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November 19, 2021

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC
V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary

Dear Mr. Wruck:

Re: FortisBC Energy Inc. (FEI)

Application for Approval of an Operating Agreement between the City of Prince George and FEI (Application)

Lease-In-Lease-Out (LILO) Agreement between FEI and the City of Prince George

On October 20, 2021, FEI filed the above noted Application for approval with the British Columbia Utilities Commission (BCUC).

In response to the BCUC letter dated November 18, 2021 (Exhibit A-3), FEI files the attached LILO Agreement between FEI and the City of Prince George on the record of this proceeding.

If further information is required, please contact Ilva Bevacqua, Manager of Regulatory Compliance and Administration at (604) 592-7664.

Sincerely,

FORTISBC ENERGY INC.

Original signed:

Diane Roy

Attachment

AGREEMENT TO LEASE

THIS AGREEMENT is made as of the 15th day of October 2004

BETWEEN:

TERASEN GAS INC., a company having an office at 1111 West Georgia Street, Vancouver, B.C., V6E 4M4

("Terasen Gas")

AND:

CITY OF PRINCE GEORGE, a municipality having an address at 1100 Patricia Boulevard, Prince George, B.C., V2L 3V9

(the "City")

RECITALS

A. Terasen Gas owns and operates the Gas Distribution Assets which are used to provide natural gas service to the residents of the City of Prince George pursuant to a certificate of public convenience and necessity.

B. The parties have agreed to enter into certain new arrangements which include the leasing of the Gas Distribution Assets to the City, a lease back to Terasen Gas, the Franchise Amendment Agreement and a lease option for the City related to Additions, all as contemplated by the documents attached as Schedules B through E to this Agreement.

C. This Agreement details the terms and conditions to be fulfilled before the new arrangements will take effect.

TERMS OF AGREEMENT

NOW THEREFORE in consideration of the premises, covenants and agreements set out below, the parties agree as follows:

1. DEFINITIONS AND SCHEDULES

1.1 **Definitions.** In this Agreement (including the Recitals), the terms defined in Schedule A hereto shall have the meanings given to them therein.

1.2 **Schedules.** The following Schedules are incorporated in this Agreement by reference and form a part hereof:

- A Definitions
- B Capital Lease
- C Operating Lease

- D Franchise Amendment Agreement
- E Additions Option
- F Numbers Denoted [*]
- G GST Note

1.3 Statutes. References in this Agreement to particular statutes shall be deemed to be the British Columbia statutes of that name, as amended from time to time, or if in future the particular statute is repealed, then the statute that replaces the same.

2. TRANSACTIONS

2.1 Scope of Transaction. The parties acknowledge and agree that the components of the Transactions are:

- (a) a lease of the Gas Distribution Assets from Terasen Gas to the City, pursuant to the Capital Lease;
- (b) financing to the City from the Municipal Finance Authority on terms acceptable to the City, which terms shall:
 - (i) contemplate the advance of monies to the City sufficient for the City to make the prepayment of rent provided for under the Capital Lease and also sufficient money to pay the costs to each party of developing the terms of and closing these Transactions, being \$75,000 for Terasen Gas and \$650,000 for the City, with the City paying to Terasen Gas its amount on Closing the Transactions;
 - (ii) provide that the term of the financing matches the Operating Lease term; and
 - (iii) provide for blended payments of principal and interest by the City sufficient to fully amortize the loan over the Operating Lease term;
- (c) the Franchise Amendment Agreement, which shall terminate the option to purchase contained in the Franchise Agreement and shall provide the terms of arrangements between Terasen Gas and the City for a further 17 years;
- (d) a sublease of the Gas Distribution Assets from the City to Terasen Gas, pursuant to the Operating Lease;
- (e) the operation by Terasen Gas of the Gas Distribution Assets and continued distribution of natural gas by Terasen Gas within the City pursuant to the Operating Lease and the Franchise Amendment Agreement; and
- (f) an option for the City to make similar arrangements regarding Additions, from time to time, pursuant to the Additions Option.

The parties agree that all components of the transaction are intended to be implemented concurrently such that all components will proceed or none will proceed.

3. **REPRESENTATIONS AND WARRANTIES**

3.1 **Representations and Warranties of Terasen Gas.** Terasen Gas represents and warrants to the City that:

- (a) Terasen Gas is a company duly organized and validly existing under the laws of the Province of British Columbia, is in good standing with respect to the filing of annual reports at the office of the Registrar of Companies of British Columbia, and has the power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated thereby;
- (b) the execution and delivery of this Agreement has been duly and validly authorized by all necessary corporate action on the part of Terasen Gas and, subject to receipts of the consents and approvals and upon satisfaction of the conditions set forth in Section 5, each of the Transaction Documents will be duly and validly authorized and, upon execution and delivery by Terasen Gas and the City, shall constitute a legal, valid and binding obligation of Terasen Gas enforceable against it in accordance with its terms;
- (c) to its knowledge, the financial information regarding Terasen Gas that has been provided to the City fairly presents the financial position of Terasen Gas in all material respects as of the date of such information and that there has been no material adverse change to such position as at the date of this Agreement;
- (d) to its knowledge, the maps and other information regarding the Gas Distribution Assets that have been provided to the City are accurate in all material respects as of the date of such information and that there have been no material adverse changes affecting such information as at the date of this Agreement; and
- (e) to its knowledge, Terasen Gas is in compliance in all material respects with legal or regulatory requirements (including environmental laws) affecting the Gas Distribution Assets and that there have been no material adverse changes affecting such compliance as of the date of this Agreement.

3.2 **Representations and Warranties of the City.** The City represents and warrants to Terasen Gas that:

- (a) the City is a municipality duly organized and validly existing under the *Local Government Act* and the *Community Charter* and, has the power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated thereby; and
- (b) the execution and delivery of this Agreement has been duly and validly authorized by all necessary action on the part of the City and, subject to receipt of the consents and approvals and upon satisfaction of the conditions set forth in

Section 5, each of the Transaction Documents will be duly and validly authorized and, upon execution and delivery by the City and Terasen Gas, shall constitute a legal, valid and binding obligation of the City enforceable against it in accordance with its terms.

4. COVENANTS

4.1 Covenants of Terasen Gas. Terasen Gas covenants with the City that, until the Time of Closing, Terasen Gas will:

- (a) maintain in force all policies of insurance currently maintained with respect to the Gas Distribution Assets;
- (b) continue to operate and maintain the Gas Distribution Assets and distribute gas in accordance with the terms and conditions of the Franchise Agreement;
- (c) co-operate with and provide such assistance and information as the City may reasonably request to obtain the consents and approvals required to permit or authorize the Transaction Documents; and
- (d) use best efforts to obtain from all appropriate federal, provincial, municipal or other governmental or administrative bodies such approvals or consents as are required on its behalf to permit or authorize the Transactions and the Transaction Documents.

4.2 Covenants of the City. The City covenants with Terasen Gas that the City will:

- (a) until the Time of Closing, co-operate with and provide such assistance and information as Terasen Gas may reasonably request to obtain the consents and approvals required to permit or authorize the Transaction Documents;
- (b) until the Time of Closing, use best efforts to obtain from all appropriate federal, provincial, municipal or other governmental or administrative bodies such approvals or consents as are required on its behalf to permit or authorize the Transactions and the Transaction Documents; and
- (c) on Closing, pay to Terasen Gas and to itself their respective costs as set out in section 2.1(b)(i).

4.3 City Prepayment. The City hereby exercises its right to prepay, as provided for in section 4.2 of the Capital Lease, and agrees to prepay 95% of the annual rent on the Closing Date, which payment shall be a condition of the Capital Lease becoming effective, and the Prepayment Amount shall be \$57,000,000 for rent and \$3,990,000 for GST totalling \$60,990,000.

4.4 GST. The City will pay the GST amount of \$3,990,000 by providing to Terasen Gas a promissory note at closing in the form attached as Schedule G.

5. **CONDITIONS**

5.1 **Terasen Gas' Conditions.** The obligations of Terasen Gas to execute the Transaction Documents and to implement the Transactions in accordance with this Agreement shall be subject to the following conditions:

- (a) the representations and warranties of the City contained in this Agreement shall be true in all material respects at the Time of Closing with the same effect as though such representations and warranties had been made on and as of the Time of Closing; and
- (b) all of the covenants, agreements and deliveries of the City to be performed on or before the Time of Closing shall have been duly performed.

5.2 **Terasen Gas Waiver.** The conditions set forth in Section 5.1 of this Agreement are for the exclusive benefit of Terasen Gas and may be waived by Terasen Gas in writing in whole or in part on or before the Closing Date.

5.3 **City's Conditions.** The obligations of the City to execute the Transaction Documents and to implement the Transactions in accordance with this Agreement shall be subject to the following conditions:

- (a) the representations and warranties of Terasen Gas contained in this Agreement shall be true in all material respects at the Time of Closing with the same effect as though such representations and warranties had been made on and as of the Time of Closing; and
- (b) all of the covenants, agreements and deliveries of Terasen Gas to be performed on or before the Time of Closing shall have been duly performed.

5.4 **City's Waiver.** The conditions set forth in Section 5.3 of this Agreement are for the exclusive benefit of the City and may be waived by the City in writing in whole or in part on or before the Closing Date.

5.5 **Mutual Conditions.** Notwithstanding anything herein contained, the obligations of the parties to execute the Transaction Documents and to implement the Transactions in accordance with this Agreement shall be subject to the following conditions:

- (a) up to the Time of Closing, no action or proceeding at law or in equity shall have been commenced by any Person or Governmental Authority, to delay, enjoin, restrict or prohibit the Transactions or execution of the Transaction Documents;
- (b) on or before October 15, 2004, Terasen Gas' Board of Directors and the Prince George City Council shall have approved in principle the Transactions and the Transaction Documents, the City shall have received satisfactory opinions from the City's advisors, and the Prince George City Council shall have approved commencement of the appropriate approval processes required by the *Local Government Act* and the *Community Charter*;

- (c) on or before October 15, 2004:
 - (i) Terasen Gas shall have obtained the approval of the British Columbia Utilities Commission and all other necessary Governmental Authorities for the Transactions and Transaction Documents, including regulatory treatment respecting the Transactions, on terms and conditions satisfactory to both Terasen Gas and the City (and it is agreed that the parties will work cooperatively in relation to any such approvals including having their respective legal counsel review materials prior to submission by either and support each other in submissions made); and
 - (ii) the City shall have successfully completed the referendum process, pursuant to the *Local Government Act* and the *Community Charter*.
- (d) on or before October 15, 2004, the Terasen Gas Board of Directors shall have authorized the execution of the Transaction Documents and the Prince George City Council shall have received satisfactory opinions from the City's advisors, shall have obtained a certificate of the Inspector of Municipalities pursuant to Section 1022 of the *Local Government Act* and shall have obtained any other consents and done any other steps or procedures required under the *Local Government Act* and the *Community Charter* and all other legislation applicable to the City to authorize the execution of the Transaction Documents.

5.6 Waiver. The conditions set forth in Section 5.5 of this Agreement are for the benefit of both the City and Terasen Gas and may only be waived in whole or in part if both the City and Terasen Gas agree to such waiver, in writing, on or before the dates specified.

5.7 Terminates If Not Satisfied. If the conditions are not satisfied or waived as and when provided for above then this Agreement will automatically terminate, the Franchise Agreement will automatically extend for a period of 90 days after the failed condition removal date, and neither party shall have any further obligation to the other under this Agreement.

6. CLOSING

6.1 Closing. On the basis of the respective representations, warranties and covenants of the parties hereto, and subject to the terms and conditions of this Agreement including, without limitation, satisfaction of the conditions described in Section 5 above, the parties agree to effect the Closing of the Transactions, which shall include the execution and delivery of the Transaction Documents and those documents contemplated thereby and payment of the Prepayment Amount (as referred to in section 4.3), and provide or cause to be provided such other documents and do or cause to be done such other acts as the parties have agreed to herein, including an exchange of legal opinions between Terasen Gas' Solicitors (which shall include a security opinion addressed to the City and the City's Solicitors from Farris, Vaughan, Wills & Murphy) and the City's Solicitors in forms satisfactory to the same, acting reasonably, to implement the Transactions as contemplated by the Transaction Documents.

6.2 Development Costs. The City shall pay to Terasen Gas \$291,546.67 on the Closing Date, being the development costs that Terasen Gas is obligated to pay to City of Kelowna pursuant to the Cost Recovery Agreement between Terasen Gas and City of Kelowna.

6.3 Closing Procedures. The Closing of the Transactions shall take place at the Time of Closing at the Vancouver offices of Terasen Gas' Solicitors. All documents to be delivered at the Closing will be duly executed by all parties and then delivered into and held in escrow until all documents have been tabled and parties have agreed to terminate the escrow. All matters of payment, execution and delivery of documents will be deemed to be concurrent requirements, and nothing will be complete at the Closing on or before the Time of Closing until everything required to complete the Closing of the Transactions has been paid, executed and delivered.

6.4 Numbers Denoted [*]. In the Transaction Documents there are certain numbers, denoted by "[*]", that will be calculated, determined or confirmed at Closing and inserted into the Transaction Documents. Schedule F of this Agreement lists each number to be calculated, determined or confirmed between Terasen Gas' Solicitors and the City's Solicitors prior to the Closing Date.

7. GENERAL PROVISIONS

7.1 Announcements. Prior to Closing, the parties will cooperate with each other including prior consultation before public announcements are made, or information is provided to the public or third parties regarding the Agreement or the Transactions.

7.2 Costs. Except as set out in this Agreement, each of the parties shall be responsible for and pay its own legal, accounting and other costs in respect of the preparation of this Agreement and the Transactions contemplated hereby.

7.3 Time of Essence. Time shall be of the essence of this Agreement.

7.4 Governing Law. This Agreement shall in all respects be governed by and be construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

7.5 Parties Representative. Each party will appoint a person as its representative for the purpose of co-ordinating all matters and obligations of the parties as required by this Agreement. Each party will advise the other party in writing of the name, telephone number and fax number of its representative and each party may change its representative from time to time by notice in writing to the other.

7.6 Amendments and Waivers. No amendment, waiver or termination (except for automatic termination pursuant to Section 5.7) of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

7.7 Assignment. Neither the City nor Terasen Gas may assign this Agreement without the prior written consent of the other party. The assignee must agree in writing to be

bound by the provisions of this Agreement. Notwithstanding the granting of such consent, it shall not operate to release the original contracting party unless the other party specifically agrees.

7.8 Notice. Any notice or other writing required or permitted to be given under this Agreement to be effective must be delivered personally or sent by prepaid registered mail or transmitted by facsimile and addressed as follows:

(a) To Terasen Gas:

Terasen Gas Inc.
1111 West Georgia Street
Vancouver, BC
V6E 4M4

Attention: Mr. David Liesch

Telecopier No.: (604) 443-6904

And to the Terasen Gas' Solicitors;

(b) To the City:

City of Prince George
1100 Patricia Boulevard
Prince George, BC
V2L 3V9

Attention: George Paul

Telecopier No.: (250) 561-0183

And to the City's Solicitors;

or to such other address or addresses as the party to whom such notice or writing is to be given shall have last notified the party giving the same in the manner provided in this section. Any notice delivered to the party to whom it is addressed shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a business day, then the notice shall be deemed to have been given and received on the next business day following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the sixth business day next following the date of its mailing. Any notice transmitted by facsimile shall be deemed to have been given and received on the next business day after its transmission.

7.9 Further Assurances. Each of the parties will, on demand by the other party, execute and deliver or cause to be executed and delivered all such further documents and instruments and do all such further acts and things as the other party may reasonably require to

evidence and give full effect to the terms and conditions of this Agreement and to assure the completion of the Transactions.

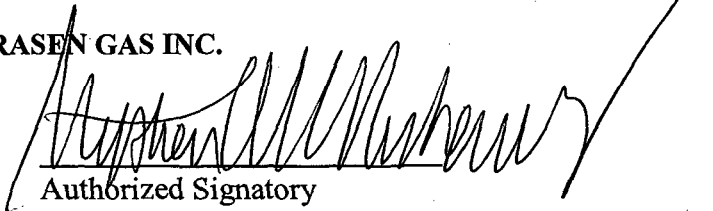
7.10 Enurement. This Agreement will enure to the benefit of and be binding upon each of the parties and their respective successors and permitted assigns.

7.11 Counterparts. This Agreement may be executed in one or more counterparts and such counterparts may be transmitted by electronic facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

AS EVIDENCE OF THEIR AGREEMENT Terasen Gas and the City have caused this Agreement to be duly executed.


TERASEN GAS INC.

By:


Authorized Signatory

CITY OF PRINCE GEORGE

By:



Authorized Signatory
Mayor

By:

Authorized Signatory
City Clerk

evidence and give full effect to the terms and conditions of this Agreement and to assure the completion of the Transactions.

7.10 Enurement. This Agreement will enure to the benefit of and be binding upon each of the parties and their respective successors and permitted assigns.

7.11 Counterparts. This Agreement may be executed in one or more counterparts and such counterparts may be transmitted by electronic facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

AS EVIDENCE OF THEIR AGREEMENT Terasen Gas and the City have caused this Agreement to be duly executed.

TERASEN GAS INC.

By: 

Authorized Signatory

CITY OF PRINCE GEORGE

By: 

Authorized Signatory
Mayor

By: 

Authorized Signatory
City Clerk

SCHEDULE A

DEFINITIONS

- (a) "Additions" is as defined in the Additions Option;
 - (b) "Additions Option" means the Additions Option agreement granting the City an option to lease the Additions to be entered into by Terasen Gas and the City on the Closing Date in the form attached as Schedule E hereto;
 - (c) "Agreement" means this Agreement and the Schedules to same as the same may be amended from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", and similar expressions refer to this Agreement and the Schedules;
 - (d) "Capital Lease" means the Capital Lease to be entered into by Terasen Gas and the City on the Closing Date in the form attached as Schedule B hereto;
 - (e) "City's Solicitors" means Owen Bird;
 - (f) "Closing" means the formal execution and delivery of the Transaction Documents;
 - (g) "Closing Date" means November 1, 2004 or such other date agreed to in writing between Terasen Gas and the City;
 - (h) "Franchise Agreement" means the arrangement, set out in the letter dated July 25, 1980 from Terasen Gas (then known as Inland Natural Gas Co. Ltd.) to the City together with Schedule "B" to the certificate of public convenience and necessity, of Terasen Gas to provide natural gas service to the City area, as extended and renewed up to but not including the Franchise Amendment Agreement;
 - (i) "Franchise Amendment Agreement" means the agreement to be entered into by Terasen Gas and the City on the Closing Date in the form attached as Schedule D hereto;
-
- (j) "Gas Distribution Assets" are as defined in the Capital Lease;
 - (k) "Governmental Authority" means any federal, provincial, state, municipal, county or regional government or governmental authority, domestic or foreign, and includes any department, commission, bureau, board, administrative agency or regulatory body of any of the foregoing but excludes the City;
 - (l) "New Components" is as defined in the Capital Lease;
 - (m) "Operating Lease" means the Operating Lease to be entered into by Terasen Gas and the City on the Closing Date in the form attached hereto as Schedule C;

- (n) "Person" means any individual, partnership, company, corporation, unincorporated association, trust, government or government agency, authority or entity howsoever designated or constituted;
- (o) "Terasen Gas' Solicitors" means Fasken Martineau DuMoulin LLP;
- (p) "Time of Closing" means 10:00 a.m., Vancouver Time, on the Closing Date or such other time as the parties may agree upon in writing;
- (q) "Transactions" means the concurrent transactions to be entered into by the parties as described in section 2.1;
- (r) "Transaction Documents" means collectively the Capital Lease, the Operating Lease, the Franchise Amendment Agreement and the Additions Option.

SCHEDULE B
CAPITAL LEASE

CAPITAL LEASE

THIS LEASE AGREEMENT is made as of the 1st day of November, 2004,

BETWEEN:

TERASEN GAS INC., a company having an office at 1111 West
Georgia Street, Vancouver, British Columbia, V6E 4M4

("Lessor")

AND:

CITY OF PRINCE GEORGE, a municipality having an office at
1100 Patricia Boulevard, Prince George, British Columbia, V2L
3V9

("Lessee")

RECITALS

- A. Lessor is the owner of the Gas Distribution Assets.
- B. Lessor wishes to lease to Lessee, and Lessee wishes to lease from Lessor, the Gas Distribution Assets on the terms and conditions of this Lease.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements set out in this Lease, Lessor and Lessee agree as follows:

1. DEFINITIONS AND APPENDICES

1.1 Definitions. In this Lease (including the Recitals), the terms defined in Appendix 1 hereto shall have the meanings given to them therein.

1.2 Appendices. The following Appendices are incorporated in this Lease by reference and form a part hereof:

- | | |
|---|-------------|
| 1 | Definitions |
| 2 | Rent |

1.3 Statutes. References in this Lease to particular statutes shall, unless the Lease specifically provides otherwise, be deemed to be the British Columbia statute of that name, as amended from time to time, or if in future the particular statute is repealed then the statute that replaces the same.

2. **LEASE**

2.1 **Lease.** Subject to the terms of this Lease, Lessor hereby leases to Lessee the Gas Distribution Assets.

2.2 **Ownership.** The Gas Distribution Assets will remain the property of, and title to the Gas Distribution Assets will remain that of, the Lessor. Lessee shall not charge or encumber the Gas Distribution Assets or allow any charge, security interest, lien or other encumbrance to exist (except for any charge, security interest, lien or other encumbrance in favour of the Lessor) on the Gas Distribution Assets, however for certainty, the Lessee is permitted to assign or sublet its interest in this Lease and/or the Gas Distribution Assets pursuant to Section 9.2.

2.3 **Quiet Enjoyment.** Notwithstanding any other provisions of this Lease, Lessee may retain possession and quiet enjoyment of the Gas Distribution Assets until the end of the Term, subject to the provisions of this Lease.

3. **TERM**

3.1 **Term.** The term of this Lease (the "Term") will commence on the date hereof and will continue for a period of 35 years expiring on October 31, 2039, unless terminated earlier, or extended, pursuant to the terms of this Lease.

3.2 **Early Termination Option.** Lessor has the right, at Lessor's option, to terminate this Lease on October 31, 2021 (the "Termination Date"), such right to be exercisable at any time from July 1, 2021 to September 30, 2021 by the Lessor delivering written notice to the Lessee that this option has been exercised, in which event the Lessor shall pay to the Lessee the Termination Payment on the Termination Date. The Termination Payment (assuming prepayment of the maximum amount under Section 4.2) shall be calculated as follows:

Refund of Unamortized Prepaid Rent	\$ 29,314,000 plus
Termination Charge	<u>\$ 60,000</u>
Termination Payment	\$ 29,389,000

In exchange for the Termination Payment, the Lessee shall execute and deliver to the Lessor a signed agreement surrendering this Lease in an appropriate form provided by and executed by the Lessor.

3.3 **Lease Ends Upon Payment.** At the end of the Term, whether pursuant to termination under section 3.2, section 4.6 or otherwise, this Lease shall continue in effect until, as the case may be:

- (a) the Termination Payment provided for in section 3.2;
- (b) the payments provided for in section 4.6; or
- (c) all other monies due to each party hereto pursuant to this Lease or otherwise in respect of the Gas Distribution Assets,

are paid. The Lessee shall execute and deliver to the Lessor a signed agreement surrendering this Lease in an appropriate form provided by and executed by the Lessor and necessary payments will be made concurrently.

4. **RENT**

4.1 **Rent for Gas Distribution Assets.** Lessee agrees to pay Lessor, as annual rent for the Gas Distribution Assets, the payments shown on Appendix 2 hereto and all applicable taxes as provided for in Section 4.3. As of the date of this Lease, the parties acknowledge that the only current applicable tax is GST.

4.2 **Right to Prepay.** Lessee has the right to prepay up to 95% of the annual rent payable under Section 4.1, such right may be exercised by the Lessee by notice in writing to the Lessor specifying:

- (a) the percentage of the annual rent to be prepaid (the "Prepaid Percentage");
- (b) the amount of rent to be prepaid (the "Prepayment Amount"), being the present value of the Prepaid Percentage of the annual rent over the Term of the Lease, determined using an effective annual discount rate of 8.596% per annum (and assuming annual payments), and accompanied by payment of the Prepayment Amount, plus applicable GST. The portion of the annual rent not prepaid shall be paid pro rata in accordance with section 4.1.

