

OPERATING AGREEMENT

This Agreement is dated for reference January 20, 2005.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister responsible for the administration of the *Land Title and Survey Authority Act*, SBC 2004, c. 66, Parliament Buildings, Victoria, BC V8V 1X4

(the "Province")

AND:

LAND TITLE AND SURVEY AUTHORITY OF BRITISH COLUMBIA, incorporated pursuant to the *Land Title and Survey Authority Act*, SBC 2004, c. 66, and having its head office at 3rd Floor, 3400 Davidson Ave., Victoria, BC V8Z 3P8

(the "Authority")

WHEREAS:

- A. The Province wishes to enhance and improve efficiencies of the land title and survey systems in British Columbia, be responsive to the needs of landowners, businesses and other users of the land title and survey systems in British Columbia, and to promote a strong and sustainable British Columbia economy;
- B. The *Land Title and Survey Authority Act* establishes the Authority as an independent corporation without share capital which is not organized, and must not be operated, for profit and whose purposes include managing, operating and maintaining the land title and survey systems in British Columbia;
- C. The Authority will manage, operate and maintain the land title and survey systems in British Columbia and provide land title and survey services to the public, including the processing of Crown grants;
- D. The Authority will act to ensure that the amounts it may charge for its services will, at all times, be justifiable and reasonable; and
- E. The parties wish to enter into this Agreement for the purpose of establishing the rights and responsibilities of the parties and the terms and conditions for the Authority's management, operation and maintenance of the land title and survey systems in British Columbia.

NOW THEREFORE, the parties agree as follows:

ARTICLE 1 - DEFINITIONS

1.01 In this Agreement, unless the context otherwise requires, the following definitions apply:

“Act” means the *Land Title and Survey Authority Act*, SBC 2004, c. 66 and includes all regulations enacted under it;

“Adjusted CPI” means the result obtained, rounded to the nearest one-hundredth, or, if the result obtained is equidistant from 2 consecutive one-hundredths, to the higher one- hundredth, when

- (a) the CPI for the 12-month period that ends on November 30 of any year during the Term, is divided by
- (b) the CPI for the 12-month period that ended on November 30, 2004,

where the “CPI for any 12 month period” is the result arrived at by

- (c) aggregating the CPI for each month in that period,
- (d) dividing the aggregate obtained under paragraph (c) by 12, and
- (e) rounding the result obtained under paragraph (d) to the nearest one- hundredth or, if the result obtained is equidistant from 2 consecutive one- hundredths, to the higher one hundredth;

“Adjusted Fee” means a fee resulting from an adjustment to a Base Fee made in accordance with section 5.03(a);

“Administrator” means an administrator appointed under section 41 of the Act;

“Agreement” means this agreement and includes the recitals and the schedules to this agreement;

“Average Processing Time for Crown Grants” means the average time required, from the date complete instructions are received by the Authority in a form acceptable to the Authority, to produce and deliver the set consisting of the 95% of the Crown grants requested under the *Land Act* during a Fiscal Year that were produced and delivered in the shortest period of time;

“Average Processing Time for *Land Act* Surveys” means the average time required, from the date a completed survey plan is received by or on behalf of the Surveyor General, to certify or reject, as the case may be, the set consisting of the 95% of the survey plans of Crown land requested to be certified by or on

behalf of the Surveyor General under the *Land Act* during a Fiscal Year that were certified or rejected in the shortest period of time;

“Average Processing Time for *Land Title Act* Instruments” means the average time required, from the date application is made to the Registrar, to complete or defect, as the case may be, the registration of the set consisting of the 95% of the instruments tendered for registration under the *Land Title Act* during a Fiscal Year that were completed or defected in the shortest period of time;

“Base Fee” means, as applicable,

- (a) a fee described and set out in Column 2 of Part I of Schedule “A”;
or
- (b) a fee deemed to be a “Base Fee” under section 5.08(a);

“Cash Management Agreement” means the cash management agreement between the Province represented by the Minister of Provincial Revenue and the Minister and the Authority dated for reference January 20, 2005;

“Chief Executive Officer” means the chief executive officer as defined in the Act;

“Commencement Date” means January 20, 2005 or such other date as the parties agree upon in writing;

“Commissioner” means the commissioner referred to in sections 20 and 21 of the Act;

“Commissioner Adjusted Fee” means a fee resulting from an adjustment to a Base Fee or Adjusted Fee made in accordance with section 5.03(a)(ii);

“CPI” means the “Consumer Price Index” for British Columbia published by Statistics Canada;

“Event of Default” means an event described in section 8.01;

“Fiscal Year” means a period commencing on April 1st in any year and ending on March 31st in the subsequent year;

“Land Title and Survey Enactments” means

- (a) the *Land Title Act* and all regulations under that Act; and
- (b) those sections of any other enactment which
 - (i) contain powers or duties of the Authority, the Surveyor General or the Registrar;

- (ii) contain powers or duties of a minister which have been delegated to the Surveyor General, including without limitation those sections of enactments referred to in section 3.06, or
- (iii) without limiting subparagraph (i), provide for the registration or submission of any instrument to the Registrar or a land title office to be recorded in the register (as that term is defined in the *Land Title Act*) or for a matter dealing with the Surveyor General's responsibilities in respect of land surveys;

“Minister” means the minister responsible for the administration of the Act and the *Land Title Act*;

“Ministry” means the ministry of the Minister;

“record” means a “record” as defined in the *Interpretation Act*;

“Records of the Authority” means all records obtained or created by or for the Authority in managing, operating and maintaining the land title and survey systems of British Columbia and includes the Records of the Province after the ownership of such records has been transferred to the Authority in accordance with the Act and the *Land Title Act*;

“Records of the Province” means all records obtained or created by or for the Province in administering the land title and survey systems of British Columbia prior to the Commencement Date;

“Registrar” means the registrar as defined in the *Land Title Act*;

“Surveyor General” means the Surveyor General appointed under section 34(1) of the Act and includes the deputy Surveyor General, if any, appointed under section 34(2) of the Act;

“Term” means the period of time described in section 2.01 and includes any extension of that period under section 2.02;

“Termination Notice” means a notice in writing given by the Province to the Authority in accordance with section 8.03 and which sets out the date upon which this Agreement will terminate.

1.02 Words and phrases used in this Agreement and defined in the Act will be given the same meaning in this Agreement as they are given in the Act unless a contrary intention appears in this Agreement.

1.03 The schedules to this Agreement are:

Schedule "A" – Base Fees, Corresponding Statutory Fees and Fees Applicable to Delegated Functions

Schedule "B" – Business Interactions

Schedule "C" – Service Agreement and Service Obligations

Schedule "D" – Criteria for Commissioner's Decisions as to Fee Increases

Schedule "E" – Criteria for Appointing a Commissioner

Schedule "F" – Criteria for Commissioner's Decisions as to Charges to the Province or a Government Body

Schedule "G" – Base Fee Adjustments

ARTICLE 2 – TERM AND 10 YEAR REVIEWS

- 2.01 Notwithstanding the actual date of execution and delivery of this Agreement, the term of this Agreement commences at 12:01 a.m., local time, on the Commencement Date and ends at that same time on the 60th anniversary of that date, subject to the Term being extended under section 2.02.
- 2.02 Prior to the expiry of the Term the parties may agree in writing that the Term be extended for an additional 60 years commencing at 12:01 a.m., local time, on the 60th anniversary of the Commencement Date and ending at that same time on the 120th anniversary of that date.
- 2.03 On the 10th anniversary of the Commencement Date and on each successive 10th anniversary of that date, the parties will meet and review the Authority's obligations under sections 3.02(b), (c) and (d) and the sufficiency of revenues to the Authority from the Base Fees as adjusted in accordance with Article 5.
- 2.04 The parties will, in good faith, negotiate and attempt to conclude such amendments to this Agreement as the parties identify as being necessary as a result of each review conducted under section 2.03.

