



Indian and Northern Affairs Canada
Application for Registration

Affaires indiennes et du Nord Canada
Demande d'enregistrement

Send Two Copies to:

Indian and Northern Affairs
Indian Lands Registry
Terrasses de la Chaudiere
Ottawa, Ontario K1A 0H4
Attention: Registrar of Indian Lands

Envoyer deux copies à:

Affaires indiennes et du Nord Canada
Registre des terres indiennes
Terrasses de la Chaudiere
Ottawa, Ontario K1A 0H4
Attention: Le registraire des terres indiennes

N.B. Applicants should check with the First Nation to ensure that the document accompanying this application complies with the laws and policies of the First Nation before submitting this application. Please submit documents in the order that they are to be registered/recorded, if other related applications and documents are being submitted.

N.B. Avant de soumettre leur demande, les demandeurs devraient vérifier auprès de la Première nation que le document qui l'accompagne respecte les lois et politiques de cette dernière. Si d'autres demandes et documents sont également soumis, veuillez respecter l'ordre dans lequel ils ont été.

<u>Registration # /</u> <u># au registre</u>	<u>Received Date /</u> <u>Date au registre</u>	<u>Regional File # / # de dossier régional</u>
5015353	2011/12/06	2011-1010

NAME OF PARTIES TO INSTRUMENT / NOM DES PARTIES DU DOCUMENT	
Grantor / Cédant	
<u>Name / Nom</u>	
601 - Westbank First Nation	
Grantee / Cessionnaire	
<u>Name / Nom</u>	
WFN DEVELOPMENT LIMITED PARTNERSHIP BY ITS GENERAL PARTNER WESTBANK FIRST NATION DEVELOPMENT CO. LTD.	

Instrument Type / Type de document:	Assignment 003
Instrument Date / Date du document:	2011/12/05
FN/SG Land Code / Code foncier AG/PN:	108.4
Purpose / Objet:	
Remarks / Remarques:	DOCUMENT ALSO INCLUDES MODIFICATION OF LEASE UNDER SECTION 106.1 OF THE WFN LAND RULES WITH REGARD TO HEAD LEASES 46827, 203458 AND 203103

LAND DESCRIPTION / DESCRIPTION DE LA TERRE	
Province:	BRITISH COLUMBIA
Reserve Name / Nom de la réserve:	07421 - TSINSTIKEPTUM 10
Legal Description - Land Affected / Description Légal - Terre:	LOT A Canada Lands Surveys Record 59924
Province:	BRITISH COLUMBIA
Reserve Name / Nom de la réserve:	07421 - TSINSTIKEPTUM 10
Legal Description - Land Affected / Description Légal - Terre:	LOT 260 Canada Lands Surveys Record 70361
Province:	BRITISH COLUMBIA
Reserve Name / Nom de la réserve:	07421 - TSINSTIKEPTUM 10
Legal Description - Land Affected / Description Légal - Terre:	LOT 261 Canada Lands Surveys Record 70361

List of Supporting documentation (must be attached to document or a registration number quoted) / Liste des documents de support annexées (doivent être attachés ou cités un numéro d'enregistrement):

Applicant Email: Band Email:

()			
Signature of Applicant Signature du requérant	Tel. # of Applicant # Tél. du requérant	email courriel	Date

Return To:



Indian and Northern Affairs Canada
Application for Registration

Affaires indiennes et du Nord Canada
Demande d'enregistrement

Send Two Copies to:

Indian and Northern Affairs
Indian Lands Registry
Terrasses de la Chaudiere
Ottawa, Ontario K1A 0H4
Attention: Registrar of Indian Lands

Envoyer deux copies à:

Affaires indiennes et du Nord Canada
Registre des terres indiennes
Terrasses de la Chaudiere
Ottawa, Ontario K1A 0H4
Attention: Le registraire des terres indiennes

Registration Number / Numéro d'enregistrement: _____

Registration Date: / Date d'enregistrement: _____ and Time: / et heure: _____

Signature of Registration Office / Signature de l'officier d'enregistrement Date

Comments / Commentaires:

Clarification/clarification

Signature of Registration Office / Signature de l'officier d'enregistrement Date



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-02

APPROVED AS TO THE FORM BY THE DIRECTOR OF LANDS PURSUANT TO THE WESTBANK FIRST NATION LAND RULES	
Signature:	
Date:	Dec. 6, 2011

GENERAL INSTRUMENT - PART 1 (This area for Westbank Lands Office use) Page 1 of 2 Pages

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

Signature of Applicant, Applicant's Solicitor or Agent

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

PIN LEGAL DESCRIPTION

See Schedule

3. NATURE OF INTEREST: DESCRIPTION	DOCUMENT REFERENCE (page and paragraph)	PERSON ENTITLED TO INTEREST
ASSIGNMENT AND MODIFICATION OF LEASE	ENTIRE	TRANSFeree

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

- | | | |
|---|---|--|
| <input type="checkbox"/> Lease | <input type="checkbox"/> Agreement for Sale | <input type="checkbox"/> Licence |
| <input type="checkbox"/> Sublease | <input type="checkbox"/> Assignment of Mortgage | <input type="checkbox"/> Easement |
| <input type="checkbox"/> Assignment of Lease | <input type="checkbox"/> Discharge of Mortgage | <input type="checkbox"/> Release |
| <input type="checkbox"/> Assignment of Sublease | <input type="checkbox"/> Permit | <input checked="" type="checkbox"/> Other: Assignment and Modification |

Part 2 includes any additional or modified terms referred to in Item 7 or in a schedule attached to this instrument. If discharge of mortgage or release is selected, the interest described in Item 3 is released or discharged from the land described in Item 2.

5. TRANSFEROR(S): WESTBANK FIRST NATION, SUITE 301 515 HIGHWAY 97S., KELOWNA, B.C.

6. TRANSFeree(S): including occupation(s), postal address(es) and postal code(s)
WFN Development Limited Partnership by its General Partner Westbank First Nation Development Co. Ltd.

7. ADDITIONAL OR MODIFIED TERMS:

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the instrument described in Item 4.

Officer Signature(s)

MARCUS HADLEY
BARRISTER & SOLICITOR, NOTARY PUBLIC
255 LINDEN AVE
VICTORIA BC V8V 4E6
TEL: 250-884-4703

As to the signature(s)

EXECUTION DATE

Y	M	D
2011	12	05

Party(ies) Signature(s)
WESTBANK FIRST NATION

Chief

Councillor

Councillor

Councillor

Councillor

OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996 c 124, to take affidavits for use in British Columbia and certifies that there has been compliance with the Westbank First Nation Land Rules.

END OF DOCUMENT



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-05

EXECUTIONS CONTINUED

Officer Signature(s)

EXECUTION DATE

Party(ies) Signature(s)
WFN Development Limited Partnership
By its General Partner Westbank First
Nation Development Co. Ltd. by its
authorized signatories:

MARCUS HADLEY
BARRISTER & SOLICITOR, NOTARY PUBLIC
255 LINDEN AVE
VICTORIA BC V8V 4E6
TEL: 250-884-4703

Y	M	D
11	12	05

Officer Signature(s)

EXECUTION DATE

Party(ies) Signature(s)
Westbank First Nation Development Co. Ltd.
by its authorized signatories:

MARCUS HADLEY
BARRISTER & SOLICITOR, NOTARY PUBLIC
255 LINDEN AVE
VICTORIA BC V8V 4E6
TEL: 250-884-4703

Y	M	D
11	12	05

OFFICER CERTIFICATION:
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996 c 124, to take affidavits for use in British Columbia and certifies that there has been compliance with the Westbank First Nation Land Rules.



WESTBANK FIRST NATION

Westbank Lands Register
Form No. WFN-06

SCHEDULE

Page 2 of 3 Pages

[ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON FORMS WFN-01, WFN-02, WFN-03, WFN-04.]

2. Parcel Identifier(s) and Legal Description(s) of Land:

PIN:	900019992	Lot A, Tsinstikeptum Indian Reserve No. 10 on Plan of Survey No. 59924 CLSR
	901004050 901004068	Lots 260 and 261, Tsinstikeptum Indian Reserve No. 10 as shown on Plan of Survey No. 70361 CLSR, which said parts are shown as Lots 220 to 224, 290 to 292, on Plan of Survey No. 71725 CLSR

ASSIGNMENT AND MODIFICATION OF COMMERCIAL LEASE

This Lease is effective as of November _____, 2011.