4.3 **Invoices.** Lessor will be responsible for calculating the rent due in accordance with Sections 4.1 and 4.2 above and all other amounts payable thereunder including all applicable federal or provincial sales tax or goods and services or similar taxes that are to be paid by a lessee under lease arrangements in respect of rent payments. Lessor shall provide to the Lessee an accounting of the amount of applicable rent and all such other amounts payable not less than 30 days prior to each payment date. The Lessee shall pay such amount, in arrears, to the Lessor on April 30 and October 31 of each year of the Term, commencing April 30, 2005 and a final payment at the expiry or earlier termination of the Term. The rent payment and the accounting must be delivered to Lessor at its address shown above or to such other address for payments as shall be given to Lessee from time to time by Lessor.

4.4 **Interest on Overdue Amounts.** If any rent or any other amount payable under this Lease by Lessee to Lessor (including interest) is not paid when due, interest shall accrue and be payable on such unpaid amount both before and after judgment, from the due date until paid at an annual rate of interest equal to the Prime Rate plus 5%.

4.5 **Impact of New Circumstances.** If during the Term any circumstance arises (a "New Circumstance") (e.g. a tax, levy, fee or assessment is imposed on the payment of Rent) which may adversely affect the net financial benefit to either or both of the parties of the transactions between the parties with respect to the Gas Distribution Assets, as contemplated by the parties (the "Contemplated Benefit") then the Lessor will calculate the overall impact of the New Circumstance to determine if the Contemplated Benefit will continue to be achieved. If the Lessor concludes that, after accounting for the impact of the New Circumstance, there will no longer be the Contemplated Benefit to either or both of the parties, then Lessor will advise the

Lessee by means of a written notice (the "New Circumstance Notice") as to its conclusion. The Lessor will also provide to the Lessee supporting documentation to permit the Lessee and its advisers to review the Lessor's conclusions. Lessee will have 90 days from receipt of the New Circumstance Notice to dispute the Lessor's conclusions by written notice (the "Dispute Notice").

4.6 Cooperative Wind-Up. If the Lessee either:

- (a) does not issue a Dispute Notice within the time provided for above; or
- (b) issues a Dispute Notice but it is then determined by means of the dispute resolution procedure that the Lessor's conclusions were correct,

then the parties shall cooperate in settling accounts effective as of the date of the New Circumstance Notice, including payment by the Lessor to the Lessee of an amount calculated as follows:

- (i) the unamortized balance (based on straightline amortization over the Term as payments are made) of the Prepayment Amount; plus
- (ii) the present value of the remaining payments using the deemed annual payment indicated below calculated at the Current Investment Rate for the discounting period indicated below; less
- (iii) the present value of the remaining payments using the deemed annual payment indicated below calculated at a rate of 5.560%.

For purposes of this calculation the annual payment for the outstanding fixed rate obligation is deemed to be \$3,729,772 and the discounting period is from the date of the New Circumstance Notice to the Termination Date (as defined in section 3.2). The parties will exchange all documents required to effectively terminate this Lease and all other Agreements related to the lease of the Gas Distribution Assets. All such actions will be carried out concurrently and will be effective as of the date the New Circumstance Notice was given.

4.7 Lessee Calculation. If the Lessee believes a New Circumstance has arisen which may adversely affect the Contemplated Benefit to either or both of the parties and the Lessor has not calculated the impact and provided a New Circumstance Notice then the Lessee will calculate the impact and provide the New Circumstance Notice to the Lessor. The above procedures for resolution will then apply mutatis mutandis.

5. COVENANTS

5.1 Use of Assets. Lessee shall only use the Gas Distribution Assets or permit their use:

- (a) for the purpose of operating a gas distribution system in the municipal boundaries of the City of Prince George;

- (b) in accordance with all applicable laws, including laws relating to the registration, leasing, insurance, possession, use or operation of the Gas Distribution Assets; and
- (c) in accordance with all conditions of any applicable insurance policies.

Lessor expressly acknowledges and agrees that the Lessee shall be entitled to assign or sublet the Gas Distribution Assets and applicable provisions of this Lease to another party to operate as contemplated by Sections 5.7 and 9.2. The parties agree that if the City so assigns or sublets this Lease and/or the Gas Distribution Assets to the Lessor then such assignment or subletting shall not merge with this Lease.

5.2 Maintenance of Assets. Lessee shall maintain or cause to be maintained the Gas Distribution Assets to keep the same or cause the same to be kept in reasonable condition and repair, ordinary wear and tear excepted. If any part of the Gas Distribution Assets is damaged, wears out, is destroyed, lost or stolen (such items being collectively referred to herein as the "Damaged Components") such that in the opinion of Lessor or Lessee, acting reasonably, it needs to be added to or existing components need to be replaced with new components (such items being collectively referred to herein as the "New Components"), then Lessee shall cause the Damaged Components to be replaced by New Components. Within 60 days of the end of each year of the Term Lessee shall provide Lessor with an itemized list of all Damaged Components which have been replaced, and all New Components which have been installed during such year. The Lessor will assist the Lessee to locate any of the Gas Distribution Assets or New Components. Lessor shall retain title and ownership to all New Components.

5.3 Insurance.

- (a) All Risks Insurance. Lessee agrees that it shall at all times during the Term keep or cause to be kept the Gas Distribution Assets insured against loss by an All Risks Insurance policy including fire and perils covered under an extended coverage endorsement and endorse to waive all rights of subrogation against the Lessor at not less than the replacement cost value of the Gas Distribution Assets. All such insurance shall cover the interest of Lessor and Lessee in the Gas Distribution Assets and shall provide that losses, if any, in respect of the Gas Distribution Assets shall be payable to Lessee and Lessor as their respective interests may appear, and such proceeds shall be paid over to and used by Lessee to repair or replace the affected Gas Distribution Assets.
- (b) Comprehensive General Liability Insurance. Lessee agrees that it shall at all times during the Term maintain or cause to be maintained a Comprehensive General Liability Insurance policy including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employers Liability, Broad Form Property Damage and Non-Owned Automobile Liability insurance with respect to the Gas Distribution Assets, in an amount of not less than \$5 million for each occurrence or accident. All such insurance shall protect Lessor and Lessee in respect of risks arising out of the condition, maintenance, use, ownership or operation of the Gas Distribution

Assets, and shall designate such parties as additional insureds thereunder, including a Cross Liability clause such that inclusion of more than one insured shall not affect the coverage of another.

- (c) Nature of Coverage; Settlement. Each policy under this section 5.3 shall provide (i) that the insurer shall give Lessor not less than 30 days prior written notice before the cancellation or any material alteration of the subject policy would be effective as against the Lessor, and (ii) that any amounts otherwise payable under the policy to Lessor shall be so payable irrespective of any misrepresentation by Lessee in acquiring or maintaining the policy. Upon receipt of notification from the applicable insurer of any alteration of any such policy, Lessee shall promptly notify Lessor. Lessee shall furnish Lessor with certificates of insurance evidencing Lessee's compliance with the insurance requirements hereunder and will provide the Lessor with copies of such policies upon request.
- (d) Non payment of Losses. The failure or refusal to pay losses by any insurance company providing insurance shall not be held to waive or release Lessee from the provisions of this section or other requirements of this Lease. Any insurance deductible maintained by the Lessee is solely for the Lessee's account and if paid by the Lessor is recoverable from the Lessee pursuant to this Lease.

5.4 Indemnity. Notwithstanding (i) any other provision of this Lease or (ii) the availability, existence or collectability of any insurance, Lessee shall indemnify and save harmless Lessor (and its directors, officers, employees and agents) from and against any and all losses, costs, damages, claims and liabilities of whatever kind or nature, including, without limitation, legal fees and disbursements on a solicitor and client basis (collectively "Costs") incurred or suffered by Lessor (and its directors, officers, employees and agents) and relating in any way whatsoever to any one or more of the Gas Distribution Assets or their lease or use including, without limitation, damage to or loss of property and loss of use thereof, and bodily injury to or death of a person or persons, and all Costs relating to claims made by third parties against Lessor (and its directors, officers, employees and agents) as owner or lessor of one or more of the Gas Distribution Assets and all Costs relating in any way whatsoever to the use of any one or more of the Gas Distribution Assets by Lessee or any affiliate of Lessee.

Notwithstanding the foregoing, Lessee is not responsible for (i) any damage caused to a Gas Distribution Asset, (ii) theft or loss of a Gas Distribution Asset or (iii) claims made by third parties, caused by the fault or negligence of Lessor or any of its directors, officers, employees or agents.

5.5 Expenses, Fees, Taxes. Lessee shall pay or cause to be paid all costs, expenses, fees and charges (including all taxes whatsoever) incurred in connection with its registration, licensing, possession, use or operation of the Gas Distribution Assets during the Term, except for any liability of Lessor for federal or provincial income taxes arising out of receipt of rents payable under this Lease.

5.6 Assets to Remain Lessor's Property. Lessee agrees that the Gas Distribution Assets shall be and remain the property of the Lessor notwithstanding the manner in which or degree to which the same may be attached or affixed to realty.

5.7 Covenants. Lessee may comply with its covenants regarding the Gas Distribution Assets including their use, maintenance or insurance herein by causing those covenants to be carried out on the Lessee's behalf by the Lessor, or by another operator of the Gas Distribution Assets that is approved in writing by the Lessor (acting reasonably, including its consideration of the proposed operator's ability to operate the Gas Distribution Assets).

5.8 Tripartite Agreement. The Lessee may choose to have its operator enter into a tripartite agreement with the Lessor and Lessee where the operator would covenant directly with the Lessor to fulfill certain of the Lessee's obligations under this Lease on terms acceptable to the Lessor, in which event the Lessor will thereafter enforce such covenants directly against the operator.

5.9 Transport By Others Agreement. If during the Term the Gas Distribution Assets are operated by an entity that is not also the operator of the gas distribution system(s) adjacent to the City of Prince George and the supply of gas to any customers within the City of Prince George or in the adjacent system(s) necessitates use of the Gas Distribution Assets and the adjacent distributions systems(s), then the Lessee will use reasonable efforts to obtain an agreement with the adjacent system operator(s) for the transport of gas on each system, including setting the applicable tariffs, in order to ensure all customers are supplied. If the Lessee and any such adjacent system operator(s) do not reach such agreement on the terms of service or the applicable tariffs then the Lessee will apply for those matters to be determined by the British Columbia Utilities Commission (or its successor in function as regulator of gas services). If the Lessor is an adjacent system operator then the Lessor, on behalf of itself and its successors, will use reasonable efforts to enter into such an agreement with the Lessee on the terms and in accordance with the above provisions, and if the Lessor disposes of any part of such system, where the part being disposed of necessitates the use of portions of both the Gas Distribution System and the adjacent distribution system(s) to service customers inside or outside of the City of Prince George, then the Lessor will notify the Lessee of the same and will use reasonable efforts to obtain an agreement from the person acquiring such interest to be bound by this section 5.9.

6. REPRESENTATIONS

6.1 Representations and Warranties of Lessor. Lessor represents and warrants to the Lessee that:

- (a) Lessor is a company duly organized and validly existing under the laws of the Province of British Columbia, is in good standing with respect to the filing of annual reports at the office of the Registrar of Companies of British Columbia, and has the power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated thereby;
- (b) Lessor is the legal and beneficial owner of the Gas Distribution Assets and has good and marketable title to the Gas Distribution Assets free and clear of all liens, charges and encumbrances;

- (c) there is to Lessor's knowledge no existing or threatened litigation affecting the title to or use of the Gas Distribution Assets and Lessor will promptly notify Lessee if such arises;
- (d) Lessee is acquiring the leasehold right, title and interest in and to the Gas Distribution Assets free and clear of all liens, charges and encumbrances;
- (e) Lessor has paid and will continue to pay as and when due all required taxes or assessments, to government authorities that may give rise to a lien against the Gas Distribution Assets;
- (f) to the Lessor's knowledge, the Gas Distribution Assets are all of the physical components necessary to transport natural gas from the regulating stations to the metres on gas customers' properties;
- (g) to its knowledge, the Lessor is in compliance, in all material respects, with legal or regulatory requirements (including applicable environmental laws) affecting the Gas Distribution Assets or the Lessor's ability to perform this Lease; and
- (h) the execution and delivery of this Lease and the performance of the transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action on the part of the Lessor, no consents of third parties are necessary and the Lease constitutes a legal, valid and binding obligation of the Lessor enforceable against it in accordance with its terms;

and that the representations and warranties described above will survive execution of this Lease and will continue throughout the Term. Lessor will, upon request by Lessee from time to time, provide to Lessee a certificate of an officer of Lessor that, to the best of his or her knowledge, after reasonable enquiry, such representations and warranties are true and correct as of the date specified in such request.

6.2 Representations and Warranties of the Lessee. The Lessee represents and warrants to the Lessor that:

- (a) Lessee is a municipality and validly exists under the *Local Government Act* and the *Community Charter* and has the power, authority and capacity to enter into this Lease and to perform its obligations contemplated thereby; and
- (b) the execution and delivery of this Lease and the performance of the transactions contemplated thereby, have been duly and validly authorized by all necessary action on the part of the Lessee and pursuant to the *Local Government Act* and the *Community Charter* and the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable against it in accordance with its terms.

7. STATE OF ASSETS AND WARRANTY DISCLAIMER

7.1 As Is. Based and relying on the representations and warranties of Lessor set forth above, Lessee has agreed to lease the Gas Distribution Assets on an "as is where is" basis.

Lessor has no liability whatsoever to Lessee for any loss or damage of any kind whatsoever suffered by Lessee, whether directly or indirectly as a result of any defect in a Gas Distribution Asset, failure of a Gas Distribution Asset to perform properly or any other matter whatsoever relating to a Gas Distribution Asset, unless same relates to a material misrepresentation by Lessor. Lessee expressly waives any and all claims against Lessor for such losses or damages.

7.2 Rights Against Manufacturers. Lessor will, upon request and to the extent permitted by law, assign or otherwise make available to Lessee all Lessor's rights, if any, under any manufacturers' warranties on Gas Distribution Assets. Following the expiry of the Term (whether before or after the termination of this Lease) Lessee shall reassign to Lessor any such manufacturers' warranties that have been so assigned or made available. If at any time during the Term, Lessee determines that there is a defect in a Gas Distribution Asset, or a Gas Distribution Asset does not operate as represented or warranted by the manufacturer or is otherwise unsatisfactory for any reason, Lessee shall not make any complaint or claim in any way relating to such Gas Distribution Assets against Lessor, and shall continue to pay Lessor all amounts payable under this Lease with respect to such Gas Distribution Assets. Lessor shall assist Lessee with any reasonable claims or complaints against manufacturers.

8. DEFAULT

8.1 Events of Default. The occurrence of any of the following shall constitute an "Event of Default" hereunder:

- (a) if Lessee fails to pay when due any rent or other amount payable under this Lease and such failure remains unremedied for 20 Business Days after written notice thereof has been given by Lessor to Lessee;
- (b) if Lessee fails to perform or observe any of its other obligations under this Lease and such failure continues for a period of 20 Business Days after written notice thereof has been given by Lessor to Lessee; except that in the event of a non-monetary failure that cannot be reasonably cured within 20 Business Days after written notice where Lessee proceeds to attempt to cure such default then, in such event, Lessee shall have an additional reasonable period of time to cure providing it continues to diligently attempt to cure until the Event of Default ceases;
- (c) any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or any other proceedings for the relief of debtors generally are instituted by or against Lessee and, if instituted against Lessee, are allowed, consented to or not dismissed or stayed within 40 Business Days after such institution; or
- (d) a trustee, receiver or receiver and manager is appointed for Lessee or for any substantial part of its property and remains in place for 40 Business Days after such appointment.

8.2 Remedies. When any Event of Default has occurred and is continuing Lessor may, subject to the extent permitted by and subject to compliance with applicable laws, in its sole discretion elect to do any one or more of the following:

- (a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants and terms of this Lease or to recover damages for the breach thereof;
- (b) up to the Termination Date, set-off any monies due by it to Lessee under or by virtue of any other agreement against monies due to it hereunder, and after the Termination Date (if Lessor does not exercise its option to terminate), set-off any monies due by it to Lessee against monies due to it hereunder; and
- (c) recover from Lessee all reasonable costs incurred by Lessor in connection with an Event of Default, including but not limited to all reasonable legal and other out-of-pocket expenses incurred by Lessor in enforcing the remedies available to Lessor referred to in this Section 8.2.

8.3 Lessor Default. If:

- (a) the Lessor makes a misrepresentation or commits a breach of this Lease that has a material impact on the Lessee and the same remains or is not cured within 40 Business Days after written notice thereof has been given by the Lessee to the Lessor; or
- (b) any of the circumstances described in 8.1(c) or (d) above apply in respect of the Lessor,

then the Lessee shall be entitled to terminate this Lease upon providing notice to the Lessor.

8.4 Survival of Obligations. Upon termination of this Lease all rights and obligations of Lessor and Lessee under this Lease shall cease except those which are stated herein to survive termination, and except for the obligation to pay any monies owing at the time of termination.

9. GENERAL PROVISIONS

9.1 Lessor May Perform. If Lessee fails to make any payment required to be made by it hereunder or fails to perform or comply with any of its obligations hereunder, Lessor may but need not, make such payment or perform or comply with such obligation and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance or compliance with such obligation, as the case may be, shall be payable to Lessor forthwith on demand.

9.2 Assignment. Neither party shall assign or otherwise transfer this Lease or any of its rights or interests herein including, without limitation, its rights to or interests in the Gas Distribution Assets, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

9.3 Enurement. This Lease shall be binding upon and enure to the benefit of the parties to this Lease and their respective successors and permitted assigns.

9.4 Notices. Any notice or other writing required or permitted to be given under this Agreement to be effective must be delivered personally or sent by prepaid registered mail or transmitted by facsimile and addressed as follows:

(a) To Lessor:

Terasen Gas Inc.
1111 West Georgia Street
Vancouver, British Columbia
V6E 4M4

Attention: Legal Department

Telecopier No.: (604) 443-6789

(b) To Lessee:

City of Prince George
1100 Patricia Boulevard
Prince George, British Columbia
V2L 3V9

Attention: George Paul

Telecopier No.: (250) 561-0183

or to such other address or addresses as the party to whom such notice or writing is to be given shall have last notified the party giving the same in the manner provided in this section. Any notice delivered to the party to whom it is addressed shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day, then the notice shall be deemed to have been given and received on the next Business Day following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the sixth Business Day next following the date of its mailing. Any notice transmitted by facsimile shall be deemed to have been given and received on the next Business Day after its transmission.

9.5 General Matters. To the extent permitted by applicable law, each party hereto waives any provision of law which renders any provision of this Lease unenforceable in any respect. Each of the parties hereto shall, at its expense, promptly execute further documents and assurances and take such further action as the other party hereto may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Lease and to establish and protect the rights, interests and remedies intended to be created hereunder. Waiver by either party of any provision of this Lease in one instance shall not constitute a waiver by such party as to any other instance or any other provision and any such waiver must be in writing to be effective. Time is of the essence of this Lease in all respects.

9.6 Registration of Lease. Lessee may register its interest in this Lease and the Additions Option in all places it considers necessary or desirable. Lessee acknowledges receipt of a fully executed copy of this Lease.

9.7 Governing Law. This Lease and the rights and obligations of the parties hereto shall be governed by the laws of the Province of British Columbia.

9.8 Parties Representative. Each party will, during the Term, appoint a person as its representative for the purpose of coordinating all matters and obligations of the parties as required by this Agreement. Each party will advise the other party in writing of the name, telephone number and fax number of its representative and each party may change its representative from time to time by notice in writing to the other.

9.9 Mediation. If any dispute arises between Lessor and Lessee with respect to this Lease, then, within seven (7) days of Notice from one party to the other, or such time as agreed to by both parties, the representatives of the parties will participate in good faith discussions in order to resolve and settle the dispute. In the event that such representatives are unable to resolve the dispute within fourteen (14) days of the first written notice, or such other time period agreed to by both parties, each party will appoint a senior representative that has not been previously involved in the matter in dispute, to attempt to resolve the dispute. Each senior representative will meet and agree upon the selection of a qualified independent mediation practitioner versed in the resolution of commercial disputes in order to assist them within the forty-five (45) day time frame set out below. Each party will bear their own costs of the formal mediation process.

9.10 Arbitration. If the matter is not settled through the process in Section 9.9 within forty-five (45) days of the notice of the dispute being given unless the parties mutually agree to extend the forty-five (45) day period, the matter will be referred for arbitration pursuant to the *Commercial Arbitration Act*. Arbitrations involving monetary claims under \$250,000 shall be resolved by a single arbitrator while all other claims shall be resolved by a panel of three arbitrators. Where these arbitrators are to be selected then:

- (a) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party will select an arbitrator, and the selected arbitrators will meet to select a third arbitrator; and
- (b) if within the fourteen (14) days either party fails or refuses to appoint an arbitrator, or if the selected arbitrators fail to appoint a third arbitrator within ten (10) days thereafter then such arbitrators will be appointed pursuant to the *Commercial Arbitration Act*.

A single arbitrator will be selected by agreement of the parties or, failing agreement of the parties, a person shall be selected as follows:

- (c) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party shall appoint an arms-length representative, ("Appointment Agent") who will, pursuant to this Agreement be given the authority to meet and agree upon the selection and appointment of a single arbitrator;

- (d) if within the fourteen (14) days either party fails or refuses to appoint its Appointment Agent, or if the Appointment Agents fail to appoint a single arbitrator within ten (10) days thereafter then a single arbitrator will be appointed pursuant to the provisions of the *Commercial Arbitration Act*.

A single arbitrator will be an experienced professional versed in the matters in dispute. Each party will bear its own costs of the arbitration, including all costs of its Appointment Agent, regardless of the arbitrators' decision.

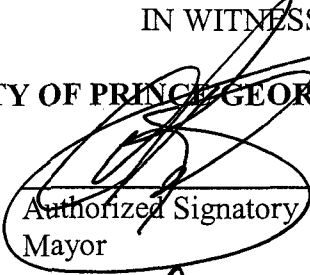
9.11 Other Agreements. The provisions of this Lease shall not affect the rights of the parties which may subsist from time to time pursuant to any other agreements between them dated concurrently with or subsequently to this Lease nor relieve the parties of any obligations they may have pursuant to such agreements. There shall be no merger with this Agreement created or deemed to be created by virtue of any other agreement or agreements entered into between the parties hereto.

9.12 Counterparts. This Lease may be executed in one or more counterparts and such counterparts may be transmitted by electronic facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

IN WITNESS WHEREOF the Parties have caused this Lease to be duly executed.

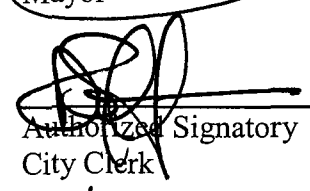
CITY OF PRINCE GEORGE

By:



Authorized Signatory
Mayor

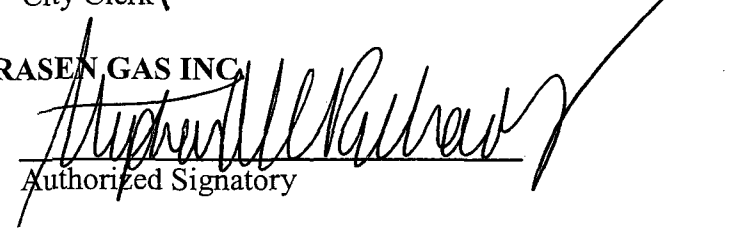
By:



Authorized Signatory
City Clerk

TERASEN GAS INC.

