

AMENDMENT AGREEMENT

THIS AMENDMENT AGREEMENT made effective as of June 3, 2013

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA
as represented by the Minister of Energy
("Minister")

– and –

METIS SETTLEMENTS GENERAL COUNCIL
a corporation established under the Metis Settlements Act
("General Council")

(individually a "Party" and collectively the "Parties")

WHEREAS

- A. The Co-Management Agreement ("Agreement") was signed by the Parties on November 1, 1990 and set out a public offering procedure as the procedure to issue Resource Agreements relating to Minerals.
- B. The Parties amended section 402 of the Agreement, effective December 21, 1992, to allow for consultation contemplated under that section to be conducted privately and confidentially.
- C. The Parties amended the Agreement, effective August 30, 2011, by adding article 5.1, to allow for an alternative procedure to issue Resource Agreements.
- D. The Parties wish to further amend the Agreement to incorporate substantial changes relating to the procedures for issuing Resource Agreements, as agreed to through negotiations between the Parties.

NOW THEREFORE the Parties agree to amend the Agreement as follows:

- 1. Except as may be amended in this amendment agreement, the defined terms used in this amendment agreement shall be as defined in the Agreement and where applicable, the plural or the singular thereof have corresponding meanings.

2. The current section 101 is deleted in its entirety and the following text shall replace it:

101 In this agreement, the following terms have the following meanings:

“Act” means the *Mines and Minerals Act*;

“Affected Settlement” means the Settlement Area in which the Minerals are located;

“Affected Settlement Council” means, in respect of any Posting Request, Public Offering Notice, Bid, Development Agreement or Resource Agreement for Minerals, the Settlement Council of the Affected Settlement;

“Affected Settlement Owned Corporation” means a body corporate incorporated pursuant to, and carrying on business in compliance with, the laws of Alberta, and which is wholly owned, both legally and beneficially, by the Affected Settlement Council;

“Bid” means an offer made to the Minister in response to a Public Offering Notice, and which shall include:

- (a) a bonus payment, and
- (b) a Metis Settlements Benefits Proposal;

“Crown Mineral Disposition Review Committee” means the committee appointed under the *Environmental Protection and Enhancement Act*, or its successor, that provides recommendations regarding Minerals, in response to a Posting Request that has been referred to it by the Minister;

“Development Agreement” means an agreement entered into by the General Council, an Affected Settlement Council and either:

- (a) an Eligible Bidder, where the Development Agreement is signed during the public offering process, or
- (b) an Affected Settlement Owned Corporation, where the Development Agreement is signed during the direct purchase process

and that sets out the rights and obligations of those parties with regard to the General Terms and Conditions, surface access, and exploration for and development of Minerals;

“Direct Purchase Request” means a request made to the Minister by an Affected Settlement Owned Corporation for the leasing of Minerals through direct application;

“Disposition” means an agreement as defined in the Act;

“Eligible Bidder” means:

- (a) an Affected Settlement Owned Corporation making a Bid and whose Bid includes the highest bonus payment received in response to a Public Offering Notice, or
- (b) a person, partnership, joint venture or any other business structure:
 - (i) that has no legal or beneficial interest in Metis Settlement Lands

- (ii) in which a Settlement Corporation holds no interest, either directly or indirectly, and
- (iii) is making a Bid that includes the highest bonus payment received or includes a bonus payment that is at least 75% of highest bonus payment received in response to a Public Offering Notice;

“General Terms and Conditions” means those terms and conditions that apply to Resource Agreements issued for Metis Settlements Lands, as agreed to by the Minister and the General Council, and may include provisions relating to:

- (a) environmental, socio-cultural and land-use impacts
- (b) employment and business opportunities in relation to exploration for and development of the Minerals referred to in a Posting Request
- (c) a reservation to the General Council of an Overriding Royalty, Participation Option or both, with respect to the development of the Minerals referred to in a Posting Request, and
- (d) a requirement that, in addition to the bonus payment, Bids include a Metis Settlements Benefits Proposal;

“Metis Settlements Benefits Proposal” means a document that sets out the benefits that the Eligible Bidder is willing to provide to the General Council and the Affected Settlement Council in relation to:

- (a) employment, training and business opportunities
- (b) Overriding Royalty
- (c) Participation Option, and
- (d) any other benefits the Eligible Bidder is prepared to provide;

“Metis Settlements Lands” means the parcels of land granted to the General Council by Her Majesty the Queen in Right of Alberta by letters patent;

