

KITSELAS LNG BENEFITS AGREEMENT



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This Agreement is dated for reference March 30, 2017

BETWEEN:

Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Natural Gas Development and the Minister of Aboriginal Relations and Reconciliation

(the "Province")

AND:

Kitselas First Nation, on behalf of itself and Kitselas Citizens, as represented by the Chief and Council

("Kitselas")

(collectively the "Parties" and individually a "Party")

WHEREAS:

- A. The Province is committed to developing a liquefied natural gas (LNG) industry in British Columbia;
- B. Pacific Northwest LNG is proposing to construct and operate the PNW LNG Project on and adjacent to Lelu Island, with related marine facilities in the Port of Prince Rupert;
- C. LNG Canada is proposing to construct and operate the LNG Canada Project in Kitimat, B.C., with related marine facilities in Douglas Channel;
- D. There are proposals for Other LNG Projects within the Prince Rupert LNG Project Area;
- E. Chevron Canada and Woodside Energy International Limited are proposing to construct and operate the Kitimat LNG Project in Bish Cove near Kitimat B.C., with related marine facilities in Douglas Channel;
- F. Kitselas has indicated that it is supportive of the PNW LNG Project, the LNG Canada Project, the Kitimat LNG Project and the Other LNG Projects provided

that its interests are met, including addressing issues related to Aboriginal Rights and the cumulative impacts of such development; and

- G. Kitselas and the Province wish to enter into this Agreement to confirm their respective commitments in relation to the PNW LNG Project, the LNG Canada Project, the Other LNG Projects and the Kitimat LNG Project.

NOW THEREFORE the Parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions. In this Agreement:

“Aboriginal Rights” means asserted or determined aboriginal rights, including aboriginal title, which are or may be recognized and affirmed by section 35 of the *Constitution Act, 1982*;

“Agreement” means this Kitselas First Nation LNG Benefits Agreement, including the Schedules, as amended from time to time in accordance with its terms, and any agreement, document or instrument executed or delivered pursuant thereto;

“Airport Groundside Lands” means those lands having an area of approximately 25 hectares as shown for illustrative purposes in Plan 1 of Schedule 1 and, following completion and approval of a legal survey of those lands in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor;

“Associated Infrastructure” means any infrastructure project reasonably necessary for the PNW LNG Project, the LNG Canada Project, an Other LNG Project, or the Kitimat LNG Project, as applicable, for electricity, transportation and other utility corridor rights of way, including related facilities, power generation facilities, plant equipment and other infrastructure easements and rights of way as well as matters reasonably necessary for the related construction, operation and maintenance of the project including related lay down areas and work camps, but does not include any natural gas transmission line or the BC Hydro Terrace to Kitimat hydro-electric transmission line;

“Closing” means the completion of the transfer of a Parcel by the Province to a Designated Company on the Closing Date;

“Closing Date” means the date or dates on which the documents for the transfer of a Parcel to a Designated Company under section 4.1 are submitted for filing in the Land Title Office;

“Commencement of Construction” means the date on which the proponent of the PNW LNG Project, the LNG Canada Project, an Other LNG Project, or the Kitimat LNG Project, as applicable, issues a notice or notices to proceed to its EPC contractor in respect of all material engineering, procurement and construction contracts for the project, excluding other site assessment or exploration work;

“Council” and **“Band Council”** mean, in respect of Kitselas, the elected “council” within the meaning of the *Indian Act*;

“Crown Corridor” means a highway (as defined in the *Transportation Act*) and the area of any other road, right-of-way, easement or licence over Crown land that is used for transportation or public utility purposes, including railway purposes, and that is identified in Schedule 2, as amended in accordance with section 7.3;

“Crown Grant” means a grant (as defined in the *Land Act*) of the fee simple title of a Parcel;

“Designated Company” means one or more companies incorporated under federal or provincial law, all the shares of which are wholly owned directly or indirectly, legally and beneficially, by Kitselas and which Kitselas has designated to take fee simple title to a Parcel; which for greater certainty may include a company that is acting as a partner in a limited partnership or a limited liability partnership and may include a company holding a Parcel in bare trust for and on behalf of Kitselas;

“Dubose Lands” means those lands having an area of approximately 1,140.3 hectares as shown for illustrative purposes in Plan 3 of Schedule 1 and, following completion and approval of a legal survey of those lands in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor;

“Effective Date” means the date on which this Agreement is executed and delivered by the Parties;

“EPC Contractor” means the engineering, procurement and construction contractor for the PNW LNG Project, the LNG Canada Project, an Other LNG Project, or the Kitimat LNG Project, as applicable;

“FID” or “Final Investment Decision” means a final and unconditional decision of the proponent of the PNW LNG Project, the LNG Canada Project, an Other LNG Project, or the Kitimat LNG Project, as applicable, to proceed with the construction of the project, which, for certainty, includes that proponent having obtained:

- a) an environmental assessment certificate issued by the provincial Minister of Environment under section 17(3) of the *Environmental Assessment Act* and a decision statement by the federal Minister of Environment under section 54 of the *Canadian Environmental Assessment Act, 2012*;
- b) a National Energy Board natural gas export licence that remains valid and effective for the project;
- c) the financial resources and a funding plan in place for the project; and
- d) all necessary internal and shareholder and investor approvals;

“FID Date” means the date on which the proponent of the PNW LNG Project, the LNG Canada Project, an Other LNG Project, or the Kitimat LNG Project, as applicable, makes a public pronouncement of a FID;

“Final Agreement” means the final land claim agreement to be entered into by Kitselas, the Province and Her Majesty the Queen in Right of Canada in accordance with stage 5 of the British Columbia Treaty Commission process;

“Governmental Action” means any provincial or federal approval, decision, process, agreement, authorization or action of any kind whatsoever, including approvals, decisions, processes, agreements, authorizations or actions of a provincial or federal agency or Crown corporation, relating to the planning, approval, construction, development, operation, reclamation or closure of the PNW LNG Project, the LNG Canada Project, an Other LNG Project, or the Kitimat LNG Project, as applicable, and their Associated Infrastructure;

“GST” means the goods and services tax imposed under the *Excise Tax Act* (Canada);

“Incremental Funding” has the same meaning as in the Kitselas Coastal Fund Agreement;

“Incremental Project Funding Notice” has the same meaning as in the Kitselas Coastal Fund Agreement;

“ITA Opportunity Lands” means those lands as shown for illustrative purposes in Schedule 6 having an area of approximately 1,391.5 hectares;

“Kitimat LNG Project” means the description of the project as set out in the application made to the British Columbia Environmental Assessment Office, subject to modifications that may be required in the course of securing environmental or regulatory approvals, for a natural gas receiving and LNG production facility that, at full build out, will produce approximately 10 million tons of LNG per annum, along with a marine terminal, with a material offload facility, and supporting infrastructure, and related shipping activities;

“Kitselas” means the “band”, as that term is defined in the *Indian Act*, named the “Kitselas First Nation” and includes all Kitselas Citizens;

“Kitselas Citizen” means all those persons who are collectively entitled to exercise the Aboriginal Rights of Kitselas and includes any person who is a “member of the band”, as that phrase is defined in the *Indian Act*, of Kitselas;

“Kitselas Coastal Fund Agreement” means the “Kitselas Coastal Fund Agreement” entered into by the Parties concurrently with this Agreement, as amended from time to time in accordance with its terms;

“Lands” means any, all or a combination of any of the Parcels;

“LNG” means natural gas in a liquid state or at a temperature below its boiling point;

“LNG Canada Project” means the description of the project as set out in the application made to the British Columbia Environmental Assessment Office, subject to modifications that may be required in the course of securing environmental or regulatory approvals, for a natural gas receiving and LNG production facility that, at full build out, will produce approximately 26 million tons of LNG per annum, along with a marine terminal, with a material offload facility, and supporting infrastructure, and related shipping activities;

“Other LNG Project” means any project proposed within the Prince Rupert LNG Project Area to produce and export LNG that is a “reviewable project” within the meaning of the *Environmental Assessment Act*, as that LNG project is described in the applicable application made to the Canadian Environmental Assessment Agency and the British Columbia Environmental Assessment Office, subject to any modifications to that description that may be required in the course of securing environmental and regulatory approvals, along with any related marine terminal, material offload facility, and supporting infrastructure, and related shipping activities, but does not include:

- a) the PNW LNG Project; or
- b) any LNG project that may be proposed within the Prince Rupert LNG Area after 4 LNG projects, not including the PNW LNG Project, that are

“reviewable projects” within the meaning of the *Environmental Assessment Act* located within the Prince Rupert LNG Area have made a FID;

“**Parcel**” means any, all or a combination of any of the means any, all or a combination of any of the Airport Groundside Lands, Thornhill Lands or the Dubose Lands;

“**Permitted Encumbrances**” means the reservations, exceptions, liens, charges, and interests described in Schedule 2 as amended in accordance with section 7.2 for each of the Parcels or any other Permitted Encumbrances agreed to by the Parties;

“**PNW LNG Project**” means the Pacific Northwest Liquefied Natural Gas project proposed on and adjacent to Lelu Island, British Columbia, as described in the applications made to the British Columbia Environmental Assessment Office and the Canadian Environmental Assessment Agency, as well as any expansion to four trains capable of producing approximately 24 million tons of LNG per annum; and as approved in the British Columbia Environmental Assessment Office *Environmental Assessment Certificate #E14-04*, as amended or replaced from time to time, and in the Decision Statement, dated September 27, 2016, issued under section 54 of the *Canadian Environmental Assessment Act, 2012*, as amended or replaced from time to time;

“**Prince Rupert LNG Project Area**” means those lands and waters shown as the “Prince Rupert LNG Project Area” in Schedule 7;

“**Province**” means Her Majesty the Queen in right of the Province of British Columbia;

“**Provincial Official**” means:

- a) any minister, public official, employee, contractor or agent of the Province,
- b) any government corporation or any director, officer, employee, contractor or agent of a government corporation, or
- c) any person acting as a decision maker under any enactment of the Province;

“**PST**” means the sales tax imposed under the *Provincial Sales Tax Act*; and

“**Thornhill Lands**” means those lands as shown for illustrative purposes in Plan 2 of Schedule 1 having an area of up to approximately 62 hectares and, following completion of the planning process referred to in section 5.3 (c) and agreement of the Parties on required revisions to the boundaries of those lands as a result of

that planning process and completion and approval of a legal survey of those revised boundaries in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor.

