THIS AGREEMENT dated for reference the 31 day of March, 2020

REVENUE SHARING AGREEMENT

BETWEEN:

HER MAJESTY IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
as represented by the Minister of Indigenous Relations and Reconciliation

(the "**Province**")

AND:

DOIG RIVER FIRST NATION, as represented by Chief and Council,

(the "**Doig River First Nation**")

(Collectively the "**Parties**", Individually "**Party**")

RECITALS:

A. The Doig River First Nation is a Treaty 8 First Nation with Treaty Rights in Treaty No. 8 Territory;

B. The Province supports the development of clean energy and the sharing with First Nations of revenue from clean energy projects, and respects the importance of government to government relationships as contemplated in the New Relationship and the principles of the Transformative Change Accord.

C. Part 6 of the *Clean Energy Act* enabled the creation of a fund known as the First Nations Clean Energy Business Fund which allows for the sharing of specified land revenues with First Nations; and

D. The Doig River First Nation is a band as defined by the *Indian Act*.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1.0 DEFINITIONS

1.1 In this Agreement:

"Agreement" means this Revenue Sharing Agreement, including its Schedules, which is made pursuant to the *Clean Energy Act*;

"Available Revenue" means the Project Revenue multiplied by the percentage prescribed for the purposes of section 20(5)(a) of the *Clean Energy*, as those percentages are amended from time to time;

"*Clean Energy Act*" means the *Clean Energy Act*, S.B.C. 2010, c. 22, as amended from time to time;

"Council" means the duly elected council of the Doig River First Nation;

"Designated Percentage" means *10.75* per cent or such other amount of the Available Revenue specified by the Province in accordance with section 9.2;

"*Financial Administration Act*" mean the *Financial Administration Act*, R.S.B.C. 1996, c. 138, as amended from time to time;

"*First Nations Clean Energy Business Fund Regulation*" means the *First Nations Clean Energy Business Fund Regulation*, B.C. Reg 377/2010, as amended from time to time;

"Fiscal Year" means April 1 of a calendar year to March 31 of the following calendar year;

"*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5, as amended from time to time;

"*Land Act*" means the *Land Act*, R.S.B.C. 1996, c. 245, as amended from time to time;

"Lifetime" in relation to the Local Project, means the period during which the Local Project continues as a power project for the purposes of section 20 of the *Clean Energy Act*;

"Local Project" means the Power Project described in Schedule 1;

"*Ministry of Lands, Parks and Housing Act*" means the *Ministry of Lands, Parks and Housing Act*, R.S.B. C. 1996, c. 307, as amended from time to time;

"Overpayment" means both an amount paid mistakenly by the Province under this Agreement that is not due under section 3.1, and if the Province refunds Project Revenue under section 16 of the *Financial Administration Act*, means a percentage of the refunded amount equal to the product of multiplying the Designated Percentage, the percentage prescribed for the purposes of section 20(4)(b) of the *Clean Energy Act* and the percentage prescribed for the purposes of section 20(5)(a) of the Act;

"Prescribed Land Revenues" means revenue prescribed for the purposes of section 20(4)(b) of the *Clean Energy Act*, which the Province derives from Power Projects, but is subject to any changes to the revenue prescribed for those purposes made during the Term;

"Primary Reserve" mean the reserve on which a Sharing First Nation operates its main administration office;

"Power Project" means a power project as defined by section 20(1) of the *Clean Energy Act*;

"Project Revenue" means Prescribed Land Revenues received by the Province in a Fiscal Year during the Term that are derived from the Local Project;

"Project Tenure" means a tenure for the Local Project, the revenue from which is prescribed for the purposes of section 20(4)(b) of the *Clean Energy Act*;

"Project Works" means works authorized by Project Tenures for the Local Project, the revenue from which is prescribed for the purposes of section 20(4)(b);

"Section 35(1) Rights" means the rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982*, and includes Treaty Rights;

"Sharing First Nation" means a First Nation that has or asserts Section 35(1) Rights in the area of the Local Project and that has entered a Revenue Sharing Agreement through which it is receiving a portion of Available Revenues for the Local Project;

"Term" means the term of this Agreement as defined by section 8.1; and

"Treasury Board" means Treasury Board as defined by the *Financial Administration Act.*

"Treaty Rights" means the rights established pursuant to Treaty No. 8 and recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.

