

**METLAKATLA LIQUEFIED NATURAL GAS (LNG) COASTAL FUND
BENEFITS AGREEMENT**

This Agreement is dated for reference May 11, 2016.

BETWEEN:

**Her Majesty the Queen in right of the Province of British Columbia as represented
by the Minister of Aboriginal Relations and Reconciliation**

(the "Province")

AND:

**METLAKATLA FIRST NATION, on behalf of itself and Metlakatla Members, as
represented by its Chief and Council**

("Metlakatla")

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

RECITALS:

- A. The Province wishes to develop an LNG industry in an environmentally responsible manner that will benefit all British Columbians, including Metlakatla Members.
- B. Metlakatla asserts unextinguished Aboriginal Rights in the Prince Rupert area.
- C. Metlakatla is prepared to engage with the Province about the development of an LNG industry, including collaboration on the environmental impacts of proposed LNG Projects on the north coast of British Columbia, provided that Metlakatla's interests are met, including issues relating to Aboriginal Rights and the cumulative impacts of such LNG Projects.
- D. Metlakatla and the Province wish to enter into this Agreement to confirm Metlakatla's support of an LNG industry.

NOW THEREFORE the Parties agree as follows:

PART 1 – DEFINITIONS, INTERPRETATION AND SCHEDULES

Definitions

1.1 In addition to the terms defined elsewhere in this Agreement:

- a) **“Aboriginal Rights”** means asserted or determined aboriginal rights, including aboriginal title, which are or may be recognized and affirmed by section 35 of the *Constitutional Act*, 1982;
- b) **“Agreement”** means this Metlakatla Liquefied Natural Gas (LNG) Coastal Fund Benefits Agreement ; including Schedule “A” and any agreement, document or instrument executed or delivered pursuant to this Agreement or incorporated hereto;
- c) **“Annual Reporting Date”** means the date in each year that Funding payments are provided under this Agreement that is 120 days after:
 - i) the date that the Province provides a Base Funding payment, if no Incremental Project Funding payment is also required to be provided,
 - ii) the later of the dates in which the Province provides a Base Funding payment and an Incremental Project Funding payment, if both Base Funding and Incremental Project Funding payments are required to be provided, or
 - iii) the date on which a Base Funding and Incremental Project Funding payment is provided if the Parties have agreed to consolidate those payments in accordance with section 3.32;
- d) **“Associated Infrastructure”** means any transmission infrastructure projects for electricity, natural gas and transportation and other utility corridor rights of way, including related facilities, power generation facilities, plant, equipment and other infrastructure easements and rights of way as well as matters related to the construction, operation and maintenance of an LNG Project including lay down areas and work camps, that relate to an LNG Project, but does not include any natural gas transmission line;
- e) **“Base Funding”** mean Initial Base Funding and Ongoing Base Funding;
- f) **“Canadian Financial Institution”** means a financial institution that is incorporated or formed by or under an Act of Parliament or of the Legislative Assembly of a province;
- g) **“Chief”** means, in respect of Metlakatla, “chief” within the meaning of the *Indian Act*;

- h) **“Commencement of Construction”** means the date on which an LNG proponent issues a notice to proceed to its EPC contractor for:
 - i) an LNG Project, or
 - ii) the expansion of LNG production at an existing LNG Project by the construction of additional LNG trains,excluding other site assessment or exploration work;
- i) **“Council”** means, in respect of Metlakatla, the “council of the band” within the meaning of the *Indian Act*;
- j) **“Effective Date”** means the date on which this Agreement is signed by the Parties;
- k) **“EPC Contractor”** means the engineering, procurement and construction contractor for an LNG Project;
- l) **“FID Date”** means the date on which the proponent of an LNG Project makes a public announcement of a FID;
- m) **“FID Payments”** means the payments set out in section 3.7;
- n) **“Final Investment Decision”** or **“FID”** means a final and unconditional decision of an LNG proponent to proceed with the construction of an LNG Project;
- o) **“Funding”** means Base Funding and Incremental Project Funding;
- p) **“Governmental Action”** means any provincial or federal approval, decision, consultation process, agreement, authorization or action of any kind whatsoever, including approvals, decisions, processes, agreements, authorizations or actions of a provincial or federal agency or Crown corporation, relating to an LNG Project or its Associated Infrastructure;
- q) **“Incremental Project Funding”** means the FID Payments, In-Service Payments and LNG Expansion Payments;
- r) **“Incremental Project Funding Payment Notice”** means, in relation to an LNG Project, a notice provided by Metlakatla to the Province in accordance with section 3.6;
- s) **“Initial Base Funding”** means the payments set out in section 3.2;
- t) **“In-Service Date”** means June 1st of the year following which an LNG Project first begins exporting LNG;
- u) **“In-Service Payments”** means the payments set out in section 3.8;

