

CITY OF MERRITT

AGENDA FOR THE SPECIAL COUNCIL MEETING OF THE CITY OF MERRITT COUNCIL, FRIDAY, DECEMBER 22, 2000, AT 12:45 P.M., CITY HALL COUNCIL CHAMBERS, 2185 VOGHT STREET, MERRITT, B.C.

	<u>AGENDA</u>	<u>PAGE</u>
1.	<u>PRESENT:</u>	
2.	<u>CALL TO ORDER:</u>	
3.	<u>ADOPTION OF THE AGENDA:</u>	
	A. Agenda, Special Council Meeting, December 22, 2000.	
4.	<u>BYLAWS:</u>	
	A. BC Gas Franchise Extension Agreement Bylaw No. 1784, 2000.	
	1) BC Gas Franchise Extension Agreement Bylaw No. 1784, 2000 – SUBMITTED FOR ADOPTION.	
5.	<u>TERMINATION OF MEETING:</u>	

Province of British Columbia



No.

Statutory Approval

Under the provisions of section 607

of the Local Government Act

I hereby approve Bylaw No. 1784

of the City of Merritt, a copy

of which is attached hereto.

Dated this 21st day

of December, 2000

Deputy Inspector of Municipalities

CITY OF MERRITT

BYLAW NO. 1784

A BY-LAW TO AUTHORIZE THE EXTENSION OF THE EXCLUSIVE GAS FRANCHISE TO BC GAS UTILITY LTD. FOR THE SUPPLYING OF NATURAL GAS TO THE INHABITANTS OF THE MUNICIPALITY

WHEREAS pursuant to Section 607 (1)(b) of the Local Government Act, the Council may, by by-law adopt with the assent of the electors, enter into or ratify or adopt agreements granting an exclusive or limited franchise, for a term of years not longer than 21 years, for the supplying of natural gas to the inhabitants of the municipality;

AND WHEREAS by the provisions of Section 607 (2), any such agreement may, with the approval of the Inspector of Municipalities, be renewed for one or more further terms, each of which must not be longer than 21 years;

AND WHEREAS by By-law No. 326, adopted the 1st day of March 1956, the City of Merritt, with the approval of the electors and the approval of the Minister of Municipal Affairs, did grant an exclusive franchise to Inland Natural Gas Co. Ltd. (now BC Gas Utility Ltd.) for a period of 21 years and whereas the agreement was renewed for a further term of 21 years by Bylaw No. 894;

AND WHEREAS the existing agreement came due July 12, 2000 and was extended to December 31, 2000 and which now both the City and BC Gas Utility Ltd. are desirous of further extending to June 30, 2001;

NOW THEREFORE the Council of the City of Merritt enacts as follows:

1. That BC Gas Utility Ltd. be and is hereby granted an extension of the exclusive franchise agreement to supply natural gas to the inhabitants of the municipality and which agreement shall expire on the 30th day of June, 2001 and which agreement is attached hereto as Appendix "A" and forms part of this by-law.
2. That the Mayor and City Clerk are hereby authorized to execute the said agreement on behalf of the City.
3. That this by-law shall not come into force and effect unless and until it has received the approval of the Inspector of Municipalities.
4. This by-law may be cited as the **"BC Gas Franchise Extension Agreement By-law No. 1784, 2000."**

CITY OF MERRITT
BYLAW NO. 1784
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READ A FIRST TIME this	19 th day of December, 2000.
READ A SECOND TIME this	19 th day of December, 2000.
READ A THIRD TIME this	19 th day of December, 2000.
RECEIVED APPROVAL OF THE INSPECTOR OF MUNICIPALITIES this	21 ST day of December, 2000
ADOPTED THIS	day of , 2000.

R.H. Baird, MAYOR

J.E. Barry, CLERK

THIS SECOND AMENDING AGREEMENT dated _____, 2000.