BETWEEN:

WESTBANK FIRST NATION

(the "Lessor" or the "WFN")

AND:

WFN DEVELOPMENT LIMITED PARTNERSHIP by its
General Partner **WESTBANK FIRST NATION
DEVELOPMENT CO. LTD.**, a Partnership registered under the
Partnership Act of British Columbia, filing number LP562821

(the "Lessee")

AND:

WESTBANK FIRST NATION DEVELOPMENT CO. LTD. (Inc.
No. BC0127971) having a registered office at 3522A Red Cloud
Way, Westbank, BC V4T 2G9

BACKGROUND:

- A. The lands hereinafter described are part of those lands known as Tsinstikeptum Indian Reserve No. 10 (the "Reserve") which has been set apart for the use and benefit of the WFN:
- Lot A, Tsinstikeptum Indian Reserve No 10,
CLSR 59924
(the "Original Lands")
- B. The Original Lands were surrendered to Her Majesty in right of Canada ("Her Majesty") for lease by surrender dated January 14, 1974 and accepted by Order-in-Council No. 1974-1366 dated June 13, 1974;
- C. The Council of the WFN by Resolution No. 982-35-75 dated November 16, 1974 approved and consented to lease the Original Lands to Westbank Indian Band Development

Company Limited which was registered in the Indian Lands Registry, now the Self Government First Nations Land Registry ("SGFNLR"), under registration #46827 (the "First Old Headlease");

- D. The term of the First Old Headlease was for ninety-nine (99) years commencing on the 13th day of June, 1974 and terminating on the 12th day of June, 2073;
- E. A Modification Agreement of the First Old Headlease dated May 8, 1978 was registered under registration #061487 on January 10, 1979 which amended the form of Sublease;
- F. A Modification Agreement of the First Old Headlease dated October 25, 1982 was registered under registration #084905 on November 17, 1982 wherein the legal description of the Original Lands was amended to:

All that part of Tsinstikeptum Indian Reserve No. 10, Osoyoos Division of Yale District, Province of British Columbia, shown as Lot "A" on Plan 26644 deposited in the Land Title Office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 59924, **save and except –**

The 1.904 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16774 deposited in the Land Title Office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68076.

- G. A Modification Agreement of the First Old Headlease dated June 13, 1985 was registered under registration #102736 on August 8, 1985 wherein the legal description of the Original Lands was amended to:

All that part of Tsinstikeptum Indian Reserve No. 10, Osoyoos Division of Yale District, Province of British Columbia, shown as Lot "A" on Plan 26644 deposited in the Land Title Office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 59924, **save and except –**

The 1.904 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16774 deposited in the Land Title Office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68076.

AND

The 329.1m² part of the Statutory Right-of-Way for Highway as shown on Plan H17839 deposited in the Land Title office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68823.

AND

The 0.6486 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16773 deposited in the Land Title office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68077.

- H. A Modification and Surrender Agreement of the First Old Headlease dated April 27, 1989 and registered under registration #203457 on October 27, 1989 removed a portion of the Original Lands from the First Old Headlease, called the Phase III Lands- Lakeridge Park Development, and were assigned and surrendered to Her Majesty, which lands are described as:

Lot A, except those parts of Lot A shown on Plans 26859, 31293, 31975, 32191 and 32388, Tsinstikeptum Indian Reserve No. 10 Osoyoos Division, Yale District, Plan 26644 as shown on Plan 71724 prepared by Douglas A. Goddard based on a survey completed September 23, 1988 and approved by Her Majesty the Queen in right of Canada by Her Minister for Indian Affairs and Northern Development on September 26, 1988 and by the Surveyor General of the Department of Energy, Mines and Resources on September 29, 1988

(the "Phase III Lands")

- I. A lease for the Phase III Lands dated April 27, 1989, terminating on the same day as the First Old Headlease, was registered under registration #203458 on October 27, 1989 (the "Second Old Headlease").
- J. On January 4, 1996 under registration #237868 Westbank Indian Band Development Company Limited registered a name change to Westbank First Nation Development Co. Ltd.;
- K. As a result of the provisions of the Westbank First Nation Self-Government Agreement entered into by Westbank and Her Majesty on the 3rd day of October, 2003, the *Westbank First Nation Self-Government Act*, S.C. 2004, c. 17, which came into force on the 1st day of April, 2005, and Westbank's Constitution which also came into force on the 1st day of April 2005, Westbank has assumed all land management powers of Her Majesty respecting the Reserve, including acting in the stead of Her Majesty and the Minister in relation to all matters concerning the Original Lands;
- L. A Modification Agreement of the First Old Headlease dated September 19, 2005 and registered under registration #SG00537 on October 21, 2005 wherein all references to Her Majesty or the Minister shall be now deemed to refer to the WFN and the legal description of the Original Lands was amended as follows:

All that part of Tsinstikeptum Indian Reserve No. 10, Osoyoos Division of Yale District, Province of British Columbia, shown as Lot "A" on Plan 26644 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 59924, **save and except** –

The 1.904 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16774 deposited in the Land title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68076.

AND

The 329.1 m² part of the Statutory Right-of-Way for Highway as shown on Plan H17839 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68823.

AND

The 0.6486 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16773 deposited in the Land Titles office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68977.

AND

Lot 188

- M. A Modification Agreement of the First Old Headlease dated April 3, 2008 and registered under registration #SG03560 on April 8, 2008 wherein the legal description of the Original Lands was amended as follows:

All that part of Tsinstikeptum Indian Reserve No. 10, Osoyoos Division of Yale District, Province of British Columbia, shown as Lot "A" on Plan 26644 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 59924, **save and except** –

The 1.904 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16774 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68076.

AND

The 329.1 m² part of the Statutory Right-of-Way for Highway as shown on Plan H17839 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68823.

AND

The 0.6486 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16773 deposited in the Land Title office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68977.

AND

Lot 188 as shown on Plan of Survey No. 76824 deposited in the Canada Lands Survey Records in Ottawa

AND

Lot 472 as shown on Plan of Survey No. 92283 deposited in the Canada Lands Survey Records in Ottawa

- N. By Instrument of Surrender dated August 26, 1987 and accepted by Order-in-Council P.C. 1988-789 of April 1988 and registered on May 10, 1988 under registration #00201634 the WFN surrendered its rights and interests in the following lands for leasing purposes for a term commencing on April 28, 1988 and expiring on June 12, 2073:

Those parts of Lots 260 and 261 Tsinstikeptum Indian Reserve No. 10 as shown on Plan of Survey No. 70361, Canada Lands Survey Records, Ottawa, which said parts are shown as Lots 220 to 224, 290 to 293, on Plan of Survey No. 71725, Canada Lands Survey Records, Ottawa.

Subject to an easement in favour of British Columbia Hydro and Power Authority over Lot 260, Plan 70361, Canada Land Survey Records, granted by Order in Council 1951-4849 dated September 12, 1951 and registered in the Indian Land Registry under No. X12920.

(the "Additional Phase III Lands")

- O. A lease of the Additional Phase III Lands between Her Majesty and the Westbank Indian Band Development Company Limited dated April 27, 1989 was registered under registration #203103 on June 21, 1989 (the "Third Old Headlease").
- P. On February 22, 1996 under registration #239053 Westbank Indian Band Development Company Limited registered a name change to Westbank First Nation Development Co. Ltd. for the Third Old Headlease;
- Q. A Modification Agreement of the First Old Headlease dated October 13, 2011 and registered under registration #5015182 on November 1, 2011 wherein the legal description of the Original Lands was amended as follows:

All that part of Tsinstikeptum Indian Reserve No. 10, Osoyoos Division of Yale District, Province of British Columbia, shown as Lot "A" on Plan 26644 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 59924, **save and except** –

The 1.904 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16774 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68076.

AND

The 329.1 m² part of the Statutory Right-of-Way for Highway as shown on Plan H17839 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68823.

AND

The 0.6486 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16773 deposited in the Land Title office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68977.

AND

Lot 188 as shown on Plan of Survey No. 76824 deposited in the Canada Lands Survey Records in Ottawa

AND

Lot 472 as shown on Plan of Survey No. 92283 deposited in the Canada Lands Survey Records in Ottawa

AND

Lot 593 as shown on Plan of Survey No. 99369 deposited in the Canada Lands Survey Records in Ottawa

- R. A Modification Agreement of the Third Old Headlease dated October 13, 2011 and registered under registration #5015181 on November 2, 2011 wherein the legal description of the Additional Phase III Lands was amended as follows:

Those parts of Lots 260 and 261 Tsinstikeptum Indian Reserve No. 10 as shown on Plan of Survey No. 70361, Canada Lands Survey Records, Ottawa, which said parts are shown as Lots 220 to 224, 290 to 292, on Plan of Survey No. 71725, Canada Lands Survey Records, Ottawa.

Subject to an easement in favour of British Columbia Hydro and Power Authority over Lot 260, Plan 70361, Canada Land Survey Records, granted by Order in Council 1951-4849 dated September 12, 1951 and registered in the Indian Land Registry under No. X12920.

- S. The Parties consider it necessary and desirable to replace in its entirety the First Old Headlease, Second Old Headlease and Third Old Headlease with this Assignment and Modification of Commercial Lease (the "Lease"); and
- T. The Westbank First Nation Development Co. Ltd. wishes to assign its interest in the Lease to the WFN Development Limited Partnership.

