



ECONOMIC AND COMMUNITY DEVELOPMENT AGREEMENT

This Agreement is dated for reference Sept. 30, 2015

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:

Halfway River First Nation, on behalf of itself and its Members, as represented by the Chief and
Council

("Halfway River")

(collectively referred to as the "Parties" and individually referred to as a "Party")

Whereas the Parties have concluded a Regional Coal Agreement which includes coal land reserves, a shared decision-making process for coal-related authorizations and a commitment to share revenue through an Economic and Community Development Agreement (ECDA) for coal projects in the Coal Area; and

Whereas the Parties, in the spirit of the New Relationship vision and the Transformative Change Accord, share commitments to strengthen their government-to-government relationship and to close the socio-economic gaps between aboriginal and non-aboriginal peoples;

Now, therefore, the Parties agree as follows:

SECTION 1: DEFINITIONS

In this Agreement:

"Agreement" means this Economic and Community Development Agreement including its attached annexes, schedules and any amendments made to it from time to time in accordance with its provisions;

"Annual Mineral Tax Revenue Sharing Payments" means the annual payments to be calculated in accordance with Schedule 1 and paid by the Province pursuant to section 6;

"Band Council Resolution" means a resolution made by a "council of the band" within the meaning of the *Indian Act*, RSC 1985, c.1-5;

"BC Fiscal Year" means a period beginning on April 1 of a calendar year and ending on March 31 of the next calendar year;

"Claims" means all legal actions, causes of action, claims, proceedings, debts, duties, demands, interest, fines, costs, expenses and compensation of whatsoever amount and kind;

"Coal Area" means the geographic area shown as the "Coal Area" on the map attached as Schedule 2;

"Coal Related Application" has the same meaning as set out in the Regional Coal Agreement;

"Coal Related Authorization" has the same meaning as set out in the Regional Coal Agreement;

"Contributing Project" means a Project described in a Contributing Project Schedule in accordance with Section 5 and within the Contributing Project Area and in respect of which the Parties agree to share mineral tax revenues in accordance with this Agreement;

"Contributing Project Area" means the Mine area described in a Contributing Project Schedule;

"Contributing Project Schedule" means a schedule to this Agreement which includes the information in respect of a Contributing Project specified in subsection 5.2, as amended from time to time in accordance with this Agreement;

"Dispute" means any disagreement arising out of the interpretation or implementation of this Agreement, including any dispute with respect to whether any Party has failed to perform or satisfy any of its obligations under this Agreement, but does not include any matter described in subsection 19.7;

"Effective Date" means the later of the dates upon which this Agreement is signed by the Parties or Parts 4, 5, and 6 of the Regional Coal Agreement come into effect;

"Government Actions" means all processes, decisions, authorizations, permits, licences, approvals, Crown land dispositions, agreements, including Coal Related Authorizations, and other actions whatsoever entered into or otherwise taken by the Province, a Provincial Agency and a Provincial Official, or any of them, in relation to a Project;

"Halfway River Treaty Rights" means the rights of the Halfway River First Nation recognized and affirmed by section 35 of the *Constitution Act, 1982*;

"Incremental Mineral Tax Revenue" means Net Mineral Tax Revenue attributable to Incremental Production for each Contributing Project as determined in accordance with subsections 6.2 to 6.4;

"Incremental Production" means:

- (a) in respect of a new Mine, all coal mined within the Contributing Project Area, and