BETWEEN:

THE CORPORATION OF THE CITY OF MERRITT
Box 189
Merritt, B.C.
V0K 2B0
(the "Municipality")

OF THE FIRST PART

AND

BC GAS UTILITY LTD.
1111 West Georgia Street
Vancouver, B.C.
V6E 4M4
(the "Company")

OF THE SECOND PART

WHEREAS:

A. The Municipality and the Company entered into a Franchise Agreement dated March 15, 1979 for the supply of gas to and within the Municipality (the "Franchise Agreement"), the term of which was to expire on or about July 12, 2000.

B. The agreement dated March 15, 1979 was amended by the parties by extending (First Amending Agreement) the term of the Franchise Agreement until December 31, 2000.

C. The parties have now agreed to extend the amended term of the Franchise Agreement from December 31, 2000 to June 30, 2001 by way of this Second Amending Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and mutual covenants and agreements herein contained, the parties agree as follows:

1. This Second Amending Agreement forms part of and shall henceforth be read together with the Franchise Agreement and the First Amending Agreement (collectively "the Agreement").
2. In the event of any inconsistency between the terms of this Second Amending Agreement and the Agreement, the terms of this Second Amending Agreement shall prevail.
3. Words and expressions used in this Second Amending Agreement shall have the same meaning as in the Agreement.
4. Clause 1 of the Agreement shall be amended by revising the paragraph at the end of the Clause to read:

"Notwithstanding the foregoing, the parties hereto have agreed to extend the term of this Agreement for a further period (the "Second Additional Term") commencing January 1, 2001 and terminating June 30, 2001 (the "Second Revised Termination Date")."

5. Clause 3 of the Agreement shall be amended by adding the phrase "and Second Additional Term" in the third line between "Additional Term" and "as set out".

6. Clause 11 of the Agreement shall be amended by adding the phrase "and Second Additional Term" in the third line between "Additional Term" and "as set out".

7. Clause 13 of the Agreement shall be amended by adding the phrase "and Second Additional Term" in the third line between "Additional Term" and "as set out".

8. Clause 16 of the Agreement shall be amended by deleting the last sentence in the Clause and replacing it with the following:

"In the event that the Municipality shall acquire and desire to exercise the said right to purchase it shall exercise the said right by notice in writing given to the Company not later than Three (3) days after the Second Revised Termination Date, and a sale and purchase made under this clause shall become, and be deemed to have become, effective at midnight on the Second Revised Termination Date."

9. Clause 22 of the Agreement shall be amended by deleting the phrase "Additional Term" located in the second line of the Clause and replacing it with "Second Revised Term".

10. Clause 23 of the Agreement shall be amended by:

(a) deleting the phrase "Revised Termination Date" located in lines 14 and 15 of the Clause and replacing it with "Second Revised Termination Date"; and

(b) deleting the phrase "Additional Term" located in the third to last line of the Clause and replacing it with "Second Additional Term".

11. This Second Amending Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the parties agree to attorn to the jurisdiction of the courts of British Columbia.

12. In this Second Amending Agreement words importing the singular include the plural and vice versa; words importing the masculine gender include the feminine and neuter genders; and words importing persons include individuals, sole proprietors, corporations, partnerships and unincorporated associations.

13. This Second Amending Agreement may be executed in counterparts with the same effect as if all parties had signed the same document. All counterparts will be construed together and will constitute one agreement.

14. All unamended terms and conditions of the Agreement shall remain in full force and effect.

15. This Second Amending Agreement shall have effect as of December 31, 2000.

IN WITNESS WHEREOF the parties hereto have hereunto caused their respective corporate seals to be affixed, attested to by the signatures of their officers in that behalf, the day and year first above written.

The Municipal Seal of the Corporation)
of the City of Merritt was hereto)
affixed in the presence of:)

_____)
Authorized Signatory)

_____)
Authorized Signatory)

The Common Seal of BC Gas Utility Ltd.)
was hereunto affixed in the presence of:)

_____)
Authorized Signatory)

_____)
Authorized Signatory)

THIS AGREEMENT made this 13th day of 27th 1979
in the year of our Lord One Thousand Nine Hundred and Seventy-
Nine.