NOW THEREFORE, with mutual consideration, the Parties covenant and agree as follows:

1. INTERPRETATION

1.1 Definitions

“Additional Annual Fee” means the amounts set out in section 4.3.

“Alterations” means any substantial alterations, restorations, renovations, relocations, reductions, additions, expansions, reconstructions, removals, replacements, modifications, or improvements to the Lands.

“Annual Fee” means the amounts set out in section 4.2.

“Applicable Laws” means, in respect of the Lands, any applicable law, statute, by-law, ordinance, regulation or lawful requirement of the federal or provincial government or authority, the WFN or the WFN Chief and Council or any public utility lawfully acting under statutory power.

“Arbitrator” shall have its meaning defined in section 24.4.

“Architect” means a person who is registered or licensed as a professional architect under the *Architects Act*, R.S.B.C. 1996, c. 17, and any regulations made under it, all as amended or replaced from time to time.

“Artifact” means any burial site, human remains, or any Indian artifact of archaeological or cultural interest.

“Authority” means any one, or any combination of, federal, provincial, territorial, and other governmental and quasi-governmental authorities, departments, commissions, and boards having jurisdiction, including the WFN and the WFN Chief and Council and any utility company lawfully acting under its statutory power.

“CEAA” means the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37, and any regulations made under it, all as amended or replaced from time to time.

“Contaminant” includes any contaminant, toxic substance, hazardous substance, hazardous waste, hazardous recyclable, ozone-depleting substance, halocarbon, pesticide, waste, or any similar substance, and any substance defined or referred to as such under any Environmental Laws.

“Engineer” means a person who is registered or licensed as a professional engineer under the *Engineers and Geoscientists Act*, R.S.B.C. 1996, c.116, and any regulations made under it, all as amended or replaced from time to time.

“Environment” means the components of the earth and includes:

- (a) air, land, and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms; and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c).

“Environmental Laws” means:

- (a) any laws relating, in whole or in part, to the protection and enhancement of the Environment, public health, public safety, and the transportation of dangerous goods; and
- (b) any applicable specifications, mitigative measures, and environmental protection measures described, contained, or referred to in any audit, report, or environmental screening decision pertaining to any Project on the Lands.

“Improvements” means improvements, as determined according to the common law, but, for greater certainty, include:

- (a) any buildings, structures, works, facilities, services, landscaping, and other improvements (including any equipment, machinery, apparatus, and other such fixtures forming part of or attached to them);
- (b) any Alterations,

made by any Person that are, from time to time, situate on, under, or above the Lands, but exclude Trade Fixtures.

“Insurance” means any insurance referred to in articles 14, 15, 16 and 17.

“Lands” means those lands situate, lying, and being in the Reserve, and more particularly known and described as:

Those parts of Lots 260 and 261 Tsinstikeptum Indian Reserve No. 10 as shown on Plan of Survey No. 70361, Canada Lands Survey Records, Ottawa, which said parts are shown as Lots 220 to 224, 290 to 292, on Plan of Survey No. 71725, Canada Lands Survey Records, Ottawa.

Subject to an easement in favour of British Columbia Hydro and Power Authority over Lot 260, Plan 70361, Canada Land Survey Records, granted by Order in Council 1951-4849 dated September 12, 1951 and registered in the Indian Land Registry under No. X12920; and

All that part of Tsinstikeptum Indian Reserve No. 10, Osoyoos Division of Yale District, Province of British Columbia, shown as Lot “A” on Plan 26644 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 59924, **save and except—**

The 1.904 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16774 deposited in the Land title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68076.

AND

The 329.1 m² part of the Statutory Right-of-Way for Highway as shown on Plan H17839 deposited in the Land Title Office at Kamloops, B.C., and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68823.

AND

The 0.6486 hectares part of the Statutory Right-of-Way for Highway as shown on Plan H16773 deposited in the Land Titles office at Kamloops, B.C. and a copy deposited in the Canada Lands Survey Records at Ottawa as Plan 68977.

AND

Lot 188 as shown on Plan of Survey No. 76824 deposited in the Canada Lands Survey Records in Ottawa

AND

Lot 472 as shown on Plan of Survey No. 92283 deposited in the Canada Lands Survey Records in Ottawa

AND

Lot 593 as shown on Plan of Survey No. 99369 deposited in the Canada Lands Survey Records in Ottawa

excepting all minerals.

“Lease” means this lease agreement, and includes any Schedules.

"Mortgage" means any mortgage charging the leasehold interest of the Lessee or any Sublessee, as the case may be, in all or any part of the Lands (including any debenture, deed of trust, bond, assignment of rents, or any other means) made as security.

"Mortgagee" means a mortgagee under a Mortgage.

"Party" means a party to this Lease and **"Parties"** means the Lessor, and the Lessee.

"Person" includes any individual, partnership, firm, company, corporation, incorporated or unincorporated association or society, co-tenancy, joint venture, syndicate, fiduciary, estate, trust, bank, government, governmental or quasi-governmental agency, board, commission or authority, organization or any other form of entity howsoever designated or constituted, or any group, combination, or aggregation of any of them.

"Prime Rate" means the prime rate established by the Royal Bank of Canada from time to time to its most credit worthy commercial customers.

"Project" has the same meaning as in CEAA, but excludes any project on the "exclusion list", as that term is defined in CEAA.

"Registry" means the office, known as the Self Government First Nations Lands Registry, located in the National Capital Region that maintains the First Nations Land Register, including the Westbank First Nation Land Register, established under the *First Nations Land Management Act*, or any successor or replacement registry with registration jurisdiction over the Lands.

"Reserve" means Tsinstikeptum Indian Reserve No. 10, which has been set apart for the use and benefit of the WFN.

"Responsible Person" includes the Lessee's directors, officers, servants, employees, agents, contractors and subcontractors, invitees, or any Person over whom the Lessee may reasonably be expected to exercise control or is in law responsible.

"Schedule" means an attachment to this Lease labelled as a "Schedule," which forms part of and is integral to the agreement between the Parties.

"Spill" includes discharge, dispose, spray, inject, inoculate, abandon, deposit, spill, leak, leach, seep, pour, emit, empty, throw, dump, place, and exhaust.

"Sublessee" means the lessee in any sublease of this Lease.

"Substantial Completion" occurs when an Architect or Engineer has issued a signed, sealed certificate to the Lessor certifying that:

- (a) the Improvements, or a substantial part of the Improvements, are, in the opinion of the Architect or Engineer, ready for occupation by the Lessee for the uses permitted by this Lease in all material respects in a proper and workmanlike manner and in accordance with the provisions of this Lease; and
- (b) any work remaining to be completed is, in the opinion of the Architect or Engineer, capable of completion or correction at a cost of not more than:
 - (i) 3% of the first \$500,000;
 - (ii) 2% of the next \$500,000; and
 - (iii) 1% of the balance,

of the value of the Improvements at the time this cost is calculated.

"Taxes" includes taxes, trade licences, rates, levies, duties, and assessments of any kind.

"Termination Date" means June 12, 2073.

"Trade Fixtures" means trade fixtures as determined at common law and, for greater certainty, includes the personal chattels installed until the Termination Date by or on behalf of the Lessee or any Sublessee in, on, or which serve the Lands for the sole purpose of the Lessee or Sublessee carrying-on its trade in the Lands under article 3, but do not include Improvements or any inventory of the Lessee or any Sublessee.

"WFN Law" means a law of WFN in force at the time the Westbank First Nation Constitution came into effect, and any law of WFN enacted under Part VIII of the Westbank First Nation Constitution.

"WFN Chief & Council" means the lawfully elected governing body of the WFN.

1.1.1 Any defined term will be read as having an appropriate corresponding meaning if referred to in the singular, plural, verb, or noun form.

1.2 Parts of the Lease

1.2.1 The structure of this Lease is as follows: article (e.g., 1.), section (e.g., 1.1), subsection (e.g., 1.1.1), paragraph (e.g., 1.1.1(a), and sub-paragraph (e.g., 1.1.1(a)(i)). Unless otherwise stated, any reference to an article, section, subsection, paragraph, or sub-paragraph means the appropriate part of this Lease.

1.3 Headings

1.3.1 All headings are for convenience and reference only. They are not to be used to define, limit, enlarge, modify, or explain the scope or meaning of any provision.

1.4 Extended Meanings

1.4.1 All words in the singular will include the plural, and vice-versa, where the context allows.

1.4.2 In this Lease:

“includes” means “includes, without limitation,”;

“including” means “including, without limitation,”;

“Lessee will not use” includes “Lessee will not use, or suffer or permit the use of,”;

“Lessee will not cause” includes “Lessee will not cause, permit, or suffer”; and

“on the Lands” means “in, on, under, or above the Lands” where the context allows.