1.2 Interpretation. For purposes of this Agreement:

- a) "including" means "including, but not limited to" and "includes" means "includes, but not limited to";
- b) the headings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- c) words importing gender include the masculine, feminine or neuter gender and words in the singular include the plural and vice versa;
- d) any reference to a corporate entity includes and is also a reference to any corporate entity that was a predecessor to, or that is a successor to, such entity;
- e) a reference to a statute includes every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it;
- f) any reference to the delivery on Closing of an agreement, document or instrument "in the form" of an attached schedule means an agreement, document or instrument substantially in that form with such changes, additions or deletions as may be agreed by the representatives of the Parties;
- g) each and every release, covenant and other agreement given, and action to be taken, by Kitselas under this Agreement means Kitselas acting by and through its Mayor and Council, and will be conclusively deemed to have been given, or taken, by Kitselas on its own behalf, and for and on behalf of its Kitselas Citizens;
- h) there will be no presumption that doubtful expressions, terms or provisions in this Agreement are to be resolved in favour of any Party; and
- i) land below a natural boundary, as defined in the *Land Act*, or land within any Crown Corridor do not form part of any Parcel.

1.3 Impact Benefit Agreement Negotiations. Nothing in this Agreement is intended to limit or prevent Kitselas from negotiating and attempting to reach an

agreement with the proponent of an LNG project on financial or other benefits associated with the approval, construction and operation of an LNG project and its Associated Infrastructure or receiving benefits in accordance with any such agreement.

1.4 Schedules. The following are the Schedules to this Agreement:

- Schedule 1 Maps of Parcels (Plans 1 to 3) for Illustrative Purposes
- Schedule 2 Permitted Encumbrances and Crown Corridors
- Schedule 3 Form C Additions to Reserve Restrictive Covenant
- Schedule 4 Designated Company Agreement
- Schedule 5 GST Certificate
- Schedule 6 Map of ITA Opportunity Lands
- Schedule 7 Map of the Prince Rupert LNG Project Area

ARTICLE 2 - REPRESENTATIONS AND WARRANTIES

2.1 Kitselas Representations. Kitselas represents and warrants to the Province, with the intent and understanding that the Province will rely on those representations in entering into this Agreement, that:

- a) it enters into this Agreement for, and on behalf of, its Kitselas Citizens;
and
- b) it, as represented by its Chief and Council, has the legal power, capacity and authority to enter into and to carry out its obligations under this Agreement on behalf of Kitselas and Kitselas Citizens.

2.2 Provincial Representations. The Province represents and warrants to Kitselas, with the intent and understanding that Kitselas will rely on those representations in entering into this Agreement, that:

- a) it has the legal power, capacity and authority to enter into this Agreement;
and
- b) subject to the terms and conditions of this Agreement, it has the legal power, capacity and authority to carry out its obligations under this Agreement.

ARTICLE 3 – FINANCIAL BENEFITS

- 3.1 Prior Capacity Funding.** Kitselas acknowledges that prior to the Effective Date the Province has provided \$250,000 to it for capacity funding purposes to assist with completing the PNW LNG Project and LNG Canada Project term sheet and this Agreement.
- 3.2 Legacy Fund for PNW LNG Project and LNG Canada Project.** In connection with the PNW LNG Project and the LNG Canada Project, the Province will provide legacy funding to Kitselas as follows:
- a) \$350,000, as soon as practicable after the Effective Date;
 - b) \$1,000,000, as soon as practicable after the earliest FID Date of either the PNW LNG Project or the LNG Canada Project; and
 - c) \$1,000,000, as soon as practicable after the earliest Commencement of Construction of either the PNW LNG Project or the LNG Canada Project.
- 3.3 Additional Funding for PNW LNG Project and LNG Canada Project.** In connection with the PNW LNG Project and the LNG Canada Project, the Province will provide funds to Kitselas to support the proposed Kitselas community hall as follows:
- a) \$250,000, as soon as practicable after the Effective Date, to be used for the community hall planning process; and
 - b) \$2,000,000, as soon as practicable after the earliest FID Date of either the PNW LNG Project or LNG Canada Project, to be used for community hall construction costs or other purposes consistent with section 3.6.
- 3.4 Legacy and Capacity Funding for the Other LNG Projects.** In connection with the Other LNG Projects, the Province will provide legacy and capacity building funding to Kitselas as follows:
- a) \$500,000, as soon as practicable after the Effective Date; and
 - b) \$6,500,000, as soon as practicable after the earliest Commencement of Construction of either the PNW LNG Project or the LNG Canada Project.
- 3.5 Legacy and Capacity Funding for Kitimat LNG Project.** In connection with the Kitimat LNG Project, the Province will provide legacy and capacity building funding to Kitselas as follows:
- a) \$250,000, as soon as practicable after the Kitimat LNG Project FID Date;

and

- b) \$1,500,000, as soon as practicable after the Commencement of Construction of the Kitimat LNG Project.

3.6 Use of Funds. Unless otherwise specifically indicated, any funds paid to Kitselas in accordance with this Agreement will be used by Kitselas for the following purposes:

- a) community development projects and social initiatives;
- b) investment in renewable energy projects and community energy planning;
- c) education and skills training, in particular for Kitselas Citizens to participate in business or employment opportunities created by LNG Projects; or
- d) economic development, including investment that supports LNG development activities.

ARTICLE 4 – TRANSFER OF LANDS

4.1 Parcel Transfers. Subject to the Permitted Encumbrances and the terms of this Agreement, including the satisfaction or waiver of all applicable conditions precedent, the Province will transfer the Lands to a Designated Company on the following dates:

- a) **Airport Groundside Lands:** as soon as practical after:
 - (i) the Effective Date, and
 - (ii) receipt of a written request from Kitselas to transfer the Parcel, received within 2 years from the Effective Date; and
- b) **Thornhill Lands:** as soon as practicable after:
 - (i) the earliest Commencement of Construction of either the PNW LNG Project or the LNG Canada Project, and
 - (ii) receipt of a written request from Kitselas to transfer the Parcel, received within 7 years from the date in subsection b) (i); and
- c) **Dubose Lands:** as soon as practicable after:
 - (i) the earliest Commencement of Construction of either the PNW

LNG Project or the LNG Canada Project, and

- (ii) receipt of a written request from Kitselas to transfer the Parcel, received within 7 years from the date in subsection c) (i).

- 4.2 Expiry of Notice Period.** If Kitselas has not provided a written request in accordance with section 4.1 to transfer a Parcel within 90 days prior to the expiration of the applicable notice period, at Kitselas request, the Parties will meet to discuss the transfer of that Parcel.
- 4.3 Pre-Closing Deliveries by Kitselas.** At least 60 days, or other time period agreed to by the Parties, prior to the Closing Date with respect to a Parcel, Kitselas will deliver to the Province a direction identifying the Designated Company that will take fee simple title to the Parcel.
- 4.4 Closing Deliveries by Province.** Subject to the Permitted Encumbrances and the terms of this Agreement, including the satisfaction or waiver of the conditions precedent under Article 5, the Province will provide the Designated Company identified under section 4.3 with a Crown Grant in fee simple for the applicable Parcel to be transferred.
- 4.5 Closing Deliveries by Kitselas.** Not less than 14 days before the applicable Closing Date with respect to a Parcel to be transferred, Kitselas will execute and deliver, or cause to be executed and delivered, or deliver, as the case may be, to the Province:
- a) a restrictive covenant granted by the Designated Company substantially in the form attached as Schedule 3 in relation to the Parcel;
 - b) an agreement executed by the Designated Company substantially in the form attached as Schedule 4 in relation to the Parcel;
 - c) a certificate signed by an officer of the Designated Company substantially in the form attached as Schedule 5 confirming the Designated Company's GST registration number and registered status;
 - d) a letter of undertaking signed by Kitselas's legal counsel undertaking, among other things, that the restrictive covenant (Schedule 3) and applicable Permitted Encumbrances will be filed concurrently with the Crown Grant in the order of priority set out in this Agreement and that the Province will be provided with a signed copy of the Designated Company Agreement (Schedule 4) and the GST Certificate (Schedule 5);
 - e) a Property Transfer Tax form executed by the Designated Company; and
 - f) all such other documents that may be necessary or advisable for Kitselas

or a Designated Company to provide to complete the transactions contemplated under this Agreement.

- 4.6 Registration of Lands.** All Parcels transferred under this Agreement will be registered in the Land Title Office.
- 4.7 Closing Procedure.** The legal counsel for Kitselas and the Province will confirm in writing the manner in which the documents necessary or advisable to transfer and register each of the Parcels will be produced, managed, exchanged and delivered. Without limiting the generality of the foregoing, legal counsel responsible for registering a Parcel will:
- a) provide a letter of undertaking;
 - b) provide copies of all documents filed under section 4.5(d) to legal counsel for the other Party.
- 4.8 Staged Transfer of Portions of a Parcel.** If Kitselas determines that rather than obtaining the transfer of an entire Parcel it would like to obtain a staged transfer of portions of the Parcel, it may provide notice to the Province and the Parties will negotiate and attempt to reach agreement on amendments to this Agreement to address that interest.
- 4.9 Confirmation of Parcel Boundaries.** As soon as practicable after Kitselas delivers a notice under section 4.1 requesting a transfer of a Parcel, the Parties will meet to review and confirm the boundaries of the Parcel to be transferred as shown in Schedule 1 and may, prior to the Province obtaining a legal survey of those Lands, agree to adjust the boundaries of the Parcel and amend Schedule 1 accordingly.
- 4.10 Status of the Lands.** Kitselas acknowledges that:
- a) subject to the terms and conditions of this Agreement, the Lands will be transferred to a Designated Company in fee simple and, for certainty, after Closing the Lands will be subject to provincial and federal laws of general application; and
 - b) the Province has made no representation or warranty regarding the Lands becoming a pre-approved addition to the treaty settlement lands of Kitselas under the Final Agreement.

