

TERMS OF INSTRUMENT – PART 2

HIGHWAY ENCROACHMENT AGREEMENT

THIS AGREEMENT is dated as of the ____ day of _____, 2017 (the “**Execution Date**”).

BETWEEN:

DISTRICT OF KITIMAT, a municipal corporation having its place of business at 270 City Centre, in the District of Kitimat, in the Province of British Columbia, V8C 2H7

(the “**Grantor**” or the “**District**”)

AND:

0892818 B.C. LTD. (Inc. No. BC0892818), a corporation incorporated under the laws of the Province of British Columbia, having an office at 400, 4th Avenue S.W., Calgary, Alberta, T2P 2H5

(“**0892818**”)

WHEREAS:

A. The Grantor owns a road with a civic name of Ocelot Way, located at District Lot 6050, Range 5, Coast District, a portion of which the Grantor owns in fee simple, more particularly described in Item #2 of the Form C (collectively, the “**Road**”, and as further defined below), and includes boulevard and services;

B. 0892818 is the registered owner of properties adjacent to the Road, at 176 Ocelot Way, Kitimat, BC, legally described as:

PID 004-334-078

District Lot 6004 Range 5 Coast District (“**DL6004**”)

and

PID 011-067-993

Lot 2 District Lot 187 Range 5 Coast District Plan 11524

(collectively, the “**Dominant Tenement**”)

C. 0892818 is a wholly-owned subsidiary of LNG Canada Development Inc. (“**LNG Canada**”), 400, 4th Avenue S.W., Calgary, Alberta, T2P 2H5, and is entering into this Agreement solely in its capacity as the registered owner of the Dominant Tenement;

D. LNG Canada is entering into this Agreement as agent for and on behalf of the persons (the “**Participants**”) that have a participating interest in a liquefied natural gas facility project in Kitimat, British Columbia (the “**LNG Plant**”). As of the date of this Agreement, the Participants are Shell Canada Energy, Brion Kitimat LNG Partnership, Diamond LNG

Canada Ltd. and Kogas Canada LNG Ltd. with participating interests in the LNG Plant of 50%, 20%, 15% and 15% respectively;

- E. 0892818 holds the Dominant Tenement as bare trustee, nominee and agent for and on behalf of the Participants;
- F. LNG Canada requires access to and over the Road in order to build the LNG Plant on the Dominant Tenement;
- G. Parts of a private storm sewer system and a private intersite water pipeline are constructed under Ocelot Way, descriptions of which are attached as Schedule "A" (the "**Works**"), and which are owned by 0892818;
- H. LNG Canada, on behalf of 0892818, wishes to obtain permission from the District to maintain and use the Works within Ocelot Way;
- I. The parties agree that though Ocelot Way was dedicated as road by Plan PRP5744 on 2 July 1968, and the Grantor has maintained Ocelot Way as a public highway for many years, by oversight, a portion of Ocelot Way running parallel to the northern property line of DL6004 (as more specifically defined below) was never dedicated as road, and 0892818, and LNG Canada on behalf of 0892818, wish to rectify that oversight and dedicate the area in question as highway, with the collective expanded area being the "**Road**" referred to in this Agreement;
- J. The District has authority under Section 35(11) of the *Community Charter* (British Columbia) to permit encroachments and/or grant a licence of occupation or easement in respect of the Road;
- K. District Council has adopted "Ocelot Way Temporary Traffic Restriction Bylaw No. 1891, 2016", as required under the *Community Charter* to authorize 0892818, and LNG Canada on behalf of 0892818, to temporarily restrict or prohibit traffic on the Road;
- L. LNG Canada has made application to the Grantor for permission to encroach upon the Encroachment Area, as defined below, including temporary road closures;
- M. The Grantor desires to grant such permission to 0892818, and LNG Canada on behalf of 0892818, and further to grant to 0892818, and LNG Canada on behalf of 0892818, the right to use and occupy the Encroachment Area for the purpose of development, construction and maintenance of the LNG Plant and the right to maintain and use the Works within the Encroachment Area for the benefit of the Dominant Tenement, in accordance with the terms and conditions set out in this Agreement; and
- N. The Grantor has agreed to grant 0892818, and LNG Canada on behalf of 0892818, this Easement with respect to the Encroachment Area on the terms in this Agreement;

THEREFORE in consideration of \$10.00 paid by LNG Canada to the Grantor and of the covenants and agreements contained in this Agreement (the receipt and sufficiency of which are hereby acknowledged), the parties agree as follows:

1. GRANT

- 1.1. The Grantor, for itself, its successors and assigns hereby grants unto 0892818, and LNG Canada on behalf of 0892818, its related and subsidiary corporate entities, whether a party to this Agreement or not, and their respective employees, agents, contractors and subcontractors the full, free and uninterrupted (but non-exclusive) right, liberty and permission to use that portion of the Road which is shown boldly outlined on Plan EPP66989, which was prepared by William J. Houghton, BCLS (the "**Encroachment Area**"), a copy of which is attached as Schedule "B", for the benefit of and appurtenant to the Dominant Tenement, in common with the Grantor and all other persons now or hereafter having the express or implied permission of the Grantor, subject to the terms, conditions and limitations stated herein:
- a. to use, maintain, repair, clean, grade and clear the Road to District of Kitimat standards in place at the time;
 - b. to access the Dominant Tenement in order to develop, construct, operate and maintain the LNG Plant;
 - c. for the foregoing purposes, to enter upon and have free uninterrupted and unrestricted access at all times to the Encroachment Area with or without workers, vehicles and equipment, subject to the terms and conditions set forth in this Agreement; and
 - d. to temporarily close the Encroachment Area to public traffic in emergency situations and during construction or maintenance of the LNG Plant in accordance with this Agreement.
- 1.2. The Grantor, for itself, its successors and assigns hereby grants unto 0892818, and LNG Canada on behalf of 0892818, its related and subsidiary corporate entities, whether a party to this Agreement or not, and their respective employees, agents, contractors and subcontractors the full, free and uninterrupted right, liberty and permission to use, maintain, repair, clean and otherwise service the Works, to District of Kitimat standards in place at the time.

2. TERMS AND CONDITIONS

All of the rights, liberties and permission set out in Section 1 are granted subject to the following terms and conditions which are hereby agreed to by and between the Grantor, 0892818, and LNG Canada on behalf of 0892818:

- 2.1. LNG Canada shall, at its own cost, maintain, repair, clean, grade, keep clear from snow and ice, as applicable to District of Kitimat standards in place at the time, and do the other things necessary for the safe use and preservation of the Road and the Works.
- 2.2. LNG Canada shall have the right to, at its own cost and at its sole discretion, expand the paved and travelled portion of the Road within the Encroachment Area to a maximum width of twenty (20) meters and to no less than the minimum standard established in the District of Kitimat's *Municipal Specifications* in effect on the date road construction begins and ends.

- 2.3. LNG Canada shall from time to time consult with the Grantor and at all times carry out any and all reasonable instructions, either oral or written, given to LNG Canada, its agents, employees or contractors, by the Grantor with respect to the safety and protection and the continued and uninterrupted use by the Grantor and the public, subject to the rights hereby granted, of the Road and the Encroachment Area.
- 2.4. LNG Canada shall fully comply with all laws, rules and regulations of any competent federal, provincial or municipal authority applicable to, and shall secure all permits, licenses and other authorizations necessary for or in connection with, the exercise of any of the rights hereby granted and the implementation of the terms and conditions hereof shall at all times be subject to compliance with such laws, rules and regulations.
- 2.5. Subject to the terms of this Agreement, the Grantor shall grant unto LNG Canada the licence and right to full, free and uninterrupted use of the Road as it sees fit, including the right to temporarily stop and close to all traffic and the public the whole Road or a portion thereof from time to time as may be required by LNG Canada provided that LNG Canada shall notify the Grantor's Director of Engineering with not less than ten (10) days of notice of such interruption (provided that no notice will be required in the event of emergency or apprehended emergency) and that the Grantor, its servants, employees, agents and contractors only, shall continue to have the unobstructed use of the Road (other than in the event of emergency or apprehended emergency), in order that the Grantor may carry out its undertakings.
- 2.6. LNG Canada shall carry out all work under this Agreement in a proper and workmanlike manner so as to do as little injury to the Road and the Encroachment Area as possible and to cause a minimum of obstruction and inconvenience to the public highway during any maintenance, repair, cleaning, construction, and closure, and must place and maintain such warning signs, barricades, lights or flares at or near the site of the works in progress as will give reasonable warning and protection to members of the public.
- 2.7. LNG Canada shall use the Encroachment Area and the Works in such a manner as not to interfere with any existing utilities located in the Road.
- 2.8. LNG Canada shall maintain the Encroachment Area in good and sufficient repair to the satisfaction of the Grantor's Director of Engineering, and shall promptly attend at its own expense to any maintenance and repair of the Encroachment Area to the satisfaction of the Grantor's Director of Engineering.
- 2.9. LNG Canada shall not excavate on or under the Road without the prior written consent of the Grantor's Director of Engineering. For certainty, before commencement of any excavation, LNG Canada shall obtain all permits and licenses necessary therefor under the bylaws of the District of Kitimat, and LNG Canada shall pay any inspection, license or permit fees in respect thereof.
- 2.10. LNG Canada shall make good at its own expense all damage or disturbance caused by the exercise of its rights pursuant to this Agreement, which may include damage or disturbance caused to the surface or support of the Road or any other services associated with the Road (including but not limited to sanitary sewer, water, storm drainage, street lighting, sidewalk and third party utilities), or any contamination, toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Road or migrating to or from the Road (including surface and groundwater).

