

**GITGA'AT FIRST NATION**  
**LIQUEFIED NATURAL GAS (LNG)**  
**BENEFITS AGREEMENT**



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BENEFITS AGREEMENT**

**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:**

**GITGA'AT FIRST NATION, on behalf of itself and its Members, as represented by  
its Chief and Council**

**("Gitga'at")**

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

**RECITALS:**

- A.** The Province wishes to develop the LNG industry in an environmentally responsible manner that will benefit all British Columbians, including Gitga'at Members.
- B.** Gitga'at asserts that it holds unextinguished Aboriginal rights and title within portions of the Map Area.
- C.** Gitga'at is interested in engaging with the Province with respect to the development of the LNG Projects, including collaboration on the environmental impacts of the LNG Projects.
- D.** The Province has entered into the Coastal First Nations Liquefied Natural Gas Benefits Agreement dated January 19, 2016 (the "CFN LNG Agreement") with the Great Bear Initiative Society, of which Gitga'at is a member.
- E.** Gitga'at and the Province wish to enter into this Agreement to confirm the terms and commitments through which the Province may secure Gitga'at support for the LNG Projects.

**NOW THEREFORE** the Parties agree as follows:

## PART 1 – DEFINITIONS, INTERPRETATION AND SCHEDULES

### Definitions

1.1 In addition to the terms defined elsewhere in this Agreement:

- a) **“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*;
- b) **“Agreement”** means this Gitga’at First Nation Liquefied Natural Gas (LNG) Benefits Agreement, including the Schedules and any agreement, document or instrument executed or delivered pursuant to this Agreement or incorporated hereto;
- c) **“Annual Reporting Date”** means the date in each year that Funding payments are provided under this Agreement that is 120 days after:
  - i) the date that the Province provides a Base Funding payment, if no Incremental Project Funding payment is also required to be provided;
  - ii) the later of the dates in which the Province provides a Base Funding payment and an Incremental Project Funding payment, if both Base Funding and Incremental Project Funding payments are required to be provided; or
  - iii) the date on which a Base Funding and Incremental Project Funding payment is provided if the Parties have agreed to consolidate those payments in accordance with section 3.32;
- d) **“Associated Infrastructure”** means any transmission infrastructure projects reasonably necessary for an LNG Project 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 construction, operation and maintenance of an LNG Project including related lay down areas and work camps, but not including any natural gas transmission line;
- e) **“Base Funding”** mean Initial Base Funding and Ongoing Base Funding;
- f) **“BC Final Domestic Demand Implicit Price Index” or “BC FDDIPI”** means the British Columbia Final Domestic Demand Implicit Price Index for British Columbia, series v62789718, published regularly by Statistics Canada in Table 384-0039: Implicit price indexes, gross domestic product, provincial and territorial, or its replacement series as specified by Statistics Canada;



- g) **“Canadian Financial Institution”** means a financial institution that is incorporated or formed under an Act of Parliament or of the Legislative Assembly of a province;
- h) **“CFN LNG Agreement”** means the Coastal First Nations Liquefied Natural Gas Benefits Agreement referred to in Recital D of this Agreement;
- i) **“Chief”** means, in respect of Gitga’at, “chief” within the meaning of the *Indian Act*;
- j) **“Coghlan Bay Lands”** means those lands as shown for illustrative purposes as the “Coghlan Bay Area” on the map attached as Plan 1 of Schedule C to this Agreement having an area of approximately 23 hectares 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;
- k) **“Closing”** means the completion of the transfer of a Lands parcel by the Province to a Designated Company on the Closing Date;
- l) **“Closing Date”** means the date or dates on which the documents for the transfer of Lands to a Designated Company under section 4.1 are submitted for filing in the Land Title Office;
- m) **“Commencement of Construction”** means the date on which an LNG proponent issues a notice or notices to its EPC contractor to proceed, in respect of all material engineering, procurement and construction contracts for:
  - i) an LNG Project, or
  - ii) the expansion of LNG production at an existing LNG Project by the construction of additional LNG trains,
 excluding other site assessment or exploration work;
- n) **“Council”** and **“Band Council”** mean, in respect of Gitga’at, the elected “council” within the meaning of the *Indian Act*;
- o) **“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 D, as amended in accordance with section 6.3;



- p) **“Crown Grant”** means a grant (as defined in the *Land Act*) of the fee simple title of the Lands;
- q) **“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 Gitga’at and which Gitga’at has designated to take fee simple title to the Lands and, for greater certainty, a Designated Company 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 the Lands in bare trust for and on behalf of Gitga’at;
- r) **“Effective Date”** means the date on which this Agreement is executed and delivered by the Parties;
- s) **“EPC Contractor”** means the engineering, procurement and construction contractor for an LNG Project;
- t) **“Final Investment Decision”** or **“FID”** means a final and unconditional decision of an LNG Project proponent to proceed with the construction of an LNG Project, as applicable, that, for certainty includes that proponent having obtained;
  - i) 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*;
  - ii) a National Energy Board natural gas export licence that remains valid and effective for the project;
  - iii) the financial resources and a funding plan in place for the project; and
  - iv) all necessary internal and shareholder and investor approvals;
- u) **“FID Date”** means the date on which the proponent of an LNG Project makes a public announcement of a FID;
- v) **“FID Payments”** means the payments set out in section 3.7;
- w) **“Funding”** means Base Funding and Incremental Project Funding;
- x) **“Gil Island Lands”** means those lands as shown for illustrative purposes as the “Yugoslav Bay Area” on Gil Island on the map attached as Plan 2 of Schedule C to this Agreement having an area of approximately 2.3 hectares 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;

- y) **"Gitga'at"** means the "band", as that term is defined in the *Indian Act*, named the "Gitga'at First Nation" and includes all Members;
- z) **"Gitga'at CFN LNG Agreement Funding"** means the share of Base Funding and Incremental Project Funding provided to Gitga'at by the Great Bear Initiative Society under the CFN LNG Agreement as set out in the latest distribution formula provided to the Province by the Great Bear Initiative Society under section 3.29 of the CFN LNG Agreement;
- aa) **"Governmental Action"** means any provincial or federal approval, decision, process, agreement, authorization or action of any kind whatsoever, including approvals, decisions, consultation 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 an LNG Project and its Associated Infrastructure;
- bb) **"GST"** means the goods and services tax imposed under the *Excise Tax Act* (Canada);
- cc) **"Halsey Point Lands"** means those lands as shown for illustrative purposes as the "Halsey Point Area" on the map attached as Plan 1 of Schedule C to this Agreement having an area of approximately 26 hectares 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;
- dd) **"Hartley Bay Lands"** means any, all or a combination of the Halsey Point Lands, Malsey Bay Lands, Coghlan Bay Lands or Otter Shoal Lands;
- ee) **"Incremental Project Funding"** means the FID Payments, In-Service Payments and LNG Expansion Payments;
- ff) **"Incremental Project Funding Notice"** means, in relation to an LNG Project, a notice provided by Gitga'at to the Province in accordance with section 3.6;
- gg) **"Initial Base Funding"** means the payments set out in section 3.2;
- hh) **"In-Service Date"** means June 1<sup>st</sup> of the year following which an LNG Project first begins exporting LNG;

- ii) **“In-Service Payments”** means the payments set out in section 3.8;
- jj) **“Lands”** means any, all or a combination of any of the Hartley Bay Lands and the Gil Island Lands;
- kk) **“LNG”** means natural gas in a liquid state or at a temperature below its boiling point;
- ll) **“LNG Expansion Payments”** means the payments set out in section 3.12;
- mm) **“LNG Project”** means any proposed or commissioned LNG project within the Map Area, any “LNG facility” within the meaning of the *Liquefied Natural Gas Income Tax Act (British Columbia)* within the Map Area, all LNG related marine shipping in the Map Area, and, for certainty, includes the following LNG projects:
- Aurora LNG
  - Cedar LNG
  - Kitimat LNG
  - LNG Canada
  - Pacific NorthWest LNG
  - Prince Rupert LNG
  - Triton LNG
  - WCC LNG
  - Woodside Energy
- nn) **“LNG Project Expansion Date”** means June 1<sup>st</sup> of the year following which an additional LNG production train at an existing LNG Project first begins producing LNG;
- oo) **“Malsey Bay Lands”** means those lands as shown for illustrative purposes as the “Malsey Bay Area” on the map attached as Plan 1 of Schedule C to this Agreement having an area of approximately 39 hectares 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;



- pp) **“Map Area”** means the area shown as “Map Area” on the map attached as Schedule A;
- qq) **“Member”** means any person who is a “member of the band”, as that phrase is defined in the *Indian Act*, of Gitga’at;
- rr) **“Micro-Hydro Lands”** means those lands shown as the “Micro-Hydro Lands” on the map attached to this Agreement as Schedule I;
- ss) **“Ongoing Base Funding”** means the payments set out in section 3.3;
- tt) **“Otter Shoal Lands”** means those lands as shown for illustrative purposes as the “Otter Shoal Area” on the map attached as Plan 1 of Schedule C to this Agreement having an area of approximately 26 hectares 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;
- uu) **“Permitted Encumbrances”** means the reservations, exceptions, liens, charges, and interests described in Schedule D as amended in accordance with section 6.2 for each of the Lands or any other Permitted Encumbrances agreed to by the Parties;
- vv) **“Provincial Official”** means:
  - i) any minister, public official, employee, contractor or agent of the Province,
  - ii) any government corporation or any director, officer, employee, contractor or agent of a government corporation, or
  - iii) any person acting as a decision maker under any enactment of the Province;
- ww) **“Province”** means Her Majesty the Queen in right of the Province of British Columbia;
- xx) **“PST”** means the sales tax imposed under the *Provincial Sales Tax Act*;
- yy) **“Specified Date”** means, in relation to an LNG Project: the date on which Gitga’at provides the Province an Incremental Project Funding Notice in respect of that LNG Project; and
- zz) **“Term”** means the term of this Agreement as set out in section 16.1.