By:



Authorized Signatory

APPENDIX 1

DEFINITIONS

For the purposes of this Lease:

- (a) "Additions" means collectively New Components and Extensions;
- (b) "Additions Option" means the Additions Option Agreement made by the Lessor and Lessee concurrently with this Lease;
- (c) "Business Day" means Monday to Friday of each week excluding holidays;
- (d) "Current Investment Rate" means the average of the respective rates of interest determined by two members of the Canadian Investment Dealers Association as reflecting the rate that would apply to a new fixed rate BC Government Bond. For purposes of determining the rate, the term to maturity will be deemed to extend from the date of the New Circumstance Notice to the Termination Date (as defined in section 3.2). The parties will, within 30 days of the New Circumstance Notice date, jointly select the two members of the Canadian Investment Dealers Association and jointly instruct them to make their determination in accordance with generally accepted financial practice and report their conclusion to both parties within 30 days of receiving the joint instructions. The provisions of sections 9.8, 9.9, 9.10 shall apply to any disputes including the selection of the members and settling the joint instructions;
- (e) "Damaged Components" has the meaning given to it in section 5.2;
- (f) "Extensions" are as defined in the Additions Option;
- (g) "Event of Default" has the meaning given to it in section 8.1;
- (h) "Gas Distribution Assets" means all of the distribution mains, service lines, gas meters and valves (but excluding transmission pipelines above 690 kPa and regulating stations) that comprise the existing distribution system utilized by Terasen Gas to distribute gas within the City of Prince George and which are located within the municipal boundaries of the City of Prince George, both as of the date of this Lease, but specifically excluding:
 - (i) New Components and Extensions; and
 - (ii) those distribution mains, service lines, gas meters and valves located within areas which, after the date of this Lease, become included within the municipal boundaries of the City of Prince George.

Additions may be leased from time to time as options are exercised, pursuant to the Additions Option Agreement;

- (i) "Lease" means this agreement and all Appendices attached hereto, as they may be amended in writing from time to time by mutual agreement;
- (j) "New Components" means the components added to the Gas Distribution Assets after the date of this Lease to replace Damaged Components as contemplated by Section 5.2;
- (k) "Prime Rate" means the rate of borrowing offered from time to time by The Toronto-Dominion Bank to its most credit-worthy customers and used to calculate other rates of borrowing and announced by such bank as being its prime rate;
- (l) "Term" has the meaning given to it in section 3.1.

APPENDIX 2

RENT

This appendix details the rent to be paid by the Lessee to the Lessor pursuant to Section 4.1 of the Lease.

- The annual rent for the Lease is:
 - (a) \$5,462,160; or
 - (b) if the full Prepayment Amount of rent of 95% is made, then the balance payable of the annual rent is \$273,108.
- The rent payments to be made semi-annually are one half of the annual rent, payable on April 30 and October 31 of each year of the Term.

Where a payment of rent is to be made for a period of less than 6 months, the payment to be made will be determined by prorating the semi-annual rent based on the portion of the 6-month period to which the payment applies.

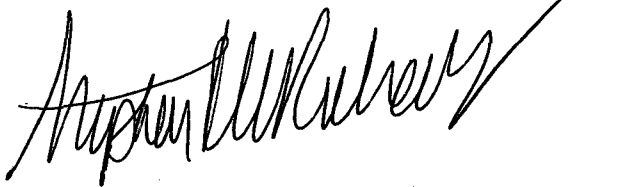
ACKNOWLEDGMENT OF PREPAYMENT

The Lessor hereby acknowledges receipt at commencement of the Term of the full Prepayment Amount of 95% of the rent, in the amount of \$57,000,000 for rent and a promissory note for \$3,990,000 for GST totalling \$60,990,000. Therefore, the balance payable of the annual rent specified in (b) above will apply, and the semi-annual payment will be \$136,554.

ACKNOWLEDGED BY THE LESSOR

TERASEN GAS INC.

Per:



SCHEDULE C
OPERATING LEASE

OPERATING LEASE

THIS LEASE AGREEMENT is made as of the 1st day of November, 2004.

BETWEEN:

CITY OF PRINCE GEORGE, a municipality having an office at
1100 Patricia Boulevard, Prince George, British Columbia, V2L
3V9

("Lessor")

AND:

TERASEN GAS INC., a company having an office at 1111 West
Georgia Street, Vancouver, British Columbia, V6E 4M4

("Lessee")

AND:

TERASEN INC., a company having an office at 1111 West
Georgia Street, Vancouver, British Columbia, V6E 4M4

("Terasen Inc.")

RECITALS

- A. Lessor leases the Operating Assets.
- B. Lessor wishes to sublease to Lessee, and Lessee wishes to sublease from Lessor, the Operating Assets on the terms and conditions of this Lease.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements set out in this Lease, Lessor and Lessee agree as follows:

1. DEFINITIONS AND APPENDICES

1.1 **Definitions.** In this Lease (including the Recitals), the terms defined in the Appendices hereto shall have the meanings given to them therein.

1.2 **Appendices.** The following Appendices are incorporated in this Lease by reference and form a part hereof:

- A. Definitions

- B. Rent Formula
- C. Operating Lease Amendment
- D. Security and Guarantee Provisions
- E. Make Whole Payment

1.3 Statutes. References in this Lease to particular statutes shall (unless the Lease specifically provides otherwise) be deemed to be the British Columbia statute of that name, as amended from time to time, or if in future the particular statute is repealed then the statute that replaces the same.

1.4 Terasen Inc. Terasen Inc. has executed this Lease regarding its covenant to provide a guarantee, as set out in section 8.5, and in respect of notices as set out in 10.4, and therefore references in other sections or Appendices of this Lease to a "party" or the "parties" shall not be read or interpreted as referring to Terasen Inc.

2. LEASE

2.1 Lease. Subject to the terms of this Lease, Lessor hereby subleases to Lessee the Operating Assets.

2.2 Encumbrances. Lessee shall be solely responsible for the operation and control of the Operating Assets. Lessee shall not charge or encumber the Operating Assets or allow any charge, security interest, lien or other encumbrance to exist on the Operating Assets (except for any charge, security, interest, lien or other encumbrance in favour of the Lessor).

2.3 Quiet Enjoyment. Notwithstanding any other provisions of this Lease, Lessee may retain possession and quiet enjoyment of the Operating Assets until the end of the Term, subject to the terms of this Lease.

3. TERM

3.1 Term. The term of this Lease (the "Term") will commence on the date hereof and will continue for a period of 17 years expiring on October 31, 2021 unless terminated earlier or extended, pursuant to the terms of this Lease.

3.2 Renewal. The parties will, commencing two years prior to the Expiry Date, negotiate in good faith to determine whether a mutually acceptable renewal arrangement may be made, which may include the renewal, extension or replacement of this Lease, or other mutually agreeable arrangements or transactions relating to the Operating Assets (collectively a "Renewal Agreement").

3.3 Renewal Agreement Not Made. If a Renewal Agreement is not made on or before the Expiry Date and if Lessor continues to have the right to make the Operating Assets available for lease, then the Lessor may, at its option exercisable within six months after the Expiry Date by providing written notice to Lessee, require Lessee to operate the Operating Assets on behalf of Lessor. If such notice is issued then the parties will negotiate in good faith to settle the details of the arrangement but the parties agree that the fundamental terms shall be:

- (a) the Lessor will be entitled to the portion of the revenue from customers served by the Operating Assets, that reflects the proportionate share that the Operating Assets comprise of collectively the Operating Assets and the Additions that are not already Operating Assets, and the Lessee's role will be that of an operator for the Lessor, working on a fee for service basis to provide only those services required by the Lessor (and also provided the required services are, at that time, offered by the Lessee to other customers in British Columbia);
- (b) the Lessee will be paid by the Lessor for its services based on the same proportion of its operating costs for the Operating Assets as reflects the Lessor's share of revenue under 3.3(a) above, with the total costs calculated based on the Lessee's full cost of providing such service excluding capital costs (not to exceed the average full cost of providing such services to the Lessee's other customers in British Columbia); and
- (c) the arrangement will be for a term of operation that continues so long as the Lessor leases the Operating Assets (or a shorter term that the Lessor specifies).

4. RENT

4.1 Rent. Lessee agrees to pay Lessor, as annual rent for the Operating Assets, the Rent as calculated in accordance with the Rent Formula set out in Appendix B hereto and all applicable taxes as provided for in Section 4.2. As of the date of this Lease, the parties acknowledge that the only current applicable tax is GST.

4.2 Invoices. Lessee will be responsible for calculating the Rent due to the Lessor in accordance with Sections 4.1 above and all other amounts payable hereunder including all applicable federal or provincial sales tax or goods and services or similar taxes that are to be paid by a lessee in respect of rental payments made under a lease arrangement. Lessee shall provide to Lessor an accounting of the amount of the applicable Rent and all other amounts payable not less than 30 days prior to each payment date, as well as the list of recently registered rights of way provided for in Section 8.6. The Lessee shall pay such amount, in arrears, to the Lessor on April 30 and October 31 in each year of the Term commencing April 30, 2005 and a final payment at the expiry or earlier termination of the Term. The payment and the accounting must be delivered to Lessor at its address shown above or to such other address as shall be given to Lessee from time to time by Lessor.

4.3 Interest on Overdue Amounts. Except as otherwise provided herein, if any rent or any other amount payable under this Lease by Lessee to Lessor (including interest) is not paid when due, interest shall accrue and be payable on such unpaid amount both before and after judgement, from the due date until paid at an annual rate of interest equal to the Prime Rate plus 5%.

4.4 Repayment of Extra Payments. The Lessor agrees to repay to the Lessee the aggregate of all Extra Payments, payable on or before October 31, 2025, together with interest calculated at a rate that reflects the Lessee's pretax weighted average cost of capital from time to

time, as calculated and determined by the Lessee and on the terms attached as Schedule A to Appendix B of this Lease.

4.5 Make Whole Payment. Lessee agrees to pay to the Lessor upon the expiry of the Term the amount determined in accordance with Appendix E.

4.6 Impact of New Circumstances. If during the Term any circumstance arises (a "New Circumstance") (eg. a tax, levy, fee or assessment is imposed on the payment of Rent) which may adversely affect the net financial benefit to both parties of the transactions between the parties concerning the Operating Assets as contemplated by the parties (the "Contemplated Benefit"), then the Lessee will calculate the overall impact of the New Circumstances to determine if the Contemplated Benefit will continue to be achieved. If the Lessee concludes that, after accounting for the impact of the New Circumstances, there will no longer be the Contemplated Benefit to both parties, then Lessee will advise the Lessor by means of a written notice (the "New Circumstances Notice") as to its conclusion. The Lessee will also provide to the Lessor supporting documentation to permit the Lessor and its advisers to review the Lessee's conclusion. Lessor will have 90 days from receipt of the New Circumstances Notice to dispute the Lessee's conclusion by written notice (the "Dispute Notice").

4.7 Cooperative Winding Up. If the Lessor either:

- (a) does not issue a Dispute Notice within the time provided for above; or
- (b) issues a Dispute Notice but it is then determined by means of the dispute resolution procedure that the Lessee's conclusion was correct,

then the parties shall cooperate in winding up the transactions between them concerning the Operating Assets, including settling accounts, making payments between them. The parties will exchange all documents required to effectively terminate this Lease and all other agreements related to the lease of the Operating Assets. All such actions will be carried out concurrently and will be effective as of the date the New Circumstances Notice was given.

4.8 Lessor Calculation. If the Lessor believes a New Circumstance has arisen which may adversely affect the Contemplated Benefit to both parties and the Lessee has not calculated the impact and provided a New Circumstance Notice then, the Lessor may calculate the impact and provide the New Circumstance Notice to the Lessee. The above procedures for resolution will then apply mutatis mutandis.

5. REPRESENTATIONS

5.1 Representations and Warranties of Lessee. Lessee represents and warrants to the Lessor that:

- (a) Lessee is a company duly organized and validly existing under the laws of the Province of British Columbia, is in good standing with respect to the filing of annual reports at the office of the Registrar of Companies of British Columbia, and has the power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated thereby;

- (b) the execution and delivery of this Lease and the completion of the transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action on the part of the Lessee, no consents of third parties are necessary and the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable against it in accordance with its terms;
- (c) the Lessee has paid and will continue to pay as and when due all required taxes or assessments to government authorities that may give rise to a lien against the Operating Assets if unpaid;
- (d) it has obtained all appropriate consents, priority agreements, non-disturbance agreements, licences, permits, contracts and rights for it to enter into and perform its obligations;
- (e) to its knowledge, the financial statements of the Lessee provided to Lessor fairly present its financial position in all material respects, and there have been no material adverse changes to same as of the date hereof; and
- (f) to its knowledge, the Lessee is in compliance, in all material respects, with legal or regulatory requirements (including applicable environmental laws) affecting the Collateral or the Lessee's ability to perform this Lease.

5.2 Representations and Warranties of the Lessor. The Lessor represents and warrants to the Lessee that:

- (a) Lessor is a municipality and validly exists under the *Local Government Act* and the *Community Charter* and has the power, authority and capacity to enter into this Lease and to carry out the transactions contemplated thereby; and
- (b) Lessor has good and marketable leasehold interest in the Operating Assets; and
- (c) the execution and delivery of this Lease and the completion of the transactions contemplated thereby, have been duly and validly authorized by all necessary action on the part of the Lessor and pursuant to the *Local Government Act* and the *Community Charter* and the Lease constitutes a legal, valid and binding obligation of the Lessor enforceable against it in accordance with its terms.

6. STATE OF ASSETS AND WARRANTY DISCLAIMER

6.1 As Is. The Operating Assets are leased on an "as is where is" basis. Lessee has the right to inspect the Operating Assets to satisfy itself that all of the Operating Assets are suitable for Lessee's purpose. Lessor has no liability whatsoever to Lessee for any loss or damage of any kind whatsoever suffered by Lessee, whether directly or indirectly as a result of any defect in an Operating Asset, failure of an Operating Asset to perform properly or any other matter whatsoever relating to an Operating Asset. Lessee expressly waives any and all claims against Lessor for such losses or damages.

6.2 Rights Against Manufacturers. Lessor will, to the extent permitted by law, assign or otherwise make available to Lessee all Lessor's rights, if any, under any manufacturers' warranties on Operating Assets. Following the expiry of the Term (whether before or after the termination of this Lease) Lessee shall reassign to Lessor any such manufacturers' warranties that have been so assigned or made available. If at any time during the Term, Lessee determines that there is a defect in an Operating Asset or an Operating Asset does not operate as represented or warranted by the manufacturer or is other-wise unsatisfactory for any reason, Lessee shall not make any complaint or claim in any way relating to such Operating Assets against Lessor, and shall continue to pay Lessor all amounts payable under this Lease with respect to such Operating Assets. Lessor shall assist Lessee with any reasonable claims or complaints against manufacturers.

7. COVENANTS

7.1 Use of Assets. Lessee shall only use the Operating Assets or permit their use:

- (a) for the purpose of operating a gas distribution system in the municipal boundaries of the City of Prince George;
- (b) in accordance with all laws (including environmental laws) relating to the registration, leasing, insurance, possession, use or operation of the Operating Assets; and
- (c) in accordance with all conditions of any applicable insurance policies.

7.2 Maintenance of Assets. Lessee shall maintain or cause to be maintained the Operating Assets to keep the same or cause the same to be kept in reasonable condition and repair, ordinary wear and tear excepted. If any part of the Operating Assets is damaged, wears out, destroyed, lost or stolen (such items being collectively referred to herein as the "Damaged Components") such that in the opinion of Lessor or Lessee it needs to be added to or existing components need to be replaced with new components (such items being collectively referred to herein as "New Components"), then Lessee shall, at its expense, cause the Damaged Components to be replaced with New Components. Within 30 days of the end of each year of the Term Lessee shall provide Lessor with an itemized list of all Damaged Components which have been replaced and all New Components which have been installed during such year. The Lessee will assist the Lessor to locate any of the Operating Assets or New Components. The owner of the Operating Assets shall retain title to and ownership of the New Components.

7.3 Insurance

- (a) All Risks Insurance. Lessee agrees that it shall at all times during the Term and at its own cost and expense keep the Operating Assets insured against loss by an All Risks Insurance policy including fire and perils covered under an extended coverage endorsement and an endorsement to waive all rights of subrogation against the Lessor at not less than the replacement cost value of the Operating Assets. All such insurance shall cover the interest of Lessor and Lessee in the Operating Assets and the owner of the Operating Assets and shall provide that losses, if any, in respect of the Operating Assets shall be payable to Lessee,

Lessor and the owner as their respective interests may appear, and such proceeds shall be paid over to and used by Lessee to repair or replace the affected Operating Assets.

- (b) Comprehensive General Liability Insurance. Lessee agrees that it shall at all times during the Term and at its own cost and expense maintain a Comprehensive General Liability Insurance policy including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employers Liability, Broad Form Property Damage and Non-Owned Automobile Liability with respect to the Operating Assets, in an amount of not less than \$5 million for each occurrence or accident. All such insurance shall protect Lessor, Lessee and the owner in respect of risks arising out of the condition, maintenance, use, ownership or operation of the Operating Assets, and shall designate such parties as additional insureds thereunder including a Cross Liability Clause such that inclusion of more than one insured shall not affect the coverage of another.
- (c) Nature of Coverage; Settlement. Each policy under this section 7.3 shall provide (i) that the insurer shall give Lessor not less than thirty (30) days prior written notice before cancellation or any material alteration of the subject policy would be effective as against the Lessor, and (ii) that any amounts otherwise payable under the policy to Lessor shall be so payable irrespective of any misrepresentation by Lessee in acquiring or maintaining the policy. Upon receipt of notification from the applicable insurer of any alteration of any such policy, Lessee shall promptly notify Lessor. Lessee shall furnish Lessor with certificates of insurance evidencing Lessee's compliance with the insurance requirements hereunder and will provide the Lessor with copies of such policies upon request.
- (d) Non payment of Losses. The failure or refusal to pay losses by any insurance company providing insurance shall not be held to waive or release Lessee from the provisions of this section or other requirements of this Lease. Any insurance deductible maintained by the Lessee is solely for the Lessee's account and if paid by the Lessor is recoverable from the Lessee pursuant to this Lease.

7.4 Indemnity. Notwithstanding (i) any other provision of this Lease or (ii) the availability, existence or collectability of any insurance, Lessee shall indemnify and save harmless Lessor (and its elected representatives, officers, employees and agents) from and against any and all losses, costs, damages, claims and liabilities of whatever kind or nature, including, without limitation, legal fees and disbursements on a solicitor and client basis (collectively "Costs") incurred or suffered by Lessor (and its elected representatives, officers, employees and agents) and relating in any way whatsoever to any one or more of the Operating Assets or their lease or use including, without limitation, damage to or loss of property and loss of use thereof, and bodily injury to or death of a person or persons, and all Costs relating to claims made by third parties against Lessor (and its elected representatives, officers, employees and agents) as owner, lessee or lessor of one or more of the Operating Assets and all Costs relating in any way whatsoever to the use of any one or more of the Operating Assets by Lessee or any affiliate of Lessee. Notwithstanding the foregoing, Lessee is not responsible for (i) any

damage caused to an Operating Asset, (ii) theft or loss of an Operating Asset or (iii) claims made by third parties, caused by the fault or neglect of Lessor or any of its elected representatives, officers, employees or agents.

7.5 Expenses, Fees, Taxes. Lessee shall pay all costs, expenses, fees and charges (including all taxes whatsoever) incurred in connection with the registration, licensing, possession, use or operation of any Operating Assets during the Term, except for any liability of Lessor for federal or provincial income taxes arising out of receipt of rents payable under this Lease.

8. SECURITY

8.1 Security. As security for the due payment and performance by the Lessee of its obligations contained herein, Lessee hereby grants to and in favour of the Lessor, and the Lessor hereby takes, a Lien on and in respect of the following property subject to the terms and conditions set out herein including the additional provisions contained in Terms of Security portion of Appendix D:

- (a) all debts, accounts, claims, demands, monies and choses in action which now are, or which at any time hereafter during the Term may be, due or owing to the Lessee by natural gas customers served by the Operating Assets, New Components and Extensions and all books, records, documents, papers and electronically recorded data recording and all necessary or useful customer billing and collections information evidencing or relating to the said debts, accounts, claims, demands, monies and choses in action or any part thereof, but, regarding information, only where and to the extent the Lessee is legally permitted to do the same (collectively, the "Accounts");
- (b) all of the Lessee's full present and future legal and beneficial right, title and interest in the Operating Assets, New Components and Extensions and the Prince George System Information (collectively, the "Personal Property"); and
- (c) all of the Lessee's full present and future legal and beneficial right, title and interest in and to all easements, rights-of-way, privileges, benefits, licences, improvements and similar interests and rights in land in the City of Prince George relating to the Operating Assets, New Components and Extensions (collectively, the "Real Property");

(all of which is collectively, the "Security").

8.2 Licence. The Lessee hereby grants (to the extent that it is in the Lessee's power to grant such License, and that the Lessee is legally permitted to do so) to and in favour of the Lessor the non-exclusive and non-transferrable licence and right to use the Integrated System Information (hereinafter called the "Licence") for purposes of this Lease or operation of the Operating Assets (and the Lessee will use all reasonable efforts to facilitate and assist the Lessor in gaining access to and making use of the Integrated System Information); provided, nevertheless, that the rights under the Licence shall not be exercisable by the Lessor until the occurrence of an Event of Default as herein provided. In the event of the appointment of a

Receiver (as hereinafter provided and defined), the Lessee consents to such Receiver using the Integrated System Information in accordance with this Licence if so authorized by the Lessor.

8.3 Collateral Title. The Lessee represents and warrants that, to the best of its knowledge, it lawfully owns and possesses all presently held Accounts, Personal Property and Real Property and it will lawfully own and possess all Accounts, Personal Property and Real Property acquired after the date hereof, (collectively, the "Collateral") and it has and will have good title thereto, free and clear of all Liens and claims except for the Permitted Liens and those in favour of the Lessor; provided always that:

- (a) until the Lessee shall be in default under this Lease and the Lessor is entitled to enforce any of the Security, the Lessee shall continue to be entitled during the Term to deal with the Accounts and the Real Property (including taking payments, compromising or releasing, waiving, discharging or making changes to accounts, agreements or assets) in the normal course of business in relation to its operation; and
- (b) with respect to Collateral that requires the consent or approval of another party thereto for the creation of an assignment or charge thereof or therein (each, a "Consent-Requiring Asset"), those of the charges created hereby that require such consent or approval in order for such charges to be effective will not become effective against such Consent-Requiring Asset until such consents or approvals with respect thereto that are required for such charges to be effective have been obtained or until such other assurances as may be acceptable to the Lessor have been received or until the Lessor has determined (following an Event of Default) that this deferral will not apply with respect thereto, but notwithstanding such deferral the Lessee will not amend, terminate or dispose of its interest in such Consent-Requiring Asset (including by way of charge) except as the Lessor may direct.

8.4 Other Covenants. The Lessee further covenants and agrees with the Lessor that during the Term it will:

- (a) defend the title to the Collateral for the benefit of the Lessor against the claims and demands of all persons and not sell, lease or otherwise dispose of the Collateral, except in accordance with section 8.3;
- (b) fully and effectually maintain and keep maintained the Lien(s) created hereby as valid and effective;
- (c) permit the Lessor and its representatives, at reasonable times and to the extent legally permitted, to have access to its property, lists, maps, agreements and books of account and records relating to and forming part of the Collateral (which, to its knowledge, are correct and complete in all material respects) for the purpose of inspection (and to make copies thereof at the Lessor's cost) and, at the Lessor's cost, render all reasonable assistance necessary for such inspection;

- (d) provide the Lessor, at reasonable times and to the extent legally permitted, with access for the purpose of inspection and the ability to make copies thereof, at the Lessor's cost, of the following:
 - (i) a current list of its natural gas customers in the City of Prince George served by the Operating Assets and Extensions;
 - (ii) all lists, maps and other information, as applicable, concerning changes to existing rights of ways or contractual rights of the Lessee or additional rights of way or contractual rights of the Lessee utilized for or otherwise relating to the Collateral;
 - (iii) such other information concerning the Collateral, as the Lessor may reasonably require to consider its remedies if there is an Event of Default;
- (e) notify the Lessor within 7 days of changing its name;
- (f) notify the Lessor upon becoming aware of any fact which results in the Lessee being in default under this Lease; and
- (g) use its reasonable efforts with respect to those Consent-Requiring Assets which the Lessor advises are material to it, acting reasonably, to obtain the consent or approval to permit the charge thereof created thereby to be effective, and the Lessor agrees to pay the Lessee's reasonable costs relating to such consents or approvals within 30 days of receiving an account for the same;

provided however that the Lessor agrees that nothing in this Section 8 shall be interpreted to require the Lessee to seek individual customer or supplier permission to reveal private information if such permission is required by law.