2. LANDS

2.1 The Demise

2.1.1 The Lessor leases to the Lessee, and the Lessee leases from the Lessor, the Lands to have and to hold until the Termination Date, paying annual fees to the Lessor until the Termination Date and subject to the provisions, exceptions, and reservations in this Lease.

2.2 Prior Rights

2.2.1 This Lease is subject to all existing registered encumbrances and registered rights given for or attaching to the Lands, whether or not the Lessee has notice of them.

2.3 Other Interests

2.3.1 The Lessor reserves the right to further charge the Lands by way of easement or, right-of-way, in favour of any Authority, provided the charge does not materially or adversely affect the Lessee’s permitted uses.

- 2.3.2** At the request of the Lessor, the Lessee will promptly execute and deliver to the Lessor any instrument that may be necessary to subordinate the Lessee's right and interest in the Lands under this Lease to the charge referred to in this section.

3. USE OF LANDS

3.1 Permitted Uses

- 3.1.1** The Lands may be used by the Lessee for any lawful purpose, as set out in WFN Laws and WFN policies, as they may be amended from time to time.

3.2 No Waste of the Lands

- 3.2.1** Except as required by the construction of the Improvements, the Lessee will not commit any waste of the Lands.

3.3 "As is – Where is" Lease

- 3.3.1** The Lands are being leased on an "as is - where is" basis.

- 3.3.2** The Lessee represents and warrants that it has:

- (a) conducted any inspections of the Lands that it deems prudent, including any inspection relating to:
 - (i) the condition of the Lands;
 - (ii) compliance of the Lands with any Applicable Laws; and
 - (iii) the presence of Contaminants on the Lands; and
- (b) satisfied itself that the Lands are suitable for its intended uses and that those uses are within the scope of the uses permitted by the Applicable Laws, as they are currently in force.

3.4 Access

- 3.4.1** The Lessor will provide legal access to and from the Lands.

3.5 Quiet Enjoyment

- 3.5.1** The Lessee, by paying the Annual Fees and observing and performing the covenants in this Lease, may peaceably and quietly possess, hold, and enjoy the Lands until the Termination Date without any interruption or disturbance by the Lessor or anyone claiming by or through of the Lessor, except as otherwise provided in this Lease.

3.6 Artifacts and Survey Monuments

3.6.1 The Lessee will immediately notify the Lessor and the WFN Chief and Council of any Artifact unearthed or discovered on the Lands and will continue to use the Lands so as to avoid any further damage to the Artifact and ensuring its preservation to the greatest extent practicable.

3.6.2 The Lessee will deliver any Artifact removed from the soil to the WFN Chief and Council.

4. FEES

4.1 Rent Paid

4.1.1 The Lessor acknowledges that all the Primary Rent and Yearly Rent (as those terms are defined in the First Old Headlease, Second Old Headlease and third Old Headlease) that was due and payable prior to the date of this Lease has been paid.

4.2 Annual Fee

4.2.1 The Lessee will pay upon demand by Lessor all monies due under this Lease at the time and in the manner set out in this Lease in lawful money of Canada, without abatement, deductions, set-off, or prior demand, as follows:

- (a) For the Lands not outlined in pink on Schedule "A" ("Developed Lands") the Lessee will pay on the 12th day of June of each and every year until the Termination Date (the "Payment Date") an amount equal to the amount of the Annual Fees and any Additional Annual Fees (as those terms are defined in the Sublease) due and payable that are received from the Sublessees under all the subleases of the Developed Lands at any time during the twelve-month period immediately prior to the Payment Date less any reasonable expenses for incurred or paid during the same twelve-month period by the Lessee; and
- (b) For the area outlined in pink on Schedule "A" ("Undeveloped Lands"), the Lessee will pay on the 12th day of June of each and every year until the Termination Date (the "Payment Date") an amount equal to any prepaid rent received and the Annual Fees and any Additional Annual Fees (as those terms are defined in the Sublease) due and payable that are received by the Sublessee under all of the subleases for the Undeveloped Lands at any time during the twelve-month period immediately prior to the Payment Date less any

reasonable expenses for incurred or paid during the same twelve-month period by the Lessee.

4.3 Additional Annual Fees

4.3.1 If at any time before or after the expiration or earlier termination of the Lease the Lessor suffers or incurs any damage, loss or expense by reason of any failure of the Lessee to perform or observe any of the Lessee's covenants or makes any payment for which the Lessee is liable under this Lease, or if the Lessor is compelled or, acting reasonably, elects to incur any expense including legal fees in instituting, prosecuting or defending any action or proceeding instituted by reason of default of the Lessee under this Lease (including any action or proceeding against the Lessee) and succeeds in establishing such default, then in every such case the amount of damage, loss, expense or payment (including reasonable legal fees), together with interest as provided in subsection 4.4.1, will be paid by the Lessee to the Lessor forthwith on demand or in accordance with paragraph 4.2.1(a) or (b) whichever is sooner.

4.3.2 The amount of any damage, loss or payment referred to in subsection 4.3.1 will be recoverable in the manner provided by law for the recovery of Annual Fees in arrears.

4.4 Arrears to Bear Interest

4.4.1 If the Annual Fees or any other sum owing by the Lessee to the Lessor under this Lease is not paid within forty-five (45) days from the date on which it is due then it will bear interest at the Prime Rate in effect from time to time plus four percent (4%) per annum from the date the Annual Fees or Additional Annual Fees or the sum is due until the date of the payment by the Lessee, but this stipulation for interest will not prejudice or affect any other remedies of the Lessor under this Lease or otherwise, or be construed to relieve the Lessee from any default in making the Annual Fee or Additional Annual Fee payment at the time and in the manner specified in this Lease.

4.4.2 This section survives the expiration or earlier termination of this Lease.

4.5 Net Lease

4.5.1 This Lease is to be a completely carefree net lease for the Lessor and notwithstanding anything in this Lease to the contrary the Lessor is not to be responsible before the Termination Date for any costs, charges, expenses, or outlays of any nature arising from or relating to the Lands, the use or occupancy of the Lands, or the business carried on at the Lands.

5. ASSIGNMENTS, SUBLEASES & MORTGAGES

5.1 Assignments

5.1.1 The Lessee may, subject to subsection 5.1.2, assign the whole or any part of its interest in this Lease without the prior written consent of the Lessor in each instance.

5.1.2 No assignment is valid until the proposed assignee has executed a written agreement covenanting and agreeing with the Lessor that, upon the assignment, the assignee will observe and perform all of the Lessee's covenants under this Lease.

5.2 Subleases

5.2.1 The Lessee may, subject to subsection 5.2.2, sublet any part of the Lands without the consent of the Lessor.

5.2.2 Any sublease of any part of the Lands will include the following provisions:

- (a) it may be for any period up to one day before the Termination Date of this Lease, and not beyond;
- (b) it is expressly subject and subordinate to this Lease and to the rights of the Lessor under this Lease;
- (c) it is consistent with the terms of this Lease and will not cause the Lessee to breach a term of this Lease;
- (d) it contains a proper legal description of the lands and, if required, the lands have been surveyed and the survey registered or recorded in the Registry;
- (e) it is registered in the Registry;
- (f) it will oblige the Sublessee to not do anything in contravention of this Lease and comply with all Applicable Laws.

5.2.3 The Sublessee may assign the whole or any part of its interest in the sublease to which it is a party without the prior written consent of the Lessor in each instance.

5.3 Mortgages

5.3.1 The Lessee or the Sublessee may mortgage the whole or any part of its interest in this Lease by any means without the consent of the Lessor. The Lessor confirms that any Mortgagee of any interest in the leasehold estate may enforce its security to the fullest extent and acquire the leasehold estate in any lawful way and, by its representative or a receiver, as the case may be, and subject to subsection 5.3.2, take possession of and manage the Lands and sell the interest of the Lessee or the Sublessee, as the case may be, in this Lease or assign or sublet the Lands without notice to the Lessor and without the necessity of obtaining any consent from the Lessor.

5.3.2 Notwithstanding anything else in this Lease, any Mortgage will be subject to the following conditions:

- (a) if the Mortgagee takes possession of the Lands or acquires or forecloses the equity of redemption of the Lessee or the Sublessee, as the case may be, then the Mortgagee will perform and observe all the covenants and agreements of the Lessee or the Sublessee under the Lease or the sublease, as the case may be, while in possession of the Lands and until the Lease or the sublease, as the case may be, is duly assigned to an assignee as provided in paragraph 5.3.2 (b) below; and
- (b) the Mortgagee will cause any assignee of the leasehold interest under an assignment to agree in writing to assume, perform and observe all the covenants and agreements of the Lessee or Sublessee under the Lease or the sublease, as the case may be, and upon delivery to the Lessor of such assumption agreement, the Mortgagee will be deemed to be released from any and all obligations hereunder.