**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 Gitga’at under this Agreement means Gitga’at acting by and through its Chief and Council, and will be conclusively deemed to have been given, or taken, by Gitga’at on its own behalf, and for and on behalf of its Members; and
- h) there will be no presumption that doubtful expressions, terms or provisions in this Agreement are to be resolved in favour of any Party.

**1.3 Schedules.** The following schedules are attached to and form part of this Agreement:

- Schedule A Map Area
- Schedule B Annual Report Template
- Schedule C Maps of Lands (Plans 1 and 2) for Illustrative Purposes
- Schedule D Permitted Encumbrances and Crown Corridors
- Schedule E Form C Additions to Reserve Restrictive Covenant

- Schedule F Designated Company Agreement
- Schedule G GST Certificate
- Schedule H Property Transfer Tax Form
- Schedule I Micro Hydro Lands

## **PART 2 – PURPOSE AND SCOPE**

- 2.1 **Purpose.** The purpose of the Agreement is to enable the Parties to share in the benefits associated with the development of an LNG industry on the north coast of British Columbia and reflect Gitga'at's support for that LNG industry, subject to the terms and conditions of this Agreement.
- 2.2 **Scope.** For certainty, this Agreement applies to all LNG Projects.

## **PART 3 – FINANCIAL BENEFITS**

- 3.1 Subject to the terms and conditions of this Agreement, the Province will make payments to Gitga'at as set out in this Part.

### **Base Funding**

- 3.2 **Initial Base Funding.** The Province will provide Gitga'at with Initial Base Funding in the amount of \$1,500,000 payable as follows:
- a) \$500,000 within 60 days of the Effective Date; and
  - b) \$500,000 within 60 days of the first and second anniversaries of the Effective Date.
- 3.3 **Ongoing Base Funding.** The Province will provide Gitga'at with Ongoing Base Funding as follows:
- a) if any LNG Project proponent makes a FID before March 31, 2019,
    - i) a one-time payment of \$250,000, payable within 60 days of the FID; and
    - ii) ongoing annual payments of \$500,000 each commencing on the third anniversary of the Effective Date for the balance of the Term, payable within 60 days of the anniversary of the Effective Date; or
  - b) if no LNG Project proponent makes a FID before March 31, 2019, ongoing annual payments of \$500,000 each commencing in the year of the Commencement of Construction of an LNG Project for the balance of the



Term, payable within 60 days of the Commencement of Construction and, in each subsequent year, within 60 days of the anniversary of that date.

- 3.4 Ongoing Base Funding payments provided in accordance with subsection 3.3 a) ii) or 3.3 b) made after the initial payment will be adjusted annually for inflation equivalent to changes in the annual BC FDDIPI.
- 3.5 For certainty:
- a) the obligation to provide Base Funding is only triggered on a one-time basis and Base Funding is not provided for each LNG Project; and
  - b) the obligation to provide Ongoing Base Funding under subsection 3.3 b) is only triggered once the Commencement of Construction of the first LNG Project occurs and no retroactive Ongoing Base Funding payments will be provided for any year prior to the year that the Commencement of Construction of the first LNG Project occurs.

### **Incremental Project Funding**

- 3.6 After a FID Date for an LNG Project has occurred, Gitga'at will determine whether it supports that LNG Project and therefore wishes to receive Incremental Project Funding in respect of that Project and, if so, will deliver an Incremental Project Funding Notice to the Province confirming that it wishes to trigger Incremental Project Funding in relation to that LNG Project.

### **FID Payments**

- 3.7 For each LNG Project in respect of which a FID has been announced and Gitga'at has provided the Province with an Incremental Project Funding Notice, the Province will, within 60 days of the Specified Date, and annually thereafter within 60 days of the anniversary of the Specified Date until the In-Service Date is reached, provide FID Payments to Gitga'at in an amount equal to:

$$\$0.0075 \times \text{Estimated LNG Production}$$

where "**Estimated LNG Production**" means the volume of LNG expressed in tonnes per annum to be produced at that LNG Facility as of the In-Service Date. For certainty, where the volume of LNG to be produced at the LNG Project will be phased over time "**Estimated LNG Production**" means the volume of LNG in tonnes per annum to be produced by the number of LNG trains to be licenced and in production at the In-Service Date and not at full build out of the LNG Project.

### **In-Service Payments**

- 3.8 For each LNG Project that is commissioned and begins producing LNG and which Gitga'at has provided the Province with an Incremental Project Funding

Notice, the Province will, within 60 days of the In-Service Date and annually thereafter within 60 days of the anniversary of the In-Service Date, provide In-Service Payments to Gitga'at in an amount equal to:

$$\$0.02 \times \text{Actual LNG Production}$$

where: "**Actual LNG Production**" means the volume of LNG expressed in tonnes that is reported to the Province in accordance with applicable provincial legislation as having been produced at that LNG Project in the preceding calendar year.

- 3.9 Notwithstanding section 3.8, the Province may adjust the amount of the first In-Service Payment to account for any FID Payment made in relation to the Actual LNG Production for the initial In-Service Payment period, such that the first In-Service Payment will be an amount equal to  $(\$0.02 - \$0.0075) \times \text{Actual LNG Production}$ .
- 3.10 For certainty, In-Service Payments replace FID Payments and the Province will not continue to make FID Payments in respect of an LNG Project once an In-Service Date in respect of that LNG Project is reached.
- 3.11 In-Service Payments made after the initial In-Service Payment will be adjusted annually for inflation equivalent to changes in the annual BC FDDIPI.

#### **LNG Expansion Payments**

- 3.12 If an LNG Project in respect of which Gitga'at is receiving In-Service Payments expands its LNG production capacity, the Province will add to each annual In-Service Payment to be provided during the period from the Commencement of Construction of each additional LNG train to the LNG Project Expansion Date, an amount equal to:

$$\$0.0075 \times \text{Estimated Additional LNG Production}$$

where "**Estimated Additional LNG Production**" means the volume of LNG expressed in tonnes per annum to be produced by each additional LNG train under construction to be licenced and in production at the LNG Project Expansion Date.

- 3.13 Notwithstanding section 3.12, the Province may adjust the first In-Service Payment made after the LNG Expansion Date to account for any LNG Expansion Payment made in relation to the Actual LNG Production for that In-Service Payment Period, such that the In-Service Payment will be an amount equal to  $(\$0.02 - \$0.0075) \times \text{Actual LNG Production}$ .



- 3.14 For certainty, the Province will not continue to provide LNG Expansion Payments in respect of an LNG Project once the LNG Project Expansion Date in respect of that LNG Project is reached, but sections 3.8 through 3.11 of this Agreement will apply to expanded LNG Projects after the LNG Expansion Date applicable to that Project.

### **Suspension and Adjustment of Funding**

- 3.15 The Province may suspend providing Ongoing Base Funding if:

- a) within 6 months after the FID Date, active site assessment, exploratory work or other preliminary construction activity is not occurring in relation to any LNG Project and the Province reasonably determines that it is unlikely that the Commencement of Construction in relation to any LNG Project will occur within one year of the FID Date;
- b) after the Commencement of Construction of any LNG Project, the actual construction of all LNG Projects is delayed or suspended for 6 months or longer during any applicable payment period; or
- c) within 5 years after the Commencement of Construction of any LNG Project, no LNG Project is commissioned and producing LNG.

- 3.16 If the Province suspends providing Ongoing Base Funding in accordance with:

- a) subsection 3.15 a) and Commencement of Construction of any LNG Project subsequently occurs;
- b) subsection 3.15 b) and the actual construction of any LNG Project resumes; or
- c) subsection 3.15 c) and any LNG Project is subsequently commissioned and begins producing LNG;

the Province will resume providing the Ongoing Base Funding as soon as practicable.