BETWEEN:

THE CORPORATION OF THE TOWN OF MERRITT,
a municipal corporation incorporated
under the laws of the Province of
British Columbia;

(hereinafter called the "Municipality")

OF THE FIRST PART

AND:

INLAND NATURAL GAS CO. LTD., a body
corporate duly incorporated under the
laws of the Province of British Columbia,
and having its registered office in the
City of Vancouver, in the said Province,

(hereinafter called the "Company")

OF THE SECOND PART

WHEREAS the Company has entered into Gas Purchase
Contracts for the supply of gas by pipeline for the purposes
of making same available for distribution in British Columbia
in accordance with the terms of such Contracts.

AND WHEREAS the Company was formed for the purpose
of engaging in the business of transporting, supplying, dis-
tributing and selling gas for industrial, commercial, domestic
and other uses for power, heat and energy, and pursuant to the
terms and conditions of its contracts with its supplier(s),
has available for such uses supplies of gas for the purpose
of making same available to the Municipality and to consumers
or customers within, or in the environs of, the Municipality.

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AND WHEREAS the Company will construct and operate all the necessary facilities, pipelines, mains and pipes for a supply of gas (which term as used in this Agreement shall include natural gas, synthetic natural gas, liquefied natural gas, liquefied petroleum gas, manufactured gas and/or other utility gases or any of them or any mixtures thereof) to the Municipality and/or such consumers or customers as are situated within the boundary limits thereof, and is willing to do so on the terms and conditions hereinafter set forth.

AND WHEREAS it is to the mutual advantage of the Company and the Municipality to extend the present Franchise Agreement, with minor modifications, all in accordance with the terms and conditions as hereinafter provided.

AND WHEREAS the Company has constructed the necessary transmission and distribution facilities, all in accordance with governmental, municipal, or other regulatory authorities having jurisdiction over same for the supply of gas to and within the Municipality.

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the premises and mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. The Company agrees to obtain a supply of gas subject as hereinafter provided, to distribute and sell gas within the boundary limits of the Municipality, and, subject as hereinafter provided, the Municipality insofar as and to the

extent that it is able and so empowered, hereby grants to, bestows and confers upon the Company the exclusive charter, right, franchise or privilege to supply gas by pipeline to the Municipality and its inhabitants and to consumers or customers situated within its boundary limits for the term of Twenty-one (21) years from the date upon which the By-law of the Municipality authorizing this Agreement comes into force under the terms of the Municipal Act, being 1960, R.S.B.C., Chapter 255 and Amendments.

2. The Company agrees that the gas supplied to the Municipality and its inhabitants and to consumers or customers situated within its boundary limits shall at all times be of a quality and standard conforming with the regulations for the time being in force and from time to time formulated under the provisions of the Gas Inspection Act being Chapter 129 of the Revised Statutes of Canada, 1952, and any amending statutes, and also conforming with any regulations or laws applicable thereto, whether such regulations or laws be made or issued by the Government of Canada or by the Province of British Columbia and whether now or hereafter brought in force and effect.

3. Subject as hereinafter provided, the Municipality hereby grants to the Company the authority, permission and right for the term of this Agreement as set out in Clause One (1) hereof to 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 Municipality and over which the Municipality has control and authority for such permission and right to give, 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,

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repair, extend, relay and/or remove a distribution system which term 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 Municipality 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 Municipality or through the Municipality by transmission lines to enable distribution to other areas outside its said boundary limits or to other Municipalities or other unorganized areas.

4. Before placing, constructing or laying down the distribution system, or any part thereof, the Company shall file with the Municipality, or such officer or official thereof as shall be designated from time to time for such purpose by the Municipality, 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 Municipality 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 compatible with and conforms to the general economics and engineering of the distribution system or the relevant portion thereof.

5. The Company shall give written notice to the Municipality or such officer or official thereof as shall be designated from time to time by the Municipality for the purposes 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 part within the boundary limits of the Municipality, 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 cases no notice need 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.

6. 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 Municipality or by or under any other paramount authority, written notice by prepaid registered mail shall be given to the Company, the Company agrees that with all reasonable speed and dispatch after receipt of such written notice from the Municipality it will remove and (if possible or practicable) relocate that part of its distribution system so affected by such closure or alienation, the cost of such removal and/or relocation to be at the cost and expense of the Municipality, unless such removal and/or relocation has been enforced upon the Municipality by any such other paramount authority without the Municipality having applied therefor.

