

CONFIDENTIAL

**SITE C PROJECT
TRIPARTITE LAND AGREEMENT**

This Agreement is dated July 19, 2016

BETWEEN:

MCLEOD LAKE INDIAN BAND, a "band" within the meaning of the *Indian Act*, R.S.C. 1985, c. 1-5 for and on behalf of itself and all of its Members, as represented by its Chief and Council

("MLIB")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA OF BRITISH COLUMBIA, as represented by the Minister of Aboriginal Relations and Reconciliation

("British Columbia")

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the authority of the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 1-5

("BC Hydro")

WHEREAS:

- A. BC Hydro is undertaking the Site C Project as part of an overall regeneration program to invest in and renew British Columbia's electricity system and as a source of clean and renewable energy;
- B. The Site C Project is located in territory covered by Treaty 8 over which MLIB has Section 35 Rights;
- C. BC Hydro and MLIB have, concurrently with this Agreement, entered into an Impact and Benefits Agreement and a Contracting Agreement relating to the Site C Project and its Operation;
- D. The Impact and Benefits Agreement provides for, among other things:

- a) financial payments by BC Hydro to MLIB;
 - b) confirmation of the transfer of certain parcels of provincial Crown land from British Columbia to MLIB pursuant to this Agreement; and
 - c) confirmation of the implementation of Land Management Measures for certain areas of provincial Crown land pursuant to this Agreement;
- E. The Contracting Agreement provides for additional benefits to MLIB, including:
- a) providing MLIB Businesses with the opportunity to be awarded work related to the Site C Project; and
 - b) working with MLIB to develop training, apprenticeship and employment opportunities for MLIB Members;
- F. This Agreement provides for the transfer of the Lands identified in Schedule B "1" and "2" and the consideration of the implementation of Land Management Measures for the Schedule C Lands identified in Schedule C "1"; and
- G. This Agreement is intended to assist with MLIB's economic and social development and to ensure that there are opportunities for MLIB to exercise its Section 35 Rights.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions. In this Agreement:

"Adequate Survey" means a survey that meets the requirements for Land Title Office registration as defined under the *Land Title Act*;

"Agency" means any permitting, regulatory or government decision-making body from whom an Authorization is required or to whom an application for an Authorization is made, or that is making a decision or developing a plan in respect of the Site C Project;

"Agreement" means this Tripartite Land Agreement, including the Schedules and any agreement, document or instrument executed or delivered pursuant to this Agreement;

"Authorization" means any approval, permit, licence, tenure or other authorization applied for, issued or required to enable the Site C Project and its Operation, including:

- a) the Federal Decision Statement authorizing the Site C Project, issued to BC Hydro on October 14, 2014, and re-issued on November 25, 2014, pursuant to the *Canadian Environmental Assessment Act (Canada)*;
- b) the provincial Environmental Assessment Certificate #E14-02 authorizing the Site C Project, issued to BC Hydro on October 14, 2014 pursuant to the *Environmental Assessment Act (BC)*;
- c) any required approval by Fisheries and Oceans Canada, Transport Canada, Natural Resources Canada or any other federal department;
- d) any decision by a Public Official to approve, enable or support the Site C Project and its Operation; and
- e) any amendments to the foregoing which may be required from time to time;

"Band Council Resolution" means a resolution of the MLIB band council, duly passed in accordance with the *Indian Act*, substantially in the form set out in Schedule A "1";

"Closing Date" means the date or dates on which the documents for the transfer of the Lands to a Designated Company are uploaded to the electronic meet and are filed in the Land Title Office;

"Commencement of Construction" means the date that construction activities begin on the Site C Project following receipt of all Authorizations to permit BC Hydro to build the Site C Project, such date to be determined by BC Hydro in its discretion and notice of that date to be provided by BC Hydro to British Columbia and MLIB;

"Confirmation Letter" means the letter to be provided by MLIB to British Columbia in the form set out in the Impact and Benefits Agreement;

"Contracting Agreement" means the Contracting Agreement entered into concurrently with this Agreement between BC Hydro and MLIB;

"Crown Corridor" means a highway, as defined in the *Transportation Act*, and the area of any other licence, easement, right-of-way or road over Crown land that is used for transportation or public utility purposes and that, where the Lands are not surveyed or have to be re-surveyed, is identified in Schedule B "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 MLIB and which MLIB has designated to take fee simple title to any of the Lands;

"Effective Date" means the later of: the date on which the notice provided to BC Hydro pursuant to Section 5.1(b) which confirms that MLIB has satisfactorily completed the community ratification process is received by BC Hydro; and the date on which this Agreement is fully executed by all of the Parties;

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

"Impact and Benefits Agreement" or "IBA" means the Impact and Benefits Agreement entered into concurrently with this Agreement between BC Hydro and MLIB;

"In Service Date" means the date, of which notice is provided by BC Hydro to British Columbia and MLIB, on which the first of the six generating units that form part of the Site C Project is, in the determination of BC Hydro, capable of continuously generating electricity in a manner that meets BC Hydro's system interconnection requirements, as those requirements are described in the BC Hydro document entitled "60kV to 500 kV Technical Interconnection Requirements for Power Generators" and as that document may be updated, amended or replaced from time to time;

"Land Management Measures" means the measures identified and implemented under 14.1 to protect the Schedule C Lands;

"Lands" means the lands identified for illustrative purposes in Schedule B "1" and described in Schedule B "2";

"Member" means a member of the McLeod Lake Indian Band as defined in the McLeod Lake Indian Band Membership Code;

"Operation" means the ongoing use, operation and maintenance, repair, replacement, upgrade, removal, abandonment or required remediation, of all or any part of the constructed Site C Project, or of any other Works that are required or undertaken to make the Site C Project functional for its intended use and purpose, or any other activity required or undertaken in connection with the Site C Project, from the In Service Date to the completion of decommissioning of the Site C Project as determined by BC Hydro in its discretion and of which notice is provided by BC Hydro to British Columbia and MLIB;

"Parties" means British Columbia, BC Hydro and MLIB, or their permitted successors or assigns, and **"Party"** means any one of them;

"Permitted Encumbrances" means the reservations, exceptions, liens, charges, and interests described in Part 1 and 2 of Schedule B "3" for each of the Lands or any other Permitted Encumbrances agreed to by the Parties and registered as a charge on title;

"Proceeding" means any claim, demand, cause of action or action made before a court or any proceeding before a court, including a judicial review or appeal of an Agency or a court decision, or any hearing before an Agency or other board, commission, tribunal, arbitrator or other judicial, quasi-judicial or administrative decision-maker;

"PST" means the sales tax imposed under the *Sales Tax Act (BC)* or equivalent tax imposed under federal or provincial law;

"Public Official" means:

- a) the British Columbia Cabinet or Treasury Board, or the board of directors of BC Hydro;
- b) any minister, provincial official, employee, contractor, agent or representative of British Columbia, including any statutory decision-maker; or
- c) any director, officer, employee, contractor, agent or representative of a government corporation, including BC Hydro.

