

METLAKATLA FIRST NATION PACIFIC NORTHWEST (PNW) LNG BENEFITS AGREEMENT

This Agreement is dated for reference February 2, 2016

BETWEEN:

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

(the "Province")

AND:

Metlakatla First Nation, on behalf of itself and its Members, as represented by the Chief and Council

("Metlakatla")

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

WHEREAS:

- A. The Province is committed to developing a liquefied natural gas (LNG) industry in British Columbia;
- B. Pacific Northwest LNG is proposing to construct an LNG facility on Lelu Island with related marine facilities in the Port of Prince Rupert (the "PNW LNG Project");
- C. Metlakatla has indicated that it is supportive of the PNW LNG Project provided that its interests are met, including addressing issues related to Aboriginal Rights and the cumulative impacts of such development;
- D. Metlakatla asserts unextinguished Aboriginal Rights in the Prince Rupert area;
- E. Metlakatla and the Province entered into a non-binding term sheet as of November 26, 2014, which called for the Parties to work diligently and in good faith to finalize an agreement by February 28, 2015 (the "2014 Term Sheet");

- F. Challenges arose implementing the 2014 Term Sheet and the Parties subsequently entered into a further non-binding term sheet dated October 9, 2015 that superseded and replaced the 2014 Term Sheet (the “2015 Term Sheet”); and
- G. Metlakatla and the Province wish to enter into this Agreement to confirm their respective commitments in relation to the PNW LNG Project, in accordance with the 2015 Term Sheet.

NOW THEREFORE the Parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 Definitions. In this Agreement:

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

“Agreement” means this Metlakatla First Nation Pacific Northwest (PNW) LNG Benefits Agreement;

“Associated Infrastructure” means any infrastructure project related to the PNW LNG Project for electricity, transportation and other utility corridor rights of way, including related facilities, power generation facilities, plant equipment and other infrastructure easements and rights of way as well as matters related to the construction, operation and maintenance of the PNW LNG Project including lay down areas and work camps that relate to the PNW LNG Project, but not including any natural gas transmission line;

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

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

“Closing Date” means the date or dates on which the documents for the transfer of a Parcel to a Designated Company under section 6.1 are submitted for filing in the Land Title Office;

“Coastal Fund Agreement” means the agreement between the Parties referred to in Article 12;

“Commencement of Construction” means the date on which the PNW LNG Project proponent issues a notice to proceed to its EPC contractor for the project, excluding other site assessment or exploration work;

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

“Crown Corridor” means a highway (as defined in the *Transportation Act*) and the area of any other road, right-of-way, easement or licence over Crown land that is used for transportation or public utility purposes, including railway purposes, and that is identified in Schedule 2, as amended in accordance with section 8.3;

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

“Designated Company” means:

- a) one or more companies incorporated under federal or provincial law, all the shares of which are wholly owned directly or indirectly, legally and beneficially, by Metlakatla and which Metlakatla has designated to take fee simple title to a Parcel; and, for greater certainty, a Designated Company may include a company that is acting as a partner in a limited partnership or a limited liability partnership and may include a company holding a Parcel in bare trust for and on behalf of Metlakatla; and
- b) in respect of the Wampler Way Parcel, includes a company incorporated under federal or provincial law, all the shares of which are wholly owned directly or indirectly, legally and beneficially, by Metlakatla and Lax Kw’alaams and which Metlakatla and Lax Kw’alaams have jointly designated to take fee simple title to the Wampler Way Parcel; which, for greater certainty, may include a company that is acting as a partner in a limited partnership or a limited liability partnership and may include a company holding the Wampler Way Parcel in bare trust for and on behalf of Metlakatla and Lax Kw’alaams ;

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

“EPC Contractor” means the engineering, procurement and construction contractor for the PNW LNG Project;

“FID” or **“Final Investment Decision”** means a final and unconditional decision of the PNW LNG Project proponent to proceed with the construction of the PNW LNG Project;

“Governmental Action” means any provincial or federal approval, decision, process, agreement, authorization or action of any kind whatsoever, including approvals, decisions, processes, agreements, authorizations or actions of a provincial or federal agency or Crown corporation, relating to the PNW LNG Project and its Associated Infrastructure;

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

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

“Lax Kw’alaams” means the “band”, as that term is defined in the *Indian Act*, named the “Lax Kw’alaams First Nation” and includes all “members of the band”, as that phrase is defined in *the Indian Act*, of Lax Kw’alaams;

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

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

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

“North Digby Island Parcel” means those lands as shown for illustrative purposes in Plan 2 of Schedule 1 having an area of approximately 772 hectares and, following completion and approval of a legal survey of those lands in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor;

“Option to Purchase Agreement” means the option agreement between the Province and a Designated Company to purchase a 50% undivided interest in the Wampler Way Parcel substantially in the form set out in Schedule 7;

“Parcel” means any or all of the following:

- a) the Wolf Creek Road Parcel,
- b) the South Kaien Island Parcel,
- c) the North Digby Island Parcel, and
- d) the Wampler Way Parcel;

“Permitted Encumbrances” means the reservations, exceptions, liens, charges, and interests described in Schedule 2 as amended in accordance with section 8.2 for each of the Parcels or any other Permitted Encumbrances agreed to by the Parties;

“Port Edward Applications” means those applications in the District of Port Edward as set out in Schedule 6;

“Provincial Official” means

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

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

“PNW LNG Project” means the description of the Pacific Northwest Liquefied Natural Gas (LNG) Project as set out in the application made to the Canadian Environmental Assessment Agency and the British Columbia Environmental Assessment Office, subject to modifications that may be required in the course of securing environmental and regulatory approvals as well as any expansion to four trains capable of producing approximately 24 million tons of LNG per annum;

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

“South Kaien Parcel” those lands as shown for illustrative purposes in Plan 1 of Schedule 1 having an area of approximately 164 hectares and, following completion and approval of a legal survey of those lands in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor;

“Wampler Way Parcel” those lands as shown for illustrative purposes in Plan 4 of Schedule 1 having an area of approximately 60 hectares and, following completion and approval of a legal survey of those lands in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor; and

“Wolf Creek Road Parcel” means those lands as shown for illustrative purposes in Plan 3 of Schedule 1 having an area of approximately 10 hectares and, following completion and approval of a legal survey of those lands in accordance with this Agreement and provincial law, the land legally described in the approved survey, which for greater certainty will not include any land below the natural boundary as defined in the *Land Act* and the land within any Crown Corridor.

1.2 Interpretation. For purposes of this Agreement:

- a) “this Agreement” means this Agreement, including 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 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) each and every release, covenant and other agreement given, and action to be taken, by Metlakatla under this Agreement means Metlakatla acting by and through its Chief and Council, and will be conclusively deemed to have been given, or taken, by Metlakatla on its own behalf, and for and on behalf of its Members; and
- i) 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 Parcels (Plans 1 to 4) for Illustrative Purposes
- Schedule 2 Permitted Encumbrances and Crown Corridors
- Schedule 3 Form C Additions to Reserve Restrictive Covenant
- Schedule 4 Designated Company Agreement
- Schedule 5 GST Certificate
- Schedule 6 Port Edward Applications
- Schedule 7 Option to Purchase Agreement
- Schedule 8 Memorandum of Understanding between the Prince Rupert Port Authority and Metlakatla

ARTICLE 2 - COMING INTO EFFECT AND TERMINATION

- 2.1 Coming into Effect.** This Agreement comes into effect when it has been executed and delivered by the Parties.
- 2.2 Province may Terminate on Breach.** The Province may terminate this Agreement, including the transfer of any Parcel which has not been completed, if Metlakatla is in breach of any of its obligations set out in Article 5 (Assurances) or Article 10 (Other Covenants).
- 2.3 Survival of Lands Conditions.** Despite section 2.2, Article 7 (Condition of Lands) and Article 10 (Other Covenants) will survive the completion of the transfer of any Parcel or the termination of this Agreement and, for greater certainty, will continue to apply to the Lands.

