written notice (the **"Notice"**) immediately to the First Nation that the Grantor has received a Bona Fide Offer, and will deliver to the First Nation with the Notice a copy of the Bona Fide Offer, certified by the Grantor to be a true copy.

4. Notice as Offer

The Notice will be deemed to constitute an offer by the Grantor to the First Nation to sell the Lands to the First Nation on and subject to all the terms and conditions set forth in the Bona Fide Offer.

5. Offer Irrevocable

The offer made by the Grantor to the First Nation under paragraph 4 will be irrevocable and may not be withdrawn by the Grantor until after the Expiry Time.

6. Acceptance of Offer

Upon receipt of the Notice, the First Nation will have the exclusive first right, exercisable up to and including but not after the Expiry Time, to deliver to the Grantor written notice (the **"Acceptance"**) that the First Nation will purchase the Lands for the price and upon the terms and conditions set forth in the Bona Fide Offer.

7. Binding Contract of Sale and Purchase

Upon receipt by the Grantor of the Acceptance, a binding contract of purchase and sale for the Lands will be constituted between the First Nation and the Grantor, which contract will be completed in the manner provided in the Bona Fide Offer as if the First Nation were the Outside Offeror.

8. Environmental Testing

After receipt of the Notice but before the Expiry Time, the First Nation will have the right to enter upon the portion of the Lands being offered in order to conduct reasonable environmental testing.

9. Sale to Outside Offeror

If the Grantor does not receive the Acceptance before the Expiry Time, then the Grantor may complete the sale with the Outside Offeror as provided for in the Bona Fide Offer in strict accordance with the terms stated and set forth in the Bona Fide Offer. In that case, the First Nation will cause its solicitors to deliver a discharge of this Agreement to the solicitors for the Grantor on receipt of a satisfactory undertaking from the solicitors for the Grantor that the discharge will only be registered if that sale to the Outside Offeror is completed strictly in compliance with the terms of the Bona Fide Offer. If the sale to the Outside Offeror is not so completed within ninety (90) calendar days from the date the First Nation received the Notice, then any subsequent sale to any person or corporation may be made only if all the requirements of this Agreement are again complied with, and the RFR will survive and continue in full force and effect.

10. Notices

All notices required or permitted to be given under this Agreement will be in writing and will be given by personal service or by pre-paid registered post, at the following addresses:

To the Grantor:



To the First Nation:

Tsawwassen First Nation

Attention: Chief, Tsawwassen First Nation

131 North Tsawwassen Drive

Delta, British Columbia

V4M 4G2

or to such other address as either party may provide in writing to the other under this paragraph. Any notice will be deemed to have been received by the party to whom it is addressed if personally served, when served, and if mailed, on the fourth business day after such mailing (exclusive of Saturdays, Sundays and statutory holidays) provided that if mailed, should there be at the time of mailing or between the time of mailing and the deemed receipt of the notice, a mail strike, slowdown, labour or other dispute which might affect the delivery of such notice by the mails, then such notice will only be effective if actually delivered.

11. Time

Time is of the essence.

12. Governing Law

This Agreement will be governed by and construed in accordance with the laws of British Columbia.

13. References

Wherever the singular or masculine is used in this Agreement the same will be deemed to include references to the plural, feminine or body corporate, as the case may be.

14. Construction

The division of this Agreement into articles and the insertion of headings are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

15. Enduring Effect

This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, successors, administrators and permitted assigns of the parties.

SCHEDULE "A"
LANDS

END OF DOCUMENT

APPENDIX I
SPECIFIED LANDS

APPENDIX I-1	Map of Specified Lands
APPENDIX I-2	Parcel Description of Specified Lands

APPENDIX I-1
MAP OF SPECIFIED LANDS

APPENDIX I - 2
PARCEL DESCRIPTION OF SPECIFIED LANDS

Note: The information will be updated before the Effective Date. Parcels may be resurveyed before the Effective Date.

Specified Lands include the Rights of Refusal Lands set out in Appendix H-2, the Fraser River Parcels set out in Part 1 of Appendix E-2, and the following parcels:

Parcel Description	Land Title Office Parcel Identifier
Lot 40, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-414
Lot 41, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-431
Lot 42, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-449
Lot 43, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-457
Lot 44, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-465
Lot 45, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-473
Lot 46, District Lot 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	009-711-481
Lot 47, District Lots 59 and 61A, West Coast Meridian, Group 2, New Westminster District, Plan 2816	010-736-531
Lot 1, District Lot 187, Group 2, New Westminster District, Plan 16007	010-178-287

APPENDIX J

TSAWWASSEN FISHING

APPENDIX J-1	Map of Tsawwassen Fishing Area and Tsawwassen Intertidal Bivalve Fishing Area
APPENDIX J-2	Tsawwassen Allocations for Fish and Aquatic Plants
APPENDIX J-3	Principles for Calculating Overages and Underages

APPENDIX J-1

**MAP OF TSAWWASSEN FISHING AREA AND
TSAWWASSEN INTERTIDAL BIVALVE FISHING AREA**

APPENDIX J - 2

TSAWWASSEN ALLOCATIONS FOR FISH AND AQUATIC PLANTS

Sockeye Salmon

In any year, the Tsawwassen Fishing Right Allocation for sockeye salmon will be:

- a) when the Canadian Total Allowable Catch for Fraser River sockeye salmon is 500,000 or less, 1.0% of the Canadian Total Allowable Catch for Fraser River sockeye salmon;
- b) when the Canadian Total Allowable Catch for Fraser River sockeye salmon is greater than 500,000 and less than 3.0 million, then 5,000 Fraser River sockeye salmon plus 0.40904% of that portion of the Canadian Total Allowable Catch for Fraser River sockeye that is greater than 500,000 and less than 3.0 million; and
- c) when the Canadian Total Allowable Catch for Fraser River sockeye salmon is equal to or greater than 3.0 million, then 15,226 Fraser River sockeye salmon.

Chum Salmon

In any year, the Tsawwassen Fishing Right Allocation for chum salmon will be 2.58% of the Terminal Surplus of Fraser River chum salmon to a maximum of 2,576 Fraser River chum salmon.

Pink Salmon

In any year, the Tsawwassen Fishing Right Allocation for pink salmon will be that number of fish caught incidentally in the harvest of Tsawwassen Allocation for sockeye salmon, up to a maximum of 2,500 Fraser River pink salmon.

Chinook Salmon

In any year, the Tsawwassen Fishing Right Allocation for chinook salmon will be determined by an abundance based formula, based on Canadian Total Allowable Catch that produces an average annual harvest of 625 Fraser River chinook salmon based on Fraser River chinook salmon returns for the 1982 to 2004 time period.

Coho Salmon

In any year, the Tsawwassen Allocation for coho salmon is an amount of Fraser River coho salmon that will result in an annual average harvest of 500 Fraser River coho salmon and will be harvested:

- a) incidentally in fisheries that target other species; or
- b) using selective harvesting techniques to capture specific coho stocks.

APPENDIX J - 3

PRINCIPLES FOR CALCULATING OVERAGES AND UNDERAGES

The procedures for calculating overages and underages for each Salmon species will be consistent with the following principles:

- a) where a Tsawwassen harvest exceeded the defined Tsawwassen Allocation for a Salmon species in a year, an overage has occurred for that species and the amount of that overage will be accounted for in the multi-year accounting process;
- b) where a Tsawwassen harvest was less than the defined Tsawwassen Allocation for a Salmon species in a year because another group harvested more than their harvest Share for that species, an underage has occurred for that species and the amount of that underage will be accounted for in the multi-year accounting process;
- c) where a Tsawwassen harvest was less than the defined Tsawwassen Allocation for a Salmon species in a year due to uncertainty in the management process for that species, an underage has occurred for that species and a defined portion of that underage will be accounted for in the multi-year accounting process;
- d) where a Tsawwassen harvest was less than the defined Tsawwassen Allocation for a Salmon species in a year due to a lack of harvesting effort on the part of Tsawwassen, no underage has occurred for that species in that year; and
- e) where Tsawwassen and Canada agree on an amount to be accounted for in the multi-year accounting process for overages and underages for a Salmon species, Tsawwassen and Canada will use that amount in the multi-year accounting process.