ARTICLE 5 – CONDITIONS PRECEDENT

- 5.1 Band Council Resolution.** The obligations of the Province under this Agreement are subject to Kitselas delivering to the Province on or before the

Effective Date a resolution made by its elected Council authorizing Kitselas's representatives named in the resolution to execute and deliver this Agreement on behalf of Kitselas.

5.2 Conditions Precedent to all Land Transfers. The obligation of the Province to transfer each of the Parcels to a Designated Company under this Agreement is subject to:

- a) Kitselas being in compliance with all of its material obligations under this Agreement;
- b) the representations and warranties of Kitselas under this Agreement being true and correct on the applicable Closing Date;
- c) the Province having received a written request from Kitselas within the time period identified in section 4.1 to transfer the applicable Parcel;
- d) all material obligations of Kitselas and the Designated Company in respect of all previously transferred Parcels having been fully performed in accordance with this Agreement;
- e) the Province being satisfied that it has fulfilled any consultation obligations it may have with respect to assertions of Aboriginal Rights to the applicable Parcel by First Nations other than Kitselas;
- f) the Parties reaching agreement in accordance with section 7.2 on the Permitted Encumbrances applicable to the Parcel and updating and amending Schedule 2 in respect of that Parcel accordingly;
- g) the Parties reaching agreement in accordance with section 7.3 on the location and size of Crown Corridors or statutory rights of way or easements required to address transportation routes, electrical and natural gas transmission infrastructure and water, sewage or other utility corridor requirements and updating and amending Schedule 2 in respect of that Parcel accordingly;
- h) legal surveys for the applicable Parcel having been completed by the Province and approved in accordance with provincial law before the applicable Closing Date; and
- i) the minister responsible having authorized the disposition of the applicable Parcel in accordance with provincial law before the applicable Closing Date.

5.3 Conditions Precedent to Particular Parcels. In addition to the conditions set out in section 5.2 applicable to all Parcels, the obligation of the Province to

transfer the following Parcels to a Designated Company under this Agreement is also subject to the following conditions:

a) Airport Groundside Lands:

- (i) without limiting sections 6.3 and 6.4 and subject to section 6.6, the Province having completed a review of the environmental condition of the Lands and, in consultation with Kitselas, determining that there are no significant environmental remediation risks associated with the Parcel; and
- (ii) the Province having received written confirmation from the City of Terrace that it has surrendered its interest in the Parcel under the Option to Purchase Agreement dated April 18, 2008, in a form and content satisfactory to the Province acting reasonably;

b) Dubose Lands:

- (i) the Parties reaching agreement on the terms and conditions of a *Land Title Act* section 219 covenant restricting the use of an agreed to portion of the Dubose Lands for commercial or industrial purposes only, to be registered as a first charge against the title to the Parcel unless the Parties agree otherwise; and
- (ii) the Province, Kitselas and the holder of the Terrace Community Forest Licence (the "Licensee") concluding an agreement or agreements respecting ongoing forest activities within that portion of the Dubose Lands currently within the Terrace Community Forest, which provides:
 - 1. the consent of the Licensee, not to be unreasonably withheld, to the change in the boundary or area of the Terrace Community Forest Agreement arising as a result of the transfer of the Dubose Lands and to any corresponding reduction in the allowable annual cut under the Terrace Community Forest Agreement;
 - 2. the Licensee releasing any claims it may have against the Province for compensation under the *Forest Act* associated with the reduction in the annual allowable cut arising as a result of the deletion of the Dubose Lands from the Terrace Community Forest Agreement; and
 - 3. the Licensee or Kitselas indemnifying and saving the Province harmless from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or

incurred by it after Closing for compensation under the *Forest Act* associated with the reduction in the annual allowable cut arising as a result of the deletion of the Dubose Lands from the Terrace Community Forest Agreement.

c) Thornhill Lands:

- (i) within 12 months of the Effective Date of this Agreement, the Regional District of Kitimat Stikine completing a land use planning process involving Ministry of Transportation and Infrastructure and Kitselas that identifies required road and weigh scale infrastructure exclusions and the Parties agreeing on revised boundaries of the Parcel that address those interests.

5.4 The Parties acknowledge that the agreement(s) to be concluded under section 5.3 (b) (ii) will involve Kitselas and the Licensee reaching agreement on approaches to address the Licensee's interests associated with the reduction in the annual allowable cut arising as a result of the deletion of the Dubose Lands from the Terrace Community Forest Agreement and those approaches may include:

- a) the ongoing ability of the Licensee to harvest timber on undeveloped areas of the Dubose Lands as identified by Kitselas from time to time;
- b) the ability of the Licensee to harvest timber on alternate lands acquired by Kitselas, including incremental treaty lands or future treaty settlement lands; or
- c) other measures as may be agreed to by Kitselas and the Licensee.

5.5 The Parties acknowledge that the agreement(s) to be concluded under section 5.3 (b) (ii) will not involve the Province agreeing to include any additional provincial Crown land within the Terrace Community Forest Agreement or providing the Licensee with any compensation.

5.6 Conditions Precedent to the Payment of Funds. The obligation of the Province to make any payments to Kitselas under this Agreement is subject to:

- a) Kitselas being in compliance with all of its material obligations under this Agreement; and
- b) the representations and warranties of Kitselas under this Agreement being true and correct on the applicable payment date.

- 5.7 Waiver of Conditions Precedent.** The conditions precedent set out in this Article are for the sole benefit of the Province and may be waived by the Province on written notice to Kitselas.
- 5.8** Notwithstanding section 5.7, the Province will waive the condition precedent set out in section 5.3 b) ii) 3 if, on or before the Closing Date of the Dubose Lands, the Final Agreement is in force and effect and the Province, acting reasonably, determines that the Final Agreement adequately addresses the potential liability of the Province to provide compensation under the *Forest Act* associated with the reduction in the annual allowable cut arising as a result of the deletion of the Dubose Lands from the Terrace Community Forest Agreement.

ARTICLE 6 – CONDITION OF LANDS

- 6.1 Lands “As Is”.** Kitselas acknowledges and agrees that any and all of the Lands acquired by a Designated Company under this Agreement are acquired “as is”.
- 6.2 Viability of Lands.** Kitselas acknowledges and agrees that the Province has not given any representation or warranty concerning:
- a) physical access to the Lands including, without limitation, overland access;
 - b) the economic feasibility of the development of the Lands;
 - c) the fitness of the Lands for any particular use, including the intended use of it by Kitselas or by a Designated Company; and
 - d) the provisions of any enactments or bylaws of any governmental body which relate to the development, use and occupation of the Lands.
- 6.3 Environmental Condition.** Kitselas:
- a) waives the requirement, if any, of the Province to provide a site profile as defined in the *Environmental Management Act* for any of the Lands; and
 - b) acknowledges and agrees that the Province has not given any representation or warranty concerning the condition of the Lands (including surface water and groundwater), environmental or otherwise, including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Lands and on or under any surrounding or neighbouring land and the current and past uses of the Land and any surrounding or neighbouring land.
- 6.4 Environmental Conditions.** Kitselas will from and after the Closing:

- a) assume all environmental liabilities relating to the Lands including, but not limited to, all liability for the clean-up of any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Lands or migrating from the Lands (including surface water and groundwater) and any other costs of remediation of the Lands, whether disclosed or undisclosed, known or unknown, created or existing, that arose before the Closing Date or arose before and continues after the Closing Date;
- b) release the Provincial Officials from and against all claims, demands, liabilities, losses, damages, costs, actions, causes of action, suits and proceedings with respect to any and all environmental liabilities described in this section 6.4 a), and
- c) indemnify and save harmless the Provincial Officials from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by them after the Closing arising out of or in connection with any and all environmental liabilities described in this section 6.4 a).

6.5 Post-Closing Date. Section 6.4 does not apply where the environmental liability relating to the Lands results from the acts or omissions of British Columbia after the Closing Date.

6.6 Pre-Closing Discovery of Contamination. If prior to Closing either Party becomes aware that the Lands to be transferred are a "contaminated site" within the meaning of the *Environmental Management Act* the Parties will negotiate and attempt to reach agreement on potential comparable alternate lands.

ARTICLE 7 – ENCUMBRANCES AND CROWN CORRIDORS

7.1 Permitted Encumbrances. Kitselas accepts fee simple title to each Parcel subject to the Permitted Encumbrances and covenants not to do, or allow to be done, anything that would interfere with any rights under any of the Permitted Encumbrances or that would otherwise result in any claim against the Province by anyone claiming by, through or under a Permitted Encumbrance.

7.2 Finalization of Permitted Encumbrances. The Parties acknowledge that as of the Effective Date the land status review of the Parcels required to identify all existing reservations, exceptions, liens, charges and interests has not been completed and that between the Effective Date and the transfer of a Parcel to a Designated Company, the Parties will review and amend Schedule 2 (Permitted Encumbrances) in respect of that Parcel accordingly.

7.3 Finalization of Crown Corridors. The Parties acknowledge that as of the Effective Date:

- a) the location and size of Crown Corridors required to be excluded from the Parcels; and
- b) the location, size and terms and conditions of easements or statutory rights of way required to address transportation routes, including railway routes, electrical and natural gas transmission infrastructure and water, sewage or other utility corridor requirements on or through the Parcels to service the Parcels or lands outside the Parcels;

have not been finalized, and agree that between the Effective Date and the transfer of each Parcel to a Designated Company they will review and amend Schedule 2 in respect of that Parcel accordingly.