"Schedule C Lands" means the area identified for illustrative purposes in Schedule C "1" which may be subject to a land management measure and which, for greater certainty, will not be transferred to MLIB;

"Section 35 Rights" or **"MLIB Section 35 Rights"** means the Aboriginal and treaty rights of MLIB, including as an adherent to Treaty 8, recognized and affirmed by section 35(1) of the *Constitution Act, 1982*;

"Site C Project" means the proposed third dam and hydroelectric generating station on the Peace River and associated structures on or adjacent to the Peace River in northwestern British Columbia, as more fully described in Schedule D "2";

"Site C Project and its Operation" also means the Site C Project or its Operation, or both;

"Treaty 8" means Treaty No. 8, a treaty concluded on several dates in 1899 and in subsequent years between Her Majesty the Queen by her Commissioners for Canada and the Cree, Beaver, Chipewyan and other First Nations, inhabitants of the territory described in the Treaty 8 document, and each other signatory or adherent to Treaty 8, including MLIB; and

“Works” includes licences, easements, rights-of-way, roads, telecommunication services, components, equipment, infrastructure and facilities, including transmission lines, related to the generation, transmission or distribution of electricity.

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

MLIB Administrative Schedules

- Schedule A “1” – Form of Band Council Resolution

Land Transfer Schedules

- Schedule B “1” – Map(s) of Lands
- Schedule B “2” – Description of Lands
- Schedule B “3” – Permitted Encumbrances
- Schedule B “4” – Form of Permitted Encumbrances
- Schedule B “5” – Form C Additions to Reserve Restrictive Covenant
- Schedule B “6” – Agreement of Designated Company
- Schedule B “7” – GST Certificate
- Schedule B “8” – Property Transfer Tax

Land Management Schedules

- Schedule C “1” – Map of Land Management Areas

Site C Project Schedules

- Schedule D “1” – Map of Site C Project Area
- Schedule D “2” – Site C Project Description

1.3 Schedules B “1” and B “2”. For greater certainty, Schedules B “1” and B “2” will identify those Lands which are “proximate land” and which may be added to the applicable MLIB Indian Reserve under 13.1 and those Lands which are not “proximate land” whose reservation as an MLIB Indian Reserve will be reviewed by British Columbia on a case-by-case basis under 13.2.

1.4 Amendment of Schedules. The Parties acknowledge and agree that between the Effective Date and the In Service Date Schedule B and Schedule C may require updating and that British Columbia may from time to time after the Effective Date update those Schedules. British Columbia will provide updated Schedules to the Parties which will be deemed to form part of this Agreement and, for greater certainty, will not constitute an amendment to this Agreement.

ARTICLE 2 – PURPOSE

2.1 Purpose. The purpose of this Agreement is to:

- a) transfer to MLIB those parcels of provincial Crown land identified as Lands, and to implement those Land Management Measures identified in this Agreement;
 - b) confirm the provision of benefits related to the Site C Project and its Operation by BC Hydro to MLIB;
 - c) confirm that MLIB has been adequately consulted and accommodated with respect to any potential adverse impact of the Site C Project and its Operation on MLIB's Section 35 Rights;
 - d) confirm that any infringement of MLIB's Section 35 Rights resulting from the Site C Project and its Operation has been justified; and
 - e) provide British Columbia and BC Hydro with legal certainty with respect to the Site C Project and its Operation.
- 2.2 **Separate Agreements.** The Impact and Benefits Agreement and Contracting Agreement are separate agreements and are governed by their respective terms.

ARTICLE 3 - TERM AND TERMINATION

- 3.1 **Coming into Effect.** Subject to 3.2 and 3.3, this Agreement commences on the Effective Date and continues until completion of the decommissioning of the Site C Project.
- 3.2 **Delay, Suspension or Abandonment.** If BC Hydro determines at any time, whether before or after the granting of all Authorizations, to delay, suspend or abandon the Site C Project and its Operation, British Columbia may, in its sole discretion, on 60 prior days' notice to MLIB and BC Hydro:
- a) delay or suspend the transfer of the Lands and the implementation of the Land Management Measures where BC Hydro has delayed, suspended or abandoned the Site C Project; or
 - b) terminate this Agreement where BC Hydro has abandoned the Site C Project and terminated the Impact and Benefits Agreement.
- 3.3 **Termination for Breach.** In addition to 3.2, British Columbia may terminate this Agreement in the event any of the representations or warranties under 4.1 are or become incorrect, any part of Article 16, 17 or 18 is declared invalid under 22.2, or BC Hydro terminates the Impact and Benefits Agreement in accordance with its terms.
- 3.4 **Relief from and Resuming Obligations.** If:

- a) this Agreement is terminated under 3.2 or 3.3, British Columbia will have no further obligations to MLIB under this Agreement except such obligations which this Agreement expressly provides will survive termination;
 - b) British Columbia delays or suspends the transfer of the Lands or the implementation of the Land Management Measures under 3.2, British Columbia will be relieved from performing these and any related obligations for the duration of such delay or suspension;
 - c) British Columbia delays or suspends the transfer of the Lands or the implementation of the Land Management Measures under 3.2, and BC Hydro notifies British Columbia and MLIB that it has recommenced the Site C Project, then British Columbia's obligations will resume, including the transfer of any Lands and the implementation of Land Management Measures which have not been completed.
- 3.5 **Obligations Not Released.** Notwithstanding 3.4, MLIB may retain any Lands transferred to it by British Columbia before the termination of this Agreement under 3.2(b).
- 3.6 **Effect of Delay, Suspension or Abandonment.** Any Lands transferred by British Columbia to MLIB or any Land Management Measures implemented by British Columbia prior to the delay, suspension or abandonment of the Site C Project and its Operation will be deemed to constitute:
- a) adequate consultation and accommodation with respect to any potential adverse impact on MLIB's Section 35 rights resulting from the Site C Project and its Operation; and
 - b) justification of any infringement of MLIB's Section 35 Rights resulting from the Site C Project and its Operation.
- 3.7 **Survival of Lands Conditions.** Notwithstanding 3.2 or 3.3, where any of the Lands are transferred under this Agreement, Articles 9, 12, and 13 will survive the completion of the transfers or the termination of this Agreement and, for greater certainty, will continue to apply to the Lands.