5.3.3 Notwithstanding any other provision of this Lease, where the whole or any part of the interest of the Lessee or the Sublessee under this Lease or the sublease, as the case may be, is mortgaged to a Mortgagee, whether or not insured against borrower default under the *National Housing Act* or by any private insurer, then:

- (a) The Lessor shall not exercise effectively as against the Mortgagee any right of re-entry or distress or right to terminate this Lease until:
 - (i) the Lessor gives to the Mortgagee at least forty-five (45) days notice in writing of the intention to re-enter or to distrain or to terminate specifying the full particulars of the grounds therefore, and
 - (ii) the Mortgagee does not during that forty-five (45) day period either remedy all specified proper grounds for re-entry or distress or termination or give to the Lessor notice in writing that the Mortgagee

intends to take, or has taken, formal proceeding for the enforcement of its mortgage and the protection of its position, and

- (iii) the Mortgagee, having given the notice specified in (ii) has had reasonable time to pursue to their conclusion all reasonable proceedings for the enforcement of its mortgage and the protection of its position; and
- (b) If upon the conclusion of proceedings by the Mortgagee for the enforcement of its mortgage and the protection of its position the rights of the Lessee or the Sublessee, as the case may be, have been released to the Mortgagee or foreclosed or sold then thereupon all then existing grounds for re-entry or distress or termination and all then existing rights (if any) of re-entry or distress or termination shall terminate and the Mortgagee or purchaser shall become the Lessee or Sublessee, as the case may be, free of all liability of such grounds and rights; and
- (c) Where the Lessor, at the request of the Lessee or the Sublessee, as the case may be, as a mortgagor, intends to terminate the Lease either by surrender of Lease or sublease, as the case may be, or otherwise, notice of such intention shall be given in writing to the Mortgagee, allowing the Mortgagee at least sixty (60) days to obtain repayment in full of the outstanding mortgage, inclusive of interest and penalties, or commence mortgage default enforcement action with its rights pursuant to subparagraphs (i), (ii) and (iii) of paragraph (a) herein intact. If the Mortgagee provides to the Lessor notice of its intention to commence or the commencement of mortgage default enforcement action to realize on its security, including but not limited to foreclosure proceedings, the Lessor shall not accept the surrender of Lease.

5.4 Further covenants

5.4.1 Without limiting any other obligations of the Lessor under this Lease, the Lessor will do any act or cause to be done any act and grant, execute and deliver or cause to be granted, executed and delivered any consent in favour of the Lessee, the Sublessee or the Mortgagee, as the case may be, necessary to give effect to the intent of this article 5.

5.4.2 Without limiting the generality of subsection 5.4.1, the Lessor will, to the extent of its authority, make or cause to be made any amendment to the Applicable Laws to the extent necessary to give effect to the intent of this article 5.

6. LAWS & TAXES

6.1 Applicable Laws

6.1.1 The Lessee, acting reasonably and at its expense, will observe and perform all of its obligations and all matters and things necessary or expedient to be observed or performed by it in connection with the Lands in accordance with Applicable Laws.

6.1.2 Without in any way relieving or modifying the obligation of the Lessee to comply with subsection 6.1.1, the Lessee may at its expense, contest or appeal the enforceability or validity of any of the Applicable Laws, PROVIDED that the Lessee commences any proceedings to contest or appeal the enforceability or validity thereof or any cost associated therewith forthwith and continues with the proceedings with reasonable diligence.

6.2 Taxes

6.2.1 Without limiting the generality of subsection 6.1.1, the Lessee will pay, on or before the due date, all applicable Taxes imposed by any Authority:

- (a) on the Lands;
- (b) for sales, transactions, or business relating to the Lands; or
- (c) for occupation of the Lands by any Person.

6.2.2 Without in any way relieving or modifying the obligation of the Lessee to comply with subsection 6.2.1, the Lessee may at its expense, contest or appeal the validity or amount of any Taxes PROVIDED that the Lessee commences any proceedings to contest or appeal the validity or amount forthwith and continues with the proceedings with reasonable diligence.

6.2.3 The Lessee will, upon written request by the Lessor, provide the Lessor with copies of official receipts of the competent authority or other proof satisfactory to the Lessor, acting reasonably, evidencing payment of Taxes payable with respect to the Lands.

6.3 Authorization to Receive Information

6.3.1 On notice from the Lessor, the Lessee will promptly deliver to the Lessor or an applicable Authority, or both, written authorization for the Lessor to receive any information from such Authority about the Lessee's compliance with any Applicable Laws, including the payment of any applicable Taxes.

7. SERVICES

7.1 Lessee's Responsibility to Provide

7.1.1 The Lessee will provide and maintain all services and facilities (including water, gas, telephone, light, power, heat, air-conditioning, and sewage and garbage disposal

services and facilities) required from time to time on the Lands. The Lessor will assist in the obtaining of these services and facilities. The Lessor and, its agents, servants and contractors will not hinder or impede the Lessee from securing and maintaining all services and facilities.

7.2 Interruption Not a Disturbance

7.2.1 The interruption of any service or facility provided to the Lands will not:

- (a) be a disturbance of the Lessee's enjoyment of the Lands;
- (b) render the Lessor liable for any loss, injury, or damages to the Lessee; or
- (c) relieve the Parties from their obligations under this Lease,

unless the interruption is caused by the Lessor or its agents, servants, contractors or members.

8. ENVIRONMENT

8.1 Contaminants

8.1.1 The Lessee will not use (including transport or store) Contaminants on the Lands, except as may be reasonably required for the Lessee's permitted uses of the Lands under this Lease and in strict compliance with Environmental Laws.

8.2 Removal of Contaminants

8.2.1 Without limiting section 8.3, if requested reasonably by the Lessor or any applicable Authority, the Lessee will promptly remove any Contaminants that are on the Lands by the actions or omissions of the Lessee or a Responsible Person and, upon the removal, will promptly deliver to the Lessor evidence satisfactory to the Lessor confirming the removal satisfactory to the Lessor or such Authority, as the case may be.

8.2.2 On or before the Termination Date, the Lessee will remove any Contaminants that are on the Lands by the actions or omissions of the Lessee or a Responsible Person.

8.3 Report of Spill

8.3.1 If the Lessee or a Responsible Person Spills any Contaminants on the Lands, then the Lessee will, upon becoming aware of such Spill:

- (a) promptly deliver written notice to the Lessor and any applicable Authority of the Spill and details relating to the Spill, including:
 - (i) the time and extent of the Spill;
 - (ii) the estimated amount of Contaminants involved;
 - (iii) the action taken prior to giving the notice; and
 - (iv) the action that the Lessee intends to take in order to contain and rectify the effects of the Spill;
- (b) promptly take all action necessary to contain and rectify the effects of the Spill;
- (c) deliver to the Lessor an independently-prepared report, to the reasonable satisfaction of the Lessor, of the Lessee's activities under paragraph 8.3.1 (b) and the state of the Lands after such activities compared with the state of the Lands prior to the Spill; and
- (d) do such further activities as the Lessor may reasonably require, based on the report referred to in paragraph 8.3.1 (c), to contain and rectify the effects of the Spill.

8.4 Increased Risks

8.4.1 The Lessee will not cause any operations or activities or construct any Improvements that materially increase the risk of liability to the Lessor (whether direct or indirect) as a result of the application of Environmental Laws (as determined by the Lessor acting reasonably).

8.5 Title to Contaminants

8.5.1 Notwithstanding any rule of law to the contrary, any Contaminants that are on the Lands by the actions or omissions of the Lessee or a Responsible Person remain the sole and exclusive property of the Lessee and will not become the property of the Lessor, regardless of any degree of affixation of the Contaminants on the Lands.

8.6 Environmental Remediation

- 8.6.1** At the expiration or earlier termination of this Lease, the Lessee will promptly remediate the Lands to the environmental condition that it is obligated to keep the Lands in pursuant to the foregoing provisions of article 8

9. NUISANCE & RUBBISH

9.1 Nuisance

- 9.1.1** Except as reasonably required by the uses of the Lands permitted under this Lease, the Lessee will not cause any nuisance on the Lands.

9.2 Rubbish

- 9.2.1** Without limiting the generality of subsection 9.1.1, the Lessee will not cause any rubbish or debris to be placed or left on the Lands, except as reasonably required by the uses of the Lands permitted under this Lease or as otherwise permitted in writing by the Lessor.

10. IMPROVEMENTS AND ALTERATIONS

10.1 Construction

- 10.1.1** The Lessee will not construct any Improvements without first obtaining the required permits or approvals referred to in subsection 10.2.1

10.2 Obtain Permits and Approvals

- 10.2.1** The Lessee will apply to the applicable Authority and obtain any required permits or approvals necessary to construct any Improvements.