APPENDIX K

TSAWWASSEN WILDLIFE HARVEST AREA

APPENDIX K-1

Map of Tsawwassen Wildlife Harvest Area

APPENDIX K-1

MAP OF TSAWWASSEN WILDLIFE HARVEST AREA

APPENDIX L

TSAWWASSEN MIGRATORY BIRD HARVEST AREA

APPENDIX L-1

Map of Tsawwassen Migratory Bird Harvest Area

APPENDIX L-1

MAP OF TSAWWASSEN MIGRATORY BIRD HARVEST AREA

APPENDIX M

TSAWWASSEN PLANT GATHERING AREAS

- | | |
|--------------|--|
| APPENDIX M-1 | Map of Tsawwassen Plant Gathering Areas |
| APPENDIX M-2 | List of Tsawwassen Plant Gathering Areas |

APPENDIX M-1

MAP OF TSAWWASSEN PLANT GATHERING AREAS

APPENDIX M - 2

LIST OF TSAWWASSEN PLANT GATHERING AREAS

- Golden Ears Provincial Park
- Pinecone Burke Provincial Park
- South Arm Marshes Wildlife Management Area
- Provincial Crown Land within the Burns Bog Ecological Conservancy Area as set out in the Burns Bog Management Agreement, dated March 23, 2004, between Canada, British Columbia, the Greater Vancouver Regional District and the Corporation of Delta

APPENDIX N

NATIONAL PARKS WITHIN TSAWWASSEN TERRITORY

APPENDIX N-1

Map of National Parks within Tsawwassen Territory

APPENDIX N-1

MAP OF NATIONAL PARKS WITHIN TSAWWASSEN TERRITORY

APPENDIX O

TSAWWASSEN HERITAGE SITES AND KEY GEOGRAPHIC FEATURES

APPENDIX O-1	Map of Beach Grove Parcels
APPENDIX O-2	Parcel Description of Beach Grove Parcels
APPENDIX O-3	List of Cultural and Historic Sites of Significance to Tsawwassen First Nation to be Designated as Provincial Heritage Sites
APPENDIX O-4	List of Geographic Features to be Named with Tsawwassen Names

APPENDIX O-1
MAP OF BEACH GROVE PARCELS

APPENDIX O - 2

PARCEL DESCRIPTION OF BEACH GROVE PARCELS

Parcel Description	Land Title Office Parcel Identifier
Lot 59, Section 11, Township 5 New Westminster District, Plan 27043	008-954-925
Lot 60, Section 11, Township 5 New Westminster District, Plan 27043	008-954-950

APPENDIX O - 3

**LIST OF CULTURAL AND HISTORIC SITES OF SIGNIFICANCE
TO TSAWWASSEN FIRST NATION
TO BE DESIGNATED AS PROVINCIAL HERITAGE SITES**

Current Place Name or Vicinity	Tsawwassen Place Name	Borden Number
Tsawwassen Site	Sćəwaʔθən	DgRs-002
Beach Grove Site		DgRs-001
Beach Grove Road Site	Ttənəxən	DgRs-007
Tsawwassen Beach Site	čə•yəm	DgRs-009
Smith Farm Site		DgRs-010
English Bluff/Tsawwassen Bluff Site	Sʔaləp	DgRs-011
Whalen Farm Site		DgRs-014
Tl'ektines	ʔeqtinəs	DgRs-017
Spetifore Farm Site		DgRs-018
Brunswick Point	Xʔlicəm	DgRs-035
St. Mungo Cannery Site		DgRr-002
Glenrose Cannery Site		DgRr-006
St.Mungo Wet Site		DgRr-022
Ladner Landing Site	čičiləxʔqən	DgRs-041
Poplar Island	Skʔəkʔexʔqən	DhRr-000 (Not Registered)
View Crescent Site		DgRs-016
Green Slough Site		DgRs-027
57 th Street Site		DgRs-054

APPENDIX O - 4

**LIST OF GEOGRAPHIC FEATURES
TO BE NAMED WITH TSAWWASSEN NAMES**

Current Place Name or Vicinity	Tsawwassen Place Name	UTM Latitude	UTM Longitude
Patullo Bridge	Qiqay̓t	507975	5450297
Burns Bog	Maʔqʷəm	502120	5441594
New Westminster	Sx̣ʷaʔayməł	506924	5450068
Roberts Bank	Sheʔsəmkəm	484718	5434197
Beach Grove	Ttəʔnəxən	495951	5430880
English Bluff	Sx̣ʷaləp	492849	5429850
Lulu Island at Gravesend Reach	ʷeqtinəs	496832	5443908

APPENDIX P

DISPUTE RESOLUTION PROCEDURES

APPENDIX P-1	Collaborative Negotiations
APPENDIX P-2	Mediation
APPENDIX P-3	Technical Advisory Panel
APPENDIX P-4	Neutral Evaluation
APPENDIX P-5	Elders Advisory Council
APPENDIX P-6	Arbitration

APPENDIX P - 1

COLLABORATIVE NEGOTIATIONS

DEFINITIONS

1. In this Appendix:
 - a. "**Chapter**" means the Dispute Resolution chapter;
 - b. "**party**" means a participating Party to collaborative negotiations under this Appendix; and
 - c. "**section**" means a section in this Appendix.

GENERAL

2. Collaborative negotiations commence:
 - a. on the date of delivery of a written notice requiring the commencement of collaborative negotiations; or
 - b. in the case of negotiations in the circumstances described in subclause 6(c) of the Chapter, on the date of the first negotiation meeting.

NOTICE

3. A notice under clause 14 of the Chapter requiring the commencement of collaborative negotiations will include the following:
 - a. the names of the parties directly engaged in the disagreement;
 - b. a brief summary of the particulars of the disagreement;
 - c. a description of the efforts made to date to resolve the disagreement;
 - d. the names of the individuals involved in those efforts; and
 - e. any other information that will help the parties.

REPRESENTATION

4. A party may attend collaborative negotiations with or without legal counsel.
5. At the commencement of the first negotiation meeting, each party will advise the other parties of any limitations on the authority of its representatives.

NEGOTIATION PROCESS

6. The parties will convene their first negotiation meeting in collaborative negotiations, other than those described in subparagraph 6(c) of the Chapter, within 21 days after the commencement of the collaborative negotiations.
7. Before the first scheduled negotiation meeting, the parties will discuss and attempt to reach agreement on any procedural issues that will facilitate the collaborative negotiations, including the requirements of clause 25 of the Chapter.
8. For purposes of subclause 25(a) of the Chapter, "timely disclosure" means disclosure made within 15 days after a request for disclosure by a party.
9. The parties will make a serious attempt to resolve the disagreement by
 - a. identifying underlying interests;
 - b. isolating points of agreement and disagreement;
 - c. exploring alternative solutions;
 - d. considering compromises or accommodations; and
 - e. taking any other measures that will assist in resolution of the disagreement.
10. No transcript or recording will be kept of collaborative negotiations, but this does not prevent a person from keeping notes of the negotiations.

CONFIDENTIALITY

11. In order to assist in the resolution of a disagreement, collaborative negotiations will not be open to the public.
12. The parties, and all persons, will keep confidential:
 - a. all oral and written information disclosed in the collaborative negotiations; and
 - b. the fact that this information has been disclosed.
13. The parties will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the collaborative negotiations, any oral or written information disclosed in or arising from the collaborative negotiations, including:
 - a. any documents of other parties produced in the course of the collaborative negotiations that are not otherwise produced or producible in that proceeding;

- b. any views expressed, or suggestions made, by any party in respect of a possible settlement of the disagreement;
 - c. any admissions made by any party in the course of the collaborative negotiations, unless otherwise stipulated by the admitting party; and
 - d. the fact that any party has indicated a willingness to make or accept a proposal for settlement.
14. Sections 12 and 13 do not apply:
- a. in any proceeding for the enforcement or setting aside of an agreement resolving the disagreement that was the subject of the collaborative negotiation;
 - b. if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - c. if the oral or written information referred to in these sections is in the public forum.

RIGHT TO WITHDRAW

15. A party may withdraw from collaborative negotiations at any time.

TERMINATION OF COLLABORATIVE NEGOTIATIONS

16. Collaborative negotiations are terminated when any of the following occurs:
- a. the expiration of:
 - i. 30 days, or
 - ii. in the case of collaborative negotiations in the circumstances described in subparagraph 6(c) of the Chapter, 120 days after the first scheduled negotiation meeting, or any longer period agreed to by the parties in writing;
 - b. a party directly engaged in the disagreement withdraws from the collaborative negotiations under section 15;
 - c. the parties agree in writing to terminate the collaborative negotiations; or
 - d. the parties directly engaged in the disagreement sign a written agreement resolving the disagreement.

APPENDIX P - 2

MEDIATION

DEFINITIONS

1. In this Appendix:
 - a. "**Chapter**" means the Dispute Resolution chapter of the Agreement;
 - b. "**party**" means a participating Party to a mediation under this Appendix; and
 - c. "**section**" means a section in this Appendix.

GENERAL

2. A mediation commences on the date the Parties directly engaged in the disagreement have agreed in writing to use mediation, or are deemed to have agreed to use mediation, under clause 23 of the Chapter.

APPOINTMENT OF MEDIATOR

3. A mediation will be conducted by one mediator jointly appointed by the parties.
4. A mediator will be:
 - a. an experienced and skilled mediator, preferably with unique qualities or specialized knowledge that would be of assistance in the circumstances of the disagreement; and
 - b. independent and impartial.
5. If the parties fail to agree on a mediator within 15 days after commencement of a mediation, the appointment will be made by the Neutral Appointing Authority on the written request of a party that is copied to the other parties.
6. Subject to any limitations agreed to by the parties, a mediator may employ reasonable and necessary administrative or other support services.

REQUIREMENT TO WITHDRAW

7. At any time a party may give the mediator and the other parties a written notice, with or without reasons, requiring the mediator to withdraw from the mediation on the grounds that the party has justifiable doubts as to the mediator's independence or impartiality.
8. On receipt of a written notice under section 7, the mediator must immediately withdraw from the mediation.

9. A person who is a Tsawwassen Member, or related to a Tsawwassen Member, must not be required to withdraw under section 7 solely on the grounds of that citizenship or relationship.

END OF APPOINTMENT

10. A mediator's appointment terminates if:
 - a. the mediator is required to withdraw under section 8;
 - b. the mediator withdraws from office for any reason; or
 - c. the parties agree to the termination.
11. If a mediator's appointment terminates, a replacement mediator will be appointed using the procedure in sections 3 to 5 and the required time period commences from the date of termination of the appointment.

REPRESENTATION

12. A party may attend a mediation with or without legal counsel.
13. If a mediator is a lawyer, the mediator must not act as legal counsel for any party.
14. At the commencement of the first meeting of a mediation, each party will advise the mediator and the other parties of any limitations on the authority of its representatives.