8.5 Additional Security. The Lessee during the Term will maintain the following minimum financial criteria:

- (a) assets of three hundred and fifty million dollars;
- (b) shareholders' equity of one hundred and twenty million dollars; and
- (c) earnings before interest and tax (EBIT) of thirty-five million dollars.

If the Lessee does not meet one or more of the above financial criteria at any time during the Term for a period of 90 consecutive days, but it is otherwise duly performing its obligations hereunder, then the Lessee and Terasen Inc., the parent company of the Lessee, hereby covenant to provide to the Lessor within 20 Business Days a guarantee given by Terasen Inc. of the due payment and performance of the obligations of the Lessee hereunder, including without limitation all remaining payments to be made to the Lessor under this Lease, in the form of Guarantee attached as part of Appendix D.

8.6 Mortgage of Rights of Way. The Lessee will, with each invoice provided pursuant to Section 4.2 or upon the Lessor's reasonable request, provide to the Lessor a list of rights of way included as part of the Real Property that have been registered by the Lessee in the prior 6 month period. In order to recognize and give further security in respect of the Lien created in this section 8, the Lessee will from time to time during the Term, grant to the Lessor a mortgage or mortgages of registered rights of way included as part of the Real Property, in the form attached as part of Appendix D and when granted, such mortgage or mortgages shall be included in the definition of Security. The Lessor will initiate this by written notice to the Lessee including the form of the mortgage for execution and return by the Lessee within a reasonable time. Without limiting the generality of the foregoing, the Lessee agrees to execute and deliver to the Lessor, contemporaneously with the Lease, a mortgage or mortgages of certain registered rights of way included as part of the Real Property and identified by the Lessor on or before October 15, 2004, and subject to legal confirmation that the same can be registered as of November 1, 2004.

9. DEFAULT

9.1 Events of Default. The Lessee shall be in default under this Lease, unless waived by the Lessor, should any of the following events occur (which are referred to as "Events of Default"):

- (a) if the Lessee fails to pay when due any rent or other amount payable under this Lease and such failure remains unremedied for ten (10) Business Days after written notice thereof has been given by the Lessor to the Lessee;
- (b) if the Lessee is in breach of any term, condition, obligation or covenant to the Lessor under this Lease or Form B Mortgage or if any representation or warranty to the Lessor in this Lease is untrue or if the Lessee fails to pay as due a tax to which a Crown lien will attach if left unpaid and such failure continues for a period of twenty (20) Business Days after written notice thereof has been given by the Lessor to the Lessee; except that in the event of a non-monetary failure that cannot be reasonably cured within twenty (20) Business Days after written notice where the Lessee proceeds to attempt to cure such default then, in such event, the Lessee shall have an additional reasonable period of time to cure providing it continues to diligently attempt to cure until the Event of Default ceases, and provided always that where the same relates to a breach or inaccuracy that has no material adverse impact on the Lessor, the Operating Assets, the Collateral or the Lessee's ability to perform this Lease then the Lessor's remedy for the same will be restricted to sections 9.2(b), (c), (h) and (i) below;
- (c) if the Lessee admits its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency;
- (d) if the Lessee institutes any proceedings or takes any action or executes an agreement to authorize its participation in or commencement of any proceeding:
 - (i) seeking to adjudicate it bankrupt or insolvent;

- (ii) seeking liquidation, reorganization, arrangement, protection, relief or composition of it or any of its property or debt or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws;
- (e) if any proceeding is commenced against or affecting the Lessee:
 - (i) seeking to adjudicate it bankrupt or insolvent;
 - (ii) seeking liquidation, reorganization, arrangement, protection, relief or composition of it or any of its property or debt or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or
 - (iii) seeking the appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its property that relates to the Collateral

and such proceeding is not dismissed, discharged, stayed or restrained in each case within twenty (20) Business Days of the Lessee becoming aware of the institution or presentation thereof;

- (f) if any creditor of the Lessee shall privately appoint a receiver, trustee or other similar official for any substantial part of its property that relates to any of the Collateral;
- (g) if the Lessee creates or permits to exist any Lien or claim on or against any of the Collateral and contrary to this Lease, all subject to the same rights to cure as provided for in (b) above, and provided always that where the same relates to a breach that has no material adverse impact on the Lessor, the Operating Assets, the Collateral or the Lessee's ability to perform this Lease then the Lessee's remedy for same will be restricted to sections 9.2(b), (c), (h) and (i) below.

9.2 Remedies. When any Event of Default under this Lease has occurred and is continuing, the Lessor may, in its sole discretion, subject to the extent permitted by and subject to compliance with applicable laws and subject to Section 9.1, enforce its rights, realize on the Security and otherwise take any action permitted by law or in equity, and such remedies will be cumulative and not alternative, and in particular but without limiting the generality of the foregoing the Lessor may do any one or more of the following:

- (a) enter upon the premises of the Lessee where any of the Collateral is located and take immediate possession thereof, whether same are affixed to realty or not, and remedy the Event of Default, without order of the Court and without liability to the Lessor for or by reason of such entry and taking of possession, whether for damage to property or otherwise;
- (b) preserve, protect and maintain the Collateral and make such replacements thereof and repairs and additions thereto as the Lessor may deem advisable;

- (c) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants and terms of this Lease or to recover damages for the breach thereof;
- (d) in the name of and as the irrevocably appointed agent and attorney for the Lessee and without terminating or being deemed to terminate this Lease, the Lessor may take possession of the Collateral and proceed to lease all or any part thereof to any other person, firm or corporation on such terms and conditions, for such rental and for such period of time as the Lessor, acting reasonably, may deem fit and receive such rental and hold the same and apply the same against any moneys expressed to be payable from time to time by the Lessee hereunder;
- (e) appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Lessor or not, to be a receiver or receivers (hereinafter called a "Receiver", which term when used herein shall include a receiver and manager) of the Collateral (including any interest, income or profits therefrom) and may remove any Receiver so appointed and appoint another in his stead. Subject to the provisions of the instrument appointing him, any such Receiver shall have power to take possession of the Collateral, to preserve the Collateral or its value and to perform or concur in performing all or any part of the obligations of the Lessee under this Lease and any related franchise or operating agreement. Every such Receiver may, in the discretion of the Lessor, be vested with all or any of the rights and powers of the Lessor. Except as may be otherwise directed by the Lessor, all monies received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to the Lessor;
- (f) terminate this Lease and/or the Lessee's rights of possession hereunder of the Collateral, by notice to the Lessee specifying such termination and a payment date not earlier than 10 days from the date of such notice requiring the Lessee to pay on such date all arrears of rent and, as a genuine pre-estimate of liquidated damages and not as a penalty, the present value of all future rents to the expiration of the Term and any other monies due or to become due to the Lessor by the Lessee under any agreement, whereupon all leasehold-right, title and interest of the Lessee under this Lease to or in the use of the Collateral shall terminate, and the Lessor may, directly or by the Receiver or other agent, enter upon the premises of the Lessee or other premises where such Collateral may be located and take possession thereof, and the Lessee will use all reasonable efforts to facilitate and assist the Lessor in taking possession of the Collateral;
- (g) in the event the Lessor terminates this Lease, directly or by the Receiver or other agent, then it may sell, lease or otherwise dispose of the Collateral in such manner, at such time or place and for such consideration and on such terms and conditions as to the Lessor may seem reasonable subject always to obligations of the Receiver under law in respect of such sales, leases or other dispositions. Upon any such sale, lease or other disposition the Lessor shall be accountable only for money actually received by it. The Lessor may deliver to the purchaser or

purchasers of the Collateral or any part thereof good and sufficient conveyances or deeds for the same free and clear of any claim by Lessee. The purchaser or lessee receiving any disposition of the Collateral or any part thereof need not inquire whether default under this Lease has actually occurred but may as to this and all other matters rely upon a statutory declaration of an officer or manager of the Lessor, which declaration shall be conclusive evidence as between the Lessor and any such purchaser or lessee, and need not look to the application of the purchase money, rent or other consideration given upon such sale, lease or other disposition, which shall not be affected by any irregularity of any nature or kind relating to the crystallizing or enforcing of the Security or the taking of possession of the Collateral or the sale, lease or other disposition thereof;

- (h) recover from the Lessee all damages, costs and expenses incurred by the Lessor in connection with an Event of Default, including but not limited to all out-of-pocket expenses incurred by the Lessor in retaking, holding, repairing, subletting, and processing of any of the Collateral, and all legal and other out-of-pocket costs incurred in enforcing the remedies available to the Lessor referred to in this section 9.2; and
- (i) set off any monies due by the Lessor to the Lessee under or by virtue of any other agreement against monies due to it hereunder.

9.3 Proceeds of Sale. In the event of the disposition of any of the Collateral by the Lessor in enforcing the remedies available to the Lessor referred to in section 9.2, the Lessor shall pay to the Lessee any remaining balance thereof after recovery of all amounts owing to the Lessor in accordance with any provision of this Lease.

9.4 Rights in Collateral Cease. Upon the Lessor enforcing its rights under Section 9.2 then all the powers, functions, rights and privileges of the directors and officers of the Lessee with respect to the Collateral shall cease except to the extent specifically continued by the Lessor in writing.

9.5 Receiver Status. A Receiver appointed pursuant to this Lease shall be the agent of the Lessee and not of the Lessor, and, to the extent permitted by law or to such lesser extent permitted by its appointment, shall have all the powers of the Lessee hereunder, and in addition shall have power to:

- (a) carry on the business of the Lessee in respect of the Operating Assets and New Components as contemplated by this Lease;
- (b) commence, continue or defend proceedings in the name of the Receiver or in the name of the Lessee for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of any part of the Operating Assets or Collateral; and
- (c) make any arrangement or compromise that the Receiver deems expedient.

9.6 Survival of Obligations. Upon termination of this Lease all rights and obligations of the Lessor and the Lessee under this Lease shall cease except those which are stated herein to survive termination, and except for the obligation to pay any monies owing at the time of termination.

10. GENERAL PROVISIONS

10.1 Lessor May Perform. If Lessee fails to make any payment required to be made by it hereunder or fails to perform or comply with any of its obligations hereunder, Lessor may, but need not, make such payment or perform or comply with such obligation and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance or compliance with such obligation, as the case may be, shall be payable to Lessor forthwith on demand.

10.2 Assignment. Neither party shall assign or otherwise transfer this Lease or any of its rights or interests herein including, without limitation, its rights to or interests in the Operating Assets, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

10.3 Enurement. This Lease shall be binding upon and enure to the benefit of the parties to this Lease and their respective successors and permitted assigns.

10.4 Notices. Any notice or other writing required or permitted to be given under this Agreement to be effective must be delivered personally or sent by prepaid registered mail or transmitted by facsimile and addressed as follows:

(a) To Lessee:

Terasen Gas Inc.
1111 West Georgia Street
Vancouver, British Columbia
V6E 4M4

Attention: Legal Department

Telecopier No.: (604) 443-6789

(b) To Lessor:

City of Prince George
1100 Patricia Boulevard
Prince George, British Columbia
V2L 3V9

Attention: George Paul

Telecopier No.: (250) 561-0183

(c) To Terasen Inc.:

Terasen Inc.
1111 West Georgia Street
Vancouver, British Columbia
V6E 4M4

Attention: Legal Department

Telecopier No.: (604) 443-6789

or to such other address or addresses as the party to whom such notice or writing is to be given shall have last notified the party giving the same in the manner provided in this section. Any notice delivered to the party to whom it is addressed shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day, then the notice shall be deemed to have been given and received on the next Business Day following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the sixth Business Day next following the date of its mailing. Any notice transmitted by facsimile shall be deemed to have been given and received on the next Business Day after its transmission.

10.5 General Matters. To the extent permitted by applicable law, each party hereto waives any provision of law which renders any provision of this Lease unenforceable in any respect. Each of the parties hereto shall, at its expense, promptly execute further documents and assurances and take such further action as the other party hereto may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Lease and to establish and protect the rights, interests and remedies intended to be created hereunder. Waiver by either party of any provision of this Lease in one instance shall not constitute a waiver by such party as to any other instance or any other provision and any such waiver must be in writing to be effective. Time is of the essence of this Lease in all respects.

10.6 Registration of Lease. Lessee may register its interest in this Lease in all places it considers necessary or desirable. Lessee acknowledges receipt of a fully executed copy of this Lease.

10.7 Governing Law. This Lease and the rights and obligations of the parties hereto shall be governed by the laws of the Province of British Columbia.

10.8 Parties Representative. Each party will, during the Term, appoint a person as its representative for the purpose of co-ordinating all matters and obligations of the parties as required by this Agreement. Each party will advise the other party in writing of the name, telephone number and fax number of its representative and each party may change its representative from time to time by notice in writing to the other.

10.9 Mediation. If any dispute arises between Lessor and Lessee with respect to this Agreement, then, within seven (7) days of Notice from one party to the other, or such time as agreed to by both parties, the representatives of the parties will participate in good faith

discussions in order to resolve and settle the dispute. In the event that such representatives are unable to resolve the dispute within fourteen (14) days of the first written notice, or such other time period agreed to by both parties, each party will appoint a senior representative that has not been previously involved in the matter in dispute, to attempt to resolve the dispute. Each senior representative will meet and agree upon the selection of a qualified independent mediation practitioner versed in the resolution of commercial disputes in order to assist them within the forty-five (45) day time frame set out below. Each party will bear their own costs of the formal mediation process.

10.10 Arbitration. If the matter is not settled through the process in Section 10.9 within forty-five (45) days of the notice of the dispute being given unless the parties mutually agree to extend the forty-five (45) day period, the matter will be referred for arbitration pursuant to the *Commercial Arbitration Act*. Arbitrations involving monetary claims under \$250,000 shall be resolved by a single arbitrator while all other claims shall be resolved by a panel of three arbitrators. Where three arbitrators are to be selected then:

- (a) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party will select an arbitrator, and the selected arbitrators will meet to select a third arbitrator; and
- (b) if within the fourteen (14) days either party fails or refuses to appoint an arbitrator, or if the selected arbitrators fail to appoint a third arbitrator within ten (10) days thereafter then such arbitrators will be appointed pursuant to the *Commercial Arbitration Act*.

A single arbitrator will be selected by agreement of the parties or, failing agreement of the parties, a person shall be selected as follows:

- (c) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party shall appoint an arms-length representative, ("Appointment Agent") who will, pursuant to this Agreement be given the authority to meet and agree upon the selection and appointment of a single arbitrator;
- (d) if within the fourteen (14) days either party fails or refuses to appoint its Appointment Agent, or if the Appointment Agents fail to appoint a single arbitrator within ten (10) days thereafter then a single arbitrator will be appointed pursuant to the provisions of the *Commercial Arbitration Act*.

A single arbitrator will be an experienced professional versed in the matters in dispute. Each party will bear its own costs of the arbitration, including all costs of its Appointment Agent, regardless of the arbitrators' decision.

10.11 Other Agreements. The provisions of this Lease shall not affect the rights of the parties which may subsist from time to time pursuant to any other agreements between them dated concurrently with or subsequently to this Lease nor relieve the parties of any obligations they may have pursuant to such agreements. There shall be no merger with this Agreement

created or deemed to be created by virtue of any other agreement or agreements entered into between the parties hereto.

10.12 Counterparts. This Lease may be executed in one or more counterparts and such counterparts may be transmitted by electronic facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

IN WITNESS WHEREOF the parties have caused this Lease to be duly executed.

TERASEN GAS INC.

Per: 

Authorized Signatory

CITY OF PRINCE GEORGE

Per: 

Authorized Signatory

Mayor

Per: 

Authorized Signatory

City Clerk

TERASEN INC.

Per: 

Authorized Signatory

APPENDIX A

DEFINITIONS

For the purposes of this Lease:

- (a) "Additions" means collectively New Components and Extensions;
 - (b) "Additions Option" means the Additions Option agreement made by the Lessor and Lessee concurrently with this Lease;
 - (c) "Business Day" means Monday to Friday of each week excluding holidays;
 - (d) "Collateral" means collectively the Accounts, Personal Property, and Real Property as defined in section 8.3;
 - (e) "Damaged Components" has the meaning given to it in section 7.2;
 - (f) "Event of Default" has the meaning given to it in section 9.1;
 - (g) "Expiry Date" means the final day of the Term, as indicated in section 3.1;
 - (h) "Extensions" are as defined in the Additions Option;
 - (i) "Extra Payments" has the meaning given to it by Appendix B;
 - (j) "Integrated System Information" means that portion of the System Information integrated into the general operations of the Lessee regarding the business conducted by the Lessee in the City of Prince George under this Lease, where such portion cannot be easily severed therefrom for use by any other person in performing the obligations of the Lessee under this Lease or otherwise in respect of the Collateral;
 - (k) "Lease" means this agreement and all appendices attached hereto, as they may be amended in writing from time to time by mutual agreement;
-
- (l) "Lien" means any charge, mortgage, pledge, hypothecation, lien (statutory or otherwise), assignment, financial lease, title retention agreement or arrangement, security interest or other encumbrance of any nature however arising, or any other security agreement or arrangement creating in favour of any creditor a right in respect of a particular property that is prior to the right of any other creditor in respect of such property;
 - (m) "New Components" means the components added to the Operating Assets to replace Damaged Components as contemplated by section 7.2;
 - (n) "Operating Assets" means all of the distribution mains, service lines, gas meters and valves (but excluding transmission pipelines above 690 kPa and regulating stations) that comprise the existing distribution system used to distribute gas within the City of Prince

George, and which are located within the municipal boundaries of the City of Prince George, both as of the date of this Lease, but specifically excluding:

- (i) New Components and Extensions; and
- (ii) those distribution mains, service lines, gas meters and valves located within areas which, after the date of this Lease, become included within the municipal boundaries of the City of Prince George.

Additions will become part of the Operating Assets from time to time as options are exercised pursuant to Operating Lease Amendments made between the parties thereunder;

- (o) "Operating Lease Amendment" means an agreement made pursuant to the Additions Option amending this Lease to add New Components and Extensions as part of the Operating Assets, in the form or substantially the form attached as Appendix C hereto;
- (p) "Permitted Liens" means:
 - (i) Liens that are expressly subordinate in priority to the Liens created hereby, provided the Lessee is not in default of the terms thereof;
 - (ii) Liens for taxes, assessments, governmental charges or levies which are not at the time due or delinquent or the validity of which are being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles, so long as forfeiture of any part of such property or assets will not result from the failure to pay such taxes, assessments, government charges or levies during the period of such contest;
 - (iii) the Lien of any judgment rendered or the Lien of any claim filed which is being contested in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles, so long as forfeiture of any part of such property or assets will not result from the failure to satisfy such judgment or claim during the period of such contest;
 - (iv) builders', carriers' and warehousemen's Liens arising in the ordinary course of business which relate to obligations not due or delinquent and which have not been registered against the Collateral or, if due or delinquent or registered against the Collateral, the validity of which is being contested diligently and in good faith by appropriate proceedings and as to which reserves are being maintained in accordance with generally accepted accounting principles, so long as forfeiture of such property or assets will not result from failure to pay such Liens during the period of such contest;
 - (v) undetermined or inchoate Liens and charges incidental to current construction, maintenance or operations which have not at the time been filed pursuant to law against the Lessee or which relate to obligations not due or delinquent;

- (vi) title defects or irregularities which are of a minor nature and which in the aggregate will not materially impair the usefulness of the Collateral for the purpose for which it is used or intended; and
- (vii) reservations, limitations, provisos and conditions expressed in any original grant from the Crown;
- (q) "Prime Rate" means the rate of borrowing offered from time to time by The Toronto-Dominion Bank to its most credit-worthy customers and used to calculate other rates of borrowing and announced by such bank as being its prime rate;
- (r) "Prince George System Information" means the remainder of the System Information after the exclusion of the *Integrated System Information*.
- (s) "Renewal Agreement" has the meaning given to it in section 3.2;
- (t) "Security Documents" means the security over the Collateral granted pursuant to section 8.1;
- (u) "System Information" means collectively all books, records, documents, system information, customer lists, credit information, service agreements, other third party agreements, account data, billing, collection and servicing records, statistics, maps, blueprints, drawings, designs, descriptions, government orders, certificates and authorizations, technical information and computer software regarding the business conducted by the Lessee in the City of Prince George under this Lease, and not otherwise included in the Operating Assets;
- (v) "Term" has the meaning given to it in section 3.1.

APPENDIX B
RENT FORMULA

Use of Formula

This appendix details the formula (the "Rent Formula") to be used to determine the annual rent (the "Rent") payable pursuant to section 4.1 of the Lease.

Rent Formula

The Rent Formula is as follows:

$$\text{Rent} = 95\% \times (\text{Revenue Requirement}) - 15\% \times (\text{Revenue Requirement} - \text{MFA Payment})$$

Extra Payment

If the Rent determined in accordance with the Rent Formula in any year will be less than the aggregate of the MFA Payment and \$273,108 per year, then Lessee will notify the Lessor when the invoice for the October payment is delivered pursuant to section 4.2. Such notice will also indicate an estimate of the Lessee's then current pretax weighted average cost of capital to assist the Lessor with its decision. The Lessor will then have 10 days from receipt of such invoice to notify Lessee that it elects to be paid by the Lessee for that year an amount equal to the aggregate of the MFA Payment and \$273,108 (the "Optional Payment").

Where an Optional Payment is paid, then the Lessee shall issue and deliver with its Optional Payment a revised invoice prepared pursuant to section 4.2, which shall indicate the difference between the Rent that would have been paid if calculated pursuant to the Rent Formula and the Optional Payment (such difference being the "Extra Payment"). The Extra Payment will be a loan by the Lessee to the Lessor on the terms attached as Schedule A to this Appendix and may be repaid with interest by the Lessor to the Lessee at any time, but, as provided for in section 4.4, not later than October 31, 2025.

Elements of Rent Formula

(a) Elements determined by the Commission

For purposes of the Rent Formula, the following elements of the calculations are determined, set or allowed by the B.C. Utilities Commission, or its successor in regulatory responsibility for provincially regulated gas utilities (the "Commission") in the process of setting gas utility rates from time to time applicable to Terasen Gas Inc. or its successor operator of the gas utility for Prince George ("Terasen Gas"). The elements set by the Commission are:

- (i) Allowed Return on Equity ("Allowed ROE") – being the after tax allowed rate of return on Terasen Gas' common equity.

- (ii) Equity Ratio – being the proportion of common equity in Terasen Gas' regulated capital structure.
- (iii) Tax Rate – being the net rate at which corporate income tax is reflected in rates set by the Commission.

If the Commission:

- (iv) changes, adjusts or substitutes for any of the above elements, or
- (v) changes its method of calculating any of the above elements,

then the parties will accordingly readjust the calculation and payments (retroactively if necessary) to mirror the Commission's actions.

If the Commission ceases to calculate or set any of the above elements (without substituting another element for it) so that the determination of the Rent would otherwise be incomplete, then the method of calculation that was last used by the Commission for such element will continue to be used, unless or until the Commission makes a further change that may then be mirrored for purposes of determining that element.

If there is a dispute as to the calculation or setting of any element or any other matter covered by this Appendix then notice to arbitrate must be given within 1 year of the time period to which the claim relates, and the dispute will be resolved pursuant to sections 10.8, 10.9 and 10.10 of this Lease, and if arbitration is necessary then it will be determined by a single arbitrator having knowledge of and experience in rate setting by the Commission.

(b) Revenue Requirement

Revenue Requirement = Interest + Return on Equity + Depreciation.

For purposes of calculating Revenue Requirement:

Interest = Asset Value x (1 - Equity Ratio) x 5.949%.

Return on Equity = Asset Value x Equity Ratio x Allowed ROE/(1 - Tax Rate)

Depreciation = \$1,714,286.

Asset Value = a value for each year of the Term as shown in the attached Schedule B to this Appendix.

(c) MFA Payment

MFA Payment = \$4,500,920 + Floating Interest

(d) Floating Interest

Floating Interest = \$19,344,894 x the then current rate offered by the British Columbia Municipal Finance Authority (or its successor in function) for a one year borrowing as of the anniversary date of the Lease in the immediately preceding year.