2.0 PURPOSE

2.1 The purpose of this Agreement is to share Project Revenue with the Doig River First Nation.

3.0 PAYMENT

3.1 The Province will make payments to the Doig River First Nation as follows:

(a) within 60 days of the Effective Date, for each of the 2013/14, 2014/15, 2015/2016, 2016/2017, 2017/2018 and 2018/2019 Fiscal Years, a single payment comprising a share of Available Revenue equal to the product of multiplying Available Revenue by the Designated Percentage; and

(b) annually during the Term, within 150 days of the end of each Fiscal Year, a share of Available Revenue for the immediately preceding Fiscal Year equal to the product of multiplying Available Revenue by the Designated Percentage.

3.2 If at any time the Province makes an Overpayment, the Province may deduct the Overpayment from amounts payable under section 3.1.

3.3 The Doig River First Nation will establish and maintain throughout the Term a bank account in the name of the Doig River First Nation at a Canadian financial institution into which direct deposits may be made by British Columbia for the purpose of receiving monies payable by British Columbia pursuant to this Agreement. The Doig River First Nation will provide such

address and account information respecting this account to enable British Columbia to make direct deposits.

3.4 Any payment made by the Province to the Doig River First Nation under this Agreement:

(a) does not abrogate any legal consultation and/or accommodation obligations of the Province which may apply in respect to the Local Project or otherwise;

(b) shall not be interpreted or relied upon as an admission or acknowledgement by the Doig River First Nation of Provincial jurisdiction over, or ownership of, lands and resources within Treaty No. 8 Territory.

3.5 In each Fiscal Year that this Agreement is in effect, and subsequent to the release by the Minister of Finance of the previous Fiscal Year's public account of British Columbia, a summary document will be prepared and made available to the Doig River First Nation, a recipient of the Project Revenue, for that Fiscal Year, as follows:

a) Project Revenue for that fiscal year;

b) if there are any changes to the Prescribed Land Revenue, an accounting for those changes to Project Revenue;

c) any deductions made under section 3.2 or adjustments for amounts owing that were not paid.

4.0 THE DOIG RIVER FIRST NATION'S REPRESENTATIONS AND WARRANTIES

4.1 The Doig River First Nation represents and warrants to the Province, with the intent and understanding that the Province will rely thereon in entering into this Agreement, that:

(a) it has the legal power, right, capacity and authority to accept, execute and deliver this Agreement and to carry out its obligations under this Agreement;

(b) this Agreement is binding upon, and enforceable against, the Doig River First Nation in accordance with its terms;

(c) the undersigned representative of the Doig River First Nation is duly authorized to enter into this Agreement;

(d) it has obtained or had the opportunity to obtain the advice of their own financial, legal, tax, and other professional advisors with respect to this Agreement; and

(e) it is a band under the *Indian Act* and entering into this Agreement has been approved by a majority of the councilors of the Doig River First Nation present at a duly convened meeting of the Doig River First Nation's Council.

5.0 PROVINICAL REPRESENTATIONS AND WARRANTIES

5.1 The Province represents and warrants to Doig River First Nation, with the understanding that Doig River First Nation will rely thereon in entering into this Agreement, that:

(a) it has the legal power, right, capacity and authority to accept, execute and deliver this Agreement and to carry out its obligations under this Agreement;

(b) this Agreement is binding upon, and enforceable against, the Province in accordance with its terms; and

(c) the undersigned representative of the Province is duly authorized to enter into this Agreement.

6.0 RELATIONSHIP

6.1 No partnership, joint venture, agency, fiduciary or employment relationship is created by this Agreement or by any actions of the Parties under this Agreement.

7.0 INDEMNITY

7.1 The Doig River First Nation will indemnify and save harmless the Province and provincial officials, from and against any and all losses, claims, damages, actions, causes of action, cost and expenses that the Province may sustain, incur, suffer or be put to by reason of any act or omission of the Doig River First Nation or by any servant, employee, or agent of the Doig River First Nation in relation to the performance or non-performance of the Doig River First Nation' obligations under this Agreement or breaches of the Warranties and Representations of the Doig River First Nation under Article 4. This term will survive the expiry or termination of this Agreement.

8.0 TERM AND TERMINATION

8.1 This Agreement takes effect on the last date it is executed by the Parties continues for the Lifetime of the Local Project unless terminated under section 8.2.

