

INCREMENTAL TREATY AGREEMENT

This Agreement is dated for reference August 11, 2022

BETWEEN:

Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Indigenous Relations and Reconciliation

(the "Province")

AND:

Campbell River Indian Band, also known as Wei Wai Kum First Nation, on behalf of itself and its Members, as represented by the Chief and Council

("Wei Wai Kum")

WHEREAS:

- A. Wei Wai Kum, through its Chief and Council, asserts that it has used, occupied, governed and exercised exclusive ownership of its Traditional Territory from time immemorial;
- B. Wei Wai Kum is engaged with the Province and Canada in negotiating a Final Agreement in accordance with Stage 5 of the British Columbia Treaty Commission process;
- C. The Parties wish to create momentum in the treaty negotiations in order to conclude a Final Agreement; and
- D. This Agreement will provide Wei Wai Kum with transitional economic benefits in advance of a Final Agreement and is in the spirit and vision of the New Relationship.

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*;

“Chief” means, in respect of Wei Wai Kum, “chief” within the meaning of the *Indian Act*;

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

“Closing Date” means the date, or dates, on to which the Parties agree to submit for registration to the Land Title Office the documents to transfer title of the Lands;

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

“Crown Corridor” means

- a) a highway (as defined in the *Transportation Act*), or
- b) any other area of road, right-of-way, easement or licence over Crown land that is used for transportation or public utility purposes,

which is excluded from the transfer of Lands to Wei Wai Kum and where the Lands are not surveyed or have to be re-surveyed, is identified for illustrative purposes in Schedule 1;

“Crown Grant” means a Crown grant as defined in the *Land Act*;

“Designated Company” means a company incorporated under federal or provincial law, all the shares of which are wholly owned directly or indirectly, legally and beneficially, by Wei Wai Kum and which Wei Wai Kum has designated by Band Council Resolution to take fee simple title to any of the Lands;

“Deactivated Roads” means roads that have been deactivated in accordance with provincial law and shown for illustrative purposes in Schedule 1;

“Effective Date” means the date on which the Final Agreement takes effect;

“Final Agreement” means the Final Agreement to be concluded by the Parties and Canada at the conclusion of Stage 5 of the British Columbia Treaty Commission process;

“Forest Service Roads” means roads that are identified as forest service roads for illustrative purposes in Schedule 1 and are included in the Lands being transferred to Wei Wai Kum;

“Free Growing Stand” means a stand of healthy trees of a commercially viable species, the growth of which is not impeded by competition from plants, shrubs or other trees;

“Governmental Action” means all processes, decisions, approvals, authorizations, permits, licences, approvals, Crown land dispositions, agreements and other actions whatsoever issued, granted, entered into or otherwise taken by a Provincial Official either before or after the date of this Agreement;

“GST” means the goods and services tax imposed under the *Excise Tax Act* (Canada) or equivalent tax imposed under federal or provincial law;

“Impact Zone” means that area between the shoreline of the Lower Campbell Reservoir and the impact line that was identified by a geotechnical study, as shown for illustrative purposes in Schedule 2;

“ITA” means this Incremental Treaty Agreement;

“Incremental Treaty Agreement Date” means the date on which this Agreement is executed by the Parties and may be referred to as “ITA Date”;

“Lands” means the area of approximately 2,276 hectares as shown for illustrative purposes in Schedule 1 as Parcel A, Parcel B, and Parcel C, following completion and approval of the survey or re-survey of those lands, the area legally described in the survey, which, for greater certainty, will include any Forest Service Roads and Deactivated Roads within Parcels A, B, and C but will not include any land below the natural boundary (as defined in the *Land Act*), the area of any Crown Corridor, any submerged lands or the Impact Zone;

“Member” means any person who is a “member of the band”, as that phrase is defined in the *Indian Act*, of Wei Wai Kum;

“Other Wei Wai Kum Lands” means lands which, on the Effective Date, are owned by Wei Wai Kum or a Designated Company;

“Parcel A” means an area of approximately 496.7 hectares, as shown for illustrative purposes in Schedule 1, Map 2 of 4;

“Parcel B” means an area of approximately 999.5 hectares, as shown for illustrative purposes in Schedule 1, Map 3 of 4;

“Parcel C” means an area of approximately 780.2 hectares, as shown for illustrative purposes in Schedule 1, Map 4 of 4;

“Permitted Encumbrances” means the exceptions, reservations, liens, charges and interests described in Schedule 3 for each of the Lands or any other

Permitted Encumbrances agreed to by the Parties, including any related extensions, renewals or replacements granted by the Province or any further rights related to the Permitted Encumbrances issued by the Province in accordance with provincial law;

“Proceeding” includes any claim, demand, cause of action, action, suit or other proceeding, including any expenses, legal fees, damages, costs or other liability, incurred, directly or indirectly, arising out of or in connection with the foregoing;

“Provincial Official” means:

- a) the Province or any minister, public official, employee, contractor, agent or representative of the Province;
- b) any government corporation or any director, officer, employee, contractor, agent or representative 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* or equivalent tax imposed under federal or provincial law;

“Reservations” means the exceptions and reservations contained in the *Land Act* and all subsisting exceptions and reservations of interests, rights and privileges and title contained in any previous grant of land;

“Silviculture Liability Transfer and Assumption Agreement” means an agreement being negotiated by Wei Wai Kum and the Province to transfer silviculture interventions required on former timber sale license areas to enable Free Growing Stand to develop;

“Traditional Territory” means, for the purposes of this Agreement, the statement of intent area filed by Wei Wai Kum with the British Columbia Treaty Commission;

“Treaty Settlement Lands” means those lands identified in the Final Agreement which form part of Wei Wai Kum Lands; and

“Wei Wai Kum” includes the “band”, as that term is defined in the *Indian Act*, named the “Campbell River Indian Band” and includes all Members.

1.2 Interpretation. For purposes of this Agreement:

- a) “this Agreement” means this Incremental Treaty Agreement, and includes the Schedules and any agreement, document or instrument executed or delivered pursuant to this Agreement;

- b) “including” means “including, but not limited to” and “includes” means “includes, but not limited to”;
- c) the recitals and 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;
- d) words importing gender include the masculine, feminine or neuter gender and words in the singular include the plural and vice versa;
- e) 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;
- f) 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;
- g) 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;
- h) any reference to “form” with respect to a Permitted Encumbrance to be registered in the Land Title Office means “Terms of Instrument”;
- i) each and every acknowledgement, agreement, release or other covenant given, and action to be taken, by Wei Wai Kum under this Agreement means Wei Wai Kum acting by and through its Chief and Council, and will be conclusively deemed to have been given, or taken, by Wei Wai Kum on its own behalf, and for and on behalf of its Members; and
- j) 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 are the Schedules to this Agreement:

Schedule 1: Maps of Lands for Illustrative Purposes

- Map 1 of 4, Overview of Lands
- Map 2 of 4, Parcel A
- Map 3 of 4, Parcel B
- Map 4 of 4, Parcel C

Schedule 2: Map of Impact Zone

Schedule 3: Reservations and Permitted Encumbrances

Schedule 4: Form of Permitted Encumbrances

- Statutory Right of Way – Terms of Instrument

Schedule 5: Designated Company Agreement

Schedule 6: GST Certificate

Schedule 7: Consent of Wei Wai Kum in relation to Property Transfer Tax Matters

Schedule 8: Process for Approval to Quarry on ITA Lands

ARTICLE 2 – RECONCILIATION AND PURPOSE

- 2.1 **Reconciliation.** Wei Wai Kum acknowledges and agrees that, in the spirit of reconciliation and to advance Final Agreement negotiations, the Lands transferred to Wei Wai Kum in accordance with this Agreement constitute a partial contribution by the Province towards the reconciliation of the Province's and Wei Wai Kum's interests and the settlement of Wei Wai Kum's aboriginal rights and title claims within the Traditional Territory through treaty negotiations and, as such, the benefits provided to Wei Wai Kum under this Agreement will be counted as a portion of the Province's contribution towards the Final Agreement settlement.
- 2.2 **Purpose.** The purpose of this Agreement is to:
- a) demonstrate the commitment of the Parties to concluding a Final Agreement; and
 - b) in the spirit of reconciliation, provide Wei Wai Kum with land, as an incremental treaty benefit in advance of a Final Agreement, which will be transferred in accordance with this Agreement and will, on the Effective Date, become an element of the Final Agreement.

ARTICLE 3 - COMING INTO EFFECT AND TERMINATION

- 3.1 **Coming into Effect.** This Agreement comes into effect when the Parties have executed it and, where it has been executed in counterparts, on the date the last Party signing the Agreement executes it.
- 3.2 **Termination.** This Agreement may be terminated in writing:

- a) by the Parties on a date mutually agreed on by the Parties; or
 - b) by either Party prior to the ministerial order authorizing the disposition of the Lands that are the subject of the ministerial order under section 5.33(g).
- 3.3 **Termination on Litigation.** Despite section 3.2, the Province may terminate this Agreement, including the transfer of any Lands which have not been completed, in the event Wei Wai Kum commences a Proceeding relating to any Government Action within the Lands.
- 3.4 **Survival of Lands Conditions.** Despite section 3.2, and subject to the Final Agreement, where any of the Lands are transferred under this Agreement, Articles 7, 10 and 12 will survive the completion of the transfers or the termination of this Agreement and, for greater certainty, will continue to apply to the Lands.
- 3.5 **Land Protections.** As soon as practicable after the ITA Date, if applicable, the Province will seek approval to apply the following protections for the Lands:
- a) a no staking reserve and no disposition notice under the *Mineral Tenure Act*; or
 - b) similar measures as appropriate.