ARTICLE 8 – TRANSACTION COSTS

8.1 Property Transfer Tax, Survey and Other Costs. The Province is responsible for the payment of the following costs in connection with the transfer of the Lands:

- a) subject to section 8.4, the cost of obtaining a legal survey of the outer boundaries of each Parcel;
- b) the costs associated with the preparation of Crown grants; and
- c) property transfer tax, and for greater certainty, the Province agrees to either pay or waive the requirement to pay any property transfer tax payable under the *Property Transfer Tax Act* in connection with the transfer of the Lands under this Agreement.

8.2 GST, PST and Other Charges. Kitselas is responsible for GST and any other federal sales tax, and any other transfer or registration charges which the Province has not expressly agreed to accept responsibility for under this Agreement.

8.3 Annual Taxes and Other Costs. In accordance with provincial law, the Designated Company is responsible for any and all annual taxes payable in respect of the Lands. For greater certainty, on and after the applicable Closing Date, the Province is not required to assume any financial or other obligation with respect to that Parcel.

8.4 Costs Associated with the Transfer of Portions of a Parcel. For certainty, the obligation of the Province under section 8.1 a) is to pay for the cost to survey the

outer boundaries of a Parcel and if Kitselas wishes to obtain the staged transfer of portions of a Parcel as contemplated by section 4.8, it is responsible for the cost of any additional required survey work and other related costs.

ARTICLE 9 - OTHER LAND RELATED COVENANTS

9.1 Other Kitselas Covenants. Kitselas further acknowledges and covenants that:

- a) the Lands that may be transferred to a Designated Company in accordance with this Agreement will not be "lands reserved for the Indians" within the meaning of section 91(24) of the *Constitution Act, 1867* or a reserve within the meaning of the *Indian Act*, and at no time after Closing, will Kitselas seek to add any of the Lands to its reserve lands without the consent of the Province; and
- b) the Lands are subject to provincial and local government laws, including applicable zoning, land use, land development and property tax laws, and at no time after Closing will Kitselas challenge the applicability of provincial or local government laws to the Lands.

9.2 Indemnity for Charges. Kitselas will indemnify and save harmless the Province and all Provincial Officials from any and all damages, losses, liabilities or costs that the Province or any Provincial Official may suffer or incur in connection with or as a result of any suit, action, claim, proceeding or demand made by any person other than the Province arising in connection with any Permitted Encumbrance or any charge or encumbrance granted by Kitselas or the Designated Company.

9.3 Registration of Unregistered Interests. The Parties will identify any unregistered interests which may require registration against the applicable Parcel in the Land Title Office, and, once agreed, set out such interest in Schedule 2.

9.4 Unregisterable Permitted Encumbrances. If any Permitted Encumbrance is not registerable in accordance with the *Land Title Act*, Kitselas will cause the Designated Company to enter into an agreement with the holder of that Permitted Encumbrance on substantially the same terms and conditions that exist between the Province and the holder of that Permitted Encumbrance, to take effect on the Closing Date of the applicable Parcel.

9.5 Interim Uses. The Province may authorize the interim use and occupation of the Lands prior to Closing with the consent of Kitselas.

ARTICLE 10 – INCREMENTAL TREATY NEGOTIATIONS

- 10.1 ITA Negotiations.** If requested to do so, the Province will negotiate and attempt to reach an agreement or agreements with Kitselas on an incremental treaty agreement that would set out the terms and conditions by which the Province would transfer the ITA Opportunity Lands to a company owned and controlled by Kitselas in advance of the Final Agreement.

ARTICLE 11 – KITSELAS ASSURANCES

- 11.1 PNW LNG Project and LNG Canada Project Assurances.** Provided that the Province is not in breach of its material obligations under this Agreement, Kitselas will:
- a) indicate in writing that it is supportive of the PNW LNG Project, its Associated Infrastructure and any related Governmental Action, and the LNG Canada Project, its Associated Infrastructure and any related Governmental Action, if so requested by the Province;
 - b) continue to participate in the PNW LNG Project and the LNG Canada Project environmental assessment and regulatory processes in a timely manner;
 - c) confirm that it is being consulted and accommodated in respect of the PNW LNG Project, its Associated Infrastructure and any related Governmental Action, and the LNG Canada Project, its Associated Infrastructure and any related Governmental Action;
 - d) not initiate or participate, directly or indirectly, in any legal action or proceeding that challenges, directly or indirectly, the PNW LNG Project, its Associated Infrastructure or any related Governmental Action, or the LNG Canada Project, its Associated Infrastructure and any related Governmental Action, on the basis that Kitselas has not been adequately consulted or accommodated or that the PNW LNG Project, its Associated Infrastructure or any related Governmental Action or the LNG Canada Project, its Associated Infrastructure and any related Governmental Action, constitutes an infringement of its Aboriginal Rights;
 - e) not initiate, support or participate, directly or indirectly, in any action that would interfere with, delay, hinder or otherwise oppose the PNW LNG Project, its Associated Infrastructure or any Governmental Action or the LNG Canada Project, its Associated Infrastructure and any related Governmental Action; and

- f) not support actions of any kind whatsoever by a Kitselas Citizen or a member of any other First Nation that would interfere with, delay, hinder or otherwise oppose the PNW LNG Project, its Associated Infrastructure and any related Governmental Action, or the LNG Canada Project, its Associated Infrastructure or any related Governmental Action.

11.2 Assurances upon the PNW LNG Project or LNG Canada Project FID.

Provided that the Province is not in breach of its material obligations under this Agreement, upon the earlier of the FID in respect of the PNW LNG Project or the LNG Canada Project, Kitselas:

- a) releases and discharges the Province and all Provincial Officials from all claims with respect to the Province's obligation to consult and, where appropriate, accommodate in respect of the PNW LNG Project, its Associated Infrastructure and any related Governmental Action, and the LNG Canada Project, its Associated Infrastructure and any related Governmental Action;
- b) releases and discharges the Province and all Provincial Officials from all claims of infringement of its Aboriginal Rights in respect of the PNW LNG Project, its Associated Infrastructure and any related Governmental Action, and the LNG Canada Project, its Associated Infrastructure and any related Governmental Action; and
- c) acknowledges that the Province has fulfilled all obligations it may have to provide Kitselas with financial or economic accommodation, economic or other benefits including lands, capacity funding, and payments or compensation of any kind whatsoever that may be required with respect to the PNW LNG Project, its Associated Infrastructure, and any related Governmental Action and the LNG Canada Project, its Associated Infrastructure and any related Governmental Action.

11.3 Assurances in relation to the Lands and Permitted Encumbrances. Upon the Closing Date, Kitselas:

- a) releases and discharges the Province and all Provincial Officials from all claims with respect to the Province's obligation to consult and, where appropriate, accommodate in respect of the transfer of the Parcel to the Designated Company and any Permitted Encumbrances in respect of the Parcel;
- b) releases and discharges the Province and all Provincial Officials from all claims of infringement of its Aboriginal Rights in respect of the Parcel and any applicable Permitted Encumbrances; and

- c) acknowledges that the Province has fulfilled all obligations it may have to provide Kitselas with financial or economic accommodation, economic or other benefits including lands, capacity funding, and payments or compensation of any kind whatsoever that may be required with respect of the transfer of the Parcel to the Designated Company and any Permitted Encumbrances in respect of the Parcel.

11.4 Assurances of Kitselas in relation to the Other LNG Projects. Provided that the Province is not in breach of its material obligations under this Agreement, Kitselas will:

- a) support the Other LNG Projects generally, provided that they are developed in a manner that is environmentally and socially responsible and respectful of Kitselas' Aboriginal Rights;
- b) participate in good faith in all environment assessment and regulatory processes for each of the Other LNG Projects;
- c) not initiate, support or participate, directly or indirectly, in any activity that would physically interfere with so as to delay, hinder or impede the development of an Other LNG Project, its Associated Infrastructure or any related Governmental Action;
- d) not support actions of any kind whatsoever by a Kitselas Citizen of Kitselas or a member of any other First Nation that would physically interfere with so as to delay, hinder or impede the development of an Other LNG Project, its Associated Infrastructure or any related Governmental Action;
- e) acknowledge and agree that the Province has fulfilled all obligations it may have to provide Kitselas with financial or economic accommodation, economic or other benefits including lands, capacity funding, and payments or compensation of any kind whatsoever with respect to each of the Other LNG Projects, its Associated Infrastructure and any related Governmental Action; and
- f) release and discharge the Province and Provincial Officials from all claims for financial or economic accommodation, economic or other benefits including lands, monetary damages, or other payments or compensation of any kind whatsoever associated with:
 - (i) the Province's obligation to consult, and where appropriate, accommodate in respect of each of the Other LNG Projects, its Associated Infrastructure and any related Governmental Action, and

- (ii) any infringement of Kitselas' Aboriginal Rights in respect of each of the Other LNG Projects, its Associated Infrastructure and any related Governmental Action.

11.5 Releases in respect of Other LNG Projects. Upon the Commencement of Construction of an Other LNG Project, Kitselas will:

- a) not initiate or participate in or support any legal action or proceeding that challenges, directly or indirectly, that Other LNG Project, its Associated Infrastructure or any related Governmental Action on the basis that Kitselas has not been adequately consulted on that Other LNG Project, its Associated Infrastructure or any related Governmental Action or that Other LNG Project, its Associated Infrastructure or any related Governmental Action constitutes an unjustified infringement of its Aboriginal Rights;
- b) release and discharge the Province and all Provincial Officials from all claims with respect to the Province's obligation to consult, and where appropriate, accommodate, in respect of that Other LNG Project, its Associated Infrastructure and any related Governmental Action;
- c) release and discharge the Province and all Provincial Officials from all claims of infringement of its Aboriginal Rights in respect of that Other LNG Project, its Associated Infrastructure and any related Governmental Action; and
- d) notwithstanding subsections a), b) and c), if Kitselas has not delivered an Incremental Project Funding Notice in respect of an Other LNG Project prior to the Province issuing an LNG facility permit under the *Oil and Gas Activities Act* in respect of that Other LNG Project, the covenants and releases under subsections a), b) and c) will be suspended and the Province will not seek to enforce or rely on subsections a), b) and c) until such time as Kitselas provides an Incremental Project Funding Notice in respect of that Other LNG Project.