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

- 3.1 Metlakatla Representations.** Metlakatla represents and warrants to the Province, with the intent and understanding that the Province will rely on those representations in entering into this Agreement, that:
- a) it enters into this Agreement for, and on behalf of, its Members;
 - b) it, as represented by its Chief and Council, has the legal power, capacity and authority to enter into and to carry out its obligations under this Agreement on behalf of Metlakatla and its Members; and

- c) the Province has fulfilled any obligation it may have to consult with Metlakatla in relation to the transfer of the Parcels to a Designated Company and the Permitted Encumbrances applicable to the Parcels.

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

- a) it has the legal power, capacity and authority to enter into this Agreement; and
- b) on satisfaction or waiver of the conditions precedent applicable to the transfer of a Parcel, it will have the legal power, capacity and authority to transfer the fee simple title to that Parcel to a Designated Company as contemplated by this Agreement.

ARTICLE 4 – CONDITIONS PRECEDENT

4.1 Band Council Resolution. On or prior to the Effective Date, Metlakatla will deliver to the Province a resolution made by its elected Council authorizing Metlakatla's representatives named in the resolution to execute and deliver this Agreement on behalf of Metlakatla.

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

- a) the representations and warranties of Metlakatla under this Agreement being true and correct on the applicable Closing Date;
- b) all obligations of Metlakatla and the Designated Company in respect of all previously transferred Parcels having been fully performed in accordance with this Agreement;
- c) the Province being satisfied that it has fulfilled any consultation obligations it may have with respect to assertions of Aboriginal Rights to the applicable Parcel by First Nations other than Metlakatla;
- d) Metlakatla having indicated its support in writing for the Port Edward Applications in a form satisfactory to the Province acting reasonably;
- e) the Parties reaching agreement in accordance with section 8.2 on the Permitted Encumbrances applicable to the Parcel and updating and amending Schedule 2 in respect of that Parcel accordingly;

- f) the Parties reaching agreement in accordance with section 8.3 on the location and size of Crown Corridors or statutory rights of way or easements required to address transportation routes, electrical and natural gas transmission infrastructure and water, sewage or other utility corridor requirements and updating and amending Schedule 2 in respect of that Parcel accordingly;
- g) legal surveys for the applicable Parcel having been completed by the Province and approved in accordance with provincial law before the applicable Closing Date; and
- h) the minister responsible having authorized the disposition of the applicable Parcel in accordance with provincial law before the applicable Closing Date.

4.3 Conditions Precedent to Particular Parcels. In addition to the conditions set out in section 4.2 applicable to all Parcels, the obligation of the Province to transfer the following Parcels to a Designated Company under this Agreement is also subject to the following:

- a) **South Kaien Parcel:**
 - i. Metlakatla and the Prince Rupert Port Authority finalizing a Memorandum of Understanding substantially in the form attached as Schedule 8 regarding the suitability of a portion of the Parcel for activities related to the operations of the Port of Prince Rupert, and
 - ii. the Parties reaching agreement on the terms and conditions of a *Land Title Act* section 219 covenant restricting the use of an agreed to portion of the Parcel for transportation and infrastructure purposes only, to be registered as a first charge against the title to the Parcel unless the Parties agree otherwise;
- b) **North Digby Island Parcel:** The Parties reaching agreement on:
 - i. the location and size of a Crown Corridor or statutory right of way through the Parcel that would enable the Auroa LNG proponent to construct, maintain and upgrade a road to provide access to the Prince Rupert airport road;
- c) **Wolf Creek Road Parcel:** prior to the transfer of the Wolf Creek Road Parcel, an environmental concern with respect to that Parcel, which would result in significant environmental remediation costs, is not identified; and
- d) **Wampler Way Parcel:**

- i. On or before March 31, 2016, Metlakatla and Lax Kw'alaams reaching a co-ownership agreement in respect of the Parcel and jointly providing written notice to the Province directing the Province to transfer the Parcel to a Designated Company jointly owned by them in accordance with this Agreement, and the Province obtaining assurances from Lax Kw'alaams in a form satisfactory to the Province, acting reasonably, that it agrees with same the terms and conditions as set out in this Agreement related to the transfer of the Parcel to the Designated Company; or
- ii. If the Metlakatla and Lax Kw'alaams are not able to reach agreement in accordance with section 4.3 d) i, the Parties completing an Option to Purchase Agreement substantially in the form attached as Schedule 7, to be registered as a first charge against the title to the Parcel unless the Parties agree otherwise.

4.4 Waiver of Conditions Precedent. The conditions precedent set out in sections 4.2 and 4.3 are for the sole benefit of the Province and may be waived by the Province on written notice to Metlakatla.

ARTICLE 5 – ASSURANCES

5.1 Metlakatla Assurances. Provided that the Province is not in breach of its obligations under this Agreement, Metlakatla will:

- a) indicate in writing that it is supportive of the PNW LNG Project, its Associated Infrastructure and any related Governmental Actions, if so requested by the Province;
- b) continue to participate in the PNW LNG Project environmental assessment and regulatory processes in a timely manner;
- c) confirm that it is being consulted and accommodated in respect of the PNW LNG Project, its Associated Infrastructure and any Governmental Actions;
- d) not initiate or participate, directly or indirectly, in any legal action or proceeding that challenges, directly or indirectly, the PNW LNG Project, its Associated Infrastructure or any related Governmental Actions on the basis that Metlakatla has not been adequately consulted or accommodated or that the PNW LNG Project, its Associated Infrastructure or any Governmental Actions constitute an infringement of its Aboriginal Rights;

- e) not initiate, support or participate, directly or indirectly, in any actions that would interfere with, delay, hinder or otherwise oppose the PNW LNG Project, its Associated Infrastructure or any Governmental Actions; and
- f) not support actions of any kind whatsoever by a Member of Metlakatla or any other First Nation that would interfere with, delay, hinder or otherwise oppose the PNW LNG Project, its Associated Infrastructure or any Governmental Actions.

5.2 Assurances upon the transfer of all Parcels. Upon the completion of the transfers of all of the Parcels to a Designated Company in accordance with this Agreement, Metlakatla will:

- a) release and discharge the Province with respect to the Province's obligation to consult and, where appropriate, accommodate in respect of the PNW LNG Project, its Associated Infrastructure and all Governmental Actions;
- b) release and discharge the Province from any claims of infringement of Aboriginal Rights in respect of the PNW LNG Project, its Associated Infrastructure and all Governmental Actions; and
- c) acknowledge that the Province has fulfilled any obligations to provide to Metlakatla any financial or economic accommodation, economic benefits, capacity funding and payments of any kind and any compensation that may be required with respect to the PNW LNG Project, its Associated Infrastructure, and all Governmental Actions.

5.3 Nothing in this Agreement precludes Metlakatla from identifying concerns about potential impacts of the PNW LNG Project and its Associated Infrastructure in the applicable environmental assessment or regulatory process, and either Party may seek to resolve those concerns as part of the applicable environmental assessment or regulatory process.

5.4 Nothing in this Agreement precludes Metlakatla from taking any necessary steps in accordance with applicable federal and provincial law with respect to concerns it may have as a result of the PNW LNG Project proponent being in breach of its obligations under its licenses, permits and approvals.