- v) **“LNG”** means natural gas in a liquid state or at a temperature below its boiling point;
- w) **“LNG Benefits Agreement”** means the Metlakatla First Nation Pacific NorthWest (PNW) LNG Benefits Agreement entered into by the Parties and dated for reference 02 February 2016, and any other benefits agreement entered into by the Parties with respect to an LNG Project that is identified in that benefits agreement as an LNG Benefits Agreement for the purposes of this Agreement;
- x) **“LNG Expansion Payments”** means the payments set out in section 3.12;
- y) **“LNG Project”** means any proposed or commissioned LNG project within the Map Area, any “LNG facility” within the meaning of the *Liquefied Natural Gas Income Tax Act (British Columbia)* within the Map Area, all LNG related marine shipping in the Map Area, and, for certainty, includes the following LNG projects:
- Aurora LNG
 - Cedar LNG
 - Kitimat LNG
 - LNG Canada
 - Pacific NorthWest LNG
 - Prince Rupert LNG
 - Triton LNG
 - WCC LNG
 - Woodside Energy;
- z) **“LNG Project Expansion Date”** means June 1st of the year following which an additional LNG production train at an existing LNG Project first begins producing LNG;
- aa) **“Map Area”** means the area shown as “Map Area” on the map attached as Schedule “A”;
- bb) **“Metlakatla”** means the “band”, as that term is defined in the *Indian Act*, named the “Metlakatla First Nation”;
- cc) **“Metlakatla Member”** means any person who is a “member of the band”, as that phrase is defined in the *Indian Act*, of Metlakatla;

- dd) **“Ongoing Base Funding”** means the payments set out in section 3.3;
- ee) **“Specified Date”** means, in relation to an LNG Project, the date on which Metlakatla delivers an Incremental Project Funding Notice to the Province in respect of that LNG Project; and
- ff) **“Term”** means the term of this Agreement as set out in section 7.2.

Interpretation

1.2 For purposes of this Agreement:

- a) **“including”** means “including, but not limited to” and **“includes”** means “includes, but not limited to”;
- b) the headings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- c) words importing gender include the masculine, feminine or neuter gender and words in the singular include the plural and vice versa;
- d) any reference to a corporate entity includes and is also a reference to any corporate entity that was a predecessor to, or that is a successor to, such entity;
- e) a reference to a statute includes every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it; and
- f) there will be no presumption that doubtful expressions, terms or provisions in this Agreement are to be resolved in favour of any Party.

Schedules

1.3 Schedule A – Map Area is a schedule to and forms part of this Agreement.

PART 2 - PURPOSE AND SCOPE

Purpose

- 2.1 The purpose of this Agreement is to enable the Parties to share in the benefits associated with the development of an LNG industry on the north coast of British Columbia and reflects Metlakatla’s support for an LNG industry.

Scope

- 2.2 For certainty, this Agreement applies to all LNG Projects.

PART 3 - FINANCIAL BENEFITS

3.1 Subject to the terms and conditions of this Agreement, the Province will make payments to Metlakatla as set out in this Part.

Base Funding

3.2 The Province will provide Metlakatla with Initial Base Funding in the amount of \$1,500,000 payable as follows:

- a) \$500,000 within 60 days of the Effective Date; and
- b) \$500,000 within 60 days of the first and second anniversaries of the Effective Date.

