



LICENCE OF OCCUPATION

Licence No.:

815708

File No.: 8015495

Disposition No.: 920249

THIS AGREEMENT is dated for reference February 18, 2016 and is made under the *Land Act*.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the minister responsible for the *Land Act*, Parliament Buildings, Victoria, British Columbia

(the "Province")

AND:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY
12th Floor, 333 Dunsmuir Street
Vancouver BC V6B 5R3

(the "Licensee")

The parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 In this Agreement,

"Actual Production" means the amount of material measured in cubic metres removed from the Land during a licence Period, as verified in the Production Report for that licence Period;

"Agreement" means this licence of occupation;

"Commencement Date" means February 18, 2016;

"disposition" has the meaning given to it in the *Land Act* and includes a licence of occupation;

"Fees" means the fees set out in Article 3;

“Improvements” includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the Land, and attached to it or intended to become a part of it, and also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the Land;

“Land” means that part or those parts of the following described land shown outlined by bold line on the schedule attached to this Agreement entitled “Legal Description Schedule”:

THOSE PARTS OF DISTRICT LOTS 276 & 1039 TOGETHER WITH THAT PARCEL OR TRACT OF UNSURVEYED CROWN LAND IN THE VICINITY OR PORTAGE MOUNTAIN (WITHIN UNITS 69, 70, 78, 79 & 80, BLOCK 1, 93-O-16), PEACE RIVER DISTRICT, CONTAINING 72.75 HECTARES, MORE OR LESS,

except for those parts of the land that, on the Commencement Date, consist of highways (as defined in the *Transportation Act*) and land covered by water;

“Management Plan” means the plan contained in the schedule attached to this Agreement entitled “Management Plan Schedule”;

“Licence Period” means the first twelve month period of the Term beginning on the Commencement Date and each successive twelve month period thereafter.

“Operating Record” means a record of all material removed from the Land and includes weigh scale data, quantity surveyor’s reports, production and shipping schedules, income statements and all other documents and records kept by you in connection with your quarrying operation on the Land;

“Production Report” means a report that contains

- (a) a detailed statement showing the quantity of material removed from the Land during the licence Period covered by the report, and
- (b) your Statutory Declaration in a form satisfactory to us confirming without qualification that the statement contained in the Production Report is true;

“Realty Taxes” means all taxes, rates, levies, duties, charges and assessments levied or charged, at any time, by any competent governmental authority which relate to the Land, the Improvements or both of them and which you are liable to pay;

“Royalty Fee” means the royalty fee referred to in Article 3;

“Security” means the security referred to in section 6.1 or 6.2, as replaced or supplemented in accordance with section 6.5;

“Term” means the period of time set out in section 2.2;

“we”, “us” or “our” refers to the Province alone and never refers to the combination of the Province and the Licensee: that combination is referred to as “the parties”; and

“you” or “your” refers to the Licensee.

- 1.2 In this Agreement, “person” includes a corporation, firm or association and wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties require.
- 1.3 The captions and headings contained in this Agreement are for convenience only and do not define or in any way limit the scope or intent of this Agreement.
- 1.4 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 1.5 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to every amendment to it, every regulation made under it and any subsequent enactment of like effect and, unless otherwise indicated, all enactments referred to in this Agreement are enactments of the Province of British Columbia.
- 1.6 If any section of this Agreement, or any part of a section, is found to be illegal or unenforceable, that section or part of a section, as the case may be, will be considered separate and severable and the remainder of this Agreement will not be affected and this Agreement will be enforceable to the fullest extent permitted by law.
- 1.7 Each schedule to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 1.8 This Agreement constitutes the entire agreement between the parties and no understanding or agreement, oral or otherwise, exists between the parties with respect to the subject matter of this Agreement except as expressly set out in this Agreement and this Agreement may not be modified except by subsequent agreement in writing between the parties.
- 1.9 Each party will, upon the request of the other, do or cause to be done all lawful acts necessary for the performance of the provisions of this Agreement.
- 1.10 All provisions of this Agreement in our favour and all of our rights and remedies, either at law or in equity, will survive the termination of this Agreement.
- 1.11 Time is of the essence of this Agreement.
- 1.12 Wherever this Agreement provides that an action may be taken, a consent or approval must be

obtained or a determination must be made, then you or we, as the case may be, will act reasonably in taking such action, deciding whether to provide such consent or approval or making such determination; but where this Agreement states that you or we have sole discretion to take an action, provide a consent or approval or make a determination, there will be no requirement to show reasonableness or to act reasonably in taking that action, providing that consent or approval or making that determination.