10.3 Construction to Comply With Permits, Approvals, and Consent

- 10.3.1** Upon receipt of the required permits or approvals the Lessee will, subject to any force majeure event or interference or obstruction by any Authority, promptly construct the Improvements in a proper and workmanlike manner.

10.4 Occupancy

- 10.4.1** The Improvements may not be occupied by any Person until Substantial Completion unless consented to by the Lessor, such consent not to be unreasonably withheld.

10.5 Additional Documents

- 10.5.1** Upon completion of construction of the Improvements and if requested by the Lessor, the Lessee will promptly deliver to the Lessor:

- (a) reproducible, as-built plans certified correct by an Architect or Engineer; and
- (b) operation and maintenance manuals.

10.6 Signs

- 10.6.1** The Lessee will have the right, without the consent of the Lessor, to erect or exhibit signage, in accordance with Applicable Laws, in and about any portion of the Lands in conjunction with any lawful purpose described or contemplated in article 3.

10.7 Maintenance

- 10.7.1** The Lessee will maintain the Lands in a good and tenantable condition in every respect as would a careful owner in occupation.

11. CONSTRUCTION REQUIREMENTS

11.1 General Requirement

- 11.2** Without limiting subsection 6.1.1 or subsections 10.1.1, 10.2.1 and 10.3.1, all Improvements will be constructed to the standard and quality of any industry or construction standards for the respective type of Improvements, as those standards may be amended or replaced from time to time, and, in the case of Alterations, also at least as high as those of any part of the Lands that is subject to the Alterations.

12. DESTRUCTION OF IMPROVEMENTS

12.1 Lessee to Notify Lessor of Damage or Destruction

12.1.1 The Lessee will promptly notify the Lessor if any Improvements are damaged, or partially, substantially, or completely destroyed.

12.2 Annual Fees will not Abate

12.2.1 Damage or destruction of the Improvements will not cause this Lease to terminate or entitle the Lessee to surrender possession or any abatement or reduction of the Annual Fees.

13. REMOVAL OF IMPROVEMENTS AND TRADE FIXTURES

13.1 Buildings, Fixtures and Chattels

13.1.1 Subject to the rights of any applicable Mortgagee, the Lessee may remove all of its Trade Fixtures, and may permit Sublessees to remove all of their Trade Fixtures, from the Lands:

(a) at any time before the Termination Date, if the Lessee is not in default under the Lease; or

(b) within 30 days after the expiration or earlier termination of this Lease.

13.2 No Removal of Improvements

13.2.1 Ownership of any Improvements made upon or to the Lands by or for the Lessee will vest in the Lessee or any Sublessee, licensee or permittee of the Lessee, as the case may be, before the Termination Date, notwithstanding any rule or law to the contrary. Notwithstanding the foregoing, the Lessor will be entitled, subject to the rights of any applicable Mortgagee, on written notice to the Lessee delivered upon the commencement the year of the Termination Date, to require the Lessee to:

(a) remove some or all its Improvements from the Lands by the Termination Date and leave the Lands in a clean and safe condition; or,

(b) leave Improvements on the Lands.

13.2.2 The Lessee will pay all costs and expenses incurred in the removal and disposal of the Improvements and in making good all damage caused to the Lands by the removal thereof forthwith upon demand. The Lessor will not be responsible to the Lessee or any Sublessee as a result of the removal or the disposal of any Improvements, moveable goods, chattels or tenant's fixtures which the Lessee fails to remove in accordance herewith. If the Lessee does not remove and dispose of the Improvements as required, the Lessor may do so at the cost of the Lessee.

13.3 Survival of Article

13.3.1 This article survives the expiration or earlier termination of this Lease.

14. LIABILITY INSURANCE

14.1 The Lessee will forthwith effect and maintain at its expense with one or more companies satisfactory to the Lessor, comprehensive general liability insurance (the "Liability Insurance") with any applicable Mortgagee, the Lessor and WFN as additional insureds against claims for personal injury, death or property damage or loss occurring at or about the Lands.

14.2 The Liability Insurance will provide protection in an amount of not less than **FIVE MILLION (\$5,000,000.00) DOLLARS** for any one occurrence or such other reasonable amount as the Lessor may notify the Lessee in writing from time to time.

14.3 The Liability Insurance will contain a provision for cross liability.

15. PROPERTY INSURANCE

15.1 If applicable the Lessee, acting reasonably, will effect and maintain at its expense property insurance insuring the Improvements against loss or damage by fire and other perils under customary supplementary coverage.

16. INSURANCE PROVISIONS

16.1 Every insurance policy required under this Lease will to the extent that it is obtainable contain an agreement by the insurer that it will not cancel or substantially alter the policy without first giving each of the insureds at least thirty (30) days prior written notice. Further, the Lessee will immediately notify the Lessor of any breaches of the insurance policy that it becomes aware of and provide a copy of any notices that it receives from the insurer in this regard.

17. INSURANCE VALIDATION

- 17.1** The Lessee will not do, permit or suffer anything to be done at the Lands which might cause any policy of insurance required by this Lease to be invalidated or cancelled, and the Lessee will comply forthwith with every lawful notice in writing from the Lessor or any insurer requiring the execution of works or discontinuance of any use of the Lands in order to avoid invalidation or cancellation of any insurance.
- 17.2** The Lessee releases and indemnifies the Lessor and WFN from all liability for loss or damage caused by or resulting from any of the perils or injuries against which it has covenanted in this Lease to insure, except if the loss, damage or injury may arise out of the negligence or wilful omission of the Lessor, its officers, employees, agents, or contractors, and even though the Lessee has failed to so insure.
- 17.3** The Lessee will, upon written request, forthwith deliver to the Lessor a certified copy of every insurance policy taken out by the Lessee with respect to the Lands.
- 17.4** Where the interest of the Lessee is subject to a mortgage, insured against borrower default under the *National Housing Act*, and Canada Mortgage and Housing Corporation ("CHMC") becomes the successor to the Lessee under the Lease, while CHMC is the successor it shall not be required to maintain the insurance that would otherwise be required to be maintained by the Lessee.

18. DEFAULT & CANCELLATION

18.1 Defaults Requiring Notice to Cancel

- 18.1.1** If the Lessee is alleged to be in material default of a material obligation hereunder then the Lessor may give the Lessee notice of such default.
- 18.1.2** If the Lessor gives the Lessee notice of default under subsection 18.1.1 the Lessee must commence to cure the default within sixty (60) days of the notice being given and continue to cure the default with due diligence. Should the Lessee fail to do so, subject to subsections 5.3.3, 18.1.5 and 18.1.6, 18.1.7 and 18.1.8, the Lessor may, by giving at least sixty days notice to the Lessee, any Sublessee and Mortgagee, declare the Lease terminated.
- 18.1.3** If the Lessor declares the Lease to be terminated as provided in subsection 18.1.2, then except as otherwise expressly provided in this Lease, and subject to the rights of the parties under article 24, or otherwise at law, this Lease and everything contained in it and the leasehold estate will thereupon terminate without re-entry or any other act or legal proceedings, and the Lessor may re-enter the Lands and possess and enjoy

them as if the Lease had not been made.

- 18.1.4** Notwithstanding a declaration by the Lessor that the Lease has terminated, the Lessor will be entitled to recover from the Lessee the Annual Fee then accrued or accruing, and enforce any right of action against the Lessee in respect of any antecedent breach of any of the Lessee's covenants including a right of action under article 21 and the reasonable costs and expenses of the Lessor in enforcing its rights.
- 18.1.5** No notice to the Lessee hereunder will be valid for any purpose unless and until a copy of such notice is also given to each Mortgagee and Sublessee. The copy of such notice may be given to every Mortgagee and Sublessee at the address specified by the Mortgagee and Sublessee and otherwise on the same terms and conditions as applicable to notices referred to in article 23 of this Lease.
- 18.1.6** Any curing of a default by a Mortgagee or a Sublessee will be construed as curing of that default by the Lessee.
- 18.1.7** If any disagreement arises as to the occurrence or subsistence of a material default hereunder or whether the curing of any such default is promptly commenced, has been substantially completed or is proceeding with reasonable diligence, and without limiting any other remedies or relief that might be available to the Lessee, a Mortgagee or Sublessee in accordance herewith or at law, the question may be dealt with in accordance with article 24 of this Lease.
- 18.1.8** The Lessor acknowledges that in consideration of the Annual Fee, the Lessor will, to the fullest extent possible, seek recourse in respect of alleged material default by the Lessee hereunder by way of a claim in law against the Lessee for debt or damages, as the case may be, recoverable against the Lands or the annual fees derived therefrom by the Lessee, or seek an order of a court of competent jurisdiction restraining continuing breach, and will not resort to exercising a right to cancel this Lease and forfeit the leasehold estate except in respect of a serious or continuing breach of a material covenant hereunder for which a reasonable and adequate alternate remedy has not been or cannot reasonably be obtained.
- 18.2 Access to Inspect and Perform**
- 18.2.1** The Lessee will provide the Lessor and the Lessor's officials, employees, servants, agents, contractors, and subcontractors convenient access by any means to the Lands at all reasonable times for the purposes of:
- (a) viewing the Lands;

- (b) conducting any test or investigation that the Lessor considers necessary to determine that the Lessee's covenants are being met;
- (c) determining the presence of Contaminants on the Lands; or
- (d) performing any of the Lessee's covenants as provided for in this Lease.