3.3 If the proponent of an LNG Project makes a FID before March 31, 2018, the Province will provide Metlakatla with Ongoing Base Funding payments, as follows:

- a) a one-time payment of \$250,000, payable within 60 days of the third anniversary of the Effective Date; and
- b) ongoing annual payments of \$500,000 each commencing on the third anniversary of the Effective Date for the balance of the Term, payable within 60 days of the anniversary of the Effective Date.

3.4 Ongoing Base Funding payments provided in accordance with section 3.3 b) made after the initial payment will be adjusted annually for inflation equivalent to changes in the annual *BC Final Domestic Demand Implicit Price Index* published by Statistics Canada.

3.5 For certainty, the Province's obligation to provide Base Funding is triggered on a one-time only basis and Base Funding will not be provided for each LNG Project.

Incremental Project Funding

3.6 After a FID Date for an LNG Project has occurred, Metlakatla will determine whether it wishes to receive Incremental Project Funding in respect of that LNG Project and, if so, will deliver an Incremental Project Funding Payment Notice to the Province confirming that it wishes to trigger Incremental Project Funding in relation to that LNG Project.

FID Payments

- 3.7 For each LNG Project in respect of which a FID has been announced and Metlakatla has provided the Province with an Incremental Project Funding Notice, the Province will, within 60 days of the Specified Date, and annually thereafter on the anniversary of the Specified Date until the In-Service Date is reached, provide FID Payments to Metlakatla in an amount equal to:

$$\$0.0033 \times \text{Estimated LNG Production}$$

where "Estimated LNG Production" means the volume of LNG expressed in tonnes per annum to be produced at that LNG Project as of the In-Service Date. For certainty, where the volume of LNG to be produced at an LNG Project will be phased in over time, "Estimated LNG Production" means the volume of LNG in tonnes per annum to be produced by the number of LNG trains to be licenced and in production at the In-Service Date and not at full build out of the LNG Project.

In-Service Payments

- 3.8 For each LNG Project that is commissioned and begins producing LNG, the Province will, within 60 days of the In-Service Date and annually thereafter on the anniversary of the In-Service Date, provide In-Service Payments to Metlakatla in an amount equal to:

$$\$0.02 \times \text{Actual LNG Production}$$

where "Actual LNG Production" means the volume of LNG expressed in tonnes reported to the Province in accordance with the *Greenhouse Gas Industrial Reporting and Control Act* as having been produced at that LNG Project in the preceding calendar year.

- 3.9 Notwithstanding section 3.8, the Province may adjust the amount of the first In-Service Payment to account for any FID Payment made in relation to the Actual LNG Production for the initial In-Service Payment period, such that the first In-Service Payment will be an amount equal to $(\$0.02 - \$0.0033) \times \text{Actual LNG Production}$.
- 3.10 For certainty, In-Service Payments replace FID Payments and the Province will not continue to make FID Payments in respect of an LNG Project once an In-Service Date in respect of that LNG Project is reached.
- 3.11 In-Service Payments made after the initial In-Service Payment will be adjusted annually for inflation equivalent to changes in the annual *BC Final Domestic Demand Implicit Price Index* published by Statistics Canada.

LNG Expansion Payments

- 3.12 If an LNG Project in respect of which Metlakatla is receiving In-Service Payments expands its LNG production capacity, the Province will add to each annual In-Service Payment to be provided during the period from the Commencement of Construction of each additional LNG train to the LNG Project Expansion Date, an amount equal to:

$$\$0.0033 \times \text{Estimated Additional LNG Production}$$

where "Estimated Additional LNG Production" means the volume of LNG expressed in tonnes per annum to be produced by each additional LNG train under construction to be licenced and in production at the LNG Project Expansion Date.

- 3.13 Notwithstanding section 3.12, the Province may adjust the amount of the first In-Service Payment made after the LNG Expansion Date to account for any LNG Expansion Payment made in relation to the Actual LNG Production for that In-Service Payment period, such that the In-Service Payment will be an amount equal to $(\$0.02 - \$0.0033) \times \text{Actual LNG Production}$.
- 3.14 For certainty, the Province will not continue to provide LNG Expansion Payments in respect of an LNG Project once the LNG Project Expansion Date in respect of that LNG Project is reached.