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

- 4.1 **MLIB Representations.** MLIB represents and warrants to British Columbia and BC Hydro, with the intent and understanding that they will be relied on by British Columbia and BC Hydro in entering into this Agreement, that:
- a) it, and not any other band, group, entity, organization or person, is the proper representative and exclusive holder of MLIB's Section 35 Rights for

the purposes of this Agreement, including consultation and accommodation with respect to the Site C Project and its Operation;

- b) the Members include all those Aboriginal persons who are entitled to exercise MLIB Section 35 rights, and MLIB is entitled to enter into this Agreement on behalf of its Members in relation to MLIB Section 35 rights;
 - c) it has taken all necessary actions and obtained all necessary approvals, including a community ratification vote in accordance with MLIB processes, to enter into and authorize the execution of this Agreement, including the passing of the Band Council Resolution and the authorization of the individual signing this Agreement on behalf of MLIB;
 - d) it has, for and on behalf of MLIB and its Members, the legal power, capacity and authority to enter into this Agreement, to carry out its obligations and to make or provide, without limitation, the acknowledgements, agreements, representations and warranties, releases and indemnities under this Agreement;
 - e) any company designated by the MLIB for the purposes of this Agreement will be a Designated Company;
 - f) 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
 - g) British Columbia has fulfilled its obligation to consult with MLIB in relation to the transfer of the Lands to a Designated Company, the Permitted Encumbrances on the Lands and the Land Management Measures.
- 4.2 **British Columbia Representations.** British Columbia represents and warrants to MLIB and BC Hydro, with the intent and understanding that they will be relied on by MLIB and BC Hydro in entering into this Agreement, that:
- a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement; and
 - b) on satisfaction or waiver of the conditions precedent under 5.2 and, as applicable, 5.3 and 5.4, it will have the legal power, capacity and authority to transfer the fee simple title to the Lands to a Designated Company and to implement the Land Management Measures.
- 4.3 **BC Hydro Representations.** BC Hydro represents and warrants to MLIB and British Columbia, with the intent and understanding that they will be relied on by MLIB and British Columbia in entering into this Agreement, that:

- a) it has the legal power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement; and
- b) all necessary actions have been taken to authorize the execution of this Agreement, including the authorization of the individual signing this Agreement.

4.4 **Survival of Representations.** The representations and warranties of each of the Parties under 4.1 to 4.3 will survive the execution and completion of any transactions under this Agreement and will continue in full force and effect for the benefit of the other Parties.

ARTICLE 5 – CONDITIONS PRECEDENT

5.1 **Required Documents.** MLIB will:

- a) prior to or upon the execution of this Agreement, deliver to British Columbia and BC Hydro a fully executed and duly passed Band Council Resolution in the form set out in Schedule A “1”;
- b) upon satisfactory completion of the community ratification process pursuant to the MLIB Election Code, execute and deliver to BC Hydro the notice signed by the Chief of MLIB in the form attached as Schedule G of the IBA; and
- c) on the Effective Date, deliver to British Columbia a Confirmation Letter.

It is a condition precedent to the performance of the Party's obligations under this Agreement that MLIB has delivered to BC Hydro the notice required pursuant to paragraph (b) above.

5.2 **Conditions Precedent (General).** British Columbia's obligation to transfer the Lands and implement the Land Management Measures is subject to:

- a) MLIB having delivered the documents under 5.1, and BC Hydro and MLIB having executed the Impact and Benefits Agreement and the Contracting Agreement relating to the Site C Project and its Operation;
- b) MLIB having completed a community ratification process pursuant to the MLIB Election Code and, on satisfactory completion of the community ratification process, the Chief of MLIB having provided to BC Hydro the signed notice in the form attached as Schedule G of the IBA.
- c) MLIB's representations and warranties under this Agreement being and continuing to be true and correct;

- d) MLIB having complied with all applicable terms and conditions under this Agreement;
- e) British Columbia having:
 - i) completed, where applicable, consultations with First Nations, third parties who are entitled to the benefit of the Permitted Encumbrances, and local governments or governmental authorities;
 - ii) determined, where applicable, that any overlapping claims by or conflicts with other First Nations which have or assert rights under s. 35(1) of the *Constitution Act, 1982* in the territory in which the Lands and Schedule C Lands are located have been resolved or otherwise addressed to the satisfaction of British Columbia;
 - iii) resolved any financial liability British Columbia may have, including third party claims for compensation; and
 - iv) obtained all required approvals, including Cabinet and Treasury Board approval;
- f) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable British Columbia in any fiscal year, when any expenditure in respect of an obligation may be required, to make that expenditure; and
- g) the Site "C" Project achieving Commencement of Construction and not being subject to delay, suspension or abandonment.

5.3 **Conditions Precedent to Land Transfers.** In addition to and without limiting the conditions precedent under 5.2, British Columbia's obligation to transfer the Lands to MLIB is subject to:

- a) Adequate Surveys for the Lands having been completed on or before the applicable Closing Date;
- b) if the Lands are transferred in phases, all obligations of MLIB and the Designated Company having been fully performed in accordance with this Agreement with respect to all previously transferred Lands; and
- c) British Columbia having given notice that the minister responsible has authorized the disposition of the Lands in accordance with provincial law.

5.4 **Conditions Precedent to Land Management Measures.** In addition to and without limiting the conditions precedent under 5.2, British Columbia's obligation to implement the Land Management Measures is subject to:

- a) finalization of the selection of the Lands under 6.4 and the Schedule C Lands under 14.1 and 14.2; and
 - b) its obtaining approval to designate the Schedule C Lands under a Land Management Measure.
- 5.5 **Waiver of Conditions Precedent.** The conditions precedent under 5.2 to 5.4 are for the sole benefit of British Columbia and may be waived by British Columbia on notice to BC Hydro and MLIB.

ARTICLE 6 – LAND SELECTION

- 6.1 **Land Selection.** Within one year after the Effective Date, or such other time as the Parties may agree, MLIB will identify provincial Crown lands for inclusion as the Lands, such lands to comprise 2,500 acres (1,012 hectares), more or less, and to be located within MLIB's traditional territory.
- 6.2 **Alternative Lands.** In the event that the lands identified by MLIB under 6.1 are not eligible for inclusion as the Lands based on the factors under 6.3, MLIB will identify such other lands within its traditional territory as may be required for inclusion as the Lands having regard for the factors under 6.3.
- 6.3 **Statusing of Land Selection.** Within one year after MLIB's identification of land under 6.1 and 6.2, or such other time as the Parties may agree, British Columbia will complete the statusing of those lands having regard for, among other things:
- a) the location, condition and contiguity of the lands, including their proximity to the Site C Project and their environmental condition;
 - b) any interests in the lands, including fee simple interests, options to purchase fee simple interests, leases, or options to renew leasehold interests;
 - c) any tenures or encumbrances on the lands, including road and utility rights-of-way, and access to adjacent or proximate lands;
 - d) the appraised, or where available the assessed, value of the lands, the terms of such appraisals to be reviewed by the Parties;
 - e) any potential third party claims for compensation; and
 - f) any overlapping claims by other First Nations.

- 6.4 **Finalization of Land Selection.** British Columbia will provide MLIB with the results of the land statusing and where some of the lands are not eligible for inclusion as the Lands based on the factors under 6.3, or where MLIB has advised British Columbia that MLIB no longer wishes to include those lands based on the results provided by British Columbia, those lands will, subject to 6.3, be replaced with alternative lands.
- 6.5 **Interim Protection of Lands.** British Columbia will seek approval to withdraw the lands finalized under 6.4 from disposition under s. 16 of the *Land Act* on an interim basis. The interim withdrawal will remain in place until the earlier of:
- a) termination of the interim withdrawal under the terms of its approval; or
 - b) transfer of the lands to MLIB as the Lands under 8.3.
- 6.6 **Completion of Land Schedules.** On finalization of the selection of the lands under 6.4, Schedules B "1", B "2", B "3" and B "4" will be updated and will form part of this Agreement.
- 6.7 **Best Efforts Obligation.** The Parties acknowledge and agree that British Columbia will use its best efforts to identify and transfer to MLIB lands identified under 6.1 or 6.2 in the quantum specified in 6.1 having regard for the factors under 6.3.