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

- 4.1 **Wei Wai Kum Representations.** Wei Wai Kum represents and warrants to the Province, with the intent and understanding that they will be relied on by the Province in entering into this Agreement, that:
- a) it enters into this Agreement for, and on behalf of, its Members;
 - b) any company designated by Wei Wai Kum by Band Council Resolution for the purposes of this Agreement will be a Designated Company;
 - c) any Designated Company 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; and
 - d) the Province has fulfilled its obligation to consult with Wei Wai Kum in relation to the transfer of the Lands to a Designated Company and the Permitted Encumbrances on the Lands.

4.2 **Provincial Representations.** The Province represents and warrants to Wei Wai Kum, with the intent and understanding that they will be relied on by Wei Wai Kum in entering into this Agreement, that:

- a) it has the legal power, capacity and authority to enter into this Agreement; and
- b) on satisfaction or waiver of the conditions precedent under section 5.4, 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.

ARTICLE 5 – CONDITIONS PRECEDENT

5.1 **Band Council Resolution.** Prior to the execution of this Agreement, Wei Wai Kum will deliver to the Province a Band Council Resolution made by its elected Council authorizing Wei Wai Kum's representatives named in the resolution to execute this Agreement on behalf of Wei Wai Kum.

5.2 **Transfer Letter.** The Province will not proceed with the transfer of the Lands in accordance with this Agreement until Wei Wai Kum has delivered to the Province a Band Council Resolution duly made by its elected Council requesting the transfer of the Lands.

5.3 **Conditions Precedent to Land Transfers.** The obligation of the Province to transfer any of the Lands to Wei Wai Kum under this Agreement is, with respect to each parcel of Lands, 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, when any expenditure in respect of an obligation may be required, to make that expenditure;
- b) the Province and Canada reaching an agreement satisfactory to the Province, in its sole discretion, on cost sharing the value of the Lands for treaty settlement purposes;
- c) the representations and warranties of Wei Wai Kum under this Agreement being true and correct on and up to the applicable Closing Date;
- d) the Province being satisfied that, with respect to each transfer of the Lands, it has fulfilled any procedural obligations to consult it may have with respect to assertions of Aboriginal Rights to the Lands by First Nations other than Wei Wai Kum;

- e) surveys for the Lands having been completed on or before the applicable Closing Date;
- f) the parties having reached an agreement in accordance with Article 8 on the Permitted Encumbrances, including completion of agreements with interest holders as necessary;
- g) the Province having notified Wei Wai Kum that the Minister responsible has authorized the disposition of the Lands in accordance with provincial law; and
- h) the Province receiving from Wei Wai Kum confirmation of the Designated Company that will take fee simple title to the Lands under section 6.1.

5.4 **Waiver of Conditions Precedent.** The conditions precedent set out in section 5.3 are for the sole benefit of the Province and may be waived by the Province on written notice to Wei Wai Kum.

ARTICLE 6 – TRANSFER OF LANDS

6.1 **Transfer of Lands.** Subject to the Permitted Encumbrances, Reservations, and the terms and conditions of this Agreement, including the satisfaction or waiver of all applicable conditions precedent, the Province will transfer the Lands to the Designated Company as follows:

- a) Parcel B as soon as practicable after the ITA Date;
- b) Parcel A and C as soon as practicable after the later of:
 - i. the signing of a Silviculture Liability Transfer and Assumption Agreement between the Province and Wei Wai Kum, or
 - ii. the ITA Date.

6.2 **Staged Transfer.** Without limiting section 6.1, the Parties agree that the transfer of the Lands may be staged such that one or more portions of the Lands may be transferred separately in the event that the conditions precedent for one parcel within the Lands are satisfied or waived prior to the conditions precedent for the other portions of the lands being waived or satisfied, and, in that event,

- a) the conditions in section 5.3; and
- b) the closing procedure set out in section 6.5

will apply separately for each staged transfer of Lands.

6.3 **Closing Deliveries by Wei Wai Kum.** Not less than 14 days before the Closing Date, or as otherwise agreed to by the solicitors for the Parties, Wei Wai Kum will execute and deliver, or cause to be executed and delivered, or deliver, as the case may be, to the Province:

- a) copies of the executed Permitted Encumbrances, if applicable;
- b) a statutory right of way agreement executed by the Designated Company in the form attached in Schedule 4;
- c) an agreement executed by the Designated Company in the form attached as Schedule 5 in relation to the applicable Lands;
- d) a certificate signed by an officer of the Designated Company in the form attached as Schedule 6 confirming the Designated Company's GST registration number and registered status;
- e) a signed consent of Wei Wai Kum in relation to Property Transfer Tax form executed by Wei Wai Kum in the form attached as Schedule 7; and
- f) all such other documents that may be necessary for Wei Wai Kum or a Designated Company to provide to complete the transactions contemplated under this Agreement.

6.4 **Registration of Lands.** Subject to the Final Agreement, all Lands transferred pursuant to section 6.1 will be registered in the Land Title Office.

6.5 **Closing Procedure.** The solicitors for Wei Wai Kum and the Province will confirm in writing, including by providing any applicable undertakings, the manner in which the documents necessary or advisable to carry out the transfers, registrations and filings set out in this Agreement will be produced, managed, exchanged and submitted to the Land Title Office.

ARTICLE 7 – CONDITION OF LANDS

7.1 **Lands "As Is".** Wei Wai Kum acknowledges and agrees that any of the Lands acquired by a Designated Company under this Agreement are acquired "as is" as of the applicable Closing Date.

7.2 **Research and Accuracy.** The Province has researched the Environmental Remediation Sites, Historic Mines Atlas and MINFILE and has found no reference to the Lands. Wei Wai Kum acknowledges and agrees that the Province has not given any representation or warranty concerning the accuracy, relevance, reliability or completeness of the research and that the Province will have no liability for any errors, omissions or inaccuracies with respect to the research.

7.3 Viability of Lands. Wei Wai Kum 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 Wei Wai Kum 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.

7.4 Environmental Condition. Wei Wai Kum:

- a) waives the requirement, if any, of the Province to provide a site disclosure statement 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 environmental condition of the Lands (including surface water and groundwater), including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Lands or on or under any surrounding or neighbouring land or the current and past uses of the Land or any surrounding or neighbouring land.

7.5 Environmental Conditions. Wei Wai Kum will from and after the Closing:

- a) assume all environmental liabilities relating to the Lands including 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);
- b) release the Provincial Officials from and against any and all Proceedings with respect to any and all environmental liabilities relating to the Lands described in section 7.5(a); and
- c) indemnify and save harmless the Provincial Officials from and against any and all Proceedings after the Closing arising out of or in connection with any and all environmental liabilities relating to the Lands described in section 7.5(a).

7.6 Effect of Section 7.5. For greater certainty

- a) Section 7.5 applies where:
 - i) any contamination relating to the Lands, whether disclosed or undisclosed, known or unknown, created or existing, arose before the Closing Date or arose before and continues after the Closing Date; and
 - ii) any environmental liability relating to the costs of remediation of the Lands are incurred after the Closing Date and relate to contamination that arose before the Closing Date or arose before and continues after the Closing Date; and
- b) Section 7.5 does not apply where any environmental liability relating to the Lands results from the acts or omissions of British Columbia after the Closing Date.

ARTICLE 8 – RESERVATIONS AND ENCUMBRANCES

- 8.1 **Reservations and Permitted Encumbrances.** Wei Wai Kum acknowledges and agrees that, on execution of this Agreement or receipt of updated Schedules under sections 8.6 and as of the Closing Date:
- a) it is familiar with the existence and terms of the Reservations and Permitted Encumbrances and accepts fee simple title to the Lands subject to the Reservations and Permitted Encumbrances; and
 - b) it will not 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.
- 8.2 **Crown Corridors.** The Crown Corridors identified for illustrative purposes in Schedule 1 are excluded from the Lands and the Province will determine the width of the Crown Corridor to be surveyed or resurveyed from the Lands, provided that the Crown Corridor will be no more than 30 metres wide.
- 8.3 **Quarrying on the Lands.** The Parties agree to the process set out in Schedule 8 to allow the Province to request approval from Wei Wai Kum, which approval will not be unreasonably withheld, to obtain rock and gravel resources from the Lands where necessary for the purpose of maintaining, operating, and upgrading the existing roads within the Crown Corridors.
- 8.4 **Form of Permitted Encumbrances.** The Parties agree that the Permitted Encumbrances are generally in the form set out in Schedule 4 and where applicable are subject to

- a) concluding the terms of agreements with interest holders; and
- b) modifications to Permitted Encumbrances that Wei Wai Kum and an interest holder may agree to in writing.