ARTICLE 2 - GRANT AND TERM

- 2.1 On the terms and conditions set out in this Agreement, we grant you, your employees, agents, contractors and licensees permitted under section 7.1 a licence of occupation of the Land for quarry purposes, as set out in the Management Plan, and you acknowledge this licence of occupation does not grant you exclusive use and occupancy of the Land.
- 2.2 The term of this Agreement commences on the Commencement Date and terminates on the 10th anniversary of that date, or such earlier date provided for in this Agreement.

ARTICLE 3 - FEES

- 3.1 You will pay to us:
- (a) for the first year of the Term, Fees of \$1,590.00, payable in advance on the Commencement Date; and
 - (b) for the first year of the Term, a royalty fee in an amount equal to \$2.00 of Actual Production payable at the times and in the manner specified in section 3.4 of this Article; and
 - (c) for each year during the remainder of the Term, the Fees either determined by us under section 3.2 or established under section 3.3, payable in advance on each anniversary of the Commencement Date; and
 - (d) for each year during the remainder of the Term, the Royalty Fee, either determined by us under section 3.5 or established under section 3.6 and payable at the times and in the manner specified in section 3.4 of this Article.
- 3.2 We will, not later than 15 days before each anniversary of the Commencement Date during the Term, give written notice to you specifying in our sole discretion the Fees payable by you under subsection 3.1(c) for the subsequent year of the Term.
- 3.3 If we do not give notice to you under section 3.2, the Fees payable by you under section 3.1(c)

for the year for which notice was not given will be the same as the Fees payable by you for the preceding year of the Term.

- 3.4 You will within 15 days after the end of each licence Period deliver to us a Production Report for that licence Period together with a certified cheque in a sum equal to the Royalty Fee payable under sections 3.1 (b) or (d) for the Actual Production for that licence Period.
- 3.5 We may, by notice in writing to you not less than 15 days before the start of a licence Period, increase the Royalty Fee payable under sections 3.1 (b) or (d) for that licence Period, and where such an increase is made, the Royalty Fee shall be calculated and paid accordingly.
- 3.6 If we do not give you notice under section 3.5 with respect to any licence Period, the Royalty Fee payable for that licence Period shall be equal to the Royalty Fee payable for the immediately preceding licence Period.
- 3.7 You will, notwithstanding any other provision of this Agreement, not levy a Royalty Fee for any material removed from the Land used by us in the construction and maintenance of public works projects.

ARTICLE 4 - COVENANTS

- 4.1 You must
 - (a) pay, when due,
 - (i) the Fees to us at the address set out in Article 10,
 - (ii) the Realty Taxes, and
 - (iii) all charges for electricity, gas, water and other utilities supplied to the Land for use by you or on your behalf or with your permission;
 - (b) deliver to us, immediately upon demand, receipts or other evidence of the payment of Realty Taxes and all other money required to be paid by you under this Agreement;
 - (c) observe, abide by and comply with
 - (i) all applicable laws, bylaws, orders, directions, ordinances and regulations of any competent governmental authority in any way affecting your use and occupation of the Land and the Improvements, and
 - (ii) the provisions of this Agreement;