Suspension and Adjustment of Funding

- 3.15 The Province may suspend the Ongoing Base Funding to be provided in accordance with section 3.3 b) if:
- a) within six months after an FID Date, active site assessment, exploratory work, or other preliminary construction activity is not occurring in relation to any LNG Project and the Province reasonably determines that it is unlikely that the Commencement of Construction in relation to any LNG Project will occur within one year of that FID Date;
 - b) after the Commencement of Construction of any LNG Project, the actual construction of all LNG Projects is delayed or suspended for six months or longer during any applicable payment period; or
 - c) within five years after the Commencement of Construction of any LNG Project, no LNG Project is commissioned and producing LNG.
- 3.16 If the Province suspends the Ongoing Base Funding in accordance with:
- a) section 3.15 a) and Commencement of Construction of any LNG Project subsequently occurs;

- b) section 3.15 b) and the actual construction of any LNG Project resumes; or
- c) section 3.15 c) and any LNG Project is subsequently commissioned and begins producing LNG;

the Province will resume providing the Ongoing Base Funding.

3.17 The Province may suspend FID Payments in respect of an LNG Project if:

- a) within six months after an FID Date, active site assessment, exploratory work, or other preliminary construction activity is not occurring in relation to any LNG Project and the Province reasonably determines that it is unlikely that the Commencement of Construction in relation to any LNG Project will occur within one year of the FID Date; or
- b) after the Commencement of Construction of that LNG Project, the actual construction of that LNG Project is delayed or suspended for six months or longer during any applicable payment period.

3.18 If the Province suspends the FID Payments in accordance with:

- a) section 3.17 a) and Commencement of Construction of that LNG Project subsequently occurs; or
- b) section 3.17 b) and the actual construction of that LNG Project resumes;

the Province will resume providing FID Payments.

3.19 The Province may suspend LNG Expansion Payments in respect of an LNG Project if after the Commencement of Construction of an additional LNG train the actual construction of that additional LNG train is delayed or suspended for six months or longer during any applicable payment period.

3.20 If the Province suspends LNG Expansion Payments in accordance with section 3.19 and the actual construction of that additional LNG train resumes, the Province will resume providing the LNG Expansion Payments.

3.21 If the Province resumes Ongoing Base Funding in accordance with sections 3.16, FID Payments in accordance with section 3.18 or LNG Expansion Payments in accordance with section 3.20 it may adjust the first Ongoing Base Funding payment, FID Payment or LNG Expansion Payment to be provided after the resumption on a pro rata basis equal to the number of months in the applicable annual payment period in which the payment was suspended divided by 12 months.

3.22 If there is only one LNG Project producing LNG and that LNG Project suspends its operations for any reason and does not report the production of any LNG to the Province in accordance with the *Liquefied Natural Gas Income Tax Act* for a total of 6 months or more during a calendar year, the Province may reduce the amount of any Ongoing Base Funding payment provided under section 3.2 b) on a pro rata basis equal to the number of months in the calendar year that no LNG production is reported divided by 12 months.

3.23 The Province may suspend providing Funding to Metlakatla if:

- a) Metlakatla fails to perform or is in breach of any of its obligations under this Agreement or any LNG Benefits Agreement;
- b) any representation or warranty made by Metlakatla in this Agreement or any LNG Benefits Agreement is untrue or incorrect;
- c) Metlakatla initiates or supports any legal action or proceeding that challenges, directly or indirectly, any LNG Project, its Associated Infrastructure or any Governmental Action; or
- d) Metlakatla supports or participates in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or an LNG Project proponent, or any of their respective employees, contractors, agents, representatives or invitees, to gain access to any part of an LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project.

3.24 Notwithstanding section 3.23, the Province may not suspend providing Incremental Project Funding to Metlakatla in respect of an LNG Project:

- a) under section 3.23 c), if Metlakatla does not initiate or support any legal action or proceeding that challenges, directly or indirectly, that LNG Project, its Associated Infrastructure or any Governmental Action in respect of that LNG Project; or
- b) under section 3.23 d), if Metlakatla does not support or participate in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or a LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees, to gain access to any part of that LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project.