11.6 Kitimat LNG Project Assurances. Provided that the Province is not in breach of its material obligations under this Agreement, Kitselas will:

- a) participate in good faith in all environment assessment and regulatory processes for the Kitimat LNG Project;
- b) not initiate, support or participate, directly or indirectly, in any activity that would physically interfere with so as to delay, hinder or impede the development of the Kitimat LNG Project, its Associated Infrastructure or any related Governmental Action;

- c) not support actions of any kind whatsoever by a Kitselas Citizen or a member of any other First Nation that would physically interfere with so as to delay, hinder or impede the development of the Kitimat LNG Project, its Associated Infrastructure or any related Governmental Action;
- d) acknowledge and agree that the Province has fulfilled all obligations it may have to provide Kitselas with financial or economic accommodation, economic or other benefits including lands, capacity funding, and payments or compensation of any kind whatsoever with respect to the Kitimat LNG Project, its Associated Infrastructure and any related Governmental Action; and
- e) release and discharge the Province and Provincial Officials from all claims for financial or economic accommodation, economic or other benefits including lands, monetary damages, or other payments or compensation of any kind whatsoever associated with:
 - (i) the Province's obligation to consult, and where appropriate, accommodate in respect of each of the Kitimat LNG Project, its Associated Infrastructure and any related Governmental Action, and
 - (ii) any infringement of Kitselas' Aboriginal Rights in respect of each of the Kitimat LNG Project, its Associated Infrastructure and any related Governmental Action.

11.7 Assurances upon the Kitimat LNG Project FID. Provided that the Province is not in breach of its material obligations under this Agreement, upon the FID in respect of the Kitimat LNG Project, Kitselas:

- a) releases and discharges the Province and all Provincial Officials from all claims with respect to the Province's obligation to consult and, where appropriate, accommodate in respect of the Kitimat LNG Project, its Associated Infrastructure and any related Governmental Action;
- b) releases and discharges the Province and all Provincial Officials from all claims of infringement of its Aboriginal Rights in respect of the Kitimat LNG Project, its Associated Infrastructure and any related Governmental Action; and
- c) acknowledges that the Province has fulfilled all obligations it may have to provide Kitselas with financial or economic accommodation, economic or other benefits including lands, capacity funding, and payments or compensation of any kind whatsoever that may be required with respect to the Kitimat LNG Project, its Associated Infrastructure, and any related Governmental Action.

ARTICLE 12 - DISPUTE RESOLUTION

- 12.1 Representatives.** If a dispute arises between the Province and Kitselas regarding the interpretation of a provision of this Agreement, representatives of the Parties will meet as soon as is practicable to attempt to resolve the dispute.
- 12.2 Senior Representatives.** If the representatives of the Parties are unable to resolve differences at the appropriate level, the dispute will be raised to more senior levels of the Province and Kitselas.
- 12.3 Other Means.** The Parties may choose other appropriate approaches to assist in reaching resolution of the dispute.

ARTICLE 13 – NOTICES

- 13.1 Notices.** Any notice, document, statement, report, demand or grant that any Party may be required or may desire to give to any other Party under this Agreement must be in writing, unless otherwise specified herein, and will be deemed validly given to and received by the addressee, if served personally, on the date of personal service or, if delivered by mail, e-mail or facsimile copier, when received as follows:

if to the Province:

Deputy Minister
Ministry of Natural Gas Development
P.O Box 9319 Stn. Prov. Gvt.
Victoria, B.C. V8W 9B1

Fax: 250 952-0269

And to:

Deputy Minister
Ministry of Aboriginal Relations and Reconciliation
P.O Box 9100 Stn. Prov. Gvt.
Victoria, B.C. V8W 9B1

Fax: (250) 387-6073

and if to Kitselas:

Kitselas Band Council
2225 Gitaus Road
Terrace, BC
V8G 0A9

Attention: Chief Administrative Officer

Fax: (250) 628-9259

- 13.2 Change of Address.** Either Party may, from time to time, give written or e-mail notice to the other Party of any change of address or facsimile number of the Party giving such notice and after the giving of such notice, the address or facsimile number therein specified will, for purposes of this Agreement be conclusively deemed to be the address or facsimile number of the Party giving such notice.

**ARTICLE 14 - COMING INTO EFFECT, SUSPENSION OF PROVINCIAL
OBLIGATIONS, TERMINATION AND SURVIVAL**

- 14.1 Coming into Effect.** This Agreement comes into effect when it has been executed and delivered by the Parties.
- 14.2 Suspension of Provincial Obligations.** Subject to section 14.3, notwithstanding any other provision in this Agreement, if:
- a) Kitselas fails to perform or is in breach of any of its material obligations under this Agreement;
 - b) any representation or warranty made by Kitselas in this Agreement is not true or incorrect;
 - c) Kitselas initiates, participates in or supports any legal action or proceeding that challenges, directly or indirectly:
 - (i) the PNW LNG Project,
 - (ii) the LNG Canada Project,
 - (iii) the Kitimat LNG Project, or
 - (iv) any Other LNG Project,

or any Associated Infrastructure or related Governmental Action in respect of any such LNG project, on the basis that Kitselas has not been adequately consulted or accommodated or that such LNG project constitutes an unjustified infringement of Kitselas' Aboriginal Rights;

- d) Kitselas initiates, participates or supports, directly or indirectly in any activity that would physically interfere with so as to delay, hinder or otherwise oppose any LNG project identified in subsection c) or any Associated Infrastructure or related Governmental Action in respect of such LNG project; or
- e) Kitselas supports actions of any kind whatsoever by a Kitselas Citizen or a member of any other First Nation that would interfere with so as to delay, hinder or oppose any LNG project identified in subsection c) or any Associated Infrastructure or related Governmental Action in respect of such LNG project;

then the Province may, by written notice to Kitselas:

- a) suspend the transfer of any Lands that have not yet been transferred to Kitselas under this Agreement; or
- b) suspend the payment of any funds under this Agreement that have not yet been made to Kitselas under this Agreement.

14.3 Notice of Proposed Suspension. Prior to taking any action under section 14.2, the Province will notify Kitselas of the proposed action and the Parties will meet within 30 days to discuss and attempt to resolve the matter.

14.4 Province may Terminate on Breach. Subject to sections 14.5 and 14.7, the Province may, by written notice to Kitselas, terminate this Agreement if Kitselas is in breach of any of its obligations set out in Article 11 (Assurances) or Article 9 (Other Covenants).

14.5 Notice of Proposed Termination. Prior to terminating this Agreement under section 14.4, the Province will notify Kitselas of the proposed termination and the Parties will meet within 30 days to discuss and attempt to resolve the matter.

14.6 No Meeting or Resolution of Outstanding Matter. For certainty, nothing in sections 14.3 or 14.5 limits the ability of the Province to take any action if Kitselas does not meet with the Province or the Parties are not able to resolve the matter as a result of meeting in accordance with sections 14.3 or 14.5.

14.7 Suspension prior to Termination. The Province may not provide a notice to terminate this Agreement under section 14.5, unless it has firstly provided a notice of suspension of obligations in accordance with section 14.3 and the 30

day time period for the Parties to meet and attempt to resolve the matter under section 14.3 has expired.

- 14.8 Survival of Terms and Conditions after Transfer of Lands.** Article 6 - Condition of Lands, and Article 9 - Other Land Related Covenants and section 11.3, survive the completion of the transfer of any Parcel or the termination of this Agreement and, for greater certainty, will continue to apply to the Lands.
- 14.9 Survival of Terms and Conditions after Payment of Funds.** If the financial benefits to be paid to Kitselas under sections 3.1, 3.2, 3.3, and 3.4 have been provided, sections 11.2, 11.4 and 11.5 survive the termination of this Agreement and, if the financial benefits to be paid to Kitselas under section 3.5 have been provided, sections 11.6 and 11.7 survive the termination of this Agreement.
- 14.10 Termination.** Notwithstanding any other provision of this Agreement, this Agreement terminates and all obligations of the Parties under this Agreement cease if the Commencement of Construction of either the PNW LNG Project or the LNG Canada Project has not occurred within 5 years from the Effective Date.
- 14.11 Meeting Prior to Date of Termination.** The Parties will meet at least 60 days prior to the potential termination of this Agreement under section 14.10 to discuss the status of this Agreement.
- 14.12 Failure to Meet or Agree.** For certainty, nothing in section 14.11:
- a) limits the operation of section 14.9 if Kitselas fails to meet; or
 - b) requires the Parties to agree to extend the term of this Agreement.

ARTICLE 15 – GENERAL

- 15.1 Financial Administration Act.** The Province's obligations set out in this Agreement are subject to there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any fiscal year, when any expenditure in respect of an obligation may be required, to make that expenditure, and Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited any expenditure that is necessary under any required appropriation.
- 15.2 Entire Agreement.** This Agreement is the entire agreement between the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Agreement.

15.3 Further Acts and Assurances. Each of the Parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatsoever for the better and absolute performance of the terms and conditions of this Agreement.

15.4 No Implied Waiver. Any waiver of:

- a) a provision of this Agreement;
- b) the performance by a Party of an obligation under this Agreement; or
- c) a default by a Party of an obligation under this Agreement,

will be in writing and signed by the Party giving the waiver and will not constitute a waiver of any other provision, obligation or subsequent default.