CONDUCT OF MEDIATION

15. The parties will:
 - a. make a serious attempt to resolve the disagreement by:
 - i. identifying underlying interests,
 - ii. isolating points of agreement and disagreement,
 - iii. exploring alternative solutions, and
 - iv. considering compromises or accommodations; and
 - b. cooperate fully with the mediator and give prompt attention to, and respond to, all communications from the mediator.
16. A mediator may conduct a mediation in any manner the mediator considers necessary and appropriate to assist the parties to resolve the disagreement in a fair, efficient, and cost-effective manner.

17. Within seven days of appointment of a mediator, each party will deliver a brief written summary to the mediator of the relevant facts, the issues in the disagreement, and its viewpoint in respect of them and the mediator will deliver copies of the summaries to each party at the end of the seven day period.
18. A mediator may conduct a mediation in joint meetings or private caucus convened at locations the mediator designates after consulting the parties.
19. Disclosures made by any party to a mediator in private caucus must not be disclosed by the mediator to any other party without the consent of the disclosing party.
20. No transcript or recording will be kept of a mediation meeting but this does not prevent a person from keeping notes of the negotiations.

CONFIDENTIALITY

21. In order to assist in the resolution of a disagreement, a mediation will not be open to the public.
22. The parties, and all persons, will keep confidential:
 - a. all oral and written information disclosed in the mediation; and
 - b. the fact that this information has been disclosed.
23. The parties will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the mediation, any oral or written information disclosed in or arising from the mediation, including:
 - a. any documents of other parties produced in the course of the mediation that are not otherwise produced or producible in that proceeding;
 - b. any views expressed, or suggestions, or proposals made in respect of a possible settlement of the disagreement;
 - c. any admissions made by any party in the course of the mediation, unless otherwise stipulated by the admitting party;
 - d. any recommendations for settlement made by the mediator; and
 - e. the fact that any party has indicated a willingness to make or accept a proposal or recommendation for settlement.
24. Sections 22 and 23 do not apply:
 - a. in any proceeding for the enforcement or setting aside of an agreement resolving the disagreement that was the subject of a mediation;

- b. if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - c. if the oral or written information referred to in those sections is in the public forum.
25. A mediator, or anyone retained or employed by the mediator, is not compellable in any proceeding to give evidence about any oral and written information acquired or opinion formed by that person as a result of the mediation, and all parties will oppose any effort to have that person or that information subpoenaed.
26. A mediator, or anyone retained or employed by the mediator, is disqualified as a consultant or expert in any proceeding relating to the disagreement, including any proceeding that involves persons not a party to the mediation.

REFERRAL OF ISSUES TO OTHER PROCESSES

27. During a mediation the parties may agree to refer particular issues in the disagreement to independent fact-finders, expert panels or other processes for opinions or findings that may assist them in the resolution of the disagreement, and in that event, the parties must specify:
- a. the terms of reference for the process;
 - b. the time within which the process must be concluded; and
 - c. how the costs of the process are to be allocated to the parties.
28. The time specified for concluding a mediation will be extended for 15 days following receipt of the findings or opinions rendered in a process described under section 27.

RIGHT TO WITHDRAW

29. A party may withdraw from a mediation at any time by giving written notice of its intent to the mediator.
30. Before a withdrawal is effective, the withdrawing party will:
- a. speak with the mediator;
 - b. disclose its reasons for withdrawing; and
 - c. give the mediator the opportunity to discuss the consequences of withdrawal.

TERMINATION OF MEDIATION

31. A mediation is terminated when any of the following occurs:
 - a. subject to section 28, the expiration of 30 days after the appointment of the mediator, or any longer period agreed by the parties in writing;
 - b. the parties have agreed in writing to terminate the mediation or not to appoint a replacement mediator under section 11;
 - c. a party directly engaged in the disagreement withdraws from the mediation under section 29; or
 - d. the parties directly engaged in the disagreement sign a written agreement resolving the disagreement.

MEDIATOR RECOMMENDATION

32. If a mediation is terminated without the parties reaching agreement, the parties may agree to request the mediator to give a written non-binding recommendation for settlement, but the mediator may decline the request without reasons.
33. Within 15 days after delivery of a mediator's recommendation under section 32, the parties will meet with the mediator to attempt to resolve the disagreement.

COSTS

34. A party withdrawing from a mediation under section 29 is not responsible for any costs of the mediation that are incurred after the date that party's withdrawal takes effect.

APPENDIX P - 3

TECHNICAL ADVISORY PANEL

DEFINITIONS

1. In this Appendix:
 - a. "**Chapter**" means the Dispute Resolution chapter;
 - b. "**member**" means a member of the panel;
 - c. "**panel**" means a technical advisory panel appointed under this Appendix;
 - d. "**party**" means a participating Party to a reference under this Appendix;
 - e. "**reference**" means a reference of a disagreement to the panel; and
 - f. "**section**" means a section in this Appendix.

GENERAL

2. A question of law may not be referred to a panel.
3. A reference commences on the date the Parties directly engaged in the disagreement have agreed in writing to use a technical advisory panel under clause 23 of the Chapter.

APPOINTMENT OF PANEL MEMBERS

4. A panel will have three members unless the parties agree on a panel of five members.
5. A member will be skilled and knowledgeable in the technical or scientific subject matter or issues of the disagreement.
6. If there are two parties and the panel will have:
 - a. three members, each party will appoint one member and the two appointed members will jointly appoint the third member; or
 - b. five members, each party will appoint two members and the four appointed members will jointly appoint the fifth member.
7. If there are three parties and the panel will have:
 - a. three members, each party will appoint one member; or

- b. five members, each party will appoint one member and the three appointed members will jointly appoint the fourth and fifth members.
8. In the appointment procedures under sections 6 and 7, if:
- a. a party fails to appoint the required number of members within 30 days after commencement of the reference; or
 - b. the appointing members fail to appoint the required number of additional members within 15 days after the last appointing member was appointed

the required appointments will be made by the Neutral Appointing Authority on the written request of a party that is copied to the other parties.

END OF APPOINTMENT

9. The appointment of a member who is jointly appointed by the parties, by the appointing members, or by the Neutral Appointing Authority, terminates if:
- a. the member withdraws from office for any reason; or
 - b. the parties agree to the termination.
10. The appointment of a member appointed by one party, or by the Neutral Appointing Authority in place of the party, terminates if:
- a. the member withdraws from office for any reason; or
 - b. the appointing party terminates the appointment.
11. If the appointment of a member jointly appointed by the parties, by the appointing members, or by the Neutral Appointing Authority in place of the parties or members, terminates, a replacement member will be appointed under section 6 or 7, as applicable, within the required time commencing from the termination of the former member's appointment.
12. Subject to section 13, if the appointment of a member appointed by one party or by the Neutral Appointing Authority in place of the party terminates, a replacement member will be appointed under section 6 or 7, as applicable, within the required time commencing from the termination of the former member's appointment.
13. A party may elect not to replace a member it had appointed but the party may not withdraw from the reference except as permitted under sections 31 to 35.

TERMS OF REFERENCE

14. Not more than 15 days after the appointment of the last member of a panel, the parties must provide the panel with written terms of reference that set out at least the following:
 - a. the parties to the disagreement;
 - b. the subject matter or issues of the disagreement;
 - c. the kind of assistance that the parties request from the panel, including giving advice, making determinations, finding facts, conducting, evaluating and reporting on studies and making recommendations;
 - d. the time period within which the parties request the assistance to be provided;
 - e. the time periods or stages of the reference at the conclusion of which the panel must provide the parties with written interim reports on the panel's progress on the referral and on expenditures under the budget described in section 16 as they relate to that progress;
 - f. the time within which the panel must provide the parties with the budget described in section 16; and
 - g. any limitations on the application of sections 36 to 42 to the reference.
15. The parties may discuss the proposed terms of reference with the panel before they are finally settled.
16. Within the time referred to in section 14(f), the panel will provide the parties with a budget for the costs of conducting the reference, including:
 - a. fees to be paid to the members who have been jointly appointed by the parties, or by appointing members;
 - b. costs of required travel, food and accommodation of members who have been jointly appointed by the parties, or by appointing members;
 - c. costs of any required administrative assistance; and
 - d. costs of any studies.
17. The parties will consider the budget submitted by the panel and approve that budget with any amendments agreed by the parties before the panel undertakes any activities under the reference.

18. The parties are not responsible for any costs incurred by the panel that are in excess of those approved under section 17, and the panel is not authorized to incur any costs beyond that amount without obtaining prior written approval from all the parties.
19. The parties may amend the written terms of reference or the budget from time to time as they consider necessary, or on recommendation of the panel.

CONDUCT OF REFERENCE TO PANEL

20. The parties will:
 - a. cooperate fully with the panel;
 - b. comply with any requests made by the panel as permitted or required under this Appendix; and
 - c. give prompt attention to and respond to all communications from the panel.
21. Subject to any limitations or requirements in the terms of reference given and the limits of the budget approved under sections 17 to 19, the panel may conduct its reference using any procedure it considers necessary or appropriate, including holding a hearing.
22. If a hearing is held, the hearing must be conducted as efficiently as possible and in the manner the panel specifies, after consultation with the parties.
23. If a hearing is held, the panel must give the parties reasonable written notice of the hearing date, which notice must, in any event, be not less than seven days.
24. No transcript or recording will be kept of a hearing, but this does not prevent a person attending the hearing from keeping notes of the hearing.
25. The legal rules of evidence do not apply to a hearing before the panel.
26. The panel will give the parties the interim and final written reports specified in its terms of reference within the required times.
27. A report of the panel is not binding on the parties.