ARTICLE 7 – SURVEY OF LANDS

- 7.1 **Surveys.** BC Hydro will ensure that there is an Adequate Survey of the exterior boundaries of the Lands, including any surveys required by statute for the registration of any third party Permitted Encumbrance. For greater certainty, any internal boundary surveys will be the sole responsibility of MLIB, including those required for any subdivision of the Lands.
- 7.2 **Survey Protocol.** For the purposes of 7.1, the Parties will develop and agree on a protocol for the priority and timing of Adequate Surveys for the Lands, including proposed Closing Dates, having regard for:
- a) MLIB's priorities;
 - b) efficiency and economy, including the availability of British Columbia land surveyors;
 - c) the necessity to clarify the boundaries due to imminent public or private development on adjacent lands; and
 - d) the requirements under provincial law, including legislated timelines.

- 7.3 **Lands Programs Branch.** The development of a survey protocol under 7.2 will include the ministries responsible for the transfer of provincial Crown land.

ARTICLE 8 – TRANSFER OF LANDS

- 8.1 **Registration of Lands.** All Lands transferred under 8.3 will be registered in the Land Title Office.
- 8.2 **Pre-Closing Deliveries by MLIB.** Not less than 60 days before the Closing Date determined by the Parties under 8.4, MLIB will deliver to British Columbia a direction identifying the Designated Company that will take fee simple title to the Lands under 8.3.
- 8.3 **Closing Deliveries by British Columbia.** Subject to the Permitted Encumbrances and the terms of this Agreement, including the satisfaction or waiver of the conditions precedent under 5.2, and 5.3, British Columbia will, with respect to each transfer, provide the Designated Company identified under 8.2 with a Crown Grant transferring the indefeasible title to the Lands on the Closing Date.
- 8.4 **Determination of Closing Date.** The Parties will determine the Closing Date for the transfer of indefeasible title to the Lands. The Closing Date will be in accordance with the survey protocol developed and agreed to by the Parties under 7.2.
- 8.5 **Closing Deliveries by MLIB.** Not less than 14 days before the Closing Date, MLIB will execute and deliver, or cause to be executed and delivered, or deliver, as the case may be, to British Columbia:
- a) a restrictive covenant granted by the Designated Company in the form attached as Schedule B “5” in relation to the applicable Lands that are not identified as “proximate land” in Schedules B “1” and B “2”;
 - b) an agreement executed by the Designated Company in the form attached as Schedule B “6” in relation to the applicable Lands;
 - c) a certificate signed by an officer of the Designated Company in the form attached as Schedule B “7” confirming the Designated Company’s GST registration number and registered status;
 - d) a letter of undertaking signed by MLIB’s legal counsel undertaking, among other things, that the restrictive covenant (Schedule B “5”) will be filed concurrently with the Crown Grant for the applicable Lands and that British

Columbia will be provided with a signed copy of the Designated Company Agreement (Schedule B "6") and the GST certificate (Schedule B "7");

- e) a consent signed by MLIB in relation to the Property Transfer Tax in the form attached as Schedule B "8"; and
 - f) all such other documents that may be necessary or advisable for MLIB or a Designated Company to provide to complete the transactions contemplated under this Agreement.
- 8.6 **Closing Procedure.** The legal counsel for MLIB and British Columbia 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 to legal counsel for the other Parties;
 - b) use the Land Title and Survey Authority electronic filing system; and
 - c) provide all documents filed under 8.5 to legal counsel to the other Parties.

ARTICLE 9 – CONDITION OF LANDS

- 9.1 **Lands "As Is".** MLIB acknowledges and agrees that any of the Lands acquired by a Designated Company under this Agreement are acquired "as is".
- 9.2 **Viability of Lands.** MLIB acknowledges and agrees that British Columbia and BC Hydro have 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 the Lands by MLIB or by a Designated Company; or
 - d) the provisions of any enactments or bylaws of any governmental body which relate to the development, use and occupation of the Lands.
- 9.3 **Environmental Condition.** MLIB:

- a) waives the requirement, if any, of British Columbia or BC Hydro to provide a site profile as defined in the *Environmental Management Act* for any of the Lands; and
- b) acknowledges and agrees that British Columbia and BC Hydro have 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 or past uses of the Land or any surrounding or neighbouring land.

9.4 Environmental Remediation. MLIB will from and after the Closing Date:

- a) assume all environmental liabilities relating to the Lands including all liability for the clean-up of any 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 British Columbia, BC Hydro and all Public Officials from and against any and all claims, demands, causes of action, actions, expenses, costs, including legal fees, losses, damages, or any other liability with respect to all environmental liabilities relating to the Lands, including any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances migrating from the Lands; and
- c) indemnify and save harmless British Columbia, BC Hydro and all Public Officials from and against any and all all claims, demands, causes of action, actions, expenses, costs, including legal fees, losses, damages, or any other liability that they may suffer or incur, directly or indirectly, after the Closing Date arising out of or in connection with all environmental liabilities relating to the Lands, including any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances migrating from the Lands.

9.5 Effect of 9.4. For greater certainty:

- a) 9.4 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) 9.4 does not apply in respect of any environmental liability relating to the Lands results from the acts or omissions of British Columbia or BC Hydro after the Closing Date.

ARTICLE 10 – ENCUMBRANCES

- 10.1 **Permitted Encumbrances.** MLIB acknowledges and agrees, upon receipt of the updated Schedules under 6.6 and as of the Closing Date, that it is familiar with the existence and terms of the Permitted Encumbrances and accepts fee simple title to the Lands subject to the Permitted Encumbrances and that 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 British Columbia or BC Hydro by anyone claiming by, through or under a Permitted Encumbrance.
- 10.2 **Form of Permitted Encumbrances.** The Permitted Encumbrances will be in the form to be attached as Schedule B “4” upon completion of the land statusing and finalization of land selection pursuant to 6.4, and will include any modifications that MLIB and the holder of the Permitted Encumbrance may have agreed to in writing.
- 10.3 **Amendments to Permitted Encumbrances.** The Parties acknowledge and agree that between the Effective Date and the Closing Date, British Columbia may require that the Permitted Encumbrances be amended to:
 - a) comply with current provincial policies and practices, and any legal requirements; and
 - b) correct any errors or omissions to the form of Permitted Encumbrances attached as Schedule B “4”.
- 10.4 **Amendments Form Part of Agreement.** Where any amendments are made under 10.3, Schedule B “3” (Permitted Encumbrances) will be revised and will, as revised, form part of this Agreement.
- 10.5 **Registration of Unregistered Interests.** MLIB will consent, or will cause the Designated Company to consent, to the registration of any interests identified in Schedule B “3” Part 2 which are not registered against the applicable Lands in the Land Title Office on or after the Closing Date.