3.25 Prior to the Province suspending Funding in accordance with section 3.23, the Province will notify Metlakatla of the proposed suspension and the Parties will meet within 30 days of such notification to discuss and attempt to resolve the matter.

3.26 For certainty, nothing in section 3.25 limits the ability of the Province to suspend Funding if Metlakatla does not meet with the Province, or the Parties are not able to resolve the matter, in accordance with section 3.25.

Delivery of Funding by the Province

3.27 Metlakatla will establish and maintain in its name a separate account at a Canadian Financial Institution for the purposes of receiving Funding payments into which direct deposits may be made by the Province and it will provide the Province with the address and applicable account information to enable the Province to make such deposits.

3.28 The Province will deposit Funding payments into the account established under section 3.27 on the dates set out in this Agreement.

Use of Funding

3.29 Metlakatla will use the Funding for the following purposes:

- a) community development projects and social initiatives;
- b) investment in renewable energy projects and community energy planning;
- c) marine emergency response initiatives, including participating in new response programs;
- d) developing greenhouse gas off-set projects and environmental off-set or remediation projects;
- e) education and skills training, in particular for Metlakatla Members to participate in business or employment opportunities created by LNG Projects;
or
- f) economic development, including investment that supports LNG development activities.

3.30 For certainty, Metlakatla may use all or any portion of the Funding it receives in any given year for the purposes set out in section 3.29, or to hold such payments for use for those purposes in future years.

Reporting

3.31 Metlakatla will deliver an annual report to the Province, in a form satisfactory to the Province acting reasonably, containing the following information:

- a) planned use of the Funding for the current year;

- b) expenditures made in the previous year from the Funding; and
- c) how those expenditures are consistent with the purposes set out in section 3.29.

Consolidation of Base Funding and Incremental Funding Payments

3.32 The Parties may agree to consolidate the Base Funding and Incremental Project Funding payments into one annual payment.

PART 4 – METLAKATLA ASSURANCES FOR LNG PROJECTS AND OTHER COVENANTS

LNG Assurances

- 4.1 As long as the Province is not in default of making any Base Funding payment, Metlakatla will:
- a) support the development in the Map Area of an LNG industry that is environmentally and socially responsible and respectful of Aboriginal Rights, and provide written confirmation of that support, in a form and content satisfactory to the Province acting reasonably, if so requested by the Province;
 - b) participate in applicable environmental assessment and regulatory processes related to any LNG Project; and
 - c) not oppose the planning, approval, construction, development, and operation of all LNG Projects, including making any public pronouncement against all LNG Projects.
- 4.2 As long as the Province is not in default of making any Incremental Project Funding payment in respect of an LNG Project or any obligation under an LNG Project Benefits Agreement in respect of the applicable LNG Project, effective as of the Specified Date for that LNG Project, Metlakatla will:
- a) not oppose the planning, approval, construction, development and operation of that LNG Project, including making any public pronouncements opposing that LNG Project;
 - b) acknowledge that it is being consulted and accommodated in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action;

- c) not support or participate in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or an LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees to gain access to any part of that LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project, but this does not prevent Metlakatla from raising concerns about that LNG Project in any applicable federal or provincial environmental assessment process or with the Province if Metlakatla is not participating in any of those processes;
- d) not seek other financial contributions from the Province in respect of that LNG Project and, if requested by the Province, provide an acknowledgment that the Province has fulfilled any obligation it may have to provide financial or economic accommodation, economic benefits, capacity funding or compensation of any kind in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action;
- e) not support actions of any kind whatsoever by a Metlakatla Member that would interfere with, delay or otherwise oppose that LNG Project, and if requested take reasonable steps to assist the Province in dealing with such situations; and
- f) not initiate or participate in, directly or indirectly, any legal action or proceeding, for any reason whatsoever, that challenges, directly or indirectly, that LNG Project, its Associated Infrastructure or any related Governmental Action.