ARTICLE 3 – OBLIGATIONS OF THE PARTIES

- 3.01 The Province will provide reasonable notice to and consult with the Authority in respect of any changes to the Land Title and Survey Enactments that may impact the operations of the Authority in its ownership and operation of the land title and survey systems in British Columbia, and in particular the Province will make reasonable efforts to provide the Authority with not less than 60 days' notice prior to the effective date of any change to any statutory fee payable to the Province under the Land Title and Survey Enactments. The Province acknowledges that the Authority requires 60 days to implement a change to any

statutory fee payable to the Province and collected on its behalf by the Authority under the Land Title and Survey Enactments. The Authority will provide such assurances to the Province as the Province may reasonably require to maintain the confidentiality of information provided to the Authority under this section.

- 3.02 The Authority will operate the land title and survey systems in British Columbia:
- (a) in accordance with this Agreement, the Act and the Land Title and Survey Enactments;
 - (b) in a manner which ensures that the Average Processing Time for *Land Title Act* instruments does not exceed 6 business days over any Fiscal Year that commences on or after April 1, 2006;
 - (c) in a manner which ensures that the Average Processing Time for Crown Grants does not exceed 21 days over any Fiscal Year that commences on or after April 1, 2006; and
 - (d) in a manner which ensures that the Average Processing Time for *Land Act* Surveys does not exceed 21 business days over any Fiscal Year that commences on or after April 1, 2006.
- 3.03 Notwithstanding section 8.01, no Event of Default will be deemed to have occurred under subsection 3.02(b), (c) or (d) if, in respect of the 6 month period immediately following the Fiscal Year in which that event occurred, the Authority meets the standards established in the applicable subsection.
- 3.04 The Authority will manage the Records of the Authority in accordance with the Land Title and Survey Enactments and any other applicable enactments.
- 3.05 The parties will appoint an independent management consultant to conduct a performance review in relation to the performance of the parties under this Agreement in respect of each five year period that commences on or after the Commencement Date and the cost of each performance review will be shared equally by the parties. Either party may in accordance with section 4.01 publish the results of a performance review conducted under this section.
- 3.06 On the Commencement Date, the Minister will delegate to the Surveyor General the Minister's powers and duties under the following enactments:
- (a) sections 6(1) and (2), 52, 53, 58 and 103 of the *Land Act*;
 - (b) sections 108(3), 136(1) and (3), and 218(1)(d) and 219(3)(c) and (11)(b) of the *Land Title Act*; and
 - (c) section 9(1) of the *Ministry of Lands, Parks and Housing Act*.
- 3.07 The Authority will cause the Surveyor General, as agent for the Province, to collect on behalf of, and subject to section 3.08, pay to the Province, on a

monthly basis, the statutory fees payable to the Province under all powers and duties delegated by the Minister to the Surveyor General, including without limitation, those set out in Part II of Schedule "A".

- 3.08 The Authority may retain as a commission or fee for services performed the amount it is authorized by a Treasury Board regulation made under section 14(2) of the *Financial Administration Act* to retain from the statutory fees payable to the Province that are collected by the Surveyor General when acting as a delegate of the Minister.
- 3.09 The Province will indemnify and save harmless the Authority, the Surveyor General and all persons acting under the direction of either the Authority or the Surveyor General from all liabilities arising out of any act or omission of any of them when:
- (a) acting as an agent of the Province or the Minister under this Agreement, under section 109(2) of the *Land Act* or under any other enactment; or
 - (b) acting as a delegate of the Minister under any enactment, including without limitation those contemplated to be delegated to the Surveyor General by section 3.06.
- 3.10 Without limiting section 3.09, the Province will, at its expense, represent the Authority, the Surveyor General and all persons acting under the direction of either the Authority or the Surveyor General in all litigation arising from or in connection with any of them:
- (a) acting as an agent of the Province or the Minister under this Agreement, under section 109(2) of the *Land Act* or under any other enactment; or
 - (b) acting as a delegate of the Minister under any enactment, including without limitation those contemplated to be delegated to the Surveyor General by section 3.06.

ARTICLE 4 – COLLABORATIVE PROVISIONS

- 4.01 Any public announcement or communication made by a party relating to the execution of this Agreement, or to issues related to the Act must be arranged in consultation with the other party before the announcement or communication is made.
- 4.02 Each of the parties will designate a representative and an alternate who will be the primary contact for that party for all issues and communications related to this Agreement and the administration of the Act and the Land Title and Survey Enactments, and will keep the other party informed of the names of its representative and the alternate for that person.

- 4.03 The parties will maintain a collaborative working relationship in respect of the ongoing business interactions between the parties including, without limitation, those interactions referred to in Schedule "B".
- 4.04 The Authority will, assume and without charge perform all obligations in relation to the provision of Crown grant, Surveyor General and land title services specified
- (a) by the Province under the service agreement described in Part I of Schedule "C" (a copy of which is in the possession of both parties and which will be posted by the Ministry on its website), and
 - (b) in Part II of Schedule "C",
- to the same extent as though such obligations were enforceable covenants contained in contracts binding on the Authority until April 1, 2006, provided that:
- (c) the Authority may terminate its obligations under this section by entering into new agreements or arrangements in respect of such obligations with the entity benefiting from such obligations,
 - (d) if the Authority's obligations under this section are inconsistent or in conflict with its obligations under section 3.02(b), its obligations under section 3.02(b) prevail to the extent of the inconsistency or conflict,
 - (e) the obligations are related to specific transactions and not to a program change or shift in policy on the part of the entity benefiting from such obligations,
 - (f) the Authority is under no obligation to provide enhancements to the services provided by the Authority as of the Commencement Date in respect of such obligations, unless the Authority and the entity benefiting from such obligations agree as to the basis upon which such enhancements will be provided, and
 - (g) the Authority is under no obligation to accept additional demand on or to the services provided by the Authority as of the Commencement Date in respect of such obligations, unless the Authority and the entity benefiting from such obligations agree as to the basis upon which such additional demand will be accepted.