PANEL BUSINESS

28. A panel will appoint one of its members to act as chair of the panel.
29. The chair of a panel is responsible for all communications between the panel, the parties and any other person with whom the panel wishes to communicate, but this does not preclude a member from communicating informally with a party.

30. A panel will make every reasonable effort to conduct its business, and fulfill its obligations under its terms of reference, by consensus, but:
- a. if consensus is not possible, by actions approved by a majority of its members; or
 - b. if a majority is not possible, by actions approved by the chair of the panel.

RIGHT TO WITHDRAW

31. If one of two parties to a reference, or two of three parties to a reference, are not satisfied with the progress of the reference:

- a. after receipt of an interim report; or
- b. as a result of the panel's failure to submit an interim report within the required time

the dissatisfied party or parties, as the case may be, may give written notice to the panel and the other party that the party or parties are withdrawing from the reference and that the reference is terminated.

32. If one of three parties to a reference is not satisfied with the progress of the reference:

- a. after receipt of an interim report; or
- b. as a result of the panel's failure to submit an interim report within the required time

the dissatisfied party may give written notice to the panel and the other parties that it is withdrawing from the reference.

33. Two parties who receive a notice under section 32 will advise the panel in writing that they have agreed:

- a. to terminate the reference; or
- b. to continue the reference.

34. If no party gives a notice under sections 31 or 32 within 10 days after:

- a. receipt of an interim report; or
- b. the time required to submit an interim report

all parties will be deemed to be satisfied with the progress of the reference until submission of the next required interim report.

35. No party may withdraw from a reference except as permitted under sections 31 to 34.

CONFIDENTIALITY

36. The parties may, by agreement recorded in the terms of reference of the panel in section 14, limit the application of all or any part of sections 37 to 42 in a reference.

37. In order to assist in the resolution of the disagreement, a reference will not be open to the public.

38. The parties, and all persons, will keep confidential:

- a. all oral and written information disclosed in the reference; and
- b. the fact that this information has been disclosed.

39. The parties will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the reference, any oral or written information disclosed in or arising from the reference, including:

- a. any documents of other parties produced in the course of the reference that are not otherwise produced or producible in that proceeding;
- b. any views expressed, or suggestions made, in respect of a possible settlement of the disagreement;
- c. any admissions made by any party in the course of the reference, unless otherwise stipulated by the admitting party;
- d. the fact that any party has indicated a willingness to make or accept a proposal or recommendation for settlement; and
- e. any reports of the panel.

40. Sections 38 and 39 do not apply:

- a. in any proceeding for the enforcement or setting aside of an agreement resolving the disagreement that was the subject of the reference;
- b. if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
- c. if the oral or written information referred to in those sections is in the public forum.

41. A member, or anyone retained or employed by the member, is not compellable in any proceeding to give evidence about any oral or written information acquired or opinion

formed by that person as a result of the reference, and all parties will oppose any effort to have that person or that information subpoenaed.

42. A member, or anyone retained or employed by the member, is disqualified as a consultant or expert in any proceeding relating to the disagreement, including any proceeding that involves persons not a party to the reference.

ATTEMPT TO RESOLVE AFTER REPORT

43. Within 21 days after receipt of the final written report of a panel, the parties will meet and make an effort to resolve the disagreement taking into account the report of the panel or any other considerations.
44. If the parties and the panel agree, the members of a panel may attend the meeting under section 43, and provide any necessary assistance to the parties.

TERMINATION OF REFERENCE TO PANEL

45. A reference is terminated when any of the following occurs:
 - a. the reference has been terminated as permitted under section 31 or 33;
 - b. the expiration of 30 days after receipt of the final report of the panel, or any longer period agreed by the parties in writing; or
 - c. the parties directly engaged in the disagreement sign a written agreement resolving the disagreement.

COSTS

46. A party is not responsible for sharing any costs of the reference that were incurred after the date that party notified the other parties, under section 32, of its withdrawal from the reference.

APPENDIX P - 4 NEUTRAL EVALUATION

DEFINITION

1. In this Appendix:
 - a. "**Chapter**" means the Dispute Resolution chapter;
 - b. "**party**" means a participating Party to a neutral evaluation under this Appendix;
and
 - c. "**section**" means a section in this Appendix.

GENERAL

2. A neutral evaluation commences on the date that the Parties directly engaged in the disagreement have agreed in writing to use neutral evaluation under clause 23 of the Chapter.

APPOINTMENT OF NEUTRAL EVALUATOR

3. A neutral evaluation will be conducted by one person jointly appointed by the parties.
4. A neutral evaluator will be:
 - a. experienced or skilled in the subject matter or issues of the disagreement; and
 - b. independent and impartial.
5. If the parties fail to agree on a neutral evaluator within 21 days after commencement of a neutral evaluation, the appointment will be made by the Neutral Appointing Authority on the written request of a party that is copied to the other parties.
6. Subject to any limitations agreed to by the parties, a neutral evaluator may employ reasonable and necessary administrative or other support services.

REQUIREMENT TO WITHDRAW

7. At any time a party may give a neutral evaluator and the other parties a written notice, with or without reasons, requiring the neutral evaluator to withdraw from the neutral evaluation on the grounds that the party has justifiable doubts as to the neutral evaluator's independence or impartiality.

8. On receipt of a written notice under section 7, the neutral evaluator must immediately withdraw from the neutral evaluation.
9. A person who is a Tsawwassen Member, or related to a Tsawwassen Member, must not be required to withdraw under section 7 solely on the grounds of that membership or relationship.

END OF APPOINTMENT

10. A neutral evaluator's appointment terminates if:
 - a. the neutral evaluator is required to withdraw under section 8;
 - b. the neutral evaluator withdraws from office for any reason; or
 - c. the parties agree to the termination.
11. Unless the parties agree otherwise, if a neutral evaluator's appointment terminates, a replacement will be appointed under section 5 within the required time commencing from the date of the termination of the appointment.

COMMUNICATIONS

12. Except with respect to administrative details or a meeting under section 31, the parties will not communicate with the neutral evaluator:
 - a. orally except in the presence of all parties; or
 - b. in writing without immediately sending a copy of that communication to all parties.
13. Section 12 also applies to any communication by a neutral evaluator to the parties.

CONDUCT OF NEUTRAL EVALUATION

14. The parties will:
 - a. cooperate fully with the neutral evaluator;
 - b. comply with any requests made by the neutral evaluator as permitted or required under this Appendix; and
 - c. give prompt attention to and respond to all communications from the neutral evaluator.

15. A neutral evaluation will be conducted only on the basis of documents submitted by the parties under section 20 unless the parties agree to, or the neutral evaluator requires, additional submissions or other forms of evidence.
16. If a hearing is held, the hearing must be conducted as efficiently as possible and in the manner the neutral evaluator specifies, after consultation with the parties.
17. If a hearing is held, the neutral evaluator must give the parties reasonable written notice of the hearing date, which notice must, in any event, be not less than seven days.
18. No transcript or recording will be kept of a hearing, but this does not prevent a person attending the hearing from keeping notes of the hearing.
19. The legal rules of evidence do not apply to a neutral evaluation.
20. Within 15 days after the appointment of a neutral evaluator, each party must deliver to the other parties and to the neutral evaluator a written submission respecting the disagreement, including facts upon which the parties agree or disagree, and copies of any documents, affidavits and exhibits on which the party relies.
21. Within 21 days after the appointment of a neutral evaluator, a party may submit a reply to the submission of any other party and, in that event, will provide copies of the reply to the party and the neutral evaluator.

CONFIDENTIALITY

22. In order to assist in the resolution of the disagreement, a neutral evaluation will not be open to the public.
23. The parties, and all persons, will keep confidential:
 - a. all oral and written information disclosed in the neutral evaluation; and
 - b. the fact that this information has been disclosed.
24. The parties will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the neutral evaluation, any oral or written information disclosed in or arising from the neutral evaluation, including:
 - a. any documents of other parties produced in the course of the neutral evaluation which are not otherwise produced or producible in that proceeding;
 - b. any views expressed, or suggestions made, in respect of a possible settlement of the disagreement;

- c. any admissions made by any party in the course of the neutral evaluation, unless otherwise stipulated by the admitting party;
 - d. the fact that any party has indicated a willingness to make or accept a proposal for settlement; and
 - e. subject to section 28, the opinion of the neutral evaluator.
25. Sections 23 and 24 do not apply:
- a. in any proceedings for the enforcement or setting aside of an agreement resolving the disagreement that was the subject of a neutral evaluation;
 - b. if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - c. if the oral or written information is in the public forum.
26. A neutral evaluator, or anyone retained or employed by the neutral evaluator, is not compellable in any proceedings to give evidence about any oral and written information acquired or opinion formed by that person as a result of a neutral evaluation under this Appendix, and all parties will oppose any effort to have that person or that information subpoenaed.
27. A neutral evaluator and anyone retained or employed by the neutral evaluator is disqualified as a consultant or expert in any proceeding relating to the disagreement, including any proceeding that involves persons not a party to the neutral evaluation.
28. Despite sections 23 to 26, after an arbitral tribunal has delivered its final arbitral award, or a court has referred its decision, in respect of a disagreement, a party, for the purpose only of making a submission on the allocation of costs of that arbitral or judicial proceeding, may give to the arbitral tribunal or the court a copy of:
- a. the neutral evaluator's opinion respecting that agreement; or
 - b. the neutral evaluator's notice of termination under section 7.