- (b) in respect of an expansion of an existing Mine, the portion of all coal mined within the Contributing Project which would not have been mined in the absence of a Permit Amendment and any subsequent Government Actions;
- “Member”** means a member of the Halfway River First Nation as defined by the Halfway River membership code or as shown in the Halfway River band list within the meaning of the *Indian Act*, RSC 1985, c.1-5;
- “Mine”** means a “mine” as defined in the *Mineral Tax Act*;
- “Mine Fiscal Year”** means the “fiscal year of the mine” as defined in the *Mineral Tax Act*;
- “Mineral Tax Act”** means the *Mineral Tax Act*, RSBC 1996, c. 291, as amended from time to time, and legislation in addition to or in substitution thereof which assesses a tax on minerals or mining in favour of the Province similar to the tax presently assessed under the *Mineral Tax Act*, RSBC 1996, c.291;
- “Net Mineral Tax Revenue”** means the total amount of tax, penalty and interest paid by an Operator under the *Mineral Tax Act* in respect of the Mine, less the total amount of tax, penalty and interest refunded and interest paid to an Operator under the *Mineral Tax Act* in respect of the Mine;
- “North East Mine Committee”** means the regional advisory committee, established pursuant to section 9 of the *Mines Act*, RSBC 1996, c. 293 or any successors or replacement committee or advisory body established under provincial law;
- “Notice of Dispute”** means a notice of dispute provided under subsection 19.2;
- “Notice of Withdrawal”** means a notice provided by Halfway River to the Province in accordance with subsection 17.1;
- “Notice to Mediate”** means a notice to commence mediation provided under subsection 19.4;
- “Notice to Proceed”** means a notice provided by Halfway River to the Province in accordance with subsection 5.1;
- “Notice to Terminate”** means a notice provided under subsection 22.2 to terminate a Contributing Project Schedule or the Agreement in its entirety, as the case may be;
- “Operator”** has the same meaning as in the *Mineral Tax Act*;
- “Payment Account”** means the separate account established under Section 7 and maintained at a Canadian financial institution for the purpose of receiving Annual Mineral Tax Revenue Sharing Payments;
- “Payment Statement”** means the annual Mineral Tax revenue sharing statement summarizing Mineral Tax information obtained and provided to Halfway River under subsection 6.5;
- “Permit”** means a “permit” as defined in the *Mines Act*; RSBC 1996, c.293;

“Permit Amendment” means the amendment of a Permit for a Contributing Project, the date of such amendment being set out in the applicable Contributing Project Schedule;

“Project” means:

- (a) any new or expanding coal mine operation within the Coal Area that has the potential to generate Incremental Mineral Tax Revenue for the Province and to become a Contributing Project; and
- (b) a Contributing Project.

“Provincial Agency” means a ministry, agency, office, or corporation of the Province;

“Provincial Official” means:

- (a) any minister, public official, director, officer, employee or agent of the Province or a Provincial Agency; and
- (b) any person acting as a decision maker under any enactment of the Province;

“Regional Coal Agreement” means the agreement between Halfway River and the Province respecting the Coal Area executed and delivered concurrently with this Agreement which includes provisions relating to the establishment of coal land reserves, and establishes the Shared Decision-Making Process for Coal-Related Applications related to Contributing Projects, as amended from time to time in accordance with its terms;

“Senior ECDA Officials” means the individuals appointed by each of Halfway River and the Province in accordance with Section 11 to oversee key implementation matters associated with this Agreement;

“Shared Decision Making Process” has the same meaning as set out in the Regional Coal Agreement;

“Specified Date” means, in relation to a Project:

- (a) the date specified in accordance with subsection 5.2 on which the Parties agree to incorporate a Contributing Project Schedule for the Project into this Agreement; or
- (b) the Effective Date in the case of any Contributing Project Schedule for the Project executed by the Parties on or before the Effective Date and attached to this Agreement;

“Term” means the term of this Agreement as set out in subsection 22.1; and

“Zone” means the geographic area identified as Zone A, B, C or D within the Coal Area as shown on the map attached as Schedule 2, which is used to determine the applicable revenue sharing calculation to be applied to a Contributing Project in accordance with Section 6 and Schedule 1.

SECTION 2: SCOPE

- 2.1 This Agreement applies to Projects in the Coal Area and such other coal mine operations within the Treaty 8 area which the Parties may agree to.