7. The Company agrees with the Municipality that it will create and cause as little damage as possible in the execution of the authorities, permissions and rights to it hereby granted and will 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 will 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 further agrees to restore without unreasonable delay the said public thoroughfares, highways, roads, streets, lanes, alleys, viaducts, bridges, 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.

8. 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 Municipality 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 Municipality or by virtue of any charter or right granted by competent government or municipal authority.

9. The Company agrees with the Municipality that it will protect, indemnify and save harmless the Municipality from and against all actions, proceedings, claims and demands of any corporation, firm or person against the Municipality and will reimburse the Municipality for all damage 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 Municipality.

except where same is not caused by or contributed to by the negligence or default of the Company, or its servants or agents.

10. The Municipality agrees with the Company that before it makes any additions, repairs or alterations to any of its public services within the boundary limits of the Municipality, 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, it will give to the Company at its main office within the boundary limits of the Municipality, or at its Head Office in the City of Vancouver, British Columbia, 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 shall be given as soon as practicable thereafter. The Company shall thereupon be entitled to appoint a representative to supervise or advise in respect to 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 Municipality, the Municipality 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.

11. Subject to the next clause hereof, the Company agrees with the Municipality that during the term of this Agreement as set out in Clause One (1) hereof and the

exclusive charter, right, franchise and privilege herein granted, but commencing only after the construction and putting into service of facilities so to do, it will 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 Municipality subject, however, to the terms and conditions of the service agreement between the customer or consumer and the Company, 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 shall be the place of delivery of all gas supplied by the Company, but the Company shall provide and install a meter suitably located on the property to be supplied with gas. The Company shall also 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 Energy Commission, from time to time. The said meter and service pipeline shall be located and installed in a manner and at a location selected by the Company, and shall remain the property of the Company. The expense and risk of utilizing and using such gas after delivery at the said property line shall 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 or agents.

12. Notwithstanding anything to the contrary in this Agreement contained, and in particular notwithstanding the provisions of Clauses One (1), Two (2) and Eleven (11) hereof the obligations, duties and covenants of the Company herein contained, and on its part to be performed and carried out,

and the performance of this Agreement, 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 Municipality, and generally all shortage 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 entire natural gas transmission pipelines of its supplier(s) (including gathering lines), and (c) the construction and operation of the transmission or main pipeline and appurtenances of the Company required to bring gas from such natural gas pipeline to the boundary limits of the Municipality.

13. Subject as hereinafter provided, the Municipality agrees with the Company that it will not during the term of this Agreement as set out in Clause One (1) hereof, itself construct, operate or maintain a distribution system for the supplying of gas to the Municipality and/or its inhabitants and/or consumers or customers within its boundary limits, or to use the public thoroughfares, highways, roads, streets,

lanes, alleys, bridges, viaducts, subways, public places, squares or parks under its control or owned by it, or any part of them, for such purposes.

14. The Company agrees that the rates which the Company will charge for gas sold to the Municipality or other consumers or customers taking delivery in the manner aforesaid within the boundary limits of the Municipality shall be the applicable rates filed with and approved by the British Columbia Energy Commission.

15. Either party hereto shall have the right at any time prior to Six (6) months before the expiration of the term of Twenty-one (21) years hereinbefore in Clause One (1) set out to give to the other party notice in writing of its desire to renew this Agreement and the exclusive charter, right, franchise and privilege hereunder for a further term of Twenty-one (21) years or lesser years, and upon such terms and conditions as may be mutually agreed upon. As soon as possible after giving of such notice the parties shall, in the interest of both of them, enter into negotiations looking towards such renewal and shall use their best endeavours to bring such negotiations to a mutually satisfactory conclusion before the expiration of the first mentioned term of Twenty-one (21) years.