ARTICLE 6 – TRANSFER OF LANDS

6.1 Parcel Transfers. Subject to the Permitted Encumbrances and the terms of this Agreement, including the satisfaction or waiver of all applicable conditions

precedent, the Province will transfer the Lands to a Designated Company as follows:

- a) **Wolf Creek Road Parcel:** as soon as practical after the Effective Date and receipt of a written request from Metlakatla to transfer the Parcel;
- b) **South Kaien Island Parcel:** as soon as practical after the Effective Date and receipt of a written request from Metlakatla to transfer the Parcel;
- c) **North Digby Island Parcel:** as soon as practical after the Province receives written confirmation from the PNW LNG Project proponent announcing a FID for the PNW LNG Project and receipt of a written request from Metlakatla to transfer the Parcel; and
- d) **Wampler Way Parcel:** as soon as practical after March 31, 2016, and the Province receiving written confirmation from the PNW LNG Project proponent announcing a FID for the PNW LNG Project and receipt of a written request from Metlakatla to transfer the Parcel.

6.2 Pre-Closing Deliveries by Metlakatla. At least 60 days, or other time period agreed to by the Parties, prior to the Closing Date with respect to a Parcel to be transferred, Metlakatla will deliver to the Province a direction identifying the Designated Company that will take fee simple title to the applicable Parcel.

6.3 Closing Deliveries by Province. Subject to the Permitted Encumbrances and the terms of this Agreement, including the satisfaction or waiver of the conditions precedent under sections 4.1 the Province will provide the Designated Company identified under section 6.1 with a Crown Grant in fee simple for the applicable Parcel.

6.4 Closing Deliveries by Metlakatla. Not less than 14 days before the applicable Closing Date with respect to the Parcel to be transferred, Metlakatla will execute and deliver, or cause to be executed and delivered, or deliver, as the case may be, to the Province:

- a) a restrictive covenant granted by the Designated Company substantially in the form attached as Schedule 3 in relation to the Parcel;
- b) an agreement executed by the Designated Company substantially in the form attached as Schedule 4 in relation to the Parcel;
- c) a certificate signed by an officer of the Designated Company substantially in the form attached as Schedule 5 confirming the Designated Company's GST registration number and registered status;

- d) a letter of undertaking signed by Metlakatla's legal counsel undertaking, among other things, that the restrictive covenant (Schedule 3) and applicable Permitted Encumbrances will be filed concurrently with the Crown Grant in the order of priority set out in this Agreement and that the Province will be provided with a signed copy of the Designated Company Agreement (Schedule 4) and the GST Certificate (Schedule 5);
- e) a Property Transfer Tax form executed by the Designated Company; and
- f) all such other documents that may be necessary or advisable for Metlakatla or a Designated Company to provide to complete the transactions contemplated under this Agreement.

6.5 Registration of Lands. All Lands transferred under this Agreement will be registered in the Land Title Office.

6.6 Closing Procedure. The legal counsel for Metlakatla and the Province will confirm in writing the manner in which the documents necessary or advisable to transfer and register each Parcel will be produced, managed, exchanged and delivered. Without limiting the generality of the foregoing, legal counsel responsible for registering a Parcel will:

- a) provide a letter of undertaking;
- b) provide copies of all documents filed under section 6.4(d) to legal counsel for the other Party.

6.7 Staged Transfer of Portions of a Parcel. If Metlakatla determines that rather than obtaining the transfer of an entire Parcel it would like to obtain a staged transfer of portions of a Parcel, it may provide notice to the Province and the Parties will negotiate and attempt to reach agreement on amendments to this Agreement to address that interest.

ARTICLE 7 – CONDITION OF LANDS

7.1 Lands “As Is”. Metlakatla acknowledges and agrees that any and all of the Lands acquired by a Designated Company under this Agreement are acquired “as is”.

7.2 Viability of Lands. Metlakatla 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 Metlakatla 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.

7.3 Environmental Condition. Metlakatla:

- a) waives the requirement, if any, of the Province to provide a site profile as defined in the *Environmental Management Act* for any of the Lands; and
- b) acknowledges and agrees that the Province has not given any representation or warranty concerning the condition of the Lands (including surface water and groundwater), environmental or otherwise, including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Lands and on or under any surrounding or neighbouring land and the current and past uses of the Land and any surrounding or neighbouring land.

7.4 Environmental Conditions. Metlakatla will from and after the Closing:

- a) assume all environmental liabilities relating to the Lands including, but not limited to, all liability for the clean-up of any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Lands or migrating from the Lands (including surface water and groundwater) and any other costs of remediation of the Lands, whether disclosed or undisclosed, known or unknown, created or existing, that arose before the Closing Date or arose before and continues after the Closing Date;

- b) release the Provincial Officials from and against all claims, demands, liabilities, losses, damages, costs, actions, causes of action, suits and proceedings with respect to any and all environmental liabilities described in this section 7.4 a), and;
- c) indemnify and save harmless the Provincial Officials from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by them after the Closing arising out of or in connection with any and all environmental liabilities described in this section 7.4 a).

7.5 Post-Closing Date. Section 7.4 does not apply where the environmental liability relating to the Lands results from the acts or omissions of British Columbia after the Closing Date.

7.6 Condition of Wolf Creek Road Parcel.

- a) Without limiting sections 7.1 to 7.5, nothing in this Agreement is intended to limit the obligation of the holders of licence of occupation numbers SK 904081 and SK 904082 (the "Licences") to remove any improvements or hazardous substances from the Wolf Creek Road Parcel in accordance with their obligations under the Licences and the Province agrees that prior to the transfer of the Wolf Creek Road Parcel it will take such compliance and enforcement steps in respect of the Licences that would be reasonable in the circumstances.
- b) If, prior to the transfer of the Wolf Creek Road Parcel, an environmental concern is identified with respect to that parcel which would result in significant environmental remediation costs, the Province will not be obligated to transfer the Wolf Creek Road Parcel; and the Parties will instead negotiate and attempt to reach agreement on alternative land with the same or equivalent value to be transferred to Metlakatla.

ARTICLE 8 – ENCUMBRANCES AND CROWN CORRIDORS

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

8.2 Finalization of Permitted Encumbrances. The Parties acknowledge that as of the Effective Date the land status review of the Parcels required to identify all existing reservations, exceptions, liens, charges and interests has not been completed and that between the Effective Date and the transfer of a Parcel to a

Designated Company, the Parties will review and amend Schedule 2 (Permitted Encumbrances) in respect of that Parcel accordingly.

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

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

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

ARTICLE 9 – TRANSACTION COSTS

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

- a) subject to section 9.4, the cost of obtaining a legal survey of the outer boundaries of each Parcel;
- b) the costs of fees associated with the preparation of Crown grants; and
- c) property transfer tax, and for greater certainty, the Province agrees to either pay or waive the requirement to pay any property transfer tax payable under the *Property Transfer Tax Act* in connection with the transfer of the Lands under the Agreement.

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

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

9.4 Costs Associated with the Transfer of Portions of a Parcel. For certainty, the obligation of the Province under section 9.1 a) is to pay for the costs to survey the outer boundaries of a Parcel and if Metlakatla wishes to obtain the staged transfer of portions of a Parcel as contemplated by section 6.7, it is responsible for the cost of any additional required survey work and other related costs.

ARTICLE 10 - OTHER COVENANTS

10.1 Other Metlakatla Covenants. Metlakatla further acknowledges and covenants that:

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

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

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

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

ARTICLE 11 – OTHER MATTERS

11.1 Acceleration of an Agreement in Principle Land and Cash Offer. The Parties acknowledge that:

- a) Metlakatla is engaged in active treaty negotiations with the Province and Canada and is seeking to reach the key mile-stone represented by the conclusion of an Agreement in Principle (AiP) and that in June, 2012 Metlakatla tabled its treaty land interests with the two governments;
- b) the Province is prepared to accelerate the tabling of an AiP land and cash offer subject to Canada's full participation, obtaining required mandate authority, and ongoing overlap consultations with First Nations (including the Lax Kw'alaams First Nation); and
- c) to meet the objective of completing an AiP and proceeding to Final Agreement negotiations, the Province is working with Canada and Metlakatla in a treaty lands scoping exercise that commenced in Fall 2015; and building on the lands scoping exercise, the Province is prepared to work with Canada with the aim of presenting Metlakatla with an AiP land and cash as soon as practicable after the completion of the scoping exercise.