SECTION 3: PURPOSES

- 3.1 The purposes of this Agreement are to:
- (a) further strengthen the government-to-government relationship between the Parties;
 - (b) assist in achieving stability and greater certainty for coal resource development in the Coal Area;
 - (c) confirm the engagement processes that the Parties will rely on to meet their respective legal consultation obligations in relation to Contributing Projects; and
 - (d) provide an agreed-upon framework of terms and conditions relating to Incremental Mineral Tax Revenue sharing from Contributing Projects to assist the Parties in developing and administering revenue sharing in a cooperative, accountable, efficient and timely manner.

SECTION 4: PAYMENT OBJECTIVES

- 4.1 Halfway River will use Annual Mineral Tax Revenue Sharing Payments for initiatives consistent with the Halfway River's socio-economic objectives of enhancing the well-being of Halfway River, including initiatives related to education, cultural revitalization, housing, infrastructure, health, economic development, land stewardship, intergovernmental engagement processes and governance capacity.
- 4.2 For greater certainty, Halfway River may use all, or any portion of Annual Mineral Tax Revenue Sharing Payments received in any given year to pursue initiatives in that year, or may hold such payments for initiatives in future years.

SECTION 5: CONTRIBUTING PROJECTS

- 5.1 Halfway River may deliver a Notice to Proceed to the Province indicating that Halfway River wishes to proceed with the inclusion of a Project in a Contributing Project Schedule if the Project is:
- (a) a reviewable project under the *Environmental Assessment Act*, SBC 2002, c. 43 and a section 10 order has been issued; or
 - (b) reviewable under section 9 of the *Mines Act*, RSBC 1996, c.293 and a North East Mine Committee has been authorized by the Province.

- 5.2 The Senior ECDA Officials will meet within forty-five (45) days of the delivery of a Notice to Proceed and will endeavor to reach agreement regarding the information to be included in the Contributing Project Schedule for that Project, which will include:
- (a) a written description of the Contributing Project;
 - (b) one or more maps showing the location and the boundaries of the Contributing Project Area; and
 - (c) the Specified Date for the Contributing Project, which, unless the Parties agree otherwise, shall not be later than the end of the BC Fiscal Year in which BC receives the Notice to Proceed.
- 5.3 The Parties will not introduce issues into the negotiation of a Contributing Project Schedule beyond the factors set out in subsections 5.1 and 5.2.
- 5.4 The Project will become a Contributing Project on its Specified Date.
- 5.5 If the Parties reach agreement on the matters set out in subsection 5.2 and their duly authorized representatives execute the Contributing Project Schedule, this Agreement will be deemed to be amended on the Specified Date to include the agreed-to Contributing Project Schedule.
- 5.6 The Parties agree that Halfway River may notify the Province that it wishes to share Mineral Tax Act revenues from a coal Mine within Treaty 8 area that is situated outside of the Coal Area, and, in that event, the Parties will negotiate and attempt to reach agreement on the mineral tax revenue-sharing percentage and terms consistent with the process in 5.2 under which that Mine might be incorporated into this Agreement as a Contributing Project.

SECTION 6: ANNUAL MINERAL TAX REVENUE SHARING PAYMENTS

- 6.1 The components and processes for the determination and calculation of Annual Mineral Tax Revenue Sharing Payments are set out in this Section 6 and in Schedule 1 (Calculation of Annual Mineral Tax Revenue Sharing Payments).
- 6.2 The Province will determine Incremental Mineral Tax Revenue based on Incremental Production for the Mine Fiscal Year which ended within the BC Fiscal Year, for each BC Fiscal Year for all Contributing Projects.
- 6.3 If the Operator has not reported its Incremental Production for the Mine Fiscal Year at the time an Annual Mineral Tax Revenue Sharing Payment is calculated, the Province will estimate the Incremental Production for the purpose of determining the Incremental Mineral Tax Revenue under subsection 6.2.