- 3.17 The Province may suspend providing FID Payments in respect of an LNG Project if:

- a) within 6 months after the FID Date, active site assessment, exploratory work or other preliminary construction activity is not occurring in relation to any LNG Project and the Province reasonably determines that it is unlikely that the Commencement of Construction in relation to any LNG Project will occur within one year of the FID Date; or
- b) after the Commencement of Construction of that LNG Project, the actual construction of that LNG Project is delayed or suspended for 6 months or



longer during any applicable payment period.

3.18 If the Province suspends providing FID Payments accordance with:

- a) subsection 3.17 a) and Commencement of Construction of that LNG Project subsequently occurs; or
- b) subsection 3.17 b) and the actual construction of that LNG Project resumes;

the Province will resume providing FID Payments as soon as practicable.

3.19 The Province may suspend providing LNG Expansion Payments in respect of an LNG Project if after the Commencement of Construction of an additional LNG train the actual construction of that additional LNG train is delayed or suspended for 6 months or longer during any applicable payment period.

3.20 If the Province suspends providing LNG Expansion Payments in accordance with section 3.19 and the actual construction of that additional LNG train resumes, the Province will resume providing the LNG Expansion Payments as soon as practicable.

3.21 If the Province resumes Ongoing Base Funding in accordance with section 3.16, FID Payments in accordance with section 3.18 or LNG Expansion Payments in accordance with section 3.20 it may adjust the first Ongoing Base Funding payment, FID Payment or LNG Expansion Payment to be provided after the resumption on a pro rata basis equal to the number of months in the applicable annual payment period in which the payment was not suspended divided by 12 months.

3.22 If there is only one LNG Project producing LNG and that LNG Project suspends its operations and production of LNG for any reason and does not report the production of any LNG to the Province in accordance with applicable provincial legislation for a total of 6 months or more during a calendar year, the Province may reduce the amount of any Ongoing Base Funding payment on a pro rata basis equal to the number of months in the calendar year that no LNG production is reported divided by 12 months.

3.23 The Province may suspend providing Funding to Gitga'at if:

- a) Gitga'at fails to perform or is in breach of any of its material obligations under this Agreement;
- b) any representation or warranty made by Gitga'at in this Agreement is untrue or incorrect;
- c) Gitga'at initiates or supports any legal action that challenges, directly or indirectly, any LNG Project, its Associated Infrastructure or any

Governmental Action; or

- d) Gitga'at supports or participates in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or an LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees, to gain access to any part of an LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project.

3.24 Notwithstanding section 3.23, the Province may not suspend providing Incremental Project Funding to Gitga'at in respect of an LNG Project:

- a) under subsection 3.23 c), if Gitga'at does not initiate or support any legal action that challenges, directly or indirectly, that LNG Project, its Associated Infrastructure or any Governmental Action in respect of that LNG Project; or
- b) under subsection 3.23 d), if Gitga'at does not support or participate in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or an LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees, to gain access to any part of that LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project.

3.25 Prior to the Province suspending Funding in accordance with section 3.23, the Province will notify Gitga'at of the proposed suspension and the Parties will meet within 30 days of such notification to discuss and attempt to resolve the matter.

3.26 For certainty, nothing in section 3.25 limits the ability of the Province to suspend Funding if Gitga'at does not meet with the Province, or the Parties are not able to resolve the matter, in accordance with section 3.25.

#### **Delivery of Funding by the Province**

3.27 Gitga'at will establish and maintain in its name a separate account at a Canadian Financial Institution for the purposes of receiving Funding payments into which direct deposits may be made by the Province and it will provide the Province with the address and applicable account information to enable the Province to make such deposits.

3.28 The Province will deposit Funding payments into the account established under section 3.27.

#### **Use of Funding**

3.29 Gitga'at will use the Funding for one or more of the following purposes:

- a) community development projects and social initiatives;

- b) investment in renewable energy projects and community energy planning;
- c) marine emergency response initiatives, including participating in new response programs;
- d) developing greenhouse gas off-set projects and environmental off-set or remediation projects;
- e) education and skills training, in particular for Gitga'at Members to participate in business or employment opportunities created by LNG Projects; or
- f) economic development, including investment that supports LNG development activities.

3.30 For certainty, Gitga'at may use all or any portion of the Funding it receives in any given year for the purposes set out in section 3.29, or to hold such payments for use for those purposes in future years.

#### **Reporting**

3.31 Gitga'at will provide an annual report satisfactory to the Province acting reasonably, substantially in the form attached as Schedule B, which will include:

- a) the initiatives for the current year that Gitga'at intends to use the Funding for;
- b) expenditures made in the previous year that were funded from the Funding; and
- c) how those expenditures are consistent with the purposes set out in section 3.29.

#### **Consolidation of Base Funding and Incremental Funding Payments**

3.32 The Parties may agree to consolidate the Base Funding and Incremental Project Funding payments into one annual payment.

3.33 As soon as practicable after Gitga'at provides an Incremental Project Funding Notice for each LNG Project that makes a FID after the 10<sup>th</sup> anniversary of the Effective Date, the Parties will meet and discuss amending this Agreement to adjust the Incremental Project Funding in respect of that LNG Project to an amount equal to what that payment would have been if that payment had been adjusted annually for inflation equivalent to changes in the annual BC FDDIPI for each of the 5 years preceding the year in which the Incremental Payment Funding Notice was provided.



- 3.34 For certainty, nothing in section 3.33 requires the Parties to reach agreement on any amendment to this Agreement or the Province having to adjust the amount of Incremental Project Funding.

#### **CFN LNG Agreement**

- 3.35 If the Province suspends the provision of funding to the Great Bear Initiative Society under the CFN LNG Agreement or terminates the CFN LNG Agreement for reasons unrelated to the actions of Gitga'at, the Parties will meet and discuss that suspension or termination with Gitga'at and, at the request of Gitga'at, officials within the Ministry of Aboriginal Relations and Reconciliation will seek the policy and financial approvals necessary to provide Gitga'at with additional payments equivalent to the Gitga'at CFN LNG Agreement Funding.
- 3.36 For certainty, nothing in section 3.35 constitutes an agreement by the Province to provide the CFN LNG Agreement Funding to Gitga'at, or to amend this Agreement to provide Gitga'at with any additional Funding.

#### **PART 4 –LANDS**

- 4.1 **Land 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 as follows:
- a) **Gil Island Lands:** as soon as practicable after the Effective Date and receipt of a written request received within 10 years from the Effective Date from Gitga'at to transfer the Gil Island Lands; and
  - b) **Hartley Bay Lands:** as soon as practicable after:
    - i) the delivery by Gitga'at of an Incremental Project Funding Notice in respect of an LNG Project; and
    - ii) receipt of a written request from Gitga'at to transfer the Hartley Bay Lands identifying the Hartley Bay Lands to be transferred, that is provided within 10 years from the date that the requirement of subsection i) has been satisfied.
- 4.2 **Pre-Closing Deliveries by Gitga'at.** At least 60 days, or such other time period agreed to by the Parties, prior to the Closing Date with respect to the Lands to be transferred, Gitga'at will deliver to the Province a direction identifying the Designated Company that will take fee simple title to the applicable Lands.
- 4.3 **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 section 14.5 the Province will provide the Designated Company

identified under section 4.2 with a Crown Grant in fee simple for the applicable Lands.

- 4.4 Closing Deliveries by Gitga'at.** Not less than 14 days before the applicable Closing Date with respect to the Lands to be transferred, Gitga'at will execute and deliver, or cause to be executed and delivered, as the case may be, to the Province:
- a) a restrictive covenant granted by the Designated Company substantially in the form attached as Schedule E in relation to the Lands;
  - b) an agreement executed by the Designated Company substantially in the form attached as Schedule F in relation to the Lands;
  - c) a certificate signed by an officer of the Designated Company substantially in the form attached as Schedule G confirming the Designated Company's GST registration number and registered status;
  - d) a letter of undertaking signed by Gitga'at's legal counsel undertaking, among other things, that the restrictive covenant (Schedule E) 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 F) and the GST Certificate (Schedule G);
  - e) a Property Transfer Tax Form (Schedule H) executed by the Designated Company; and
  - f) all such other documents that may be necessary or advisable for Gitga'at or a Designated Company to provide to complete the transactions contemplated under this Agreement.
- 4.5 Registration of Lands.** All Lands transferred under this Agreement will be registered in the Land Title Office.
- 4.6 Closing Procedure.** The legal counsel for Gitga'at and the Province will confirm in writing the manner in which the documents necessary or advisable to transfer and register the Lands will be produced, managed, exchanged and delivered. Without limiting the generality of the foregoing, legal counsel responsible for registering the Lands will:
- a) provide a letter of undertaking;
  - b) provide copies of all documents filed under section 4.4 d) to legal counsel for the other Party.
- 4.7 Staged Transfer of Portions of the Lands.** If Gitga'at determines it would like to obtain a staged transfer of portions of the Lands, 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.

