

Section A

AUTHORIZATION AND CONSENT General Conditions

1. "Railroad" refers to Canadian National Railway Company or such of its affiliates or associates (within the meaning ascribed to those terms under the *Canada Business Corporations Act*) to whose property this Authorization and Consent relates.
2. This Agreement is entered into as of this [date]_____ between Railroad, having its registered office at 935 de la Gauchetière West, Montreal, Quebec, H3B 2M9, and [Company Name]_____ ("Company"), having a place of business at [Address]_____.
3. The Railroad, solely to the extent of its right, title and interest, without any warranty, expressed or implied, at law, under contract or otherwise, hereby grants to Company and its authorized employees, servants, agents or contractors, Authorization and Consent to enter upon the property described under Exhibit "A" hereto (the "Railroad property") for the sole purpose described under Exhibit "A" hereto. This Authorization and Consent shall only extend to such actions as are necessary or required to fulfill the purpose described under Exhibit "A" hereto.
4. This Authorization and Consent shall terminate forthwith upon expiration of the term noted in Exhibit "A" hereto, it being understood that Railroad shall have entire discretion to revoke this Authorization and Consent at any time prior to the expiration of the term, upon notice to that effect to the Company, which notice shall be effective forthwith upon receipt by the Company or at such later date indicated by Railroad in the aforesaid notice.
5. The Railroad grants this consent subject to the understanding that Company and its authorized employees, servants, agents or contractors who enter upon Railroad property will:
 - 5.1. See that any activities (including any work performed) conducted on said Railroad property are done in accordance with Generally Accepted Practices, in compliance with Applicable Laws and in such manner and at such time as not to interfere with or obstruct or interfere with Railroad's operation, trains or the functioning of its signal and communications systems or any fiber optic cable system or unduly delay the safe passage of Railroad's trains;
 - 5.2. For the purposes hereof, the following expression shall have the meanings hereinafter noted:

"Applicable Laws" means the applicable and enforceable statutes, regulations, policies, directives, orders, approvals and other legal requirements of an Authority or of the common law in effect from time to time, including, without limitation, those, together with the guidelines of an Authority, relating to the protection, conservation or restoration of the natural environment;

"Authority" means the federal, provincial, municipal, state, county and, generally local governments, the courts, administrative and quasi-judicial boards and tribunals and any other organizations or entities with the lawful authority to regulate, or having a power or right conferred at law or by or under a statute;

"Generally Accepted Practices" means the generally accepted practices, methods and acts which at the time such practice, method or act is employed, and in the exercise of reasonable judgment in light of the facts known at such time, would be expected to accomplish the desired result in a workmanlike manner;
 - 5.3. Observe, abide by and comply with any and all guidelines, directives and policies adopted from time to time by Railroad including, without limitation (i) Railroad's drug and alcohol policy; and (ii) Safety Guidelines for Contractors and Non-CN Personnel.
 - 5.4. Take due precautions against injury and damage to persons or property located upon said Railroad property; and

- 5.5. Return said Railroad property to the same condition, reasonable wear and tear excepted, as existed prior to such work, failing which Railroad, after providing written notice to Company, and allowing Company a reasonable amount of time to return the Railroad property to the same condition, may do so at Company's sole cost and expense.

Work

(This section shall apply to all work carried out under the authority of this Authorization and Consent)

6. Any work carried out under the authority of this Authorization and Consent or while on Railroad property as a result of this Authorization and Consent, shall be carried out at those locations described in Exhibit "A" or shown on the Plan attached hereto as Exhibit "B" and, as the case may be, in the manner described therein."
7. Company agrees to advise Railroad's representative identified in Exhibit "A" hereto (the "Representative") or such other representative designated from time to time by Railroad as to the dates and times when the work will be conducted on Railroad property and to provide him with at least ten (10) working days advance notice before entering upon Railroad property to commence any work or for any other purpose. Company agrees to assume the costs of engineering services, Railroad's Representative's costs and its designee, signal locates, flagman, track labor and all other associated costs incurred by Railroad. Railroad shall, at its option, invoice Company directly for such costs or, if any of those services have been provided by a third party, Railroad may direct such third party to invoice directly Company, in which case Company undertakes and agrees to pay such third party forthwith upon receipt of (i) Railroad's direction to pay such third party; (ii) proper invoice for the relevant services.

The Railroad, its employees, agents or representatives shall have the right to view and inspect any activity or work on Railroad's property. If, in the sole opinion of Railroad, any activity or work is undesirable for any safety-related reason, Railroad shall notify Company, its authorized employees, servants, agents or contractors and if appropriate corrective action is not taken, Railroad shall have the right to terminate this Agreement at once.