NON-BINDING OPINION

29. Within 21 days after the later of:
- a. delivery of the last submission required or permitted in a neutral evaluation under this Appendix; or
 - b. completion of a hearing,

the neutral evaluator will deliver to the parties a written opinion with reasons in respect of the probable disposition of the disagreement should it be submitted to arbitral or judicial proceedings, as the case may be, under the Chapter.

30. An opinion under section 29 is not binding on the parties.

ATTEMPT TO RESOLVE AFTER OPINION

31. Within 21 days after delivery of an opinion under section 29, the parties will meet and make an effort to resolve the disagreement, taking into account the opinion of the neutral evaluator or any other considerations.
32. If the parties and the neutral evaluator agree, the neutral evaluator may attend a meeting under section 31, and provide any necessary assistance to the parties.

FAILURE TO COMPLY

33. If a party fails to participate in the neutral evaluation as contemplated in sections 14 to 21, the neutral evaluator may:
- a. provide an opinion based solely upon the information and submissions they have obtained; or
 - b. give a written notice of termination of the neutral evaluation
- and, in either event, the neutral evaluator must record that party's failure.

TERMINATION OF NEUTRAL EVALUATION

34. A neutral evaluation is terminated when any of the following occurs:
- a. the neutral evaluator gives a notice of termination under section 33(b);
 - b. the expiration of 30 days after receipt of an opinion under section 29 or 33, as the case may be, or any longer period agreed by the parties;
 - c. all the parties directly engaged in the disagreement agree in writing to terminate evaluation; or
 - d. all the parties directly engaged in the disagreement sign a written agreement resolving the disagreement.

COSTS

35. A party that has failed to participate in a neutral evaluation as contemplated in sections 14 to 21 is responsible for its share of the costs of the neutral evaluation, despite its failure to participate.

APPENDIX P - 5

ELDERS ADVISORY COUNCIL

DEFINITION

1. In this Appendix:
 - a. "**Chapter**" means the Dispute Resolution chapter;
 - b. "**council**" means the elders advisory council appointed under this Appendix;
 - c. "**elder**" means a member of a council;
 - d. "**party**" means a participating Party to the reference under this Appendix;
 - e. "**reference**" means a reference of a disagreement to the council; and
 - f. "**section**" means a section in this Appendix.

GENERAL

2. A reference commences on the date the Parties directly engaged in the disagreement have agreed in writing to use an elders advisory council under clause 23 of the Chapter.

APPOINTMENT OF ELDERS

3. Within 30 days after a reference has commenced, each party will appoint at least one, but not more than three, elders to the council.
4. Preferably, the elders will be individuals who:
 - a. are recognized in their respective communities as wise, tolerant, personable and articulate, and who:
 - i. are often sought out for counsel or advice, or
 - ii. have a record of distinguished public service; and
 - b. are available to devote the time and energy as required to provide the assistance described in this Appendix.

END OF APPOINTMENT

5. Unless an elder:
 - a. has requested to be relieved of their appointment due to a conflict of interest or otherwise; or
 - b. is not able to fulfill their duties, due to incapacity or otherwise

the elder's appointment to the council may not be terminated until termination of the reference in which the elder is involved.

6. If an elder's appointment is terminated in the circumstances described in section 5(a) or (b) and that elder was the only elder of the council appointed by a party to the reference, that party must replace the elder within seven days.
7. If an elder's appointment is terminated in the circumstances described in section 5(a) or (b) and that elder was not the only elder of the council appointed by a party to the reference, that party may replace the elder but the replacement must be made within seven days.

CONDUCT OF REFERENCE

8. In a reference, the parties will cooperate fully with the council, and give prompt attention to, and respond, to all communications from the council.
9. Notwithstanding section 8, a party is not required to disclose to the council or provide it with any information that the party would not be required to disclose in any arbitral or judicial proceedings in respect of the disagreement.
10. The council is expected to conduct itself informally in order that the parties may take full advantage of the council's good offices to resolve the disagreement.
11. The council may establish its own process to suit the particular circumstances of a reference including meeting with the parties together or separately, conducting informal interviews or inquiries and facilitating settlement negotiations.
12. The council will give the parties its final advice or recommendations on a disagreement referred to it within 120 days after the commencement of the reference.
13. The council may, at its option, provide its advice to the parties:
 - a. orally on the same occasion; or
 - b. in writing.

14. The council may, by unanimous decision, extend the time for giving advice or recommendations under section 12, on one occasion only, to a maximum of 60 additional days.
15. The advice or recommendations of the council are not binding on the parties.
16. Subject to any limitations agreed to by the parties, the council may employ reasonable and necessary administrative or other support services.

RIGHT TO WITHDRAW

17. A party may not withdraw from a reference until its conclusion unless all the parties agree in writing.

CONFIDENTIALITY

18. In order to assist in the resolution of the disagreement, a reference will not be open to the public.
19. The parties, and all persons, will keep confidential:
 - a. all oral and written information disclosed in the reference; and
 - b. the fact that this information has been disclosed.
20. The parties will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the reference, any oral or written information disclosed in or arising from the reference, including:
 - a. any documents of other parties produced in the course of the reference that are not otherwise produced or producible in that proceeding;
 - b. any views expressed, or suggestions made, in respect of a possible settlement of the disagreement;
 - c. any admissions made by any party in the course of the reference, unless otherwise stipulated by the admitting party;
 - d. any advice or recommendations made by an elder or the council; and
 - e. the fact that any party has indicated a willingness to make or accept any advice or recommendation for settlement.
21. Sections 19 and 20 do not apply:
 - a. in any proceedings for the enforcement or setting aside of an agreement resolving the disagreement that was the subject of the reference;

- b. if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - c. if the oral or written information referred to in those sections is in the public forum.
22. An elder, or anyone retained or employed by the council, is not compellable in any proceeding to give evidence about any oral and written information acquired or opinion formed by that person as a result of the reference and all parties will oppose any effort to have that person or that information subpoenaed.
23. An elder, or anyone retained or employed by the council, is disqualified as a consultant or expert in any proceeding relating to the disagreement, including any proceeding that involves persons not a party to the reference.

DECISION-MAKING

24. The council must make its best efforts to reach consensus among the elders before taking any action or giving any advice under the reference.
25. The council may not take any action under section 12 unless at least one elder appointed by each party expressly agrees with the action taken.

TERMINATION OF REFERENCE

26. A reference is terminated when any of the following occurs:
- a. the council gives the parties its advice under section 12;
 - b. the expiration of the applicable time period in section 12 or 14; or
 - c. the parties directly engaged in the disagreement sign a written agreement resolving the disagreement.

APPENDIX P – 6

ARBITRATION

DEFINITIONS

1. In this Appendix:
 - a. **"applicant"** means:
 - i. in an arbitration commenced under clause 27 of the Chapter, the party that delivered the notice of arbitration, and
 - ii. in an arbitration commenced under clause 28 of the Chapter, the party that the parties have agreed will be the applicant in the agreement to arbitrate;
 - b. **"arbitral award"** means any decision of the arbitral tribunal on the substance of the disagreement submitted to it, and includes:
 - i. an interim arbitral award, including an interim award made for the preservation of property, and
 - ii. an award of interest or costs;
 - c. **"arbitral tribunal"** means a single arbitrator or a panel of arbitrators appointed under this Appendix;
 - d. **"arbitration agreement"** includes
 - i. the requirement to refer to arbitration disagreements described in clause 27 of the Chapter; and
 - ii. an agreement to arbitrate a disagreement as described in clause 28 of the Chapter;
 - e. **"Chapter"** means the Dispute Resolution chapter of the Agreement;
 - f. **"party"** means a participating Party to arbitration under this Appendix;
 - g. **"respondent"** means a party other than the applicant;
 - h. **"section"** means a section of this Appendix;
 - i. **"Supreme Court"** means the Supreme Court of British Columbia.
2. A reference in this Appendix, other than in section 87 or 116(a), to a claim, applies to a counterclaim, and a reference in this Appendix to a defence, applies to a defence to a counterclaim.

3. Despite clause 3 of the Chapter, the parties may not vary section 53 or 97.

COMMUNICATIONS

4. Except in respect of administrative details, the parties will not communicate with the arbitral tribunal:
 - a. orally, except in the presence of all other parties; or
 - b. in writing, without immediately sending a copy of that communication to all other parties.
5. Section 4 also applies to any communication by the arbitral tribunal to the parties.

WAIVER OF RIGHT TO OBJECT

6. A party that knows that:
 - a. any provision of this Appendix; or
 - b. any requirement under the Agreement or arbitration agreementhas not been complied with, and yet proceeds with the arbitration without stating its objection to noncompliance without undue delay or, if a time limit is provided for stating that objection, within that period of time, will be deemed to have waived its right to object.
7. In section 6(a) "any provision of this Appendix" means any provision of this Appendix in respect of which the parties may otherwise agree.

EXTENT OF JUDICIAL INTERVENTION

8. In matters governed by this Appendix:
 - a. no court shall intervene except as provided in this Appendix; and
 - b. no arbitral proceedings of an arbitral tribunal, or an order, ruling or arbitral award made by an arbitral tribunal shall be questioned, reviewed or restrained by a proceeding under any legislation or other law that permits judicial review except to the extent provided in this Appendix.

CONSTRUCTION OF APPENDIX

9. In construing a provision of this Appendix, a court or arbitral tribunal may refer to the documents of the United Nations Commission on International Trade Law and its

working group respecting the preparation of the UNCITRAL Model Arbitration Law and must give those documents the weight that is appropriate in the circumstances.