“Minerals” means the whole or any part of the mines and minerals, as defined in the Act, owned by the Minister in the whole or any part of the Metis Settlements Lands, which are not subject to a Disposition

- (a) that was issued by the Minister before November 1, 1990, or
- (b) that is issued by the Minister after November 1, 1990 but that arises out of, or that is a renewal, continuation, reinstatement or other like extension under the Act of any Disposition issued before November 1, 1990;

“Occupant” means occupant as defined in Division 7 of Part 4 in the *Metis Settlements Act*;

“Overriding Royalty” means a right reserved in a Development Agreement to the General Council, for it to receive a share of the portion of production, or of the value of the portion of production, obtained by the Eligible Bidder pursuant to Resource Agreements referred to in the Development Agreement, that remains after payment of royalty to the Minister in relation to such production;

“Participation Option” means an option reserved in a Development Agreement to the General Council that allows the General Council to obtain from the Eligible Bidder who is a party to the Development Agreement, a specified undivided interest in the Resource Agreement of up to 25% with the option to negotiate a greater interest in circumstances where both parties agree;

“Post” means, in respect of any Minerals, the issuing to the public of a Public Offering Notice with respect to those Minerals by the Minister; **“Posted”** has the corresponding meaning;

“Posting Period” means the period of time that any person may submit a Posting Request for a specified Public Offering Notice;

“Posting Request” means a request made to the Minister by any person that the Minister Post the Minerals specified in the request;

“Proof of Ownership” means the documents required to be submitted by a corporation to establish that it is an Affected Settlement Owned Corporation and they include:

- (a) current copies of share certificates
- (b) current annual returns, or
- (c) other relevant corporate or legal documents that in the Minister’s sole discretion establish that the corporation is an Affected Settlement Owned Corporation;

“Public Offering Notice” means a document issued by the Minister to the public soliciting Bids to acquire Resource Agreements for rights in any of the Minerals;

“Resource Agreement” means a Disposition

- (a) that is issued by the Minister after November 1, 1990
- (b) under which the Minister grants rights in any of the Minerals

but does not include a Disposition

- (c) that arises out of or is a renewal, continuation, reinstatement or other like extension under the Act, of another Disposition issued before November 1, 1990, or
- (d) in respect of which the person issued the Disposition has been notified by the Minister that the person will not be granted access to any Metis Settlements Lands to recover the Minerals that are the subject of the Disposition;

“Settlement Area” means “settlement area” as defined in the *Metis Settlements Act*, to the extent such settlement area is comprised of Metis Settlements Lands;

“Settlement Council” means the council of a Settlement Corporation;

“Settlement Corporation” means each of the parties to this Agreement, other than the Minister or the General Council;

“Special Provisions” means the terms and conditions that the Minister determines are required in a Resource Agreement;

3. The current “Article 2 – Metis Settlements Access Committees” is deleted in its entirety and the following text shall replace it:

Article 2 – Public Offering Process

Posting

201 Within 4 days after receipt by the Minister of recommendations from the Crown Mineral Disposition Review Committee the Minister shall refer the Posting Request, for Minerals that the Minister is willing to Post, to the General Council.

202 Within 15 days after referral of the Posting Request, the General Council, following consultation with the Affected Settlement Council, shall recommend in writing to the Minister:

- (a) that the Minerals that are the subject of the Posting Request be Posted, or
- (b) that the Posting Request be denied.

203 Upon receipt of General Council approval that the Minerals be Posted, the Minister shall include the Minerals in the next available Public Offering Notice, together with the General Terms and Conditions.

204 If the General Council recommends that Minerals not be Posted, the Minister may issue Dispositions in respect of the Minerals, provided the Minister has, before issuing any such Disposition, notified each person issued such Disposition that he may not be granted access to any Metis Settlements Lands to recover the Minerals.

205 The Minister may issue a Disposition under section 204 in accordance with the Act and, in doing so, need not comply with this agreement other than section 204.

206 If the General Council does not respond to a referral of a Posting Request by the Minister within 15 days, the Minister may include the Minerals in a Public Offering Notice, together with the General Terms and Conditions.

207 In addition to the General Terms and Conditions, the Minister may also include in the Public Offering Notice any terms and conditions recommended by the Crown Mineral Disposition Review Committee.

Industry Consultation

208 The General Council and the Affected Settlement Council shall appoint an individual as their representative to consult with potential Eligible Bidders for Minerals requested to be Posted in a Posting Request.