- 2.11. Nothing herein contained shall be deemed to vest in 0892818, or LNG Canada on behalf of 0892818, any title to mines, ores or other minerals in or under the Road.
- 2.12. No part of the title in fee-simple to the soil shall pass to or be vested in 0892818, or LNG Canada on behalf of 0892818, under or by virtue of these presents, and the Grantor may fully use and enjoy all the Road and Encroachment Area, subject only to the rights and restrictions herein contained.
- 2.13. 0892818, and LNG Canada on behalf of 0892818, covenant and agree that this Agreement shall not in any way restrict the right of the Grantor (or require the Grantor) at any time to:
- a. add, alter or widen the highway, sidewalk, boulevard, curb or gutter above, abutting or adjoining the Encroachment Area, or otherwise within the Road;
 - b. inspect, construct or maintain any form of structure, service or utility on, over or under any portion of the Road, including in which the Works encroach, and for such purpose require that the Works, Road and Encroachment Area be temporarily obstructed in part or in whole;
 - c. temporarily block off access to the Works and Encroachment Area as needed in its sole discretion when conducting highway maintenance or making highway improvements; and
 - d. permit other encroachments or use of the Road, including within the Encroachment Area, the latter upon providing written notice to LNG Canada of such other encroachments, and provided that other encroachments and uses upon the Encroachment Area not prevent or unreasonably obstruct the Works or LNG Canada's ability to use, operate, maintain and repair the Works or use the Encroachment Area.
- 2.14. In exercising its rights under Section 2.13, the Grantor shall endeavour to provide at least thirty (30) days notice to LNG Canada (except in the case of emergency or apprehended emergency when no notice is required), and interrupt LNG Canada's use of the Encroachment Area for as short a period as reasonable.
- 2.15. In the event of the Grantor taking any of the actions provided at Section 2.13, 0892818, and LNG Canada on behalf of 0892818, will release and forever discharge, and hereby release and forever discharge, the Grantor from all manner of claims of any nature whatsoever, which may arise by reason of such action.
- 2.16. 0892818, and LNG Canada on behalf of 0892818, acknowledge and agree that the Road is a highway and that the Grantor has limited power to authorize the private use of highways. 0892818, and LNG Canada on behalf of 0892818, further acknowledge and agree that, though this section is not intended to be inconsistent with Section 2.5, any rights granted by the Grantor to 0892818, and LNG Canada on behalf of 0892818, by this Agreement are not exclusive and are subject to the public's right to pass and repass.

- 2.17. LNG Canada shall promptly pay or cause to be paid all claims for wages, salaries and services rendered or performed and materials supplied on, to or in respect of the maintenance, repair, cleaning, clearing, grading and upgrading (if applicable) of the Road, Encroachment Area or the Works carried out by LNG Canada, its agents or its employees and shall save harmless and indemnify the Grantor for such claims.
- 2.18. On the expiry or earlier termination of the Agreement, 0892818, and LNG Canada on behalf of 0892818, shall peaceably quit, surrender and deliver to the Grantor possession of the Encroachment Area and the Road, all in good and sufficient repair and in a clean and tidy condition.
- 2.19. Should LNG Canada:
- a. fail to keep the Encroachment Area in good and sufficient repair to the satisfaction of the Grantor's Director of Engineering,
 - b. fail to return the Encroachment Area in good and sufficient repair and in a clean and tidy condition to the satisfaction of the Grantor's Director of Engineering upon the termination of this Agreement, or
 - c. fail to otherwise abide by any condition of this Agreement,

then the Grantor's Director of Engineering, upon thirty (30) days written notification of such failure (except in the case of emergency or apprehended emergency when no notice is required) and provided that LNG Canada has not resolved the failure within that period of time, may:

- i. make such repairs,
- ii. do any work necessary to fulfill any condition of this Agreement, or
- iii. permit LNG Canada to continue such rectification, repairs or work that LNG Canada has commenced and is diligently continuing,

as the case may require, in the sole discretion of the Grantor's Director of Engineering.