STAY OF LEGAL PROCEEDINGS

10. If a Party commences legal proceedings in a court against another Party in respect of a matter required or agreed to be submitted to arbitration, a Party to the legal proceedings may, before or after entering an appearance, and before delivery of any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.
11. In an application under section 10, the court must make an order staying the legal proceedings unless it determines that:
 - a. the arbitration agreement is null and void, inoperative or incapable of being performed; or
 - b. the legal proceedings are permitted under the Chapter.
12. An arbitration may be commenced or continued, and an arbitral award made, even if an application has been brought under section 10, and the issue is pending before the court.

INTERIM MEASURES BY COURT

13. It is not incompatible with an arbitration agreement for a Party to request from a court, before or during arbitral proceedings, an interim measure of protection as provided in clause 13 of the Chapter, and for a court to grant that measure.

COMMENCEMENT OF ARBITRAL PROCEEDINGS

14. The arbitral proceedings in respect of a disagreement:
 - a. required to be arbitrated as set out in clause 27 of the Chapter, commences on delivery of the notice of arbitration to the Parties; or
 - b. agreed to be arbitrated as set out in clause 28 of the Chapter, commences on the date of the arbitration agreement.

NOTICE OF ARBITRATION

15. A notice of arbitration under clause 27 of the Chapter must be in writing and contain the following information:
 - a. a statement of the subject matter or issues of the disagreement;
 - b. a requirement that the disagreement be referred to arbitration;

- c. the remedy sought;
 - d. the suggested number of arbitrators; and
 - e. any preferred qualifications of the arbitrators.
16. A notice of arbitration under section 15 may contain the names of any proposed arbitrators, including the information specified in section 17.

ARBITRATORS

17. In an arbitration:
- a. required to be arbitrated as set out in clause 27 of the Chapter, there will be three arbitrators; and
 - b. agreed to be arbitrated as set out in clause 28 of the Chapter, there will be one arbitrator.
18. A person eligible for appointment as:
- a. a single arbitrator or as chair of an arbitral tribunal will be an experienced arbitrator or arbitration counsel or have had training in arbitral procedure; and
 - b. as a single arbitrator or member of an arbitral panel:
 - i. will be independent and impartial, and
 - ii. preferably, will have knowledge of, or experience in, the subject matter or issues of the disagreement.

APPOINTMENT OF ARBITRATORS

19. A party proposing the name of an arbitrator to another party under section 20 will also submit a copy of that person's resume and the statement that person is required to make under section 26.
20. In an arbitration with a single arbitrator, if the parties fail to agree on the arbitrator within 30 days after the commencement of the arbitration, the appointment will be made by the Neutral Appointing Authority, on the written request of a party that is copied to the other parties.
21. In an arbitration with three arbitrators and two parties, each party will appoint one arbitrator, and the two appointed arbitrators will appoint the third arbitrator.
22. In the appointment procedure under section 21, if:

- a. a party fails to appoint an arbitrator within 30 days after receipt of a request to do so from the other party; or
- b. the two appointed arbitrators fail to agree on the third arbitrator within 30 days after the last of them was appointed

the appointment will be made by the Neutral Appointing Authority, on the written request of a party that is copied to the other parties.

- 23. In an arbitration with three arbitrators and three parties, the three parties will jointly appoint the three arbitrators.
 - 24. In the arbitration procedure under section 23, if the three parties fail to agree on the three arbitrators within 60 days after the commencement of the arbitration, the appointments will be made by the Neutral Appointing Authority, on the written request of a party copied to the other parties.
- 24.1 In an arbitration procedure under sections 21 or 23, the three arbitrators shall select a chair of the arbitral tribunal. In the event that the three arbitrators are unable to agree on the selection of a chair before the Pre-Hearing Meeting, they shall so advise the Neutral Appointing Authority in writing and the Neutral Appointing Authority will select a chair.
- 25. The Neutral Appointing Authority, in appointing an arbitrator or the chair of an arbitral tribunal, must have due regard to:
 - a. any qualifications required of the arbitrator as set out in section 18 or as otherwise agreed in writing by the parties; and
 - b. other considerations as are likely to secure the appointment of an independent and impartial arbitrator or chair.

GROUNDS FOR CHALLENGE

- 26. When a person is approached in connection with possible appointment as an arbitrator, that person must provide a written statement:
 - a. disclosing any circumstances likely to give rise to justifiable doubts as to their independence or impartiality; or
 - b. advising that the person is not aware of any circumstances of that nature and committing to disclose them if they arise or become known at a later date.
- 27. An arbitrator, from the time of appointment and throughout the arbitral proceedings, must, without delay, disclose to the parties any circumstances referred to in section 26 unless the parties have already been informed of them.
- 28. An arbitrator may be challenged only if:

- a. circumstances exist that give rise to justifiable doubts as to the arbitrator's independence or impartiality; or
 - b. the arbitrator does not possess the qualifications set out in this Appendix or as otherwise agreed in writing by the parties.
29. A party may only challenge an arbitrator appointed by that party, or in whose appointment that party has participated, for reasons of which that party becomes aware after the appointment has been made.
30. A person who is a Tsawwassen Member, or related to a Tsawwassen Member, may not be challenged under section 28 solely on the grounds of that membership or relationship.

CHALLENGE PROCEDURE

31. A party who intends to challenge an arbitrator will send to the arbitral tribunal a written statement of the reasons for the challenge within 15 days after becoming aware of the constitution of the arbitral tribunal, or after becoming aware of any circumstances referred to in section 28.
32. Unless the arbitrator challenged under section 31 withdraws from office, or the other parties agree to the challenge, the arbitral tribunal must decide on the challenge.
33. If a challenge under any procedure agreed upon by the parties or under the procedure under section 31 is not successful, the challenging party, within 30 days after having received notice of the decision rejecting the challenge, may request the Neutral Appointing Authority to decide on the challenge.
34. The decision of the Neutral Appointing Authority under section 33 is final and is not subject to appeal.
35. While a request under section 33 is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an arbitral award unless:
- a. the costs occasioned by proceeding before the decision of the Neutral Appointing Authority is made would unduly prejudice the parties; or
 - b. the parties agree otherwise.

FAILURE OR IMPOSSIBILITY TO ACT

36. The mandate of an arbitrator terminates if the arbitrator becomes unable at law, or as a practical matter, to perform the arbitrator's functions, or for other reasons fails to act without undue delay.

37. If a controversy remains concerning any of the grounds referred to in section 36, a party may request the Neutral Appointing Authority to decide on the termination of the mandate.

TERMINATION OF MANDATE AND SUBSTITUTION OF ARBITRATOR

38. In addition to the circumstances referred to under sections 31 to 33, and 36, the mandate of an arbitrator terminates:
- a. if the arbitrator withdraws from office for any reason; or
 - b. by, or pursuant to, agreement of the parties.
39. If the mandate of an arbitrator terminates, a replacement arbitrator must be appointed under sections 19 to 25, as applicable.
40. If a single or chairing arbitrator is replaced, any hearings previously held must be repeated.
41. If an arbitrator other than a single or chairing arbitrator is replaced, any hearings previously held may be repeated at the discretion of the arbitral tribunal.
42. An order or ruling of the arbitral tribunal made before the replacement of an arbitrator under section 39 is not invalid solely because there has been a change in the composition of the tribunal.

COMPETENCE OF ARBITRAL TRIBUNAL TO RULE ON ITS JURISDICTION

43. An arbitral tribunal may rule on its own jurisdiction.
44. A plea that an arbitral tribunal does not have jurisdiction must be raised not later than the submission of the statement of defence; but a party is not precluded from raising that plea by the fact that the party has appointed, or participated in the appointment of, an arbitrator.
45. A plea that an arbitral tribunal is exceeding the scope of its authority must be made as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.
46. An arbitral tribunal may, in either of the cases referred to in section 44 or 45, admit a later plea if it considers the delay justified.
47. An arbitral tribunal may rule on a plea referred to in section 44 or 45 either as a preliminary question or in the arbitral award.
48. If an arbitral tribunal rules as a preliminary question that it has jurisdiction, any party, within 15 days after having received notice of that ruling, may request the Supreme Court to decide the matter.

49. A decision of the Supreme Court under section 48 is final and is not subject to appeal.
50. While a request under section 48 is pending, an arbitral tribunal may continue the arbitral proceedings and make an arbitral award unless:
 - a. the costs occasioned by proceeding before the decision of the Supreme Court is made would unduly prejudice the parties; or
 - b. the parties agree otherwise.

INTERIM MEASURES ORDERED BY ARBITRAL TRIBUNAL

51. Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order a party to take any interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject matter of the disagreement.
52. The arbitral tribunal may require a party to provide appropriate security in connection with a measure ordered under section 51.

EQUAL TREATMENT OF PARTIES

53. The parties must be treated with equality and each party must be given a full opportunity to present its case.

DETERMINATION OF RULES OF PROCEDURE

54. Subject to this Appendix, the parties may agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.
55. Failing any agreement under section 54, the arbitral tribunal, subject to this Appendix, may conduct the arbitration in the manner it considers appropriate.
56. The arbitral tribunal is not required to apply the legal rules of evidence, and may determine the admissibility, relevance, materiality and weight of any evidence.
57. The arbitral tribunal must make all reasonable efforts to conduct the arbitral proceedings in the most efficient, expeditious and cost effective manner as is appropriate in all the circumstances of the case.
58. The arbitral tribunal may extend or abridge a period of time:
 - a. set in this Appendix, except the period specified in section 106; or
 - b. established by the tribunal.