- 10.6 **Indemnity for Charges.** MLIB will indemnify and save harmless British Columbia, BC Hydro and all Public Officials from and against all claims, demands, causes of action, actions, expenses, costs, including legal fees, losses, damages or any other liability that they may suffer or incur, directly or indirectly, in connection with or as a result of any Proceeding arising out of MLIB's or a Designated Company's acts or omissions in connection with any Permitted Encumbrance where the Proceeding is settled or is successful.
- 10.7 **Conduct of Litigation.** For the purposes of 10.6:
- a) British Columbia will notify MLIB of any Proceeding to which the indemnity may apply;
 - b) British Columbia will have exclusive conduct of the Proceeding in accordance with the *Attorney General Act*;
 - c) British Columbia will not settle any Proceeding without first discussing the terms of settlement with MLIB; and
 - d) MLIB may intervene in the Proceeding at its own expense.

ARTICLE 11 – TRANSACTION COSTS

- 11.1 **Crown Grant.** British Columbia is responsible for preparing the Crown Grants relating to the Lands.
- 11.2 **Registration, Tax and Other Costs.** BC Hydro is responsible for the following costs in connection with the transfer of the Lands:
- a) any costs associated with any appraisals necessary for the valuation of the Lands;
 - b) the cost associated with ensuring the Lands have an Adequate Survey;
 - c) 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;
 - d) any fees charged by the Land Title Office or the Land Title and Survey Authority relating to the registration of the Lands and Permitted Encumbrances; and
 - e) the determination and payment of property transfer tax payable under the *Property Transfer Tax Act*.

- 11.3 **GST, PST and Other Charges.** BC Hydro is responsible for any federal or provincial sales tax, including GST and PST.
- 11.4 **Annual Taxes and Other Costs.** 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, British Columbia and BC Hydro are not required to assume any financial or other obligations with respect to the Lands.
- 11.5 **Effect of Delay, Suspension or Abandonment.** British Columbia will not be liable for or otherwise obligated to reimburse BC Hydro for any costs incurred by BC Hydro under 11.2 or 11.3, including any survey costs, in the event the Site C Project and its Operation is delayed, suspended or abandoned under 3.2.

ARTICLE 12 – STATUS OF LANDS

- 12.1 **Status and Use of Lands.** Subject to Lands that are added to reserves in accordance with 13, the Lands transferred to MLIB or a Designated Company under this Agreement:
- a) 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
 - b) will be subject to provincial and local government laws, including applicable zoning, land use, land development and property tax laws, and at no time will MLIB or a Designated Company challenge the applicability of provincial laws to the Lands.

ARTICLE 13 – ADDITIONS TO RESERVE

- 13.1 **Additions of Proximate Lands to Reserve.** Subject to 13.4, British Columbia will not object to a request by MLIB to the Federal Crown for the transfer and designation of the land identified as “proximate land” in Schedules B “1” and B “2” as reserve land as part of the applicable MLIB Indian Reserve in accordance with the Federal Crown’s addition to reserve requirements.
- 13.2 **Additions of Other Lands to Reserve.** MLIB may, on notice to British Columbia, request that British Columbia not object to a request by MLIB to the Federal Crown for the transfer and designation of other land not identified as “proximate land” in Schedules B “1” and B “2” as reserve land as an MLIB Indian Reserve in accordance with the Federal Crown’s addition to reserve requirements provided that nothing in this Agreement requires British Columbia to support the request.

- 13.3 **Non-objection to Other Additions.** For the purposes of 13.2:
- a) British Columbia will notify MLIB and the Federal Crown in writing if it does not object to MLIB's request under 13.2; and
 - b) MLIB will not seek to add any of the Lands to its reserve lands under 13.2 if British Columbia does not notify MLIB and Canada of its non-objection under 13.3(a).
- 13.4 **Removal of Restrictive Covenant.** British Columbia will cancel the restrictive covenant attached as Schedule B "5" insofar as it applies to the parcel described in 13.3(a) if the Federal Crown accepts MLIB's request under 13.2.
- 13.5 **MLIB Acknowledgements.** MLIB acknowledges and agrees that:
- a) neither British Columbia nor BC Hydro is responsible for any applications or any costs or expenses that may be required in connection with the addition of the Lands under 13.1 or 13.2 to reserve status, including any costs or expenses associated with environmental or other studies;
 - b) any application by MLIB to transfer the Lands under 13.1 or 13.2 to the Federal Crown for designation as a reserve will proceed on the express condition that they remain subject to the Permitted Encumbrances; and
 - c) this Agreement does not impose any obligations on British Columbia, BC Hydro, or any other person to construct or provide at its cost or expense any work or service to or for the benefit of the Lands under 13.1 or 13.2, including any roads, sewers, drains, water supply, lighting, garbage disposal, or other works or services of improvement or convenience.

ARTICLE 14 – LAND MANAGEMENT MEASURES

- 14.1 **Determination of Management Areas.** Within one year after the Effective Date, British Columbia and MLIB will finalize and review the Schedule C Lands and determine whether they should have specific land management measures applied having regard for:
- a) the nature and location of the Lands;
 - b) any other agreements between British Columbia and MLIB relating to the Schedule C Lands; and
 - c) any tenures or encumbrances relating to the Schedule C Lands.

- 14.2 **Completion of Schedule C "1"**. On finalization of the Schedule C Lands, Schedule C "1" will be updated and will form part of this Agreement.
- 14.3 **Land Management Recommendation**. Where British Columbia and MLIB agree that some or all of the Schedule C Lands should be subject to land management measures, British Columbia will, as soon as practicable following Commencement of Construction, and subject to 5.2 and 5.4, recommend land management measures for the Schedule C Lands.

ARTICLE 15 - FORCE MAJEURE

- 15.1 **Force Majeure**. If British Columbia is prevented from completing the transfer of the Lands or the implementation of the Land Management Measures due to any event or circumstance that was not caused by and is not reasonably within its control it will not be deemed to be in default or breach of this Agreement for the duration of such event or circumstance, but will resume the performance of such obligations when such event or circumstance no longer prevents British Columbia from completing the transfer of the Lands or the implementation of the Land Management Measures.
- 15.2 **Notice of Force Majeure**. British Columbia will deliver notice to BC Hydro and MLIB explaining the nature of the force majeure event or circumstance, the date it commenced and its anticipated duration, if known.

ARTICLE 16 – LEGAL CERTAINTY

- 16.1 **Consultation and Accommodation**. Subject to 16.5, MLIB and its Members acknowledge and agree that:
- a) they consent, and do not and will not oppose or object, to the Site C Project or its Operation or the granting of any Authorization necessary for or applied for by or on behalf of BC Hydro in connection with the Site C Project or its Operation;
 - b) this Agreement, the Impact and Benefits Agreement and the Contracting Agreement, constitute:
 - i) adequate consultation and accommodation with respect to any potential adverse impact of the Site C Project or its Operation on MLIB Section 35 Rights; and
 - ii) justification of any infringement of MLIB Section 35 Rights resulting from the Site C Project or its Operation;

- c) this Agreement, the Impact and Benefits Agreement and the Contracting Agreement are entered into in full and final satisfaction of any past, present or future claim MLIB and its Members may have relating to the adequacy of consultation and accommodation with respect to or any infringement of MLIB's Section 35 Rights resulting from the Site C Project and its Operation, including any civil claims of any nature whatsoever, including private or public nuisance, relating to the Site C Project and its Operation; and
- d) other than as may be provided for under the Impact and Benefits Agreement, they will not seek additional financial or economic consideration or other accommodation from:
 - i) British Columbia, BC Hydro or Canada with respect to the Site C Project and its Operation, including with respect to any issuance or renewal of an Authorization; or
 - ii) any contractor or any other entity that is working directly or indirectly on behalf of BC Hydro in relation to the Site C Project and its Operation.