SCHEDULE A
TO APPENDIX B

TERMS OF EXTRA PAYMENT LOAN

The aggregate of all Extra Payments plus interest calculated monthly, not in advance, pursuant to section 4.4 of the Lease will be a loan by the Lessee to the Lessor, repayable without notice, bonus or penalty at any time during the Term. After the end of the Term (the "Termination Date") any amount still outstanding shall be repayable by the Lessor to the Lessee as follows:

1. The amount outstanding on the Termination Date will be repaid by the Lessor to the Lessee in any event on or before October 31, 2025 (consisting of the outstanding Extra Payments and all accrued interest to the Termination Date);
2. The principal (consisting of the outstanding Extra Payments and all accrued interest to the Termination Date) will be paid in 48 equal monthly instalments payable on the 1st day of each and every month commencing on the 1st day of the month immediately following the Termination Date to and including the 48th month thereafter, such that the entire balance of principal and interest will be repaid by the Lessor to the Lessee in full by that date (the "Balance Due Date").
3. The principal may be prepaid (with all accrued but unpaid interest thereon) in whole or in part at any time by the Lessor to the Lessee without notice, bonus or penalty.
4. Upon a default in the payment of principal or interest on the due date as herein provided and 10 days after written notice thereof has been given to the Lessor by the Lessee, the entire balance of principal and interest then outstanding shall be immediately due and payable by the Lessor to the Lessee.
5. The principal outstanding from time to time shall bear interest at the rate provided for in section 4.4 hereof.
6. Interest will be calculated monthly, not in advance, and paid by the Lessor to the Lessee semi-annually on April 30 and October 31 of each year with the principal payment for that month so long as any principal remains outstanding.

SCHEDULE B
TO APPENDIX B

ASSET VALUES

Year 1	59,142,857
Year 2	57,428,571
Year 3	55,714,285
Year 4	53,999,999
Year 5	52,285,713
Year 6	50,571,427
Year 7	48,857,141
Year 8	47,142,855
Year 9	45,428,569
Year 10	43,714,283
Year 11	41,999,997
Year 12	40,285,711
Year 13	38,571,425
Year 14	36,857,139
Year 15	35,142,853
Year 16	33,428,567
Year 17	31,714,281

Note: These values reflect the initial Lease Value of \$60,000,000 divided by 35, and using a simple average of the opening and closing asset value for each calendar year.

APPENDIX C

FORM OF OPERATING LEASE AMENDMENT

THIS [FIRST] OPERATING LEASE AMENDMENT is made as of the <*> of <*>, <*>

BETWEEN:

CITY OF PRINCE GEORGE, a municipality having an office at
1100 Patricia Boulevard, Prince George, British Columbia, V2L
3V9

("Lessor")

AND:

TERASEN GAS INC., a company having an office at 1111 West
Georgia Street, Vancouver, British Columbia, V6E 4M4

("Lessee")

RECITALS

- A. Lessor leases the Operating Assets.
- B. Pursuant to a Lease, made as of the 1st day of November, 2004, Lessor has subleased to Lessee the Operating Assets on the terms and conditions contained in the Lease.
- C. Pursuant to the Additions Option, Lessor was granted an option to lease the New Components and Extensions such that they would then be included in the Operating Assets under the Lease.
- D. Lessor has now exercised the Additions Option with respect to those New Components and Extensions listed in Schedule A, and the parties wish to amend the Lease accordingly.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements set out in this Amendment, Lessor and Lessee agree as follows:

1. DEFINITIONS AND APPENDICES

1.1 **Definitions.** In this Amendment (including the Recitals and Appendices), the capitalized terms defined shall have the meanings given to them in the Lease and:

- (a) "Amendment" means this agreement amending the Lease.

- (b) "Leased Additions" means collectively those New Components and Extensions listed in Schedule A, that are now included as Operating Assets pursuant to this Amendment.

1.2 Schedules. The following Schedules are incorporated in this Amendment by reference and form a part hereof:

- A. Leased Additions
- B. Rent Formula – Additions

2. LEASE

2.1 Additions. Subject to the terms of the Lease, Lessor hereby subleases to Lessee the Additions listed in Schedule A, and the Lease is amended accordingly by the inclusion of the Leased Additions in the Operating Assets.

3. RENT

3.1 Rent. Lessee agrees to pay semi-annually to the Lessor, as and when provided in the Lease, as annual rent for the Additions, the Rent as calculated in accordance with Schedule B hereto and all applicable taxes as provided for in Section 4.2 of the Lease.

3.2 Make Whole Payment Does Not Apply. The provisions of section 4.5 of the Lease and the calculations provided for in Appendix E will not apply to payments relating to Leased Additions.

4. GENERAL PROVISIONS

4.1 Confirmation of Lease Terms. Lessor and Lessee hereby agree that the Lease shall, upon the date of this Amendment and thereafter, be read and construed in conjunction with this Amendment and be regarded as being amended only to the extent herein provided and that all the terms and covenants and agreements of the Lease, as amended hereby, shall continue to be in full force and effect. Without limiting the generality of the foregoing, Lessor and Lessee agree that all covenants, representations, warranties and agreements respecting the Operating Assets, shall hereafter be deemed to apply with equal force and effect to the Leased Additions, save and except the payment of Rent on the Leased Additions which is governed by Section 3 hereof.

4.2 Enurement. This Amendment shall be binding upon and enure to the benefit of the parties to this Amendment and their respective successors and permitted assigns.

4.3 Other Agreements. The provisions of this Amendment shall not affect the rights of the parties which may subsist from time to time pursuant to any other agreements between them dated concurrently with or subsequently to this Amendment nor relieve the parties of any obligations they may have pursuant to such agreements. There shall be no merger with this Amendment created or deemed to be created by virtue of any other agreement or agreements entered into between the parties hereto.

IN WITNESS WHEREOF the parties have caused this Amendment to be duly executed.

TERASEN GAS INC.

Per: _____
Authorized Signatory

CITY OF PRINCE GEORGE

Per: _____
Authorized Signatory
Mayor

Per: _____
Authorized Signatory
City Clerk

SCHEDULE A TO AMENDMENT

LEASED ADDITIONS

[Note: To be completed after exercise of the Additions Option, specifying the Leased Additions to which this Schedule applies.]

The leased Additions comprise the following items, having the indicated cost for each item, added to the Operating Assets from <*> up to <*>.

<u>Items</u>	<u>Leased Additions Description</u>	<u>Cost</u>
1.		
2.		
3.		
etc.		

SCHEDULE B TO AMENDMENT

RENT FORMULA - ADDITIONS

This Appendix details the formula to be used to determine the annual rent (the "Rent") to be paid for Leased Additions. Where a payment of Rent is to be made for less than a full year then the payment will be determined by prorating the Rent based on the portion of the year to which the payment applies.

The Rent will be determined in the manner specified in Appendix B of the Operating Lease except as follows:

- No provision for Optional Payments or an Extra Payment Loan
- References to "MFA Payment" will be replaced by "City Opportunity Cost" calculated as follows:

$$\text{City Opportunity Cost} = \text{Asset Value} \times (1 - \text{Equity Ratio}) \times \text{Fixed Rate} + \text{Asset Value} \times \text{Equity Ratio} \times \text{Floating Rate} + \text{Depreciation}$$

- The value of the assets at the commencement of the Lease is equal to the Prepayment Amount (less applicable taxes) and is reduced each year by the Depreciation. For purposes of the formula, the Asset Value will be the simple average of the opening and closing asset values each calendar year.
- Depreciation = the value of the assets at commencement of the lease divided by 35.
- Fixed Rate = the yield on 10 year Government of Canada Bonds as of the date the Option Notice.
- The reference to "5.949%" in the formula will be replaced by a percentage rate 100 basis points greater than the Fixed Rate.
- Floating Rate = the then current rate offered by the British Columbia Municipal Finance Authority (or its successor in function) for a one year borrowing, as of the anniversary date of the Lease in the immediately preceding year.

APPENDIX D

SECURITY, GUARANTEE AND MORTGAGE PROVISIONS

A. TERMS OF SECURITY

1. DEFINITIONS

- (a) "Agreement" means the Lease in respect of which this Appendix D forms a part;
- (b) "Liabilities" means all of the Lessee's present and future indebtedness and liability of every kind (whether direct or indirect, joint or several, or absolute or contingent) to the Lessor, wherever and however incurred and any unpaid balance thereof, including without limitation indebtedness and liability of the Lessee to the Lessor arising under or by virtue of the Agreement, and interest on amounts not paid when due;
- (c) "Person" means any natural person or artificial body (including any firm, corporation or government);
- (d) "PPSA" means the Personal Property Security Act (British Columbia) and all regulations from time to time made under such legislation, all as amended from time to time.

2. **OTHER LEGAL RIGHTS** At all times, the Lessor will have, in addition to the rights specifically provided in this Agreement, the rights of a Secured Party under the PPSA, as well as the rights recognized at law and in equity. No right of the Lessor will be exclusive of or dependent upon or merge in any other right and one or more of such rights may from time to time be exercised independently or in combination.

3. **DEFICIENCY** The Lessee will remain liable to the Lessor for payment of any Liabilities which are outstanding following realization of all or any part of the Collateral.

4. ~~**LESSOR NOT LIABLE**~~ The Lessor will not be liable to the Lessee or any other Person for any failure to exercise or delay in exercising any of its rights under the Agreement (including among other things any failure to take possession of, collect, sell, lease or otherwise dispose of or deal with, any Collateral). Neither the Lessor nor any agent of the Lessor is required to take, or will have any liability for any failure to take or delay in taking, any steps necessary to preserve rights against other Persons under any Chattel Paper, Security or Instrument in the possession of the Lessor or its agent.

5. **CHARGES AND EXPENSES** The Lessee will pay on demand all costs and expenses including among other things legal fees on an actual costs basis incurred by the Lessor or any Receiver in connection with exercising any right or remedy under the Agreement or enforcing or attempting to enforce the Security (including among other things preserving, repairing, processing, preparing for disposition and disposing of the Collateral). The Lessee will pay on demand interest on all such amounts outstanding from time to time at the highest interest

rate then applicable to any of the Liabilities.

6. **FURTHER ASSURANCES** The Lessee will from time to time immediately upon request by the Lessor take such action (including among other things the signing of financing statements and financing change statements, further assignments and other documents) as the Lessor may require in connection with the Collateral or as the Lessor may consider necessary to give effect to the Agreement.

7. **FINANCING STATEMENTS** The Lessee waives the right to sign or receive a copy of any financing statement, financing change statement or verification statement relating to the Agreement.

8. **DEALINGS BY LESSOR** The Lessor may from time to time grant extensions of time and other indulgences, take and give up any Lien, abstain from taking, perfecting or registering any Lien, accept compositions, grant releases and discharges and otherwise deal with the Lessee, customers of the Lessee, guarantors and others, and with the Collateral and any Liens held by the Lessor, as the Lessor considers appropriate without affecting the Lessee's obligations to the Lessor or the Lessor's rights under the Agreement.

9. **CONTINUING SECURITY** The Liens created hereby are general and continuing security for the Liabilities and any ultimate unpaid balance thereof. No payment, observance, performance or satisfaction of the Liabilities, nor any ceasing by the Lessee to be indebted or liable to the Lessor, will be deemed to be a redemption or discharge of the Liens created hereby.

10. **CONFLICT** In the event of any discrepancy between any term of this Appendix and the Lease, the term of the Lease shall apply and take precedence over the terms of this Appendix.

11. **GENERAL**

11.1 Reservation of the Last Day of any Lease. The Liens created by the Agreement do not extend to the last day of the term of any lease or agreement for lease; however, the Lessee will hold such last day in trust for the Lessor and, upon the exercise by the Lessor of any of its rights under the Agreement following an Event of Default, will assign such last day as directed by the Lessor.

11.2 Attachment of Security Interest. The Security Interests created by the Agreement are intended to attach (a) to existing Collateral when the Lessee signs the Agreement; and (b) to Collateral subsequently acquired by the Lessee immediately upon the Lessee acquiring any rights in such Collateral. The Lessor and the Lessee do not intend to postpone the attachment of any Security Interest created by the Agreement.

11.3 Purchase Money Security Interest. If the Lessor gives value for the purpose of enabling the Lessee to acquire rights in or to any of the Collateral, the Lessee will in fact apply such value to acquire those rights (and will provide the Lessor with such evidence in this regard as the Lessor may require), and the Lessee grants the Lessor a Purchase Money Security Interest in such Collateral to the extent that the value is applied to acquire such rights. A certificate or

affidavit of any of the Lessor's authorized representatives is admissible in evidence to establish the amount of any such value.

11.4 Additional Security. The Liens created by the Agreement are in addition and without prejudice to any other Lien now or in the future held by the Lessor. No Lien held by the Lessor will be exclusive of or dependent upon or merge in any other such Lien and the Lessor may, in its sole discretion, exercise its rights under such Liens independently or in combination.

B. FORM OF GUARANTEE

GUARANTEE

For Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TERASEN INC. (the "Guarantor") hereby covenants and agrees with CITY OF PRINCE GEORGE (the "Creditor") as follows:

1. GUARANTEE

The Guarantor hereby unconditionally guarantees payment to the Creditor, and its successors and assigns, of all present and future debts and liabilities, direct or indirect, absolute or contingent, matured or not, now or any time and from time to time hereafter due or owing to the Creditor by TERASEN GAS INC. and its successors (the "Debtor") under or pursuant to that Operating Lease (the "Lease") between the Creditor and Debtor made as of the 1st day of November, 2004, as the same may be amended from time to time (the "Obligations").

2. GUARANTEE ABSOLUTE

The liability of the Guarantor hereunder shall be absolute and unconditional irrespective of, and shall not be released, discharged, limited, or otherwise affected by anything done, suffered, or permitted by the Creditor in connection with the Debtor, the Obligations or any security held by or granted to the Creditor to secure payment or performance of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations and liabilities of the Guarantor hereunder shall be absolute and unconditional and shall not be released, discharged, limited or otherwise affected by:

- (a) any lack of validity or enforceability of any agreement between the Creditor and the Debtor relating to the Obligations or any other agreement or instrument relating thereto;
- (b) any change in the time, manner, or place of payment of, amount of credit available to the Debtor under, or in any other term of, or any other amendment or waiver of or any consent to or departure from, any agreement between the Creditor and the Debtor relating to the Obligations;
- (c) any change in the name, objects, capital stock, constating documents or bylaws, ownership or control of the Debtor;
- (d) any amalgamation, merger, consolidation, or other reorganization of the Debtor or of its business or affairs;
- (e) the dissolution, winding-up, liquidation, or other distribution of the assets of the Debtor, whether voluntary or otherwise;
- (f) the Debtor becoming insolvent or bankrupt or subject to the provisions of any insolvency legislation;

- (g) the Creditor enforcing or realizing upon any security granted to or held by the Creditor on or over the property of the Debtor, whether to secure payment or performance of the Obligations or otherwise;
- (h) any agreement or decision made by the Debtor, whether it be to dispose of a part of, or all of or substantially all of its assets, or to change its form of business, or otherwise; or
- (i) any other circumstances which might otherwise constitute a legal or equitable defence available to the Debtor, or complete or partial discharge of the Debtor, in respect of the Obligations or of the Guarantor in respect of its guarantee hereunder.

3. DEALINGS WITH THE DEBTOR AND OTHERS

Without releasing, discharging, limiting, or otherwise affecting in whole or in part the Guarantor's Obligations and liabilities hereunder and without the consent of or notice to the Guarantor, the Creditor may:

- (a) grant time, renewals, extensions, indulgences, releases, and discharges to the Debtor;
- (b) take or refrain from taking securities or collateral from the Debtor or from perfecting securities or collateral of the Debtor;
- (c) release, discharge, compromise, realize, enforce, or otherwise deal with or do any act or thing in respect of (with or without consideration) any and all collateral, mortgages or other security given by the Debtor or any third party with respect to the Obligations;
- (d) accept compromises or arrangements from the Debtor;
- (e) exercise any right or remedy which it may have against the Debtor or with respect to any security for the Obligations, including judicial and non-judicial foreclosure;
- (f) apply all monies at any time received from the Debtor or from securities upon such part of the Obligations as the Creditor may see fit or change any such application in whole or in part from time to time as the Creditor may see fit; or
- (g) otherwise deal with, or waive or modify its right to deal with, the Debtor and all other persons and securities as the Creditor may see fit.

4. DEALING WITH SECURITY

The loss of or failure to obtain, perfect, or maintain any security held by the Creditor, whether occasioned through the fault of the Creditor or otherwise, shall not discharge, limit, or lessen the liability of the Guarantor hereunder.

5. RECOURSE AGAINST DEBTOR

The Creditor shall not be bound to exhaust its recourse against the Debtor or others or under any security or take any other action or legal proceeding before entitled to payment from the Guarantor under this Guarantee.

6. DEBTOR'S CORPORATE STATUS AND AUTHORITY

6.1 All monies, advances, renewals, or credits in fact borrowed or obtained from the Creditor by the Debtor or by persons purporting to act on behalf of the Debtor shall be deemed to form part of the Obligations hereby guaranteed, regardless of whether such borrowing or obtaining of monies, advances, renewals, or credits of the execution, or the delivery of any agreement or document in connection therewith, by or on behalf of the Debtor, is in excess of the powers of the Debtor or any of its directors, officers, managers, employees, or other agents, or is in any way irregular, defective or informal.

6.2 This Guarantee shall be deemed binding and effective regardless of whether the execution and delivery of any agreement or document given by the Debtor is in excess of the powers of the Debtor, or whether the acts of any of its directors, officers, managers, employees, or other agents, is in any way irregular, defective or informal, or whether the Debtor is not a legal entity. The Creditor has no obligation to enquire into the powers of the Debtor or any of its directors, officers, managers, employees, or other agents acting or purporting to act on its behalf.

7. ACCOUNTS SETTLED

Any account stated by the Creditor to be due to it by the Debtor shall be accepted by the Guarantor as prima facie evidence that the said amount is so due, in the absence of manifest error.

8. WAIVER

No delay on the part of the Creditor in exercising any of its options, powers, or rights, or any partial or single exercise thereof, shall constitute a waiver thereof. No waiver of any of its rights hereunder, and no modification or amendment of this Guarantee, shall be deemed to be made by the Creditor unless the same shall be in writing, duly signed by the Creditor and each such waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the rights of the Creditor or the liabilities of the Guarantor hereunder in any other respect at any other time.

9. CURRENCY

The Guarantor shall make payment to the Creditor relative to any Obligations due to it in Canadian currency.

10. CONTINUING GUARANTEE

This guarantee shall be a continuing guarantee and shall cover the Obligations and this guarantee shall apply to and secure any ultimate balance due or remaining unpaid to the Creditor.

11. REVIVAL OF INDEBTEDNESS AND LIABILITY

If at any time all or any part of any payment previously applied by the Creditor to the Obligations is or must be rescinded or returned by the Creditor for any reason whatsoever (including, without limitation, the insolvency, bankruptcy, or reorganization of the Debtor or the Guarantor), to the extent that such payment is or must be rescinded or returned such Obligations shall be deemed to have continued in existence notwithstanding such application by the Creditor, and this Guarantee shall continue to be effective or be reinstated, as the case may be, as to such Obligations, all as though such application by the Creditor had not been made.

12. SUBROGATION

If the Creditor receive(s) from the Guarantor a payment or payments in full or on account of the liability of the Guarantor hereunder, the Guarantor shall not be entitled to claim repayment against the Debtor unless and until all amounts owing by the Debtor to the Creditor have been paid in full and the Creditor has no further obligation to make credit available to the Debtor. In the case of any liquidation, winding-up, or bankruptcy of the Debtor (whether voluntary or involuntary) or in the event that the Debtor makes a bulk sale of any of its assets within the bulk transfer provisions of any applicable legislation or any composition, with creditors or scheme or arrangement, the Creditor shall have the right to rank for its full claims and receive all dividends or other payments in respect thereof in priority to the Guarantor until its claims have been paid in full, and the Guarantor shall continue to be liable hereunder for any balance which may be owing to the Creditor by the Debtor. In the event of the valuation by the Creditor of any of its security or the retention thereof, such valuation or retention shall not be considered as a purchase of such security, or as payment or satisfaction or reduction of the Obligations of the Guarantor hereunder or any part thereof. The foregoing provisions of this paragraph shall not in any way limit or lessen the liability of the Guarantor under any other paragraph of this Guarantee.

13. ADDITIONAL SECURITY

This Guarantee is in addition to and without prejudice to any security of any kind (including, without limitation, other guarantees) now or hereafter held by the Creditor and any other rights or remedies that the Creditor might have.

14. NO SUIT UNTIL DEMAND

No suit based on this Guarantee shall be instituted until demand for payment has been made under this Guarantee by written notice to the Guarantor.

15. NO CONDITION PRECEDENT

The obligations of the Guarantor under this Guarantee shall be complete and binding upon the execution of this Guarantee by it and shall not be subject to any condition precedent. The Guarantor hereby expressly renounce(s) any benefits of division or discussion.

16. EXPENSES

The Guarantor shall from time to time forthwith upon demand pay to the Creditor all expenses (including legal expenses on a solicitor and own client basis) incurred by the Creditor in the preservation or enforcement of any of its rights hereunder.

17. GOVERNING LAW

This Guarantee shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein. Without prejudice to the right of the Creditor to commence any proceedings with respect to this Guarantee in any other proper jurisdiction, the Guarantor hereby irrevocably attorn(s) and submits to the jurisdiction of the courts of the Province of British Columbia.

18. NOTICE

Any notice, demand, direction or other communication required or permitted to be given under this Guarantee shall be effectually made or given if delivered by prepaid private courier or by facsimile transmission to the address of each party set out below:

To the Guarantor:

[insert address and fax number]

To the Creditor:

[insert address and fax number]

or to such other address or facsimile number as either party may designate in the manner set out above. Any notice, demand, direction or other communication shall be deemed to have been given and received on the day of prepaid private courier delivery or facsimile transmission.

19. SUCCESSORS AND ASSIGNS

This Guarantee shall extend and enure to the benefit of the Creditor and its successors and assigns and shall be binding upon the Guarantor and the personal representatives, successors, and assigns of the Guarantor; "successors" includes any corporation resulting from the amalgamation of a corporation with any other corporation.

IN WITNESS WHEREOF this Guarantee has been signed, sealed, and delivered by the Guarantor, this <*> day of <*>, <*>.

TERASEN INC.

Per: _____
Authorized Signatory

C. FORM OF MORTGAGE

LAND TITLE ACT FORM B

(Section 225)

Province of
British Columbia

MORTGAGE - PART 1

(This area for Land Title Office use)

Page 1 of 7 pages

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

OWEN, BIRD
Barristers and Solicitors
2900 - 595 Burrard Street
Vancouver, BC V7X 1J5
Telephone: (604) 688-0401

Signature of Applicant's Solicitor, <*>

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:*

(PID)

(LEGAL DESCRIPTION)

See Schedule

3. BORROWER(S) [MORTGAGOR(S)]: (including postal address(es) and postal code(s))*

TERASEN GAS INC., (No. <*>), a <*> duly incorporated under the laws of <*>, having an office at 1111 West Georgia Street, Vancouver, British Columbia, V6E 4M4

4. LENDER(S) [MORTGAGEE(S)]: (including occupation(s), postal address(es) and postal code(s))*

CITY OF PRINCE GEORGE, a municipality having an office at 1100 Patricia Boulevard, Prince George, British Columbia, V2L 3V9

5. PAYMENT PROVISIONS:**

(a) Principal Amount See Schedule	(b) Interest Rate: See Schedule	(c) Interest Adjustment Date: N/A	Y	M	D
(d) Interest Calculation Period: N/A	(e) Payment Dates: See Schedule	(f) First Payment Date: N/A			
(g) Amount of each periodic payment: N/A	(h) Interest Act (Canada) Statement: The equivalent rate of interest calculated half yearly not in advance is N/A % per annum.	(i) Last Payment Date: N/A			
(j) Assignment of Rents which the applicant wants registered? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If YES, page and paragraph number:	(k) Place of Payment: Postal Address in Item 4	(l) Balance Due Date: See Schedule			

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space in any box insufficient, enter "SEE SCHEDULE" and attach schedule in Form E

6. MORTGAGE contains floating charge on land? YES ☐ NO ☒ 7. MORTGAGE secures a current or running account? YES ☒ NO ☐

8. INTEREST MORTGAGED:

Freehold ☐
Other (specify) ☒ Statutory Right of Way

9. MORTGAGE TERMS:

Part 2 of this mortgage consists of (select one only):

- (a) Prescribed Standard Mortgage Terms ☐
(b) Filed Standard Mortgage Terms ☐ D.F. No.
(c) Express Mortgage Terms ☒ (annexed to this mortgage as Part 2)

A selection of (a) or (b) includes any additional or modified terms referred to in Item 10 or in a schedule annexed to this mortgage.