This right of access requires reasonable notice to the Lessee, except in the case of an emergency, when no notice is required.

18.3 Remedies Cumulative

- 18.3.1** All rights and remedies of the Lessor, and the Lessee are cumulative and are in addition to and do not exclude any other right or remedy provided in this Lease or otherwise allowed by law. All rights and remedies of the Lessor, and the Lessee may be exercised concurrently.

19. SURRENDER OF POSSESSION

19.1 Lands to be Surrendered in Clean Condition

- 19.1.1** Without limiting article 13, upon expiry or earlier termination of the Lease, the Lessee will peaceably surrender to the Lessor the Lands in the condition the Lands were required to be kept under the Lease.

20. HOLDING OVER

20.1 Modified Terms for Holding Over

- 20.1.1** If the Lessee holds over, then, notwithstanding any payment of Annual Fee to the Lessor, the new tenancy created will be a tenancy from month to month, not a tenancy from year to year, at a monthly annual fee to be agreed upon as between the Lessee and the Lessor or failing that, fair market annual fee as determined by the Lessor, acting reasonably, and will be subject to the covenants of the Lessee in this Lease so far as they are applicable to a tenancy from month to month.

21. INDEMNITY

21.1 Lessee's Indemnity of Lessor

21.1.1 The Lessee will indemnify and save harmless the Lessor, the Lessor's officers, employees, agents or contractors, against and from all liability, loss, costs, claims, demands, expenses, actions, damages, suits and other proceedings, whatsoever, including consequential, howsoever arising out of or related to any breach of a Lessee's covenant or for personal injury, death or property damage or loss arising out of or related to any act or omission of the Lessee, its officers, employees or agents or any person for whom the Lessee is responsible, including a Sublessee, licensee, franchisee, permittee or Mortgagee in possession.

21.2 Survival of Article

21.2.1 This article survives the expiration or earlier termination of this Lease.

22. WARRANTIES

22.1 Except as otherwise set out herein, no representations, warranties or conditions have been made to the Lessee in respect of the Lands by the Lessor, its officials, servants or agents.

22.1.2 The Lessor acknowledges that the Lessor is leasing the Lands to the Lessee on the basis that they are capable for development pursuant to the Lessee's intended use and to the best of the knowledge of the Lessor, there are no environmental, heritage or cultural prohibitions to such development.

23. DELIVERY

23.1 General Requirement

23.1.1 All deliveries of Annual Fees, Additional Annual Fees, notices, or otherwise must be made in accordance with this article to the following addresses:

To the Lessor:

Westbank First Nation
Attn: Chief & Council
301 – 515 Highway 97 South
Kelowna, BC V1Z 3J2
Fax: (250) 769-4377

To the Lessee at:

Westbank First Nation Development Co. Ltd., in its capacity as General Partner of
WFN Development Limited Partnership
3522A Red Cloud Way
Westbank, BC V4T 2G9
Fax: (250) 768-5619

23.2 Delivery

23.2.1 If any question arises as to the date on which delivery was made, it will be deemed to have been made:

- (a) (except in the case of Annual Fees and Additional Annual Fees) if sent by fax before 3:00 p.m. Pacific time, on the day of transmission;
- (b) (except in the case of Annual Fees and Additional Annual Fees) if sent by fax after 3:00 p.m. Pacific time, on the next business day;
- (c) if sent by mail, on the sixth day after it is mailed; or
- (d) if sent by any means other than fax or mail, the day it is received.

23.2.2 If the postal service is interrupted, or threatened to be interrupted, then any delivery will only be sent by means other than mail.

23.3 Change of Contact Information

23.3.1 Any change in contact information will take effect 30 days after the notice is delivered to the other Party.

24. DISPUTE RESOLUTION

24.1 If there is a dispute in respect of this Lease between the Lessee and the Lessor the dispute will be resolved as set forth in this article 24.

24.2 Negotiation

A party that wishes a dispute to be resolved will give a written notice (the "Dispute Notice") to the other party whereupon each Party will promptly designate a senior officer or senior representative and such designated officers and representatives will

attempt in good faith to resolve the dispute by negotiation. All reasonable requests for relevant information relating to the dispute made by a Party will be honoured.

24.3 Mediation

24.3.1 If the Parties are unable to resolve the dispute through negotiation within 15 business days of the date that the Dispute Notice was delivered as provided in section 24.2, either Party may give notice to the other Party requesting mediation of the dispute. Following such notice being given, the Parties will appoint a qualified, impartial and experienced individual (the "Mediator") to serve as a mediator in connection with the dispute.

24.3.2 If the Parties are unable to agree on the Mediator within 15 business days of the notice referred to in subsection 24.3.1 then, upon application by any Party, the Mediator will be appointed by the British Columbia International Commercial Arbitration Centre or, if such Centre is unable or does not appoint the Mediator, the Mediator will be appointed by the Supreme Court of British Columbia upon application by a Party.

24.3.3 Within 10 business days of the appointment of a Mediator, each Party will provide the Mediator and each other with a written statement of its position in respect of the dispute and a summary of the arguments supporting its position.

24.3.4 The Mediator will meet with the Parties either together or separately as the Mediator in his or her sole discretion determines in an attempt to resolve the dispute through mediation. The mediator will be permitted to request additional information from the Parties, which requests will not be unreasonably denied, and will be permitted to engage experts. The cost of the Mediator and of any experts retained by the Mediator will be borne equally by the Parties unless the Mediator determines otherwise.

24.4 Arbitration

If a dispute is not resolved within 30 business days after the appointment of the Mediator then, upon application by any Party, the dispute may be referred to and resolved by a single arbitrator (the "Arbitrator") pursuant to the *Commercial Arbitration Act (British Columbia)*. The decision of the Arbitrator on all issues or matters submitted to the Arbitrator for resolution shall be conclusive, final and binding on both Parties. The costs of the Arbitrator shall be borne equally by the Parties unless the Arbitrator determines otherwise.

- 24.5** If a party issued a Dispute Notice, it shall concurrently give notice to any Mortgagee, and any such Mortgagee may participate fully in any proceedings under this article 24 if in its reasonable opinion the outcome may affect such Mortgagee's security.

25. NON-DISTURBANCE

- 25.1** The Lessor hereby covenants, to and in favour of the Lessee and to and in favour of and for the benefit of every Sublessee, Mortgagee, licensee, permittee, or holder of any other interest in the Lessee's leasehold estate hereunder or in any interest derived therefrom (each of which parties is herein called an "Interested Party"), that if this Lease is cancelled for any reason whatsoever prior to the Termination Date or if any rights of the Lessee hereunder are cancelled, suspended or otherwise, and as a result, the possession, interest or rights of any such Interested Party in respect of the Lands during the term are interfered, provided that such Interested Party observes and performs for and in favour of the Lessor, its covenants and obligations contained in its sublease, Mortgage, licence, permit, concession or other instrument under which such Interested Party's interest in respect of the Lands arises, the Lessor will sign such agreements as may be reasonably requested and will not disturb or interfere with the rights and interests of the Interested Party and will allow such rights and interests to continue notwithstanding a termination of this Lease, but subject always to payment of the Lessor's reasonable legal costs and other costs without delay, to confirm the Lessor's agreements relating thereto.

26. OTHER ENCUMBRANCES

- 26.1** The Lessor will authorize the granting of or will execute and deliver any easement, right of way or similar charge over the Lands as may be reasonably required by any Authority or approving Authority to enable the Lessee to develop or redevelop the Lands for any lawful purpose, provided the Lessor will not be obliged to incur any costs in connection therewith.

27. ASSIGNMENT & AMENDMENT

27.1 The Westbank First Nation Development Co. Ltd. hereby assigns its interest in the First Old Headlease, the Second Old Headlease and the Third Old Headlease to the WFN Development Limited Partnership (the "Assignment").

27.2 The WFN and the WFN Development Limited Partnership consent to the Assignment.

27.3 The Lessor may amend this Lease with the written consent of the Lessee.

28. GENERAL PROVISIONS

28.1 Lessee's Covenants at Own Expense

28.1.1 Without limiting subsection 4.5.1, all of the Lessee's covenants are at its own expense.

28.2 Joint and Several

28.2.1 If the Lessee is comprised of more than one Person, then all of the Lessee's covenants are deemed to be joint and several.