- 6.4 For each BC Fiscal Year during the Term, the Province will determine the Annual Mineral Tax Revenue Sharing Payments in accordance with the formula set out in Schedule 1.
- 6.5 Within three hundred and thirty (330) days after the end of each BC Fiscal Year, the Province will provide to Halfway River a Payment Statement containing the following information:
- (a) Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within the BC Fiscal Year, received by the Province prior to 300 days after the end of the BC Fiscal Year for each Contributing Project;
 - (b) Incremental Production, for the Mine Fiscal Year which ended within the BC Fiscal Year, upon which Incremental Mineral Tax Revenue is based in the BC Fiscal Year for each Contributing Project;
 - (c) the amount of Incremental Mineral Tax Revenue from Contributing Projects located within each of Zones A, B, C and D;
 - (d) the total annual amount of Incremental Mineral Tax Revenue for Zones A, B, C and D; and
 - (e) the amount of the Annual Mineral Tax Revenue Sharing Payment.
- 6.6 If the Annual Mineral Tax Revenue Sharing Payment for a BC Fiscal Year is a positive amount, the Province will pay that amount within thirty (30) days after providing Halfway River a Payment Statement.
- 6.7 Annual Mineral Tax Revenue Sharing Payments will be subject to adjustment by the Province as follows:
- (a) as soon as practicable seven (7) years after the end of the BC Fiscal Year in which an Annual Mineral Tax Sharing Payment has been made, the Province will review and recalculate the determination of Incremental Mineral Tax Revenue attributable to each Contributing Project included within that payment on the basis of available updated information including the results of any applicable audit or appeal;
 - (b) after the Province conducts a review and recalculation, the Province will provide Halfway River with a summary of the review and recalculation;
 - (c) if the review and recalculation reveals an overpayment by the Province, the Province will adjust subsequently occurring Annual Mineral Tax Revenue Sharing Payments to offset the amount of the overpayment. If there is no subsequent Annual Mineral Tax Revenue Sharing Payment, the Province will adjust future Annual Mineral Tax Revenue Sharing Payments to offset the overpayment;
 - (d) if the review and recalculation reveals an underpayment by the Province, the Province will adjust the next occurring Annual Mineral Tax Revenue Sharing Payment to compensate for the underpayment. If there is no subsequent Annual

Mineral Tax Revenue Sharing Payment, the Province will pay to Halfway River the amount of the underpayment;

- (e) if, at the time of the review and recalculation, there are any outstanding appeals, pending or incomplete audits or assessments, outstanding liabilities, pending refunds, or any other matter known to the Province that could result in any adjustments subsequent to the review and recalculation, the Province will advise Halfway River of such matters within thirty (30) days of the completion of the review and recalculation;
- (f) once all matters identified by the Province under subsection 6.7(e) are finally resolved, the Province will do a final review and recalculation;
- (g) if the final review and recalculation reveals an overpayment by the Province, the Province will adjust subsequently occurring Annual Mineral Tax Revenue Sharing Payments to offset the amount of the overpayment; and
- (h) if the final review and recalculation reveals an underpayment by the Province, the Province will adjust the next occurring Annual Mineral Tax Revenue Sharing Payment to compensate for the underpayment. If there is no subsequent Annual Mineral Tax Revenue Sharing Payment, the Province will pay to Halfway River the amount of the underpayment.

For greater certainty, no further review or recalculation of Annual Mineral Tax Revenue Sharing Payments will be made by the Province during the Term except as noted in subsections 6.7(a) and 6.7(e) or under the processes in subsection 6.21 or Section 19.