- 4.8 **Interim Land Protections.** As soon as practicable after the Effective Date, the Province will seek authority to withdraw the Lands from disposition under section 17 of the *Land Act* for a period of 10 years, or other period of time agreed by the parties.
- 4.9 **Five Year Limitation.** If after five years from the Effective Date the Hartley Bay Lands have not been transferred because there has been no Commencement of Construction for any LNG Project, the obligation of the Province to transfer those lands under the Agreement will cease and the Parties will meet to discuss the status of the matters set out in the Agreement, and consider other options, including treaty negotiations, to address Gitga'at's interest in acquiring the Hartley Bay Lands.

## **PART 5 – CONDITION OF LANDS**

- 5.1 **Lands “As Is”.** Gitga'at acknowledges and agrees that any and all of the Lands acquired by a Designated Company under this Agreement are acquired “as is”.
- 5.2 **Viability of Lands.** Gitga'at 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 Gitga'at 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.
- 5.3 **Environmental Condition.** Gitga'at:
- a) to the extent permitted under law, 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.

**5.4 Environmental Conditions.** Gitga'at 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 Province and 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 subsection 5.4 a), and
- c) indemnify and save harmless the Province and 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 subsection 5.4 (a).

**5.5 Post-Closing Date.** Section 5.4 does not apply where the environmental liability relating to the Lands results from the acts or omissions of British Columbia after the Closing Date.

**PART 6 – ENCUMBRANCES AND CROWN CORRIDORS**

- 6.1 **Permitted Encumbrances.** Gitga'at accepts fee simple title to the Lands 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.
- 6.2 **Finalization of Permitted Encumbrances.** The Parties acknowledge that as of the Effective Date the land status review of the Lands 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 the Lands to a Designated Company, the Parties will review and amend Schedule D in respect of the Lands accordingly.
- 6.3 **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 Lands, 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 Lands or to service the Lands or lands outside the Lands,

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

## **PART 7 – TRANSACTION COSTS**

**7.1 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 7.4, the cost of obtaining a legal survey of the outer boundaries of the lands;
- b) the costs of fees 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 the Agreement.

**7.2 GST, PST and Other Charges.** Gitga'at 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.

**7.3 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 the Lands.

**7.4 Costs Associated with the Transfer of Portions of a Parcel.** For certainty, the obligation of the Province under subsection 7.1 a) is to pay for the costs to survey the outer boundaries of the Lands and if Gitga'at wishes to obtain the staged transfer of portions of the Lands as contemplated by section 4.7, it is responsible for the cost of any additional required survey work and other related costs.

## PART 8 – OTHER LANDS COVENANTS

### 8.1 Other Gitga'at Covenants. Gitga'at further acknowledges and covenants that:

- a) any of 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 Gitga'at 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 Gitga'at challenge the applicability of provincial laws to the Lands.

### 8.2 Indemnity for Charges. Gitga'at will indemnify and save harmless the Province and all Provincial Officials from any and all damages, losses, liabilities or costs that the Province or Provincial Officials may suffer or incur in connection with or as a result of any suit, action, claim, proceeding or demand arising in connection with any Permitted Encumbrance or any charge or encumbrance granted by Gitga'at or the Designated Company.

### 8.3 Registration of Unregistered Interests. The Parties will identify any unregistered interests which may require registration against the Lands in the Land Title Office, and, once agreed, set out such interest in Schedule D.

### 8.4 Unregisterable Permitted Encumbrances. If any Permitted Encumbrance is not registerable in accordance with the *Land Title Act*, Gitga'at 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 applicable Closing Date.

## PART 9 – MARINE SAFETY AND RESEARCH

### 9.1 The Province acknowledges and supports Gitga'at's interest in developing and operating a new Marine Emergency Response and Research Facility (the "MERRF") in or near to the Gitga'at home community of Hartley Bay and Gitga'at's vision that the MERRF will be utilized to:

- a) support Gitga'at, Provincial and federal environmental research and monitoring activities, including activities intended to understand and monitor the potential environmental effects associated with increased LNG carrier traffic in Gitga'at's traditional territory;
- b) provide a home and operating base for search and rescue, marine vessel



casualty and cargo spill and loss first response activities;

- c) serve as a monitoring and communications interface between Gitga'at, LNG carriers, other major vessels, and smaller commercial and public marine traffic;
- d) provide a "platform" for a world class research and teaching facility; and
- e) provide an economic development opportunity for Gitga'at members living in Hartley Bay including training and employment opportunities related to communications, search and rescue and marine emergency response and environmental research and monitoring.

- 9.2 Without limiting section 5.2, the Province acknowledges Gitga'at's interest in using the Hartley Bay Lands as a location for the MERRF.
- 9.3 The Province acknowledges that, in furtherance of Gitga'at's interests as set out in section 9.1, Gitga'at may establish working committees to coordinate the design, construction and operations of the MERRF (the "MERRF Committees").
- 9.4 The Province will, at the appropriate time, assign relevant senior staff from the Ministry of Environment whom the Province in its sole discretion determines are appropriate to participate in the MERRF Committees.
- 9.5 For certainty, nothing in this Agreement requires the Province to assume any further financial or other obligation with respect to the MERRF or the MERRF Committees or precludes Gitga'at from making an application to the Province should the Province establish new program funding or enhance existing initiatives for marine emergency response and research for the north coast.

## **PART 10 – AIR QUALITY MONITORING**

- 10.1 The Province will engage with Gitga'at in respect of the establishment of air quality standards that may apply to LNG Projects by:
  - a) meeting with Gitga'at to discuss the proposed air quality standards; and
  - b) considering and working to resolve any issues identified by Gitga'at in respect of the proposed standard.
- 10.2 If the Province establishes any air quality management boards or working groups in areas where LNG Projects are proposed or established, the Province will provide Gitga'at the opportunity to take part in the development and activities of the board or working group.

10.3 The Province will:

- a) assign staff from the Ministry of Environment if available to provide technical support to Gitga'at in the establishment of Gitga'at's active and passive air quality monitoring stations;
- b) provide Gitga'at with Provincial air quality monitoring equipment, if available and upon terms and conditions to be agreed to, to supplement Gitga'at's air quality monitoring network; and
- c) provide one-time funding of \$50,000 to Gitga'at within 30 days of the Effective Date to support the development of Gitga'at's air quality monitoring network.

**PART 11– PRINCE RUPERT AREA MEETING SPACE**

- 11.1 The Province acknowledges that a significant portion of Gitga'at Members live in the Prince Rupert area and that Gitga'at wishes to secure meeting space in Prince Rupert that could support community meetings and training sessions.
- 11.2 Within 60 days of the delivery by Gitga'at of an Incremental Project Funding Payment Notice in respect of an LNG Project, the Province will pay to Gitga'at \$500,000 to acquire a long term or permanent space in Prince Rupert.
- 11.3 If Gitga'at is not be able to acquire a suitable space in Prince Rupert, Gitga'at may use the funding provided under section 11.2 for the purposes set out in section 3.29.

**PART 12 – HYDRO POWER INTERESTS**

- 12.1 As soon as practicable after the Effective Date the Province will seek authority to designate the Micro-Hydro Lands under section 17 of the *Land Act*, or such other lands as the Minister responsible determines are appropriate, for Gitga'at micro hydro investigative purposes for a period of 5 years in order that Gitga'at may determine the suitability of those lands and adjacent streams for micro-hydro power development for the community of Hartley Bay.

**PART 13 – GITGA'AT ASSURANCES FOR LNG PROJECTS AND OTHER COVENANTS**

**LNG Project Assurances**

- 13.1 As long as Province is not in default of making any Base Funding payment or in default of transferring the Lands in accordance with this Agreement, Gitga'at will:
  - a) support the development in the Map Area of an LNG industry that is

environmentally and socially responsible and respectful of Aboriginal Rights, and provide written confirmation of that support, in a form and content satisfactory to the Province acting reasonably, if so requested by the Province;

- b) participate in applicable environmental assessment and regulatory processes related to any LNG Project; and
- c) not oppose the planning, approval, construction, development, and operation of all LNG Projects, including making any public pronouncement against all LNG Projects.

13.2 As long as the Province is not in default of making any Incremental Project Funding payment in respect of an LNG Project in accordance with this Agreement or the CFN LNG Agreement, or the transfer of the Lands in accordance with this Agreement, effective as of the Specified Date for that LNG Project Gitga'at will:

- a) not oppose that LNG Project in any manner whatsoever, including making any public pronouncements opposing that LNG Project;
- b) acknowledge that it is being consulted and accommodated in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action;
- c) not support or participate in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or that LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees to gain access to any part of that LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project, but this does not prevent Gitga'at from raising concerns about that LNG Project in any applicable federal or provincial environmental assessment process or with the Province if Gitga'at is not participating in any of those processes;
- d) not seek any other financial contributions from the Province in respect of that LNG Project and, if requested by the Province, provide an acknowledgement that the Crown has fulfilled any obligation it may have to provide financial or economic accommodation, economic benefits, capacity funding or compensation of any kind in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action, but this does not prevent Gitga'at from participating in provincial programs generally available to First Nations;
- e) not support actions of any kind whatsoever by a Gitga'at Member that would interfere with, delay or otherwise oppose that LNG Project, and if requested take reasonable steps to assist the Province in dealing with such situations; and



- f) not initiate or participate in, directly or indirectly, any legal actions or proceeding, for any reason whatsoever, that challenge, directly or indirectly, that LNG Project, its Associated Infrastructure or any Governmental Action.

