

KWADACHA FINAL AGREEMENT FIRST AMENDING AGREEMENT

This Agreement dated November 27, 2008 is

Among:

KWADACHA FIRST NATION, as represented by its Band Council

(“Kwadacha”)

and:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the *Hydro and Power Authority Act*

(“BC Hydro”)

and:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

(the “Province”)

Background

- A. Kwadacha, BC Hydro, and the Province (the “**Parties**”) entered into a Final Agreement (the “**Final Agreement**”) dated as of the date of this Agreement; and
- B. The Parties wish to enter into this Agreement to amend the Final Agreement.

Agreements

The Parties agree as follows:

- 1. The Final Agreement is hereby amended as follows:
 - (a) in Section 1.1 (hh) in the definition of “Contract Opportunity Implementation Protocol” the words “July 3,” are inserted in line 3 before “2008”;

- (b) in Section 1.1 (ffff) the word "Dam" is inserted after the word "Canyon";
- (c) in Section 1.1 (jjjj) the definition of "Province" is deleted and the following is inserted in its place:

“Province” means Her Majesty the Queen in Right of the Province of British Columbia, but excluding BC Hydro;
- (d) in Section 3.1, paragraph (e) is deleted and replaced with the following:

“(e) a growth rate of 8%, compounded annually, on each of the payments referenced under Section 3.1(d) for the period between April 1 of the year in which each such payment was made and the Effective Date;”
- (e) in Section 5.1(l)(ii) the word “to” is inserted before the words “BC Hydro”;
- (f) in Section 5.3(d) the word “written” is inserted before the word “notice” and deleted where it appears after the word "notice";
- (g) in Section 5.4(a) the word "of" after the second occurrence of the "Capitalization Fund Private Deed of Trust" is replaced by the word "or", and the word "Fund" is inserted between "Capitalization" and the word "Private" where those words appear together;
- (h) in Section 9.2(a) the word “Contact” is deleted and the word “Contract” is inserted in its place;
- (i) in Section 9.9(b)(ii) the word “Dam” is inserted after the word “Canyon”;
- (j) in Section 11.2(b) the words “BC Hydro” are deleted and the words “the Province” are inserted in their place;
- (k) in Section 15.1:
 - (i) in the address for the Ministry of Energy Mines and Petroleum Resources the word “Street” is added after the word “Blanshard”;
 - (ii) the facsimile number for BC Hydro is deleted and “604-528-1530” is inserted in its place; and
 - (iii) the facsimile number for the Ministry of Attorney General is deleted and “250-356-8939” is inserted in its place;
- (l) in Section 15.5 the word “Opportunity” is added after the word “Contract” and the word “Agreement” on the second line is deleted;
- (m) in Schedule 2, Capitalization Fund Private Deed of Trust:

- (i) the reference in Section 1.1(h) to “Appendix 1” is changed to “Appendix A”;
 - (ii) the reference in Section 1.3 to “Schedule 1” is changed to “Appendix A”;
 - (iii) the facsimile number for BC Hydro in Section 11.1 is deleted and “604-528-1530” is inserted in its place;
 - (iv) the facsimile number for BC Hydro in Section 14 of Appendix A is deleted and “604-528-1530” is inserted in its place;
- (n) in Schedule 3, delete the reference to “Dated: ●, 2008” after the execution clause for BC Hydro;
- (o) in Schedule 6, Endowment Fund Private Deed of Trust:
- (i) the reference in Section 1.1(o) to “Appendix 1” is changed to “Appendix A”;
 - (ii) the reference in Section 1.3 to “Schedule 1” is changed to “Appendix A”;
- (p) in Section 14 of Schedule 3, Capitalization Fund Public Deed of Trust, the facsimile number for BC Hydro is deleted and “604-528-1530” is inserted in its place; and
- (q) in Schedule 9, the Payment Trustee Agreement:
- (i) the word “Services” is deleted in Section 6.2, first line and the word “services” is inserted in its place;
 - (ii) the facsimile number for BC Hydro is deleted in Section 8.1 and “604-528-1530” is inserted in its place.
2. Except as amended by this Agreement the Final Agreement remains in full force and effect, unamended.

This Agreement has been executed on the dates set out below.

KWADACHA FIRST NATION

By:

Chief Donny Van Somer

Dated: November ____, 2008

**BRITISH COLUMBIA HYDRO AND
POWER AUTHORITY**

By:

Chris O'Riley
Senior Vice-President, Engineering, Aboriginal Relations and Generation
Dated: November ____, 2008

**HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH COLUMBIA**

By:

Honourable Michael de Jong,
Minister of Aboriginal Relations and Reconciliation
Dated: November ____, 2008