10. ADDITIONAL OR MODIFIED TERMS:*

SEE SCHEDULE

11. PRIOR ENCUMBRANCES PERMITTED BY LENDER: *

N/A

12. EXECUTION(S):** This mortgage charges the Borrower's interest in the land mortgaged as security for payment of all money due and performance of all obligations in accordance with the mortgage terms referred to in Item 9 and the Borrower(s) and every other signatory agree(s) to be bound by, and acknowledge(s) receipt of a true copy of, those terms.

Officer Signature(s)

Execution Date

Y	M	D
04		

Borrower(s) Signature(s)

TERASEN GAS INC.
by its authorized signatories:

Print name: _____

Print name: _____

(as to both signatures)

OFFICER CERTIFICATION:

The Mortgagor's signature constitutes a representation that the Mortgagor are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1996, c. 124, to take affidavits for the Mortgagee in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

** If space insufficient, continue executions on additional page(s) in Form D.

LAND TITLE ACT
FORM E

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

2. **PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND**

<*>

5. **PAYMENT PROVISIONS**

(a) **Principal Amount:**

This Mortgage secures payment, observance, performance and satisfaction of all of the present and future debts, liabilities and obligations of the Mortgagor to the Mortgagee (including interest, and interest on overdue interest) arising from that certain operating lease between the Mortgagor and the Mortgagee and dated as of November 1, 2004, as same may be amended from time to time (the "Operating Lease"). "Indebtedness" means all of the debts, liabilities and obligations of the Mortgagor referred to in this item 5(a).

(b) **Interest Rate:** See 5(a).

(e) **Payment Dates:**

The dates when the Indebtedness is required under or by virtue of the Operating Lease to be paid, observed, performed and satisfied.

(l) **Balance Due Date:**

The last of the dates on which the Indebtedness is required under or by virtue of the Operating Lease to be paid, observed, performed and satisfied.

10. **ADDITIONAL OR MODIFIED TERMS**

1. **INTERPRETATION**

1.1 **Definitions.** In this Mortgage:

- (a) **"Mortgage"** means the Mortgage Form and these mortgage terms read together, as amended and extended from time to time;
- (b) **"Mortgage Form"** means the Form B under the *Land Title (Transfer Forms) Regulation* (British Columbia), as amended or replaced from time to time, which refers to these mortgage terms and is executed by the Mortgagor and all schedules and addenda attached to such Form B;

LAND TITLE ACT
FORM E

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

- (c) **"Mortgaged Property"** means the land(s) described or referred to in item 2 of the Mortgage Form together with the Improvements, appurtenances and every other thing referred to in Section 10 of the *Land Transfer Form Act* (British Columbia), as amended or replaced from time to time, and whether now or hereafter existing or acquired, in connection with such land(s);
- (d) **"Mortgagor's Interest"** means:
 - (i) the estate, right, title and interest in and to the Mortgaged Property mortgaged by the Mortgagor in item 8 of the Mortgage Form; and
 - (ii) any other estate, right, title or interest in and to the Mortgaged Property hereafter acquired by the Mortgagor, or in the Mortgagor's name.

1.2 **Invalidity.** The invalidity or unenforceability of the whole or any part of any paragraph of this Mortgage shall not affect the validity or enforceability of any other paragraph or the remainder of such paragraph.

1.3 **Headings.** The headings used in this Mortgage have been inserted for convenience of reference only and do not define, limit, alter or enlarge the meaning of any provision of this Mortgage.

1.4 **Interpretation.** Whenever in this Mortgage the singular or neuter pronoun is used the same shall be respectively construed as the plural, masculine, feminine or body corporate as the context may require.

1.5 **Capitalized Terms.** All capitalized words not otherwise defined herein shall have the meaning ascribed to them in the Operating Lease.

1.6 **Jurisdiction.** This Mortgage and the rights and obligations of the parties hereto shall be governed by the laws of the Province of British Columbia.

1.7 **Time is of the Essence.** Time is of the essence of this Mortgage in all respects.

1.8 **Conflict with Mortgage Form.** If there is any conflict between these mortgage terms and the Mortgage Form, the provisions of the Mortgage Form shall govern.

1.9 **Conflict with Operating Lease.** In the event of any discrepancy between any term of this Mortgage and the Lease, the term of the Lease shall apply and take precedence over the terms of this Mortgage.

1.10 **Enurement.** This Mortgage shall enure to the benefit of and be binding upon the Mortgagor and the Mortgagee and their respective successors and permitted assigns.

LAND TITLE ACT
FORM E

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

2. GRANT OF SECURITY

2.1 Mortgage. As security for the Indebtedness, the Mortgagor hereby grants and mortgages the Mortgagor's Interest to the Mortgagee, forever, subject to Permitted Liens and the provisions hereof, and subject to paragraph 3.1, the Mortgagor releases all claims to the Mortgagor's Interest to the Mortgagee; provided always that, with respect to the Mortgagor's Interest or any part of the Mortgagor's Interest that requires the consent or approval of another party thereto for the creation of a mortgage or charge thereof or therein (each, a "Consent-Requiring Asset"), those of the charges created hereby that require such consents or approval in order for such charges to be effective will not become effective against such Consent-Requiring Asset until such consent or approvals with respect thereto that are required for such charges to be effective have been obtained, but notwithstanding such deferral the Mortgagor will not amend, terminate or dispose of its interest in such Consent-Requiring Asset (including by way of charge) except as the Mortgagee may direct.

2.2 Title. If the Mortgagor is not the beneficial owner of the Mortgagor's Interest or any part of the Mortgagor's Interest, the Mortgagor has the right and authority to grant this Mortgage as a charge against both the legal and beneficial title to all of the Mortgagor's Interest.

3. DISCHARGE OF MORTGAGE

3.1 Discharge. This Mortgage will be redeemed and the Mortgagor will be entitled to a discharge of this Mortgage only upon the latest of:

- (a) full payment and satisfaction of the Indebtedness; and
- (b) receipt by the Mortgagee of the Mortgagor's written request for a discharge of this Mortgage.

No discharge will be effective unless it is in writing and is executed by the Mortgagee.

4. GENERAL REPRESENTATIONS

4.1 Authority to Charge. The Mortgagor has good right, full power and lawful authority to enter into this Mortgage, to create the Liens provided for herein and to convey all of the Mortgagor's Interest to the Mortgagee subject only to Permitted Liens.

4.2 Quiet Possession. On default the Mortgagee shall have possession of the Mortgagor's Interest free from all Liens, except Permitted Liens.

**LAND TITLE ACT
FORM E**

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

5. COVENANTS

5.1 Indebtedness. The Mortgagor will pay, observe, perform and satisfy all of the Indebtedness as and when the same are required to be paid, observed, performed and satisfied.

5.2 No Charges. The Mortgagor will not create, assume or permit the existence of any Lien affecting any of the Mortgagor's Interest except for (but the Mortgagee does not grant priority to) Permitted Liens.

5.3 Miscellaneous Fees. The Mortgagor shall pay to the Mortgagee on demand the following, all of which shall form part of the Indebtedness and be payable immediately with interest at the highest rate of interest then in effect with respect to any part of the Indebtedness, until paid:

- (a) all fees, costs, charges and expenses (including legal fees and expenses on a solicitor and his own client basis, Receiver's, bailiff's or other fees, commissions and expenses, and any fine, cost or penalty the Mortgagee may be obliged to incur by reason of any statute, order or direction by competent authority) incurred by the Mortgagee, or on its behalf, whether before or after court proceedings are commenced, in connection with collecting, procuring or enforcing payment or performance of the Indebtedness, in any way enforcing or protecting the security of this Mortgage, or enforcing any of the terms of this Mortgage or otherwise exercising its rights and power hereunder (including all of its travelling expenses and those of its employees and agents); and
- (b) all other amounts paid or incurred by the Mortgagee generally in any other measure or proceeding taken by the Mortgagee or on its behalf to realize or collect the Indebtedness or to defend or perfect the title of the Mortgagor's Interest.

6. OTHER RIGHTS

6.1 Security in Addition. The provisions of this Mortgage and the security of this Mortgage are in addition to, but not in substitution for, any other security now or hereafter held by the Mortgagee for the Indebtedness or any part thereof. This Mortgage shall not in any way affect or prejudice any security now or hereafter held by the Mortgagee for the whole or any part of the Indebtedness. Any act done or omitted to be done by the Mortgagee:

- (a) regarding any other securities held by the Mortgagee for the Indebtedness or any part thereof shall not in any way affect or prejudice this Mortgage; or
- (b) regarding this Mortgage shall not in any way affect or prejudice any other securities held by the Mortgagee for the Indebtedness or any part thereof.

**LAND TITLE ACT
FORM E**

SCHEDULE

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM.

6.2 **Waiver.** The Mortgagee may waive any default hereunder provided that no such waiver, nor any failure to enforce at any time or from time to time any of the its rights hereunder, shall be effective unless in writing or prejudice its rights in the event of any future default or breach.

6.3 **Remedies Cumulative.** The Mortgagee may in its sole discretion realize on any of its securities (including this Mortgage) and any parts thereof in any order that the Mortgagee considers advisable and no realization or exercise by the Mortgagee of any power or right under this Mortgage or other security shall in any way prejudice any further realization or exercise until all Indebtedness are satisfied. All rights and remedies available to the Mortgagee are cumulative and not restrictive of remedies at law and in equity and by statute.

6.4 **Application of Payments.** The Mortgagee may, both before and after default, apply all payments made in respect of the Indebtedness from time to time, and any monies realized from any security held therefor, to such parts of the Indebtedness (whether or not then due) as the Mortgagee sees fit.

7. PRESERVATION OF MORTGAGE AND OTHER SECURITY

7.1 **No Dealing With Equity of Redemption.** No extension of time given by the Mortgagee to the Mortgagor, or anyone claiming under the Mortgagor, or any other dealing by the Mortgagee with the owner(s) of the equity of redemption of the Mortgagor's Interest, shall in any way affect or prejudice its rights or remedies against the Mortgagor or any other person liable either in whole or in part for the payment of or performance of the Indebtedness.

7.2 **No Merger.** Neither this Mortgage nor anything contained herein shall operate so as to create any merger, rebate or discharge of any of the Mortgagor's representations, obligations (including debts owing to the Mortgagee) or covenants to the Mortgagee under the Lease or any other agreement, any amendment to it, or other document or security now or hereafter held by the Mortgagee from the Mortgagor or any other person, all of which survive the execution and delivery of this Mortgage and its advance of money. The taking of a judgment on any covenant herein shall not operate as a merger of the said covenant, or affect its right to receive any interest when due.

8. MISCELLANEOUS

8.1 **Modification.** No amendment of this Mortgage will be effective unless it is in writing and signed by all parties to this Mortgage.

END OF DOCUMENT

APPENDIX E

MAKE WHOLE PAYMENT

At the expiry of the Term the Lessee shall do the following calculation to determine if a payment is to be made to the Lessor pursuant to section 4.5 of this Lease.

If (A) the sum of the Rent future values during the Term plus \$22,416,501

is less than (B) the sum of the MFA Payment future values during the Term,

then the Lessee will pay to Lessor the difference between (A) and (B) above, less the aggregate of all Extra Payments (including applicable interest) then owing by Lessor to Lessee.

The MFA Payment future values and Rent future values will be calculated using the following interest factor table (prepared based on a discount rate of 4.837%), applicable to each payment.

Payment Number	Payment Date	Interest Factor
1	April 2005	[2.2004]
2	October 2005	[2.1484]
3	April 2006	[2.0977]
4	October 2006	[2.0481]
5	April 2007	[1.9998]
6	October 2007	[1.9525]
7	April 2008	[1.9064]
8	October 2008	[1.8614]
9	April 2009	[1.8175]
10	October 2009	[1.7745]
11	April 2010	[1.7326]
12	October 2010	[1.6917]
13	April 2011	[1.6518]
14	October 2011	[1.6128]
15	April 2012	[1.5747]
16	October 2012	[1.5375]
17	April 2013	[1.5012]
18	October 2013	[1.4657]
19	April 2014	[1.4311]
20	October 2014	[1.3973]
21	April 2015	[1.3643]
22	October 2015	[1.3321]
23	April 2016	[1.3007]
24	October 2016	[1.2699]
25	April 2017	[1.2400]
26	October 2017	[1.2107]

Payment Number	Payment Date	Interest Factor
27	April 2018	[1.1821]
28	October 2018	[1.1542]
29	April 2019	[1.1269]
30	October 2019	[1.1003]
31	April 2020	[1.0743]
32	October 2020	[1.0490]
33	April 2021	[1.0242]
34	October 2021	[1.0000]

SCHEDULE D

FRANCHISE AMENDMENT AGREEMENT

FRANCHISE AMENDMENT AGREEMENT

THIS AMENDMENT is made as of the 1st day of November, 2004.

BETWEEN:

CITY OF PRINCE GEORGE, a municipality having an address
at 1100 Patricia Boulevard, Prince George, British Columbia, V2L
3V9

("City")

AND:

TERASEN GAS INC., a company having an office at 1111 West
Georgia Street, Vancouver, British Columbia, V6E 4M4

("Terasen Gas")

RECITALS

- (A) Terasen Gas operates a gas distribution system in the City pursuant to a certificate of public convenience and necessity;
- (B) In accordance with the certificate of public convenience and necessity, Terasen Gas entered into the Franchise Agreement (as defined below) with the City;
- (C) The Franchise Agreement has been renewed from time to time;
- (D) The City and Terasen Gas have agreed to amend and renew the Franchise Agreement on the terms of this Amendment.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements set out in this Amendment, the City and Terasen Gas agree as follows:

1. DEFINITIONS AND APPENDICES

1.1 **Definitions.** In this Amendment (including the Recitals and Appendices), the capitalized terms defined shall have the following meaning:

"Amendment" means this agreement.

"Franchise Agreement" means the arrangement, set out in the letter dated July 25, 1980 from Terasen Gas (then known as Inland Natural Gas Co. Ltd.) to the City together with Schedule "B" to the certificate of public convenience and necessity,

of Terasen Gas to provide natural gas service to the City, as extended and renewed up to but not including this Amendment.

2. EXTENSION

2.1 Expiry. The Franchise Agreement is renewed to extend the expiry date to October 31, 2021 and to adjust the payment and other dates contained in Section 5 of the Franchise Agreement.

2.2 Purchase Option Terminated. The purchase option, contained in sections 2, 3 and 4 of the Franchise Agreement, is hereby terminated and deleted from the Franchise Agreement.

2.3 Franchise Agreement Continues. The parties agree that the terms of the amended Franchise Agreement are as set out in the form of Franchise Agreement (Consolidated) which is Schedule A attached to this Amendment.

2.4 New Operating Agreement. Terasen Gas and a group of BC municipalities (including the City) are discussing and settling terms of a new form of agreement to be used to replace existing municipal franchise agreements. Terasen Gas and the City agree that once the new form of agreement is settled then Terasen Gas will prepare, and the parties will forthwith enter into, an agreement using the new form (the "Terasen Gas-City Operating Agreement"). The Terasen Gas-City Operating Agreement will provide that, upon approval by the British Columbia Utilities Commission, and subject to obtaining any consents and performing any steps or procedures required under the *Local Government Act* and the *Community Charter* and all other legislation applicable to the City to authorize the execution of the Terasen Gas-City Operating Agreement, the Terasen Gas-City Operating Agreement immediately becomes effective and wholly replaces the Franchise Agreement, as hereby amended, and that the Franchise Agreement, as hereby amended, automatically terminates.

3. GENERAL PROVISIONS

3.1 Enurement. This Amendment shall be binding upon and enure to the benefit of the parties to this Amendment and their respective successors and permitted assigns.

3.2 Other Agreements. The provisions of this Amendment shall not affect the rights of the parties which may subsist from time to time pursuant to any other agreements between them dated concurrently with or subsequently to this Amendment, nor relieve the parties of any obligations they may have pursuant to such agreements. There shall be no merger with this Amendment created or deemed to be created by virtue of any other agreement or agreements entered into between the parties hereto.

3.3 Counterparts. This Agreement may be executed in one or more counterparts and such counterparts may be transmitted by electronic facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

IN WITNESS WHEREOF the parties have caused this Amendment to be duly executed.

TERASEN GAS INC.

Per: 

Authorized Signatory

CITY OF PRINCE GEORGE

Per: 

Authorized Signatory

Mayor

Per: 

Authorized Signatory

City Clerk

SCHEDULE A

FRANCHISE AGREEMENT (CONSOLIDATED)

TERASEN GAS INC., a company having an office at 1111 West Georgia Street, Vancouver, B.C., V6E 4M4

(the "Company")

and:

CITY OF PRINCE GEORGE, a municipality having an address at 1100 Patricia Boulevard, Prince George, B.C., V2L 3V9

(the "City")

hereby agree as follows:

1. The term "distribution system" as used in this Agreement means mains, pipes, valves and facilities for the purpose of carrying, conveying, distributing, supplying and making available for use gas within the said boundary limits of the City.
2. [Intentionally deleted.]
3. [Intentionally deleted.]
4. [Intentionally deleted.]
5. The Company further undertakes and agrees with the City that it will pay to the City on the 1st day of November in each of the years 2004 to, and including 2021, or such earlier year in which the Company ceases to operate a gas distribution system within the boundary limits of the City, a sum equal to three percent (3%) of the amount received in each immediately preceding calendar year by the Company for gas consumed within the boundary limits of the City, but such amount shall not include revenues from gas supplied for re-sale or from gas supplied to British Columbia Hydro and Power Authority for the purpose of generating electricity and, within ninety (90) days after the 31st day of October, 2021, or after such earlier date on which the Company ceases to operate a gas distribution system within the boundary limits of the City, the Company shall pay to the City a sum equal to three percent (3%) of the amount received by the Company for gas consumed save as aforesaid, within the boundary limits of the City during the period from the commencement of the calendar year 2021 or from the commencement of the calendar year in which such earlier date falls, to the 31st day of October, 2021, or such earlier date as the case may be. Such compensation shall not be or be deemed to be a tax or in lieu of any taxes, rates or licence fee otherwise properly payable to the City. In the event that during the currency of this Agreement, the Company should enter into any undertaking, contract, or

franchise agreement with a Municipality in the interior of the Province of British Columbia hereof wherein under a similar clause to this Clause Five (5) the Company shall agree to pay to such Municipality, as compensation for the use by the Company of the public thoroughfares, highways, roads, streets, lanes, alleys, bridges, viaducts, subways, public places, squares and parks for like purposes as set out herein a greater compensation than three percent (3%) of revenues as herein provided, then such greater percentage shall be and be deemed to be substituted for the three percent (3%) in this clause provided, but only applicable to the amounts received by the Company for gas consumed within the boundary limits of the City, save as aforesaid, from the effective date of such other undertaking, contract of franchise agreement until the 31st day of October, 2021, or until such earlier date on which the Company ceases to operate a gas distribution system within the boundary limits of the City.

6. Subject to the provisions of Clause Seven (7) hereof, after the construction and putting into service of facilities so to do, the Company undertakes to supply such reasonable quantities of gas as may be required for consumption or purchase by its customers or consumers within the boundary limits of the City PROVIDED THAT such requirements are to be supplied to places or buildings lying or being on property fronting or lying alongside a main or pipe of the distribution system of the Company. The property line of such property will be the place of delivery of all gas supplied by the Company, but the Company undertakes to provide and install free of charge a meter suitably located on the property to be supplied with gas. The Company also undertakes to supply and install a service pipeline from the property line to the meter on and in accordance with the costs and terms set forth in the Company's tariff and revisions thereto as filed with and approved by the British Columbia Utilities Commission, from time to time. The said meter and service pipeline will be located and installed in a manner and at a location selected by the Company, and will remain the property of the Company. The expense and risk of utilizing and using such gas after delivery at the said property line will be borne by the consumer or purchaser and not by the Company unless any loss or damage occasioned by such utilization or user is directly attributable to the negligence or carelessness of the Company, its servants and agents.
7. Notwithstanding anything to the contrary herein contained, the obligations and duties hereby undertaken by the Company and on its part to be performed and carried out, and the performance of the undertakings herein contained are subject from time to time to (a) fire, explosion, lightning, tempest, the elements, adverse weather or climatic conditions, acts of God, force majeure, actions or acts or restraints of enemies, foreign princes, and governments (whether foreign or domestic), strikes, lockouts, riots, shortage of labour or materials, civil insurrection, delays in or shortage of transportation, impossibility or difficulty of or in manufacturing, mixing, procuring, receiving, distributing or delivering gas, or impossibility, difficulty or delay in procuring, acquiring or receiving materials or equipment required or advisable for the placing, construction, maintenance, or operation of the distribution system or any pipeline or facility for bringing gas to the boundary limits of the City, and generally all shortages of supply or delays in

delivery caused or resulting directly or indirectly from causes beyond the reasonable control of the Company, and (b) the operation of the natural gas pipeline of Westcoast Energy Inc. from Northern Alberta and/or Northern British Columbia to Southern British Columbia, and (c) the operation of the transmission or main pipeline and appurtenances required to bring gas from this natural gas pipeline of Westcoast Energy Inc. to the boundary limits of the City.

8. The Company may enter in, upon and under all public thoroughfares, highways, roads, streets, lanes, alleys, bridges, viaducts, subways, public places, squares and parks within the boundary limits of the City and over which the City has control and the same to use, break up, dig, trench, open up and excavate, and therein, thereon and thereunder place, construct, lay, operate, use, maintain, renew, alter, repair, extend, relay and/or restore a distribution system as and in the manner herein set out, but excludes any transmission or main pipeline and appurtenances which are an integral part of the natural gas transmission system bringing gas to the boundary limits of the City or through the City for distribution to others or areas outside said boundary limits.
9. Before placing, constructing or laying down the distribution system, or any part thereof, the Company shall file with the City, or such office or official thereof as shall be designated from time to time for such purpose by the City, detailed plans and specifications showing the size and dimensions of the mains and pipes thereof, the proposed depth thereof below the surface of the ground, and the proposed location thereof, and the same shall not be placed, constructed or laid down without the approval of the City or of such designated officer or official, as the case may be, PROVIDED ALWAYS that such approval shall not be unreasonably withheld. In establishing location of mains, the Company shall endeavour to use lanes or alleys in preference to streets, where same are available and the use thereof is acceptable with and conforms to the general economics and engineering of the distribution system or the relevant portion thereof.
10. The Company shall give written notice to the City, or such officer or official thereof as shall be designated from time to time by the City for the purpose in the next preceding clause set out, of its intention to break up, dig, trench, open up or excavate any, or in or on any, public thoroughfare, highway, road, street, lane, alley, bridge, viaduct, subway, public place, square or park within the boundary limits of the City, not less than three (3) clear days before the beginning of such work, except in such cases of repair, maintenance or the like that can reasonably be deemed to be emergencies or in the interests of the health or safety of the public, or of the safety of property by whomsoever owned or any of them, in which case notices used be first given but shall be given as soon as practicable thereafter. The provisions of this clause shall apply notwithstanding the provisions of the next preceding clause and the grant of the approval or approvals therein referred to.
11. Should any of the public thoroughfares, highways, roads, streets, lanes, alleys, bridges, viaducts, subways, public places, squares or parks, under or on which any

part of the distribution system of the Company lies or is constructed be legally closed as such or alienated by the City or by or under any other paramount authority, the Company shall with all reasonable speed and dispatch after receipt of written notice from the City remove and (if possible or practicable) relocate that part of its distribution system so affected by such closure or alienation, on condition that the cost of such removal and/or relocation be at the cost and expense of the City, unless such removal and/or relocation has been enforced upon the City by any such other paramount authority without the City having applied therefor.