ARTICLE 5 – LAND TITLE AND SURVEY FEES AND OTHER FEES AND CHARGES

- 5.01 From and after the Commencement Date, the Authority:
- (a) may, in respect of services provided by the Authority, the Registrar or the Surveyor General under the Land Title and Survey Enactments, charge

and retain all revenue from the Base Fees and, as determined under this Article, from any Adjusted Fees and Commissioner Adjusted Fees; and

- (b) will publish, from time to time, the Base Fees and, as determined under this Article, any Adjusted Fees and Commissioner Adjusted Fees, by posting them in the land title offices, the office of the Surveyor General and on the Authority's website, if a website is then maintained by the Authority.
- 5.02 The Base Fees and, as determined under this Article, any Adjusted Fees and Commissioner Adjusted Fees, are in addition to, and not in substitution for, statutory fees payable to the Province under the Land Title and Survey Enactments and the total of the Base Fees payable to the Authority and the statutory fees payable to the Province under the *Land Title Act* as of the Commencement Date is set out in Column 4 of Schedule "A".
- 5.03 On the first day of each Fiscal Year of the Term, the Authority will determine the amount of each fee payable for a service described in section 5.01(a) during the Fiscal Year commencing on that day, provided that:
- (a) no such fee may exceed the greatest of
 - (i) the amount obtained by multiplying the Base Fee in respect of that service by the Adjusted CPI for the 12-month period that ends on November 30th of the previous Fiscal Year,
 - (ii) the amount of that fee, if any, authorized by the Commissioner under section 20 of the Act; and
 - (iii) the maximum amount, if any, permitted for the Base Fee under Schedule "G"; and
 - (b) the Authority will not be required to reduce a fee below the amount of the fee payable for that service during the previous Fiscal Year due to any decrease in the CPI over the 12-month period that ends on November 30th of the previous Fiscal Year.
- 5.04 On or before the first day of February of each year commencing in 2006, the Authority will, by written notice to the Province, advise the Province of:
- (a) the Adjusted CPI for the 12-month period that ends on the November 30th prior to that month of February; and
 - (b) the amounts of each Adjusted Fee and each Commissioner Adjusted Fee;

and the Authority may in that notice request the Province to advise the Authority, by written notice to the Authority, of the Province's intentions as to anticipated adjustments, if any, to the statutory fees payable to the Province under the Land

- Title and Survey Enactments, and the Province will respond to such request within 30 days of its receipt by the Province.
- 5.05 The Authority is not required to give notice under section 5.04 if no changes to the Base Fees, Adjusted Fees or Commissioner Adjusted Fees are to be implemented by the Authority in the ensuing Fiscal Year.
- 5.06 The Authority may charge fees or charges for business activities conducted by it that are not referred to in section 4.03, 4.04, 5.01(a) or 5.09.
- 5.07 The Authority may increase a fee or fees referred to in section 5.01 by a factor greater than that permitted under section 5.03 but only if the proposal for such an increase is first approved by the Commissioner in accordance with section 20 of the Act.
- 5.08 For purposes of determining the amount of a fee under this Article for a service described in section 5.01(a) in a Fiscal Year subsequent to a Fiscal Year in which a Commissioner Adjusted Fee for that service has been determined,
- (a) the Base Fee in respect of that service is deemed to have been increased to the amount of that Commissioner Adjusted Fee; and
 - (b) the definition of the “Adjusted CPI” applicable to that Base Fee is deemed to be amended by substituting the numeric value of the CPI for the 12-month period that ends on the November 30th which is prior to the first day of the Fiscal Year in which the Commissioner Adjusted Fee is to be implemented for “the CPI for the 12-month period that ended on November 30, 2004” where it appears in the definition.
- 5.09 If the Authority agrees to provide a service to the Province or a government body (as that term is defined in the *Financial Administration Act*), other than a service provided without charge under or in accordance with section 4.03 or 4.04 or a service referred to in section 5.01(a), but the Authority and the Province or the government body, as the case may be, are unable to agree as to the charge for the Authority providing that service, the charge may be determined by the Commissioner in accordance with section 21 of the Act.
- 5.10 The criteria for purposes of:
- (a) section 20(5) of the Act are set out in Schedule “D”;
 - (b) section 20(12) of the Act are set out in Schedule “E”; and
 - (c) section 21(4) of the Act are set out in Schedule “F”.
- 5.11 The Authority will make its own arrangements for those services required by it in addition to those described in Schedule “B”.

- 5.12 Despite any other provision in this Agreement, the Authority may in its sole discretion and at any time reduce all or any of the Base Fees, Adjusted Fees or Commissioner Adjusted Fees and the Authority will provide notice to the Province of such reductions.
- 5.13 The Authority agrees that the Province is exempt until April 1, 2006 from the payment of the Base Fees set out in Part I of Schedule "A" under the title "Service under the *Land Title Act*".
- 5.14 Under section 386(8)(a) of the *Land Title Act*, the Minister, being of the opinion that it is in the public interest to do so, exempts the Authority for the duration of the Term from the payment of all fees authorized under the *Land Title Act* which might otherwise be incurred by the Authority in the normal course of its business of managing and operating the land title and survey systems of British Columbia.
- 5.15 The parties agree that the provisions of Schedule "G" apply to the Base Fees referred to in that schedule.

ARTICLE 6 – PAYMENTS TO AND ON BEHALF OF THE PROVINCE

- 6.01 The Authority, as agent for the Province, will collect on behalf of and pay to the Province, on the first business day following collection, the statutory fees payable to the Province under the *Land Title Act* (which fees as of the Commencement Date are as set out in Column 3 of Part I of Schedule "A") where the Registrar or the Surveyor General is collecting a corresponding Base Fee or fee resulting from adjustments to the Base Fees under Article 5, except where such fees payable to the Province are collected by Access BC Information Services Ltd., Land and Water British Columbia Inc. or by the approving officers (as defined in the *Land Title Act*).
- 6.02 In operating the land title and survey systems in British Columbia and in its other operations, the Authority, as agent of the Province, will collect on behalf of, and subject to section 6.03, pay to the Province:
- (a) on the first business day following collection, taxes payable under the *Property Transfer Tax Act*, and
 - (b) at such times required by the *Social Service Tax Act* and regulations enacted under it, taxes payable under the *Social Services Tax Act*.
- 6.03 The Authority may set-off against payments required to be made by it under sections 6.01 and 6.02, but only in accordance with the Cash Management Agreement.
- 6.04 The Authority's obligation under section 6.02 to collect taxes payable under the *Property Transfer Tax Act* is subject to the administrative requirements for such collection remaining the same as, or diminishing in scope from, the level of such requirements in existence as of the Commencement Date.

- 6.05 Without limiting its obligations under section 25(1) of the Act, the Authority will maintain at a location or locations within British Columbia, proper and accurate books of account and records (including supporting documents) concerning all amounts it is required, or authorized, to collect, pay or set-off under sections 6.01, 6.02 or 6.03, as the case may be.
- 6.06 The Authority will, on reasonable notice from the Province and at reasonable times, provide the Province with free and unrestricted access to the books of account and records (including supporting documents) referred to in section 6.05 for any or all of the purposes of inspecting, copying or auditing the same.
- 6.07 Any inspection, copying or audit under section 6.06 must be:
- (a) limited to whether any terms and conditions applicable in respect of the collection, payment or setting-off under sections 6.01, 6.02 or 6.03, as the case may be, have been fulfilled; and
 - (b) paid for by the Province.