8.5 **Permitted Encumbrances.** The Parties agree that between the execution of this Agreement and the Closing Date, the Parties may agree to amend the Permitted Encumbrances to

- a) comply with the current Provincial policies and practices, and any legal requirement; and
- b) correct any errors or omissions to the Permitted Encumbrances or the form of Permitted Encumbrances.

8.6 **Amendments Form Part of Agreement.** Where any amendments are made under section 8.5, Schedule 3 and 4 will be revised and will, as revised, form part of this Agreement.

8.7 **Registration of Unregistered Interests.** Wei Wai Kum will consent, or will cause the Designated Company to consent, to the registration of any interests that have been identified in Schedule 3 but which are not registered against the applicable Lands in the Land Title Office on or after the Closing Date.

8.8 **Indemnity for Charges.** Wei Wai Kum will indemnify and save harmless the Province and all Public Officials from and against any and all Proceedings arising out of or in connection with Wei Wai Kum's or a Designated Company's acts or omissions in connection with any Permitted Encumbrance that arises after the date of the transfer of the Lands.

ARTICLE 9 – TRANSACTION COSTS

9.1 **Property Transfer Tax and Other Costs.** The Province is responsible for the following costs in connection with the transfer of the Lands:

- a) the cost associated with ensuring the Lands have a survey which meets the requirements for registration in the Land Title Office;
- b) any costs or fees associated with the preparation and issuance of Crown Grants and any other documents required to register the Lands and Permitted Encumbrances;
- c) any fees charged by the Land Title Office or the Land Title and Survey Authority relating to the registration of the Lands and the Permitted Encumbrances; and

- d) property transfer tax payable under the *Property Transfer Tax Act* which, for greater certainty, the Province will pay or seek an exemption.
- 9.2 **GST and Other Charges.** Wei Wai Kum is responsible for any federal sales tax, including GST, and any other transfer or registration charges for which the Province has not expressly agreed to accept responsibility under the terms of this Agreement.
- 9.3 **Annual Taxes and Other Costs.** Subject to the Final Agreement, the Designated Company is responsible for any and all annual taxes payable in respect of the Lands in accordance with provincial law. For greater certainty, on and after the applicable Closing Date, the Province is not required to assume financial or other obligations with respect to the Lands.

ARTICLE 10 - OTHER COVENANTS

- 10.1 **Other Wei Wai Kum Covenants.** Wei Wai Kum acknowledges and agrees that:
- a) in order to preserve the possibility of the Lands becoming Treaty Settlement Lands in accordance with the Final Agreement, Wei Wai Kum will not permit the Designated Company to dispose of its fee simple estate in the Lands for a period of time commencing on the applicable Closing Date and ending on the earlier of:
 - i) the 5 year anniversary of the Closing Date; or
 - ii) the Effective Date;
 - b) subject to section 11.1, 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 Wei Wai Kum challenge the applicability of provincial laws to the Lands; and
 - c) for greater certainty, Wei Wai Kum has been adequately consulted and accommodated with respect to the terms and conditions of the transfer of the Lands, including the Reservations and Permitted Encumbrances and any related extensions, renewals or replacements or any further rights related to the Permitted Encumbrances in accordance with provincial law.
- 10.2 **Disposition of Interests in Lands.** Notwithstanding section 10.1(a), Wei Wai Kum may charge or encumber the Lands provided that Wei Wai Kum advises the intended charge or encumbrance holder in writing that the Lands will, on the Effective Date:
- a) be transferred by the Designated Company to Wei Wai Kum and may become Treaty Settlement Lands; or

- b) be retained by the Designated Company, or transferred by the Designated Company to Wei Wai Kum, and will become Other Wei Wai Kum Lands.
- 10.3 **Failure to Ratify.** The restriction on the disposition of the Lands under section 10.1(a) will not apply where the Final Agreement is not signed by the authorized representative of the Parties or Canada, or the Final Agreement is not approved, given effect, declared valid and given the force of law under federal and provincial law.

ARTICLE 11 – STATUS OF LANDS ON EFFECTIVE DATE

- 11.1 **Status of Lands on Effective Date.** As part of Final Agreement negotiations, the Parties will negotiate the status of the Lands transferred under this Agreement to Wei Wai Kum as “Treaty Settlement Lands” or “Other Wei Wai Kum Lands” within the meaning of the Final Agreement.

ARTICLE 12 – OVERLAPPING CLAIMS

- 12.1 **Shared Territories.** Prior to the transfer of the Lands to the Designated Company, Wei Wai Kum will discuss and will make reasonable efforts to resolve any overlap or shared territory claims by other First Nations. In the event any such claims are not resolved to the Province's satisfaction, the Province may amend the boundaries of the Lands, not transfer the Lands, or transfer other lands.
- 12.2 **Other First Nations' Litigation.** In the event of any Proceeding brought by any other aboriginal group against the Province or any Provincial Official with respect to the transfer of the Lands to the Designated Company on behalf of Wei Wai Kum, Wei Wai Kum will provide the Province with reasonable assistance, upon request, in support of its defence of the Proceeding.

ARTICLE 13 – EXISTING LITIGATION

- 13.1 **Legal Proceedings.** The Parties acknowledge that there is no existing litigation which requires abeyance for the purposes of this Agreement.
- 13.2 **New Litigation.** If, at any time within 10 years of the Closing Date, Wei Wai Kum intends to commence a Proceeding relating to any Government Action within the Traditional Territory, Wei Wai Kum will notify the Province of its intent to commence the Proceeding and its reasons for doing so. Once the Province has received the notification, the Parties will meet within 30 days to discuss and attempt to resolve the matter.

ARTICLE 14 - DISPUTE RESOLUTION

- 14.1 **Representatives.** If a dispute arises between the Province and Wei Wai Kum regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practical to attempt to resolve the dispute.
- 14.2 **Senior Representatives.** If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Province and Wei Wai Kum.
- 14.3 **Other Means.** The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

ARTICLE 15 - NOTICES

- 15.1 **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 in this Agreement, 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 Indigenous Relations and Reconciliation
P.O Box 9100 Stn. Prov. Gvt.
Victoria, B.C. V8W 9B1
Fax: (250) 387-6073

and if to the Wei Wai Kum:

Wei Wai Kum
1650 Old Spit Road
Campbell River, BC V9W 3E8
Attention: Chief Councillor
Email: chrisroberts@weiwaikum.ca or lindacampbell@weiwaikum.ca
Fax: (250) 287-8838

- 15.2 **Change of Address.** Either Party may, from time to time, give notice to the other Party of any change of address, email address or facsimile number of the Party giving such notice and after the giving of such notice, the address, email address or facsimile number will, for purposes of this Agreement be conclusively

deemed to be the address, email address or facsimile number of the Party giving such notice.

ARTICLE 16 - GENERAL


- 16.1 **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.
- 16.2 **Further Acts and Assurances.** Each of the Parties will, upon the reasonable request of the other Party, do such further lawful acts or deliver such further documents in a timely fashion as are reasonably required in order to fully perform and carry out the terms of this Agreement.
- 16.3 **No Implied Waiver.** Any waiver of a provision of this Agreement, the performance by a Party of an obligation under this Agreement or 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 be a waiver of any other provision, obligation or subsequent default.
- 16.4 **Successors.** This Agreement will enure to the benefit of and be binding on Wei Wai Kum and its successors and the Province.
- 16.5 **No Admissions.** Nothing in this Agreement will be construed as an:
- a) admission by the Province of the validity of any claim by Wei Wai Kum to a specific treaty or 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 Wei Wai Kum.
- 16.6 **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 rights or titles or any responsibilities of the Parties except as set out in this Agreement.
- 16.7 **No Fettering.** Nothing in this Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.
- 16.8 **Amendment.** This Agreement may be amended from time to time by the Parties in writing.

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

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

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

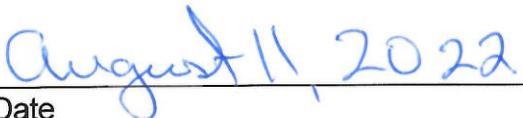
Signed on behalf of Wei Wai Kum First Nation by:



Chief Christopher Roberts



Witness



Date

Signed on behalf of Her Majesty the Queen in Right of the Province of British Columbia by the Minister for Indigenous Relations and Reconciliation



