

SITE C PROJECT

TRIPARTITE LAND AGREEMENT

This Agreement is dated March 22, 2017

BETWEEN:

DOIG RIVER FIRST NATION, 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

("DRFN")

AND:

HER MAJESTY THE QUEEN IN RIGHT 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. DRFN is a signatory to Treaty 8 and has Section 35 Rights over the location of the Site C Project;
- C. British Columbia and BC Hydro acknowledge DRFN's history as originating from the Fort St. John Beaver Band;
- D. In consideration of the adverse effects that the Site C Project and its Operation may or will have on DRFN, its Members and its Section 35 Rights, British Columbia has agreed to transfer in fee simple 3,000 acres of provincial Crown land to DRFN and to develop recommendations for Land Management Measures to protect the K'ih tsaa?dze area;

- E. This Agreement provides for the selection and transfer of the Lands as ultimately identified in Schedule B “1” and “2” and the development of recommendations for Land Management Measures for the Schedule C Lands as contemplated by Article 14;
- F. This Agreement is intended to assist with DRFN’s and its Members’ economic and social development and to ensure that there are opportunities for DRFN to exercise its Section 35 Rights; and
- G. BC Hydro and DRFN 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.

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*, R.S.B.C. 1996, c. 250;

“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 FDS;
- (b) the EAC;
- (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 DRFN band council, duly passed in accordance with the *Indian Act*, R.S.C. 1985, c. I-5, substantially in the form set out in Schedule A “1”;

“Closing Date” means the date fixed pursuant to 8.4 on which the documents for the transfer of any Lands Parcel to a Designated Company are uploaded to the electronic meet and are filed in the Land Title Office;

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

“Contaminant” means any substance which is a prescribed substance for the purposes of the definition of “contaminated site” in the *Environmental Management Act*, S.B.C. 2003, c. 53;

“Contaminated Lands” means lands, including surface water and groundwater, that contain any Contaminant to a level requiring remediation at law having regard for DRFN’s intended use of those lands should they be selected by DRFN pursuant to 6.2;

“Contracting Agreement” means the Contracting Agreement entered into concurrently with this Agreement between BC Hydro and DRFN;

“Crown Corridor” means a highway, as defined in the *Transportation Act*, S.B.C. 2004, c. 44, 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*, R.S.B.C. 1996, c. 245;

“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 DRFN and which DRFN has designated to take fee simple title to any of the Lands;

“EAC” means 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*, R.S.B.C. 1996, c. 119 (BC);

“Effective Date” means the date on which the last of this Agreement, the Impact and Benefits Agreement or the Contracting Agreement is fully executed by all of the Parties;

“FDS” means 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, 2012*, S.C. 2012, c. 19, s. 52;

"GST" means the goods and services tax imposed under the *Excise Tax Act*, R.S.C. 1985, c. E-15 (Canada) or equivalent tax imposed under federal or provincial law;

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

"In Service Date" means the date, of which notice is provided by BC Hydro to British Columbia and DRFN, 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 recommendations developed under Article 14 (or the government-to-government agreement as contemplated under 14.2) to protect the Schedule C Lands;

"Lands" means the provincial Crown lands having an aggregate acreage of 3,000 acres (1,214 hectares), selected and approved pursuant to Article 6 for transfer to DRFN pursuant to Article 8 and to be identified for illustrative purposes in Schedule B "1" and described in Schedule B "2";

"Lands Parcel" means any legally defined parcel being part of the Lands;

"Material Change" means any change to the Site C Project that:

- (a) cannot reasonably be considered to constitute part of the Site C Project and its Operation within the intended operating parameters as set out in the EAC or the FDS; and
- (b) causes new and substantial adverse effects on DRFN Section 35 Rights which have not been determined by the applicable Agency to have been avoided, mitigated or otherwise accommodated;

"Member" means an individual who, in respect of DRFN, is a "member of a band" as defined in the *Indian Act*, R.S.C. 1985, c. I-5, and includes the heirs or legal representatives or successors of each such individual, and all those Aboriginal persons who are eligible or entitled to exercise DRFN Section 35 Rights;

"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

to make the Site C Project functional for its intended purpose, or any other activity required in connection with any of the foregoing, 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 DRFN;

“Parties” means British Columbia, BC Hydro and DRFN, 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 Lands Parcel 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;

“Proposed Lands” means the lands identified under 6.2, as adjusted under 6.7;

“PST” means the sales tax imposed under the *Provincial Sales Tax Act*, S.B.C. 2012, c. 35 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 lands identified in Schedule C “1” which may be subject to a land management measure and which, for greater certainty, will not be transferred to DRFN unless selected and finalized as Lands pursuant to Article 6;

“Section 35 Rights” or **“DRFN Section 35 Rights”** means the Aboriginal and treaty rights of DRFN, including as a signatory 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 northeastern British Columbia, as more fully described in Schedule D “2”,

as they or any parts or components thereof may be modified, replaced or upgraded from time to time, but does not include a Material Change;

“Site C Project and its Operation” means Site C Project and its Operation, the Site C Project or its Operation, or both;

“Traditional Territory” means, subject to 19.2, the area identified on the map attached as Schedule A “2” for land selection purposes;

“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 DRFN; 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:

DRFN Schedules

- Schedule A “1” – Form of Band Council Resolution
- Schedule A “2” – Map of DRFN Traditional Territory showing Disputed Area

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” – Designated Company Agreement
- Schedule B “7” – GST Certificate
- Schedule B “8” – Consent of DRFN in relation to Property Transfer Tax Matters

Land Management Schedules

- Schedule C “1” – Map of the K’ih tsaa?dze Area

Site C Project Schedules

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

Approval and Engagement Process

- Schedule E “1” – British Columbia Approval Process Flow Chart

- 1.3 Schedules B “1” and B “2”.** For greater certainty, Schedules B “1” and B “2” will identify those Lands which may be added to DRFN’s IR 204 or IR 206 under 13.1 and those Lands whose addition to reserve including DRFN’s IR 204 or IR 206 will be reviewed by British Columbia on a case-by-case basis under 13.2 and will be subject to the Federal Crown’s addition to reserve requirements.
- 1.4 Amendment of Schedules.** The Parties acknowledge that the Schedules will need to be updated by agreement of the Parties after the Effective Date.

ARTICLE 2 – PURPOSE

- 2.1 Purpose.** The purposes of this Agreement are to:

- (a) transfer to DRFN 3,000 acres of provincial Crown land within DRFN’s Traditional Territory identified as Lands, and to develop or ensure the development of recommendations for Land Management Measures as contemplated by this Agreement;
- (b) confirm the provision of benefits related to the Site C Project and its Operation by BC Hydro to DRFN;
- (c) confirm that DRFN has been adequately consulted and accommodated with respect to any potential adverse impact of the Site C Project and its Operation on DRFN’s Section 35 Rights;
- (d) confirm that any infringement of DRFN’s Section 35 Rights resulting from the Site C Project and its Operation has been justified;
- (e) assist with DRFN’s social and economic development and ensure that there are opportunities for DRFN to exercise its Section 35 Rights by transferring provincial Crown land to DRFN and developing recommendations for Land Management Measures that will benefit DRFN and its Members; and
- (f) 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 DRFN and BC Hydro:

- (a) delay or suspend the transfer of the Lands and the recommendation or 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 is or becomes incorrect, any part of Article 17, Article 18 or Article 19 is declared invalid under 23.2, or BC Hydro terminates the Impact and Benefits Agreement in accordance with its terms.