ARTICLE 7 – NOT FOR PROFIT AUTHORITY

- 7.01 Without limiting section 3.02(a), the Authority must operate in accordance with the Act, and in particular, must not be operated for profit.
- 7.02 The Authority must use all revenues earned by the Authority that are in excess of the operating expenses of the Authority to:
- (a) add to or improve services provided by the Authority in accordance with its purposes;
 - (b) fund or maintain reserves reasonably necessary for the sustainable conduct of the operations of the Authority;
 - (c) fund capital expenditures by the Authority;
 - (d) repay debt of the Authority; or
 - (e) reduce Base Fees and fees resulting from adjustments to Base Fees under Article 5.

ARTICLE 8 – EVENTS OF DEFAULT, REMEDIES AND TERMINATION OF THIS AGREEMENT

- 8.01 Subject to section 3.03 and Article 9, but notwithstanding any other provision of this Agreement, any of the following events will constitute an event of default

whether that event be voluntary, involuntary or result from the operation of law or any judgment or order of any court or tribunal of competent jurisdiction:

- (a) the Authority fails to observe, perform or comply with any material provision of Articles 3 to 7, inclusive, or 11 on the part of the Authority to be observed, performed or complied with;
- (b) any material information or report furnished or submitted by or on behalf of the Authority to the Province under or as a result of this Agreement or the Act was materially untrue or incorrect when provided;
- (c) a change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or operations of the Authority which materially adversely affects the ability of the Authority to fulfill any of its obligations under this Agreement, the Land Title and Survey Enactments or the Act;
- (d) the Authority becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (e) a bankruptcy petition is filed or presented against, or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by, the Authority;
- (f) the Authority ceases to carry on its operations as a going concern in a manner consistent with its obligations under section 3.02; or
- (g) if any action is taken to enforce any security interest, charge or encumbrance granted, created or issued by the Authority which materially affects the ability of the Authority to carry on its operations as a going concern.

8.02 If an Event of Default has occurred or is continuing the Province may, where the Event of Default is capable, in the reasonable opinion of the Province, of being remedied, give the Authority notice to remedy the default and the Authority will have such period of time as is set out in such notice, being not less than 60 days, in which to remedy the default or to make progress satisfactory to the Province toward remedying the default.

8.03 On the happening of an Event of Default which cannot be remedied or which has not been satisfactorily remedied in the time period specified by a notice delivered pursuant to section 8.02, or at any time thereafter, the Province may deliver written notice to the Authority specifying the Event of Default and the Province may, at its option, elect to do any one or more of the following:

- (a) pursue any remedy available to it at law or in equity;
- (b) require that the Event of Default be remedied within a further time period specified by the Province;

- (c) appoint an Administrator under Article 10;
 - (d) waive the Event of Default;
 - (e) terminate this Agreement, by delivering a Termination Notice to the Authority, subject to the expiration of any time period specified by a notice delivered pursuant to section 8.02 or subsection (b).
- 8.04 The rights, powers and remedies conferred on the Province under this Agreement are not intended to be exclusive and each will be cumulative and in addition to and not in substitution for every other right, power and remedy existing or available to the Province under this Agreement, any other agreement, at law or in equity and the exercise by the Province of any right, power or remedy will not preclude the simultaneous or later exercise by the Province of any other right, power or remedy.
- 8.05 No failure or delay on the part of the Province to complain of an act or failure of the Authority or to declare the Authority in default, irrespective of how long such act or failure to act continues, will constitute a waiver by the Province of its rights under this Agreement.
- 8.06 Except as provided for herein, this Agreement may be terminated only pursuant to an Act of the Legislature.
- 8.07 The parties agree to cooperate in effecting an orderly termination of this Agreement.

ARTICLE 9 – FORCE MAJEURE

- 9.01 For the purposes of this Agreement, an “Event of Force Majeure” includes, but is not limited to:
- (a) acts of God,
 - (b) changes in the laws of Canada or British Columbia,
 - (c) governmental restrictions or control on imports, exports or foreign exchange,
 - (d) wars (declared or undeclared),
 - (e) fires, floods, storms,
 - (f) freight embargoes,
 - (g) power failures,

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- (h) the failure by a party to perform an obligation under this Agreement or any other agreement or arrangement between the parties which prevents the other party from performing an obligation under this Agreement, and
- (i) any other cause beyond the reasonable control of a party,

provided always that lack of money, financing or credit will not be and will not be deemed to be an "Event of Force Majeure".

9.02 No party will be liable to another for any delay, interruption or failure in the performance of its obligations under this Agreement if caused by an Event of Force Majeure, in which case the time period for the performance or completion of any such obligation will be automatically extended for the duration of the Event of Force Majeure.

9.03 If an Event of Force Majeure occurs or is likely to occur, the party directly affected will notify the other party forthwith, and will use its reasonable efforts to remove, curtail or contain the Event of Force Majeure and to resume with the least possible delay compliance with its obligations under this Agreement, and the other party will use its reasonable efforts to remove, curtail or contain the Event of Force Majeure if the cause of the Event of Force Majeure is directly or indirectly within its control.

ARTICLE 10 - APPOINTMENT OF ADMINISTRATOR

10.01 At any time after the occurrence of an Event of Default which cannot be remedied or which has not been satisfactorily remedied in the time period specified by a notice delivered pursuant to section 8.02 or section 8.03(b), the Province may, in writing appoint an Administrator of the personal and real property of the Authority, and from time to time in its absolute discretion remove such Administrator and appoint another person instead and the Administrator may, in pursuance of the appointment and without limiting any power of the Administrator under the Act:

- (a) enter upon any premises of the Authority and take possession of the personal and real property of the Authority with power to exclude the Authority, its agents and employees from such property, without becoming liable as a mortgagee in possession;
- (b) preserve, protect and maintain the personal and real property of the Authority and make such replacements of such property and repairs and additions to such property as the Province may deem advisable;
- (c) sell, lease or otherwise dispose of all or any part of the personal or real property of the Authority, whether by public or private sale or lease or otherwise, in such manner, at such price as can be reasonably obtained for such property and on such terms as to credit and with such conditions of sale and stipulations as to title or conveyance or evidence of title or

otherwise as to the Province may seem reasonable, provided that if any sale is on credit, the Authority will not be entitled to be credited with the proceeds of any such sale, lease or other disposition until the monies for such property are actually received;

- (d) carry on, for any period of time, the operations of the Authority contemplated by this Agreement, the Land Title and Survey Enactments and the Act; and
- (e) from time to time to borrow money, either secured or unsecured.

10.02 Subject to the claims, if any, of the creditors of the Authority ranking in priority to the claims of the Province, all amounts realized from the disposition of personal or real property of the Authority pursuant to this Article will be applied as the Province, in its absolute discretion, may direct in payment of all costs, charges and expenses (including legal fees and disbursements on a solicitor and his own client basis) incurred by the Province in connection with or incidental to:

- (a) the exercise by the Province of all or any of the powers granted to it pursuant to this Article; and
- (b) the appointment of the Administrator and the exercise by the Administrator of all or any of the powers granted to it pursuant to an appointment under this Article or the Act.

ARTICLE 11 – INSURANCE

11.01 The Authority will, at its own expense, maintain with insurers licensed in British Columbia such insurance as would be maintained by a reasonable and prudent operator of any business similar to that of the Authority.