15.5 Successors. This Agreement will enure to the benefit of and be binding on Kitselas and its successors.

15.6 No Admissions. Nothing in this Agreement will be construed:

- a) to limit or prevent Kitselas from participating in any revenue sharing arrangements that the Province may establish for eligible First Nations in relation to any revenues generated from provincial Crown land dispositions, or other provincial revenues other than those contained in the Coastal Fund Agreement or this Agreement, associated with LNG projects;
- b) to preclude Kitselas from identifying concerns about potential impacts of any LNG project and its Associated Infrastructure in the applicable environmental assessment or regulatory process, and either Party may seek to resolve those concerns as part of the applicable environmental assessment or regulatory process;
- c) to preclude Kitselas from taking any necessary steps in accordance with applicable federal and provincial law with respect to concerns it may have as a result any LNG project proponent being in breach of its obligations under its licenses, permits and approvals;
- d) to preclude Kitselas from identifying concerns about the enforcement of conditions attached to a Governmental Action with the relevant provincial agencies;
- e) as an admission by the Province of the validity of any claim by Kitselas to a specific treaty right or an Aboriginal Right;

- f) as an acknowledgment by the Province that it has an obligation to provide financial or economic accommodation to Kitselas; or
- g) to preclude or limit the Province from relying on the provision of any benefit provided to Kitselas under this Agreement in any legal proceeding with respect to the adequacy of financial accommodation or compensation for any alleged infringement of Kitselas' Aboriginal Rights in relation to the PNW LNG Project, the LNG Canada Project, any Other LNG Project, or the Kitimat LNG Project.

15.7 Not a Treaty. This Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982* (Canada); or
- b) recognize, affirm, define, deny, limit or amend any Aboriginal Right or any responsibilities of the Parties except as set out in this Agreement.

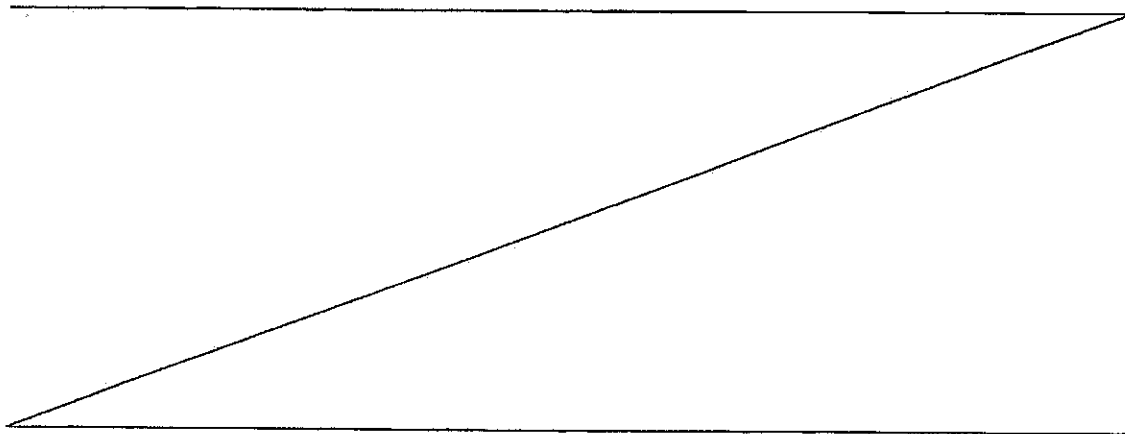
15.8 No Fettering. Nothing in this Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.

15.9 Amendment. This Agreement may be amended from time to time by the Parties in writing.

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

15.11 Assignment. This Agreement, or any benefit under this Agreement, may not be assigned by a Party without the express written consent of the other Party.

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15.12 Execution in Counterpart. This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a scan, photocopy or facsimile copy) and delivering it to the other Party by facsimile or electronic transmission.

IN WITNESS WHEREOF the Parties have executed this Agreement as set out below:

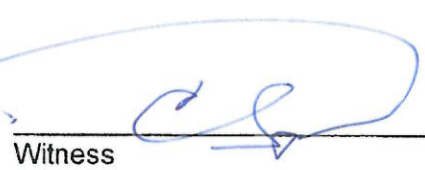
Signed on behalf of Kitselas by the
Chief Councillor



Chief Joe Bevan or authorized representative

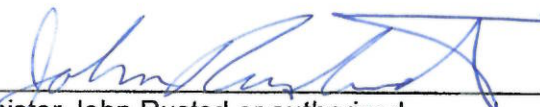
MAR 30 2017

Date



Witness

**Signed on behalf of Her Majesty the Queen In
Right of the Province of British Columbia as
represented by the Minister of Aboriginal
Relations and Reconciliation**



Minister John Rustad or authorized
representative


MAR 30 2017

Date



Witness

**Signed on behalf of Her Majesty the Queen In
Right of the Province of British Columbia as
represented by the Minister of Natural Gas
Development**