16. In the event that prior to Six (6) months before the expiration of the term of Twenty-one (21) years hereinbefore referred to neither party shall have given to the other party the notice in writing of its desire for renewal as in the next preceding clause set out, or, in the event that such a notice in writing shall have been duly given but the parties shall not have agreed on all the terms and conditions of such renewal by the expiration of the said term

of Twenty-one (21) years, then, and in either of such events, the Municipality shall have the right to purchase from the Company its whole business and undertaking within the boundary limits of the Municipality and being its distribution system and all its lands, buildings, plants, equipment, apparatus, vehicles, supply lines, supplies, stocks, tools and machinery and generally every and all its property and assets forming part of, or actually used or available for use exclusively in its undertaking or business of manufacturing, treating, processing, supply and distributing gas to consumers or purchasers within such boundary limits of the Municipality. PROVIDED THAT the Municipality shall not be entitled to purchase and the right of purchase hereinbefore given shall not cover any part of the business, undertaking or transmission or main pipelines (with appurtenances) of the Company situate either inside or outside the boundary limits of the Municipality which are an integral part of the transmission system bringing natural gas to or through the Municipality or which the Company considers necessary to it in the manufacture, mixing, transportation, storage, distribution, supply or sale of gas to other areas, corporations or persons not covered by this agreement. In the event that the Municipality shall acquire and desire to exercise the said right to purchase it shall exercise the said right by notice in writing given to the Company not later than Three (3) days after the expiration of the said term of Twenty-one (21) years, and a sale and purchase made under this clause shall become, and be deemed to have become, effective at midnight of the last day of the said term of Twenty-one (21) years.

17. In the event of a sale and purchase by the Municipality under the provisions of the next preceding clause, the purchase price payable by the Municipality to the Company for the said business and undertaking (which price is herein-

after referred to as "the price") shall be such as may be agreed in writing between the parties not later than One (1) month after the said effective time of the sale and purchase, or within such further time as the parties may decide upon in writing PROVIDED THAT in the event of failure so to agree, or in the event of failure to agree as to whether or not any item or items of property is or are parts of the undertaking being sold and purchased, the matter in dispute shall be referred to arbitration held under the provisions of the Arbitration Act of the Province of British Columbia, wherein each party hereto shall appoint one arbitrator, and the said arbitrators so appointed shall appoint a third. In determining the price, whether by negotiation or by arbitration, same shall be the fair value of the business and undertaking as a going concern at the said effective time of the sale and purchase, but it shall not include anything for any charter, franchise, right or privilege granted to the Company under this agreement, nor shall the so-called "scrap-iron" rule be applied in determining such fair value. The price shall be paid to the Company within Ninety (90) days after the determination thereof and shall carry interest at the prime rate of the Bank of Montreal then in effect plus One (1%) per cent per annum from the effective time of sale and purchase to payment of the price. In the event that after the price is determined the laws of British Columbia require the consent of the Lieutenant-Governor in Council to the sale and purchase or to any by-law that is enabling, or require the assent of the citizens, rate payers, or electors of the Municipality to the sale and purchase or the raising of money therefor, and such consent or assent is refused then the Company and the Municipality shall be released from all obligations to complete such sale and purchase pursuant to such notice, but the Municipality shall pay all expenses or costs of the Company incurred in any arbitration held, and the Company

shall be entitled to retain or be reimbursed for all profits made in the operation of the undertaking from the said effective time of sale.

18. In the event of a sale and purchase by the Municipality under the provisions of Clause Sixteen (16) hereof, the authorities, permissions, charters, privileges, rights, and franchises given to the Company by Clauses One (1) and Three (3) hereof, and the duties and obligations of the Company referred to in Clauses One (1), Two (2) and Eleven (11) hereof, shall terminate and cease at the said effective time of sale and purchase.

19. If at any time during the term of this Agreement as set out in Clause One (1) hereof, any dispute, difference or question shall arise between the parties hereto touching the construction, meaning or effect of this Agreement, or any clause thereof, or as to the extent or limit of any authority, permission, right, duty, obligation, benefit or liability of the parties hereto, then every such dispute, difference or question shall be referred to a single arbitrator appointed by the parties hereto or, in default of Agreement, by and under the provisions of the Arbitration Act of the Province of British Columbia, and the said arbitration shall be held under the provisions of that Statute.