ARTICLE 12 – DISPUTE RESOLUTION

12.01 If there is a dispute between the parties under this Agreement, either party may by written notice to the other refer the dispute for resolution in the first instance to the Assistant Deputy Minister of the Ministry, on behalf of the Province, and to the Chief Executive Officer of the Authority, on behalf of the Authority, who will each use reasonable efforts to resolve the dispute within the period of 14 days following the date it was referred to them.

12.02 If a dispute between the parties under this Agreement is not resolved in accordance with section 12.01, the dispute will be referred by the parties to a single arbitrator and be finally resolved by arbitration administered by the British Columbia International Commercial Arbitration Centre in accordance with its Rules of Procedure for Domestic Commercial Arbitrations, as amended from time to time.

12.03 The place of arbitration will be Victoria, British Columbia.

12.04 The arbitration will be conducted in private and the parties will use their best efforts to keep confidential

- (a) all materials submitted,
- (b) all evidence tendered, and
- (c) the decision rendered by the arbitrator,

except where required by law or where the parties otherwise agree to waive such confidentiality.

ARTICLE 13 – PUBLIC DOCUMENT

13.01 Effective from and after the Commencement Date, this Agreement and any subsequent amendments to this Agreement will be public documents, copies of which may be disseminated by either party to any person and by any means.

ARTICLE 14 – MISCELLANEOUS

14.01 Neither party will, in any manner whatsoever, commit or purport to commit the other party to the payment of any money to any person.

14.02 No partnership, joint venture or agency will be created or deemed to be created by this Agreement or any action of the parties under this Agreement, except where the Authority collects moneys as agent of the Province.

14.03 The Authority will not, during the Term, perform a service or provide advice to any individual, corporation, firm, association or other legal entity where such activity will, in the reasonable opinion of the Province, prevent the Authority from fulfilling its obligations under this Agreement.

14.04 Any notice, document, statement, report, demand or payment desired or required to be given or made under this Agreement, must be in writing and may be given or made by personal delivery to the party to whom it is to be given or made, or by mailing in Canada with postage prepaid addressed,

if to the Province:

Ministry of Sustainable Resource Management
3rd Floor, 780 Blanshard St.
P.O. Box 9352, STN PROV GOVT
Victoria, BC V8W 9M1

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Attention: Assistant Deputy Minister, Land Information Services Division

and if to Authority:

Land Title and Survey Authority of British Columbia
3rd Floor, 3400 Davidson Ave.
Victoria, BC V8Z 3P8

Attention: Chief Executive Officer

and any such notice, document, statement, report, demand or payment so mailed will be deemed given to and received by the addressee on the third business day after the mailing of the same except in the event of disruption of postal services in Canada in which case any such notice, document, statement, report, demand or payment will be deemed given to and received by the addressee when actually delivered to the address of the addressee set out above.

14.05 In addition to section 14.04, any notice, report, document, statement or demand transmitted by facsimile transmission from either party to the other will be conclusively deemed validly given to and received by the intended recipient when so transmitted to the following numbers:

if to the Province: (250) 356-5797

if to the Authority: (250) 387-1830

14.06 Either party may, from time to time, advise the other by notice in writing of any change of address or facsimile number of the party giving such notice and from and after the giving of such notice, the address or facsimile number specified in the notice will, for the purposes of this Agreement, be deemed to be the address or facsimile of the party giving such notice.

14.07 A reference in this Agreement:

(a) to a statute whether or not that statute has been defined, means a statute of the Province of British Columbia unless otherwise stated and includes every amendment to it, every regulation made under it and any enactment enacted in substitution for or replacement of it; and

(b) to any other agreement between the parties means that the other agreement as it may be amended from time to time by the parties.

14.08 Unless the context otherwise requires, any reference to "this Agreement" means this instrument and its schedules and any reference to any section or subsection by number is a reference to the appropriate section or subsection in this Agreement.

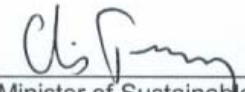
- 14.09 The headings or captions in this Agreement are inserted for convenience only and do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement.
- 14.10 In this Agreement, "person" includes an individual, corporation, firm, association and any other legal entity where the context or the parties so require.
- 14.11 Each schedule attached to this Agreement is an integral part of this Agreement as if set out at length in the body of this Agreement.
- 14.12 Each of the parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better or more perfect and absolute performance of the terms and conditions of this Agreement.
- 14.13 If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired thereby and will be valid and enforceable to the extent permitted by law.
- 14.14 This Agreement enures to the benefit of and is binding upon the parties and their respective successors and permitted assigns.
- 14.15 Neither party may assign this Agreement without the prior consent of the other party.
- 14.16 All dollar amounts expressed in this Agreement refer to lawful currency of Canada.
- 14.17 No waiver by a party of a default by the other party in the observance, performance or compliance of any of the other party's obligations under this Agreement will be effective unless it is in writing and no such waiver will be deemed or construed to be a waiver of any other default and failure or delay on the part of a party to complain of an act or failure of the other party or to declare such other party in default, irrespective of how long such failure or delay continues, will not constitute a waiver by such party of any of its rights against the other party.
- 14.18 Time is of the essence of this Agreement.
- 14.19 This Agreement is governed by and will be construed and interpreted in accordance with the laws of the Province of British Columbia.
- 14.20 In this Agreement, words in the singular include the plural, and words in the plural include the singular, unless the context otherwise requires.

This Agreement has been executed by the parties as of the date first written above.

SIGNED on behalf of **HER MAJESTY**)
THE QUEEN IN RIGHT OF THE)
PROVINCE OF BRITISH)
COLUMBIA by the Minister of)
Sustainable Resource Management)
or a duly authorized representative)
of the Minister in the presence of:)



(Witness)




Minister of Sustainable Resource
Management or Authorized Representative

SIGNED on behalf of the **LAND**)
TITLE AND SURVEY AUTHORITY)
OF BRITISH COLUMBIA by a duly)
authorized signatory in the)
presence of:)



(Witness)



Authorized Signatory of Land Title and
Survey Authority of British Columbia

SCHEDULE "A"

**BASE FEES, CORRESPONDING STATUTORY FEES
AND FEES APPLICABLE TO DELEGATED FUNCTIONS**

Part I

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
1. Indefeasible Title To register an indefeasible title, except for item 4 (b)			
(a) if the application is submitted electronically	\$23.52 for each indefeasible title registered	\$39.73 for each indefeasible title registered	\$63.25*
(b) if the application is submitted in any other manner	\$23.52 for each indefeasible title registered	\$41.23 for each indefeasible title registered	\$64.75
2. Charges Subject to item 3, to register any right, notice, claim, estate or interest as a charge or in the same manner as a charge, and to register a transfer, transmission, modification, extension, renewal or postponement of a charge as if it were a charge			
(a) if the application is submitted electronically	\$23.52 for each charge registered regardless of the number of indefeasible titles affected	\$39.73 for each charge registered regardless of the number of indefeasible titles affected	\$63.25*
(b) if the application is submitted in any other manner	\$23.52 for each charge registered regardless of the number of indefeasible titles affected	\$41.23 for each charge registered regardless of the number of indefeasible titles affected	\$64.75