11.2 Other Benefits. The Parties acknowledge that prior to the Effective Date they have concluded the contribution agreements contemplated by the 2015 Term Sheet in respect of provincial funding to support road paving within the Metlakatla community on Metlakatla Indian Reserve #2 and to enhance the Metlakatla ferry service.

11.3 Other LNG Project Reconciliation Measures. If the PNW LNG Project is not commissioned and exporting LNG within 8 years of the Effective Date and another LNG facility within the Prince Rupert area announces a FID, the Province may rely on any Parcel that has been transferred in accordance with this Agreement, other than the Wolf Creek Road Parcel, as an accommodation in respect of that LNG facility.

11.4 Treaty Reconciliation Measures. If no LNG facility within the Prince Rupert area is commissioned and exporting LNG before the Province, Canada and Metlakatla conclude a final land claims agreement, the Province may rely on the transfer of the South Kaien Parcel and the North Digby Island Parcel as contributing towards that final land claims settlement.

ARTICLE 12 – COASTAL FUND AGREEMENT

- 12.1** The Parties confirm their commitment to negotiate and attempt to reach agreement on a Coastal Fund Agreement that provides for certain payments and assurances from Metlakatla regarding LNG Projects, in accordance with the 2015 Term Sheet.

ARTICLE 13 - DISPUTE RESOLUTION

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

ARTICLE 14 - NOTICES

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

if to the Province:

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

Fax: (250) 387-6073

and if to Metlakatla:

Metlakatla
PO Box 459
Prince Rupert, BC V8J 3R2
Attention: Chief Councillor

Fax: (250) 628-9259

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

ARTICLE 15 - GENERAL

15.1 Financial Administration Act The Province's obligations set out in Article 6 are subject to there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any fiscal year, when any expenditure in respect of an obligation may be required, to make that expenditure, and Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation necessary in order to make such payment

15.2 Entire Agreement. This Agreement, the Coastal Fund Agreement and the Parties' separate arrangement with respect to environmental concerns are the entire agreement between the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, the Coastal Fund Agreement and the Parties' separate arrangement with respect to environmental concerns, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Agreement.

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

15.4 No Implied Waiver. Any waiver of:

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

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

- 15.5 Successors.** This Agreement will enure to the benefit of and be binding on Metlakatla and its successors.
- 15.6 No Admissions.** Nothing in this Agreement will be construed as an:
- a) admission by the Province of the validity of any claim by Metlakatla to a specific treaty right or an Aboriginal Right; or
 - b) acknowledgment by the Province that it has an obligation to provide financial or economic accommodation to Metlakatla.
- 15.7 Not a Treaty.** This Agreement does not:
- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982* (Canada); or
 - b) recognize, affirm, define, deny, limit or amend any Aboriginal Right or any responsibilities of the Parties except as set out in this Agreement.
- 15.8 No Fettering.** Nothing in this Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.
- 15.9 Amendment.** This Agreement may be amended from time to time by the Parties in writing.
- 15.10 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
- 15.11 Assignment.** This Agreement may not be assigned by Metlakatla without the express written consent of the Province.
- 15.12 Execution in Counterpart.** This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a scan, photocopy or facsimile copy) and delivering it to the other Party by facsimile or electronic transmission.

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

Signed on behalf of Metlakatla by its authorized signatories

Harold Leighton, Chief Councillor

Alrita Leask, Councillor

Alvin Leask Jr, Councillor

Cindy Smith, Councillor

James Nelson, Councillor

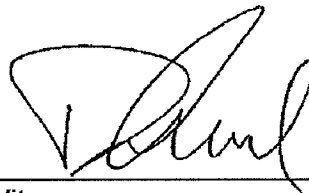
Wayne Haldane, Councillor

Robert Nelson, Councillor

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



Honourable John Rustad
Minister of Aboriginal Relations and Reconciliation



Witness

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

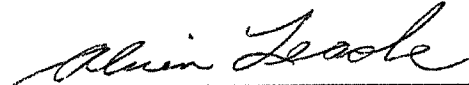
**Signed on behalf of Metlakatla by its
authorized signatories**



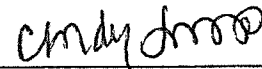
Harold Leighton, Chief Councillor



Alrita Leask, Councillor



Alvin Leask Jr, Councillor



Cindy Smith, Councillor

James Nelson, Councillor



Wayne Haldane, Councillor



Robert Nelson, Councillor

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

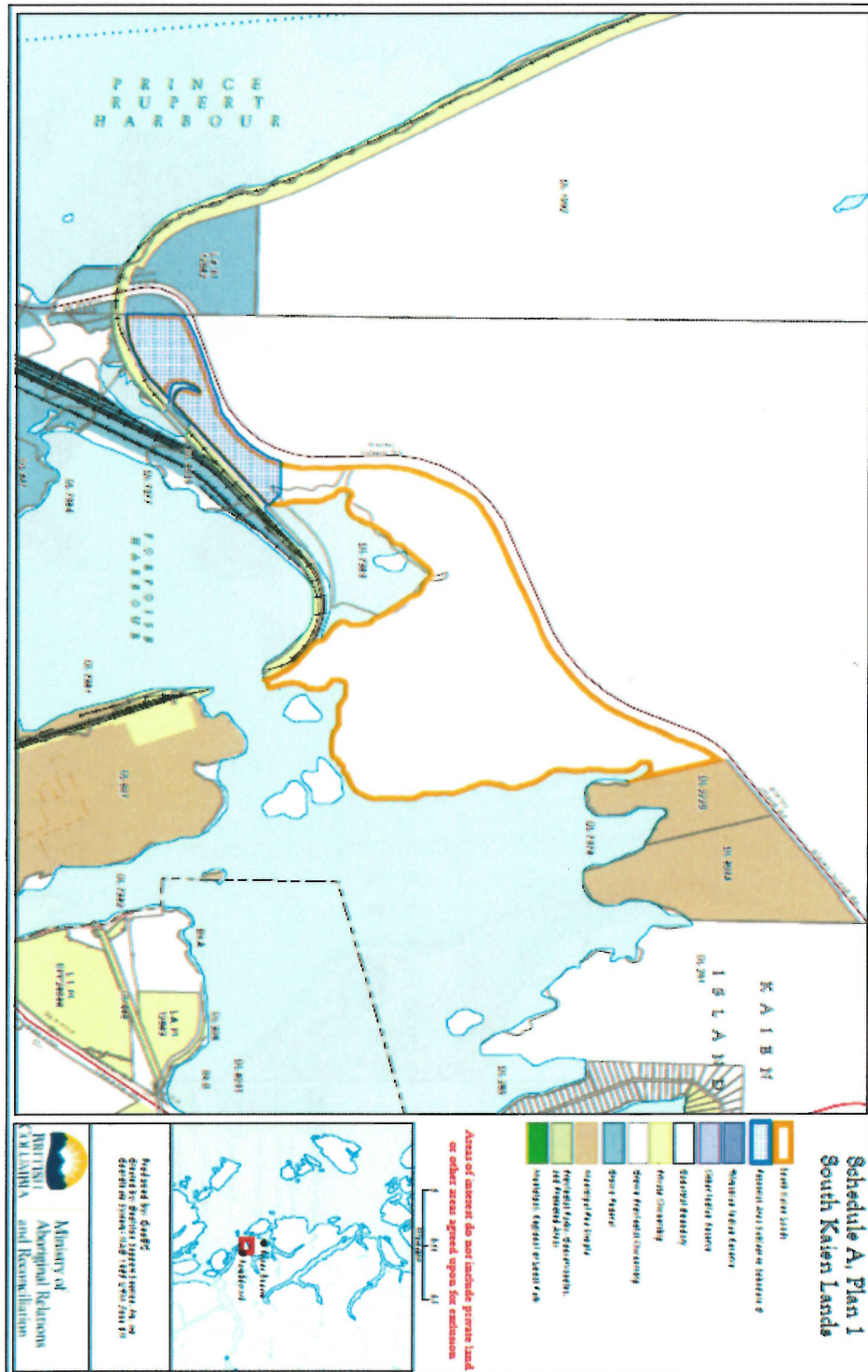
Honourable John Rustad
Minister of Aboriginal Relations and
Reconciliation