- (d) in respect of the use of the Land by you or by anyone you permit to use the Land, keep the Land and the Improvements in a safe, clean and sanitary condition satisfactory to us, and at our written request, make the Land and the Improvements safe, clean and sanitary;
- (e) subject to section 31 of the *Hydro and Power Authority Act*, not use the Land in a manner that may be or become a nuisance to an owner or occupier of land in the vicinity of the Land;
- (f) use and occupy the Land only in accordance with and for the purposes set out in the Management Plan;
- (g) not construct, place or affix any Improvement on or to the Land except as permitted in the Management Plan;
- (h) pay all accounts and expenses as they become due for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, except for money that you are required to hold back under the *Builders Lien Act*;
- (i) if any claim of lien over the Land is made under the *Builders Lien Act* for work performed on or materials supplied to the Land at your request, on your behalf or with your permission, immediately take all steps necessary to have the lien discharged, unless the claim of lien is being contested in good faith by you and you have taken the steps necessary to ensure that the claim of lien will not subject the Land or any interest of yours under this Agreement to sale or forfeiture;
- (j) not cut or remove timber on or from the Land without
 - (i) our prior written consent, and
 - (ii) being granted the right under the *Forest Act* to harvest Crown timber on the Land;
- (k) during the Term of this licence maintain the Operating Record in such form and containing such information as we may reasonably require, and
 - (i) permit us to attend at your offices to examine the Operating Record during normal office hours, and
 - (ii) within 10 days of receiving a written request from us, deliver to us copies of the Operating Record;
- (l) establish and maintain proper books of account, making true entries of all dealings and transactions in relation to your quarrying operation on the Land, and at all reasonable

times furnish us such information relating to your quarrying operation as we may reasonably require;

- (m) upon receipt of our written request, cause an independent quantity survey to be undertaken by a qualified Professional Engineer or British Columbia Land Surveyor, to confirm the actual amount of material removed from the Land during the preceding licence Period;
- (n) reclaim the Land to the post extraction land use approved by us in accordance with the reclamation plan approved by the Ministry of Energy and Mines;
- (o) maintain the quarry in a safe and orderly manner in accordance with the provisions of the *Mines Act*;
- (p) take all reasonable precautions to avoid disturbing or damaging any archaeological material found on or under the Land and, upon discovering any archaeological material on or under the Land, you must immediately notify the ministry responsible for administering the *Heritage Conservation Act*;
- (q) maintain Environmental Assessment Certificate in good standing;
- (r) ensure that the timing for blasting activities will not occur within 300m of bat hibernacula from September 15 to May 15. This condition is compatible with the mitigation within CEMP/Sec 4.2-Blasting Management/Timing Windows (CEMP/Feb 4, 2016/ pg 27);
- (s) notify those First Nations identified in the Aboriginal Group Communication Plan of the Construction Environmental Management Plan (CEMP), dated February 4, 2016 of any blasting one week prior to the activity occurring;
- (t) maintain and adhere to the Construction Activity Plan - Portage Mountain Quarry, as written and dated March 6, 2015, which is signed and dated by the parties and held on file at the Ministry of Forests, Lands and Natural Resource Operations' office, with the exception of linkages to The Project Construction Environmental Management Plan (CEMP), The Development Plan, and The Project Construction Safety Management Plan (CSMP) referenced there in. The Construction Activity Plan is attached as Management Plan Schedule;
- (u) ensure that riparian habitat will be managed as per the document Approved Work Practices for Managing Riparian Vegetation available at:
https://www.bchydro.com/content/dam/hydro/medialib/internet/documents/bctc_documents/work_practices_riparian.pdf;
- (v) notify those First Nations identified within Section 4.0 of the Aboriginal Group

Communication Plan of the Construction Environmental Management Plan (CEMP), dated February 4, 2016, in a manner identified in that communication plan as to 4.1 (w), (x) and (y);