- 2.20. LNG Canada shall pay to the Grantor the costs of work done by the Grantor, its officers, employees, agents and contractors under Section 2.19 of this Agreement pursuant to Section 5.1, and covenants and agrees that if in default of payment, the amount of such cost and interest at CIBC Prime Rate per annum may be recovered in any Court of competent jurisdiction.
- 2.21. While making the repairs or doing the maintenance under Section 2.19 of this Agreement, the Grantor may bring and temporarily store upon the Dominant Tenement and the Encroachment Area, the necessary materials, tools and equipment and the Grantor shall not be liable to 0892818, or LNG Canada on behalf of 0892818, for any inconvenience, annoyance, loss of business or other injuries suffered by 0892818, or LNG Canada on behalf of 0892818, by reason of the Grantor effecting the repairs or maintenance or doing any work under Section 2.19 under this Agreement.

3. TERM

This Agreement shall be for an initial term of ten (10) years from the Execution Date (the “**Initial Term**”), and shall be renewed automatically for periods of five (5) years each, for a maximum renewal term of forty (40) years (together with the Initial Term, the “**Term**”), after which fifty (50) year Term this Agreement shall automatically terminate unless otherwise agreed by the parties.

4. EASEMENT FEE

In consideration of the rights, liberties and permission granted in this Agreement, LNG Canada shall pay to the Grantor One Thousand Canadian Dollars (CDN \$1,000) plus all applicable taxes per annum (the “**Easement Fee**”) for each and every year of the Term. However, the parties agree that the Grantor may increase the Easement Fee after the Initial Term in order to account for inflation, and such adjustment will be based on the Consumer Price Index.

5. INVOICES

- 5.1. The Grantor shall invoice LNG Canada for any fees, costs and expenses (the “**Invoiced Amounts**”) owing pursuant to this Agreement as soon as reasonably practical during the Term, such Invoiced Amounts to be payable without deduction by LNG Canada within 30 days of the receipt of any such invoice from the Grantor. The invoice shall outline the net fees, and separately detail any applicable taxes. LNG Canada will pay the Invoiced Amounts in lawful money of Canada and by electronic funds transfer. The Grantor will provide such information as LNG Canada reasonably requires from time to time in order to complete the electronic funds transfers, and LNG Canada will execute and deliver to the Grantor all pre-authorization documentation as may reasonably be required by the Grantor or as otherwise be necessary in order to enable the Grantor to accept such transfers.
- 5.2. The Grantor shall invoice LNG Canada annually prior to each anniversary of the Execution Date with the amount payable as the Easement Fee for the next following year of the Term, such Easement Fee to be payable by LNG Canada pursuant to Section 5.1.

6. INDEMNIFICATION AND RELEASE

- 6.1. LNG Canada on behalf of 0892818 covenants and agrees to indemnify and save harmless the Grantor from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which anyone has or may have against the Grantor or which the Grantor incurs as a result of any loss, damage, deprivation, enrichment or injury arising out of or connected with:
 - a. LNG Canada's or 0892818's use, maintenance, repair, cleaning, grading, clearing, construction and closure, as applicable, of the Encroachment Area, the Road (including, but not restricted to, any contamination, toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Road or migrating to or from the Road (including surface and groundwater)) or the Works;
 - b. LNG Canada's or 0892818's installation or construction of anything within, upon, under, around or over the Encroachment Area or the Road; or

- c. LNG Canada's or 0892818's maintenance or lack of maintenance of the Encroachment Area, the Road or the Works and of anything within, upon, under, around or over the Encroachment Area or the Road,

unless such loss, damage, deprivation, enrichment or injury is due to the negligence of the Grantor, its employees, agents, contractors and subcontractors.

- 6.2. LNG Canada on behalf of 0892818 covenants and agrees to indemnify and save harmless the Grantor from any and all claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which any has or may have against the Grantor or which the Grantor incurs as a result of any loss, damage, deprivation, enrichment or injury for any liens for wages or materials in connection with any maintenance, repair, cleaning, grading, clearing, construction and closure, as applicable that LNG Canada may make or cause to be made on or to the Encroachment Area, the Road or the Works.
- 6.3. 0892818, and LNG Canada on behalf of 0892818, release and forever discharge the Grantor of and from any claims, causes of action, suits, demands, fines, penalties, costs or expenses or legal fees (on a solicitor-client basis) whatsoever, in law or equity, which 0892818, or LNG Canada on behalf of 0892818, can or may have against the Grantor for any loss, damage, deprivation, enrichment or injury, arising out of or connected with LNG Canada's or 0892818's use, maintenance, repair, cleaning, grading, clearing, construction and closure, as applicable, of the Encroachment Area, the Road or the Works, unless such loss, damage, deprivation enrichment or injury is due to the negligence of the Grantor, its employees, agents, contractors and subcontractors.
- 6.4. Subject to Section 6.5, no party shall be liable to any other party under or in connection with this Agreement for (i) any consequential or indirect losses, (ii) increased costs or expenses, (iii) losses caused whether directly or indirectly by business or production interruptions, or (iv) loss of, whether caused directly or indirectly, business or opportunity, goodwill, profits, contracts, revenues, anticipated savings, reputation, whether or not such losses were foreseeable at the time of entering into this Agreement, arising from or related to the performance of this Agreement.
- 6.5. No party excludes or limits its liability for fraud or any liability to the extent the same may not be excluded or limited as a matter of law.