Witness

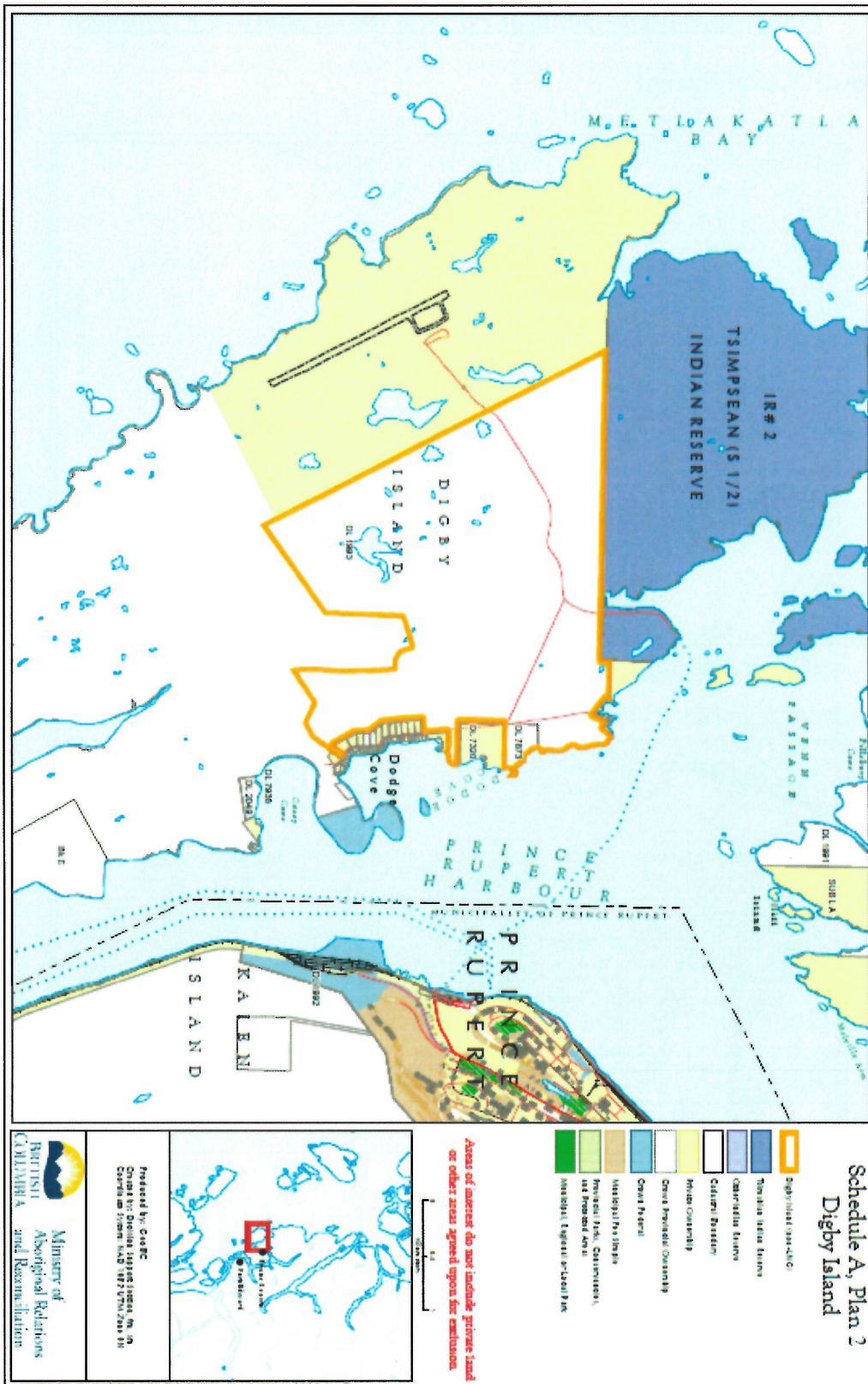
Schedule "1" – Map of Lands for Illustrative Purposes

Plan 1 to Plan 4 – Map of Parcels for Illustrative Purposes

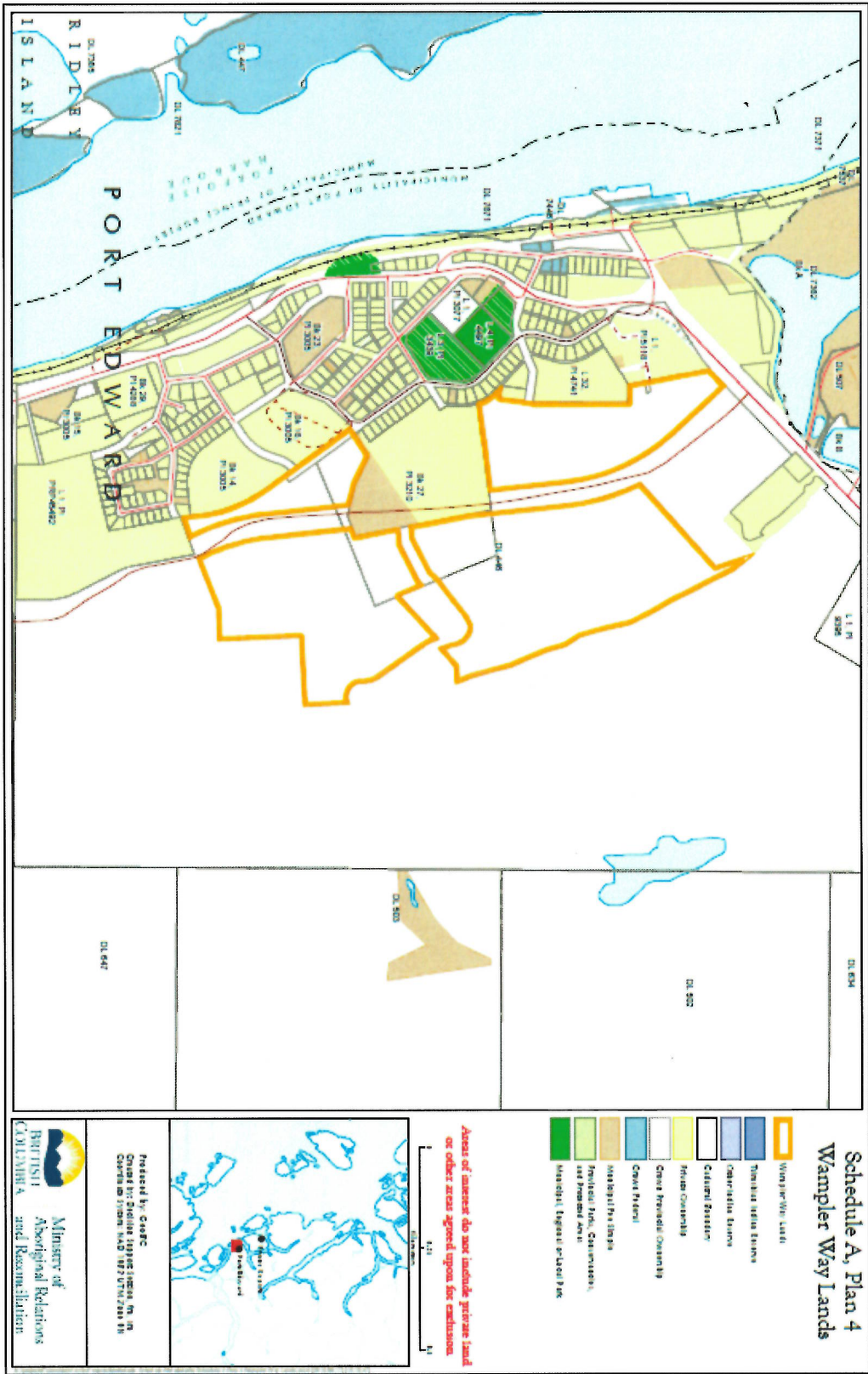
Plan 1: South Kaien Parcel



Plan 2: North Digby Island Parcel



Plan 4: Wampler Way Parcel



Schedule 2

Part 1 – Permitted Encumbrances

Permitted Encumbrances that apply to all Parcels

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

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

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

Any conditional or final water license or substituted water license issued or given under the *Water Act*, or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Parcel and to maintain, repair and operate any works permitted on the Parcel under the license at the date of the Crown grant;