PRE-HEARING MEETING

59. Within 10 days after the arbitral tribunal is constituted, the tribunal must convene a pre-hearing meeting of the parties to reach agreement and to make any necessary orders on:
 - a. any procedural issues arising under this Appendix;
 - b. selection of the arbitral tribunal's selected chair;
 - c. the procedure to be followed in the arbitration;
 - d. the time periods for taking steps in the arbitration;
 - e. the scheduling of hearings or meetings, if any;
 - f. any preliminary applications or objections; and
 - g. any other matter which will assist the arbitration to proceed in an efficient and expeditious manner.
60. The arbitral tribunal must prepare and distribute promptly to the parties a written record of all the business transacted, and decisions and orders made, at the pre-hearing meeting.
61. The pre-hearing meeting may be conducted by conference call.

PLACE OF ARBITRATION

62. The arbitration will take place in the Province of British Columbia.
63. Despite section 62, an arbitral tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other personal property, or for viewing physical locations.

LANGUAGE

64. If the arbitral tribunal determines that it was necessary or reasonable for a party to incur the costs of translation of documents and oral presentations in the circumstances of a particular disagreement, the arbitral tribunal, on application of a party, may order that any of the costs of that translation be deemed to be costs of the arbitration under clause 44 of the Chapter.

STATEMENTS OF CLAIM AND DEFENCE

65. Within 21 days after the arbitral tribunal is constituted, the applicant will deliver a written statement to all the Parties stating the facts supporting its claim or position, the points at issue and the relief or remedy sought.
66. Within 15 days after receipt of the applicant's statement, each respondent will deliver a written statement to all the Parties stating its defence or position in respect of those particulars.
67. Each party must attach to its statement a list of documents:
 - a. upon which the party intends to rely; and
 - b. which describes each document by kind, date, author, addressee and subject matter.
68. The parties may amend or supplement their statements, including the list of documents, and deliver counter-claims and defences to counter-claims during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow the amendment, supplement or additional pleadings having regard to:
 - a. the delay in making it; and
 - b. any prejudice suffered by the other parties.
69. The parties will deliver copies of all amended, supplemented or new documents delivered under section 68 to all the Parties.

DISCLOSURE

70. The arbitral tribunal may order a party to produce, within a specified time, any documents that:
 - a. have not been listed under section 67;
 - b. the party has in its care, custody or control; and
 - c. the arbitral tribunal considers to be relevant.
71. Each party will allow the other party the necessary access at reasonable times to inspect and take copies of all documents that the former party has listed under section 67, or that the arbitral tribunal has ordered to be produced under section 70.
72. The parties will prepare and send to the arbitral tribunal an agreed statement of facts within the time specified by the arbitral tribunal.

73. Not later than 21 days before a hearing commences, each party will give the other party:
 - a. the name and address of any witness and a written summary of the witness's evidence; and
 - b. in the case of an expert witness, a written statement or report prepared by the expert witness.
74. Not later than 15 days before a hearing commences, each party will give to the other party and the arbitral tribunal an assembly of all documents to be introduced at the hearing.

HEARINGS AND WRITTEN PROCEEDINGS

75. The arbitral tribunal must decide whether to hold hearings for the presentation of evidence or for oral argument, or whether the proceedings will be conducted on the basis of documents and other materials.
76. Unless the parties have agreed that no hearings will be held, the arbitral tribunal must hold hearings at an appropriate stage of the proceedings, if so requested by a party.
77. The arbitral tribunal must give the parties sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purpose of inspection of documents, goods or other property or viewing any physical location.
78. All statements, documents or other information supplied to, or applications made to, the arbitral tribunal by one party will be communicated to the other party, and any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision must be communicated to the parties.
79. Unless ordered by the arbitral tribunal, all hearings and meetings in arbitral proceedings, other than meetings of the arbitral tribunal, are open to the public.
80. The arbitral tribunal must schedule hearings to be held on consecutive days until completion.
81. All oral evidence must be taken in the presence of the arbitral tribunal and all the parties unless a party is absent by default or has waived the right to be present.
82. The arbitral tribunal may order any individual to be examined by the arbitral tribunal under oath or on affirmation in relation to the disagreement and to produce before the arbitral tribunal all relevant documents within the individual's care, custody or control.
83. The document assemblies delivered under section 74 will be deemed to have been entered into evidence at the hearing without further proof and without being read out at the hearing, but a party may challenge the admissibility of any document so introduced.

84. If the arbitral tribunal considers it just and reasonable to do so, the arbitral tribunal may permit a document that was not previously listed under section 67, or produced as required under section 70 or 74, to be introduced at the hearing, but the arbitral tribunal may take that failure into account when fixing the costs to be awarded in the arbitration.
85. If the arbitral tribunal permits the evidence of a witness to be presented as a written statement, the other party may require that witness to be made available for cross examination at the hearing.
86. The arbitral tribunal may order a witness to appear and give evidence, and, in that event, the parties may cross examine that witness and call evidence in rebuttal.

DEFAULT OF A PARTY

87. If, without showing sufficient cause, the applicant fails to communicate its statement of claim in accordance with section 65, the arbitral tribunal may terminate the proceedings.
88. If, without showing sufficient cause, a respondent fails to communicate its statement of defence in accordance with section 66, the arbitral tribunal must continue the proceedings without treating that failure in itself as an admission of the applicant's allegations.
89. If, without showing sufficient cause, a party fails to appear at the hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the arbitral award on the evidence before it.
90. Before terminating the proceedings under section 87, the arbitral tribunal must give all respondents written notice providing an opportunity to file a statement of claim in respect of the disagreement within a specified period of time.

EXPERT APPOINTED BY ARBITRAL TRIBUNAL

91. After consulting the parties, the arbitral tribunal may:
 - a. appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal; and
 - b. for that purpose, require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other personal property or land for inspection or viewing.
92. The arbitral tribunal must give a copy of the expert's report to the parties who must have an opportunity to reply to it.

93. If a party so requests, or if the arbitral tribunal considers it necessary, the expert must, after delivery of a written or oral report, participate in a hearing where the parties must have the opportunity to cross examine the expert and to call any evidence in rebuttal.
94. The expert must, on the request of a party:
 - a. make available to that party for examination all documents, goods or other property in the expert's possession, and provided to the expert in order to prepare a report; and
 - b. provide that party with a list of all documents, goods or other personal property or land not in the expert's possession but which were provided to or given access to the expert, and a description of the location of those documents, goods or other personal property or lands.

LAW APPLICABLE TO SUBSTANCE OF DISPUTE

95. An arbitral tribunal must decide the disagreement in accordance with the law.
96. If the parties have expressly authorized it to do so, an arbitral tribunal may decide the disagreement based upon equitable considerations.
97. In all cases, an arbitral tribunal must make its decisions in accordance with the spirit and intent of the Agreement.
98. Before a final arbitral award is made, an arbitral tribunal or a party, with the agreement of the other parties, may refer a question of law to the Supreme Court for a ruling.
99. A party may appeal a decision in the Supreme Court under section 98 to the British Columbia Court of Appeal with leave of the British Columbia Court of Appeal. If the British Columbia Court of Appeal:
 - a. refuses to grant leave to a party to appeal a ruling of the Supreme Court under section 98; or
 - b. hears an appeal from a ruling of the Supreme Court under section 98the decision of the British Columbia Court of Appeal may not be appealed to the Supreme Court of Canada.
100. While a request under section 98 is pending, the arbitral tribunal may continue the arbitral proceedings and make an arbitral award unless:
 - a. the costs occasioned by proceeding before the ruling of the Supreme Court is made would unduly prejudice the parties; or
 - b. the parties agree otherwise.

DECISION MAKING BY PANEL OF ARBITRATORS

101. In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal must be made by a majority of all its members.
102. If there is no majority decision on a matter to be decided, the decision of the chair of the tribunal is the decision of the tribunal.
103. Notwithstanding section 101, if authorized by the parties or all the members of the arbitral tribunal, questions of procedure may be decided by the chair of the tribunal.

SETTLEMENT

104. If, during arbitral proceedings, the parties settle the disagreement, the arbitral tribunal must terminate the proceedings and, if requested by the parties, must record the settlement in the form of an arbitral award on agreed terms.
105. An arbitral award on agreed terms:
 - a. must be made in accordance with sections 107 to 109;
 - b. must state that it is an arbitral award; and
 - c. has the same status and effect as any other arbitral award on the substance of the disagreement.

FORM AND CONTENT OF ARBITRAL AWARD

106. An arbitral tribunal must make its final award as soon as possible and, in any event, not later than 60 days after:
 - a. the hearings have been closed; or
 - b. the final submission has been madewhichever is the later date.
107. An arbitral award must be made in writing, and be signed by the members of the arbitral tribunal.
108. An arbitral award must state the reasons upon which it is based, unless:
 - a. the parties have agreed that no reasons are to be given; or
 - b. the award is an arbitral award on agreed terms under section 104 and 105.
109. A signed copy of an arbitral award must be delivered to all the Parties by the arbitral tribunal.

110. At any time during the arbitral proceedings, an arbitral tribunal may make an interim arbitral award on any matter with respect to which it may make a final arbitral award.
111. An arbitral tribunal may award interest.
112. The costs of an arbitration are in the discretion of the arbitral tribunal which, in making an order for costs, may:
 - a. include as costs:
 - i. the fees and expenses of the arbitrators and expert witnesses,
 - ii. legal fees and expenses of the parties,
 - iii. any administration fees of a Neutral Appointing Authority, or
 - iv. any other expenses incurred in connection with the arbitral proceedings; and
 - b. specify:
 - i. the party entitled to costs,
 - ii. the party who will pay the costs,
 - iii. subject to section 113, the amount of costs or method of determining that amount, and
 - iv. the manner in which the costs will be paid.
113. For purposes of section 112, an arbitral tribunal may award up to 50% of the reasonable and necessary legal fees and expenses that were actually incurred by a party, and if the legal services were provided by an employee or employees of that party, the arbitral tribunal may fix an amount or determine an hourly rate to be used in the calculation of the cost of those employee legal fees.