4.3 Nothing in this Agreement prevents or limits Metlakatla from:

- a) participating in any applicable environmental assessment or regulatory process for an LNG Project and Associated Infrastructure;
- b) raising any concerns with the Province about any environmental concerns in relation to an LNG Project, or the potential impact of an LNG Project on the exercise of Aboriginal Rights; or
- c) participating in and receiving benefits from any governmental programs offered to First Nations.

4.4 If, within six months after a FID Date, Metlakatla has not provided the Province with an Incremental Project Funding Notice in respect of an LNG Project, the Province may by written notice request that the Parties meet to discuss the matter.

4.5 The Parties will meet within 30 days of Metlakatla receiving a notice under section 4.4 to discuss why Metlakatla has not provided an Incremental Project Funding Notice in respect of that LNG Project.

LNG Project Agreement - Releases and Discharges

- 4.6 If an LNG Benefits Agreement is in effect in relation to an LNG Project, that LNG Benefits Agreement will deal with the release and discharge of any claims by Metlakatla against the Crown in relation to:
- a) the potential infringement of that LNG Project on Metlakatla's Aboriginal Rights, and
 - b) the Crown's consultation and accommodation obligations in respect of that LNG Project.
- 4.7 If there is no LNG Benefits Agreement in effect in relation to an LNG Project, as long as Province is not in default of making any Incremental Project Funding payment in respect of an LNG Project, effective as of the Specified Date for that LNG Project, Metlakatla:
- a) releases and discharges the Province from any claims of infringement of Aboriginal Rights in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action;
 - b) releases and discharges the Province from any claims with respect to the Province's obligation to consult and accommodate in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action; and
 - c) acknowledges that the Province has fulfilled any obligation it may have to provide financial or economic accommodation, economic benefits, capacity funding or compensation of any kind in relation to that LNG Project, its Associated Infrastructure and any related Governmental Action, but this does not prevent Metlakatla from participating in provincial programs generally available to First Nations.

PART 5 - CONDITIONS PRECEDENT

Conditions Precedent to Funding

- 5.1 Notwithstanding any other provision in this Agreement, any payment of funds by the Province to Metlakatla under this Agreement is subject to:
- a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any fiscal year or part thereof when such payment is required, to make such payment;
 - b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation necessary in order to make such payment;

- c) Metlakatla being in compliance with all of its obligations under this Agreement;
- d) Metlakatla's representations and warranties under this Agreement being true and correct; and
- e) the Province having received an annual report from Metlakatla in accordance with section 3.31 on or before the Annual Reporting Date.

Conditions Precedent to Province's Other Obligations

5.2 In addition to section 5.1, the Province's obligations under this Agreement are subject to:

- a) Metlakatla delivering to the Province a Band Council Resolution approving this Agreement and authorizing the Chief and Council to sign this Agreement;
- b) the Province having obtained all required approvals, including Cabinet and Treasury Board approval; and
- c) Metlakatla's representations and warranties under this Agreement being true and correct on the Effective Date.

5.3 For certainty, the provision by the Province to Metlakatla of any annual payment under this Agreement is dependent on receipt of the annual reports described in section 3.31 on or before the applicable Annual Reporting Date.

PART 6 - REPRESENTATIONS AND WARRANTIES

Metlakatla Representations

6.1 Metlakatla represents and warrants to the Province, with the intent and understanding that they will be relied on by the Province in entering into this Agreement, that:

- a) it has the legal power, capacity and authority to enter into this Agreement;
- b) it has taken all necessary actions and has obtained all necessary approvals to enter into this Agreement including obtaining a Band Council Resolution authorizing the Chief and Council to execute this Agreement on behalf of Metlakatla;
- c) it has obtained or had the opportunity to obtain legal advice with respect to this Agreement; and
- d) this Agreement is a valid and binding obligation upon it.

Provincial Representations

- 6.2 The Province represents and warrants to Metlakatla, with the intent and understanding that they will be relied on by Metlakatla in entering into this Agreement, that it has the authority to enter into this Agreement and that this Agreement is a valid and binding obligation of the Province.