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

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

A restrictive covenant in favour of Her Majesty the Queen in right of the Province of British Columbia to be registered against the title to the Parcel in the form attached as Schedule 4 (Additions to Reserve Restrictive Covenant).

Schedule 2

NORTH DIGBY ISLAND PARCEL

Land Act Tenures		
Interest Holder	Tenure Type	File #
BC Hydro And Power Authority	Statutory Right of Way For Electric Power Line	0226982
Bell Media Radio (Toronto) Inc.	Standard Lease For Communication Site	0257834

Water Tenures		
Interest Holder	Tenure Type	File #
Dodge Cove Improvement District	Dodge Community Watershed - Designated, Community Watershed (Dig.001)	C061909 C061910
Dodge Cove Improvement District	Waterworks Local Authority -Water Licence	C061909
Dodge Cove Improvement District	Storage-Non Power - Water Licence	C061910
Dodge Cove Improvement District	Water Works - Water Work Line	C061909 C061910

Wampler Way Parcel

Land Act Tenures		
Interest Holder	Tenure Type	File #
BC Hydro And Power Authority	Statutory Right of Way For Electric Power Line	0150803
BC Hydro And Power Authority	Statutory Right of Way For Electric Power Line	0337536
District of Port Edward	Statutory Right of Way For Electric Power Line	6402672
District of Port Edward	Licence of Occupation For Water Line	6404976
Province of British Columbia	Option Agreement	To be determined

South Kaien Island Parcel

Land Act Tenures		
Interest Holder	Tenure Type	File #
Prince Rupert Port Authority	Statutory Right of Way For Water Line	6401218
BC Hydro And Power Authority	Statutory Right of Way For Electric Power Line	6401236

Wolf Creek Road Parcel

Land Act Tenures		
Interest Holder	Tenure Type	File #
BC Hydro And Power Authority	Statutory Right of Way For Electric Power Line	0266353
Pacific Northern Gas Ltd.	Statutory Right of Way For Gas And Oil Pipeline	0348345
BC Hydro And Power Authority	Statutory Right of Way For Electric Power Line	6404034

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

BC Hydro may wish to have replacement tenures and register those Statutory Rights of Way in the Land Title Office .

The BC Hydro tenures might also be characterized as Crown Corridors.

Part 2 - Permitted Encumbrances-Interests Not Registered on Title

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

Part 3 – Crown Corridors

Land Parcel	Road	Excluded Road Width (metres)
North Digby Island	<ul style="list-style-type: none"> • Access road from Nexen LNG proposed site to Prince Rupert Airport Road 	To be determined through surveying
North Digby Island	<ul style="list-style-type: none"> • Access roads to Dodge Cove 	To be determined through surveying

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

Schedule 3 - Addition to Reserve Restrictive Covenant

LAND TITLE ACT

FORM C

(Section 233)

Province of
British Columbia

GENERAL INSTRUMENT-PART 1 (This area for Land Title Office Use)

Page 1 of 4 pages

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

(Signature of Solicitor or Authorized Agent)

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

(PID)

(LEGAL DESCRIPTION)

3. NATURE OF INTEREST:*

Description

Document Reference

Person Entitled to Interest

(Page and paragraph)

Section 219 Covenant

Entire Document

Transferee (Grantee)

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

- | | | | |
|-----|-----------------------------|-------------------------------------|---------------------------------------|
| (a) | Filed Standard Charge Terms | <input type="checkbox"/> | D.F. No. |
| (b) | Express Charge Terms | <input checked="" type="checkbox"/> | Annexed as Part 2 |
| (c) | Release | <input type="checkbox"/> | There is no Part 2 of this instrument |

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

3. TRANSFEROR(S):* (Grantor)

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

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

7. ADDITIONAL OR MODIFIED TERMS:*

N/A

8. EXECUTION(S):** This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)	Execution Date		Party(ies) Signature(s)						
	<table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="width: 30px; text-align: center;">Y</td> <td style="width: 30px; text-align: center;">M</td> <td style="width: 30px; text-align: center;">D</td> </tr> <tr> <td style="height: 150px;"></td> <td></td> <td></td> </tr> </table>	Y	M	D					<p>_____ By</p> <p>Its authorized signatory(ies):</p> <p>_____</p> <p>Print Name:</p> <p>_____</p> <p>Print Name:</p>
Y	M	D							

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.
 ** If space insufficient, continue executions on additional page(s) in Form D.

TERMS OF INSTRUMENT – PART 2

WHEREAS:

- A. The Grantor is the registered owner of:

(the “Land”);

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

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

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

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

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

END OF DOCUMENT

Schedule 4 - Designated Company Agreement

This Agreement is dated for reference _____, 2016.

BETWEEN:

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

(the "Province")

AND:

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

(the "Designated Company")

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

WHEREAS:

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

[Insert Legal Description of lands]

(the "Parcel")

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

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

1. **Defined Terms.** The terms "Province" and "Metlakatla" and any other capitalized terms
used in this Designated Company Agreement and defined in the Agreement will have
the meaning given to those terms in the Agreement.
2. **Environmental Condition.** The Designated Company waives the requirement, if any,
of the Province to provide a site profile as defined in the *Environmental Management Act*
in connection with its acquisition of the Parcel.
3. **Agreement Binding.** Without limiting the generality of the foregoing, the terms of the
Agreement relating to the Parcel which are for the benefit of the Province are legally
binding on the Designated Company as if the Designated Company was a party to the
Agreement, including, without limitation, Article 7 Condition of the Lands and Article 10
Other Covenants. of the Agreement.

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

- b) acknowledgment by the Province that it has an obligation to provide financial or economic accommodation to Metlakatla.
12. **Not a Treaty.** This Designated Company Agreement does not:
- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982* (Canada); or
 - b) recognize, affirm, define, deny, limit or amend any aboriginal rights or titles or any responsibilities of the Parties except as set out in this Designated Company Agreement.
13. **No Fettering.** Nothing in this Designated Company Agreement will be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.
14. **Amendment.** This Designated Company Agreement may be amended from time to time by the Parties in writing.
15. **Governing Law.** This Designated Company Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
16. **Execution in Counterpart.** This Designated Company Agreement may be entered into by each Party signing a separate copy of this Designated Company Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile transmission.

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

[Name of Company]

Per: Authorized Signatory

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

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

Schedule 5 – GST Certificate

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

Certificate as to Registration Status of Purchaser

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

FROM: *[the "Vendor"]*

TO: *[the "Purchaser"]*

RE: *[the "Property"]*

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

is a prescribed recipient under the Act.

[OR]

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

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

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

DATED *[month, day, year]*.