12. The Company shall execute and cause as little change as possible and shall use its best endeavours to cause as little obstruction or inconvenience or danger as possible during the progress of any of the work hereinbefore set out, and shall place and maintain such warning signs, barricades, lights or flares on, at or near the site of any work in progress as will give reasonable warning thereof and protection therefrom to members of the public and shall restore, to the reasonable satisfaction of the City or of the officer or official thereof designated by the City, without unreasonable delay the said public thoroughfares, highways, roads, streets, lanes, alleys, bridges, viaducts, subways, public places, squares and parks so broken up, dug, trenched, opened up or excavated to a state of repair or condition as nearly as possible as existed immediately before the commencement of such work.
13. The distribution system of the Company and the mains and pipes thereof shall be laid in such manner as not to interfere with any public or private sewer or any other pipe, conduit, duct, manhole or system belonging to the City or which shall have been previously laid down and be then subsisting in any said public thoroughfare, highway, road, street, lane, alley, bridge, viaduct, subway, public place, square or park by, or with the permission or approval of, the City or by virtue of any charter or right granted by competent governmental or municipal authority.
14. The Company shall protect, indemnify and save harmless the City from and against all actions, proceedings, claims and demands of any corporation, firm or person against the City and shall reimburse the City for all damages and expenses caused to it, in respect of or by the execution by the Company of the authorities, permissions and rights hereby to it granted or by reason of the construction, maintenance or operation of the distribution system of the Company within the boundary limits of the City, except where same is not caused by or contributed to by the negligence or default of the Company, or its servants or agents.
15. If the City, before its makes any additions, repairs or alterations to any of its public services within the boundary limits of the City, and which said additions, repairs or alterations may in any way affect any part of the distribution system of the Company, or any equipment thereof, gives to the Company at its main office within the boundary limits of the City not less than three (3) clear days notice thereof (except in such cases of repair, maintenance or the like that can reasonably

be deemed to be emergencies or in the interests of the health or safety of the public, or of the safety of property by whomsoever owned, or any of them, in which case no notice need be first given but may be given as soon as practicable thereafter), then the Company shall thereupon be entitled to appoint a representative to supervise or advise in respect of such additions, repairs or alterations and so long as the directions, instructions or advice of such representative are or is followed or complied with by the City, the City shall be relieved from all liability in connection with any damage done to the property of the Company by reason of such additions, repairs or alterations.

16. The distribution system of the Company shall be and remain its own property and as such may, subject to the terms herein contained, be used by it in its business or removed in whole or in part as it shall see fit.
17. Notwithstanding anything to the contrary herein contained, the terms herein contained shall be subject to the provisions of the Pipeline Act and the Gas Utility Act of the Province of British Columbia and the proper authorities and powers of British Columbia Utilities Commission, and nothing herein shall exclude, or be deemed to exclude, the application of the provisions of said Acts or any jurisdiction thereof or of the said British Columbia Utilities Commission.
18. The Company, in the construction of its said distribution system, and in the construction of any extension or extensions of its distribution system which may be made from time to time, shall insofar as it considers it practicable, and provided that the Company shall not consider in so doing that it will or might in any way be penalized in either cost or efficiency, employ labourers, workmen and artisans who reside in the City and purchase in the City such materials as are required for the said construction work as are available in the City. It is acknowledged that the construction and installation of a gas distribution system is a specialized construction project calling for the services of artisans and technicians with special skills and experience, and that in the performance by the Company of the terms hereinbefore in this paragraph set out, the Company shall not be deemed to be in default in performance thereof by its employing artisans or technicians who reside elsewhere than in the City for any work requiring specialized skill or experience, even although there may be artisans or technicians residing in the City and available who might be able to do such specialized work satisfactorily. In the event that the said distribution system or any part or parts thereof, or any extension or extensions thereof, are constructed or installed by any contractor or contractors to the Company, then the Company shall endeavour to procure a covenant on the part of the contractor or contractors that any such contractor or contractors will carry out and perform the terms hereinbefore set out in this paragraph in the same manner and to the same extent as if the Company itself were carrying out the work.

SCHEDULE E

ADDITIONS OPTION

ADDITIONS OPTION

THIS AGREEMENT is made as of the 1st day of November, 2004,

BETWEEN:

TERASEN GAS INC., a company having an office at 1111 West
Georgia Street, Vancouver, British Columbia, V6E 4M4

("Lessor")

AND:

CITY OF PRINCE GEORGE, a municipality having an office at
1100 Patricia Boulevard, Prince George, British Columbia, V2L
3V9

("Lessee")

RECITALS

- A. The Lessee has leased the Gas Distribution Assets from the Lessor pursuant to the Capital Lease made concurrently with this Agreement.
- B. The Lessor has agreed to grant the Lessee an option to lease Additions on the terms and conditions of this Agreement.

TERMS OF OPTION

NOW THEREFORE, in consideration of the mutual agreements set out in this Agreement, Lessor and Lessee agree as follows:

1. DEFINITIONS AND APPENDICES

1.1 **Definitions.** In this Agreement (including the Recitals), the terms defined in Appendix 1 hereto shall have the meanings given to them therein.

1.2 **Appendices.** The following Appendices are incorporated in this Agreement by reference and form a part hereof:

- | | |
|---|---------------------------------|
| 1 | Definitions |
| 2 | Rent Formula |
| 3 | Form of Additions Capital Lease |

1.3 **Statutes.** References in this Agreement to particular statutes shall, unless the agreement specifically provides otherwise, be deemed to be the British Columbia statute of that name, as amended from time to time, or if in future the particular statute is replaced then the statute that replaces the same.

2. OPTION

2.1 Additions Notice. On or before April 1 of each year of the Term Lessor shall give Lessee notice (the "Additions Notice") of the Additions (and the cost thereof broken down by calendar quarters) made by or on behalf of Lessor during the preceding calendar year.

2.2 Option. The Lessee shall have an option to lease the Additions during the Term on those terms and conditions set out in the Additions Capital Lease.

2.3 Operating Lease. If the Lessee exercises this option and leases Additions, then the Lessee will thereafter concurrently sublease the leased Additions to the Lessor on those terms and conditions set out in the Operating Lease Amendment.

2.4 All To Be Leased. The Lessee may exercise this option only once each calendar year, and when exercising such option the Lessee:

- (a) must lease at least a calendar quarter of Additions; and
- (b) may choose to lease as many calendar quarters of Additions as have not been previously leased, provided that the Additions are leased consecutively from the earliest quarter, or quarters, of Additions that have not been previously leased pursuant to this Agreement.

3. EXERCISE OF OPTION

3.1 Option Exercise. The option is exercisable by the Lessee delivering written notice (the "Option Notice") to the Lessor on or before 90 days after Lessee's receipt of the Additions Notice.

3.2 Completion of Approval Procedures. The exercise of the option shall be subject to successful completion by the Lessee of any approval procedures or other legal requirements imposed by the *Local Government Act* and the *Community Charter* or otherwise by law. The Lessee will notify the Lessor of such completion on or before October 1 of any year in which the Option Notice is delivered, failing which the exercise of the Option in that year is cancelled.

3.3 Additions Agreements. Upon receipt of the Option Notice, the Lessor will cause the Additions Agreements for Additions to be prepared and executed by the Lessor, and the Lessor will deliver the Additions Agreements to the Lessee for completion of the Lessee's approval process and completion of the Closing.

3.4 Closing. The closing of the exercised option will be on November 1 of the year in which the Option Notice is given (being the anniversary date of the Capital Lease), at which time payment of the Prepayment Amount will be made by the Lessee and the Additions Agreements shall be executed and delivered by Lessee to Lessor, and certified copies of any authorizing bylaws or resolutions of the Lessee and a legal opinion regarding successful completion by the Lessee of approval procedures in relation to the Additions Agreements imposed by the *Local Government Act* and the *Community Charter* or otherwise by law will also be delivered to Lessor.

3.5 Additions Agreements Rents. The rents payable under the Additions Agreements will be determined in accordance with Appendix 2 hereto.

4. **GENERAL PROVISIONS**

4.1 Assignment. Neither party shall assign or otherwise transfer this Agreement or any of its rights or interests herein without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

4.2 Enurement. This Agreement shall be binding upon and enure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

4.3 Notices. Any notice or other writing required or permitted to be given under this Agreement to be effective must be delivered personally or sent by prepaid registered mail or transmitted by facsimile and addressed as follows:

(a) To Lessor:

Terasen Gas Inc.
1111 West Georgia Street
Vancouver, BC
V6E 4M4

Attention: Legal Department

Telecopier No.: (604) 443-6789

(b) To Lessee:

City of Prince George
1100 Patricia Boulevard
Prince George, BC
V2L 3V9

Attention: George Paul

Telecopier No.: (250) 561-0183

or to such other address or addresses as the party to whom such notice or writing is to be given shall have last notified the party giving the same in the manner provided in this section. Any notice delivered to the party to whom it is addressed shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day, then the notice shall be deemed to have been given and received on the next Business Day following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the sixth Business Day next following the date of its mailing. Any notice transmitted by facsimile shall be deemed to have been given and received on the next Business Day after its transmission.

4.4 Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed by the laws of the Province of British Columbia.

4.5 General Matters. To the extent permitted by applicable law, each party hereto waives any provision of law which renders any provision of this Agreement unenforceable in any respect. Each of the parties hereto shall, at its expense, promptly execute further documents and assurances and take such further action as the other party hereto may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights, interests and remedies intended to be created hereunder. Waiver by either party of any provision of this Agreement in one instance shall not constitute a waiver by such party as to any other instance or any other provision and any such waiver must be in writing to be effective. Time is of the essence of this Agreement in all respects.

4.6 Parties Representative. Each party will, during the Term, appoint a person as its representative for the purpose of coordinating all matters and obligations of the parties as required by this Agreement. Each party will advise the other party in writing of the name, telephone number and fax number of its representative and each party may change its representative from time to time by notice in writing to the other.

4.7 Mediation. If any dispute arises between Lessor and Lessee with respect to this Agreement, then, within seven (7) days of Notice from one party to the other, or such time as agreed to by both parties, the representatives of the parties will participate in good faith discussions in order to resolve and settle the dispute. In the event that such representatives are unable to resolve the dispute within fourteen (14) days of the first written notice, or such other time period agreed to by both parties, each party will appoint a senior representative that has not been previously involved in the matter in dispute, to attempt to resolve the dispute. Each senior representative will meet and agree upon the selection of a qualified independent mediation practitioner versed in the resolution of commercial disputes in order to assist them within the forty-five (45) day time frame set out below. Each party will bear their own costs of the formal mediation process.

4.8 Arbitration. If the matter is not settled through the process in Section 4.7 within forty-five (45) days of the notice of the dispute being given unless the parties mutually agree to extend the forty-five (45) day period, the matter will be referred for arbitration pursuant to the Commercial Arbitration Act. Arbitrations involving monetary claims when under \$250,000 shall be resolved by a single arbitrator while all other claims shall be resolved by a panel of three arbitrators. Where these arbitrators are to be selected then:

- (a) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party will select an arbitrator, and the selected arbitrators will meet to select a third arbitrator; and
- (b) if within the fourteen (14) day either party fails or refuses to appoint an arbitrator, or if the selected arbitrators fail to appoint a third arbitrator within ten (10) days thereafter then such arbitrator(s) will be appointed pursuant to the Commercial Arbitration Act.

A single arbitrator will be selected by agreement of the parties or, failing agreement of the parties, a person shall be selected as follows:

- (c) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party shall appoint an arms-length representative, ("Appointment Agent") who will, pursuant to this Agreement be given the authority to meet and agree upon the selection and appointment of a single arbitrator;
- (d) if within the fourteen (14) days either party fails or refuses to appoint its Appointment Agent, or if the Appointment Agents fail to appoint a single arbitrator within ten (10) days thereafter then a single arbitrator will be appointed pursuant to the provisions of the Commercial Arbitration Act.

A single arbitrator will be an experienced professional versed in the matters in dispute. Each party will bear its own costs of the arbitration, including all costs of its Appointment Agent, regardless of the arbitrators' decision.

4.9 No Merger. There shall be no merger with this Agreement created or deemed to be created by virtue of any other agreement or agreements entered into between the parties hereto.

4.10 Counterparts. This Agreement may be executed in one or more counterparts and such counterparts may be transmitted by electronic facsimile, and each such counterpart shall be deemed to be an original and together such counterparts shall constitute one document.

IN WITNESS WHEREOF the Parties have caused this Agreement to be duly executed.

CITY OF PRINCE GEORGE

Per: _____

Authorized Signatory
Mayor

Per: _____

Authorized Signatory
City Clerk

TERASEN GAS INC

Per: _____

Authorized Signatory

APPENDIX 1

DEFINITIONS

For the purposes of this Agreement:

- (a) "Additions" means collectively New Components and Extensions;
- (b) "Additions Agreements" means collectively the Additions Capital Lease and Operating Lease Amendment referred to in Section 3.3;
- (c) "Additions Capital Lease" means an agreement in the form attached as Appendix 3 to this Agreement;
- (d) "Additions Notice" means the notice referred to in Section 2.1;
- (e) "Agreement" means this Agreement;
- (f) "Business Day" means Monday to Friday of each week excluding holidays;
- (g) "Capital Lease" means the Capital Lease made by the Lessor and Lessee as of the 1st day of November, 2004, as it may be amended from time to time;
- (h) "Extensions" means all new distribution mains, service lines, gas meters, and valves (but excluding new transmission pipelines above 690 kPa and regulating stations) that are constructed after the date of the Capital Lease and utilized by the Lessor to distribute gas within the municipal boundaries of the City of Prince George as such boundaries exist as of the date of the Capital Lease;
- (i) "Gas Distribution Assets" are as defined in the Capital Lease;
- (j) "New Components" are as defined in the Capital Lease;
- (k) "Operating Lease Amendment" means an agreement in the form attached as Appendix C to the Operating Lease;
- (l) "Operating Lease" means the Operating Lease made by the parties as of the 1st day of November, 2004 as it may be amended from time to time;
- (m) "Option Notice" means the notice referred to in Section 3.1;
- (n) "Prepayment Amount" means the rent (including applicable taxes) to be prepaid under the Additions Capital Lease;
- (o) "Term" means the Term of the Capital Lease.

APPENDIX 2
RENT FORMULA

This Appendix details the formula to be used to determine the rent to be paid pursuant to the Additions Agreements. Where a payment of annual rent is to be made for less than a full year then the payment will be determined by prorating the annual rent based on the portion of the year to which the payment applies.

Rent for Additions Capital Lease

The rent will be equivalent to the Lessor's net book value for the Additions, as of the date when the option is exercised.

All of the Rent (including applicable taxes) will be prepaid by the Lessee on the commencement date of the Additions Capital Lease (the "Prepayment Amount").

Rent for Operating Lease Amendment

The rent will be determined in the manner specified in Appendix B of the Operating Lease, except as follows:

- No provision for Optional Payments or an Extra Payment Loan.
- References to "MFA Payment" will be replaced by "City Opportunity Cost" calculated as follows:

$$\text{City Opportunity Cost} = \text{Asset Value} \times (1 - \text{Equity Ratio}) \times \text{Fixed Rate} + \text{Asset Value} \times \text{Equity Ratio} \times \text{Floating Rate} + \text{Depreciation}$$
- The value of the assets at the commencement of the Lease is equal to the Prepayment Amount (less applicable taxes) under the Capital Lease and is reduced each year by the Depreciation. For purposes of the formula, the Asset Value will be the simple average of the opening and closing asset values for each calendar year.
- $\text{Depreciation} = \frac{\text{the value of the assets at commencement of the Lease}}{35}$
- $\text{Fixed Rate} = \text{the yield on 10 year Government of Canada Bonds as of the date of the Option Notice.}$
- The reference to "5.949%" in the formula will be replaced by a percentage rate that is 100 basis points greater than the Fixed Rate.

- Floating Rate = the then current rate offered by the British Columbia Municipal Finance Authority (or its successor in function) for a one year borrowing, as of the anniversary date of the Lease in the immediately preceding year.

APPENDIX 3

FORM OF ADDITIONS CAPITAL LEASE

THIS [FIRST] ADDITIONS CAPITAL LEASE is made as of the <*> day of <*>, <*>.

BETWEEN:

TERASEN GAS INC., a company having an office at 1111 West Georgia Street, Vancouver, British Columbia, V6E 4M4

("Lessor")

AND:

CITY OF PRINCE GEORGE, a municipality having an office at 1100 Patricia Boulevard, Prince George, British Columbia, V2L 3V9

("Lessee")

RECITALS

- A. Lessor is the owner of the Gas Distribution Assets.
- B. Pursuant to the Original Capital Lease, Lessor leased to Lessee the Original Gas Distribution Assets (but specifically excluding Additions).
- C. Pursuant to the Additions Option, Lessor granted to Lessee an option to lease the Additions.
- D. Lessee has now exercised the Additions Option with respect to those Additions listed in Schedule B, and the Lessee wishes to lease from the Lessor such Additions on the terms and conditions of this Lease.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual agreements set out in this Lease, Lessor and Lessee agree as follows:

1. DEFINITIONS AND SCHEDULES

1.1 Definitions. In this Lease (including the Recitals), the terms defined in Schedule A hereto shall have the meanings given to them therein.

1.2 Schedules. The following Schedules are incorporated in this Lease by reference and form a part hereof:

- A Definitions
- B List of Additions

1.3 Statutes. References in this Lease to particular statutes shall, unless the Lease specifically provides otherwise, be deemed to be the British Columbia statute of that name, as amended from time to time, or if in future the particular statute is repealed then the statute that replaces the same.

2. LEASE

2.1 Lease. Subject to the terms of this Lease, Lessor hereby leases to Lessee the Gas Distribution Assets.

2.2 Ownership. The Gas Distribution Assets will remain the property of, and title to the Gas Distribution Assets will remain in, the Lessor. Lessee shall not charge or encumber the Gas Distribution Assets or allow any charge, security interest, lien or other encumbrance to exist (except for any charge, security interest, lien or other encumbrance in favour of the Lessor) on the Gas Distribution Assets, however for certainty, the Lessee is permitted to assign or sublet its interest in this Lease and/or the Gas Distribution Assets pursuant to Section 9.2.

2.3 Quiet Enjoyment. Notwithstanding any other provisions of this Lease, Lessee may retain possession and quiet enjoyment of the Gas Distribution Assets until the end of the Term, subject to the terms of this Lease.

3. TERM

3.1 Term. The term of this Lease (the "Term") will commence on the date hereof and will continue for a period of 35 years, unless terminated earlier, or extended, pursuant to the terms of this Lease.

3.2 Early Termination Option. Lessor has the right, at Lessor's option, to terminate this Lease on October 31, 2021 (the "Termination Date"), such right to be exercisable at any time from July 1, 2021 to September 30, 2021 by the Lessor delivering written notice to the Lessee that this option has been exercised, in which event the Lessor shall pay to the Lessee the Termination Payment on the Termination Date. The Termination Payment (assuming full prepayment of rent under Section 4.1) shall be calculated as follows:

Refund of Unamortized Prepaid Rent	\$	[*]
<hr/>		
Termination Payment	\$	[*]

In exchange for the Termination Payment, the Lessee shall execute and deliver to the Lessor a signed agreement surrendering this Lease in an appropriate form provided by and executed by the Lessor.

3.3 Lease Ends Upon Payment. At the end of the Term, whether pursuant to termination under section 3.2, section 4.3 or otherwise, this Lease shall continue in effect until, as the case may be:

- (a) the Termination Payment provided for in section 3.2;
- (b) the payments provided for in section 4.3; or
- (c) all other monies due to each party hereto pursuant to this Lease or otherwise in respect of the Gas Distribution Assets,

are paid. The Lessee shall execute and deliver to the Lessor a signed agreement surrendering this Lease in an appropriate form provided by and executed by the Lessor and necessary payments will be made concurrently.

4. RENT

4.1 Rent Prepayment. Lessee agrees to prepay to Lessor the rent for the Gas Distribution Assets being \$[<*>] plus GST of \$[<*>] totalling \$[<*>] (the "Prepayment Amount") upon execution of this Lease which sum shall include all applicable federal or provincial sales tax or goods and services or similar taxes that are to be paid by a Lessee under lease arrangements in respect of rent payments.

4.2 Impact of New Circumstances. If during the Term any circumstance arises (a "New Circumstance") (e.g. a tax, levy, fee or assessment is imposed on the payment of Rent) which may adversely affect the net financial benefit to either or both of the parties of the transactions between the parties with respect to the Gas Distribution Assets, as contemplated by the parties (the "Contemplated Benefit") then the Lessor will calculate the overall impact of the New Circumstance to determine if the Contemplated Benefit will continue to be achieved. If the Lessor concludes that, after accounting for the impact of the New Circumstance, there will no longer be the Contemplated Benefit to either or both of the parties, then Lessor will advise the Lessee by means of a written notice (the "New Circumstance Notice") as to its conclusion. The Lessor will also provide to the Lessee supporting documentation to permit the Lessee and its advisers to review the Lessor's conclusions. Lessee will have 90 days from receipt of the New Circumstance Notice to dispute the Lessor's conclusions by written notice (the "Dispute Notice").

4.3 Cooperative Wind-Up. If the Lessee either:

- (a) does not issue a Dispute Notice within the time provided for above, or
- (b) issues a Dispute Notice but it is then determined by means of the dispute resolution procedure that the Lessor's conclusions were correct,

then the parties shall cooperate in settling accounts effective as of the date of the New Circumstances Notice, including payments to the Lessee of the unamortized balance (based on straightline amortization over the Term as payments are made) of the Prepayment Amount. The parties will exchange all documents required to effectively terminate this Lease and all other

agreements related to the lease of the Gas Distribution Assets. All such actions will be carried out concurrently and will be effective as of the date the New Circumstance Notice was given.

4.4 Lessee Calculation. If the Lessee believes a New Circumstance has arisen which may adversely affect the Contemplated Benefits to either or both of the parties and the Lessor has not calculated the impact and provided a New Circumstance Notice then the Lessee will calculate the impact and provide the New Circumstance Notice to the Lessor. The above procedures for resolution will then apply mutatis mutandis.

5. COVENANTS

5.1 Use of Assets. Lessee shall only use the Gas Distribution Assets or permit their use:

- (a) for the purpose of operating a gas distribution system in the municipal boundaries of the City of Prince George;
- (b) in accordance with all applicable laws, including laws relating to the registration, leasing, insurance, possession, use or operation of the Gas Distribution Assets; and
- (c) in accordance with all conditions of any applicable insurance policies.

Lessor expressly acknowledges and agrees that the Lessee shall be entitled to assign or sublet the Gas Distribution Assets and applicable provisions of this Lease to another party to operate as contemplated by Sections 5.7 and 9.2. The parties agree that if the Lessee so assigns or sublets this Lease and/or the Gas Distribution Assets to the Lessor then such assignment or subletting shall not merge with this Lease.

5.2 Maintenance of Assets. Lessee shall maintain or cause to be maintained the Gas Distribution Assets to keep the same or cause the same to be kept in reasonable condition and repair, ordinary wear and tear excepted. If any part of the Gas Distribution Assets is damaged, wears out, is destroyed, lost or stolen (such items being collectively referred to herein as the "Damaged Components") such that in the opinion of Lessee or Lessor, acting reasonably, it needs to be added to or existing components need to be replaced with new components (such items being collectively referred to herein as the "New Components"), then Lessee shall cause the Damaged Components to be replaced by New Components. Within 60 days of the end of each year of the Term Lessee shall provide Lessor with an itemized list of all Damaged Components which have been replaced, and all New Components which have been installed during such year. The Lessor will assist the Lessee to locate any of the Gas Distribution Assets or New Components. Lessor shall retain title and ownership to all New Components.

5.3 Insurance.

- (a) All Risks Insurance. Lessee agrees that it shall at all times during the Term keep or cause to be kept the Gas Distribution Assets insured against loss by an All Risks Insurance policy including fire and perils covered under an extended coverage endorsement and endorse to waive all rights of subrogation against the

Lessor at not less than the replacement cost value of the Gas Distribution Assets. All such insurance shall cover the interest of Lessor and Lessee in the Gas Distribution Assets and shall provide that losses, if any, in respect of the Gas Distribution Assets shall be payable to Lessee and Lessor as their respective interests may appear, and such proceeds shall be paid over to and used by Lessee to repair or replace the affected Gas Distribution Assets.