13.3 If, within 6 months after a FID Date, Gitga'at has not provided the Province with an Incremental Project Funding Notice in respect of that LNG Project, the Province may by written notice request that the Parties meet to discuss the matter.

13.4 The Parties will meet within 30 days of Gitga'at receiving a notice under section 13.3 to discuss why Gitga'at has not provided an Incremental Project Funding Notice in respect of that LNG Project.

### **LNG Project Releases and Discharges**

13.5 Effective as of the Specified Date for an LNG Project, Gitga'at:

- a) releases and discharges the Province and Provincial Officials from any claims of infringement of Aboriginal Rights in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action;
- b) releases and discharges the Province and Provincial Officials from any claims with respect to the Province's obligation to consult and, where appropriate, accommodate in respect of that LNG Project, its Associated Infrastructure and any related Governmental Action; and
- c) acknowledges that the Province has fulfilled any obligation it may have to provide financial or economic accommodation, economic benefits, capacity funding or compensation of any kind in respect of that LNG Project, its Associated Infrastructure and any related Governmental Action, but this does not prevent Gitga'at from participating in provincial programs generally available to First Nations.

## **PART 14 - CONDITIONS PRECEDENT**

### **Conditions Precedent to Funding**

14.1 Notwithstanding any other provision in this Agreement, any payment of funds by the Province to Gitga'at under this Agreement is subject to:

- a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any fiscal year or part thereof when such payment is required, to make such payment;
- b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation necessary in

order to make such payment;

- c) Gitga'at being in compliance with all of its material obligations under this Agreement, including providing annual reports to the Province in accordance with section 3.31;
- d) Gitga'at representations and warranties under this Agreement being true and correct; and
- e) the Province having received an annual report from Gitga'at in accordance with section 3.31 on or before the Annual Reporting Date.

14.2 If the Province does not provide Funding to Gitga'at as a result of subsections 14.1 a) or b), Gitga'at is not required to perform its obligations under this Agreement during the period which Funding is not provided.

14.3 **Conditions Precedent to Province's Other Obligations.** In addition to section 14.1, the Province's obligations under this Agreement are subject to:

- a) Gitga'at delivering to the Province a Band Council Resolution approving this Agreement and authorizing the Chief to sign this Agreement;
- b) the Province having obtained all required approvals, including Cabinet and Treasury Board approval; and
- c) Gitga'at representations and warranties under this Agreement being true and correct on the Effective Date.

14.4 For certainty, the provision by the Province to Gitga'at of any annual payment under this Agreement is dependent on receipt of the annual reports described in section 3.31 on or before the applicable Annual Reporting Date.

14.5 **Conditions Precedent to all Land Transfers.** The obligation of the Province to transfer any of the Lands to a Designated Company under this Agreement is subject to:

- a) Gitga'at being in compliance with all of its material obligations under this Agreement, including providing annual reports to the Province in accordance with section 3.31;
- b) the representations and warranties of Gitga'at under this Agreement being true and correct on the applicable Closing Date;
- c) all obligations of Gitga'at and the Designated Company in respect of all previously transferred Lands having been fully performed in accordance with this Agreement;
- d) the Province being satisfied that it has fulfilled any consultation obligations

it may have with respect to assertions of Aboriginal Rights to the applicable Lands by First Nations other than Gitga'at;

- e) the Parties reaching agreement in accordance with section 6.2 on the Permitted Encumbrances in respect of the applicable Lands and updating and amending Schedule D in respect of those Lands accordingly;
- f) the Parties reaching agreement in accordance with section 6.3 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 D in respect of the applicable Lands accordingly;
- g) legal surveys for the applicable Lands having been completed by the Province and approved in accordance with provincial law before the applicable Closing Date;
- h) Treasury Board having approved the transfer of the applicable Lands; and
- i) the minister responsible having authorized the disposition of the applicable Lands in accordance with provincial law before the applicable Closing Date.

**14.6 Waiver of Conditions Precedent.** The conditions precedent set out in section 14.5 are for the sole benefit of the Province and may be waived by the Province on written notice to Gitga'at.

## **PART 15 – REPRESENTATIONS AND WARRANTIES**

**15.1 Gitga'at Representations.** Gitga'at 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 has the legal power, capacity and authority to enter into this Agreement;
- b) it has taken all necessary actions and has obtained all necessary approvals to enter into this Agreement including obtaining a Band Council Resolution authorizing the Chief to execute this Agreement on behalf of Gitga'at;
- c) it has obtained or had the opportunity to obtain legal advice with respect to this Agreement; and
- d) this Agreement is a valid and binding obligation upon it.



- 15.2 **Provincial Representations.** The Province represents and warrants to Gitga'at, with the intent and understanding that Gitga'at will rely on those representations in entering into this Agreement:
- a) that it has the legal power, capacity and authority to enter into this Agreement;
  - b) on satisfaction or waiver of the conditions precedent applicable to the transfer of the Lands, it will have the legal power, capacity and authority to transfer the fee simple title to the Lands to a Designated Company as contemplated by this Agreement; and
  - c) that this Agreement is a valid and binding obligation of the Province.

## **PART 16 – COMMENCEMENT, TERM AND TERMINATION**

- 16.1 **Commencement.** This Agreement will commence and the Parties' obligations under this Agreement will take effect on the Effective Date.
- 16.2 **Termination by Either Party.** At any time after the 10<sup>th</sup> anniversary of the Effective Date, either Party may terminate this Agreement upon written notice to the other Party if no FID has occurred for any LNG Project.
- 16.3 **Prior Notice of Termination.** Prior to a Party terminating this Agreement in accordance with section 16.2, it will notify the other Party of the proposed termination and the Parties will meet within 30 days of such notification to discuss the proposed termination.
- 16.4 **Failure to Meet.** Nothing in section 16.3 limits the ability of a Party to terminate this Agreement in accordance with section 16.2 if the other Party does not meet to discuss the proposed termination in accordance with section 16.3.
- 16.5 In this Part, an "Event of Default" means any of the following:
- a) Gitga'at failing to perform or being in breach of any of its obligations under this Agreement;
  - b) any representation or warranty made by Gitga'at is untrue or incorrect; and
  - c) Gitga'at initiating or supporting any legal action that challenges, directly or indirectly, any LNG Project in respect of which Gitga'at has issued an Incremental Project Funding Notice, its Associated Infrastructure or any related Governmental Action, or supporting or participating in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or that LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees to gain

access to any part of that LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project or its Associated Infrastructure.

- 16.6 **Province's options on default.** Notwithstanding any other provision in this Agreement, on the happening of an Event of Default, or at any time thereafter, the Province may, by written notice to Gitga'at, require that the Event of Default be remedied within a reasonable time period identified in the notice.
- 16.7 **Termination by the Province.** If, after receiving a notice under section 16.6 of this Agreement, Gitga'at does not remedy the Event of Default within the time period set out in that notice, the Province may, by written notice of termination to Gitga'at, terminate this Agreement with immediate effect or on a future date specified in the notice of termination.
- 16.8 **Delay not a waiver.** No failure or delay on the part of the Province to exercise its rights in relation to an Event of Default will constitute a waiver by the Province of such rights.
- 16.9 **Survival of Lands Conditions.** Part 5 (Condition of Lands) and Part 8 (Other Lands Covenants) will survive the completion of the transfer of any Lands or the termination of this Agreement and, for greater certainty, will continue to apply to the Lands.
- 16.10 **Survival.** Sections 13.5, 19.1 and 19.2 survive the termination of this Agreement.

## **PART 17 – DISPUTE RESOLUTION**

- 17.1 **Representatives.** Where a dispute arises regarding the interpretation of a provision of this Agreement, the duly appointed representatives of the Parties will meet within 30 days to attempt to resolve the dispute.
- 17.2 **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 Gitga'at.
- 17.3 **Other Means.** The Parties may choose other appropriate approaches to assist in reaching resolution of the dispute.