[Designated Company name]
By its authorized signatory

[Print name and title]

Schedule 6 – Port Edward Applications

Location	Applicant	Interest Type	General Purpose	File Number
Port Edward	District of Port Edward	Licence of Occupation	Expansion of water treatment facility	6407435
Port Edward	District of Port Edward	Crown Land Purchase	Acquisition of land for Wampler Way Bypass Road	6408649
Port Edward	District of Port Edward	Temporary Permit	Clearing of planned road corridor for Wampler Way Bypass Road	6408649

Schedule 7 – Option to Purchase Agreement

TERMS OF INSTRUMENT - Part 2

OPTION TO PURCHASE

BETWEEN:

[Designated Company]

(the “Owner”)

AND

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Aboriginal Relations and Reconciliation, Parliament Buildings, Victoria B.C. V8V 1X4

(the ‘Optionee”)

WHEREAS:

- A. The Owner is the registered owner in fee simple of the Lands; and
- B. The Owner has agreed to grant to the Optionee an option to purchase a 50% undivided interest in the Lands on the terms and conditions set out in this Agreement.

THIS AGREEMENT WITNESSES that in consideration of \$1.00 now paid by the Optionee to the Owner (the receipt and sufficiency of which is acknowledged), the parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 In this Agreement,

- a) **“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in British Columbia;
- b) **“Commencement Date”** means the date of execution of this Agreement;
- c) **“Completion Date”** means the 30th day following the date of the written notice that is referred to in section 2.1, or such other day as the parties agree to in writing, provided that if the Land Title Office is closed on that day, the purchase and sale of the Lands will be completed on the next day that office is open;

- d) **"G.S.T."** means the goods and services tax imposed under the *Excise Tax Act* (Canada);
- e) **"Lands"** means a 50% undivided interest as tenants in common in those lands legally described as:

[Insert legal description of Wampler Way Parcel]

- f) **"Land Title Office"** means the land title office for the land title district in which the Lands are located;
- g) **"Option"** means the option granted by the Owner in favour of the Optionee under section 2.1;
- h) **"Option Expiry Date"** means

[Insert date 10 years after the date of the transfer of the Land to the designated Company];
- i) **"Option Fee"** means the sum of \$1.00 which is payable in accordance with section 3.1 and will be credited against the Purchase Price;
- j) **"Permitted Encumbrances"** means those liens, charges and encumbrances listed in Appendix "1";
- k) **"Purchase Price"** means one dollar (**\$1.00**); and
- l) **"Transfer"** means a transfer of the freehold estate, in fee simple, in the Lands as prescribed under the *Land Title Act*.

ARTICLE 2 - OPTION

- 2.1 The Owner grants to the Optionee the full and exclusive first right and option, irrevocable within the time limited by this Agreement, to purchase a 50% undivided interest in the Lands from the Owner in fee simple as tenants in common, subject to the Permitted Encumbrances, for the Purchase Price on the terms and conditions set out in this Agreement.
- 2.2 The Option may be exercised by the Optionee not later than the Option Expiry Date and must be exercised by notice in writing delivered by hand or courier to the Owner.
- 2.3 If the Option is exercised by the Optionee in accordance with section 2.2, this Agreement will become a binding agreement for the purchase and sale of the Lands which will be completed upon the terms and conditions of this Agreement on the Completion Date.

ARTICLE 3 - PURCHASE PRICE, OPTION FEE, ADJUSTMENTS AND TAXES

- 3.1 The Owner acknowledges receipt of the Option Fee, the sufficiency of which is also acknowledged by the Owner.
- 3.2 The Optionee will deliver the Purchase Price, plus or minus the adjustments provided for in section 4.1, to the Owner by way of bank draft, solicitor's trust cheque or Government of British Columbia cheque payable to the Owner.
- 3.3 The Optionee will pay all registration charges, *Property Transfer Tax Act* tax and all other taxes and charges payable upon
 - a) the registration of this Agreement in the Lands Title Office; and
 - b) the transfer of the Lands to the Optionee.
- 3.4 If the Optionee does not complete the purchase of the Lands, the Option Fee will be absolutely forfeited to the Owner.

ARTICLE 4 - COMPLETION, POSSESSION DATE, ADJUSTMENTS AND PAYMENT FOR FIXTURES AND IMPROVEMENTS

- 4.1 The purchase and sale of the Lands will be completed, possession will be yielded to the Optionee free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances, and all adjustments as to taxes and all other matters normally adjusted between a vendor and purchaser on the sale of real property in British Columbia will be made between the parties at 12.01 a.m. on the Completion Date.
- 4.2 As soon as reasonably practicable after the Completion Date the Optionee will pay the Owner an amount equal to 50% of the value of the fixtures and improvements on the Land paid for by the Owner as of the Completion Date.
- 4.3 If the Owner and the Optionee disagree on the value of the fixtures and improvements, unless otherwise agreed, the following dispute resolution process will apply:
 - a) the parties must initially attempt to resolve the dispute through collaborative negotiation;
 - b) if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society; and
 - c) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Arbitration Act*.
- 4.4 Unless the parties otherwise agree in writing, an arbitration or mediation under section 4.3 will be held in Prince Rupert, British Columbia.

4.5 Unless the parties otherwise agree or an arbitrator orders otherwise, the costs of a mediation or arbitration under section 4.3 will be shared equally.

ARTICLE 5 - CLOSING DOCUMENTS

5.1 Not later than 14 days prior to the Completion Date, the Optionee, at its expense, will prepare and deliver the following documents to the Owner for execution:

- a) the Transfer;
- b) a statement of the adjustments provided for in section 4.1; and
- c) all other documents necessary to conclude the purchase and sale of the Lands.

5.2 Not later than 7 days prior to the Completion Date, the Owner, at its expense, will review and, if in order, execute and deliver the documents referred to in section 5.1 to the Optionee together with a certified copy of the resolution of the directors of the Owner authorizing the execution and implementation of this Agreement and the transactions contemplated in this Agreement.

ARTICLE 6 - CLOSING PROCEDURE

6.1 On the Completion Date, the Optionee, or its agent, will conduct a pre-registration search of title to the Lands, and upon being satisfied that title to the Lands is registered in the name of the Owner free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances, the Optionee, or its agent, will apply to register the Transfer.

6.2 After making the applications to the Lands Title Office in accordance with section 6.1, the Optionee, or its agent, will conduct a post-registration search of title to the Lands and upon confirming that in the normal course of business in the Lands Title Office the Optionee will be registered as owner in fee simple of the Lands free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances; the Optionee, at its expense, will deliver to the Owner's solicitor's in trust on the Completion Date the Purchase Price, plus or minus the adjustments provided for in section 4.1.

ARTICLE 7 - COVENANTS OF THE OWNER

7.1 The Owner covenants and agrees that it will, from and after the date of this Agreement to the Completion Date:

- a) take all reasonable care to protect and safeguard the Lands and operate and otherwise deal with the Lands as a careful and prudent owner would do and in such a manner that, except as contemplated by this Agreement, the warranties and representations in section 8.1 remain true and correct;

- b) not enter into any agreement, contract, option or lease relating to the Lands without the prior written approval of the Optionee;
- c) observe and perform all obligations under the Permitted Encumbrances and diligently enforce all of its rights and remedies under the Permitted Encumbrances;
- d) take or cause to be taken all proper steps and actions and corporate proceedings to enable the Owner to vest good and marketable title to the Lands in the Optionee free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances; and
- e) forthwith advise the Optionee in writing upon the Owner becoming aware that any representations and warranties of the Owner set out in this Agreement is inaccurate or incomplete in any material respect.