3.4 Relief from and Resuming Obligations. If:

- (a) British Columbia delays or suspends the transfer of the Lands or the recommendation or implementation of the Land Management Measures under 3.2(a), British Columbia will be relieved from performing these and any related obligations for the duration of such delay or suspension;
- (b) British Columbia delays or suspends the transfer of the Lands or the recommendation or implementation of the Land Management Measures under 3.2(a), and BC Hydro notifies British Columbia and DRFN that it has recommenced the Site C Project, then British Columbia's obligations will resume, including the transfer of any Lands and the recommendation or implementation of Land Management Measures which have not been completed; and
- (c) this Agreement is terminated under 3.2(b) or 3.3, British Columbia will have no further obligations to DRFN under this Agreement except such obligations which this Agreement expressly provides will survive termination.

3.5 Obligations Not Released. Notwithstanding 3.4, DRFN 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 DRFN or any Land Management Measures recommended or 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 DRFN's Section 35 rights resulting from the Site C Project and its Operation; and

- (b) justification of any infringement of DRFN'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, Article 9, Article 12, and Article 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 DRFN Representations. DRFN 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 is the proper representative of DRFN Section 35 Rights, and as such is entitled to enter into this Agreement on behalf of DRFN and its Members in relation to Section 35 Rights;
- (b) it has the legal power, capacity and authority to enter into this Agreement for and on behalf of DRFN and its Members and to carry out its obligations under this Agreement,
- (c) DRFN has taken all necessary actions and obtained all necessary approvals, including a community ratification vote in accordance with DRFN procedure, to enter into and authorize the execution of this Agreement, including passing the Band Council Resolution approving the terms of this Agreement and authorizing a representative to execute this Agreement;
- (d) any company designated by the DRFN for the purposes of this Agreement will be a Designated Company at the Closing Date; and
- (e) the Designated Company will have 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.

4.2 British Columbia Representations. British Columbia represents and warrants to DRFN and BC Hydro, with the intent and understanding that they will be relied on by DRFN 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, it will have the legal power, capacity and authority to transfer the fee simple title to the Lands to a Designated Company.

4.3 BC Hydro Representations. BC Hydro represents and warrants to DRFN and British Columbia, with the intent and understanding that they will be relied on by DRFN 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;
- (b) all necessary actions have been taken to authorize the execution of this Agreement by BC Hydro; and
- (c) the representative signing this Agreement on behalf of BC Hydro is authorized to do so.

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. DRFN will:

- (a) prior to the execution of this Agreement, deliver to British Columbia and BC Hydro a fully executed and duly passed Band Council Resolution expressly confirming the approval of this Agreement by a community ratification vote in accordance and in compliance with DRFN procedure in the form set out in Schedule A “1”;
- (b) on execution of this Agreement, deliver to British Columbia a Confirmation Letter; and
- (c) after execution of this Agreement, deliver a Confirmation Letter to all such other Agencies as British Columbia may request from time to time in connection with any Authorizations.

5.2 Conditions Precedent. British Columbia’s obligation to transfer the Lands and implement the Land Management Measures is subject to:

- (a) DRFN having delivered the documents under 5.1;
- (b) BC Hydro and DRFN having executed the Impact and Benefits Agreement relating to the Site C Project and its Operation;
- (c) BC Hydro and DRFN having executed the Contracting Agreement relating to the Site C Project and its Operation; and
- (d) the representations and warranties of DRFN continuing to be true and correct.

- 5.3 Satisfaction or Waiver of Conditions Precedent.** The conditions precedent under 5.2 are for the sole benefit of British Columbia and may be waived by British Columbia on notice to BC Hydro and DRFN. If either of the conditions precedent under 5.2(a) or 5.2(d) are not waived or satisfied from time to time, or there is a dispute between the Parties about whether they have been or remain satisfied, British Columbia's obligation to transfer the Lands and develop recommendations for or implement the Land Management Measures will be suspended for the duration of such period, but will resume upon the satisfaction of the condition precedent by DRFN as determined by British Columbia in its discretion, or a determination by a court of competent jurisdiction that the condition precedent has been and remains satisfied as of the date of such determination.

ARTICLE 6 – LAND SELECTION

- 6.1 Land Selection Process.** The Parties will conduct the land selection process set out in this Article generally in accordance with the process set out in Schedule E "1". The Parties acknowledge that Schedule E "1":
- (a) is for information purposes only and, for greater certainty, is not legally binding;
 - (b) may change from time to time, in which case British Columbia will notify DRFN of any such changes; and
 - (c) is subject to the terms of this Agreement, and in the event of any conflict or inconsistency between it and the body of this Agreement, the body of this Agreement will prevail to the extent of the conflict or inconsistency.
- 6.2 Land Selection.** Within one year after the Effective Date, or such other time as the Parties may agree, subject to 19.2, DRFN will identify up to 3,750 acres of provincial Crown lands within DRFN's Traditional Territory for research under 6.5 as Proposed Lands. If requested by DRFN, British Columbia will assist DRFN, from time to time prior to identification of the Proposed Lands, by:
- (a) conducting a preliminary review of lands indicated by DRFN as potential Proposed Lands; and
 - (b) conducting preliminary mapping and research of such lands.
- 6.3 Notation of Interest.** Following the identification of Proposed Lands by DRFN and engagement in accordance with 6.4, British Columbia will take the necessary steps to ensure that a Notation of Interest is put in place for the Proposed Lands.
- 6.4 Engagement.** Following the identification of Proposed Lands by DRFN pursuant to 6.2, but prior to a Notation of Interest being placed upon the Proposed Lands, British Columbia will engage stakeholders and third party interest holders as necessary in order to facilitate the completion of the Notations of Interest, as

agreed with DRFN, acting reasonably. Following a Notation of Interest being placed upon the Proposed Lands, and thereafter throughout the land selection process set out in this Article, British Columbia will provide stakeholders and third party interest holders with notice of DRFN's Proposed Land selections and undertake consultations with those parties by:

- (a) notifying DRFN in advance of any meetings with stakeholders and third party interest holders;
- (b) providing DRFN with an opportunity to review and comment on key messages to stakeholders and third party interest holders; and
- (c) providing DRFN with a summary of the results of the stakeholder and third party interest holder meetings.