8.2 The Province may terminate this Agreement:

(a) immediately by written notice to the Doig River First Nation, if:

(i) any representation or warranty made by the Doig River First Nation in this Agreement is untrue or incorrect;

(b) on six months written notice to the Doig River First Nation if,

(i) an amendment or repeal of the *First Nations Clean Energy Business Fund Regulation* or section 20 of the *Clean Energy Act* comes into force,

(ii) the Province provides notice of its intention to terminate within 90 days of coming into force of that amendment or repeal, and

(iii) the Province provides the Doig River First Nation with an opportunity to consult regarding termination prior to providing notice of termination.

9.0 AMENDMENTS & CHANGES TO DESIGNATED PERCENTAGE

9.1 Any amendments to this Agreement must be in writing and executed by the Parties.

9.2 Subject to section 9.4, if in the sole opinion of the Province, acting reasonably,

(a) there is a change in either

(i) the areas covered by Project Tenures, including by means of amendment to the tenures, issuance of new Project Tenures, or expiry or termination of Project Tenures,

(ii) the location of Project Works; or

(b) a First Nation, other than a Sharing First Nation, has or asserts Section 35(1) Rights at or near the Project Location and wishes to become a Sharing First Nation; or

(c) the traditional territory of a Sharing First Nation, other than Doig River First Nation, does not, or no longer, includes land on which the Local Project is located, in whole or in part; or

(d) there is a change in the distance of the Local Project to the Primary Reserve of a Sharing First Nation; or

(e) there has been a significant change in the membership size of one or more Sharing First Nations in relation to that of one or more other Sharing First Nations

the Province may, at its sole discretion after consultation with the appropriate Sharing First Nations and six months' written notice to the Doig River First Nation, change the Designated Percentage.

9.3 For the purposes of section 9.2, consultation shall refer to good faith discussions between the Province and Doig River First Nation, other Sharing First Nations, and the First Nation referred to in section 9.2(b), regarding the factors to be considered and weighted in setting the Designated Percentage. These factors may include the proximity of a First Nation to the Local Project, and the population of a First Nation.

9.4 The Designated Percentage together with the percentage of Available Revenue received by Sharing First Nations must equal one hundred percent. For greater certainty, in each year during the Term, the Province will pay Sharing First Nations one hundred percent of the Available Revenue. If there is a decrease in the share of Available Revenue payable to Sharing

First Nations other than Doig River First Nation, the Province will increase the Designated Percentage to account for this change and ensure that one hundred percent of Available Revenues are paid to Sharing First Nations in each year during the Term.

10.0 APPROPRIATION

10.1 Notwithstanding any other provision of this Agreement, the payment of money by the Province to Doig River First Nation pursuant to this Agreement is subject to:

(a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, in any fiscal year or part thereof when any payment of money by the Province to the Doig River First Nation falls due pursuant to this Agreement, to make that payment;

(b) the payment being in accordance with an approved Treasury Board spending plan for the First Nations Clean Energy Business Fund special account; and

(c) Treasury Board not having controlled or limited expenditure, pursuant to the *Financial Administration Act*, under any appropriation referred to in the preceding paragraph.

11.0 DISPUTE RESOLUTION

11.1 If a dispute arises between the Doig River First Nation and the Province regarding any aspect of this Agreement, the individuals identified under section 13.3 will meet as soon as is practicable to resolve the dispute.

11.2 If the Parties are unable to resolve differences under section 11.1, the issue will be raised to, for the Province, the Assistant Deputy Minister responsible for the First Nations Clean Energy Business Fund, and for the Doig River First Nation, the Council. The Assistant Deputy Minister may authorize a special designate to act in his place. The Assistant Deputy Minister or his designate and Band Council will meet as soon as is practicable to resolve the dispute.

12.0 GENERAL PROVISIONS

12.1 In this Agreement:

(a) all headings are for convenience only and do not form part of this Agreement and are not intended to interpret, define, limit, enlarge, modify or explain the scope, extent or intent of this Agreement or any of its provisions;

(b) words in the singular include the plural and words in the plural include the singular unless the context or a specific definition otherwise requires;

(c) the use of the word "including" is to be read as not limiting the generality of the preceding term or phrase;

(d) all references to a designated "section", "subsection" or other subdivision or to a Schedule are to the designated section, subsection or subdivision of, or Schedule to, this Agreement;

(e) any reference to a corporate entity or an Indian Band includes and is also a reference to any entity that was a predecessor to, or that is a successor to, such entity or band; and

(f) any reference made to a statute includes all regulations made under that statute and any amendments or replacements for that statute or regulations made under that statute.