8. Railroad shall have the right to restrict Company's activity on Railroad's property in any way that Railroad may deem necessary from time to time to assure normal railroad operations or for safety reasons and, after consultation with Company, shall also have the right to require Company, its authorized employees, servants, agents or contractors to comply with Railroad's instructions and take any safety precautions that Railroad may reasonably deem necessary from time to time. No work shall be performed or equipment located within twenty-five (25) feet of the centerline of the nearest railroad track without flagging protection being provided by Railroad, at the Company's expense. Said work must be arranged no less than ten (10) business days in advance of starting work.
9. Company shall not suffer or permit any construction lien or similar lien to be filed or registered against Railroad property. If such a lien shall at any time be filed or registered, Company shall forthwith procure its discharge at its sole costs and expenses. Railroad shall have the right, if Company fails to forthwith procure such discharge, to discharge any lien filed or registered at any time against Railroad property, and any amount paid by Railroad in so doing together with all reasonable costs and expenses of Railroad including its legal fees and costs shall be paid to Railroad by Company on demand.

Confidentiality

10. Company covenants and agrees that any information of whatsoever nature (whether such information is written, verbal or otherwise), relating to Railroad, its operations, properties, business, assets, liabilities and financial condition (together with any and all memoranda, notes, reports, documents based upon and relating to such information, all copies and extracts thereof and all studies and data prepared on the basis of such information), is strictly confidential and Company represents and warrants that neither Company nor those for whom it is responsible at law will release the reports or any of the information contained therein (including to

any Authority)), without the express written consent of Railroad, and Company shall refuse all requests for such reports or information in the absence of Railroad's express written consent, unless compelled to do so by competent judicial or administrative authority and only to the extent that (i) Company gives Railroad timely notice of any proceeding and/or hearing related thereto; and (ii) Company has taken no action that would hinder Railroad from seeking a protective order to prevent such disclosure of its confidential information. Company further undertakes and agrees to share with Railroad, at no cost to Railroad, any and all conclusions, studies, reports or data incorporating, based upon or relying on any such information.

Indemnity

11. Company agrees to indemnify and save harmless Railroad, its affiliates and associates (within the meaning ascribed to those terms under the *Canada Business Corporations Act*) and their employees, servants, and agents (collectively the "Indemnitee") from and against claims, demands, suits, judgments, actions, liens and other encumbrances, settlements, liability, costs and expenses (including, without limitation, court costs, experts' fees and attorneys' fees) when the injury, death, damage, loss or destruction is caused by the breach of contract or warranty, violation of statute, intentional misconduct or negligent act or omission of the indemnitor, its employees, agents, contractors or subcontractors or when such act or omission is the kind for which one is made strictly liable, whether such claim arises in equity, at common law, or by statute, or under the law of contracts, torts (including without limitation, negligence and strict liability without regard to fault) or property of every kind or character (including Railroad property) ("Claims") and including, without limitation, Claims for personal injury or bodily injury to or death of any person, emotional distress, real and personal property damage and including derivative, consequential, indirect damages and economic loss, and also including, without limitation, Claims arising in favor of or brought by any of Company's employees, agents, contractors or representatives, or by any governmental agency or any other third party. Company shall not, however, be responsible for any such Claims to the extent it is solely caused by the gross negligence or wilful misconduct of the Indemnitee.

Insurance

12. Company shall provide and keep in force and effect throughout the term of this Authorization and Consent such insurance, in amounts and for risks as Railroad may prescribe from time to time including, if applicable, the kinds and minimum amounts of insurance set out under Exhibit "C" – "General requirements".
13. If Company, its contractors or any subcontractors shall perform subsurface work, Company, its contractors or any subcontractors shall provide and keep in force and effect throughout the term of this Authorization and Consent the insurance specified under Exhibit "C" – "Sub-Contractor Insurance Coverage".

Company's contractor will not enter Railroad property without having in its possession a certificate certifying that contractor has obtained all of the insurance coverage required hereunder. The Railroad may at any time require the contractor to furnish said certificate and failure to do so may result in removal from Railroad property, cancellation of agreement and other consequences including without limiting damages or consequential losses resulting from the non-completion of the work, as Railroad may determine. Said insurance shall state that no material changes will be made to the policies unless Railroad is given a prior written notice of thirty (30) days before such change or cancellation. Any insurance coverage required under the terms and conditions of this contract shall in no manner restrict or limit the liabilities assumed by Company nor shall they release Company from any of its obligations under this contract.

Exceptions

14. Any exception or variation to the terms and conditions of this Authorization and Consent shall be specifically identified in Exhibit "A" hereto. No such exception or variation shall be binding upon Railroad unless Exhibit "A" is properly initialed by Railroad's duly authorized representative(s).

Miscellaneous

15. Company shall not have the right to transfer and/or assign this Authorization and Consent or any of its rights hereunder without Railroad's prior written consent, which consent Railroad shall have entire discretion to withhold or delay.
16. All notices provided for under this Authorization and Consent shall be in writing and sent by pre-paid registered mail, fax or hand-delivered to the other party at the addresses herein first noted or at such other address as either party may notify the other from time to time.
- Such notices, if given by mail, shall be deemed to have been received on the third business day following the postage thereof; if by fax or hand delivery, at the date and time the fax is sent or the hand delivery is made.
17. Either party's exercise or failure to exercise any rights under this Agreement shall not relieve the other party of any responsibility under this Agreement.
18. In the event of conflict between the terms hereof and the terms of any other agreement between Railroad and Company, the most stringent standards and conditions shall govern.
19. This Authorization and Consent shall be governed by the laws of the jurisdiction where Railroad property accessed under the authority hereof is located, as noted under Exhibit "A" hereto.