- (b) Comprehensive General Liability Insurance. Lessee agrees that it shall at all times during the Term maintain or cause to be maintained a Comprehensive General Liability Insurance policy including coverage for Products/Completed Operations, Blanket Contractual, Contractor's Protective, Personal Injury, Contingent Employers Liability, Broad Form Property Damage and Non-Owned Automobile Liability insurance with respect to the Gas Distribution Assets, in an amount of not less than \$5 million for each occurrence or accident. All such insurance shall protect Lessor and Lessee in respect of risks arising out of the condition, maintenance, use, ownership or operation of the Gas Distribution Assets, and shall designate such parties as additional insureds thereunder including a Cross Liability clause such that inclusion of more than one insured shall not affect the coverage of another.
- (c) Nature of Coverage; Settlement. Each policy under this section 5.3 shall provide (i) that the insurer shall give Lessor not less than 30 days prior written notice before the cancellation or any material alteration of the subject policy would be effective as against the Lessor, and (ii) that any amounts otherwise payable under the policy to Lessor shall be so payable irrespective of any misrepresentation by Lessee in acquiring or maintaining the policy. Upon receipt of notification from the applicable insurer of any alteration of any such policy, Lessee shall promptly notify Lessor. Lessee shall furnish Lessor with certificates of insurance evidencing Lessee's compliance with the insurance requirements hereunder and will provide the Lessor with copies of such policies upon request.
- (d) Nonpayment of Losses. The failure or refusal to pay losses by any insurance company providing insurance shall not be held to waive or release Lessee from the provisions of this section or other requirements of this Lease. Any insurance deductible maintained by the Lessee is solely for the Lessee's account and if paid by the Lessor is recoverable from the Lessee pursuant to this Lease.

5.4 Indemnity. Notwithstanding (i) any other provision of this Lease or (ii) the availability, existence or collectability of any insurance, Lessee shall indemnify and save harmless Lessor (and its directors, officers, employees and agents) from and against any and all losses, costs, damages, claims and liabilities of whatever kind or nature, including, without limitation, legal fees and disbursements on a solicitor and client basis (collectively "Costs") incurred or suffered by Lessor (and its directors, officers, employees and agents) and relating in any way whatsoever to any one or more of the Gas Distribution Assets or their lease or use, including, without limitation, damage to or loss of property and loss of use thereof, and bodily injury to or death of a person or persons, and all Costs relating to claims made by third parties against Lessor (and its directors, officers, employees and agents) as owner or lessor of one or

more of the Gas Distribution Assets and all Costs relating in any way whatsoever to the use of any one or more of the Gas Distribution Assets by Lessee or any affiliate of Lessee. Notwithstanding the foregoing, Lessee is not responsible for (i) any damage caused to a Gas Distribution Asset, (ii) theft or loss of a Gas Distribution Asset, or (iii) claims made by third parties, caused by the fault or negligence of Lessor or any of its directors, officers, employees or agents.

5.5 Expenses, Fees, Taxes. Lessee shall pay or cause to be paid all costs, expenses, fees and charges (including all taxes whatsoever) incurred in connection with its registration, licensing, possession, use or operation of the Gas Distribution Assets during the Term, except for any liability of Lessor for federal or provincial income taxes arising out of receipt of rents payable under this Lease.

5.6 Assets to Remain Lessor's Property. Lessee agrees that the Gas Distribution Assets shall be and remain property of the Lessor notwithstanding the manner in which or degree to which the same may be attached or affixed to realty.

5.7 Covenants. Lessee may comply with its covenants regarding the Gas Distribution Assets including their use, maintenance or insurance herein by causing those covenants to be carried out on the Lessee's behalf by the Lessor, or by another operator of the Gas Distribution Assets that is approved in writing by the Lessor (acting reasonably, including its consideration of the proposed operator's ability to operate the Gas Distribution Assets).

5.8 Tripartite Agreement. The Lessee may choose to have its operator enter into a tripartite agreement with the Lessor and Lessee where the operator would covenant directly with the Lessor to fulfill certain of the Lessee's obligations under this Lease on terms acceptable to the Lessor, in which event the Lessor will thereafter enforce such covenants directly against the operator.

5.9 Transport by Others Agreement. If during the Term the Gas Distribution Assets are operated by an entity that is not also the operator of the gas distribution system(s) adjacent to the City of Prince George and the supply of gas to any customers within the City of Prince George or in the adjacent system(s) necessitates use of the Gas Distribution Assets and the adjacent distributions systems(s), then the Lessee will use reasonable efforts to obtain an agreement with the adjacent system operator(s) for the transport of gas on each system, including setting the applicable tariffs, in order to ensure all customers are supplied. If the Lessee and any such adjacent system operator(s) do not reach such agreement on the terms of service or the applicable tariffs then the Lessee will apply for those matters to be determined by the British Columbia Utilities Commission (or its successor in function as regulator of gas services). If the Lessor is an adjacent system operator then the Lessor, on behalf of itself and its successors, will use reasonable efforts to enter into such an agreement with the Lessee on the terms and in accordance with the above provisions, and if the Lessor disposes of any part of such system, where the part being disposed of necessitates the use of portions of both the Gas Distribution System and the adjacent distribution system(s) to service customers inside or outside of the City of Prince George, then the Lessor will notify the Lessee of the same and will use reasonable efforts to obtain an agreement from the person acquiring such interest to be bound by this section 5.9.

6. REPRESENTATIONS

6.1 Representations and Warranties of Lessor. Lessor represents and warrants to the Lessee that:

- (a) Lessor is a company duly organized and validly existing under the laws of the Province of British Columbia, is in good standing with respect to the filing of annual reports at the office of the Registrar of Companies of British Columbia, and has the power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated thereby;
- (b) Lessor is the legal and beneficial owner of the Gas Distribution Assets and has good and marketable title to the Gas Distribution Assets free and clear of all liens, charges and encumbrances except for liens, charges or encumbrances in favour of the Lessee;
- (c) there is to Lessor's knowledge no existing or threatened litigation affecting the title to or use of the Gas Distribution Assets and Lessor will promptly notify Lessee if such arises;
- (d) Lessee is acquiring the leasehold right, title and interest in and to the Gas Distribution Assets free and clear of all liens, charges and encumbrances except for liens, charges or encumbrances in favour of the Lessee;
- (e) Lessor has paid and will continue to pay as and when due all required taxes or assessments, to government authorities that may give rise to a lien against the Gas Distribution Assets;
- (f) to the Lessor's knowledge, the Gas Distribution Assets are all of the physical components necessary to transport natural gas from the regulating stations to the metres on gas customers' properties;
- (g) to its knowledge, the Lessor is in compliance, in all material respects, with legal or regulatory requirements (including applicable environmental laws) affecting the Gas Distribution Assets or the Lessor's ability to perform this Lease; and
- (h) the execution and delivery of this Lease and the performance of the transactions contemplated thereby, have been duly and validly authorized by all necessary corporate action on the part of the Lessor, no consents of third parties are necessary (except for the interests of the Lessee, and the Lessee hereby consents) and the Lease constitutes a legal, valid and binding obligation of the Lessor enforceable against it in accordance with its terms;

and that the representations and warranties described above will survive execution of this Lease and will continue throughout the Term. Lessor will, upon request by Lessee from time to time, provide to Lessee a certificate of an officer of Lessor that, to the best of his or her knowledge, after reasonable enquiry, such representations and warranties are true and correct as of the date specified in such request.

6.2 Representations and Warranties of the Lessee. The Lessee represents and warrants to the Lessor that:

- (a) Lessee is a municipality and validly exists under the *Local Government Act* and the *Community Charter* and has the power, authority and capacity to enter into this Lease and to perform its obligations contemplated thereby; and
- (b) the execution and delivery of this Lease and the performance of the transactions contemplated thereby, have been duly and validly authorized by all necessary action on the part of the Lessee and pursuant to the *Local Government Act* and the *Community Charter* and the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable against it in accordance with its terms.

7. STATE OF ASSETS AND WARRANTY DISCLAIMER

7.1 As Is. Based and relying on the representations and warranties of Lessor set forth above, Lessee has agreed to lease the Gas Distribution Assets on an "as is where is" basis. Lessor has no liability whatsoever to Lessee for any loss or damage of any kind whatsoever suffered by Lessee, whether directly or indirectly as a result of any defect in a Gas Distribution Asset, failure of a Gas Distribution Asset to perform properly or any other matter whatsoever relating to a Gas Distribution Asset, unless same relates to a material misrepresentation by Lessor. Lessee expressly waives any and all claims against Lessor for such losses or damages.

7.2 Rights Against Manufacturers. Lessor will, upon request and to the extent permitted by law, assign or otherwise make available to Lessee all Lessor's rights, if any, under any manufacturers' warranties on Gas Distribution Assets. Following the expiry of the Term (whether before or after the termination of this Lease) Lessee shall reassign to Lessor any such manufacturers' warranties that have been so assigned or made available. If at any time during the Term, Lessee determines that there is a defect in a Gas Distribution Asset, or a Gas Distribution Asset does not operate as represented or warranted by the manufacturer or is otherwise unsatisfactory for any reason, Lessee shall not make any complaint or claim in any way relating to such Gas Distribution Assets against Lessor, and shall continue to pay Lessor all amounts payable under this Lease with respect to such Gas Distribution Assets. Lessor shall assist Lessee with any reasonable claims or complaints against manufacturers.

8. DEFAULT

8.1 Events of Default. The occurrence of any of the following shall constitute an "Event of Default" hereunder:

- (a) if Lessee fails to pay when due any rent or other amount payable under this Lease and such failure remains unremedied for 20 Business Days after written notice thereof has been given by Lessor to Lessee;
- (b) if Lessee fails to perform or observe any of its other obligations under this Lease and such failure continues for a period of 20 Business Days after written notice thereof has been given by Lessor to Lessee; except that in the event of a non-monetary failure that cannot be reasonably cured within 20 Business Days

after written notice where Lessee proceeds to attempt to cure such default then, in such event, Lessee shall have an additional reasonable period of time to cure providing it continues to diligently attempt to cure until the Event of Default ceases;

- (c) any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or any other proceedings for the relief of debtors generally are instituted by or against Lessee and, if instituted against Lessee, are allowed, consented to or not dismissed or stayed within 40 Business Days after such institution; or
- (d) a trustee, receiver or receiver and manager is appointed for Lessee or for any substantial part of its property and remains in place for 40 Business Days after such appointment.

8.2 Remedies. When any Event of Default has occurred and is continuing Lessor may, subject to the extent permitted by and subject to compliance with applicable laws, in its sole discretion elect to do any one or more of the following:

- (a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants and terms of this Lease or to recover damages for the breach thereof;
- (b) up to the Termination Date, set-off any monies due by it to Lessee under or by virtue of any other agreement against monies due to it hereunder, and after the Termination Date (if Lessor does not exercise its option to terminate), set-off any monies due by it to Lessee against monies due to it hereunder; and
- (c) recover from Lessee all reasonable costs incurred by Lessor in connection with an Event of Default, including but not limited to all reasonable legal and other out-of-pocket expenses incurred by Lessor in enforcing the remedies available to Lessor referred to in this Section 8.2.

8.3 Lessor Default. If:

- (a) the Lessor makes a misrepresentation or commits a breach of this Lease that has a material impact on the Lessee and the same remains or is not cured within 40 Business Days after written notice thereof has been given by the Lessor to the Lessee; or
- (b) any of the circumstances described in 8.1(c) or (d) above apply in respect of the Lessor,

then the Lessee shall be entitled to terminate this Lease upon providing notice to the Lessor.

8.4 Survival of Obligations. Upon termination of this Lease all rights and obligations of Lessor and Lessee under this Lease shall cease except those which are stated herein to survive termination, and except for the obligation to pay any monies owing at the time of termination.

9. **GENERAL PROVISIONS**

9.1 **Lessor May Perform.** If Lessee fails to make any payment required to be made by it hereunder or fails to perform or comply with any of its obligations hereunder, Lessor may but need not, make such payment or perform or comply with such obligation and the amount of such payment and the amount of the reasonable expenses of Lessor incurred in connection with such payment or the performance or compliance with such obligation, as the case may be, shall be payable to Lessor forthwith on demand.

9.2 **Assignment.** Neither party shall assign or otherwise transfer this Lease or any of its rights or interests herein including, without limitation, its rights to or interests in the Gas Distribution Assets, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

9.3 **Enurement.** This Lease shall be binding upon and enure to the benefit of the parties to this Lease and their respective successors and permitted assigns.

9.4 **Notices.** Any notice or other writing required or permitted to be given under this Agreement to be effective must be delivered personally or sent by prepaid registered mail or transmitted by facsimile and addressed as follows:

(a) To Lessor:

Terasen Gas Inc.
1111 West Georgia Street
Vancouver, British Columbia
V6E 4M4

Attention: Legal Department

Telecopier No.: (604) 443-6789

(b) To Lessee:

City of Prince George
1100 Patricia Boulevard
Prince George, British Columbia
V2L 3V9

Attention: George Paul

Telecopier No.: (250) 561-0183

or to such other address or addresses as the party to whom such notice or writing is to be given shall have last notified the party giving the same in the manner provided in this section. Any notice delivered to the party to whom it is addressed shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day, then the notice shall be deemed to have been given and received on the next Business Day

following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the sixth Business Day next following the date of its mailing. Any notice transmitted by facsimile shall be deemed to have been given and received on the next Business Day after its transmission.

9.5 General Matters. To the extent permitted by applicable law, each party hereto waives any provision of law which renders any provision of this Lease unenforceable in any respect. Each of the parties hereto shall, at its expense, promptly execute further documents and assurances and take such further action as the other party hereto may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Lease and to establish and protect the rights, interests and remedies intended to be created hereunder. Waiver by either party of any provision of this Lease in one instance shall not constitute a waiver by such party as to any other instance or any other provision and any such waiver must be in writing to be effective. Time is of the essence of this Lease in all respects.

9.6 Registration of Lease. Lessee may register its interest in this Lease and the Additions Option in all places it considers necessary or desirable. Lessee acknowledges receipt of a fully executed copy of this Lease.

9.7 Governing Law. This Lease and the rights and obligations of the parties hereto shall be governed by the laws of the Province of British Columbia.

9.8 Parties Representative. Each party will, during the Term, appoint a person as its representative for the purpose of coordinating all matters and obligations of the parties as required by this Agreement. Each party will advise the other party in writing of the name, telephone number and fax number of its representative and each party may change its representative from time to time by notice in writing to the other.

9.9 Mediation. If any dispute arises between Lessor and Lessee with respect to this Lease, then, within seven (7) days of Notice from one party to the other, or such time as agreed to by both parties, the representatives of the parties will participate in good faith discussions in order to resolve and settle the dispute. In the event that such representatives are unable to resolve the dispute within fourteen (14) days of the first written notice, or such other time period agreed to by both parties, each party will appoint a senior representative that has not been previously involved in the matter in dispute, to attempt to resolve the dispute. Each senior representative will meet and agree upon the selection of a qualified independent mediation practitioner versed in the resolution of commercial disputes in order to assist them within the forty-five (45) day time frame set out below. Each party will bear their own costs of the formal mediation process.

9.10 Arbitration. If the matter is not settled through the process in Section 9.9 within forty-five (45) days of the notice of the dispute being given unless the parties mutually agree to extend the forty-five (45) day period, the matter will be referred for arbitration pursuant to the *Commercial Arbitration Act*. Arbitrations involving monetary claims when under \$250,000 shall be resolved by a single arbitrator while all other claims shall be resolved by a panel of three arbitrators. Where these arbitrators are to be selected then:

- (a) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party will select an arbitrator, and the selected arbitrators will meet to select a third arbitrator; and
- (b) if within the fourteen (14) day either party fails or refuses to appoint an arbitrator, or if the selected arbitrators fail to appoint a third arbitrator within ten (10) days thereafter then such arbitrator(s) will be appointed pursuant to the *Commercial Arbitration Act*.

A single arbitrator will be selected by agreement of the parties or, failing agreement of the parties, a person shall be selected as follows:

- (c) within fourteen (14) days of written notice from one party to the other of the intention to arbitrate, each party shall appoint an arms-length representative, ("Appointment Agent") who will, pursuant to this Agreement be given the authority to meet and agree upon the selection and appointment of a single arbitrator;
- (d) if within the fourteen (14) days either party fails or refuses to appoint its Appointment Agent, or if the Appointment Agents fail to appoint a single arbitrator within ten (10) days thereafter then a single arbitrator will be appointed pursuant to the provisions of the Commercial Arbitration Act.

A single arbitrator will be an experienced professional versed in the matters in dispute. Each party will bear its own costs of the arbitration, including all costs of its Appointment Agent, regardless of the arbitrators' decision.

9.11 Other Agreements. The provisions of this Lease shall not affect the rights of the parties which may subsist from time to time pursuant to any other agreements between them dated concurrently with or subsequently to this Lease nor relieve the parties of any obligations they may have pursuant to such agreements. There shall be no merger with this Agreement created or deemed to be created by virtue of any other agreement or agreements entered into between the parties hereto.

IN WITNESS WHEREOF the Parties have caused this Lease to be duly executed.

TERASEN GAS INC.

By: _____
Authorized Signatory

CITY OF PRINCE GEORGE

By: _____
Authorized Signatory
Mayor

By: _____
Authorized Signatory
City Clerk

SCHEDULE A

DEFINITIONS

For the purposes of this Lease:

- (a) "Additions" are as defined in the Additions Option;
- (b) "Additions Option" means the Additions Option Agreement made by the Lessor and Lessee concurrently with the Original Lease;
- (c) "Business Day" means Monday to Friday of each week excluding holidays;
- (d) "Event of Default" has the meaning given to it in section 8.1;
- (e) "Extensions" are as defined in the Additions Option;
- (f) "Gas Distribution Assets" means those Additions listed in Schedule B, that are now leased by the Lessor to the Lessee pursuant to this Lease;
- (g) "Lease" means this agreement and all Schedules attached hereto, as they may be amended in writing from time to time by mutual agreement;
- (h) "New Components" means the components added to the Gas Distribution Assets after the date of this Lease to replace Damaged Components as contemplated by Section 5.2 of the Original Capital Lease;
- (i) "Original Capital Lease" means the lease made as of the 1st day of November, 2004;
- (j) "Original Gas Distribution Assets" means the assets leased to the Lessee pursuant to the Original Capital Lease;
- (k) "Prime Rate" means the rate of borrowing offered from time to time by The Toronto-Dominion Bank to its most credit-worthy customers and used to calculate other rates of borrowing and announced by such bank as being its prime rate;
- (l) "Term" has the meaning given to it in section 3.1.

SCHEDULE B

ADDITIONS

[To be completed after exercise of the Additions Option, specifying the Additions to which it applies]

The leased Additions comprise the following items, having the indicated cost for each item, added to the Original Gas Distribution Assets from <*> up to <*>.

<u>Items</u>	<u>Additions Description</u>	<u>Cost</u>
1.		
2.		
etc.		

SCHEDULE F

NUMBERS DENOTED [*]

The Transaction Documents contain certain numbers, denoted by [*], that will be calculated, determined or confirmed at Closing between the respective solicitors for the parties and inserted into the execution copies of the Transaction Documents. Where any [*] number must be determined as of a particular reference date then, for the purpose of settling such number with certainty prior to the Closing, the parties agree to use October 28, 2004 (or such other date as the parties mutually agree) as the agreed reference date. The City hereby agrees to provide MFA instructions to commence the MFA loan procedures in sufficient time so that the MFA rates required to be known for purposes of Schedule F are known on or before the agreed reference date.

The Transaction Documents have approximations (based on current information) of the [*] figures inserted in the documents for ease of explanation and understanding for purposes of the City of Prince George's public process.

The [*] figures will be calculated, determined or confirmed as follows:

CAPITAL LEASE

Section 4.2(b)

Discount Rate of 9.228% [*] will be determined by the following formula using the **6.225 [*]** rate (as referred to in Operating Lease Appendix B, see below):

$$67\% \times 6.225\% [*] + \frac{33\% \times 9.73\%}{(1 - 36.5\%)}$$

Section 4.6(iii)

5.550% [*] will be the interest rate on the fixed interest portion of the principal related to the loan by the Municipal Finance Authority (MFA) to the City to finance the Transactions.

\$3,725,624 [*] will be what the City would pay annually on those components of its financing from the MFA which are related to the fixed portion of the loan principal (including fixed rate interest on 67% of the loan principal and sinking fund payments on 67% of the loan principal), if 100% of those components were to be financed.

Appendix 2 - Rent

The **\$5,800,680** [*] in the **Annual Rent** clause will be determined as being the annual fixed payment required to pay principal and interest so as to amortize a loan of \$60,000,000 over a term of 35 years at the applicable **Discount Rate** (which is the Discount Rate calculated for Section 4.2(b) above). The amount of the prepaid rent will reduce the Annual Rent accordingly, as per section 4.3 of this Agreement, so that if 95% of rent is prepaid then the annual rent is reduced by that percentage.

\$290,034 [*] will be determined as being the **Annual Rent** (as determined above) x 5%.

\$145,017 [*] will be determined as being the **Annual Rent** (as determined above) x 5% divided by 2.

OPERATING LEASE

Appendix B - Rent Formula

\$290,034 [*] will be determined as being the **Annual Rent** figure (as determined above) x 5%.

(b) **6.225%** [*] will be calculated as being the effective interest cost on long term debt as of October 28, 2004 (or such other date as the parties mutually agree), being net of expenses related to the issuance of such debt at an assumed cost of 0.75% of principal, and for purposes of the calculation the applicable coupon rate will be determined by obtaining an opinion from TD Securities Inc., Vancouver office (the "Investment Dealer" and if the named company is unable to provide an opinion then the parties will appoint an alternate Investment Dealer) as to the rate that would apply to a new issue of debt by the Lessee if such issue was made as of October 28, 2004 (or such other date as the parties mutually agree) with a term to maturity of 17 years. The parties will jointly instruct the Investment Dealer to make its determination in accordance with generally accepted financial practice and provide its opinion to the respective solicitors for both parties on October 28, 2004 (or such other date as the parties mutually agree) specifying a single figure (not a range) as its determination, and including the methodology.

(c) **\$4,497,124** [*] will be what the City of Prince George would pay annually on those components of its financing from the MFA which are fixed in advance (including fixed interest on 67% of loan principal, sinking fund payments on 100% of loan principal and annual issue costs), if 100% of those components were to be financed by the MFA.

(d) **\$19,336,516** [*] will be the MFA loan principal x 33%

Schedule B to Amendment - Rent Formula - Additions

6.225 [*] will be the same as the figure referred to in (b) of the Operating Lease, Appendix B - Rent Formula (see above).

Appendix E - Make Whole Payment

\$21,441,478 [*] will be the amount of the Termination Payment less the future value of the lease payments calculated at the **Discount Rate of 5.669%** [*] (see below).

Discount Rate of 5.669% [*] will be a Discount Rate reflecting the combined interest rate at the commencement of the MFA loan, being the weighted average of the MFA Fixed Rate + the initial MFA Floating Rate.

ADDITIONS OPTION

Appendix 2 - Rent Formula

6.225% [*] will be the same as the figure referred to in (b) of the Operating Lease, Appendix B -Rent Formula (see above).

Appendix 3 - Additions Capital Lease

The [*] items in this form will not be completed until the closing with respect to any Additions to be added to the Capital Lease.

SCHEDULE G

GST NOTE

PROMISSORY NOTE

Amount: \$3,990,000

Date: November 1, 2004

FOR VALUE RECEIVED, the undersigned, **City of Prince George** (the "City") promises to pay to or to the order of **Terasen Gas Inc.** ("Terasen Gas") on December 31, 2004 (the "Due Date"), the sum of Three Million, Nine Hundred and Ninety Thousand Dollars (\$3,990,000) (the "Principal Amount") in lawful money of Canada, without interest, in respect of Goods and Services Tax as contemplated at paragraph 4.4 of the Agreement to Lease between the City and Terasen Gas, dated as of _____, 2004, provided however, that if the Principal Amount is not paid on the Due Date, interest shall accrue on the outstanding balance from time to time at the rate of 10% per annum from the Due Date until the Principal Amount plus all accrued but unpaid interest thereon is paid.

Presentment and demand for payment, protest, notice of protest and notice of dishonour and non-payment of this Promissory Note are hereby waived.

IN WITNESS WHEREOF the undersigned has executed this Promissory Note as of the 1st day of November, 2004.

CITY OF PRINCE GEORGE

Per: _____
Authorized Signatory, Mayor

Per: _____
Authorized Signatory, City Clerk