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
3. Despite item 2, to register			
(a) a caveat, certificate of judgment or certificate of pending litigation	\$8.37	\$18.63	\$27
(b) a claim of builders lien	\$1.55 for each indefeasible parcel affected by the claim or endorsed by it	\$3.45 for each indefeasible parcel affected by the claim or endorsed by it	\$5
(c) a maintenance order within the meaning of the <i>Family Relations Act</i> or the <i>Family Maintenance Enforcement Act</i> , or certificate of pending litigation under the <i>Builders Lien Act</i>	Nil	Nil	Nil
4. <u>General Filing, Amendment or Change</u> To file			
(a) any instrument, document, notice or plan required not otherwise provided for in this Schedule or another enactment, including an amendment to the register, an instrument or a plan	\$6.66	\$14.84	\$21.50
(b) a change of name under section 191 (1) or (2) for an indefeasible title, or section 191 (3) for a charge	\$6.66 for each indefeasible title registered, or each charge regardless of the number of indefeasible titles affected by the charge	\$14.84 for each indefeasible title registered, or each charge regardless of the number of indefeasible titles affected by the charge	\$21.50
(c) a notice of tax sale under section 272 or a notice of redemption under section 273	\$3.10	\$6.90	\$10
(d) a change of address	Nil	Nil	Nil

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
5. <u>Cancellation of a Charge</u> To register a cancellation or discharge of			
(a) a registered charge, or any right, claim, notice or interest that was registered in the same manner as a charge			
(i) if the application is submitted electronically	\$8.37 for each charge cancelled or discharged, regardless of the number of indefeasible titles affected by the charge	\$17.13 for each charge cancelled or discharged, regardless of the number of indefeasible titles affected by the charge	\$25.50*
ii) if the application is submitted in any other manner	\$8.37 for each charge cancelled or discharged, regardless of the number of indefeasible titles affected by the charge	\$18.63 for each charge cancelled or discharged, regardless of the number of indefeasible titles affected by the charge	\$27.00
(b) a claim of builders lien, a maintenance order under item 3 (c), a merger of a charge or a charge derived from or dependent on another charge which has been cancelled	Nil	Nil	Nil
6. <u>Cancellation of Lease on Breach of Covenant</u>			
To file an application to cancel, to hold a hearing under section 247 and to register any order of the registrar	\$21.70	\$48.30	\$70
7. <u>Plans</u> To file or deposit			
(a) a reference, explanatory, subdivision or strata plan (including the Schedules of Unit Entitlement and Voting Rights and the Strata Corporation Mailing Address)	\$16.74	\$37.26	\$54
(b) any other plan not otherwise provided for in this Schedule	\$16.74	\$37.26	\$54
(c) a bylaw plan	\$6.20	\$13.80	\$20

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
<u>8. Cancellation of Plans</u> To			
(a) file a petition under section 123, serve a petition under section 125, and prepare and register a registrar's order under section 134	\$31	\$69	\$100
(b) hear an application under section 129	\$31	\$69	\$100
<u>9. Cancellation of Interior Lot Lines</u>			
For all matters in connection with cancellation of interior lot lines under section 137, including the registration of any indefeasible title in consequence of the cancellation	\$31	\$69	\$100
<u>10. Withdrawal of a Pending Application</u>			
To withdraw a pending application	Lesser of the fee for the pending application or \$9.30	Lesser of the fee for the pending application or \$20.70	Lesser of the total fees for the pending application or \$30.00
<u>11. Refusal of Registration</u> For each			
(a) refusal notice provided under section 308 (1)	Lesser of the fee for the pending application or \$9.30	Lesser of the fee for the pending application or \$20.70	Lesser of the total fees for the pending application or \$30.00
(b) cancellation of an application, under section 308 (3), consequent upon the expiration of the 21 day period under section 308 (2)	Lesser of the fee for the pending application net of the amount paid under paragraph (a) or \$9.30	Lesser of the fee for the pending application net of the amount paid under paragraph (a) or \$20.70	Lesser of the total fees for the pending application net of the total fees paid under paragraphs (a) of item 11 of the Authority's fee bylaw and of item 11(a) of the <i>Land Title Act</i> schedule or \$30.00

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
<u>12. Certificates</u> To make, provide or issue			
(a) a Duplicate Indefeasible Title under section 176, or a Provisional Indefeasible Title under section 193	\$15.50	\$34.50	\$50
(b) a state of title certificate requested electronically from a location outside a land title office or government office	\$3.25	\$5.75	\$9*
(c) a state of title certificate requested over the counter at a land title office or government office	\$3.87	\$8.63	\$12.50
(d) any other certificate not otherwise provided for in this Schedule	\$3.87	\$8.63	\$12.50
<u>13. Certification</u>			
To certify a copy of the register or other record, instrument, cancelled title, plan, abstract of a title, power of attorney or any copy that satisfies section 38 (4), (5) or (6)	\$3.50 plus the applicable search and copy fees payable under this bylaw	\$7.50 plus the applicable search and copy fees payable under this Act	\$11 plus the applicable search and copy fees payable under the Authority's bylaws and under the <i>Land Title Act</i>
<u>14. Plan Copies</u> To make, provide, receive or copy a plan, including an imaged or microfilmed plan, if the matter is requested, performed, made or obtained			
(a) at a land title office or government office by a person who is not for that purpose acting under the direction of the registrar or a government employee	\$2.48 for each sheet of pre-cut paper \$2.48 per linear metre or part of roll paper \$2.48 per aperture card for microfiche	\$5.52	\$8 for each sheet of pre-cut paper \$8 per linear metre or part of roll paper \$8 per aperture card for microfiche

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
(b) at a land title office or government office by a person who is for that purpose acting under the direction of the registrar or a government employee	\$2.79 for each sheet of pre-cut paper \$2.79 per linear metre or part of roll paper \$2.79 per aperture card for microfiche a \$5 mailing fee will be added for each request made under item (b) that has to be mailed	\$6.21	\$9 for each sheet of pre-cut paper \$9 per linear metre or part of roll paper \$9 per aperture card for microfiche a \$5 mailing fee will be added for each request made under item (b) that has to be mailed
(c) electronically from the computer system and delivered to the customer's personal computer	\$3.87	\$7.13	\$11.50*

<u>15. Title Search and Copy Computer Assisted</u> For a search, copy or both if the matter is requested, performed, made or obtained			
(a) by electronic means from a location outside a land title office or government office	\$2.48	\$4.02	\$6.50*
(b) at a land title office or government office by a person who is not, for that purpose, acting under the direction of the registrar or a government employee	\$1.79	\$5.71	\$7.50
(c) at a land title office or government office by a person who is, for that purpose, acting under the direction of the registrar or a government employee	\$2.94	\$6.56	\$9.50
<u>16. Title Search and Copy Non-Computer Assisted</u> For a search, copy or both if the matter is requested, performed, made or obtained at a land title office or government office			
(a) by a person who is not, for that purpose, acting under the direction of the registrar or a government employee	\$1.55	\$3.45	\$5