TERMINATION OF PROCEEDINGS

114. An arbitral tribunal must close any hearings if:
 - a. the parties advise they have no further evidence to give or submissions to make; or
 - b. the tribunal considers further hearings to be unnecessary or inappropriate.
115. A final arbitral award, or an order of the arbitral tribunal under section 116, terminates arbitral proceedings.

116. An arbitral tribunal must issue an order for the termination of the arbitral proceedings if:
- a. the applicant withdraws its claim, unless the respondent objects to the order and the arbitral tribunal recognizes a legitimate interest in obtaining a final settlement of the disagreement;
 - b. the parties agree on the termination of the proceedings; or
 - c. the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
117. Subject to sections 118 to 123 and section 127, the mandate of an arbitral tribunal terminates with the termination of the arbitral proceedings.

CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD

118. Within 30 days after receipt of an arbitral award:
- a. a party may request the arbitral tribunal to correct in the tribunal award any computation errors, any clerical or typographical errors or any other errors of a similar nature; and
 - b. a party may, if agreed by all the parties, request the arbitral tribunal to give an interpretation of a specific point or part of the arbitral award.
119. If an arbitral tribunal considers a request made under section 118 to be justified, it must make the correction or give the interpretation within 30 days after receipt of the request and the interpretation will form part of the arbitral award.
120. An arbitral tribunal, on its own initiative, may correct any error of the type referred to in subsection 118(a) within 30 days after the date of the arbitral award.
121. A party may request, within 30 days after receipt of an arbitral award, the arbitral tribunal to make an additional arbitral award respecting claims presented in the arbitral proceedings but omitted from the arbitral award.
122. If the arbitral tribunal considers a request made under section 121 to be justified, it must make an additional arbitral award within 60 days.
123. Sections 107 to 109, and sections 111 to 113 apply to a correction or interpretation of an arbitral award made under section 119 or 120, or to an additional arbitral award made under section 122.

APPLICATION FOR SETTING ASIDE ARBITRAL AWARD

124. Subject to sections 129 and 131, an arbitral award may be set aside by the Supreme Court, and no other court, only if a party making the application establishes that:

- a. the party making the application:
 - i. was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings, or
 - ii. was otherwise unable to present its case or respond to the other party's case;
 - b. the arbitral award:
 - i. deals with a disagreement not contemplated by or not falling within the terms of the submission to arbitration, or
 - ii. contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award that contains decisions on matters not submitted to arbitration may be set aside;
 - c. the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless that agreement was in conflict with a provision of this Appendix from which the parties cannot derogate, or, failing any agreement, was not in accordance with this Appendix;
 - d. the arbitral tribunal or a member of it has committed a corrupt or fraudulent act; or
 - e. the award was obtained by fraud.
125. An application for setting aside may not be made more than three months:
- a. after the date on which the party making that application received the arbitral award; or
 - b. if a request had been made under section 118 or 121, after the date on which that request was disposed of by the arbitral tribunal.
126. An application to set aside an award on the ground that the arbitral tribunal or a member of it has committed a corrupt or fraudulent act or that the award was obtained by fraud must be commenced:
- a. within the period referred to in section 125; or
 - b. within 30 days after the applicant discovers or ought to have discovered the fraud or corrupt or fraudulent act
- whichever is the longer period.

127. When asked to set aside an arbitral award, the Supreme Court may, where it is appropriate and it is requested by a party, adjourn the proceedings to set aside the arbitral award for a period of time determined by it in order to give the arbitral tribunal an opportunity:
- a. to resume the arbitral proceedings; or
 - b. to take any other action that, in the arbitral tribunal's opinion, will eliminate the grounds for setting aside the arbitral award.
128. A Party that was not a participating Party in an arbitration must be given notice of an application under section 124, and is entitled to be a party to, and make representation on, the application.

APPEAL ON QUESTION OF LAW

129. A party may appeal an arbitral award to the Supreme Court, with leave, on a question of law, which the Supreme Court must grant only if it is satisfied that:
- a. the importance of the result of the arbitration to the parties justifies the intervention of the court, and the determination of the point of law may prevent a miscarriage of justice; or
 - b. the point of law is of general or public importance.
130. An application for leave may not be made more than three months:
- a. after the date on which the party making the application received the arbitral award; or
 - b. if a request had been made under section 118 or 121, after the date on which that request was disposed of by the arbitral tribunal.
131. The Supreme Court may confirm, vary or set aside the arbitral award or may remit the award to the arbitral tribunal with directions, including the court's opinion on the question of law.
132. When asked to set aside an arbitral award the Supreme Court may, where it is appropriate and it is requested by a party, adjourn the proceedings to set aside the arbitral award for a period of time determined by it in order to give the arbitral tribunal an opportunity:
- a. to resume the arbitral proceedings; or
 - b. to take any other action that, in the arbitral tribunal's opinion, will eliminate the grounds for setting aside the arbitral award.

133. A Party that was not a participating Party in an arbitration must be given notice of an application under section 129 and is entitled to be a party to, and make representation on the application.
134. A party may appeal a decision of the Supreme Court under section 131 to the British Columbia Court of Appeal with leave of the British Columbia Court of Appeal.
135. If the British Columbia Court of Appeal:
- a. refuses to grant leave to a party to appeal a ruling of the Supreme Court under section 131; or
 - b. hears an appeal from a ruling of the Supreme Court under section 131,
- the decision of the British Columbia Court of Appeal may not be appealed to the Supreme Court of Canada.
136. No application may be made under section 129 in respect of:
- a. an arbitral award based upon equitable considerations as permitted in section 96; or
 - b. an arbitral award made in an arbitration commenced under clause 28 of the Chapter.
137. No application for leave may be brought under section 129 in respect of a ruling made by the Supreme Court under section 98 if the time for appealing that ruling has already expired.

RECOGNITION AND ENFORCEMENT

138. An arbitral award must be recognized as binding and, upon application to the Supreme Court, must be enforced subject to clause 136 and 137 of the Tsawwassen Government Chapter.
139. Unless the Supreme Court orders otherwise, the party relying on an arbitral award or applying for its enforcement must supply the duly authenticated original arbitral award or a duly certified copy of it.

GROUND FOR REFUSING ENFORCEMENT

140. Subject to sections 128 and 133, a Party that was not a participating Party in an arbitration must not bring an application under section 124 or 129 to set the award aside but may resist enforcement of the award against it by bringing an application under section 141.

141. On the application of a Party that was not a participating Party in an arbitration, the Supreme Court may make an order refusing to enforce against that Party an arbitral award made under this Appendix if that Party establishes that:

- a. it was not given copies of:
 - i. the notice of arbitration or agreement to arbitrate, or
 - ii. the pleadings or all amendments and supplements to the pleadings;
- b. the arbitral tribunal refused to add the Party as a participating Party to the arbitration under clause 31 of the Chapter;
- c. the arbitral award
 - i. deals with a disagreement not contemplated by or not falling within the terms of the submission to arbitration, or
 - ii. contains decisions on matters beyond the scope of the submission to arbitration

provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the arbitral award which contains decisions on matters submitted to arbitration may be recognized and enforced;

- d. the arbitral award has not yet become binding on the parties or has been set aside or suspended by a court;
- e. the arbitral tribunal or a member of it has committed a corrupt or fraudulent act;
or
- f. the award was obtained by fraud.

APPENDIX Q
HIGHWAY 17 CORRIDOR

- | | |
|----------------|---|
| APPENDIX Q – 1 | Map of Highway 17 Corridor |
| APPENDIX Q – 2 | List of Public Utility Works within Highway 17 Corridor |

APPENDIX Q – 1
MAP OF HIGHWAY 17 CORRIDOR

APPENDIX Q - 2

PUBLIC UTILITY WORKS WITHIN THE HIGHWAY 17 CORRIDOR

Note: Information will be updated before the Effective Date.

Interest Holder	Interest	Location	Document Reference Number
British Columbia Hydro and Power Authority	(1) Right-of-Way for electric power transmission and distribution lines; (2) Lease for cable landing facilities	Along the north side of Highway 17, through Former Tsawwassen Reserve	OCPC 1978-283 (Can) FNLRS ⁸ 1833-32 CLSR Plan No. 56017 LTO ⁹ Plan No. 39986
British Columbia Hydro and Power Authority/Telus Communications Inc. (formerly BC Tel)	(1) Easement for electric power transmission line; (2) Permit for Telephone lines	Crosses Highway 17, through Former Tsawwassen Reserve	FNLRS 7572-248 CLSR Plan M3683
Telus Communications Inc. (formerly BC Tel)	Aerial and underground permit for telephone lines	Intersects with Highway 17 at Tsawwassen Rd. & 16 th Ave.	FNLRS 103640 Telus Drawing No. CX-0-1150
Corporation of Delta	Municipal Water and Sewage Mains	Along the south side of Highway 17 to the BC Ferries causeway, through Former Tsawwassen Reserve	Engineering drawings on file with the Corporation of Delta

⁸ FNLRS – First Nation Land Register System

⁹ LTO – Land Title Office

APPENDIX R
MAP OF DELTAPORT WAY CORRIDOR