Minister Murray Rankin



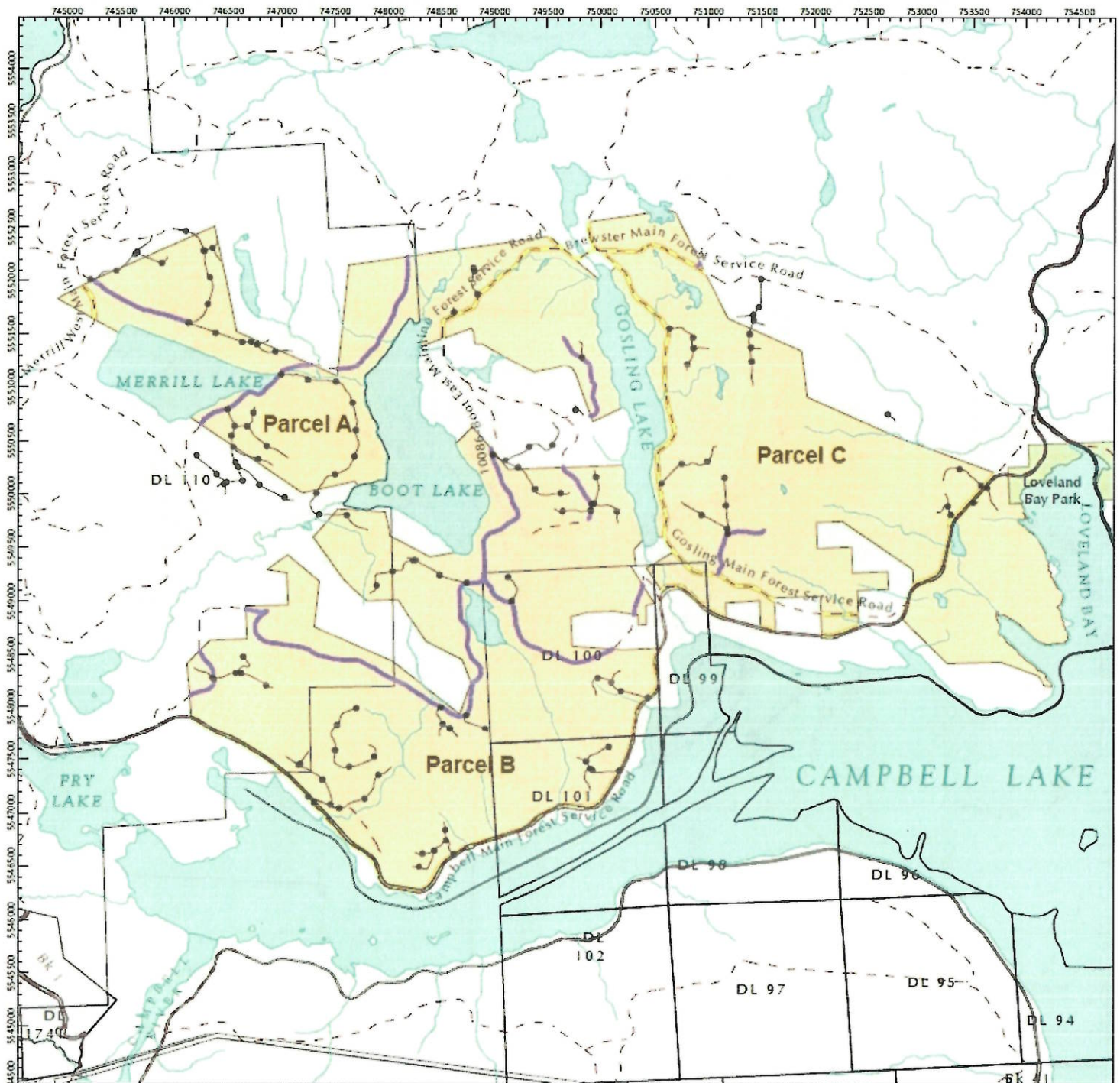
Witness



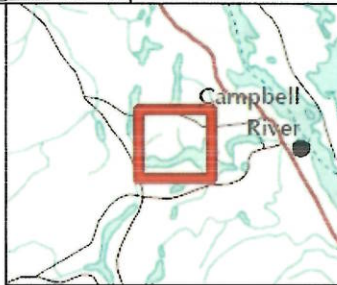
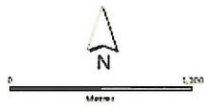
Date

Schedule "1": Maps of Lands for Illustrative Purposes

Map 1 of 4 - Overview of Lands



- Wei Wai Kum First Nation ITA parcel
- Crown Corridor
- Forest Service Roads transferred to Wei Wai Kum
- Deactivated roads
- Road – rough/unpaved

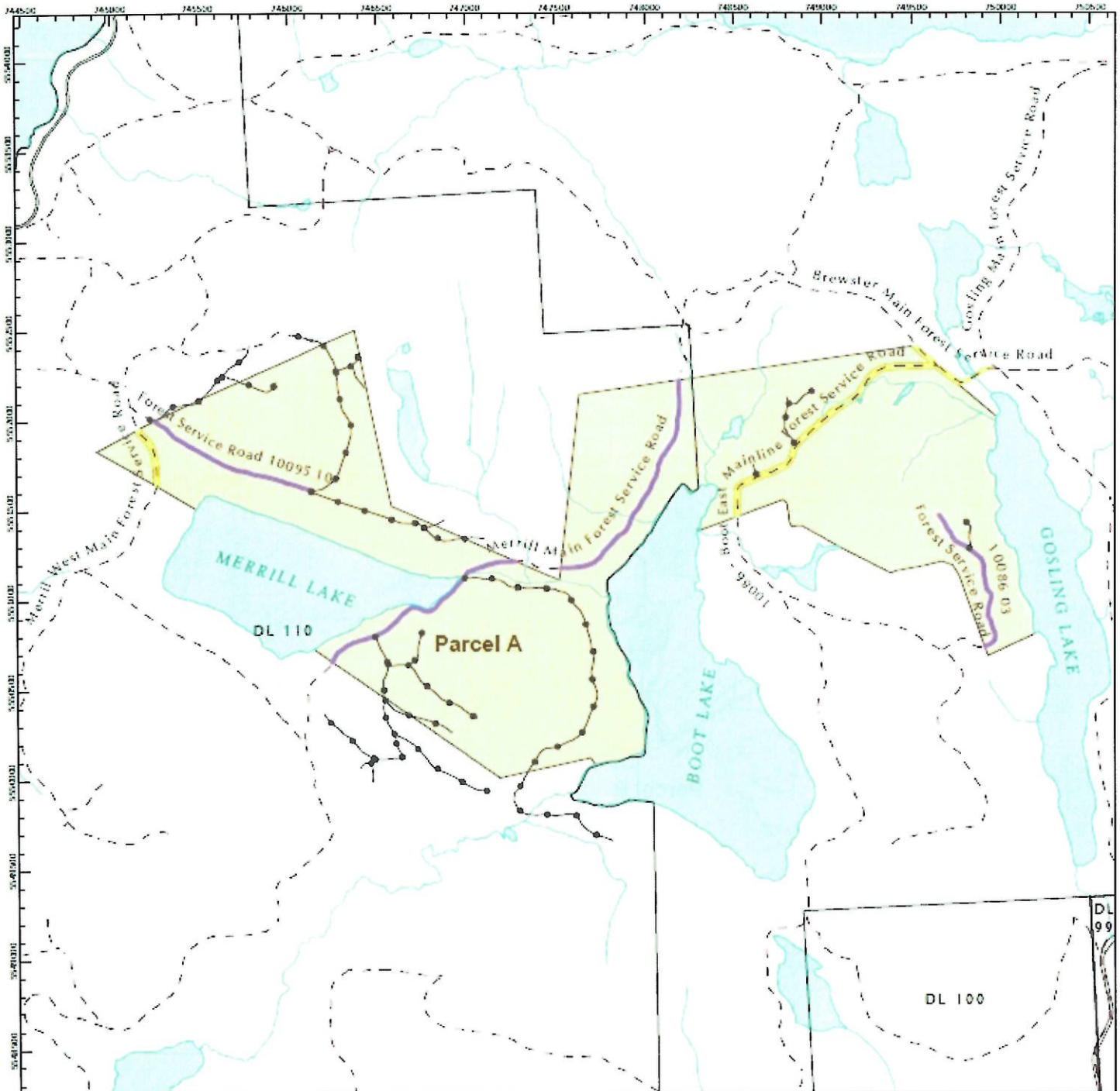


THIS MAP OF THE ITA LANDS IS FOR ILLUSTRATIVE PURPOSES ONLY. WHERE THERE IS A CONFLICT BETWEEN THIS MAP AND THE LEGAL DESCRIPTION OF THE ITA LANDS, THE LEGAL DESCRIPTION IS AUTHORITATIVE.