- 6.8 If this Agreement is terminated prior to the last day of a Mine Fiscal Year:
- (a) the obligations of the Province set out in subsections 6.2 to 6.7 will continue, but only to the extent that Incremental Mineral Tax Revenue is received from an Operator by the Province in relation to Mine Fiscal Years or portions thereof occurring before the date the Agreement is terminated; and
 - (b) no Annual Mineral Tax Revenue Sharing Payment will be payable under the Agreement in relation to that portion of the Mine Fiscal Year after the Agreement is terminated or any subsequent Mine Fiscal Year.
- 6.9 The Province will notify Halfway River of any significant changes made to the Mineral Tax Act tax regime.
- 6.10 If during the Term, the Province makes significant changes to the Mineral Tax Act tax regime, the Parties may negotiate alternative Mine revenue sharing opportunities.
- 6.11 Halfway River acknowledges that Mineral Tax Act revenues fluctuate and any Annual Mineral Tax Revenue Sharing Payments from the Province will vary over time and that the determination of Incremental Production and the revenues under the Mineral Tax Act attributable to it are based on approximations which may be imprecise or inaccurate.

- 6.12 The Province is entitled to rely upon information provided by the Operator, including the Operator's report of Incremental Production for a Mine Fiscal Year, in determining Incremental Production and in calculating Incremental Mineral Tax Revenue under this Section 6.
- 6.13 The Province will seek to identify and obtain reasonably available information that verifies the Operator's report of Incremental Production and will encourage the Operator to share such information with Halfway River.
- 6.14 The Province will use reasonable efforts to verify the accuracy of information received from Operators that is used to determine Incremental Production and to calculate Incremental Mineral Tax Revenue, but makes no warranty or representation as to the accuracy of such information.
- 6.15 No action or proceeding lies against the Province in relation to any claim that information received from an Operator and used to determine Incremental Production was inaccurate. For certainty, nothing in this subsection precludes any claim respecting the Province's obligation to use reasonable efforts to verify the accuracy of information received from Operators in accordance with subsection 6.14.
- 6.16 Despite any other provision of this Agreement, the Province has no obligation to make an Annual Mineral Tax Revenue Sharing Payment in respect of a Mine Fiscal Year prior to the Specified Date for a Contributing Project.
- 6.17 Halfway River acknowledges that the Province may audit an Operator from time to time to review the accuracy of Mineral Tax Act payments over a specific period of time, and that an Operator may appeal any assessment or reassessment of tax, penalty or interest to the Minister responsible for administering the Mineral Tax Act and then to a court.
- 6.18 Halfway River acknowledges that any audits or appeals referred to in subsection 6.17 may affect the amount of the Annual Mineral Tax Revenue Sharing Payments the Province will provide in subsequent years and that any adjustments to Annual Mineral Tax Revenue Sharing Payments due to an audit or appeal will be made in accordance with subsection 6.7.
- 6.19 If the Province conducts an audit of an Operator, the Province will include in the Payment Statement provided in accordance with subsection 6.5 the results of the audit and specifically whether the Operator had made overpayments, underpayments or correct payments under the Mineral Tax Act for the period of time subject to the audit.
- 6.20 In the event of any appeal by an Operator of any assessment or reassessment, the results as they apply to the Annual Mineral Tax Revenue Sharing Payments will be communicated through the Payment Statement provided in accordance with subsection 6.5.
- 6.21 At any time during the Term, Halfway River may give notice to the Province that it has concerns with respect to the calculation of an Annual Mineral Tax Revenue Sharing Payment.

- 6.22 The Parties will meet as soon as practicable after a notice has been provided in accordance with subsection 6.21 to discuss the matter of concern.
- 6.23 The Province will support the Halfway River review of an annual Mineral Tax Revenue Sharing Payment and the discussion contemplated by subsection 6.22 by providing any reasonably available and relevant information that may be shared for this purpose.
- 6.24 Halfway River may, at its own expense, submit a disagreement about a proposed Annual Mineral Tax Revenue Sharing Payment calculation to an independent and impartial body or individual acceptable to the Parties for a non-binding review and report.
- 6.25 Halfway River may provide any report that it receives in accordance with subsection 6.24 to the Province for its consideration.
- 6.26 British Columbia will review any information that Halfway River provides at a meeting held in accordance with subsection 6.22 or any report that may be provided in accordance with subsection 6.25 and will take remedial actions it considers, acting reasonably, to be appropriate, which may include reimbursing Halfway River for the cost of its review and report, and reimbursing the Halfway River for any shortfall in an Annual Mineral Tax Revenue Sharing Payment discussed or reviewed pursuant to subsections 6.21 to 6.25.