- (w) notify those First Nations prior to initiation of an activity;
- (x) notify those First Nations of changes or new information in relation to overall construction activity within the tenure, which includes, but not limited to; transition from one stage of use to another within the area (i.e. transition from primarily forest clearing to primarily site preparation or gravel extraction activities), construction designs and general details in relation to on the ground activities as details of this activity are developed, Human-Wildlife conflict management plans, all relevant Environmental Protection Plans, and associated Environmental Completion reports as they are developed, which describes the avoidance, mitigation, management, reclamation and compensation activities in relation to the Portage Mountain works, monthly reports as they are submitted to the Independent Environmental Monitor, EAO and CEAA as outlined in Section 2.1 of the CEMP, dated February 4, 2016;
- (y) notify those First Nations within 30 days of completion of that activity;
- (z) permit us, or our authorized representatives, to enter on the Land at any time to inspect the Land and the Improvements;
- (aa) indemnify and save us and our servants, employees and agents harmless against all claims, actions, causes of action, losses, damages, costs and liabilities, including fees of solicitors and other professional advisors, arising out of
 - (i) your breach, violation or nonperformance of a provision of this Agreement, and
 - (ii) any personal injury, bodily injury (including death) or property damage occurring or happening on or off the Land by virtue of your entry upon, use or occupation of the Land,and the amount of all such losses, damages, costs and liabilities will be payable to us immediately upon demand; and
- (bb) on the termination of this Agreement,
 - (i) peaceably quit and deliver to us possession of the Land and, subject to paragraphs (ii), (iii) and (iv), the Improvements in a safe, clean and sanitary condition,
 - (ii) within 180 days, remove from the Land any Improvement you want to remove, if the Improvement was placed on or made to the Land by you and you are not

in default of this Agreement,

- (iii) not remove any Improvement from the Land if you are in default of this Agreement, unless we direct or permit you to do so under paragraph (iv),
- (iv) remove from the Land any Improvement that we, in writing, direct or permit you to remove, other than any Improvement permitted to be placed on or made to the Land under another disposition, and
- (v) restore the surface of the Land as nearly as may reasonably be possible to the same condition as it was on the Commencement Date, to our satisfaction, but if you are not directed or permitted to remove an Improvement under paragraph (iv), this paragraph will not apply to that part of the surface of the Land on which that Improvement is located,

and all of your right, interest and estate in the Land will be absolutely forfeited to us, and to the extent necessary, this covenant will survive the termination of this Agreement.

- 4.2 You will not permit any person for whom you are responsible at law and who enters upon or uses the Land in connection with this Agreement to do anything you are restricted from doing under this Agreement.

ARTICLE 5 - LIMITATIONS

- 5.1 You agree with us that

- (a) we are under no obligation to provide access or services to the Land or to maintain or improve existing access roads;
- (b) this Agreement is subject to
 - (i) all subsisting dispositions and subsisting grants to or rights of any person made or acquired under the *Coal Act*, *Forest Act*, *Mineral Tenure Act*, *Petroleum and Natural Gas Act*, *Range Act*, *Wildlife Act* or *Water Act*, or any extension or renewal of the same, whether or not you have actual notice of them, and
 - (ii) the exceptions and reservations of interests, rights, privileges and titles referred to in section 50 of the *Land Act*;
- (c) we may make other dispositions of or over the Land;
- (d) you will make no claim for compensation, in damages or otherwise, in respect of a disposition made under subsection (c), where such disposition does not materially affect

the exercise of your rights under this Agreement:

- (e) subject to subsection (d), all of your costs and expenses, direct or indirect, that arise out of any lawful interference with your rights under this Agreement as a result of the exercise or operation of the interests, rights, privileges and titles reserved to us in subsections (b) and (c) will be borne solely by you;
- (f) you will not commence or maintain proceedings under section 65 of the *Land Act* in respect of any lawful interference with your rights under this Agreement that arises as a result of the exercise or operation of the interests, rights, privileges and titles described in subsections (b) and (c);
- (g) you will not remove or permit the removal of any Improvement from the Land except as expressly permitted or required under this Agreement;
- (h) any interest you may have in the Improvements ceases to exist and becomes our property upon the termination of this Agreement, except where an Improvement may be removed under paragraph 4.1(bb)(ii), (iii) or (iv) in which case any interest you may have in that Improvement ceases to exist and becomes our property if the Improvement is not removed from the Land within the time period set out in paragraph 4.1(bb)(ii) or the time period provided for in the direction or permission given under paragraph 4.1(bb)(iii); and
- (i) if, after the termination of this Agreement, we permit you to remain in possession of the Land and we accept money from you in respect of such possession, a tenancy from year to year will not be created by implication of law and you will be deemed to be a monthly occupier only subject to all of the provisions of this Agreement, except as to duration, in the absence of a written agreement to the contrary.