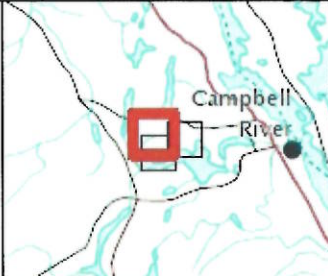
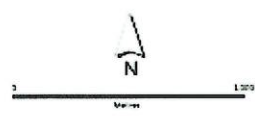
Cadastre derived from Crown Land Registry Services and Land Title Office
Land District: Victoria
BCGS Mapsheet No. 92K.009
Projection: NAD 1983 UTM Zone 9N

Schedule 1
ITA Lands for Illustrative Purposes
Map 1 of 4
Overview

Map 2 of 4 - Parcel A



- Wei Wai Kum First Nation ITA parcel
- Crown Corridor
- Forest Service Roads transferred to Wei Wai Kum
- Deactivated roads
- Road - rough/unpaved

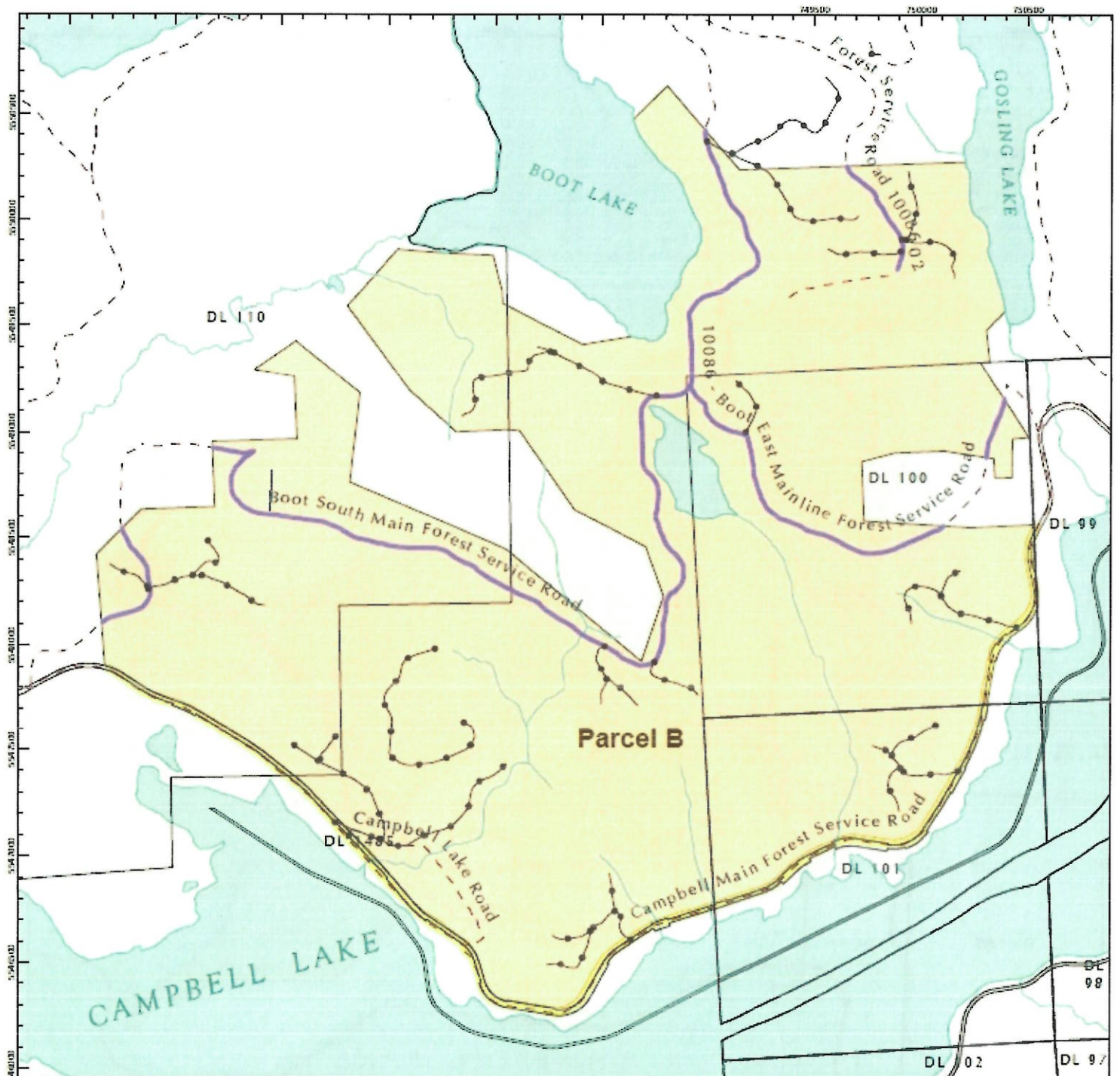


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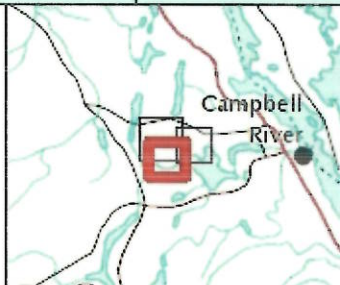
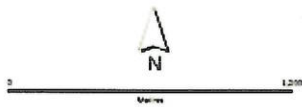
Geospatial data derived from Crown Land Registry Services and Land Title Office
 Land District: Victoria
 BCOS Mapsheet No.: 928, 001
 Projection: NAD 1983 UTM Zone 18N

Schedule 1
 ITA Lands for Illustrative Purposes
 Map 2 of 4
 Parcel A

Map 3 of 4 – Parcel B



- Wei Wai Kum First Nation ITA parcel
- Crown Corridor
- Forest Service Roads transferred to Wei Wai Kum
- Deactivated roads
- Road – rough/unpaved

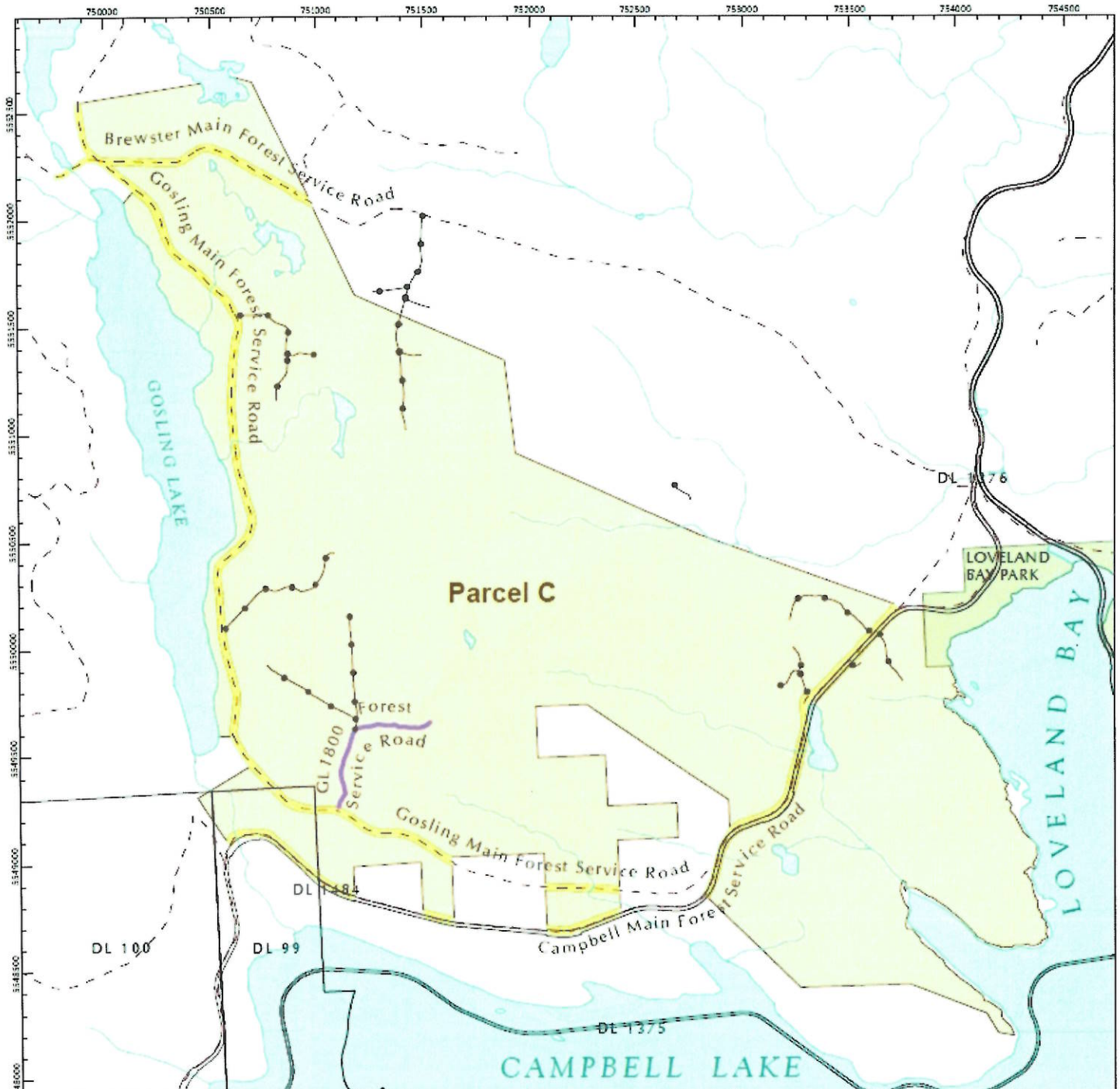


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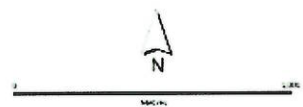
Digitals derived from Crown Land Registry Services and Land Title Office
 Land District: Victoria
 BCUS Mapsheet No. 92K.003
 Projection: NAD 1983 UTM Zone 9N

Schedule 1
 ITA Lands for Illustrative Purposes
 Map 3 of 4
 Parcel B

Map 4 of 4 – Parcel C



- Wei Wai Kum First Nation ITA parcel
- Crown Corridor
- Forest Service Roads transferred to Wei Wai Kum
- Deactivated roads
- Road – rough/unpaved