16.2 Continuing Effect of Authorizations. MLIB and its Members acknowledge and agree that they will recognize and respect the Authorizations that have been or may be granted.

16.3 Adverse Actions. MLIB and its Members acknowledge and agree that they will not:

- a) support or engage in any action or assert or exercise any MLIB Section 35 Rights in a manner that might directly or indirectly have an adverse impact on or frustrate, delay, interfere with or stop:
 - i) the Site C Project or its Operation; or
 - ii) the ongoing use, operation, maintenance, repair, replacement or upgrade of any Works that are required for the Site C Project or its Operation;
- b) challenge, object to or oppose publicly or in any Proceeding on any grounds the Site C Project or its Operation, including BC Hydro's legal authority to undertake the Site C Project and its Operation; or
- c) provide financial or other support to any individual or group for the purposes of challenging, objecting to or opposing publicly or in any Proceeding on any grounds the Site C Project or its Operation, including the matters set out in 16.3(b).

16.4 **Resolution of Adverse Actions.** In the event that one or more Members engages in, or MLIB becomes aware that one or more Members intend to engage in, any action prohibited under 16.3, MLIB will, at the request of British Columbia or BC Hydro, at its own expense take all reasonable actions to prevent, resolve or remedy those actions, including:

- a) providing notice to British Columbia and BC Hydro of the Members' actions;
- b) promptly informing the Members in writing, with a copy to British Columbia and BC Hydro, that their actions are in breach of this Agreement and that MLIB does not support their actions;
- c) working cooperatively with British Columbia and BC Hydro to prevent, resolve or remedy those actions, including participating in discussions with British Columbia and BC Hydro; and
- d) providing written affidavit material to support British Columbia and BC Hydro in seeking an and obtaining injunctive relief in respect of the actions of the Members.

16.5 **Participation in Public Processes.** MLIB or any Members may participate in any permitting, regulatory or other government decision-making process relating to the issuance of any Authorizations, the Site C Project or its Operation, including raising any environmental concerns or proposing reasonable avoidance or mitigation measures as part of such process, provided that such participation and any concerns raised by MLIB or its Members:

- a) are not based on the argument that there has been inadequate consultation or accommodation with respect to, or an infringement of, its Section 35 Rights resulting from the Site C Project and its Operation;
- b) are consistent with MLIB's consent to and support for the Site C Project, and do not in any way derogate from or breach any of its acknowledgements, agreements or obligations under this Agreement; and
- c) are raised in an effective and efficient manner and are completed in a timely manner in keeping with the timelines established by the relevant permitting, regulatory or other government decision-making body.

ARTICLE 17 – RELEASE AND LIMITATION OF LIABILITY

17.1 **General Release.** MLIB releases and forever discharges British Columbia, BC Hydro and all Public Officials from and against any and all claims, demands, causes of action, actions, expenses, costs, including legal fees, losses, damages, or any other liability, including civil claims, that they may suffer or incur, directly or indirectly, resulting or arising from the impact or effect of the Site

C Project and its Operation in accordance with all applicable laws and Authorizations, and for certainty excluding any such claims that MLIB may suffer or incur as a result of a breach of this Agreement by British Columbia or BC Hydro.

- 17.2 **Set Off.** Any financial harm incurred or suffered by British Columbia or BC Hydro as a result of MLIB's breach of this Agreement, including any requirement to indemnify British Columbia or BC Hydro, may be set off by BC Hydro against any payments payable by BC Hydro to MLIB under the Impact and Benefits Agreement.
- 17.3 **Limitation.** No Party will have any claim against or liability to another Party in relation to this Agreement under any cause of action or theory of liability for any special, indirect, incidental, punitive, exemplary or consequential losses or damages, including pure economic loss, or loss of opportunity, profit, revenues, production, earnings or contract.

ARTICLE 18 - NO PREJUDICE AND NON-DEROGATION

- 18.1 **No Admission.** Nothing in this Agreement, in the negotiation of this Agreement or in any correspondence or document leading to this Agreement, including any term sheet, will be interpreted or construed as an acknowledgement, recognition or admission by British Columbia, BC Hydro or Canada that:
- a) the Site C Project and its Operation infringe MLIB's Section 35 Rights; or
 - b) it has any liability to MLIB or its Members, including any obligation to provide any financial, economic or other accommodation to MLIB.
- 18.2 **Non-Derogation.** Without in any way affecting the express acknowledgements, agreements and obligations set out in 16.1 to 16.5 and 17.1, the Parties acknowledge and agree that nothing in this Agreement in any way defines, amends or denies the existence of any MLIB Section 35 Rights.

ARTICLE 19 - DISPUTE RESOLUTION

- 19.1 **Representatives.** If a dispute arises between the Parties regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.
- 19.2 **Senior Representatives.** If the Parties are unable to resolve the dispute at that level, the interpretation issue will be raised to more senior levels of the Parties.

- 19.3 **Other Means.** The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

ARTICLE 20 - NOTICES

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

if to British Columbia:

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

Fax: (250) 387-6073

if to BC Hydro:

BC Hydro
12th Floor – 333 Dunsmuir Street
Vancouver, B.C. V6B 5R3

Fax: (604)

if to MLIB:

McLeod Lake Indian Band
61 Sekani Drive
McLeod Lake, BC
V0J 2G0
Attention: Chief

Fax: (250) 750-4420

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

ARTICLE 21 - INTERPRETATION

21.1 Interpretation. For purposes of this Agreement:

- a) 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;
- b) "including" means "including, but not limited to" and "includes" means "includes, but not limited to";
- c) the use of the singular includes the plural and the use of the plural includes the singular;
- d) words importing gender include the masculine, feminine or neuter gender and words in the singular include the plural and vice versa;
- e) in the calculation of time under this Agreement, "business days" means any day from Monday to Friday, except any such day that is a statutory holiday in British Columbia;
- f) any reference to a corporate entity includes any predecessor or successor to such entity;
- g) any reference to the delivery on the Closing Date 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) a reference to an agreement between two or more of the Parties includes that agreement, as it may be amended from time to time in accordance with its terms;
- i) 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; and
- j) the rule of construction that ambiguities are to be resolved against the drafting party does not apply to the interpretation of this Agreement, and there will be no presumption that doubtful or ambiguous expressions, terms or provisions in this Agreement are to be resolved in favour of any Party.

21.2 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 or breach 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 or breach.