## **PART 18 – NOTICE AND DELIVERY**

- 18.1 **Notices.** Any notice, document, statement or report under this Agreement must be in writing, and will be deemed validly given to and received by the other Party, 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:

Ministry of Aboriginal Relations and Reconciliation  
P.O. Box 9100 Stn Prov Govt  
Victoria, B.C. V9W 9B1  
Email: ABRInfo@gov.bc.ca  
Fax: 250-387-6073  
Attention: Assistant Deputy Minister, Negotiations and Regional  
Operations Division

and if to Gitga'at:

Attention: Chief Councillor  
Gitga'at First Nation  
Fax: (250) 841-2541  
Email: hbvc@gitgaat.net

- 18.2 **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.
- 18.3 **Electronic Notice.** The Parties agree that they will utilize electronic and other methods of communication for the purposes of engagement whenever practicable and appropriate.

## **PART 19 – GENERAL**

19.1 **Not a Treaty.** The Agreement does not:

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

19.2 **No Admissions.** Nothing in the Agreement:

- a) is an admission by the Province of the validity of the claims by Gitga'at to any aboriginal or treaty right, including aboriginal title, or that any LNG Project, Associated Infrastructure or Governmental Action has or will result in an unjustifiable infringement of any aboriginal right, including aboriginal title, or treaty right of Gitga'at;
- b) is an admission by the Province that it has an obligation to provide

financial or economical accommodation to Gitga'at in relation to any LNG Project;

- c) precludes Gitga'at from bringing claims for breach of this Agreement;
- d) precludes Gitga'at from bringing any claim arising from an LNG carrier casualty or accidental spill, explosion, or fire associated with an LNG Project;
- e) precludes or limits Gitga'at from identifying or seeking to resolve concerns about potential impacts of LNG Projects in applicable environmental assessment or regulatory processes, or Gitga'at's eligibility to obtain financial or other assistance designed to facilitate First Nation participation in those processes;
- f) precludes Gitga'at from taking steps in accordance with federal and provincial law with respect to concerns Gitga'at may have as a result of any LNG Project proponent being in breach of its obligations under any environmental or regulatory approvals; or
- g) precludes or limits the Province from relying on the Funding payments made under this Agreement in any legal proceeding with respect to the adequacy of accommodation or compensation for any alleged infringement of Gitga'at's rights recognized and affirmed by section 35 (1) of the *Constitution Act, 1982* in relation to any LNG Project.

19.3 **Entire Agreement.** This Agreement and any amendment to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement, unless otherwise agreed in writing by the Parties.

19.4 **Amendment.** The Parties may agree to amend this Agreement in writing.

19.5 **Validity of Agreement.** If any part of this Agreement is void or unenforceable at law:

- a) the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Agreement had been executed without the invalid part; and
- b) the Parties will negotiate and attempt to reach agreement on a replacement for the part declared or held invalid with a view to achieving the intent of the Parties as expressed in this Agreement.

19.6 **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.



19.7 **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 constitute a waiver of any other provision, obligation or subsequent default.

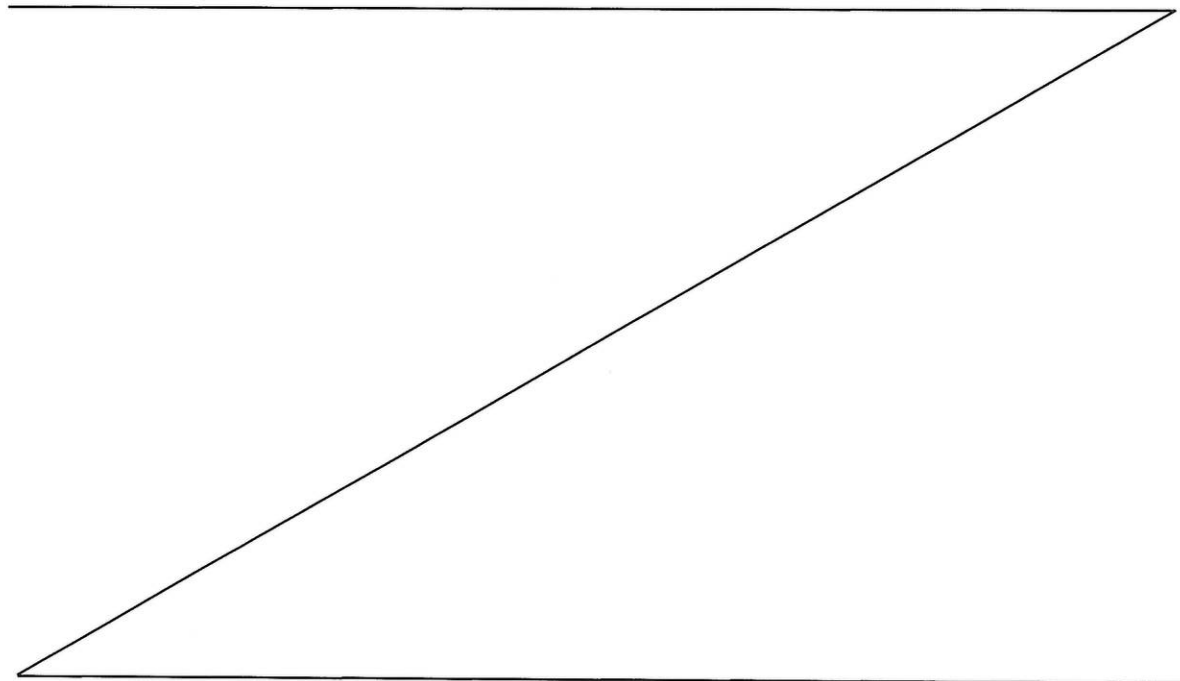
19.8 **Assignment.** Gitga'at will not assign, either directly or indirectly, this Agreement or any right of Gitga'at under this Agreement without the prior written consent of the Province.

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

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

19.11 **Execution in Counterpart.** This Agreement may be executed in counterparts, each of which will be deemed to be an original and which taken together will be deemed to constitute one and the same instrument.


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19.12 **Electronic Delivery.** Delivery of an executed signature page to this Agreement by a Party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such Party.

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


**Signed on behalf of Gitga'at First Nation as represented by**

  
\_\_\_\_\_  
Chief Councillor Arnold Clifton or  
authorized representative

  
\_\_\_\_\_  
Witness


MARCH 29, 2017  
\_\_\_\_\_  
Date


**Signed on behalf of Her Majesty the Queen In Right of the Province of British Columbia by**

  
\_\_\_\_\_  
Honourable Rich Coleman  
Minister of Natural Gas Development

  
\_\_\_\_\_  
Witness

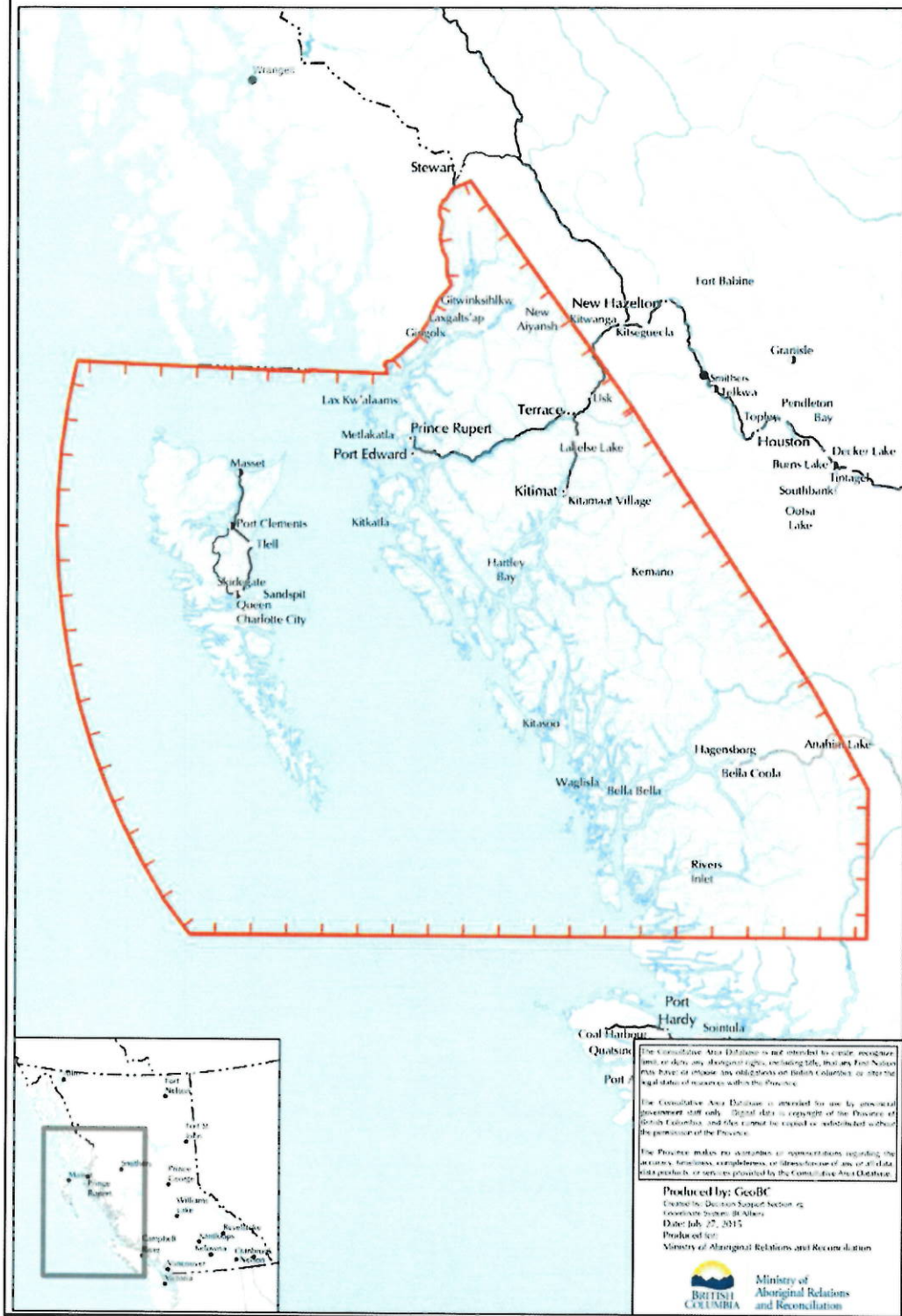
MAR 29 2017  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Honourable John Rustad Minister of  
Aboriginal Relations and Reconciliation