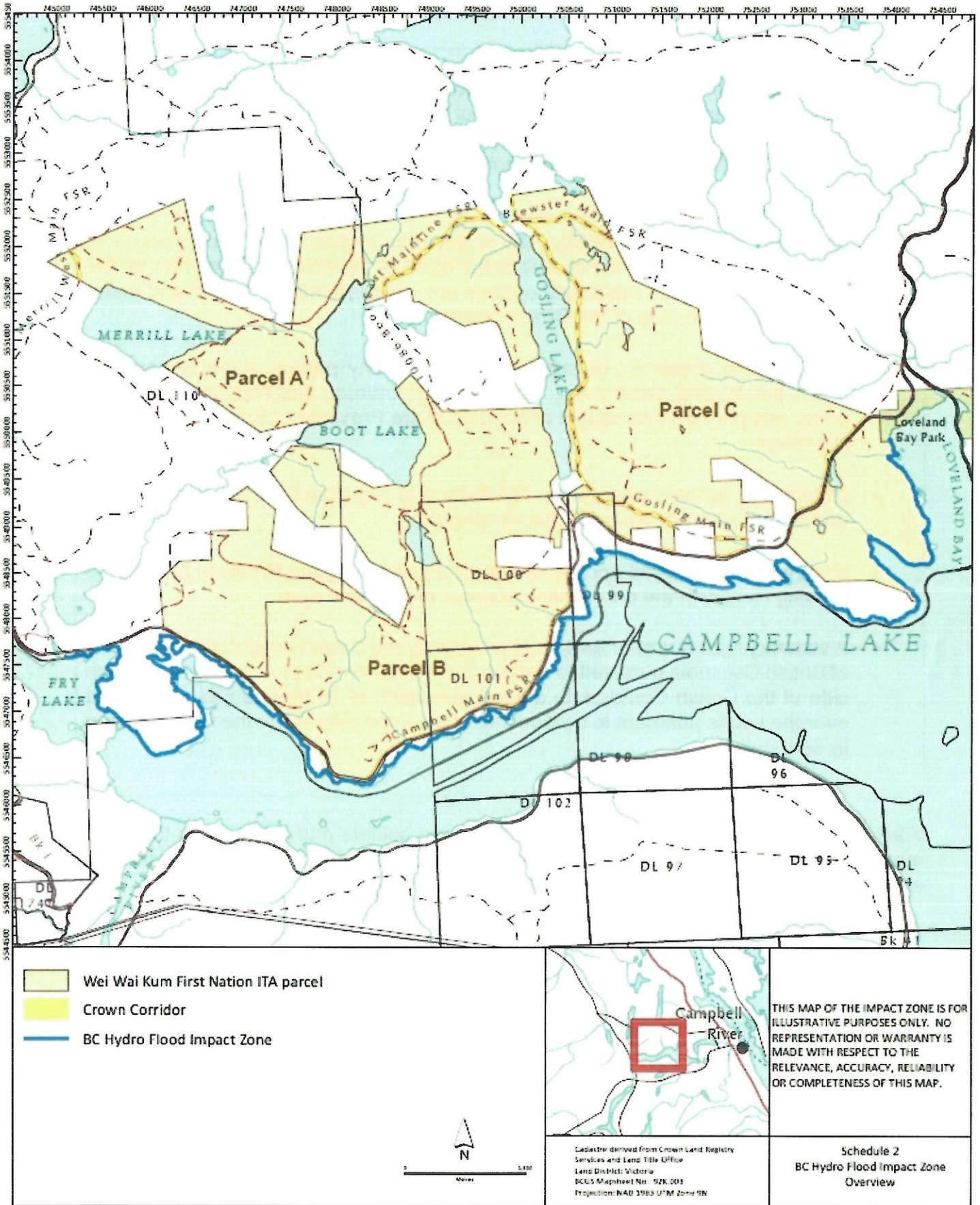


THIS MAP OF THE ITA LANDS IS FOR ILLUSTRATIVE PURPOSES ONLY. WHERE THERE IS A CONFLICT BETWEEN THIS MAP AND THE LEGAL DESCRIPTION OF THE ITA LANDS THE LEGAL DESCRIPTION IS AUTHORITY.

Cadastral derived from: Crown Land Registry Services and Land Title Office, Land District, Victoria
 BCGS Mapsheet No. 92K.003
 Projection: NAD 1983 UTM Zone 9N

Schedule 1
 ITA Lands for Illustrative Purposes
 Map 4 of 4
 Parcel C

Schedule "2": Map of Impact Zone for Illustrative Purposes



Schedule "3": Reservations and Permitted Encumbrances

- all subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown grant of the land
- 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 Sustainability Act*, or any prior enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the land and to maintain, repair and operate any works permitted on the land 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 interests granted prior to the ITA Date and registered on title to the Lands under the *Land Title Act* as of the Closing Date
- all other liens, charges and encumbrances granted by the Province prior to the Closing Date with the prior written consent of Wei Wai Kum
- A statutory right of way in favour of Her Majesty the Queen in right of the Province of British Columbia pursuant to section 218 of the *Land Title Act* adjacent to each side of the Crown Corridors to a maximum width of 10 metres and a covenant over the Lands pursuant to section 219 of the *Land Title Act* in the form attached in Schedule 4

Wei Wai Kum acknowledges that all existing interest holders and interests on the Lands may not have been identified in this Schedule prior to the execution of this Agreement and that these unidentified interests continue on the Lands.

Schedule "4" – Form of Permitted Encumbrances

Statutory Right of Way – Terms of Instrument

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 Forests [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")

WHEREAS

- A. The party(ies) identified as Transferor in Item 5 of Part 1 (the "**Grantor**") is the registered owner of the Lands;
- B. The party identified as Transferee in Item 6 of Part 1 (the "**Province**") operates and maintains Resource Roads on the Crown lands that run adjacent to or near the Lands.
- C. The Province requires a statutory right of way of no more than 10 metres in width on the Lands adjacent to the Crown lands to support the operation and maintenance of the Resource Roads;
- D. The Grantor has agreed to grant the Province a statutory right of way over the SRW Area on the terms and conditions contained herein;
- E. This statutory right of way is granted pursuant to Section 218 of the *Land Title Act* of British Columbia, and the rights created by this Instrument are necessary for the operation and maintenance of the Province's undertaking;
- F. Section 219 of the *Land Title Act* provides, *inter alia*, that there may be registered as a charge against title to land a covenant, whether negative or positive nature, in favour of the Province in respect of, amongst other things, the use of land; and
- G. The Grantor is willing to grant to the Province a Section 219 Covenant to be registered as a charge against the title to the Lands.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements herein contained and the sum of One (\$1.00) Dollar,

now paid by the Province to the Grantor (the receipt and sufficiency of which is hereby acknowledged by the Grantor) and for other valuable consideration:

1 DEFINED TERMS

1.1 The following terms will have the meanings hereinafter specified:

- (a) "**Instrument**" means Part 1 and Part 2 of this General Instrument;
- (b) "**Lands**" means the land described in Item 2 of Part 1;
- (c) "**LTSA**" means the Land Title Division of the Land Title and Survey Authority of British Columbia, and includes any successor office;
- (d) "**Plan**" means the statutory right of way plan deposited with the LTSA under document number EPP _____;
- (e) "**Qualified Professional**" means a person who is deemed to have professional qualifications or a combination of skills and experience to the applicable industry, and has the qualifications, skills and experience to provide an opinion on the applicable topic;
- (f) "**Resource Roads**" means roads, trails, lanes, bridges and all related facilities, improvement and installations existing from time to time;
- (g) "**SRW Area**" means that portion of the Lands shown outlined in bold on the Plan;
- (h) "**Stumpage Rate**" means the sum equivalent to stumpage payable to the Province for linear tenures pursuant to the *Forest Act*; and
- (i) "**Works**" has the meaning set out in section 2.1(b).

2 GRANT OF STATUTORY RIGHT OF WAY

2.1 The Grantor does by this Instrument grant and convey to the Province, and its successors, assigns, agents, employees, workers, contractors, subcontractors, licensees, permittees, servants, directors, officers and officials, and all persons thereby authorized, in perpetuity, the full, free and uninterrupted right, license, easement, liberty and privilege, and right of way, in common with the Grantor, to enter, labour, go, work, be, return, pass and repass in, under, over and across the SRW Area at all times by day and night, with or without equipment and any materials or supplies, motorized or otherwise for the purpose of:

- (a) ingress to and egress from Resource Roads which exist, or which come into existence, outside the boundary of the Lands;
- (b) constructing, installing, drilling, digging, staging, using, maintaining, operating, altering, reconstructing, improving, repairing, renovating and replacing Resource Roads and associated works, or any part of them, including any gate, tunnel, bridge, retaining walls, other engineered structures, fill, spoil material (the "Works");
- (c) realigning Resource Roads, or any part of them;

- (d) undertaking, performing and completing surveys, tests, inspections and examinations of the Works, Resource Roads and the SRW Area;
- (e) clearing the SRW Area and keeping it clear of obstructions and improvements, including fences, buildings, structures, foundations, equipment, trees, vegetation or other growth at any time found on the SRW Area which might, in the opinion of the Province, acting reasonably, interfere with, impede, hinder, obstruct or endanger the Resource Roads, Works, or the exercise of the rights granted to the Province under this Instrument; and
- (f) doing all acts which, in the opinion of the Province, acting reasonably, are necessary and incidental to the business of the Province in connection with the foregoing.