12.2 This Agreement shall be governed by the applicable laws of British Columbia and Canada.

12.3 This Agreement and any amendments to it, made in accordance with section 9.1, constitute the entire agreement between the Parties with respect to the subject matter of the Agreement, unless otherwise agreed in writing by the Parties.

12.4 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.

12.5 If any part of this Agreement is void or unenforceable at law, it shall be severed from this Agreement and the rest of the Agreement shall remain in effect and fully enforceable.

12.6 No term, condition, covenant or other provision of this Agreement and no breach by one Party of any term or condition of this Agreement may be waived unless such waiver is in writing and signed by the other Party.

12.7 Time is of the essence.

12.8 This Agreement will ensure to the benefit of and be binding upon the Parties and their respective permitted assigns.

12.9 Unless otherwise agreed by the Parties, this Agreement may not be assigned, either in whole or in part, by either Party.

12.10 *Schedule 1, Clean Energy Project Description*, and *Schedule 2, Map of Treaty No. 8 Territory* is attached and forms part of this Agreement.

12.11 This Agreement may be entered into by each Party signing a separate copy of the Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile or other electronic means of transmission.

12.12 This Agreement does not create, define, diminish, abrogate, derogate or extinguish Doig River First Nation's Section 35(1) Rights.

12.13 Any payments under this Agreement are not intended to be accommodations or compensation for any impacts to Doig River First Nation's Section 35(1) Rights, nor do they offset or derogate

from any obligation the Crown may have to consult, accommodate, or to avoid or justify any infringement of any asserted or established Section 35(1) Rights of Doig River First Nations.

12.14 This Agreement will not limit the positions that a Party may take in future negotiations or court actions.

12.15 This Agreement and any decisions made during the Term of this Agreement do not change or affect the positions either Party has, or may have, regarding their respective jurisdictions and authorities.

12.16 This Agreement does not exclude the Doig River First Nation from accessing clean energy economic opportunities and benefits, which may be available to the Doig River First Nation, other than those expressly set out in this Agreement.

12.17 This Agreement may be executed in counterparts, each of which when executed and delivered is deemed to be an original and all such counterparts taken together are deemed to be one and the same instrument.

13.0 NOTICE

13.1 Any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement will be in writing. It will be effectively given:

(a) by personal delivery to the address of the Party set out in section 13.3;
(b) by pre-paid registered mail to the address of the Party set out in section 13.3; or
(c) by facsimile, to the facsimile number of the Party set out in section 13.3.

13.2 Any notice or communication given in accordance with section 13.1 will be deemed to have been given on the date it is actually received, if received by 4:00 pm. If received after 4:00 pm, it will be deemed to have been received on the next business day.

13.3 A notice or communication must be delivered, mailed or sent by facsimile to the address for each Party below:

The Province
Attention: Michael Matsubuchi
Director, Fiscal Arrangements and Climate Change
Ministry of Aboriginal Relations and Reconciliation
PO Box 9100
Stn Prov Govt
Victoria, BC V8W 9B1
Fax Number: (250) 356-5312

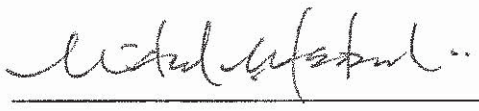
The Doig River First Nation
Band Manager
Doig River First Nation
PO Box 56

Rose Prairie, BC
V0C 2H0
Fax Number: (250) 827-3778

13.4 The address for delivery of notice to either Party may be changed by notice as set out in section 13.3.

THIS AGREEMENT HAS BEEN EXECUTED as of the day and year first above written.

EXECUTED in the presence of:	)	**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Indigenous Relations and Reconciliation**
	)	
As to the signature of Honourable Scott Fraser, Minister	)	Honourable Scott Fraser, Minister

EXECUTED in the presence of:	)	**DOIG RIVER FIRST NATION**
	)	Shona Nelson
As to the signature of Chief Trevor Makadahay Doig River First Nation	)	**Chief Trevor Makadahay**

Schedule: 1 – Clean Energy Project Description

Quality Creek Wind Power Project

Land Tenure:
8015103
8015878
8015833

Project Overview:
The Quality Creek Wind Project is located near Tumbler Ridge B.C. and has an anticipated power capacity of 142 megawatts. This project will include 79, 1.8 megawatt turbines and produce enough power for approximately 40,000 homes. The developer for the project is Capital Power Holdings Inc.