  
\_\_\_\_\_  
Witness

Mar 29, 2017  
\_\_\_\_\_  
Date

## Schedule A: Map Area



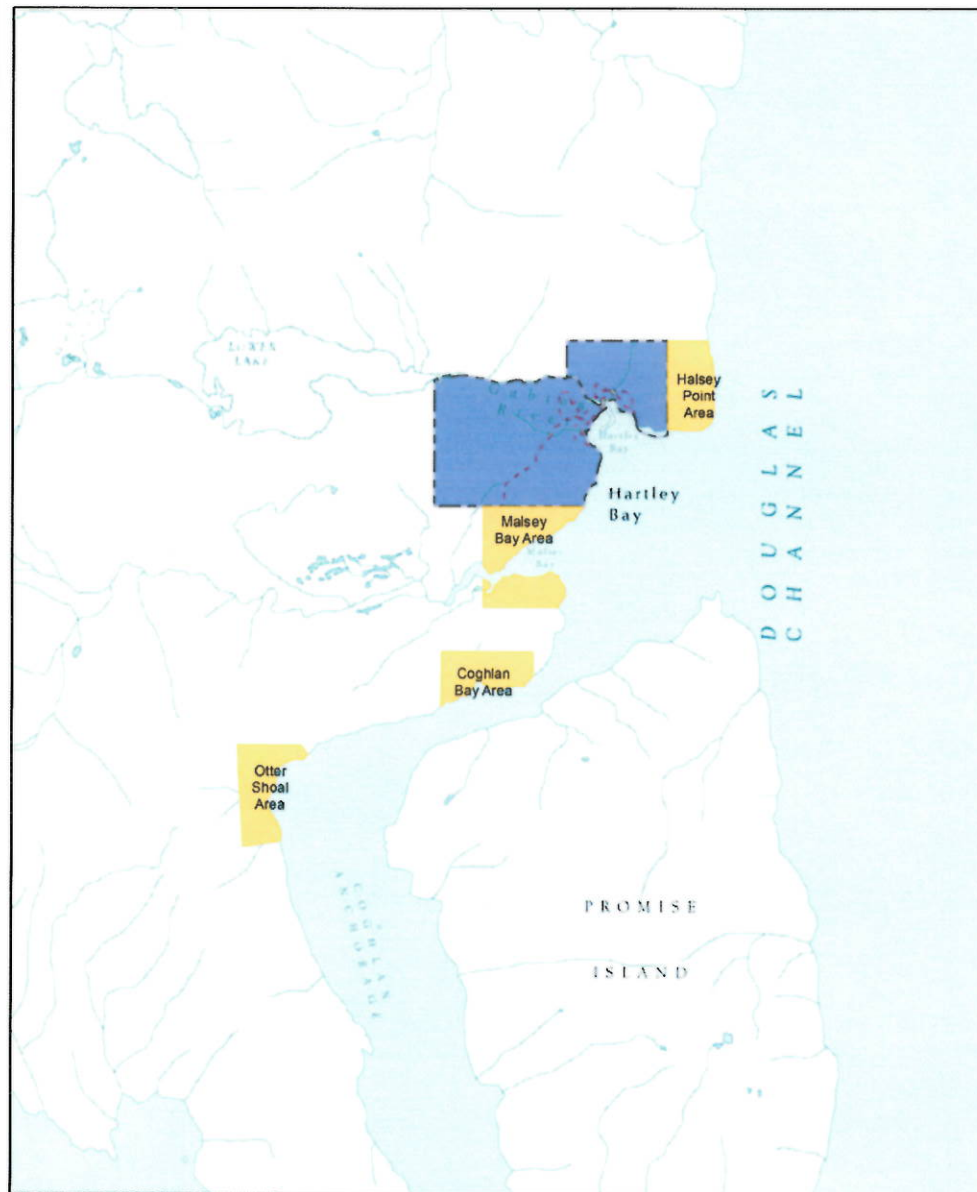
**Schedule B  
Annual Report Template**



<b>Community Priority</b>	<b>2016/2017 Planned Expenditures</b>	<b>2016/2017 Actual Expenditures</b>




## Schedule C – Map of Lands for Illustrative Purposes

### Gitga'at First Nation Map of Lands



 Gitga'at Nation Areas of Interest  
 Gitga'at Nation Indian Reserve

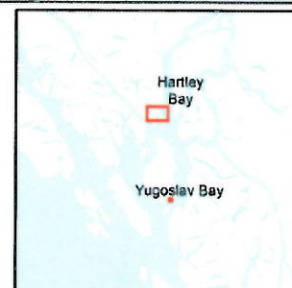
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1:10,000  
  
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Produced by: GeoBC  
 Created by: Decision Support Section, name  
 Coordinate System: NAD 1983 UTM Zone 18N  
 Date: June 1, 2016  
 Produced for:  
 Ministry of Aboriginal Relations and Reconciliation



Ministry of  
 Aboriginal Relations  
 and Reconciliation



# Gitga'at First Nation Map of Lands



- Gitga'at Nation Areas of Interest
- Gitga'at Nation Indian Reserve

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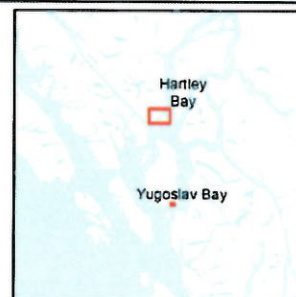


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 Created by: Decision Support Section, nrcan  
 Coordinate System: NAD 1983 UTM Zone 9N  
 Date: June 3, 2016  
 Produced for:  
 Ministry of Aboriginal Relations and Reconciliation



Ministry of  
 Aboriginal Relations  
 and Reconciliation



## Schedule D

### Part 1 – Permitted Encumbrances

#### **Permitted Encumbrances that apply to all Lands**

All interests registered on title under the *Land Title Act* as of the Closing Date;

All subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown grant of the Lands;

All exceptions and reservations contained in section 50(1) of the *Land Act*;

Any conditional or final water license or substituted water license issued or given under the *Water Act*, 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 Lands and to maintain, repair and operate any works permitted on the Lands under the license at the date of the Crown grant;

All subsisting grants to, or subsisting rights of any person made or acquired under the *Mineral Tenure Act*, *Coal Act* or *Petroleum and Natural Gas Act* or under any prior or subsequent enactment of the Province of British Columbia of like effect;

All other liens, charges and encumbrances granted by the Province, with the written consent of Gitga'at prior to the Closing Date; and

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 Lands in the form attached as Schedule E (Additions to Reserve Restrictive Covenant).

**Schedule D**

**Part 2 - Permitted Encumbrances-Interests Not Registered on Title**

**Part 3 – Crown Corridors**



**Schedule E - 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 | <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):\* (Grantor)

6. 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			Party(ies) Signature(s)
	Y	M	D	
				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 F - Designated Company Agreement

This Agreement is dated for reference \_\_\_\_\_, 20\_\_

### **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 Gitga'at 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. Gitga'at 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 "Gitga'at" 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 7 Condition of the Lands and Article 10 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 Gitga'at, against the Designated Company or Gitga'at 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 Gitga'at 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 Gitga'at.
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 G – 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 H

### Consent of Gitga'at First Nation in relation to Property Transfer Tax Matters

#### TO WHOM IT MAY CONCERN:

1. Part 4.4 e) of the Gitga'at First Nation Liquefied Natural Gas Benefits Agreement (the Agreement) between the Province of British Columbia and the Gitga'at First Nation, executed on \_\_\_\_\_, 20\_\_, provides that the Province is responsible for property transfer tax payable under the *Property Transfer Tax Act* in relation to the transfer of land under the Agreement (the Property Transfer Tax).
2. In the event that:
  - a) an exemption from Property Transfer Tax is not enacted prior to the date on which payment of that tax is due, or
  - b) the Province pays the Property Transfer Tax,then Gitga'at First Nation hereby
  - c) authorizes the Ministry of Finance and the Ministry of Aboriginal Relations and Reconciliation to deal directly with one another in regard to all matters relating to the Property Transfer Tax, and
  - d) agrees that if there is any refund payable in respect of the Property Transfer Tax paid by the Province, then the amount of that refund may be retained by the Province.