7. INSURANCE

- 7.1. LNG Canada agrees to obtain Commercial General Liability insurance with limits of no less than Five Million Canadian Dollars (CDN \$5,000,000) per occurrence (inclusive of bodily injury and property damage). This coverage shall insure LNG Canada and 0892818 and shall name the Grantor as Additional Insured. Furthermore:
 - a. LNG Canada shall provide evidence of such insurance to the Grantor's satisfaction promptly upon execution of this Agreement, and forthwith on an annual basis;
 - b. The insurers shall be required to provide ninety (90) days' written notice of termination or cancellation of said coverage to the Grantor;

- c. If LNG Canada fails to maintain such insurance, the Grantor shall have the right, but not the obligation, to maintain such insurance and to pay the cost or premium of the insurance, and in such event LNG Canada shall repay the Grantor forthwith on demand the amount so paid, failing which the Grantor shall have the right to add such cost to the taxes of LNG Canada; and
 - d. If LNG Canada repeatedly fails to maintain such insurance, the Grantor shall have cause for termination of this Agreement, and any rights of LNG Canada to the Encroachment Area and the Road, at the Grantor's discretion.
- 7.2. In light of the potentially lengthy duration of this Agreement, on ninety (90) days' notice from the Grantor, LNG Canada shall increase the limit of the amount of the insurance referred to in Section 7.1 to such greater amount as directed by the Grantor, in reasonable consideration of prevailing norms at the time of such notice but which shall not exceed Six Million Canadian Dollars (CDN \$6,000,000) per occurrence (inclusive of bodily injury and property damage) at any point during the Term, and the provisions of Section 7.1 shall otherwise continue to apply.
- 7.3. As an alternative to the insurance referred to in Section 7.1, LNG Canada may self-insure against the risks normally covered by such policy for equivalent or better coverage, but only if a written request is made to the District and the District, acting reasonably, deems such self-insurance acceptable.

8. EVENTS OF DEFAULT

The Grantor may forthwith terminate this Agreement and take full possession of the Encroachment Area and the Road without further notice to 0892818, or LNG Canada on behalf of 0892818, if:

- a. any amount due from 0892818, or LNG Canada on behalf of 0892818, to the Grantor under this Agreement is in arrears and is not paid within thirty (30) days after written demand by the Grantor;
- b. 0892818, or LNG Canada on behalf of 0892818, has breached any of its obligations under this Agreement, other than payment of any amounts due, and after thirty (30) days' notice in writing from the Grantor LNG Canada fails to remedy such breach or, in the case of a failure which cannot with due diligence be cured within such thirty (30) day period, if LNG Canada shall not promptly proceed to cure the breach with diligence to the acceptance of the Grantor, in its sole discretion; or
- c. 0892818, or LNG Canada on behalf of 0892818, breaches Section 12 of this Agreement by assigning this Agreement without the Grantor's approval.

9. FORFEITURE

The Grantor, by waiving or neglecting to enforce its rights under this Agreement, including upon breach of this Agreement, does not waive its rights upon any subsequent breach of the same or any other provision of this Agreement.

10. TERMINATION

Notwithstanding any other provision of this Agreement:

- a. either party may terminate this Agreement without cause on one hundred and eighty days (180) days' written notice to the other Party; and
- b. 0892818, and LNG Canada on behalf of 0892818, shall have the right to terminate this Agreement in accordance with Section 12.

11. NO COMPENSATION

Neither 0892818, nor LNG Canada on behalf of 0892818, shall be entitled to compensation from the Grantor for any loss or injurious affection or disturbance resulting in any way from temporary interruption under this Agreement, the termination of this Agreement, or upon cause or the resultant loss of LNG Canada's or 0892818's interest in any structure or improvement built or placed in the Encroachment Area.