6.5 Research of Land Selection. Within one year after DRFN's identification of the Proposed Lands, or such other time as the Parties may agree, British Columbia will complete the research of the Proposed Lands identified by DRFN under 6.2, which will include, among other things:

- (a) confirmation of the Crown's ownership of the lands;
- (b) the location and documented condition of the lands, including their environmental condition;
- (c) any documented interests in the lands or any encumbrances or tenures with respect to the lands, including fee simple interests, road and utility rights-of-way, surface or subsurface tenures and access to those tenures and access to adjacent or proximate lands; and
- (d) any historical tenures and land uses.

6.6 Provision of Research. On or before expiry of the period under 6.5, British Columbia will provide DRFN with British Columbia's research of the Proposed Lands, including all available information under 6.5.

6.7 Finalization of DRFN Lands Selection. On receipt of the research under 6.6, DRFN will make a final selection, or amend its selection, of Proposed Lands. If:

- (a) the aggregate acreage of the Proposed Lands is more than 3,000 acres, DRFN will identify and withdraw a portion of the lands from the Proposed Lands so that the aggregate acreage is not more than 3,000 acres; or
- (b) the aggregate acreage of the Proposed Lands is less than 3,000 acres, subject to 19.2:
 - (i) DRFN will identify alternative provincial Crown lands within its Traditional Territory; or

- (ii) DRFN and British Columbia will, upon DRFN's request, reconsider lands previously identified by DRFN for consideration but which were not ultimately included in the Proposed Lands or rejected by British Columbia under 6.9,

for inclusion as the Lands having regard for the processes set out in 6.1 to 6.6.

For greater certainty, 6.7(b) may, at DRFN's option, be reapplied on each successive occasion where Proposed Lands are rejected by British Columbia under 6.9 until 3,000 acres of Lands have been researched and finalized.

6.8 Interim Protection of Lands. Following DRFN's finalization of its selection of 3,000 acres of Proposed Lands under 6.7, British Columbia will seek approval to withdraw the Proposed Lands from disposition under s. 16 or s. 17 of the *Land Act*, R.S.B.C. 1996, c. 245 which, if granted, will remain in place until transfer of the Proposed Lands to DRFN as the Lands under 8.3 or the rejection of such lands by British Columbia under 6.9.

6.9 Rejection by British Columbia. British Columbia may at any time reject one or more portions of the Proposed Lands before their transfer to DRFN under 8.3:

- (a) if there are issues relating to stakeholders or third party interests (including access to subsurface tenures), Permitted Encumbrances or the possible presence of Contaminants;
- (b) having regard for the estimated or, where available, the appraised or assessed value of the lands, or any potential third party claims for compensation;
- (c) if there are unresolved claims by other First Nations pursuant to 15.2; or
- (d) if British Columbia does not obtain all required approvals for that portion of the Proposed Lands, including ministerial, Cabinet and Treasury Board approval.

British Columbia will provide DRFN with notice and particulars and where applicable written reasons of any Proposed Lands rejected under 6.9(a), 6.9(b) or 6.9(c) and written reasons for any Proposed Lands rejected under 6.9(d), subject to the *Freedom of Information and Protection of Privacy Act*.

6.10 Finalization of Lands and Schedules. On completion of the process under 6.3 to 6.9, the Parties will:

- (a) finalize and initial the entries for Schedules B "2", B "3" and B "4"; and
- (b) identify those Lands which may be added to DRFN's IR 204 or IR 206 under 13.1 and those Lands whose addition to reserve including DRFN's IR 204 or IR 206 will be reviewed by British Columbia on a case-by-case

basis under 13.2 and will be subject to the Federal Crown's addition to reserve requirements.

6.11 No transfer by British Columbia. British Columbia may not transfer one or more portions of the Proposed Lands to DRFN at any time if sufficient monies are not available in an appropriation, as defined in the *Financial Administration Act*, R.S.B.C. 1996, c. 138, to enable British Columbia in any fiscal year, when any expenditure in respect of an obligation may be required, to make that expenditure.

6.12 Iterative Land Selection Process. For the purposes of this Article:

- (a) DRFN acknowledges that, given the quantum of land, the land selection process can be complex, labour intensive and iterative;
- (b) notwithstanding 6.12(a), British Columbia commits to working collaboratively with DRFN throughout the land selection process to ensure that the identification, research and transfer of the Lands is completed as expeditiously as practical;
- (c) the Parties acknowledge that, notwithstanding the research under 6.5, issues may arise relating to the Lands or the Permitted Encumbrances before or during the closing under Article 8 and that the Parties may agree to withdraw the applicable Lands Parcel and select alternative land; and
- (d) the Parties may develop a protocol for the purposes of prioritizing British Columbia's research under 6.5 and 6.6.

ARTICLE 7– SURVEY OF LANDS

7.1 Surveys. Following finalization of the Lands under 6.10, BC Hydro will undertake or cause to be undertaken 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 DRFN, including those required for any subdivision of the Lands.

7.2 Survey Protocol. For the purposes of 7.1, the Parties will, following the finalization of the Lands under Article 6, 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) DRFN's priorities;
- (b) efficiency and economy, including the availability of British Columbia land surveyors and minimizing the number of different Closing Dates;
- (c) the necessity to clarify the boundaries due to imminent public or private development on adjacent lands;

- (d) the requirements under provincial law, including legislated timelines; and
- (e) any changes to the protocol to which the Parties may agree from time to time.

7.3 Implementation of Survey Protocol. The Parties will include British Columbia's Implementation and Land Services Branch in the development of a survey protocol under 7.2 and any other provincial ministries as appropriate.

ARTICLE 8 – TRANSFER OF LANDS

8.1 Registration of Lands Parcels. Unless the Parties agree otherwise, British Columbia will transfer the Lands to DRFN's Designated Company within three (3) years after the Lands have been finalized under 6.10. All Lands transferred to DRFN's Designated Company will be registered in the Land Title Office.

8.2 Pre-Closing Deliveries by DRFN. On completion of the survey of a Lands Parcel:

- (a) DRFN will deliver to British Columbia a direction identifying the Designated Company that will take fee simple title to the Lands Parcel under 8.3; and
- (b) on receipt of DRFN's notice under 8.2(a), British Columbia will recommend to the minister that the minister sign an order authorizing the disposition of the Lands in accordance with provincial law.

8.3 Closing Deliveries by British Columbia. Subject to the Permitted Encumbrances and the terms of this Agreement, 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 Parcel on the Closing Date.

8.4 Determination of Closing Date. The Parties will determine the Closing Date for the transfer of indefeasible title to each Lands Parcel in accordance with the timeframe set out in 8.1. In determining the Closing Date, the Parties will endeavour to set the same Closing Date for as many Lands Parcels as possible.

8.5 Closing Deliveries by DRFN. Not less than 14 days before the Closing Date for a Lands Parcel, or such other date as the Parties may agree, DRFN 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 Parcel;
- (b) an agreement executed by the Designated Company in the form attached as Schedule B "6" in relation to the applicable Lands Parcel;

- (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 DRFN’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 Parcel 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 DRFN 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 DRFN or a Designated Company to provide to complete the transactions contemplated under this Agreement.