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

21.4 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) define, amend or deny the existence of MLIB's Section 35 Rights or any responsibilities of the Parties except as set out in this Agreement.

ARTICLE 22 – ENTIRE AGREEMENT

22.1 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and, except as set out in this Agreement, British Columbia and BC Hydro have not made any representation, warranty, collateral agreement or agreed to any condition, right or obligation affecting this Agreement. Without limiting the generality of the foregoing, nothing in the negotiation of this Agreement, or in any correspondence or document leading to this Agreement, including any term sheet, forms part of this Agreement.

22.2 Validity of Agreement. The Parties will not challenge the validity of any provision of this Agreement. If any part of this Agreement is declared or held invalid for any reason by a court of competent jurisdiction:

- a) subject to law, 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.

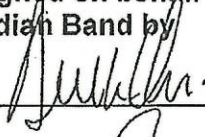

Notwithstanding 22.2(a) and (b), if any part of Article 16, 17 or 18 is declared or held invalid, in addition to any other remedy it may have, British Columbia is entitled to immediately terminate this Agreement on notice to BC Hydro and MLIB.

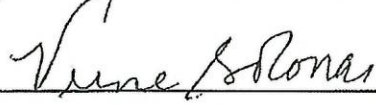
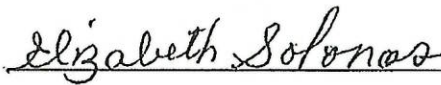
ARTICLE 23 - GENERAL

- 23.1 **Further Acts and Assurances.** Each of the Parties will, upon the reasonable request of another Party, do further lawful acts and deliver such further documents in a timely fashion as are reasonably required from time to time in order to fully perform and carry out the terms of this Agreement.
- 23.2 **Successors.** This Agreement will enure to the benefit of and be binding on British Columbia, BC Hydro and MLIB and their successors and, without limiting the generality of the foregoing, this Agreement and MLIB's obligations under it will be assumed and adopted by any successor organization or government, or any new organization or government that effectively replaces MLIB, under any self-government agreement or other agreement that MLIB, or any other group of which it forms a part, may enter into with Canada, British Columbia or both, or that MLIB may obtain through litigation or court declaration.
- 23.3 **Assignment.** BC Hydro may assign all or part of its rights and obligations under this Agreement to any successor or assignee of BC Hydro's rights and obligations relating to the Site C Project provided that any such successor or assignee agrees in writing to be bound by the terms of this Agreement. MLIB may not assign its rights or obligations under this Agreement, in whole or in part, except as may be required to give effect to 23.2.
- 23.4 **Amendment.** This Agreement may be amended by the Parties in writing.
- 23.5 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of British Columbia and Canada, as applicable.
- 23.6 **Legal Advice.** Each Party acknowledges that it has obtained or has had the opportunity to obtain independent legal advice relating to the terms and conditions of this Agreement, the Impact and Benefits Agreement and the Contracting Agreement, and that the signatories have read and understand the terms and conditions of the foregoing agreements.
- 23.7 **Execution in Counterpart.** This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile or other electronic means of transmission.

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

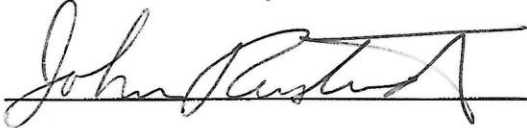
Signed on behalf of the McLeod Lake
Indian Band by

 _____  _____


 _____  _____

 _____

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

 _____

Signed on behalf of British Columbia
Hydro And Power Authority by

 _____

Jessica L. McDonald
President & CEO

Schedule A "1" – Form of Band Council Resolution

Whereas BC Hydro and Power Authority ("BC Hydro") is undertaking the development, construction and operation of the Site C Project, a third dam and 1100 megawatt hydroelectric generating station on the Peace River, together with all associated components, in northwestern British Columbia, near Fort St. John;

And whereas the Site C project is located in an area covered by Treaty 8 and over which the McLeod Lake Indian Band ("MLIB"), as an adherent to Treaty 8, has Section 35 Rights;

And whereas MLIB and BC Hydro have negotiated the Impact and Benefits Agreement and the Contracting Agreement, and MLIB, BC Hydro and British Columbia have negotiated the Tripartite Land Agreement (collectively "the Agreements"), drafts of which have been provided to and reviewed by each of the undersigned members of Council;

And whereas MLIB has, through the Agreements and the Joint Environmental Assessment Process, and the conditions contained in the Environmental Assessment Certificate and the Federal Decision Statement, been adequately consulted and accommodated with respect to the impacts of the Site C Project and its Operation on its Section 35 rights;

And whereas the Agreements are subject to satisfactory completion of the community ratification process pursuant to the MLIB Election Code;

Now therefore the Council of MLIB hereby:

- (a) approves the terms of the Agreements substantially in the form provided to and reviewed by each of the undersigned, which are subject to satisfactory completion of the community ratification process pursuant to the MLIB Election Code; and authorizes _____ to enter into, execute and deliver the Agreements, and each of the documents contemplated by the Agreements, on behalf of MLIB, its Council and each of the members of MLIB;
- (b) resolves to commence the community ratification process in respect of the Agreements pursuant to and in compliance with the MLIB Election Code;
- (c) authorizes the Chief of MLIB to, upon satisfactory completion of the community ratification process pursuant to the MLIB Election Code, execute a Condition Satisfaction Notice and deliver such notice to BC Hydro; and
- (d) authorizes _____ to do all such further and other acts and things and to execute and deliver all such further and other documents as may be necessary in order to carry out the intent of the

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Agreements and to perform the obligations of MLIB under the Agreements.

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Schedule B "1" – Map of Lands for Illustrative Purposes

To be completed at a later date pursuant to Article 6.

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Schedule B "2" – Description of Lands

To be completed at a later date pursuant to Article 6.

Where the Lands are registered in the Land Title Office or have been adequately surveyed, insert the legal description.

Where the Lands are not surveyed or have to be re-surveyed in order for title to be raised in the Land Title Office, insert the following (or similar) description:

the area [of approximately X hectares] as shown for illustrative purposes in Schedule 1 and, 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 not include any land below the natural boundary (as defined in the *Land Act*) and the area of any Crown Corridor, or any submerged lands

Schedule B "3" Part 1 – Permitted Encumbrances

Permitted Encumbrances
all interests registered on title under the <i>Land Title Act</i> as of the Closing Date
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 <i>Land Act</i>
any conditional or final water license or substituted water license issued or given under the <i>Water Act</i> , or any prior enactment of British Columbia 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 <i>Mineral Tenure Act</i> , <i>Coal Act</i> or <i>Petroleum and Natural Gas Act</i> or under any prior or subsequent enactment of British Columbia of British Columbia of like effect
all other liens, charges and encumbrances granted by British Columbia, with the prior written consent of the McLeod Lake Indian Band prior to the Closing Date
all existing interests on the Lands in favour of existing interest holders, including any such interests or interest holders that may not have been identified in this Schedule prior to the execution of this Agreement
a restrictive covenant in favour of Her Majesty the Queen in right of British Columbia of British Columbia to be registered against the title to certain Lands in the form attached as Schedule B "5" (Additions to Reserve Restrictive Covenant)

Schedule B "3" Part 2 - Permitted Encumbrances-Interests Not Registered on Title

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

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Schedule B "4" – Form of Permitted Encumbrances

To be completed at a later date pursuant to Article 6.