209 A representative appointed by the General Council and Affected Settlement Council under section 208 may conduct such consultation through public meetings open to all potential Eligible Bidders, the schedule for which shall initially be determined and provided to the representative by the General Council and Affected Settlement Council, or through private meetings, telephone conversations, or in such other manner of private communication as may in a particular case seem appropriate.

210 A representative appointed under section 208 may change a schedule of public meetings he is to conduct, with respect to all public meetings scheduled other than the first, by way of announcement at any such scheduled public meeting.

Considerations Relating to Bids

211 An Affected Settlement Owned Corporation shall provide Proof of Ownership to the Minister at the same time that it submits a Bid.

212 For the purposes of this agreement, where an agent submits a Bid for a third party, the third party will be considered to be the Eligible Bidder.

Issuance of Resource Agreement

213 Within 2 days after the date of the public offering specified in a Public Offering Notice, the Minister shall provide the General Council with the names and Metis Settlements Benefit Proposals of the Eligible Bidders whose Bids meet the requirements of the Public Offering Notice soliciting that Bid and the procedures and practices referred to in section 105.

214 The General Council and the Affected Settlement Council may negotiate with the Eligible Bidders whose names and Metis Settlements Benefits Proposals were provided to General Council under section 213, with respect to topics identified in the General Terms and Conditions included in the Public Offering Notice as open to negotiation and, within 15 days after being provided with the names, notify the Minister that

- (a) the General Council and Affected Settlement Council have entered into a Development Agreement with one of the Eligible Bidders, or
- (b) all Bids should be rejected.

215 Within 5 days after the Minister receives notification that a Development Agreement has been entered into in respect of any Minerals in accordance with section 214(a), the Minister shall issue a Resource Agreement, which may contain Special Provisions, in respect of those Minerals to the Eligible Bidder who is a party to the Development Agreement.

216 A Development Agreement may include as parties thereto, any Occupants who agree to provide to the Eligible Bidder who is a party to that Development Agreement, access to any part of the Settlement Area that the Occupants have a right to occupy and that is subject to the Development Agreement.

Deferral of Further Postings

217 Upon receipt of notification under section 214(b) in respect of the Bids or upon the expiration of 15 days referred to in section 214 without the Minister receiving notification under clause (a) or (b) of that section, the Minister shall reject all Bids and may defer all further posting of the Minerals that were the subject of that Posting Request for a period of time to be determined by the Minister.

4. The current "Article 3 – Posting" is deleted in its entirety and the following text replaces it:

Article 3 – Direct Purchase Process

Requesting a Direct Purchase

301 Subject to section 302, the Minister shall accept a Direct Purchase Request from an Affected Settlement Owned Corporation, provided that the request includes:

- (a) a letter from the General Council supporting the Direct Purchase Request
- (b) a resolution from the Affected Settlement Council supporting the Direct Purchase Request, and
- (c) Proof of Ownership of the Affected Settlement Owned Corporation.

302 The Minister shall not accept a Direct Purchase Request for Minerals that are subject to a Posting Request, in which case the Posting Request shall be accepted by the Minister, if not already accepted, and the Direct Purchase Request shall be denied for those Minerals already requested.

Offer and Acceptance

303 Within 60 days of receiving the Direct Purchase Request, the Minister shall issue a formal offer for a direct purchase which shall include:

- (a) the amount owing for the purchase
- (b) any Special Provisions
- (c) General Terms and Conditions, and
- (d) any additional terms and conditions recommended by the Crown Mineral Disposition Review Committee.

304 In order to accept the Minister's offer, the Affected Settlement Owned Corporation shall, within 10 days of receiving the formal offer, provide to the Minister:

- (a) confirmation that a Development Agreement has been signed by the Affected Settlement Owned Corporation, the General Council and the Affected Settlement Council

- (b) a signed waiver and release from each of the Affected Settlement Council and General Council, in the form provided by the Minister, and
- (c) payment of the full amount owing.

305 If the Affected Settlement Owned Corporation does not accept the formal offer from the Minister:

- (a) the Minerals become available for Posting in a public offering, and
- (b) further Direct Purchase Requests for the same Minerals will not be accepted by the Minister for a period of time to be determined by the Minister.

Issuance of Resource Agreement

306 The Minister shall, within 5 days of receiving acceptance of the formal offer, issue the Resource Agreement with

- (a) the General Terms and Conditions
- (b) any Special Provisions, and
- (c) any terms and conditions recommended by the Crown Mineral Disposition Review Committee.