PART 7 - COMMENCEMENT, TERM AND TERMINATION

Commencement

- 7.1 This Agreement will commence and the Parties' obligations under this Agreement will take effect on the Effective Date.

Term

- 7.2 This Agreement will continue until the earlier of the following events:
- a) termination by the Province in accordance with section 7.4; or
 - b) no LNG Project is continuing to operate and produce LNG.
- 7.3 In this Part, an "Event of Default" means any of the following:
- a) Metlakatla failing to perform or being in breach of any of its obligations under this Agreement;
 - b) any representation or warranty made by Metlakatla is untrue or incorrect; and
 - c) Metlakatla initiating or supporting any legal action that challenges, directly or indirectly, any LNG Project in respect of which Metlakatla has issued an Incremental Project Funding Payment Notice, its Associated Infrastructure or any related Governmental Action, or supporting or participating in any act that frustrates, delays, stops or otherwise physically impedes the right of the Province or an LNG Project proponent, or any of their respective employees, contractors, agents, representatives, or invitees to gain access to any part of an LNG Project or its Associated Infrastructure to carry out any activities associated with that LNG Project.

Province's Options on Default

- 7.4 Notwithstanding any other provision in this Agreement, on the happening of an Event of Default, or at any time thereafter, the Province may, at its option, elect to do any one or more of the following:
- a) by written notice to Metlakatla, require that the Event of Default be remedied within a time period identified in the notice; or

- b) by written notice to Metlakatla, terminate this Agreement with immediate effect or on a future date specified in the notice, subject to expiration of any time period specified under section 7.4 a).

Delay not a Waiver

- 7.5 No failure or delay on the part of the Province to exercise its rights in relation to an Event of Default will constitute a waiver by the Province of such rights.

Survival

- 7.6 Notwithstanding section 7.2, sections 4.7, 10.1 and 10.2 survive the termination of this Agreement.

PART 8 - DISPUTE RESOLUTION

Dispute Resolution

- 8.1 Where a dispute arises about the interpretation of this Agreement, the Parties' duly appointed representatives will meet within 30 days to attempt to resolve the dispute. If the Parties are unable to resolve the dispute within 30 days, the Parties may agree to utilize other dispute resolution mechanisms, including mediation.

PART 9 – NOTICE AND DELIVERY

Notices

- 9.1 Any notice, document, statement, or report or demand that any Party may be required or may desire to give to another Party under this Agreement must be in writing, and will be deemed validly given to and received by the other Party, if served personally, on the date of personal service or, if delivered by mail, e-mail or facsimile copier, when received as follows:

if to the Province:

Ministry of Aboriginal Relations and Reconciliation
P.O. Box 9100 Stn Prov Govt
Victoria, B.C. V9W 9B1

Attention: Assistant Deputy Minister, Negotiations and
Regional Operations Division
Fax: 250-387-6073

and if to Metlakatla:

Metlakatla First Nation
P.O. Box 459
Prince Rupert, B.C. V8J 3R2

Attention: Chief Councillor
Fax: 250-628-9259

Change of Address

9.2 Either Party may, from time to time, give written or e-mail notice to the other Party of any change of address or facsimile number of the Party giving such notice and after the giving of such notice, the address or facsimile number therein specified will, for purposes of this Agreement be conclusively deemed to be the address or facsimile number of the Party giving such notice.

Electronic Notice

9.3 The Parties agree that they will utilize electronic and other methods of communication for the purposes of engagement whenever practicable and appropriate.

PART 10 - GENERAL PROVISIONS

Not a Treaty

10.1 The Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of sections 25 or 35 of the *Constitution Act, 1982*; or
- b) affirm, recognize, abrogate or derogate from any Aboriginal Right or any responsibilities of the Parties, except as set out in this Agreement.