The parties have executed this Agreement this _____ day of _____, 200__ .

RAILROAD

Print Name:
Title:

COMPANY

Print Name:
Title:

Exhibit A
Authorization and Consent Form

Railroad property: _____

Limited Access Purpose: For the limited purpose of _____
[insert detailed description].

Term: A term of _____

number of days/months/years], beginning on [commencement date] and terminating on [termination date], unless sooner terminated as provided hereunder.

Representative: _____
(name and address)

Insurance	General Requirements	None required
	(Relief from Insurance Requirements requires prior approval from CN Law Department)	<input type="checkbox"/>
	Sub-Contractor Insurance Coverage	Required
		<input type="checkbox"/>

Exceptions/Variations
(Variation in insurance coverage requires prior approval from Risk Management Department)

Exhibit B

(Appended hereto)

Exhibit C

General Requirements

(a) Comprehensive General Liability insurance in an amount of no less than five million dollars (\$5,000,000), or such greater amounts as Railroad may reasonably require from time to time, combined single limit for bodily/personal injury including death and/or damage to or destruction of property (including loss of use) caused by an accident or an occurrence and also including contingent employers liability, products and completed operations coverage, non-owned automobile liability and contractual liability endorsement specifically granting coverage for all liability assumed under this agreement. This insurance shall name Railroad as additional insured and shall contain cross liability clause and shall specifically include liability for operations within or around railroads and railway tracks; and

(b) To the extent Company carries out work on its own behalf or on behalf of Railroad, it shall provide and cause its contractors to provide and keep in force and effect throughout the term of this Authorization and Consent, in addition to the insurance listed above (which, for greater clarity it shall also cause its contractors to provide and keep in force and effect as aforesaid), the following kinds and minimum amounts of insurance:

- Automobile Liability insurance on all licensed vehicles owned by, hired, leased to or on behalf of the Company's contractor in an amount no less than five million dollars (\$5,000,000) per occurrence.
- Professional Liability insurance with limits of not less than \$5,000,000 per claim and a deductible of not more than \$25,000 or for such greater amounts as Railroad may from time to time reasonably require.
- If available in the jurisdiction covered by this Agreement Worker's Compensation insurance in amounts not less than the statutory limits and employer's liability in an amount no less than five million dollars (\$5,000,000).

Sub-Contractor Insurance Coverage

(a) Commercial General Liability Insurance:

The policy is to have a minimum limit of liability of \$5,000,000 and is to contain the following coverages and provisions:

- Personal Injury;
- Broad Form Property Damage;
- Occurrence (not claims made) Format;
- Broad Form Contractual Coverage;
- Product and Completed Operations;
- Unlicensed Vehicles on and off premises owned or controlled by the Owner;
- Non-owned Automobile Insurance;
- Cross Liability and Severability of Interest Clause;
- Owners and Contractors Protective Coverage;
- Named Perils Pollution Coverage
- No XCU exclusions; and
 - Hold harmless and waiver of subrogation against the Contracting Authority and Railway;
 - Insurance shall specifically include liability for operations within or around railroads and railway tracks;
- 30 Day Cancellation clause.

(b) Automobile Liability:

The policy is for coverage for vehicles being utilized for the services being provided to Railroad and is to have a minimum limit of liability of \$5,000,000.

(c) Environmental Impairment Liability Insurance

The policy is to have a minimum limit of liability of \$5,000,000 and must contain the following coverage and provisions:

- Third Party Personal and Bodily Injury;
- Property Damage including Third Party Clean-up Costs;
- Defense Costs;
- Covering Gradual Pollution and Sudden and Accidental Events;
- Covering off site Clean-up Costs;
- Extended Discovery Period - up to two years;
- Coverage not "Site-Specific" but rather covers all operations and locations outlined in the Contract Specifications;
- Covering Wastes and Materials to be recycled, stored, reconditioned or decontaminated, on or off premises Owned or Occupied by the Insured;
- Cross Liability and Severability of Interest Clauses;
- Contractual Liability;
- 30 day Notice of Cancellation; and
 - Blanket Contractors Pollution Coverage.

(d) All Risk Builders Risk Insurance

All risks contractor's equipment insurance covering construction machinery and equipment used by the Sub-Contractor for the performance of the Work, as well as any structures being built or assembled, shall be in a form acceptable to the Contractor and Railroad and shall not allow subrogation claims by the Insurers against the Contractor and Railroad. The policies shall be endorsed to provide the Contractor with not less than thirty (30) days written notice in advance of cancellation, change or amendment restricting coverage.