12. ASSIGNMENT

- a. Neither 0892818, nor LNG Canada on behalf of 0892818, shall assign this Agreement without the Grantor's approval, such approval to be granted upon the District Council adopting a bylaw as required under the *Community Charter* to authorize such assignment.
- b. 0892818, and LNG Canada on behalf of 0892818, covenant and agree not to transfer the Dominant Tenement, or any portion thereof, without providing to the Grantor evidence that the purchaser or transferee agrees to take on the obligations of this Agreement, provided that if the Grantor does not approve pursuant to Section 12(a), or such purchaser or transferee does not wish to be the assignee of this Agreement, LNG Canada shall have the right to terminate this Agreement without cause on thirty (30) days written notice to the Grantor.

13. NOTICES

Any notice or other instrument which may be or is required to be given under this Agreement, will be delivered in person or sent by electronic mail or registered mail and will be addressed to the applicable address of the Party as follows:

to the Grantor at:

270 City Centre
 Kitimat, BC V8C 2H7
 Attention: Corporate Officer
 Email: dok@kitimat.ca

to LNG Canada at:

LNG Canada Development Inc.
 176 Ocelot Road
 PO Box 176

Kitimat, British Columbia V8C 2G7
 Attention: Kitimat Terminal Operations Manager
 Email: roy.harvey@lngcanada.ca

With a copy to:

LNG Canada Development Inc.
 400, 4th Avenue S.W.
 Calgary, Alberta T2P 2H5
 Attention: Legal Director
 Email: david.stanford@lngcanada.ca

to 0892818 at:

LNG Canada Development Inc.
 176 Ocelot Road
 PO Box 176

Kitimat, British Columbia V8C 2G7
 Attention: Kitimat Terminal Operations Manager
 Email: roy.harvey@lngcanada.ca

With a copy to:

LNG Canada Development Inc.
 400, 4th Avenue S.W.
 Calgary, Alberta T2P 2H5
 Attention: Legal Director
 Email: david.stanford@lngcanada.ca

or to any other address as may be designated in writing by the parties. Any such notice or other instrument will be conclusively deemed to have been given or made on the day upon which it is delivered or transmitted by electronic mail (unless the sender receives notice of a failure of transmission). Notice given by registered mail, if posted in British Columbia or Alberta, shall conclusively be deemed to have been received on the fifth (5th) business day following the date on which such notice is mailed. In the event of a postal strike, notice may only be given by personal delivery or electronic transmission.

14. ACKNOWLEDGEMENT

The Parties acknowledge and agree that:

- a. LNG Canada is entering into this Agreement on its own behalf and as agent for and on behalf of each of the Participants;

- b. the liability of the Participants under this Agreement is several and not joint nor joint and several;
- c. LNG Canada is entitled to enforce this Agreement on behalf of the Participants. For that purpose:
 - i. LNG Canada may commence proceedings in its own name to enforce all obligations and liabilities of the Grantor under this Agreement and to make any claim which any Participant may have against the Grantor; and
 - ii. LNG Canada shall use all commercially reasonable efforts to ensure that where it commences such proceedings against the Grantor, it shall consolidate the claims of the Participants so that it is not prosecuting similar claims separately on behalf of one or some Participants;
- d. the Grantor is entitled to enforce this Agreement against LNG Canada in LNG Canada's capacity as agent for each of the Participants; and
- e. all losses recoverable by LNG Canada pursuant to this Agreement or otherwise shall include its own losses and the losses of each of the Participants and its and their respective affiliates except that such losses shall be subject to the same limitations or exclusions of liability as are applicable to LNG Canada or the Grantor under this Agreement.

15. GENERAL

- 15.1. LNG Canada agrees that the Grantor, and any of its officers or employees, may but is not obligated to inspect the Road or Encroachment Area for the purpose of ascertaining compliance with this Agreement.
- 15.2. 0892818, and LNG Canada on behalf of 0892818, covenant and agree for themselves, their heirs, executors, successors and assigns, that they will at all times perform and observe the requirements and restrictions set out in this Agreement.
- 15.3. Nothing in this Agreement exempts 0892818 or LNG Canada from complying with all applicable laws, including all municipal bylaws, policies and regulations, or from obtaining all required permits and licenses relating to the use of the Road or the Encroachment Area.
- 15.4. The restrictions and requirements in this Agreement are covenants running with the Road and shall bind the Dominant Tenement and shall attach thereto and run with each and every part into which the same may be subdivided or consolidated.
- 15.5. LNG Canada agrees to execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this Agreement.
- 15.6. Nothing contained or implied in this Agreement:
 - a. prejudices or affects the rights, powers or discretion of the Grantor or the Approving Officer in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to the Road and the Encroachment Area as if the Agreement had not been executed and delivered by 0892818, and LNG Canada on behalf of 0892818;