Schedule B "5" - Addition to Reserve Restrictive Covenant

LAND TITLE ACT
FORM C
(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office Use) Page 1 of 4 pages

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

(Signature of Solicitor or Authorized Agent)

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

(PID) (LEGAL DESCRIPTION)

3. NATURE OF INTEREST:*		
Description	Document Reference	Person Entitled to Interest
	(Page and paragraph)	
Section 219 Covenant	Entire Document	Transferee (Grantee)

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

- (a) Filed Standard Charge Terms D.F. No.
- (b) Express Charge Terms Annexed as Part 2
- (c) Release There is no Part 2 of this instrument

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

3. TRANSFEROR(S):* (Grantor)

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

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA 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 will be construed as meaning the plural or feminine or body corporate where the context or the parties so require.
3. This Agreement will 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 British Columbia of British Columbia.

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7. Where there is a reference to an enactment of British Columbia of British Columbia in this Agreement, that reference includes a reference to any subsequent enactment of British Columbia of British Columbia of like effect and, unless the context otherwise requires, all enactments referred to in this Agreement are enactments of British Columbia 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 B "6" - Designated Company Agreement

This Agreement is dated for reference _____, 20__.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA OF BRITISH COLUMBIA, as represented by the Minister of Aboriginal Relations and Reconciliation

("British Columbia")

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the authority of the *Hydro and Power Authority Act*, R.S.B.C. 1996, c. 1-5

("BC Hydro")

AND:

MCLEOD LAKE INDIAN BAND, a "band" within the meaning of the *Indian Act*, R.S.C. 1985, c. 1-5 for and on behalf of itself and all of its Members as represented by its Chief and Council

("MLIB")

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. British Columbia, BC Hydro and MLIB have entered into the Tripartite Land Agreement dated _____ (the "TLA") pursuant to which British Columbia will transfer to the Designated Company fee simple title to those lands legally described as:

[Insert Legal Description of lands]

(the "Lands")

- B. MLIB 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 Parties agree as follows:

1. **Defined Terms and Interpretation Provisions.** The terms "British Columbia", "BC Hydro" and "MLIB" and any other capitalized terms used in this Agreement and defined in TLA will have the meaning given to those terms in the TLA and the interpretation provisions under 21.1 of the TLA will apply to this Agreement.
2. **TLA Binding.** The terms of the TLA relating to the Lands which are for the benefit of British Columbia or BC Hydro are legally binding on the Designated Company as if the Designated Company was a party to the TLA.
3. **Environmental Condition.** Without limiting the generality of the foregoing, the Designated Company waives the requirement, if any, of British Columbia or BC Hydro to provide a site profile as defined in the *Environmental Management Act* in connection with its acquisition of the Lands.
4. **Enforcement of TLA.** British Columbia and BC Hydro may, in their sole discretion, enforce any term or condition of the TLA, including any acknowledgement, agreements, representations and warranties, releases, indemnities or any other obligation of MLIB, against the Designated Company or MLIB or both of them.
5. **Legal Advice.** The Designated Company acknowledges that it has had the opportunity to obtain independent legal advice relating to the terms and conditions of this Agreement and the TLA, a copy of which is attached as Schedule A, and that the signatories have read and understand the terms and conditions of the foregoing agreements.
6. **Validity of Agreement.** The Parties will not challenge the validity of any provision of this Agreement. If any part of this Agreement is declared or held invalid for any reason by a court of competent jurisdiction:
 - a) subject to law, 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.

7. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and, except as set out in this Agreement, British Columbia has and BC Hydro have not made any representation, warranty, collateral agreement or agreed to any condition, right or obligation affecting this Agreement. Without limiting the generality of the foregoing, nothing in the negotiation of this Agreement, or in any correspondence or document leading to this Agreement, including any term sheet, forms part of this 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 Agreement.
9. **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 or breach 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 or breach.
10. **Successors.** This Agreement will enure to the benefit of and be binding on the Designated Company and its successors and British Columbia.
11. **No Admissions.** Nothing in this Agreement, in the negotiation of this Agreement or in any prior document leading to this Agreement will be construed as an acknowledgment by British Columbia or BC Hydro that it has an obligation to provide any financial, economic or other accommodation to MLIB.
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 British Columbia and Canada, as applicable.
- 16. **Execution in Counterpart.** This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile or other electronic means of transmission.

Signed on behalf of Her Majesty the Queen In Right of British Columbia of British Columbia by the Minister of Aboriginal Relations and Reconciliation or the Minister's authorized representative as of _____, 20____:

Signed on behalf of British Columbia Hydro And Power Authority as of _____, 20____ by:

Signed on behalf of the McLeod Lake Indian Band as of _____, 20____ by:

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Signed on behalf of the Designated Company
as of _____, 20__ by:

[Name of Company]

Per: Authorized Signatory

Schedule B "7" – GST Certificate

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

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: _____

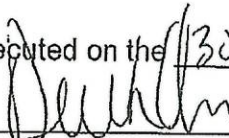
Schedule B "8"

Consent of MLIB in relation to
Property Transfer Tax Matters

TO WHOM IT MAY CONCERN:

1. Article 11 of the Site C Tripartite Land Agreement (the Agreement) between the Province of British Columbia, BC Hydro and the McLeod Lake Indian Band ("MLIB"), executed [date of execution], provides that BC Hydro is responsible for property transfer tax payable under the *Property Transfer Tax Act* (RSBC 1996), c. 378 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 MLIB hereby
 - c. authorizes the Ministry of Finance and the Ministry of Aboriginal Relations and Reconciliation, and BC Hydro 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 or BC Hydro, then the amount of that refund may be retained by payee.

Executed on the 30 day of March, 2016



Signature of the duly authorized signatory for the McLeod Lake Indian Band

Derek Orr CHIEF.

Name and Title (please print)

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Schedule C "1" – Map of Land Management Areas

To be completed at a later date pursuant to Article 14.

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Schedule D "1" – Map of Site C Project Area

See attached.

Schedule D "2" – Site C Project Description

The Site C Project is the project described in Volume 1, sub-sections 4.3 to 4.5 of the Amended Environmental Impact Statement for the Site C Clean Energy Project prepared by BC Hydro and submitted to the Joint Review Panel on August 2, 2013, and as authorized by the EAC and FDS.

The Site C Project consists of a proposed third dam and hydroelectric generation station on the Peace River together with all associated structures, to be constructed and operated in northeastern British Columbia, near Fort St. John.

In general terms, the components of the Site C Project are:

- Dam, generating station, and spillways;
- Reservoir;
- Substation and transmission lines to Peace Canyon Dam;
- Highway 29 realignment;
- Quarried and excavated construction materials;
- Worker accommodation; and
- Road and rail access.