8.6 Closing Procedure. The legal counsel for DRFN and British Columbia will confirm in writing the manner in which the documents necessary or advisable to transfer and register the Lands Parcel will be produced, managed, exchanged and delivered. Without limiting the generality of the foregoing, legal counsel responsible for registering the Lands Parcel 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 Mutual Intention. The Parties acknowledge their mutual intention to not transfer Contaminated Lands to DRFN unless DRFN has made an informed decision. The Parties further acknowledge and agree that informed decision making is a key principle that will guide them throughout the land selection process.

9.2 Site Investigations. To support the Parties’ ability to make an informed decision, after identification of the Proposed Lands pursuant to 6.2 and prior to finalization of the Lands pursuant to 6.10, BC Hydro will engage a professional consultant acceptable to DRFN, acting reasonably, to perform:

- (a) a Stage 1 Preliminary Site Investigation; and
- (b) if DRFN has been unable to identify at least 3,000 acres of Proposed Lands that would be acceptable to it and British Columbia pursuant to the process under 6.1 to 6.6 and 6.9 within one year after DRFN has initially identified Proposed Lands under 6.2, such other investigations as DRFN reasonably requests,

on certain of the Proposed Lands selected by DRFN at BC Hydro's cost and expense to a maximum aggregate amount of [REDACTED], and will provide the results of such investigations to DRFN and British Columbia as soon as reasonably possible after receipt. BC Hydro will work together with DRFN to select the consultant and the Proposed Lands for such investigations and to determine the scope of such other investigations undertaken by or on behalf of BC Hydro at DRFN's request so as not to exceed the amount available for such investigations.

9.3 No Transfer of Lands. Subject to 9.4, British Columbia will not transfer any lands to DRFN, and DRFN will not accept any lands for transfer from British Columbia, that British Columbia or DRFN, as the case may be, knows is Contaminated Lands through the research process under 6.5, 6.6 or 9.2.

9.4 DRFN Election. DRFN may elect, in its sole discretion, to accept Contaminated Lands identified under 9.3 and, if DRFN so elects and advises British Columbia in writing, British Columbia will transfer such lands to DRFN's Designated Company in accordance with and subject to all the terms and conditions of this Agreement.

9.5 Lands "As Is". DRFN acknowledges and agrees that any of the Lands acquired by a Designated Company under this Agreement are acquired "as is".

9.6 Viability of Lands. DRFN 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 DRFN 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.

9.7 Environmental Condition. DRFN:

- (a) waives the requirement, if any, of British Columbia or BC Hydro to provide a site profile as defined in the *Environmental Management Act*, S.B.C. 2003, c. 53 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.

9.8 Environmental Remediation. DRFN 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 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.

9.9 Disclosure. As part of the research process under 6.5, British Columbia will provide DRFN with the following information relating to each parcel of land identified by DRFN under 6.2:

- (a) any information contained in the Contaminated Sites Registry; and
- (b) any information relating to historical tenures contained in the Historic Mines Atlas.

9.10 Accuracy. DRFN acknowledges and agrees that British Columbia and BC Hydro have not given any representation or warranty concerning the accuracy, relevance, reliability or completeness of information provided under 6.6, 9.2 or 9.9 and that British Columbia and BC Hydro will have no liability for any errors, omissions or inaccuracies with respect to such information.

ARTICLE 10 – ENCUMBRANCES

10.1 Permitted Encumbrances. DRFN acknowledges and agrees, upon receipt of the updated Schedules under 6.10 and as of the Closing Date for each Lands Parcel, that it is familiar with the existence and terms of the Permitted Encumbrances and accepts fee simple title to the Lands Parcel 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 research and finalization of land selection pursuant to Article 6, and will include any modifications that DRFN 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 non-material amendments to the Permitted Encumbrances 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. DRFN 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. DRFN 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 DRFN’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 DRFN 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*, R.S.B.C. 1996, c. 22;
- (c) British Columbia will not settle any Proceeding without first discussing the terms of settlement with DRFN; and
- (d) DRFN 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 each Lands Parcel has an Adequate Survey;
 - (c) any costs or fees associated with the investigations under 9.2;
 - (d) 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;
 - (e) 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
 - (f) the determination and payment of property transfer tax payable under the Property Transfer Tax Act, R.S.B.C. 1996, c. 378 either at the time of transfer or pursuant to an assessment after the fact.
- 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(a).

ARTICLE 12 – STATUS OF LANDS

- 12.1 Status and Use of Lands.** Subject to Lands that are added to reserves in accordance with Article 13, the Lands transferred to DRFN 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*, R.S.C. 1985, c. I-5; 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 DRFN or a Designated Company challenge the applicability of provincial laws to the Lands.

ARTICLE 13 – ADDITIONS TO RESERVE

13.1 Additions to Existing Reserves. British Columbia will not object to a request by DRFN to the Federal Crown for the transfer and designation of any Lands Parcel that is adjacent or in close proximity to DRFN’s IR 204 or IR 206 as an addition to reserve in accordance with the Federal Crown’s addition to reserve requirements.

13.2 Additions of Other Lands to Reserve. DRFN may, on notice to British Columbia, request that British Columbia not object to a request by DRFN to the Federal Crown for the transfer and designation of any Lands Parcel that is not adjacent or in close proximity to DRFN’s IR 204 or IR 206 as an addition to 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. If British Columbia objects to DRFN’s request, British Columbia will provide written reasons to DRFN and will work collaboratively with DRFN to attempt to address British Columbia’s concerns with DRFN’s request.

13.3 Non-objection to Other Additions. For the purposes of 13.2:

- (a) within six months after a request, or such other time as the Parties may agree in writing, British Columbia will notify DRFN and the Federal Crown in writing if it does not object to DRFN’s request under 13.2; and
- (b) DRFN will not seek to add any of the Lands to its reserve lands under 13.2 if British Columbia does not notify DRFN 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” from any Lands Parcel described in 13.1 and, subject to 13.2, if the Federal Crown accepts DRFN’s request under 13.1 or 13.2, as the case may be.

13.5 DRFN Acknowledgements. DRFN 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 DRFN 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 that there has been satisfactory resolution of access, including access to subsurface resources, servicing or third party interests in land that will be directly impacted by the parcel becoming reserve land; 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 Land Protection Measures.** British Columbia and DRFN will work collaboratively to develop recommendations for land protection measures which will be focused on provincial Crown land located in or close to the K'ih tsaa'dze area shown in the map attached as Schedule C "1". British Columbia and DRFN will endeavour to develop the recommendations for land protection measures within eighteen (18) months of the Effective Date.
- 14.2 Government to Government Agreement.** The Parties acknowledge that British Columbia and DRFN are negotiating a government-to-government agreement and that recommendations for the land protection measures will be developed under that agreement provided that, if such agreement has not been concluded or such recommendations have not been or will not be developed under such agreement within eighteen (18) months of the Effective Date, then British Columbia and DRFN will pursue such discussions under this Agreement in order to develop such recommendations within such timeframe.
- 14.3 Nature of Land Protection Measures.** For the purposes of 14.1, the land protection measures may include a range of legislative options aimed at addressing the Parties' interests, including old growth management areas, wildlife habitat areas, special management areas, parks and other related designations.
- 14.4 Considerations.** In developing recommendations for the land protection measures, the Parties will avoid:
- (a) stranding surface and subsurface resources; and
 - (b) any potential third party claims for compensation;
- and any such recommendation will be subject to any documented interests in the lands or any encumbrances or tenures with respect to the lands, including fee simple interests, road and utility rights-of-way, surface or subsurface tenures and access to those tenures, and access to adjacent or proximate lands.