- b. imposes any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement or the breach of any provision in this Agreement; or
 - c. imposes any public law duty, whether arising from the principles of procedural fairness or the rules of natural justice, on the Grantor or the Approving Officer with respect to its exercise of any right or remedy expressly provided in this Agreement or at law or in equity.
- 15.7. The Grantor may withhold development permits, building permits and other approvals related to the use, building or subdivision of land as necessary to ensure compliance with the covenants in this Agreement, and the issuance of a permit or approval does not act as a representation or warranty by the Grantor that the covenants of this Agreement have been satisfied.
- 15.8. No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity. Damages will be an inadequate remedy for the Grantor; the Grantor is entitled to an order for specific performance or a prohibitory or mandatory injunction in order to compel performance of the obligations of this Agreement.
- 15.9. If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 15.10. The parties agree that the relationship between LNG Canada and 0892818 does not, vis-à-vis the Grantor, create new causes of action or remedies as against the Grantor, nor does it restrict the Grantor's causes of action or remedies against the parties to this Agreement.
- 15.11. This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.
- 15.12. All grants, covenants, provisos and agreements, rights, powers, privileges and liabilities contained in this Agreement shall be read and held as made by and with, and granted to and imposed upon the respective parties hereto, and their respective administrators, successors and assigns, as if the words "administrators, successors and assigns" had been inscribed in all proper and necessary places.
- 15.13. Wherever the singular or masculine is used throughout this Agreement, the same shall be construed as meaning the plural or the feminine or body corporate where the context or the parties hereto so require.
- 15.14. Time shall be of the essence of this Agreement.

16. ROAD DEDICATION

0892818, and LNG Canada on behalf of 0892818, agree to take all steps within their reasonable control to rectify the historic oversight whereby a portion of Ocelot Way running parallel to the

northern property line of DL6004 was never dedicated as road, though it was maintained by the District as road and travelled upon by the public. Therefore, the parties agree as follows:

- a. 0892818, and LNG Canada on behalf of 0892818, will take all steps within their reasonable control to execute such documents as required and provide all other assurances necessary and within its reasonable control in order to dedicate as road (the "**Dedication**") those lands shown boldly outlined and labeled "Road" on Plan EPP67348, which was prepared by William J. Houghton, BCLS (the "**Dedication Plan**"), a copy of which is attached as Schedule "C";
- b. the Dedication Plan will be registered in the same Land Title Office package as this Agreement;
- c. as the Dedication is the rectification of a historic oversight, there will be no funds exchanged or adjustments made with respect to it; and
- d. the provisions of Sections 15.2, 15.3, and 15.5 to 15.14, inclusive, apply to the Dedication.

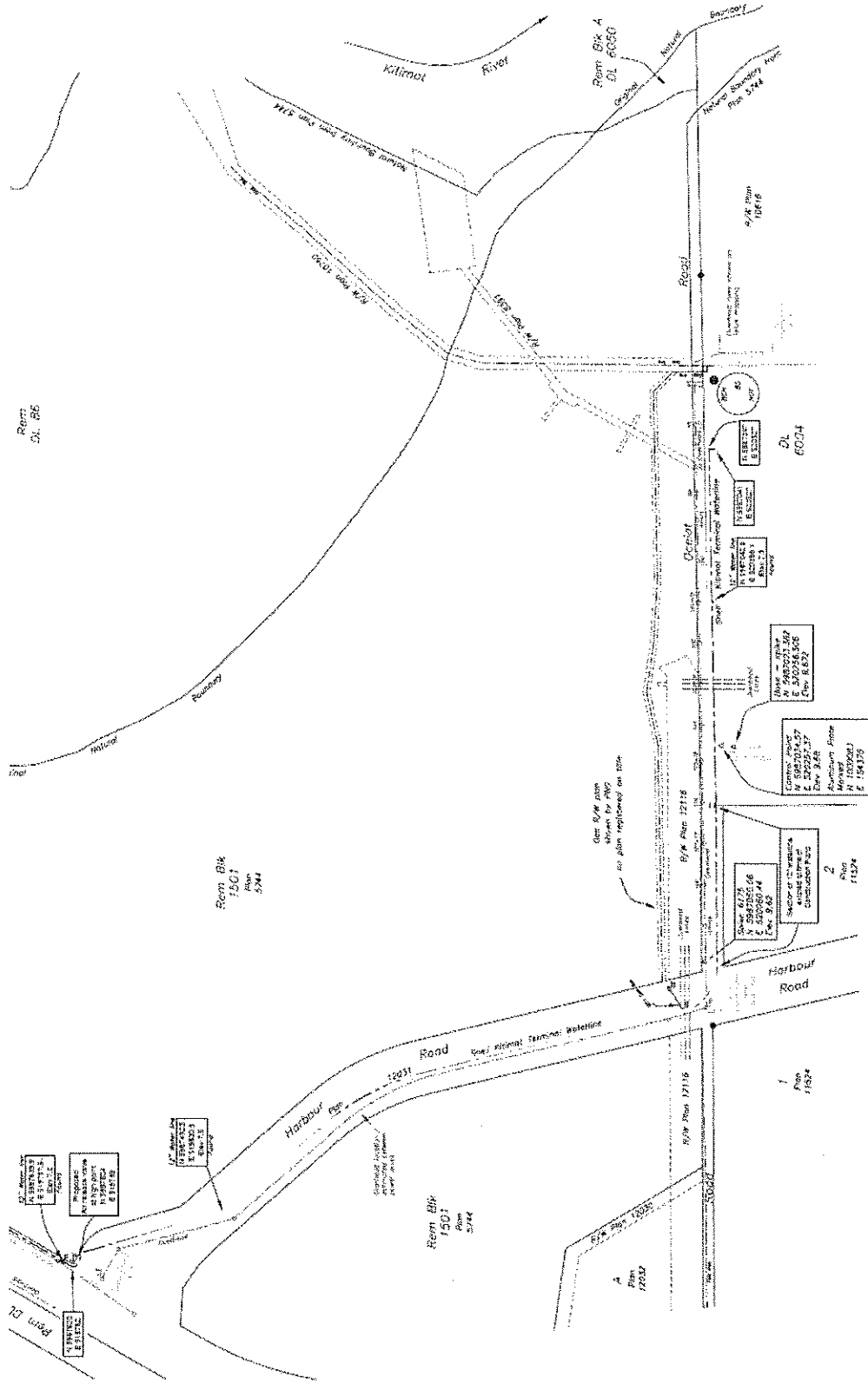
IN WITNESS WHEREOF the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 and 2) attached hereto.