Minister Rich Coleman or authorized
representative

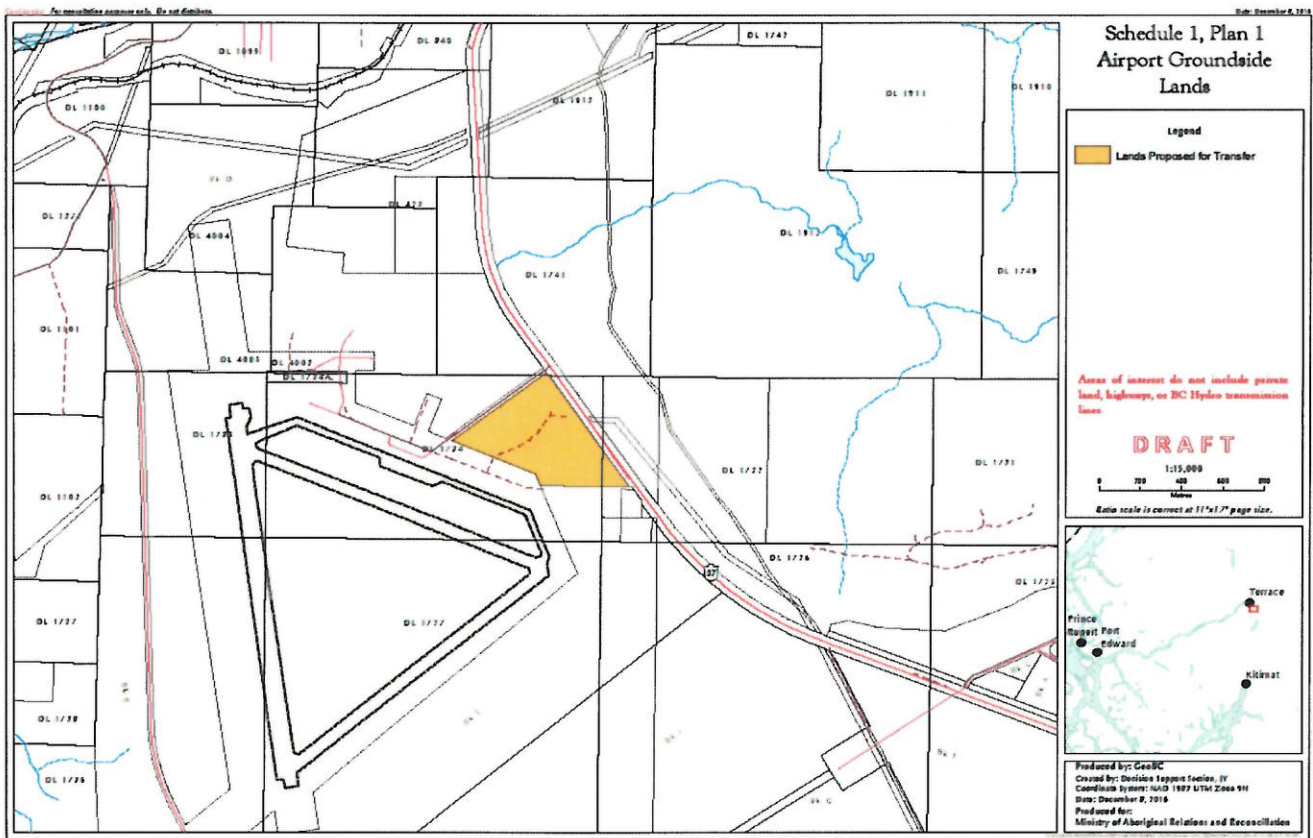
MAR 29 2017

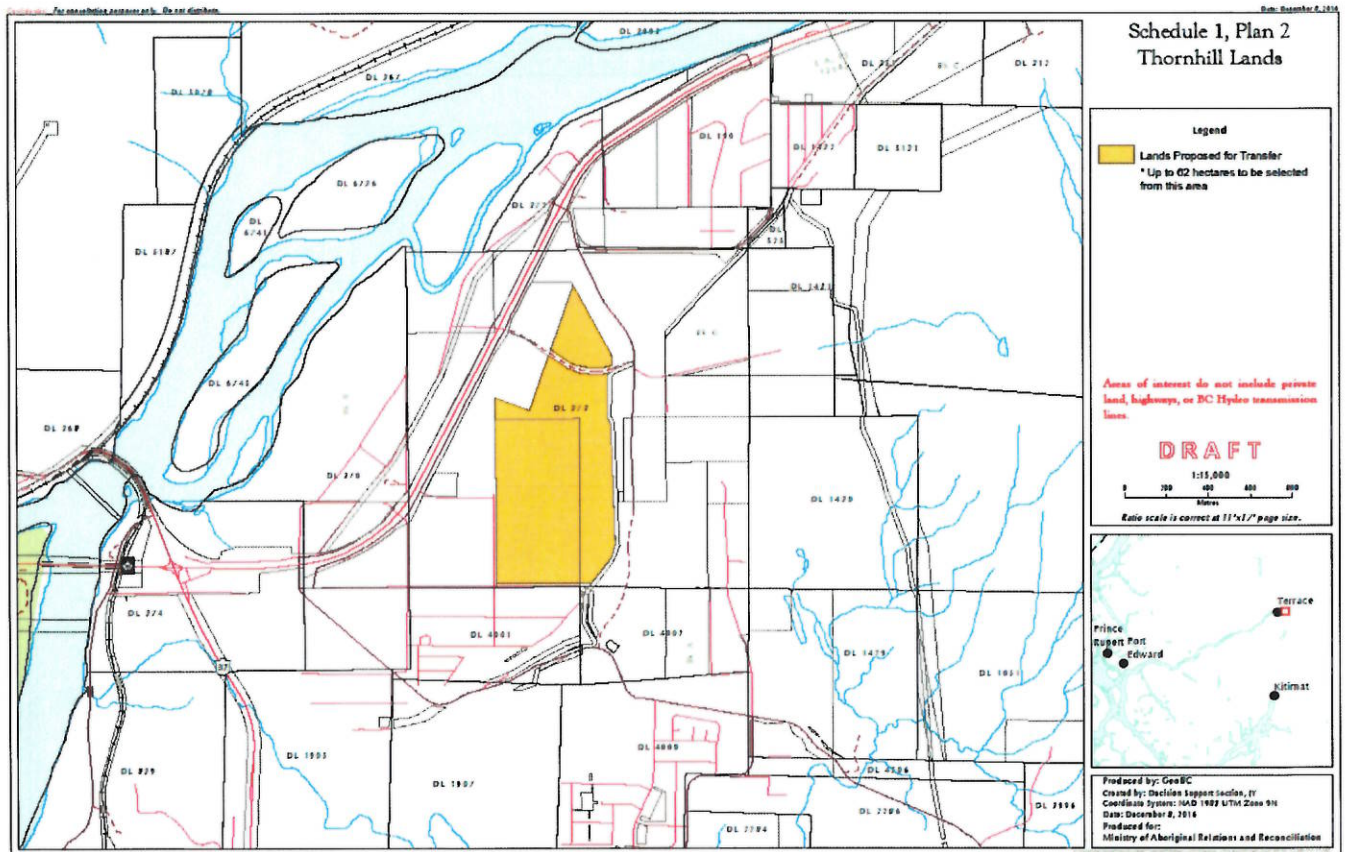
Date



Witness

Schedule “1” – Map of Lands for Illustrative Purposes
Plan 1 to Plan 3 – Map of Parcels for Illustrative Purposes





Schedule 2 Permitted Encumbrances and Crown Corridors

Part 1 – Permitted Encumbrances

Part 2 - Permitted Encumbrances-Interests Not Registered on Title

Part 1 – Permitted Encumbrances

Permitted Encumbrances that apply to all Parcels
<p>All interests that encumbered or applied to the Parcel as of the Effective date and any renewal or replacement of that interest by the Province.</p> <p>All interests registered on title under the <i>Land Title Act</i> as of the Closing Date;</p> <p>All subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown grant of the Parcel;</p> <p>All exceptions and reservations contained in section 50(1) of the <i>Land Act</i>;</p> <p>Any conditional or final water license or substituted water license issued or given under the <i>Water Act</i>, or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Parcel and to maintain, repair and operate any works permitted on the Parcel under the license at the date of the Crown grant;</p> <p>All subsisting grants to, or subsisting rights of any person made or acquired under the <i>Mineral Tenure Act</i>, <i>Coal Act</i> or <i>Petroleum and Natural Gas Act</i> or under any prior or subsequent enactment of the Province of British Columbia of like effect;</p> <p>All other liens, charges and encumbrances granted by the Province, with the written consent of Kitselas prior to the Closing Date; and</p> <p>A restrictive covenant in favour of Her Majesty the Queen in right of the Province of British Columbia to be registered against the title to the Parcel in the form attached as Schedule 4 (Additions to Reserve Restrictive Covenant).</p>

Schedule 6 ITA Opportunity Lands

*Final ITA encumbrances/exclusions will be negotiated in ITA document

Land Act Tenures		
Interest Holder	Tenure Type	File #
Chevron Canada Limited	Licence of Occupation	6408868
Pacific Future Energy Corporation	Application Licence of Occupation	6408904
	Temporary Licence	6408901
	Temporary Licence	6408953
Regional District Kitimat-Stikine	Licence of Occupation	6407789
Pacific Trail Pipelines Management Inc	Licence of Occupation	9636609
	Temporary Permit	9636410
	Investigative Permit	9640217
	Investigative Permit	9640216
8056587 Canada Inc	Investigative Licence/Waterpower	6408456
		6408455
Ministry of Forests, Lands and Natural Resource Operations	Sec 16 Land Act Reserve for forest management research	0331030
Forestry Tenures		

Ministry of Forests, Lands and Natural Resource Operations	Forest research plots	EP0712 EP1325
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Schedule 1 – Plan 2 Thornhill Lands

Land Act Tenures		
Interest Holder	Tenure Type	File #
Pacific Northern Gas LTD	Physical trespass of road associated with Statutory Right of Way	0320447

Schedule 1 Plan 3 Dubose Lands

Land Act Tenures		
Interest Holder	Tenure Type	File #
Pacific Trail Pipelines Management Inc	Temporary Permit	9636410
	Investigative Permit	9640217
	Investigative Permit	9640216
Pacific Future Energy Corporation	Temporary Licence	6408901
	Temporary Licence	6408953
Ministry of Forests, Lands and Natural Resource Operations	Sec 16 Land Act Reserve for forest management research	0331030
Forestry Tenures		
Ministry of Forests, Lands and Natural Resource Operations	Forest research plots	EP0712 EP1325

NOTE: The above list of Permitted Encumbrances is a preliminary list and further land statusing work is required. It may be that as a result of further land statusing work the boundaries of the Parcels may have to be amended.

Part 2 - Permitted Encumbrances-Interests Not Registered on Title

Interests Not Registered on Title
Utility and local government Interests for hydro, telephone, cablevision, heating/natural gas, water infrastructure, storm drains, dykes and waste disposal/sewer continue on the Lands shown in Schedule 1.

Part 3 – Crown Corridors and Interests to be Excluded

Schedule 6 ITA Opportunity Lands

Interest Holder	Tenure Type	File #
Pacific Northern Gas LTD	Statutory Right of Way	0348345
		6400350
Pacific Trail Pipelines	Application/Interim Licence	Sec 138 PNG

Management Inc		Act
British Columbia Hydro and Power Authority	Statutory Right of Way	0228298 0260382
BC Ministry of Forests, Lands and Natural Resource Operations	North Kitimat Mainline Forest Permit Road Lakelse Forest Service Road Wedeeene Forest Service Road	R07570 Sec A 8261 01 9714 01
Ministry of Forests, Lands and Natural Resource Operations OR Skeena Valley Snowmobile Association	Kitimat Main Road Parking Area	REC136007

Schedule 1 Plan 3 Dubose Lands

Interest Holder	Tenure Type	File #
Pacific Trail Pipelines Management Inc	Application/Interim Licence	Sec 138 PNG Act
British Columbia Hydro and Power Authority	Temporary Licence (to be replaced with SRow for electric power line)	6408847
BC Ministry of Forests, Lands and Natural Resource Operations	Lakelse Forest Service Road Wedeeene Forest Service Road	8261 01 9714 01

NOTES:

Further work is required on the Crown Corridors as there may be other Crown Corridors that apply to the Parcels. In addition, municipal roads running through the Parcels are not listed as they are excluded from any Crown land granting process under the *Land Act*. Also roads that form the boundary of a Parcel in accordance with the required right of way width for such roads are not included as Crown Corridors and will be addressed through the surveying process.

Crown Corridors are shown for illustrative purposes on the maps of the parcels. The actual width and alignment of those Crown Corridors may change with new information or with the construction of the excluded feature.

Schedule 3 - Addition to Reserve Restrictive Covenant

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 4 pages

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

(Signature of Solicitor or Authorized Agent)

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

(PID)

(LEGAL DESCRIPTION)

3. NATURE OF INTEREST:*

Description

Document Reference

Person Entitled to Interest

(Page and paragraph)

Section 219 Covenant

Entire Document

Transferee (Grantee)

4. TERMS: Part 2 of this instrument consist 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.

3. TRANSFEROR(S):* (Grantor)

3. TRANSFeree(S): (Including postal address(es) and postal code(s))* (Grantee)

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA as represented by the Minister of Forests, Lands, and Natural Resource Operations, Parliament Buildings, PO Box 9049, STN PROV GOVT, Victoria, British Columbia, V8W 9E2

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

Y	M	D

Party(ies) Signature(s)

By
Its authorized signatory(ies):

Print Name:

Print Name:

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.

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

TERMS OF INSTRUMENT – PART 2

WHEREAS:

- A. The Grantor is the registered owner of:

(the "Land");

- B. Under section 219 of the *Land Title Act*, there may be registered against title to any land, conditions or covenants in favour of the Grantee that the land, or any specified portion thereof, is not to be used other than in accordance with the terms of a covenant.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of One (\$1.00) Dollar now paid by the Grantee to the Grantor, the receipt and sufficiency of which is hereby acknowledged, and pursuant to section 219 of the *Land Title Act*, the Grantor covenants and agrees with the Grantee as follows:

1. The Grantor covenants and agrees that the Grantor will not, in the absence of consent by the Grantee, transfer, alienate or deal with the Land in any manner which would see it incorporated into or become part of:
 - a. Reserves or special reserves as defined in the *Indian Act*; or
 - b. "Lands reserved for the Indians" under section 91(24) of the *Constitution Act, 1867*.
2. Wherever the singular or masculine are used in this Agreement, they shall be construed as meaning the plural or feminine or body corporate where the context or the parties so require.
3. This Agreement shall enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and assigns.
4. The Grantor will indemnify and save harmless the Grantee from all actions, causes of action, claims demands, suits, losses, damages, debts, accounts, liabilities, costs, expenses and compensation of any kind, including fees of solicitors and other professional advisors, arising out of any breach, violation or non-performance by the Grantor of the covenants set out in section 1.
5. No term, condition, covenant or other provision of this Agreement will be considered to have been waived by the Grantee unless such waiver is expressed in writing by the Grantee and the waiver by the Grantee of any such term, condition, covenant or other provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of that or any other term, condition, covenant or other provision of this Agreement.
6. This Agreement will be interpreted according to the laws of the Province of British Columbia.