14.5 Engagement. Throughout the development of recommendations for the land protection measures, British Columbia will consult with:

- (a) stakeholders, local communities and third party interest holders; and
- (b) First Nations or other Aboriginal groups that may assert or exercise Aboriginal or treaty rights or have other interests over some or all of the lands.

14.6 Rejection by British Columbia. British Columbia may at any time determine not to recommend, or reject an area from, a proposed land protection measure before implementation:

- (a) if there are issues relating to 14.4, including any stranding of surface or subsurface resources;
- (b) if there are any unresolved concerns raised through consultations with any groups under 14.5;
- (c) if British Columbia does not obtain all required approvals for the proposed land protection measure, including ministerial, Cabinet and Treasury Board approval; and
- (d) if there are not sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, R.S.B.C. 1996, c. 138, to enable British Columbia in any fiscal year, when any expenditure in respect of an obligation may be required, to make that expenditure,

but for certainty, land identified by DRFN as Proposed Lands pursuant to Article 6 and rejected by British Columbia pursuant to 6.10, or for any other reason not transferred to DRFN, will not thereby be disqualified for land protection measures pursuant to this Article 14.

ARTICLE 15– OVERLAPPING CLAIMS

15.1 Shared Territories. DRFN will discuss the transfer of any Lands and the Land Management Measures contemplated under this Agreement with First Nations, including Treaty 8 adherents, which have or assert rights under s. 35(1) of the *Constitution Act, 1982* in the territory in which the foregoing are located and will make reasonable efforts to resolve any conflicts with those First Nations prior to the applicable Closing Date or the implementation of the Land Management Measures, as the case may be.

15.2 Unresolved Territory Claims. In the event any conflict under 15.1 is not resolved to the satisfaction of British Columbia, British Columbia may, as the case may be:

- (a) in the case of Proposed Lands, reject the Proposed Lands under 6.9; or

- (b) in the case of the Schedule C Lands, amend the boundaries of the Land Management Measures.

15.3 Other First Nations' Proceedings. DRFN will, at the request of British Columbia or BC Hydro, provide British Columbia and BC Hydro with reasonable assistance and support in the event any Proceeding is brought by any First Nation against British Columbia, BC Hydro or any Public Official with respect to the transfer of the Lands or the Land Management Measures.

15.4 Agreements with Other First Nations. DRFN acknowledges that British Columbia and BC Hydro may enter into agreements relating to the Site C Project and its Operation with other First Nations, including Treaty 8 adherents, and agrees that, where any land transfer or protection measure under those agreements may have a potential adverse impact on its Section 35 Rights, it will make reasonable efforts to resolve any conflicts and will, where requested by British Columbia or BC Hydro, participate in consultations with those First Nations.

ARTICLE 16 - FORCE MAJEURE

16.1 Force Majeure. If British Columbia is prevented from completing the transfer of any Lands Parcel or the recommendation or 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 Parcel or the recommendation or implementation of the Land Management Measures.

16.2 Notice of Force Majeure. British Columbia will deliver notice to BC Hydro and DRFN explaining the nature of the force majeure event or circumstance, the date it commenced and its anticipated duration, if known.

ARTICLE 17 – LEGAL CERTAINTY

17.1 Consultation and Accommodation. In consideration for the obligations to be performed by British Columbia and BC Hydro and the benefits received by DRFN under this Agreement, the Impact and Benefits Agreement and the Contracting Agreement, DRFN acknowledges and agrees on its own behalf and on behalf of its Members that:

- (a) they will not oppose or object to the development and construction of the Site C Project and its Operation, will not oppose the granting or validity of any Authorization in connection with the development and construction of the Site C Project and its Operation and, subject to DRFN's continuing ability to participate in any permitting, regulatory or other government decision-making process related to the issuance or renewal of any

Authorization for the Site C Project and its Operation in accordance with 17.2, will not participate in, fund, fail to deny support for or otherwise engage in any action that interferes with, frustrates, delays or stops the construction of the Site C Project and its Operation;

- (b) they have been adequately consulted and accommodated with respect to the impacts of the development and construction of the Site C Project and its Operation on DRFN Section 35 Rights, including with respect to any infringement of DRFN Section 35 Rights;
- (c) they will take reasonable actions to assist BC Hydro in resolving any actions, legal or otherwise, taken by Members that are prohibited by 17.1(a) or 17.1(f).
- (d) they will ensure that in the event that DRFN becomes a self-governing First Nation or is otherwise replaced by a successor that the Authorizations that have been or may be granted in respect of the Site C Project will be recognized and preserved in form and substance in any self-government agreement or equivalent agreement, including in the exercise by DRFN of any rights or powers pursuant to such agreement;
- (e) 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 by DRFN and its Members regarding the adequacy of consultation and accommodation with respect to, or any infringement of, DRFN Section 35 Rights resulting from the impacts from development and construction of the Site C Project and its Operation, including any civil claims of any nature whatsoever (including without limitation private or public nuisance, breach of riparian rights or trespass); and
- (f) they will not seek any additional financial consideration or economic or other accommodation from BC Hydro, British Columbia or any other entity, with respect to the impacts from the Site C Project and its Operation, including any renewal or issuance of an Authorization.

17.2 Participation in Public Processes. Nothing in this Agreement will be construed so as to deprive DRFN of any right it may have to participate in any permitting, regulatory or other government decision-making process related to the issuance or renewal of any Authorization for the Site C Project and its Operation. Such participation may include raising environmental or DRFN heritage concerns, proposing avoidance and mitigation measures as part of such process, provided that such participation:

- (a) is not based upon the argument that there has been inadequate consultation or accommodation with respect to, or infringement of, DRFN Section 35 Rights resulting from the impacts of the Site C Project and its Operation;

- (b) is consistent with DRFN's non-opposition to the Site C Project, and does not in any way breach any of its obligations under this Agreement; and
- (c) is completed in a manner in keeping with the timelines established by the relevant Agency.

ARTICLE 18 – RELEASE AND LIMITATION OF LIABILITY

- 18.1 General Release.** DRFN 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 DRFN may have or 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.
- 18.2 Indemnity.** Subject to 18.4, DRFN will indemnify and save harmless 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 that they, or any of them, may suffer or incur, directly or indirectly, as a result of any breach of this Agreement by DRFN.
- 18.3 Set Off.** Any financial harm incurred or suffered by British Columbia or BC Hydro as a result of DRFN'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 DRFN under the Impact and Benefits Agreement.
- 18.4 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 indirect or consequential losses or indirect or consequential damages.