3 OBLIGATIONS OF THE PROVINCE

3.1 The Province covenants and agrees with the Grantor that the Province will not:

- (a) construct, erect or install any improvements other than the Works in the SRW Area without prior written consent of the Grantor;
- (b) carry out any unworkmanlike work or activities in the SRW Area;
- (c) keep the Works within the SRW Area in an unsafe, unclean or unsanitary condition; and
- (d) commence any work referenced to in section 2.1 without making best efforts to provide prior notice by mail, e-mail or facsimile to the Grantor of the proposed work on the SRW Area.

4 GRANTOR'S USE OF THE SRW AREA

4.1 Subject to section 4.2, the Grantor reserves the right to use and enjoy the SRW Area for any purpose provided that such use or purpose does not interfere with, impede, hinder, obstruct or negate the rights granted in this Agreement.

4.2 The Grantor covenants and agrees that the Grantor will not do or permit to be done any act or thing which will obstruct free and uninterrupted access by the Province, and its successors, assigns, agents, employees, workers, contractors, subcontractors, licensees, permittees, servants, directors, officers and officials and all persons thereby authorized pursuant to section 2.1 and their materials, supplies, vehicles or equipment to, upon or over the SRW Area or any part thereof.

5 GRANTOR'S COVENANTS - SRW AREA

5.1 The Grantor covenants and agrees that the Grantor will not erect, place, install, or keep or permit or suffer to be erected, placed, installed, or kept on, under, over, upon or within the SRW Area, any improvement, structure, equipment, wire or other conduit that, in the opinion of the Province, acting reasonably, might in any way interfere with, damage, prevent access to or egress from the Resource Roads or Works or otherwise interfere with, impede, hinder, obstruct, or negate the SRW Area or the rights granted in this Agreement, without the prior written consent of the Province, which consent may be on terms and conditions and will not be unreasonably withheld.

5.2 Notwithstanding section 5.1, the following uses and activities by the Grantor of or within the SRW Area that is not in direct conflict with section 5.1, do not require the forgoing prior written consent of the Province:

- (a) the construction and operation of roadways, intersections, crossings, turning lanes or other such road infrastructure on or over the SRW Area that have received or been issued prior authorization, consent or approval pursuant to law;
- (b) harvesting and cutting of timber in accordance with industry standards at the time of harvesting and or cutting timber that demonstrates that such works and activities may be undertaken and performed without hazard to persons on or in connection with Resource Roads, or interference or damage to the safe operation and use of and the integrity of Resource Roads or Works, as the case may be;
- (c) installation of signage in accordance with industry standards at the time of installation that ensures the location and operation of signage to not pose a hazard to persons on or in connection with Resource Roads, or interfere with or damage the safe operation and use of and the integrity of Resource Roads or Works, as the case may be:
 - (i) interfere with the Province's ability to access the SRW Area; and
 - (ii) interfere with or damage the Resource Roads or Work.

5.3 Any further activities or uses of or within the SRW Area not contemplated by sections 5.1 or 5.2, the Parties will make reasonable efforts to discuss the requested activity or use, and the Province will not unreasonably withhold consent.

5.4 Subject to section 5.1, the Grantor covenants that the Grantor will not keep the SRW Area, or permit the SRW Area to be kept, in an unsafe, unclean or unsanitary condition.

6 OWNERSHIP OF WORKS

6.1 The Works always have been, are, and will at all times remain personalty and the property of the Province, despite the degree by which the same may be annexed or affixed to the freehold of the Lands.

6.2 The Province will be entitled at any time and from time to time to remove the Works, in whole or in part, and the Works will be freely alienable by the Province as its own property.

6.3 If certain Works are no longer required by the Province under this Agreement, the Province will notify the Grantor of its intent to remove the Works, in whole or in part. The Province will, subject to the written consent of the Grantor, abandon the Works and transfer to the Grantor all ownership, rights and interest in whole or in part of the Works.

7 MERCHANTABLE TIMBER

7.1 For greater certainty, any timber cut within the SRW Area by the Province or its agent for maintenance and operation of the Resource Roads remains the sole property of the Grantor.

7.2 Any merchantable timber cut on the SRW Area by the Province in exercising its rights pursuant to this Instrument may on the request from the Grantor be

- (a) left on the SRW Area by the Province for removal by the Grantor, or
- (b) removed by the Province with payment of the Stumpage Rate to the Grantor.

8 GRANTOR'S COVENANTS – THE LANDS (PURSUANT TO SECTION 219 LAND TITLE ACT)

8.1 The Grantor hereby covenants and agrees with the Province that the Lands will not be used except in strict compliance with the terms of this section.

8.2 Except with the prior written consent of the Province, which may not be unreasonably withheld, the Grantor will not do nor knowingly permit to be done any act or thing on the Lands which may, in the opinion of the Province, acting reasonably, interfere with or injure the Resource Roads or Works or interfere with or create a hazard within the SRW Area. Prior to the Province providing written consent, a Qualified Professional will provide an opinion on whether the activity noted below will interfere or injure the Resource Road or Works or interfere with or create a hazard within the SRW Area. After receiving the opinion of a Qualified Professional, the Province will review, consider, and deliberate with the Qualified Professional on the opinion. The Province may consider the opinion prepared by the Qualified Professional in providing written consent. Particular activities that require the Province's written consent includes activities in the nature of:

- (a) Blasting, drilling or other activities creating vibrations on the Lands adjacent to the SRW Area;
- (b) Excavations on the Lands adjacent to the SRW Area; and
- (c) Alterations to the existing drainage of the SRW Area.

9 NOTICE

9.1 Unless otherwise specified herein, any notice, document or communication required or permitted to be given under this Agreement must be in writing and given by delivery by hand, by courier, or by double-registered mail to the following address:

9.2 To the Province:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
as Represented by the Minister of Forests
c/o Forest Tenures Branch, Forest Land Acquisitions
PO Box 9510 Stn Prov Govt
Victoria, British Columbia V8W 9C2
Fax: (250) 387-6073

To the Grantor:

Wei Wai Kum
1650 Old Spit Road,
Campbell River, BC V9W 3E8
Attention: Chief Councillor
Email: chrisroberts@weiwaikum.ca or lindacampbell@weiwaikum.ca
Fax: (250) 287-8838

or at such other addresses, or by other method, as the parties hereto may from time to time designate in writing.

10 MISCELLANEOUS

- 10.1 The rights described in this Instrument will run with the Lands.
- 10.2 Subject to the requirements of Section 218 of the *Land Title Act*, the Province may freely licence or assign its rights and benefits under this Instrument in whole or in part, without the consent of the Grantor, on such terms as the Province may consider appropriate, and the registration in the LTSA of an assignment by the Province pursuant to this provision will release the Province from further responsibility for the observance or performance of the obligations described herein except for responsibility for the consequences of events which have occurred prior to the date and time of the registration of such assignment.
- 10.3 No term, condition, covenant or other provision of this Instrument will be considered to have been waived unless such waiver is expressed in writing.
- 10.4 The waiver of any breach of any term, condition, covenant or other provision of this Instrument will not be construed as or constitute a waiver of any further or other breach of the same or any other term, condition, covenant or other provision.
- 10.5 Subject to the requirements of Section 218 of the *Land Title Act*, this Instrument will enure to the benefit of and be binding upon the parties and their respective heirs, executors, administrators, successors and assigns.
- 10.6 Nothing in this Instrument shall be construed as an agreement by the Province to restrict, limit or otherwise fetter in any manner the Province's ability to introduce, pass, amend, modify, replace, revoke or otherwise exercise any rights or authority regarding legislation, regulations, policies or any other authority of the Province.
- 10.7 All the obligations, covenants and interests in Lands contained in this Instrument are severable so that if any one or more of such obligations, covenants or interests in Lands are held or declared by a court of competent jurisdiction to be void or unenforceable, either in whole or in part, the balance of this Instrument will remain in effect and be binding.
- 10.8 Where an entitlement in this Instrument is conferred upon more than one party, the entitlement may be exercised by all parties upon whom the entitlement is conferred acting together or by any one or more of them acting alone.

10.9 This Agreement constitutes the entire agreement between the Grantor and the Province, and supersedes all prior agreements and understandings between them, with respect to the statutory rights of way specified in this Instrument.

10.10 Time is of the essence of this Instrument.

10.11 In this Agreement:

- (a) words importing the singular number include the plural and vice versa and words importing the neuter gender include the masculine and the feminine genders;
- (b) the division of this Agreement into sections and the insertion of headings are for convenience only and will not affect the construction or the interpretation of this Agreement;
- (c) references to any section or schedule will, unless the context otherwise requires, mean that section or schedule of this Agreement;
- (d) every reference to each party is deemed to include the heirs, executors, administrators, personal representatives, successors, servants, employees, agents, contractors, officers, licensees and invitees of such party, wherever the context so requires or allows;
- (e) if there is more than one person included in the Grantor, the obligations on the part of the Grantor under this Instrument will be several as well as joint;
- (f) the words "include" and "including" are to be construed as meaning "include without limitation" and "including without limitation";
- (g) reference to "party" and "parties" means the one or more parties to this Agreement, as the context demands;
- (h) where there is a reference to an enactment of the Province of British Columbia or of Canada in this Instrument, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Instrument are enactments of the Province of British Columbia;
- (i) the parties hereto hereby irrevocably attorn to the jurisdiction of the courts of the Province of British Columbia;
- (j) the terms "this Instrument", "hereof", "hereunder" and similar expressions refer to this document and not to any particular portion hereof; and
- (k) unless something in the subject matter or context is inconsistent therewith, references herein to sections, subsections, clauses, schedules and other divisions are to sections, subsections, clauses, schedules or other divisions of this Instrument.