ARTICLE 8 - WARRANTIES, REPRESENTATIONS AND ACKNOWLEDGEMENTS OF THE OWNER

- 8.1 The Owner warrants and represents to the Optionee, with the knowledge that the Optionee will rely upon these warranties and representations in entering into this Agreement and completing its obligations under this Agreement that, now and on the Completion Date,
- a) it has a good, safe holding and marketable title to the Lands, in fee simple, free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances;
 - b) all taxes, rates, levies and assessments in respect of the Lands will either be paid in full or adjusted between the parties in accordance with section 4.1;
 - c) neither the execution of this Agreement nor its performance by it will result in a breach of any statute, bylaw or agreement affecting the Owner or the Lands;
 - d) there is no claim or litigation pending or threatened against it which would affect the right of the Owner to transfer the Lands to the Optionee or the right of the Optionee to acquire the Lands;
 - e) it has not entered into any agreement that will affect the Lands or its use and it will not do so between the Commencement Date and the Completion Date, without the prior written consent of the Optionee;
 - f) it has been incorporated or registered and it exists under the laws of British Columbia or it has been incorporated and it exists under the laws of Canada; and
 - g) it has the corporate power, capacity and authority to enter into this Agreement and to carry out its obligations under this Agreement, all of which has been authorized by the necessary corporate proceedings.

- 8.2 The Owner acknowledges and agrees that there are no warranties, representations, collateral agreements or conditions affecting this Agreement except as set out in this Agreement.

ARTICLE 9 - RESIDENCY OF THE OWNER

- 9.1 The Owner warrants and represents to the Optionee that it is, and will be on the Completion Date, resident of Canada within the meaning of the *Income Tax Act* (Canada) and it will deliver to the Optionee, on request, a statutory declaration to that effect.
- 9.2 The Owner will indemnify the Optionee against any claim for non-resident income tax for which the Optionee may be assessed under the *Income Tax Act* (Canada).

ARTICLE 10 - ENVIRONMENTAL CONDITION OF THE LANDS

- 10.1 The Owner warrants and represents to the Optionee, with the knowledge that the Optionee will rely upon these warranties and representations in entering into this Agreement and completing its obligations under this Agreement that, now and on the Completion Date,
- a) its use of the Lands and, to the best of its knowledge, all previous uses of the Lands have not resulted in the existence or leakage of any toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Lands;
 - b) to the best of its knowledge, without any further investigation, there are no toxic, hazardous, dangerous or potentially dangerous substances stored on the Lands and there are no storage contains for those substances located on or under the Lands; and
 - c) to the best of its knowledge, the Lands has not been used for an industrial or commercial purpose or any other purpose or activity prescribed under the *Environmental Management Act*.

ARTICLE 11 - NON-EXERCISE OF OPTION BY THE OPTIONEE

- 11.1 If the Optionee does not exercise the Option on or before the Option Expiry Date the Optionee will execute and deliver to the Owner a registerable discharge of the Option.

ARTICLE 12 - MISCELLANEOUS

- 12.1 Time is of the essence of this Agreement.
- 12.2 The Lands are at the risk of the Owner until the Optionee has applied to register the Transfer in the Lands Title Office.
- 12.3 All notices, documents or communications required or permitted to be given under this Agreement must be in writing and will be deemed to have been given on the first business date of the recipient following delivery by hand or courier or on the fifth business date of the recipient following the date of mailing by registered mail to the party to whom it is to be given as follows:

to the Owner

Attention: _____

to the Optionee

Ministry of Aboriginal Relations and Reconciliation
3rd Floor, 2957 Jutland Rd.
Victoria, British Columbia
V8T 5J9
Attention: _____

provided, however, that a party may, by notice in writing to the other, specify another address for service of notices under this Agreement and, where another address is specified by a party, notice must be delivered to that address in accordance with this Article.

- 12.4 Delivery of the Transfer to the Optionee and delivery of all money payable to the Owner or the Optionee in accordance with the terms of this Agreement will be effected by hand or courier to the address specified above, such deliveries to be effective only on actual receipt.
- 12.5 The warranties, representations and agreements contained in this Agreement will not be subject to merger but will survive the transfer of the Lands to the Optionee.
- 12.6 This Agreement constitutes the entire agreement between the parties with respect to the option to purchase the Lands and may not be modified except by subsequent agreement in writing.
- 12.7 No term, condition, covenant or other provision of this Agreement will be considered to have been waived by a party unless such waiver is expressed in writing by the party. The waiver by a party of any breach by the other party of any 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 the same or any other term, condition, covenant or other provision and the consent or approval of a party to any act by the other party requiring

the consent or approval of the party will not be considered to waive or render unnecessary such consents or approvals to any subsequent same or similar act by the other party.

- 12.8 No remedy conferred upon or reserved to either party is exclusive of any other remedy in this Agreement or provided by law, but such remedy will be cumulative and will be in addition to any other remedy in this Agreement or now or hereafter existing at law, in equity or by statute.
- 12.9 This Agreement is binding upon and enures to the benefit of the Optionee and its assigns and the Owner and its successors.
- 12.10 The Owner and the Optionee will perform such further acts and execute such further documents as may reasonably be required to give effect to this Agreement.
- 12.11 The appendices to this Agreement form part of this Agreement.

ARTICLE 13- ASSIGNMENT TO LAX KW'ALAAMS FIRST NATION

- 13.1 The Owner acknowledges that the Optionee may, without the consent of the Owner, assign this Agreement to a legal entity designated by the Lax Kw'alaams First Nation on such terms and conditions as the Optionee determines and the Owner will, at the request of the Optionee, execute such agreements as may be required in order for that assignment to be recorded in the Lands Title Office.

ARTICLE 14 - INTERPRETATION

- 14.1 This Agreement will be interpreted according to the laws of British Columbia.
- 14.2 In this Agreement, "person" includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or the parties so require.
- 14.3 The captions and headings contained in this Agreement are for convenience only and do not define or limit the scope or intent of this Agreement.
- 14.4 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to any prior or subsequent enactment of the Province of British Columbia or Canada, as the case may be, of like effect and, unless the context otherwise requires, all statutes referred to in this Agreement are enactments of the Province of British Columbia.
- 14.5 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 sections, as the case may be, will not be affected and will be enforceable to the fullest extent permitted by law.

**Schedule 8 - Memorandum of Understanding between
the Prince Rupert Port Authority and Metlakatla**

**MEMORANDUM OF UNDERSTANDING BETWEEN PRINCE RUPERT PORT AUTHORITY AND
METLAKATLA INDIAN BAND**

This memorandum of understanding sets out the terms and understanding between Prince Rupert Port Authority ("PRPA") and Metlakatla Indian Band ("Metlakatla").

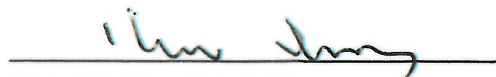
1. PRPA is a local port authority constituted under the *Canada Marine Act*, and letters patent issued under that statute to operate the port in Prince Rupert Harbour (the "Port").
2. Metlakatla claims unextinguished Aboriginal rights, including Aboriginal title, to the Port.
3. The province of British Columbia is expected to transfer certain lands to Metlakatla on Kaien Island, in the vicinity of the Port (the "Metlakatla Lands").
4. PRPA and Metlakatla wish to work together to consider the commercial and operational feasibility of developing that portion of the Metlakatla Lands described in the attached Schedule "A" (the "Designated Lands") for activities in support of or related to the operations of the Port, including but not limited to temporary storage, container destuffing, transloading, consolidation, and other similar services to prepare and receive goods and cargo for transport by rail, truck, or ship.
5. The parties will cooperate to determine the suitability of the Designated Lands to be used in support of or related to the operations of the Port, and may enter into a project development agreement to develop the Designated Lands for that purpose.
6. Metlakatla intends, directly or through a joint venture, to develop and operate the Designated Lands in conjunction with a plan or proposal agreed to with PRPA.
7. This memorandum of understanding is effective as of the 9th day of October, 2015 and will expire on the earlier of the effective date of a project development agreement for the Designated Lands and 31 December 2016.

PRINCE RUPERT PORT AUTHORITY

METLAKATLA INDIAN BAND



Per: Don Krusel, President
Authorized Signatory



Per: Chief Harold Leighton
Authorized Signatory