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
(b) by a person who is, for that purpose, acting under the direction of the registrar or a government employee	\$3.10 including a copy of the title searched; and if the person attending at the land title office is an owner of the land described in the title, a copy of each document referred to in the title searched	\$6.90 including a copy of the title searched; and if the person attending at the land title office is an owner of the land described in the title, a copy of each document referred to in the title searched	\$10 including a copy of the title searched; and if the person attending at the land title office is an owner of the land described in the title, a copy of each document referred to in the title searched

<u>17. Imaged Records</u> To make, view, obtain or copy all or part of an imaged instrument or document other than a plan			
(a) by electronic means by a non-government employee	\$3.87	\$7.13	\$11*
(b) at a land title office or government office by a person who is, for that purpose, acting under the direction of the registrar or a government employee	\$4.03	\$8.97	\$13
(c) electronically from the computer system and printed at the customer's fax machine or delivered to the customer's personal computer	\$3.41	\$7.59	\$11*
<u>18. Index Search and Copy</u> For each search, copy or both copy of an index for a Strata Plan, Power of Attorney, General Filing, Standard Mortgage Terms or Standard Charge Terms requested			
(a) electronically from a location outside a land title office or government office	\$1.08	\$0.92	\$2*
(b) over the counter at a land title office or government office	\$1.24	\$2.76	\$4
<u>19. Name Search</u> For each name search requested			
(a) electronically from a location outside a land title office or government office	\$1.08	\$0.92	\$2*
(b) over the counter at a land title office or government office	\$1.24	\$2.76	\$4

Column 1 Service under the <i>Land Title Act</i>	Column 2 Base Fee payable to the Authority	Column 3 Statutory Fee from Schedule to <i>Land Title Act</i> payable to the Province (collected by the Authority for the Province)	Column 4 Total Fees Payable
<u>20. Paper Records</u>			
To make, provide or copy an instrument or document not stored electronically or not otherwise provided for in this Schedule	\$0.31 per page	\$0.69 per page	\$1 per page
<u>21. Documents requested through Canada Post</u>			
To make, provide or copy, at a land title office or government office by a person who is for that purpose acting under the direction of the registrar or a government employee, each instrument or document that has been requested by regular mail through Canada Post	\$3.10	\$6.90	\$10
<u>22. Approval of Subdivision Plans</u>			
For examination and approval by an approving officer of a subdivision plan tendered under section 83	Nil	\$50 plus, if the subdivision plan covers land in unorganized territory, \$100 for each parcel within the subdivision	\$50 plus, if the subdivision plan covers land in unorganized territory, \$100 for each parcel within the subdivision
<u>23. Block Outline Survey</u>			
For an application for a block outline posting under section 69 (3)	\$6.88 per lot to a maximum of \$68.80	\$18.12 per lot to a maximum of \$181.20	
<u>24. Plans Bordering Crown Land or Water</u>			
For application for endorsement of a certificate under			
(a) section 94 (1) (c)	\$155	\$345	\$500
(b) section 94 (1) (d)	\$77.50	\$172.50	\$250
(c) section 118 (1)	\$77.50	\$172.50	\$250
<u>25. E&N Railway Company Grant</u>			
For approval of an explanatory plan of block or lot under section 70 (3)	\$77.50	\$172.50	\$250

* The operator of BC OnLine may charge a transaction fee (and GST on the transaction fee) in addition to the amount set out.

Column 1 Service under the <i>Land Act</i>	Column 2 Base Fee payable to the Authority
1. Preparation by the Surveyor General, or persons acting under the Surveyor General's direction, of a certified true copy of any legal document, including a survey plan.	\$50
2. Extracting, reviewing, researching or compiling information from records of the Land Title and Survey Authority of British Columbia other than "records" as defined in the <i>Land Title Act</i> in addition to any fees under items 3 and 4 of this Schedule	\$50 for each hour with a \$25 minimum fee
3. Photocopying information from records of the Land Title and Survey Authority of British Columbia other than maps and "records" as defined in the <i>Land Title Act</i>	\$15 plus \$0.25 for each page for requests of more than 60 pages
4. Copying or printing of maps by the Land Title and Survey Authority of British Columbia	\$10 each copy
5. Issuance by the Surveyor General, or persons acting under the Surveyor General's direction, of survey instructions and for the final plan examinations by the Surveyor General, or persons acting under the Surveyor General's direction, of survey plans of Crown land, including without limitation easements or statutory rights of way less than 25 km in length and plans under sections 72 and 79	\$300
6. Issuance by the Surveyor General, or persons acting under the Surveyor General's direction, of survey instructions and for the final plan examinations by the Surveyor General, or persons acting under the Surveyor General's direction, of survey plans of easements or statutory rights of way over Crown land which are 25 km long or longer	\$50 per hour, with a minimum \$50 fee
7. Conduct of survey research by the Surveyor General, or persons acting under the Surveyor General's direction in addition to any fees under items 3 and 4 of this Schedule	\$50 per hour, with a minimum \$50 fee

Column 1 Service under the <i>Mineral Tenure Act</i>	Column 2 Base Fee payable to the Authority
Survey Plan approval by Surveyor General under ss. 42, 44 and 53 of <i>Mineral Tenure Act</i> ; fee set under s. 64(3)(c) of the <i>Mineral Tenure Act</i>	\$100.00 per unit with a \$500.00 minimum fee

Part II

Column 1 Delegated Power	Column 2 Statutory Fee
Section 58 of the <i>Land Act</i>	\$500, payable under Item 1 of section 2 of the <i>Land Act Fees Regulation</i>
Section 108(5) of the <i>Land Title Act</i>	\$500, payable under section 2 of the <i>Land Title Act Regulation</i>

SCHEDULE “B”

BUSINESS INTERACTIONS

The following business interactions are now in place between the Ministry of Sustainable Resource Management (the “Ministry”) and the component business sections of the Land Title and Survey Authority of British Columbia (the “Authority”). It is intended that these exchanges of services will continue without alteration or charge during the Term.

DATA:

The Authority

- will not recommend any change to the Province’s status as a “Fee – exempt Customer” under the Province’s BC OnLine Operating Agreement (dated April 8, 1999, as amended) insofar as the Province is exempt from the payment of fees to itself under the *Land Title Act* until April 1, 2006
- will not recommend any change to the direct access rights of the British Columbia Assessment Authority recognized in paragraph 3(k) of Schedule B of the Province’s BC OnLine Operating Agreement (dated April 8, 1999, as amended)
- will continue to provide data to the Integrated Land and Resource Registry (Ministry)
- will continue the daily downloads of PID data to Base Mapping and Geomatic Services Branch (Ministry)

Surveyor General Branch (Authority)

- will continue to provide hard copies of confirmed official plans for Crown Lands to the Registries Department (Ministry)
- including the Crown Grant Unit of that branch, will continue to provide data input into TANTALIS
- will continue to upload images of field notes, survey plans and Crown grant information into ATLAS for ultimate linkage to TANTALIS

SERVICES:

Surveyor General Branch (Authority)

- will continue to provide professional advice and collaboration on the development of the Common Cadastral Fabric and on the Integrated Cadastral Fabric initiative
- will continue to receive professional advice from the Base Mapping and Geomatic Services Branch (Ministry) on geo-spatial reference and mapping matters
- will continue to participate in the Ministry Data Custodian Council with respect to its business ownership of interests in TANTALIS