5. The current "Article 4 – Industry Consultation" shall be deleted in its entirety and the following text shall replace it:

Article 4 – Amendment of Procedure

401 The Minister may, from time to time, amend any time period specified in Articles 2 and 3 by written notice to the other parties, provided such amendment shall not shorten or extend any such time period by more than the greater of one day or 50% (rounded up to the nearest day) of the time period so specified.

402 Subject to section 401 and 403, the parties agree that this agreement may be otherwise amended by mutual agreement between the Minister and General Council.

403 Any amendments to this agreement may be executed by facsimile, or electronically by portable document format, and in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

404 In the event that the Minister and the General Council cannot agree under section 402 with respect to any amendment proposed to this agreement by either, the matter shall be resolved by arbitration under the *Arbitration Act of Alberta*, by an arbitration panel to be comprised of 5 arbitrators, to be appointed as follows:

- (a) one by the Minister
- (b) one by the Energy Resources Conservation Board, under the *Energy Resources Conservation Act*, or its successor under the *Responsible Energy Development Act*
- (c) one by the Minister and the General Council by agreement, and
- (d) two by the General Council.

6. The current "Article 5 – Award of Agreements" is deleted in its entirety and is replaced with the following text:

Article 5 – General

501 This agreement shall be governed by the laws in force in Alberta, including the federal laws of Canada applicable therein. Subject to section 404 of this agreement, Alberta Courts shall have exclusive jurisdiction over all matters arising in relation to this agreement.

502 This agreement may not be assigned by any party.

503 Any settlement established under the *Metis Settlements Act* that is not a party to this agreement on November 1, 1990 may be made a party to this agreement by mutual agreement between that settlement and all the parties to this agreement.

504 Where any document, notification or notice is required to be provided by one party to another, it shall be provided in writing, which includes electronic mail, to the following:

If to the Minister:

For Petroleum and Natural Gas:
Dennis Stenerson
11th floor, 9945-108 Street
Edmonton, Alberta
T5K 2G6
dennis.stenerson@gov.ab.ca

For Oil Sands:
Jason Kwong
6th floor, 9945-108 Street
Edmonton, Alberta
T5K 2G6
jason.kwong@gov.ab.ca

If to the General Council:

Oil and Gas Coordinator
Metis Settlements General Council
101, 10335 172 Street
Edmonton, AB
T5S 1K9
oilgas@msgc.ca

Each party may change its contact information by giving written notice to the other party.

505 This agreement enures to the benefit of the parties and their respective successors. In witness whereof the parties have duly executed this agreement.

7. The following articles are deleted in their entirety:

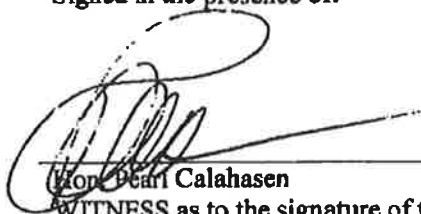
Current "Article 5.1 – Alternative Procedure"
Current "Article 6 – Amendment of Procedure"
Current "Article 7 – General"

8. The Minister and the General Council mutually agree and confirm the Agreement in all respects as it is amended by this amendment agreement.

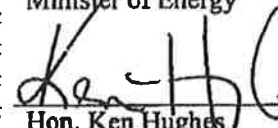
9. Each Party represents that its signatory to this amendment agreement is duly authorized to enter into and execute this amendment agreement on its behalf.

The Minister and the General Council are executing this amendment agreement as of May 16, 2013.

Signed in the presence of:

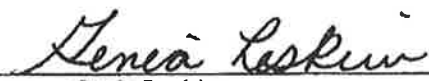


Hon. Pearl Calahasen
WITNESS as to the signature of the
Minister

(**HER MAJESTY THE QUEEN** in right of the
(Province of Alberta, as represented by the
(Minister of Energy
(

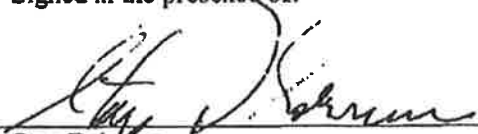
(Hon. Ken Hughes
(Minister of Energy
(

Signed in the presence of:




Hon. Genia Leskiw
WITNESS as to the signature of the
Minister

Signed in the presence of:



Stan Delorme
WITNESS as to the signature of the
General Council

(**METIS SETTLEMENTS GENERAL**
(**COUNCIL**
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(Randy Hardy
(President
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