ARTICLE 6 - SECURITY AND INSURANCE

- 6.1 On the Commencement Date, you will deliver to us security in the amount of \$0.00 which will
- (a) guarantee the performance of your obligations under this Agreement;
 - (b) be in the form required by us; and
 - (c) remain in effect until we certify, in writing, that you have fully performed your obligations under this Agreement.
- 6.2 Despite section 6.1, your obligations under that section are suspended for so long as you maintain in good standing other security acceptable to us to guarantee the performance of your obligations under this Agreement and all other dispositions held by you.

6.3 We may use the Security for the payment of any costs and expenses incurred by us to perform any of your obligations under this Agreement that are not performed by you or to pay any overdue Fees and, if such event occurs, you will, within 30 days of that event, deliver further Security to us in an amount equal to the amount drawn down by us.

6.4 After we certify, in writing, that you have fully performed your obligations under this Agreement, we will return to you the Security maintained under section 6.1, less all amounts drawn down by us under section 6.3.

6.5 You acknowledge that we may, from time to time, notify you to

- (a) change the form or amount of the Security; and
- (b) provide and maintain another form of Security in replacement of or in addition to the Security posted by you under this Agreement;

and you will, within 60 days of receiving such notice, deliver to us written confirmation that the change has been made or the replacement or additional form of Security has been provided by you.

6.6 You must

- (a) without limiting your obligations or liabilities under this Agreement, at your expense, effect and keep in force during the Term the following insurance with insurers licensed to do business in Canada:
 - (i) Commercial General Liability insurance in an amount of not less than \$2,000,000.00 inclusive per occurrence insuring against liability for personal injury, bodily injury (including death) and property damage, including coverage for all accidents or occurrences on the Land or the Improvements. Such policy will include cross liability, liability assumed under contract, provision to provide 30 days advance notice to us of material change or cancellation, and include us as additional insured;
- (b) ensure that all insurance required to be maintained by you under this Agreement is primary and does not require the sharing of any loss by any of our insurers;
- (c) within 10 working days of Commencement Date of this Agreement, provide to us evidence of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";
- (d) if the required insurance policy or policies expire or are cancelled before the end of the Term of this Agreement, provide within 10 working days of the cancellation or

expiration, evidence of new or renewal policy or policies of all required insurance in the form of a completed "Province of British Columbia Certificate of Insurance";

- (e) notwithstanding subsection (c) or (d) above, if requested by us, provide to us certified copies of the required insurance policies.

6.7 We may, acting reasonably, from time to time, require you to

- (a) change the amount of insurance set out in subsection 6.6(a); and
(b) provide and maintain another type or types of insurance in replacement of or in addition to the insurance previously required to be maintained by you under this Agreement;

and you will, within 60 days of receiving such notice, cause the amounts and types to be changed and deliver to us a completed "Province of British Columbia Certificate of Insurance" for all insurance then required to be maintained by you under this Agreement.

6.8 You shall provide, maintain, and pay for any additional insurance which you are required by law to carry, or which you consider necessary to insure risks not otherwise covered by the insurance specified in this Agreement in your sole discretion.

6.9 You waive all rights of recourse against us with regard to damage to your own property.

6.10 Despite sections 6.6 and 6.7, your obligations under those sections are suspended for so long as we in our sole discretion acknowledge our acceptance to you in writing your alternative risk financing program in respect of the matters covered by those sections.

If, in our sole discretion, your alternative risk financing program in respect of the matters covered by sections 6.6 and 6.7 is no longer acceptable to us, we will provide written notice to you and you must, within 60 days of such notice, obtain and provide to us evidence of compliance with section 6.6 of this Agreement.

ARTICLE 7 - ASSIGNMENT

7.1 You must not sublicense, assign, mortgage or transfer this Agreement, or permit any person to use or occupy the Land, without our prior written consent, which consent we may withhold.