7. Where there is a reference to an enactment of the Province of British Columbia in this Agreement, that reference includes a reference to any subsequent enactment of the Province of British Columbia of like effect and, unless the context otherwise requires, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
8. 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, will be considered separate and severable and the remaining parts or section, as the case may be, will not be affected and will be enforceable to the fullest extent permitted by law.
9. This Agreement will be registered as a charge against the Land pursuant to section 219 of the *Land Title Act*.

IN WITNESS WHEREOF the Grantor has executed this Agreement on Form C attached.

END OF DOCUMENT

Schedule 4 - Designated Company Agreement

This Agreement is dated for reference _____, 2016.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
represented by the Minister of Aboriginal Relations and Reconciliation [address]

(the "Province")

AND:

_____, a company incorporated under the laws of British Columbia and
having its principle place of business at [address]

(the "Designated Company")

(collectively referred to as the "Parties" and individually referred to as a "Party")

WHEREAS:

- A. The Province and Kitselas have entered into an agreement dated _____ (the "Agreement") pursuant to which the Province will transfer to the Designated Company fee simple title to those lands legally described as:

[Insert Legal Description of lands]

(the "Parcel")

- B. Kitselas and the Designated Company have agreed that, as a condition of the transfer of the Parcel, the Designated Company will execute and deliver this Designated Company Agreement on the terms set out below.

NOW THEREFORE the Province and the Designated Company agree as follows:

1. **Defined Terms.** The terms "Province" and "Kitselas" and any other capitalized terms used in this Designated Company Agreement and defined in the Agreement will have the meaning given to those terms in the Agreement.
2. **Environmental Condition.** The Designated Company waives the requirement, if any, of the Province to provide a site profile as defined in the *Environmental Management Act* in connection with its acquisition of the Parcel.
3. **Agreement Binding.** Without limiting the generality of the foregoing, the terms of the Agreement relating to the Parcel which are for the benefit of the Province are legally binding on the Designated Company as if the Designated Company was a party to the

Agreement, including, without limitation, Article 6 Condition of the Lands and Article 9 Other Covenants of the Agreement.

4. **Enforcement of Agreement.** The Province may, in its sole discretion, enforce any term or condition of the Agreement, including any obligation, covenant or indemnity of Kitselas, against the Designated Company or Kitselas or both of them.
5. **Representation and Warranty.** The Designated Company warrants and represents that it is in good standing and that it has the legal power, capacity and authority to enter into and to carry out its obligations under each agreement and transaction to which it is a party in accordance with this Agreement.
6. **Legal Advice.** The Designated Company acknowledges that it has had full opportunity to review the terms and conditions of this Designated Company Agreement and the Agreement, a copy of which is attached as Schedule A, and to seek independent legal advice with respect to their terms and conditions.
7. **Entire Agreement.** This Designated Company Agreement is the entire agreement between the Parties in respect of the subject matter of this Designated Company Agreement and, except as set out in this Designated Company Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Designated Company Agreement. The Schedules and Appendices to this Designated Company Agreement form part of this Designated Company Agreement.
8. **Further Acts and Assurances.** The Parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better and absolute performance of the terms and conditions of this Designated Company Agreement.
9. **No Implied Waiver.** Any waiver of:
 - a) a provision of this Designated Company Agreement;
 - b) the performance by a Party of an obligation under this Designated Company Agreement; or
 - c) a default by a Party of an obligation under this Designated Company Agreement,will be in writing and signed by the Party giving the waiver and will not be a waiver of any other provision, obligation or subsequent default.
10. **Successors.** This Designated Company Agreement will enure to the benefit of and be binding on the Designated Company and its successors and the Province.
11. **No Admissions.** Nothing in this Designated Company Agreement will be construed as an:
 - a) admission by the Province of the validity of any claim by Kitselas to a specific aboriginal right or aboriginal title within the meaning of section 35 of the *Constitution Act, 1982*; or

- b) acknowledgment by the Province that it has an obligation to provide financial or economic accommodation to Kitselas.

12. **Not a Treaty.** This Designated Company Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982* (Canada); or
- b) recognize, affirm, define, deny, limit or amend any aboriginal rights or titles or any responsibilities of the Parties except as set out in this Designated Company Agreement.

13. **No Fettering.** Nothing in this Designated Company Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.

14. **Amendment.** This Designated Company Agreement may be amended from time to time by the Parties in writing.

15. **Governing Law.** This Designated Company Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

16. **Execution in Counterpart.** This Designated Company Agreement may be entered into by each Party signing a separate copy of this Designated Company Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile transmission.

Signed by the Designated Company as of _____, 20____ by:

[Name of Company]

Per: Authorized Signatory

SIGNED on behalf of HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA by the Minister of Aboriginal Relations and Reconciliation or the Minister's authorized representative as of _____, 20____:

Minister of Aboriginal Relations and Reconciliation
or the Minister's authorized representative

Schedule 5 – GST Certificate

FORM 221(2)(b) (CERTIFICATE AS TO REGISTRATION STATUS OF PURCHASER)

Certificate as to Registration Status of Purchaser

(Paragraphs 221(2)(b) and (c))

FROM: *[the "Vendor"]*
TO: *[the "Purchaser"]*
RE: *[the "Property"]*

THE PURCHASER HEREBY CERTIFIES TO THE VENDOR PURSUANT TO PARAGRAPHS 221(2)(b) AND (c) OF *THE EXCISE TAX ACT* (THE "ACT") THAT THE PURCHASER:

is a prescribed recipient under the Act.

[OR]

is registered under Part IX of the Act, its registration number is *[number]* and the Purchaser will account for the tax payable in respect of the purchase of the Property in accordance with the Act.

The Purchaser acknowledges that the Vendor is relying on this Certificate in connection with the sale of the Property.

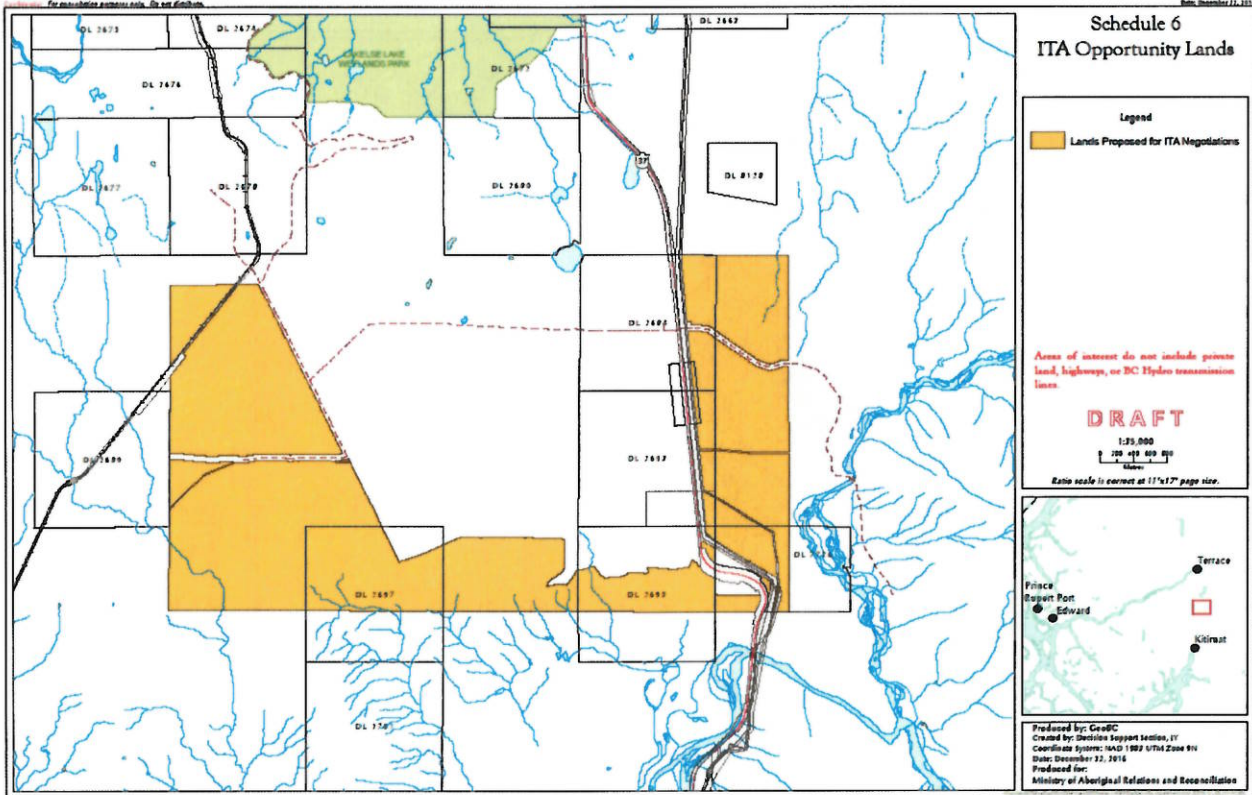
Each term that is used in the Certificate and that is defined in, and for the purposes of, Part IX of the Act has the meaning assigned to it in Part IX of the Act.

DATED *[month, day, year]*.

[Designated Company name]
By its authorized signatory

[Print name and title]

Schedule 6 – ITA Opportunity Lands



Schedule 7 – Prince Rupert LNG Project Area