20. The award, determination or decision made under any arbitration held pursuant to the terms of this Agreement shall be final and binding upon the parties hereto, save as in the Arbitration Act of the Province of British Columbia otherwise provided.

21. Subject always to the provisions of Clause Twelve (12) and Clause Nineteen (19) hereof, in the event of the Company making an authorized assignment or having a receiving order made against it under the Bankruptcy Act and during bankruptcy failing to comply with any of the terms or conditions of this Agreement on its part to be observed or performed, or, the Company not having made an authorized assignment or having a receiving order made against it under the Bankruptcy Act, upon any wilful failure or neglect by the Company to comply with any of the major terms or conditions of this Agreement and on its part to be observed or performed which continues for Thirty (30) days after the receipt of written demand by the Municipality for the observance or performance of such terms or conditions, the Municipality shall have the right by written notice to the Company to terminate this Agreement. The rights of the Municipality under this clause are and shall be in addition to or without prejudice to any other rights at law or in equity which it may have against the Company for or by reason of any breach by the Company of this Agreement or any part thereof.

22. Upon the termination of this Agreement at the expiration of the said term of Twenty-one (21) years as set out in Clause One (1) hereof without a sale and purchase of the business and undertaking of the Company taking place under the provisions of Clauses Sixteen (16) to Eighteen (18) inclusive, hereof or upon the termination of this Agreement by cancellation notice from the Municipality under the provisions of Clause Twenty-one (21) hereof, the distribution system of the Company shall be and be deemed always to have been and to remain its own property and as such may be used by it in its business or removed in whole or in part as it shall see fit, and for such purposes, or either of them, said

distribution system may remain in, on or under all the public thoroughfares, highways, roads, streets, lanes, alleys, bridges, viaducts, subways, public places, squares and parks within the boundary limits of the Municipality and the Company may enter in, upon and under the same and the same to use, break up, dig, trench, open up and excavate for the purpose of the maintenance, renewal, repair, removal or operation of such distribution system, or any part thereof, but not for the extension thereof, PROVIDED THAT the Company shall in so doing comply with and be bound by the provisions of Clauses Two (2), Five (5), Six (6), Seven (7) and Nine (9) hereof, mutatis mutandis, notwithstanding the termination of this Agreement.

23. 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 as provided in Clause Three (3) hereof, and for the exclusive charter, right, franchise, or privilege to supply gas by pipeline as provided in Clause One (1) hereof, the Company shall pay to the Municipality on the first day of November in each of the years 1977 to and including 1997 or such earlier year in which this Agreement may expire under the provisions hereof a sum equal to Three (3%) per cent of the amount received in each immediately preceding calendar year by the Company for gas consumed within the boundary limits of the Municipality, but such amount shall not include revenues from gas supplied for resale, and, within Ninety (90) days after the twenty-first (21st) anniversary of the date of this Agreement or after such earlier date on which this Agreement may expire under the said provisions hereof the Company shall pay to the Municipality a sum equal to Three (3%) per cent of the amount received by the Company for gas consumed, save as aforesaid, within the boundary limits of the Municipality during the period from the commencement of the calendar year in which such anniversary or

earlier date falls to such anniversary or earlier date, as the case may be. Since this Agreement is an extension of that Franchise Agreement dated the 22nd day of February, 1957, which expires on the 21st day of February, 1978, it is agreed therefore that the following provisions as found on Page 13, starting in Line 14 of the aforesaid Agreement, the following shall be waived:

"...and, within ninety (90) days after the twenty-first anniversary of the date of this Agreement or after such earlier date on which this Agreement may expire under the said provisions of Clause Nineteen (19) hereof the Company shall pay to the City a sum equal to three per cent (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 in which such anniversary or earlier date falls to such anniversary or earlier date, as the case may be."