7.2 For the purpose of section 7.1, if you are a corporation, a change in control (as that term is defined in subsection 2(3) of the *Business Corporations Act*) will be deemed to be a transfer of this Agreement.

7.3 Section 7.2 does not apply to a corporation if the shares of the corporation which carry votes for the election of the directors of the corporation trade on a stock exchange located in Canada.

- 7.4 Prior to considering a request for our consent under section 7.1, we may require you to meet certain conditions, including without limitation, that you submit to us a "site profile", "preliminary site investigation" or "detailed site investigation" (as those terms are defined in the *Environmental Management Act*) for the Land or other similar type of investigation of the Land.

ARTICLE 8 - TERMINATION

- 8.1 You agree with us that

- (a) if you
- (i) default in the payment of any money payable by you under this Agreement, or
 - (ii) fail to observe, abide by and comply with the provisions of this Agreement (other than the payment of any money payable by you under this Agreement),
- and your default or failure continues for 60 days after we give written notice of the default or failure to you,
- (b) if, in our opinion, you fail to make diligent use of the Land for the purposes set out in this Agreement, and your failure continues for 60 days after we give written notice of the failure to you;
- (c) if you
- (i) become insolvent or make an assignment for the general benefit of your creditors,
 - (ii) commit an act which entitles a person to take action under the *Bankruptcy and Insolvency Act* (Canada) or a bankruptcy petition is filed or presented against you or you consent to the filing of the petition or a decree is entered by a court of competent jurisdiction adjudging you bankrupt under any law relating to bankruptcy or insolvency, or
 - (iii) voluntarily enter into an arrangement with your creditors;
- (d) if you are a corporation,
- (i) a receiver or receiver-manager is appointed to administer or carry on your business, or
 - (ii) an order is made, a resolution passed or a petition filed for your liquidation or

winding up;

- (e) if you are a society, you convert into a company in accordance with the *Society Act* without our prior written consent;
- (f) if this Agreement is taken in execution or attachment by any person; or
- (g) if we require the Land for our own use or, in our opinion, it is in the public interest to cancel this Agreement and we have given you 60 days' written notice of such requirement or opinion;

this Agreement will, at our option and with or without entry, terminate and your right to use and occupy the Land will cease.

8.2 If the condition complained of (other than the payment of any money payable by you under this Agreement) reasonably requires more time to cure than 60 days, you will be deemed to have complied with the remedying of it if you commence remedying or curing the condition within 60 days and diligently complete the same.

8.3 You agree with us that

- (a) you will make no claim for compensation, in damages or otherwise, upon the lawful termination of this Agreement under section 8.1; and
- (b) our remedies under this Article are in addition to those available to us under the *Land Act*.

ARTICLE 9 - DISPUTE RESOLUTION

9.1 If any dispute arises under this Agreement, the parties will attempt to resolve the dispute within 60 days of the dispute arising (or within such other time period agreed to by the parties) and, subject to applicable laws, provide candid and timely disclosure to each other of all relevant facts, information and documents to facilitate those efforts.

9.2 Subject to section 9.5, if a dispute under this Agreement cannot be resolved under section 9.1, we or you may refer the dispute to arbitration conducted by a sole arbitrator appointed pursuant to the *Commercial Arbitration Act*.

9.3 The cost of the arbitration referred to in section 9.2 will be shared equally by the parties and the arbitration will be governed by the laws of the Province of British Columbia.

9.4 The arbitration will be conducted at our offices (or the offices of our authorized representative) in Fort St John, British Columbia, and if we or our authorized representative have no office in Fort St John, British Columbia, then our offices (or the offices of our authorized representative)

that are closest to Fort St John, British Columbia.

- 9.5 A dispute under this Agreement in respect of a matter within our sole discretion cannot, unless we agree, be referred to arbitration as set out in section 9.2.
- 9.6 This Article does not prevent a party from commencing arbitral or judicial proceedings to obtain interlocutory or interim relief that is otherwise available pending resolution of a dispute under this Article.