- will continue to collaborate on the development process with respect to the Integrated Land and Resource Registry (Ministry)
- will continue to receive advice from the Information Management Branch (Ministry) in the form of a business analyst, business history, IM/IT architecture and standards

SYSTEMS:

The Authority

- will continue to provide Land Title PID information in support of the automated system maintained by Land and Water British Columbia Inc. with respect to subdivisions

Surveyor General Branch (Authority)

- will continue the collaborative relationship on the development of the Digital Survey Plan project with the Information Management Branch and Base Mapping and Geomatic Services Branch, both of the Ministry. This project will support the delivery of electronic plans and is being developed in a manner that recognizes the business needs of all participants.
- will continue to collaborate on the development of the Integrated Land and Resource Registry
- as owner of Online Cadastre, will maintain and fund enhancements for this application and the Ministry will have unrestricted access to it

The Crown Grant Unit (Authority)

- will continue to upload Crown grant information into ATLAS for ultimate linkage to TANTALIS

The Ministry will

- through the Information Management Branch (Ministry) continue to host the Online Cadastre application and provide the Authority with access for it to the Land and Resource Data Warehouse;
- through the Information Management Branch (Ministry) continue to host the ATLAS application and maintain the linkage to TANTALIS for the Authority
- through the Registries Department (Ministry), maintain and provide ongoing support to the ATLAS application to facilitate the Authority's access to that application
- through the Base Mapping and Geomatic Services Branch (Ministry) continue to provide the Authority with access to MASCOT for internal purposes
- through the Base Mapping and Geomatic Services Branch (Ministry) consult with the Surveyor General Branch (Authority) with respect to any datum shifts or coordinate adjustments of monuments in Integrated Survey Areas

- through the Registries Department and the Information Management Branch (Ministry) continue to provide the Authority with unrestricted access to TANTALIS

SCHEDULE “C”

SERVICE AGREEMENT AND SERVICE OBLIGATIONS

Part I

Service Agreement between the Ministry as Service Provider and Land and Water British Columbia Inc. as Client (version identified in document footer as “Final, November 1, 2004);

Part II

1. The Authority will cause the Surveyor General or staff for whom the Surveyor General is responsible to provide the following services, without charge, to the Treaty Negotiation Office of the Ministry of Attorney General:

- (a) advice and direction on legal survey matters;
- (b) direction with regard to preparing mapping for treaty settlement lands so as to ensure clear and unambiguous descriptions of such lands;
- (c) contract management of a contractor engaged to research survey and title records to determine ownership or administration of land;
- (d) contract management of a contractor engaged to provide quality control of mapping of treaty settlement lands,
- (e) contract management of a contractor engaged to manage surveys of treaty settlement lands and to perform plan review processes of the plans prepared.

2. The Province will make all payments required to be made under the contracts for the contractor referred to paragraphs 1(c), (d) and (e) above.

SCHEDULE “D”

CRITERIA FOR COMMISSIONER’S DECISIONS AS TO FEE INCREASES

- The increase in fee or new fee established must be consistent with the not for profit nature of the Authority;
- The increase in fee or new fee established must relate to
 - the actual cost of service for the particular activity or set of activities,
 - take into account direct and indirect costs of the Authority, including without limitation, contingency and insurance requirements, and
 - users’ needs for efficient services;
- The increase in fee or new fee established should be consistent with general economic conditions in the province and therefore be consistent with the ability of users of the land title and survey systems to pay for services rendered;
- The decision of the Commissioner must be made in a timely manner, having regard to the Authority’s obligations under sections 5.03 and 5.04 of this Agreement; and
- The decision of the Commissioner must be made public by the Commissioner.

SCHEDULE “E”

CRITERIA FOR APPOINTING A COMMISSIONER

- The Commissioner must not be
 - an elected official or employee of the Province;
 - a director, officer or employee of the Authority; or
 - an elected official, employee or member of a stakeholder entity (as that term is defined in the Act);
- The Commissioner must have demonstrated financial expertise;
- The Commissioner must have a good understanding of fee for service arrangements; and
- The Commissioner must be independent and fair-minded and be seen as such.

SCHEDULE “F”

CRITERIA FOR COMMISSIONER’S DECISIONS AS TO CHARGES TO THE PROVINCE OR A GOVERNMENT BODY

- The increase in a charge or a new charge established must be consistent with the not for profit nature of the Authority;
- The increase in a charge or a new charge established must relate to
 - the actual cost of service for the particular activity or set of activities,
 - take into account direct and indirect costs of the Authority, including without limitation, contingency and insurance requirements, and
 - the government’s or the government body’s need for efficient services;
- The Commissioner must consider whether there is a current charge for the service, and if there is, the amount of that charge; and
- The decision of the Commissioner must be made in a timely manner having regard to the needs of the Authority and the government or government body concerned.

SCHEDULE "G"

BASE FEE ADJUSTMENTS

- 1.1 The Province acknowledges that the Base Fees set out in Column 2 of Part I of Schedule "A" in respect of items 15(b) and 23 under the title "Service under the *Land Title Act*" are set at amounts which need to be corrected and the Authority has as of the Commencement Date agreed to set such fees at the amounts set out in that schedule in order to keep the fees set out in Column 4 of that schedule at the same amounts as were levied for those services immediately prior to the Commencement Date.
- 1.2 Despite section 1.1 of this schedule and Article 5, the Province acknowledges that the Authority may by notice to the Province (and without reference to or approval of the Commissioner) increase the Base Fees in respect of the items referred to in section 1.1 of this schedule as follows:
- (a) item 15(b) from "\$1.79" to "\$2.79"; and
 - (b) item 23 from "\$6.88 per lot to a maximum of \$68.80" to "\$7.75 per lot to a maximum of \$77.50";
- provided that such notice may be given only after the earlier of:
- (c) the effective day of any reduction in Base Fees under section 1.4 of this schedule; or
 - (d) the second anniversary of the Commencement Date.
- 1.3 The Authority acknowledges that all of the Base Fees set out in Column 2 of Part I of Schedule "A" under the title "Service under the *Land Act*" are Base Fees that:
- (a) are set at amounts which are greater than those originally intended by the parties and that the Province has agreed to the amounts of those Base Fees in order to keep the fees for those services at the same amounts as were levied immediately prior to the Commencement Date; and
 - (b) will not during the first two years of the Term be increased under Article 5 either through the application of the formula set out in section 5.03(a)(i) or through approval from the Commissioner.
- 1.4 Despite Article 5, the Authority acknowledges that the Province may on 60 days' notice to the Authority require the Authority to reduce each Base Fee referred to in section 1.3 of this schedule to an amount equal to the product obtained when 31% of the amount set out in Schedule "A" for that Base Fee is multiplied by the Adjusted CPI as of the date of the notice, provided that:

- (a) such notice may be given only if the Province has enacted, and will bring into force concurrently with the reduction in the Base Fees, legislation under which it will charge a corresponding statutory fee in respect of the amount by which that Base Fee has been reduced; and
- (b) section 1.3 of this schedule will no longer apply after the Base Fees referred to in that section have been reduced as contemplated by this section.