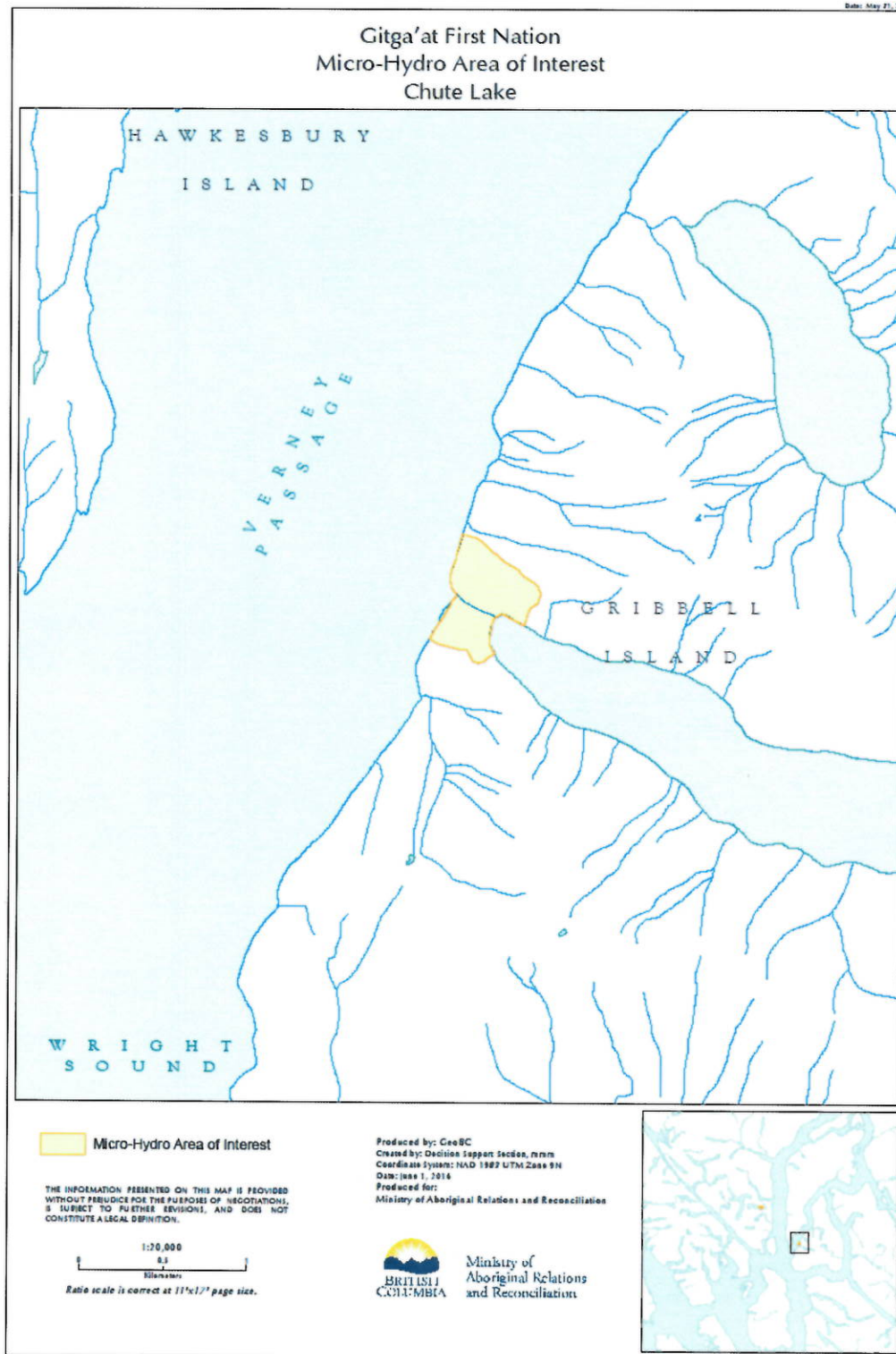
Executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of the duly authorized signatory for the Gitga'at First Nation

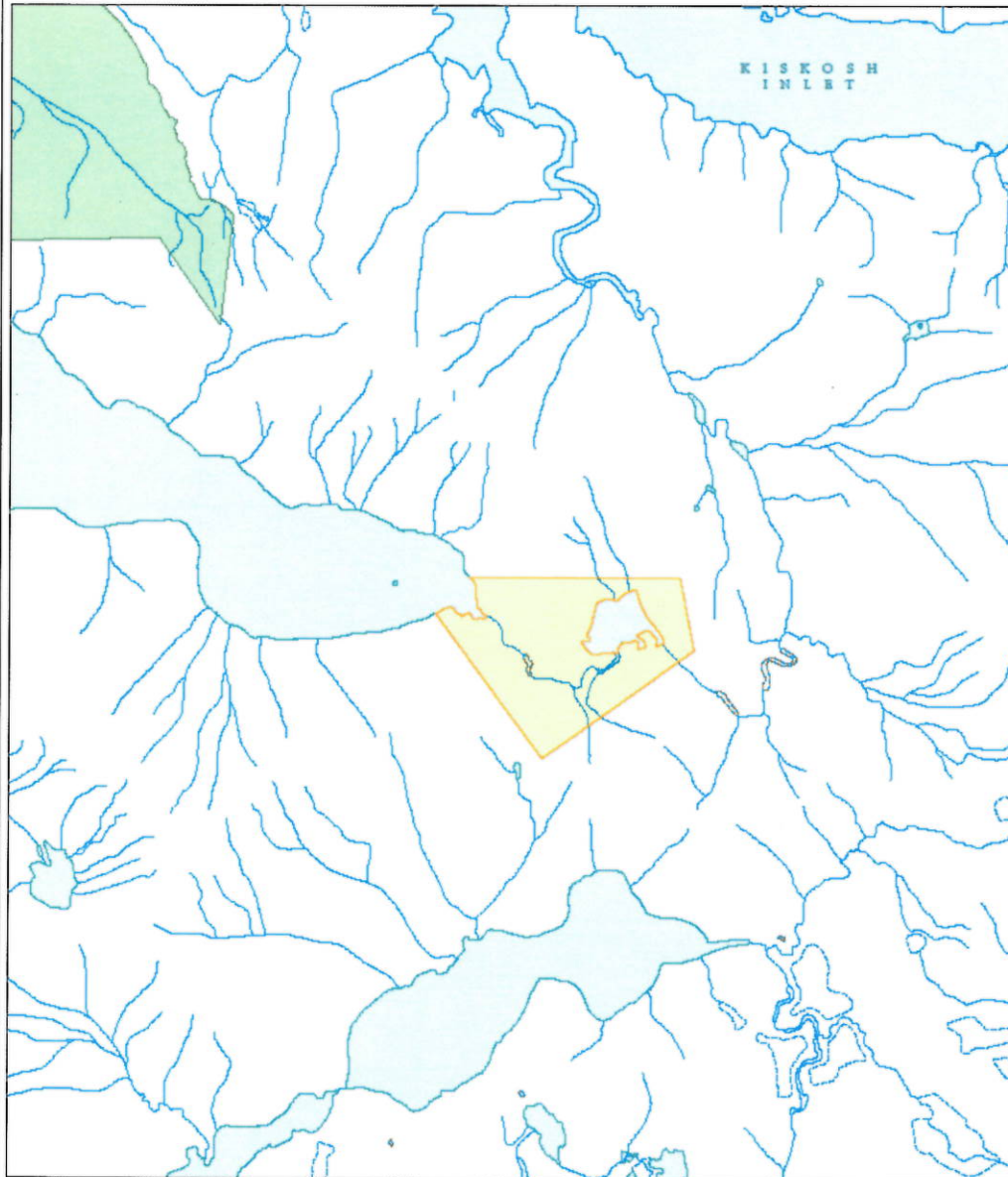
\_\_\_\_\_  
Name and Title (please print)

# SCHEDULE I MAP OF MICRO HYDRO LANDS

Date: May 21, 2014



Gitga'at First Nation  
Micro-Hydro Area of Interest  
Kiskosh River



 Micro-Hydro Area of Interest

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0.5  
Kilometers  
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Ministry of Aboriginal Relations and Reconciliation



Ministry of  
Aboriginal Relations  
and Reconciliation