ARTICLE 10 - NOTICE

- 10.1 Any notice required to be given by either party to the other will be deemed to be given if mailed by prepaid registered mail in Canada or delivered to the address of the other as follows:

to us

MINISTRY OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS
100-10003 110th Ave
Fort St. John, BC V1J 6M7;

to you

Manager, Properties
British Columbia Hydro and Power Authority
12th Floor, 333 Dunsmuir Street
Vancouver BC V6B 5R3;

or at such other address as a party may, from time to time, direct in writing, and any such notice will be deemed to have been received if delivered, on the day of delivery, and if mailed, 7 days after the time of mailing, except in the case of mail interruption in which case actual receipt is required.

- 10.2 In order to expedite the delivery of any notice required to be given by either party to the other, a concurrent facsimile copy of any notice will, where possible, be provided to the other party but nothing in this section, and specifically the lack of delivery of a facsimile copy of any notice, will affect the deemed delivery provided in section 10.1.
- 10.3 The delivery of all money payable to us under this Agreement will be effected by hand, courier or prepaid regular mail to the address specified above, or by any other payment procedure agreed to by the parties, such deliveries to be effective on actual receipt.

ARTICLE 11 - MISCELLANEOUS

- 11.1 No provision of this Agreement will be considered to have been waived unless the waiver is in writing, and a waiver of a breach of a provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other provision of this Agreement, and a consent or approval to any act requiring consent or approval will not waive or render unnecessary the requirement to obtain consent or approval to any subsequent same or similar act.
- 11.2 No remedy conferred upon or reserved to us under this Agreement is exclusive of any other remedy in this Agreement or provided by law, but that remedy will be in addition to all other remedies in this Agreement or then existing at law, in equity or by statute.
- 11.3 The grant of a sublicense, assignment or transfer of this Agreement does not release you from your obligation to observe and perform all the provisions of this Agreement on your part to be observed and performed unless we specifically release you from such obligation in our consent to the sublicense, assignment or transfer of this Agreement.
- 11.4 This Agreement extends to, is binding upon and enures to the benefit of the parties, their heirs, executors, administrators, successors and permitted assigns.
- 11.5 If, due to a strike, lockout, labour dispute, act of God, inability to obtain labour or materials, law, ordinance, rule, regulation or order of a competent governmental authority, enemy or hostile action, civil commotion, fire or other casualty or any condition or cause beyond your reasonable control, other than normal weather conditions, you are delayed in performing any of your obligations under this Agreement, the time for the performance of that obligation will be extended by a period of time equal to the period of time of the delay so long as
- (a) you give notice to us within 30 days of the commencement of the delay setting forth the nature of the delay and an estimated time frame for the performance of your obligation; and
 - (b) you diligently attempt to remove the delay.
- 11.6 You agree with us that
- (a) we are under no obligation, express or implied, to provide financial assistance or to contribute toward the cost of servicing, creating or developing the Land or the Improvements and you are solely responsible for all costs and expenses associated with your use of the Land and the Improvements for the purposes set out in this Agreement; and
 - (b) nothing in this Agreement constitutes you as our agent, joint venturer or partner or gives

you any authority or power to bind us in any way.

11.7 This Agreement does not override or affect any powers, privileges or immunities to which you are entitled under any enactment of the Province of British Columbia.

The parties have executed this Agreement as of the date of reference of this Agreement.

SIGNED on behalf of **HER MAJESTY
THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA**
by the minister responsible for the *Land Act*
or the minister's authorized representative



Minister responsible for the *Land Act*
or the minister's authorized representative

SIGNED by a duly authorized
signatory of **BRITISH COLUMBIA
HYDRO AND POWER AUTHORITY**



Authorized Signatory

LEGAL DESCRIPTION SCHEDULE

THOSE PARTS OF DISTRICT LOTS 276 & 1039 TOGETHER WITH THAT PARCEL OR TRACT OF UNSURVEYED CROWN LAND IN THE VICINITY OR PORTAGE MOUNTAIN (WITHIN UNITS 69, 70, 78, 79 & 80, BLOCK I, 93-O-16), PEACE RIVER DISTRICT, CONTAINING 72.75 HECTARES, MORE OR LESS.