IN WITNESS WHEREOF the parties hereto have executed this Instrument as of the day, month and year shown in Item 8 of Part 1 of this Instrument.

Schedule "5" - 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 Indigenous 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 Wei Wai Kum have entered into an agreement dated _____
(the "Incremental Treaty 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 "Lands")

- B. Wei Wai Kum and the Designated Company have agreed that, as a condition of the
transfer of the Lands, the Designated Company will execute and deliver this 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 "Wei Wai Kum" and any other capitalized
terms used in this Agreement and defined in the Incremental Treaty Agreement will have
the meaning given to those terms in the Incremental Treaty Agreement.
2. **Representations and Warranties.** The Designated Company represents and warrants
that it is a "Designated Company" within the meaning of the Incremental Treaty
Agreement 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.
3. **ITA Binding.** The terms of the Incremental Treaty Agreement relating to the Lands
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 Incremental Treaty Agreement,
including, without limitation, those provisions of the Incremental Treaty Agreement

relating to the condition of the Lands (Article 7), the Reservations and Permitted Encumbrances (Article 8) and other covenants (Article 10).

4. **Environmental Condition.** Without limiting the generality of the foregoing, the Designated Company waives the requirement, if any, of the Province to provide a site disclosure statement as defined in the *Environmental Management Act* in connection with its acquisition of the Lands.
5. **Enforcement of ITA.** The Province may, in its sole discretion, enforce any term or condition of the Incremental Treaty Agreement, including any obligation, covenant or indemnity of Wei Wai Kum, against the Designated Company or Wei Wai Kum or both of them.
6. **Legal Advice.** The Designated Company acknowledges that it has had full opportunity to review the terms and conditions of this Agreement and the Incremental Treaty 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 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. The Schedules and Appendices to this Agreement form part of this Agreement.
8. **Further Acts and Assurances.** The Parties will, upon the reasonable request of the other Party, do such further lawful acts or deliver such further documents in a timely fashion as are reasonably required in order to fully perform and carry out the terms of this Agreement.
9. **No Implied Waiver.** Any waiver of a provision of this Agreement, the performance by a Party of an obligation under this Agreement or 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 be a waiver of any other provision, obligation or subsequent default.
10. **Successors.** This 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 Agreement will be construed as an:
 - a) admission by the Province of the validity of any claim by Wei Wai Kum to a specific treaty or 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 Wei Wai Kum.
12. **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

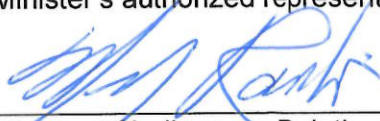
- b) recognize, affirm, define, deny, limit or amend any aboriginal rights or titles or any responsibilities of the Parties except as set out in this Agreement.
- 13. **No Fettering.** Nothing in this Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.
- 14. **Amendment.** This Agreement may be amended from time to time by the Parties in writing.
- 15. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
- 16. **Execution in Counterpart.** This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy, email or facsimile copy) and delivering it to the other Party by email or facsimile transmission.

Signed by the Designated Company as of Aug¹¹, 2022 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 Indigenous Relations and Reconciliation or the Minister's authorized representative as of August 11, 2022:


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

Schedule "6" – 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]*.

[Name of Corporate Vendor]

[Name of Individual Vendor]

Per: _____

Schedule "7" – Consent to Ministry of Finance

CONSENT TO MINISTRY OF FINANCE

TO WHOM IT MAY CONCERN:

1. Article 9.1 (d) of the Incremental Treaty Agreement (the "Agreement") between the Province of British Columbia and the Wei Wai Kum Nation, executed _____, 20____, provides that the Province is responsible for the property transfer tax payable under the *Property Transfer Tax Act* (RSBC 1996), c.378 in relation to the transfer of land to [designated company] 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 Wei Wai Kum and [DESIGNATED COMPANY] hereby

- a. consent to the disclosure by the Ministry of Finance of any relevant information on the Property Transfer Tax Return to the Ministry of Indigenous Relations and Reconciliation, and
- b. 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____

WEI WAI KUM FIRST NATION by its authorized signatory:

Signature

Print Name & Title:

[DESIGNATED COMPANY] by its authorized signatory:

Signature

Print Name & Title

Schedule "8" – Process for Approval to Quarry on ITA Lands

ARTICLE 1 – DEFINITIONS

- 1.1 Defined terms in this Schedule have the same meaning as those in Article 1 of the Incremental Treaty Agreement.
- 1.2 The following additional defined terms apply to this Schedule:
- "Plan"** means a copy of the plan for the statutory right of way adjacent to the Crown Corridors to be deposited with the Land Title and Survey Authority and to be attached to this Schedule for reference as Appendix 1;
- "Quarry" or "Quarrying"** means quarrying, digging or removing crushed rock, sand, gravel and uses ancillary to quarrying such as sorting, crushing, and stockpiling, and washing;
- "Resource Roads"** means the roads, trails, lanes, bridges and all related facilities, improvement and installations existing from time to time that are located within the Crown Corridors identified in the maps attached as Schedule 1 to the ITA; and
- "SRW Area"** means that portion of the Lands shown outlined in bold on the Plan.

ARTICLE 2 – PURPOSE AND SCOPE

- 2.1 The purpose of this Schedule is to provide a process for the Province to obtain approval from Wei Wai Kum to Quarry within the SRW Area where necessary for the purpose of maintaining, operating, and upgrading the Resource Roads.
- 2.2 This Schedule comes into effect on the applicable Closing Date.

ARTICLE 3 – QUARRYING ACTIVITIES

- 3.1 Subject to obtaining approval pursuant to sections 3.2 and 3.3 of this Schedule, the Province may enter upon the SRW Area to Quarry subject to the following conditions:
- (a) any rock, sand or gravel removed from the SRW Area must be used for maintaining, operating and upgrading the Resource Roads; and
 - (b) the Province must make best efforts to minimize the use of the SRW Area for Quarrying and wherever possible, obtain rock, sand and gravel from the Province's own lands.
- 3.2 Before commencing any Quarrying within the SRW Area, the Province will seek Wei Wai Kum's approval by delivering to Wei Wai Kum a written work plan describing:
- (a) the location within the SRW Area where the Province intends to Quarry; and

- (b) the effect of the proposed work within the SRW Area, including the proposed volume of materials to be removed or approximate size of the proposed area in square metres.
- 3.3 Wei Wai Kum will, within 30 days of receipt of the work plan, notify the Province as to whether or not it approves the work plan, and such approval not to be unreasonably withheld.
- 3.4 Where Wei Wai Kum has approved a work plan in accordance with section 3.3, Wei Wai Kum will not make use of that portion of the SRW Area for any use or purpose which would interfere with the Quarrying.
- 3.5 Where Wei Wai Kum has approved a work plan, the Province agrees:
- (a) in the normal course of the Province's management of lands, to Quarry in a good and workmanlike manner, and in accordance with applicable law, and to the extent reasonably possible, to maintain and keep the SRW Area in a safe, clean and sanitary condition;
 - (b) to observe and comply with all laws, bylaws, order, directions, ordinances and regulations of any competent governmental authority relating to the SRW Area, and the entry on, occupation and use of the SRW Area;
 - (c) not to commit or suffer any willful or voluntary waste, spoil or destruction of the SRW Area;
 - (d) to pay the costs of activities, clean up or restoration of the SRW Area that is required as a result of Quarrying;
 - (d) to reimburse Wei Wai Kum for any loss caused to Wei Wai Kum as a result of the Province's negligent or wilful default in the use of the SRW Area; and
 - (e) in the normal course of the Province's management of lands to ensure that all other persons for whom the Province is responsible in law comply with the Province's obligations under this Agreement.
- 3.6 In addition to the obligations in section 3.5, the Parties may agree to additional terms and conditions in relation to an approval provided under section 3.3.

ARTICLE 4 - FEES

- 4.1 If the Province seeks approval to conduct Quarrying within the SRW Area, the Parties will review the industry rates for Quarrying applicable at that time and make reasonable efforts to reach an agreement on the rate of compensation payable to Wei Wai Kum by the Province.

ARTICLE 5 - DISPUTE RESOLUTION

- 5.1 If a dispute arises between the Province and Wei Wai Kum regarding the interpretation of a provision in this Schedule, appointed representatives of the Province and Wei Wai Kum will meet as soon as is practicable to attempt to resolve the dispute.
- 5.2 If the appointed representatives are unable to promptly resolve the matter, senior representatives of the Province and Wei Wai Kum will meet as soon as practicable to resolve the dispute.

Appendix 1 to Schedule 8: Survey Plan of SRW Area

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