28.3 All Terms are Covenants

28.3.1 All agreements, terms, conditions, covenants, provisions, duties, and obligations to be performed or observed by the Lessee under this Lease are deemed to be covenants.

28.4 Survival of Obligations

28.4.1 If a provision states that it survives the expiration or earlier termination of this Lease, then the survival of the provision is only to the extent required for the performance of any covenants pertaining to it, and the Lessee's entry on the Lands after the expiration or earlier termination of this Lease will only be at such times and upon such terms and conditions as the Lessor may from time to time specify in writing.

28.5 Governing Law

28.5.1 This Lease will be governed by, and is to be interpreted in accordance with, the applicable laws of Canada, British Columbia and the WFN.

28.6 No Modifications

28.6.1 No modifications of this Lease are effective unless in writing and executed in the same manner as this Lease.

28.7 Time is of the Essence

28.7.1 Time is of the essence in this Lease.

28.8 No Presumption

28.8.1 No ambiguity in any of the terms of this Lease will be interpreted in favour of any Party.

28.9 Severability

28.9.1 If any part of this Lease is declared or held invalid for any reason, then the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Lease had been executed without the invalid portion.

28.10 Binding on Successors

28.10.1 This Lease will be for the benefit of, and be binding upon, the heirs, executors, administrators, successors, assigns, future WFN Chief and Councils and members of the WFN and other legal representatives, as the case may be, of each Party.

28.11 No Waiver

28.11.1 No condoning, excusing, or overlooking by the Lessor of any default of the Lease operates as a waiver of, or otherwise affect the rights of, the Lessor in respect of any continuing or subsequent default.

28.11.2 No waiver will be inferred from anything done or omitted to be done by the Lessor, but only from an express waiver in writing.

28.12 No Assumption of Responsibility by Lessor

28.12.1 No consent or absence of consent by the Lessor will in any way be an assumption of responsibility or liability by the Lessor for any matter subject to or requiring the Lessor's consent.

28.13 Other Assurances

28.13.1 Each of the Parties will execute and deliver such further and other documents and assurances as another party hereto may reasonably request to better carry out or document the intentions herein expressed.

28.14 Corporate Authority

28.14.1 The Lessee warrants and represents to the Lessor that the Lessee:

- (a) has the authority under its constating documents to enter into this Lease and to perform all of the Lessee's covenants contained in this Lease;
- (b) is a limited partnership duly registered under the laws of British Columbia; and
- (c) is not a reporting company.

IN WITNESS WHEREOF the Parties have executed this Lease as of the date first written on page 1.

EXECUTED BY

WESTBANK FIRST NATION

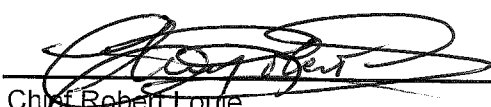
in the presence of:

Witness

MARCUS HADLEY
BARRISTER & SOLICITOR, NOTARY PUBLIC
Address 255 LINDEN AVE
VICTORIA BC V8V 4E6
TEL: 250-884-4703


Occupation

(as to all signatures)


Christ Robert Louie


Councillor Mike DeGuevara


Councillor Lorrie Hogaboam


Councillor Loretta Swite


Councillor Mickey Werstuik

EXECUTED in the
presence of:



As to the Lessee's authorized
signatories

MARCUS HADLEY
BARRISTER & SOLICITOR, NOTARY PUBLIC
255 LINDEN AVE
VICTORIA BC V8V 4E6
TEL: 250-884-4703

EXECUTED in the
presence of:

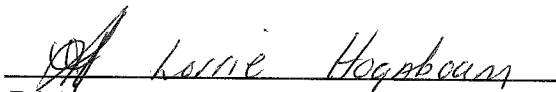


As to the Westbank First Nation
Development Co. Ltd.'s authorized
signatories

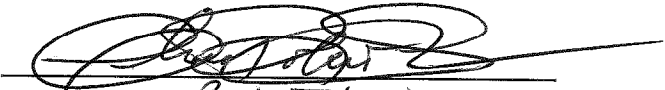
MARCUS HADLEY
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VICTORIA BC V8V 4E6
TEL: 250-884-4703

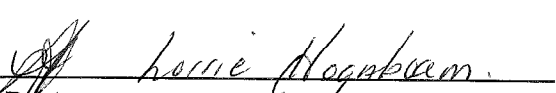
) WFN Development Limited Partnership by its
) General Partner Westbank First Nation
) Development Co. Ltd. by its authorized
) signatories:

) 
) Print name: Robert Louie

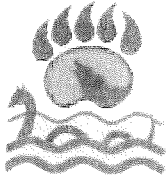
) 
) Print name: Lorne Hogoboom

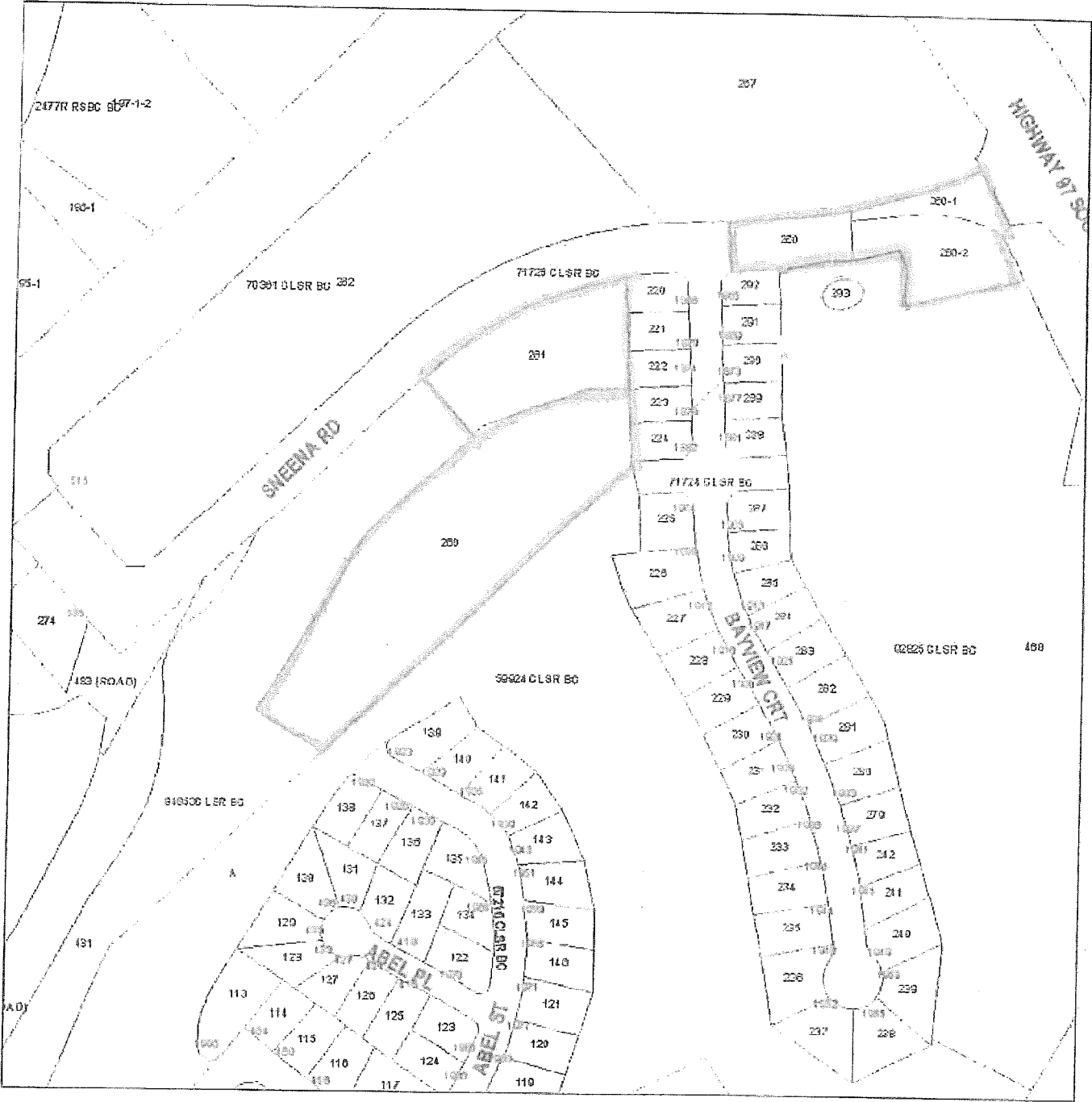
) Westbank First Nation Development Co. Ltd.
) by its authorized signatories


) 
) Print name: Robert Louie

) 
) Print name: Lorne Hogoboom



 WESTBANK FIRST NATION	Westbank First Nation		Westbank First Nation	
		Date: June 15, 2011	File 002	Drawn By



	Westbank First Nation		Westbank First Nation	
		Date: June 15, 2011	File 001	Drawn By