In any event, this new Agreement shall recognize that the Company shall pay to the Municipality on the 1st day of November in the year 1978 a sum equal to Three (3%) per cent of the amount received in the immediately preceding calendar year, i.e. 1977, by the Company for gas consumed within the boundary limits of the Municipality, except as provided herein, which shall not include revenues for gas supplied for resale. The amount received by the Company in any particular period for gas so consumed, and upon which the aforesaid percentage compensation is based, shall be that amount for the equivalent period upon which the percentage tax provided under Section 333 of the Municipal Act, 1960, Revised Statutes of British Columbia, Chapter 255, as now enacted would be payable and as if said percentage compensation herein provided were a tax provided for under said section, and such compensation shall not be or be deemed to be a tax or in lieu of any taxes, rates or licence fees otherwise properly payable to the Municipality. In the event that

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during the currency of this Agreement, the Company should enter into any contract or franchise agreement similar to this Agreement with another Municipality named and set out wherein under a similar clause to this Clause Twenty-three (23) 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 in Clause Three (3) hereof set out, a greater percentage compensation than Three (3%) per cent of revenues as herein provided, then such greater percentage shall be and be deemed to be substituted for the Three (3%) per cent in this clause provided, but only applicable to the amounts received by the Company for gas consumed within the boundary limits of the Municipality, save as aforesaid, from the effective date of such other contract or franchise agreement until the expiration of the term of this Agreement as provided in Clause One (1) hereof or until the sooner termination hereof as hereinbefore provided.

24. Any notice, demand or request required or desired to be given or made under or in respect of this Agreement shall be deemed to have been sufficiently given to or made upon the party to whom it is addressed if it is mailed at the Town of Merritt, British Columbia, in a prepaid registered envelope addressed respectively as follows:

(a) If given to or made upon the Municipality:

The Town Clerk
The Corporation of the Town of Merritt
Box 189
Merritt, B.C. V9K 2B0

(b) If given to or made upon the Company:

The Corporate Secretary
Inland Natural Gas Co. Ltd.
1066 West Hastings Street
Vancouver, B.C. V6E 3G3

and any notice, demand or request so given or made shall be deemed to have been received and given or made on the day after the mailing thereof. In the event the Company changes its Head Office address, the Municipality shall be notified in writing.

25. Notwithstanding anything to the contrary in this Agreement contained, this Agreement shall be subject to the provisions of the Pipelines Act, the Gas Utilities Act and the Energy Act of the Province of British Columbia and the proper authorities and powers of the British Columbia Energy Commission, and nothing herein shall exclude, or be deemed to exclude, the application of the provisions of the said Acts or any jurisdiction thereof or of the said British Columbia Energy Commission.

26. The Company covenants and agrees with the Municipality that in the construction of any extension or extensions of its distribution system which may be made from time to time, it will 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 Municipality and purchase in the Municipality such materials as are required for the said construction work as are available in the Municipality. The Municipality acknowledges that the construction and installation of a gas distribution system is a specialized construction project calling for the services

artisans and technicians with special skills and experience, and that in the performance by the Company of the covenant and agreement 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 Municipality for any work requiring specialized skill or experience, even although there may be artisans or technicians residing in the Municipality 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 covenants and agrees that it will endeavor to procure a similar covenant on the part of such contractor or contractors that any such contractor or contractors carry out and perform the covenant and agreement 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.

27. This Agreement shall be assignable by the Company to a subsidiary without consent of the Municipality but otherwise shall only be assignable by the Company with the consent in writing of the Municipality first had and obtained, such consent not to be unreasonably withheld. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding on the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto caused their respective corporate seals to be affixed,

attested to by the signatures of their officers in that
behalf, the day and year first above written.

The Corporate Seal of THE)
CORPORATION OF THE TOWN OF)
MERRITT was hereunto affixed)
in the presence of:)

Floyd Brown)
)
W. J. ...)
)
CLERK)

The Corporate Seal of INLAND)
NATURAL GAS CO. LTD. was here-)
unto affixed in the presence)
of:)

[Signature])
)
PRESIDENT)
G. F. Clark)
)
SECRETARY)

BETWEEN:

THE CORPORATION OF THE
TOWN OF MERRITT

(hereinafter called the
"Municipality")

OF THE FIRST PART

AND:

INLAND NATURAL GAS CO. LTD.

(hereinafter called the
"Company")

OF THE SECOND PART

FRANCHISE AGREEMENT