ARTICLE 19 - NO PREJUDICE AND NON-DEROGATION

- 19.1 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 DRFN's Section 35 Rights; or
 - (b) it has any liability to DRFN or its Members, including any obligation to provide any financial, economic or other accommodation to DRFN.
- 19.2 Geographic Area of Treaty 8.** The Parties acknowledge and agree that:
- (a) British Columbia and DRFN have different positions regarding the location of the western boundary of the geographic area of Treaty 8 and nothing in this Agreement is an admission of fact or liability in relation to any claims

arising with respect to this matter, including the litigation by Treaty 8 First Nations seeking a declaration of the western boundary of Treaty 8 in British Columbia;

- (b) DRFN may select lands under 6.2 and 6.7 which are located in the disputed area shown highlighted in yellow for illustrative purposes on the map in Schedule A "2" provided that those lands selected by DRFN in the disputed area have been finally determined in a binding decision of a court of competent jurisdiction after all appeal rights have expired or been exhausted to be located within the western boundary of the geographic area of Treaty 8; and
- (c) for greater certainty, the map attached in Schedule A "2" is for land selection purposes under this Agreement only and Schedule A "2" may not to be used or otherwise relied on for any other purpose, including in any Proceeding except in relation to this Agreement.

19.3 Non-Derogation. Without in any way affecting the express acknowledgements, agreements and obligations set out in 17.1, 17.2 and 18.1, the Parties acknowledge and agree that nothing in this Agreement in any way defines, amends or denies the existence of any DRFN Section 35 Rights.

ARTICLE 20- DISPUTE RESOLUTION

20.1 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.

20.2 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.

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

ARTICLE 21 - NOTICES

21.1 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:

British Columbia Hydro and Power Authority
6911 Southpoint Drive, 10th Floor
Burnaby, B.C. V3N 4X8
Attention: Allan Leonard, Director, Aboriginal Relations
Fax: (604) 528-2822

if to DRFN:

Doig River First Nation
PO Box 56
Rose Prairie, B.C. V0C 2H0
Attention: Chief

Cc: Band Manager
Fax: (250) 827-3778

21.2 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 22 - INTERPRETATION

22.1 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) any reference to a corporate entity includes any predecessor or successor to such entity;

- (f) 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;
- (g) 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;
- (h) 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
- (i) 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.

22.2 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.

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

22.4 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 DRFN’s Section 35 Rights or any responsibilities of the Parties except as set out in this Agreement.

ARTICLE 23– ENTIRE AGREEMENT

23.1 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.

23.2 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 23.2(a) and (b), if any part of Article 17, Article 18 or Article 19 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 DRFN.

ARTICLE 24 - GENERAL

24.1 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.

24.2 Successors. This Agreement will enure to the benefit of and be binding on British Columbia, BC Hydro and DRFN and their successors and, without limiting the generality of the foregoing, this Agreement and DRFN's obligations under it will be assumed and adopted by any successor organization or government, or any new organization or government that effectively replaces DRFN, under any self-government agreement or other agreement that DRFN, or any other group of which it forms a part, may enter into with Canada, British Columbia or both, or that DRFN may obtain through litigation or court declaration.

24.3 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. DRFN may not assign its rights or obligations under this Agreement, in whole or in part, except as may be required to give effect to 24.2.


24.4 Amendment. This Agreement may be amended by the Parties in writing.

24.5 Governing Law. This Agreement will be governed by and construed in accordance with the laws of British Columbia and Canada, as applicable.

- 24.6 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.
- 24.7 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 DOIG RIVER
FIRST NATION by**



Chief Trevor Makadabay

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of Energy
and Mines**




Minister Bill Bennett

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of Forests,
Lands and Natural Resource
Operations**

Minister Steve Thomson

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of
Aboriginal Relations and Reconciliation**



Minister John Rustad

**Signed on behalf of BRITISH
COLUMBIA HYDRO AND POWER
AUTHORITY by**

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

**Signed on behalf of the DOIG RIVER
FIRST NATION by**



Chief Trevor Makadabay

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
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Minister Bill Bennett

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of Forests,
Lands and Natural Resource
Operations**



Minister Steve Thomson

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of
Aboriginal Relations and Reconciliation**

Minister John Rustad

**Signed on behalf of BRITISH
COLUMBIA HYDRO AND POWER
AUTHORITY by**

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

**Signed on behalf of the DOIG RIVER
FIRST NATION by**

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of Energy
and Mines**

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of Forests,
Lands and Natural Resource
Operations**

Minister Bill Bennett

Minister Steve Thomson

**Signed on behalf of HER MAJESTY THE
QUEEN IN RIGHT OF BRITISH
COLUMBIA by the Minister of
Aboriginal Relations and Reconciliation**

Minister John Rustad

**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 Doig River First Nation (“DRFN”), as an adherent to Treaty 8, has Section 35 Rights;