No Admissions Provisions

10.2 Nothing in the Agreement:

- a) is an admission by the Province of the validity of any claim by Metlakatla to any Aboriginal Right or treaty right, or that any LNG Project, Associated Infrastructure or Governmental Action has or will result in an unjustified infringement of any Aboriginal Right or treaty right of Metlakatla;
- b) is an acknowledgment by the Province that it has an obligation to provide financial or economical accommodation to Metlakatla in relation to any LNG Project;

- c) precludes Metlakatla from bringing claims for breach of this Agreement;
- d) precludes Metlakatla from identifying or seeking to resolve its concerns about potential impacts of LNG Projects on its Aboriginal Rights in applicable environmental assessment or regulatory processes;
- e) limits any obligation that an LNG Project proponent may have in accordance with federal or provincial law to engage with Metlakatla in applicable environmental assessment or regulatory processes;
- f) precludes Metlakatla from taking steps in accordance with federal and provincial law with respect to concerns Metlakatla may have as a result of any LNG Project proponent being in breach of its obligations under any environmental or regulatory approvals;
- g) precludes or limits the Province from relying on the Funding payments made under this Agreement in any legal proceeding with respect to the adequacy of accommodation or compensation for any alleged infringement of Metlakatla's Aboriginal Rights in relation to any LNG Project; or
- h) unless otherwise provided in an LNG Benefits Agreement, limits any of the Parties obligations or rights under an LNG Benefits Agreement.

Entire Agreement

- 10.3 This Agreement and any amendment to it constitute the entire agreement between the Parties in respect of the subject matter of this Agreement, unless otherwise agreed in writing by the Parties.

Amendment

- 10.4 The Parties may agree to amend this Agreement in writing.
- 10.5 If the Parties conclude an LNG Benefits Agreement after the Effective Date, they will meet and review Part 4 of this Agreement and may agree to amend Part 4 of this Agreement to reflect the assurances and other covenants provided by Metlakatla under that LNG Benefits Agreement.

Validity of Agreement

- 10.6 If any part of this Agreement is void or unenforceable at law:
- a) the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Agreement had been executed without the invalid part; and

- b) the Parties will negotiate and attempt to reach agreement on a replacement for the part declared or held invalid with a view to achieving the intent of the Parties as expressed in this Agreement.

Further Acts and Assurances

- 10.7 Each of the Parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatsoever for the better and absolute performance of the terms and conditions of this Agreement.

No Implied Waiver

- 10.8 Any waiver of:

- a) a provision of this Agreement;
- b) the performance by a Party of an obligation under this Agreement; or
- c) a default by a Party of an obligation under this Agreement,

will be in writing and signed by the Party giving the waiver and will not be a waiver of any other provision, obligation or subsequent default.

Assignment

- 10.9 Metlakatla will not assign, either directly or indirectly, this Agreement or any right of Metlakatla under this Agreement without the express written consent of the Province.

Governing Law

- 10.10 This Agreement will be governed by and construed in accordance with the laws of British Columbia.

(This space intentionally left blank.)

Execution in Counterpart

10.11 This Agreement may be executed in counterparts, each of which will be deemed to be an original and which taken together will be deemed to constitute one and the same instrument.

Electronic Delivery

10.12 Delivery of an executed signature page to this Agreement by a Party by electronic transmission will be as effective as delivery of a manually executed copy of this Agreement by such Party.

IN WITNESS WHEREOF the Parties have executed this Agreement as set out below:

Signed on behalf of Metlakatla First Nation by
its authorized signatories on the 20th day of
April, 2016



Harold Leighton, Chief Councillor

Alrita Leask, Councillor

Alvin Leask Jr., Councillor



Cindy Smith, Councillor



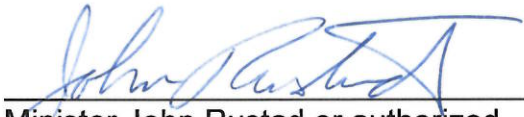
James Nelson, Councillor

Wayne Huldane, Councillor



Robert Nelson, Councillor

**Signed on behalf of Her Majesty the Queen In
Right of the Province of British Columbia by**
as represented by the Minister of Aboriginal
Relations and Reconciliation on the 11 day of
May, 2016



Minister John Rustad or authorized
representative

Witness

Schedule A: Map Area