[Remainder of Page Intentionally Blank]

SCHEDULE A

WORKS

Intersite Water Pipeline



Storm Sewer System

SKETCH SHOWING LOCATION OF
36" OUTFALL FROM OCELOT PLANT SITE
TO KITIMAT RIVER, D.L. 6004,
RANGE 5, COAST DISTRICT.

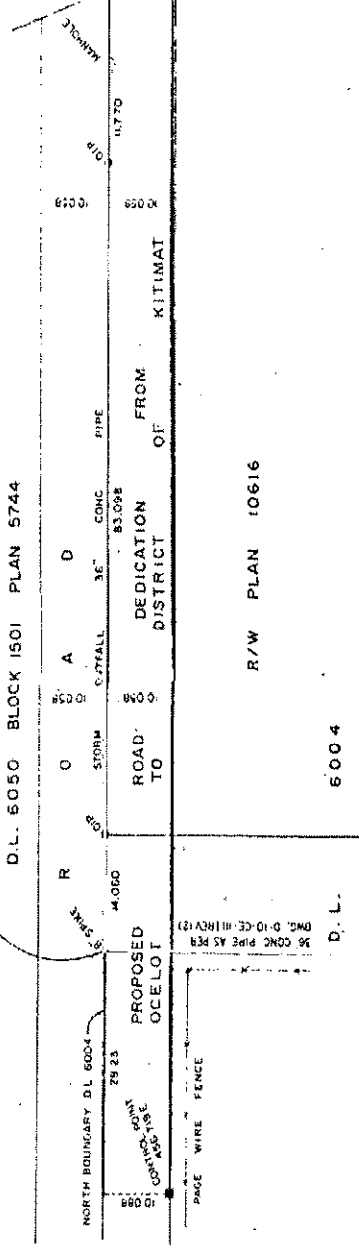
SCALE 1" = 500'

15 10 5 0 20 40 METRES
DISTANCES ARE IN METRES AND DECIMALS THEREOF.

THERE IS A MANHOLE APPROX. HERE AS PER DWG. D 10/CE-111 REV. 121
ENCOUNTERED A LARGE METAL PLATE 0.4 METRES UNDER ROAD
SURFACE. APPARENTLY PLACED OVER MANHOLE.

D.L. 6050 BLOCK 1501 PLAN 5744

KITIMAT RIVER



R/W PLAN 10616

6004

CERTIFIED CORRECT
THIS 18 DAY OF MARCH, 1983

A.S. OZZI *A.S. OZZI* B.C.L.S.

WELLMANN ASSOCIATES
PROFESSIONAL LAND SURVEYORS
5110 201 4630 LAKELANE AVE.
VANCOUVER, B.C. V6L 1S5
FILE D42702 B