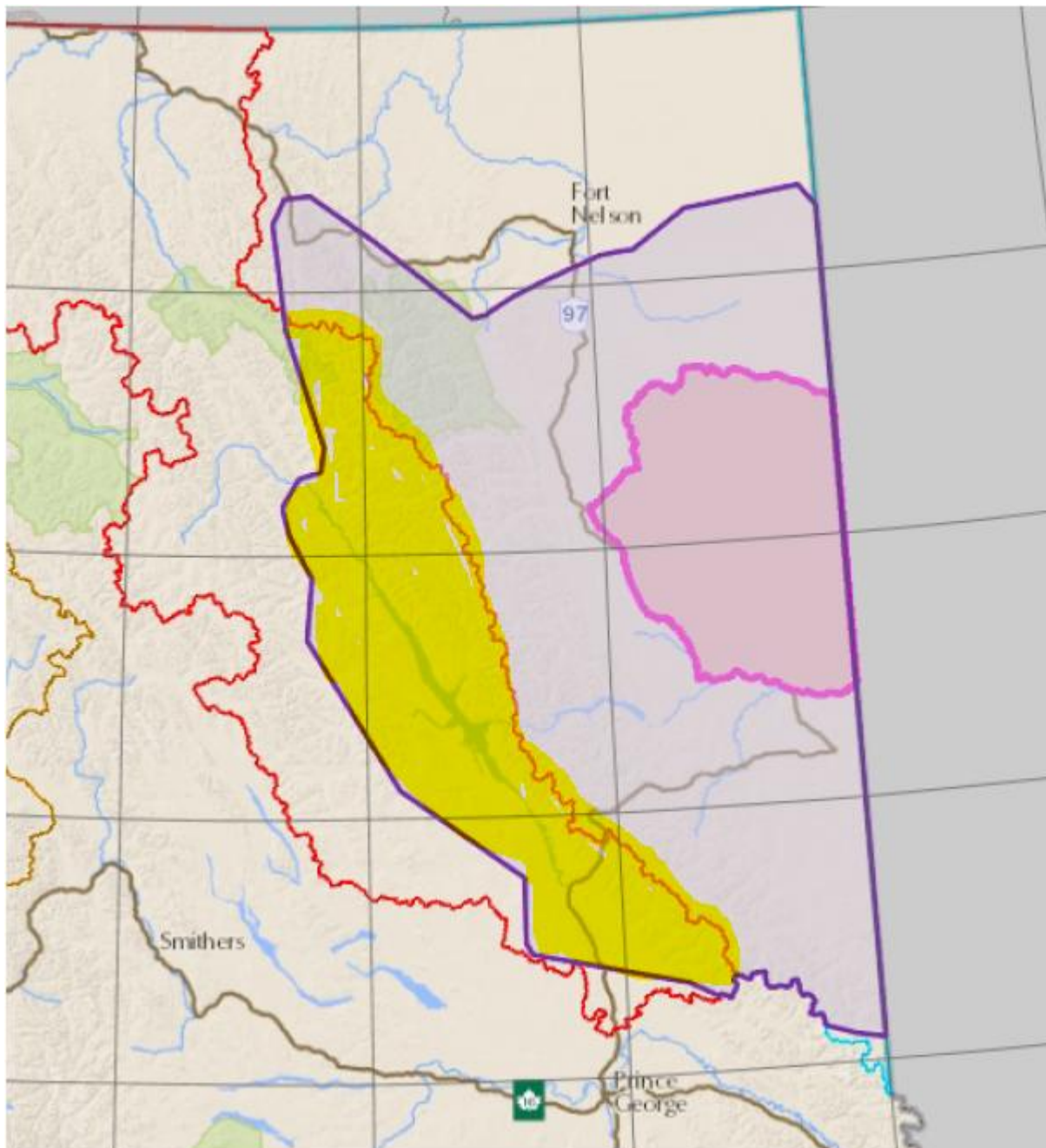
And whereas DRFN and BC Hydro have negotiated the Impact and Benefits Agreement and the Contracting Agreement, and DRFN, BC Hydro and British Columbia have negotiated the Tripartite Land Agreement (collectively “the Agreements”), drafts of which have been provided to and reviewed by each of the undersigned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

And whereas DRFN 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 DRFN has approved the Agreements pursuant to the duly called and convened community ratification vote on _____, 2017 which complied with DRFN’s governance requirements and process;

Now therefore the Council of DRFN hereby approves the terms of the Agreements and authorizes [•] and [•] to enter into, execute and deliver the Agreements in substantially the form and substance provided to and reviewed by each of the undersigned, and each of the documents contemplated by the Agreements, on behalf of DRFN and each of the members of DRFN; and to do all such further and other acts and things and execute and deliver all such further and other documents as may be necessary in order to carry out the intent of the Agreements and to perform the obligations of DRFN under the Agreements.

**SCHEDULE A “2” – MAP OF DRFN TRADITIONAL TERRITORY SHOWING
DISPUTED AREA**



SCHEDULE B “1” – MAP OF LANDS FOR ILLUSTRATIVE PURPOSES

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

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 1,821 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*, R.S.B.C. 1996, c. 245) and the area of any Crown Corridor, or any submerged lands

SCHEDULE B “3” PART 1 – PERMITTED ENCUMBRANCES

Permitted Encumbrances
<p>all interests registered on title under the <i>Land Title Act</i>, R.S.B.C. 1996, c. 250 as of the Closing Date</p> <p>all subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown grant of the land</p> <p>all exceptions and reservations contained in section 50(1) of the <i>Land Act</i>, R.S.B.C. 1996, c. 245</p> <p>any conditional or final water license or substituted water license issued or given under the <i>Water Act</i>, R.S.B.C. 1996, c. 483, or any prior enactment 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</p> <p>all subsisting grants to, or subsisting rights of any person made or acquired under the <i>Mineral Tenure Act</i>, R.S.B.C. 1996, c. 292, <i>Coal Act</i>, R.S.B.C. 1996, c. 51 or <i>Petroleum and Natural Gas Act</i>, R.S.B.C. 1996, c. 361 or under any prior or subsequent enactment of British Columbia of like effect</p> <p>all other liens, charges and encumbrances granted by British Columbia, with the prior written consent of the Doig River First Nation prior to the Closing Date</p> <p>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</p> <p>a restrictive covenant in favour of Her Majesty the Queen in right 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)</p>

**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 B “1”.

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 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*, R.S.B.C. 1996, c. 250 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 (██████) 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*, R.S.B.C. 1996, c. 250 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*, R.S.C. 1985, c. I-5; 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.
7. Where there is a reference to an enactment of British Columbia in this Agreement, that reference includes a reference to any subsequent enactment of British Columbia of like effect and, unless the context otherwise requires, all enactments referred to in this Agreement are enactments 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*, R.S.B.C. 1996, c. 250.

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 _____, 2012.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT 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:

DOIG RIVER FIRST NATION, 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

(“**DRFN**”)

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 DRFN 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"); and

- B. DRFN 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 "DRFN" 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 22.1 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*, S.B.C. 2003, c. 53 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 DRFN, against the Designated Company or DRFN 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 DRFN.
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** 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 DOIG RIVER FIRST
NATION** as of _____, 20_____
by:

**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*, R.S.C. 1985, c. E-15 (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 DRFN 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 Doig River First Nation (“DRFN”), executed [date of execution], provides that BC Hydro is responsible for property transfer tax payable under the *Property Transfer Tax Act*, R.S.B.C. 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 DRFN hereby

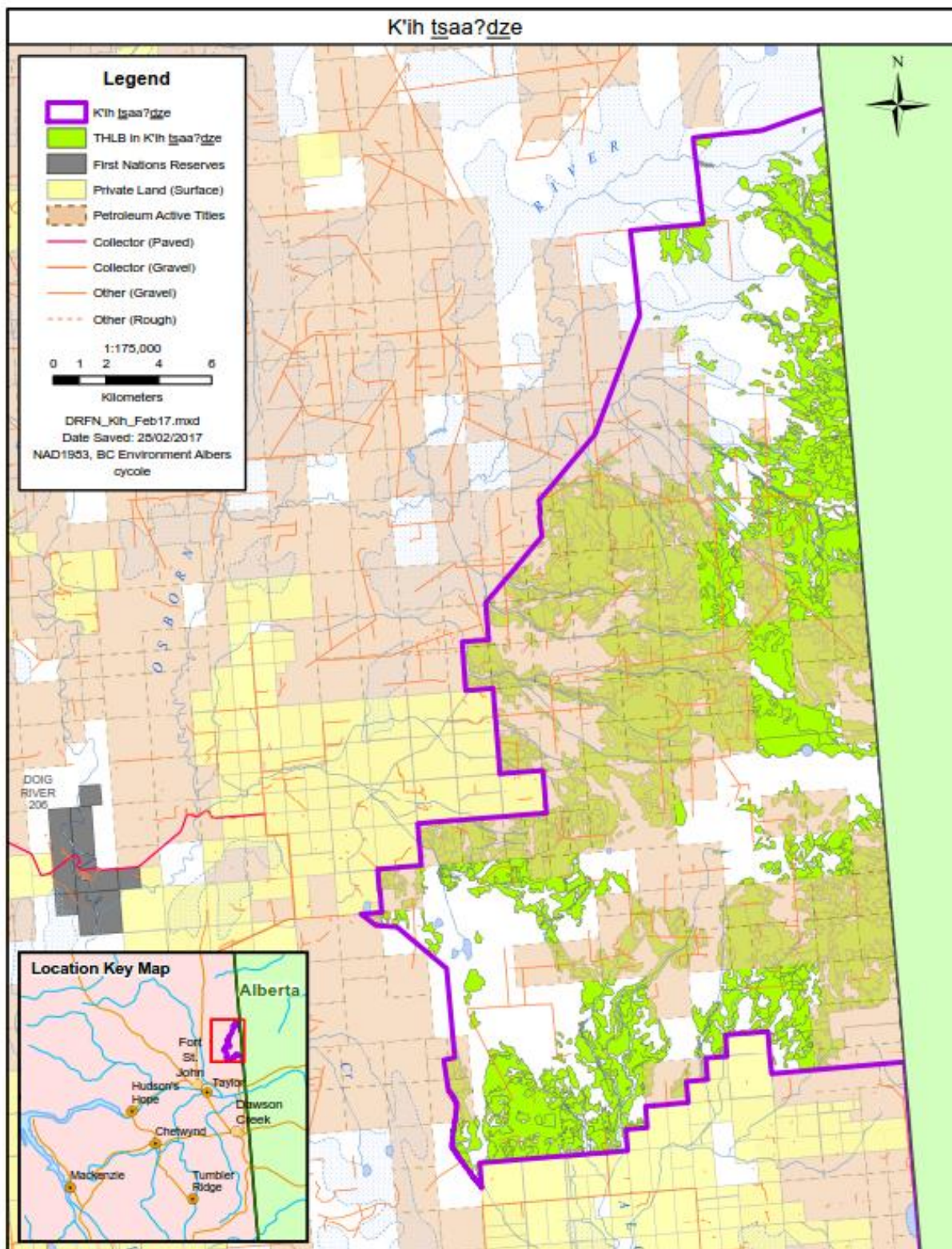
- c. authorizes the Ministry of Finance and the Ministry of Aboriginal Relations and Reconciliation, and BC Hydro to deal directly with one another in regard to all matters relating to the Property Transfer Tax, and
- d. agrees that if there is any refund payable in respect of the Property Transfer Tax paid by the Province or BC Hydro, then the amount of that refund may be retained by payee.

Executed on the _____ day of _____, 20__

Signature of the duly authorized signatory for the Doig River First Nation

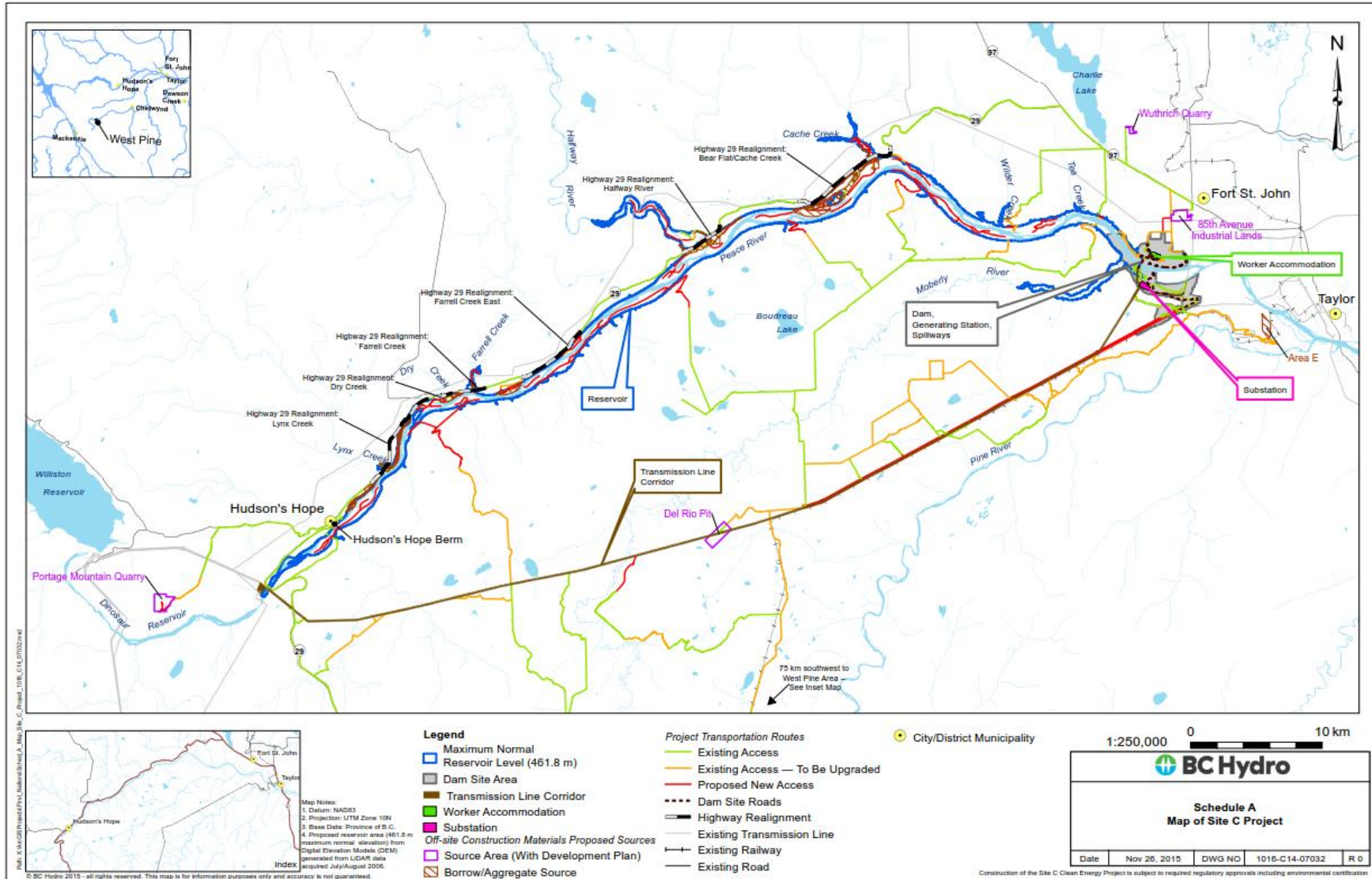
Name and Title (please print)

SCHEDULE C "1" – MAP OF THE K'IH TSAA?DZE AREA



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.

SCHEDULE E “1” – BRITISH COLUMBIA APPROVAL PROCESS FLOW CHART

See attached.