SECTION 7: DELIVERY OF PAYMENTS

- 7.1 The Parties agree that Annual Mineral Tax Revenue Sharing Payments will be paid to Halfway River unless another entity is designated under subsection 7.7.
- 7.2 Halfway River, or another entity designated under subsection 7.7, will establish and maintain in its name a separate account at a Canadian financial institution for the purpose of receiving Annual Mineral Tax Revenue Sharing Payments into which direct deposits can be made by the Province, and it will provide the Province the address and account information to enable the Province to make Annual Mineral Tax Revenue Sharing Payments.
- 7.3 The Province will deposit Annual Mineral Tax Revenue Sharing Payments directly into the Payment Account established under subsection 7.2.
- 7.4 Before the Province makes any Annual Mineral Tax Revenue Sharing Payments, Halfway River must:
 - (a) be in compliance with subsection 7.2; or
 - (b) provide the confirmation required under subsection 7.8 if another entity is designated under subsection 7.7.
- 7.5 The Payment Account will be used for the sole purpose of receiving Annual Mineral Tax Revenue Sharing Payments under this Agreement to pursue the payment objectives set out in Section 4.

- 7.6 Halfway River, or another entity designated under subsection 7.7, will maintain the Payment Account for as long as there is money in it to be disbursed.
- 7.7 Halfway River may designate another entity to receive Annual Mineral Tax Revenue Sharing Payments under subsection 7.1 and, if such a designation is made, the Halfway River will notify the Province.
- 7.8 Halfway River will ensure and provide confirmation to the Province that the entity designated under subsection 7.7:
- (a) possesses the legal capacity to accept Annual Mineral Tax Revenue Sharing Payments; and
 - (b) will fulfill the payment objectives set out in Section 4.
- 7.9 The Province will notify Halfway River of any change in the Provincial Agency responsible for making Annual Mineral Tax Revenue Sharing Payments.

SECTION 8: APPROPRIATION

- 8.1 Despite any other provision in this Agreement, the payment of Annual Mineral Tax Revenue Sharing Payments or any other money by the Province under this Agreement is subject to:
- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, RSBC 1996, c. 138, to enable the Province in any BC Fiscal Year or part thereof when such payment is required, to make such payment; and
 - (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.

SECTION 9: REPORTS

- 9.1 For the purposes of this Agreement, Halfway River will, within one hundred and twenty (120) days of receipt of the first Annual Mineral Tax Revenue Sharing Payment and annually thereafter, publish and make available to the Halfway River Members and the Province a report containing the following information:
- (a) Halfway River's socio-economic initiatives for the present fiscal year that are intended to be funded from the Payment Account;
 - (b) expenditures made in the previous BC Fiscal Year that were funded from the Payment Account; and
 - (c) how those expenditures contribute to the achievement of the payment objective set out in Section 4.

- 9.2 The Province will have the right, from time to time, to require an audit of the dedicated Payment Account and to review the auditor's determination that all expenditures were in furtherance of the objectives described in subsection 4.1.

SECTION 10: ASSIGNMENT

- 10.1 Halfway River will not assign to another entity, either directly or indirectly, this Agreement or any right under this Agreement without the prior written consent of the Province.
- 10.2 The Province will not assign to another entity, either directly or indirectly, this Agreement or any right under this Agreement without the prior written consent of Halfway River.

SECTION 11: APPOINTMENT OF SENIOR ECDA OFFICIALS

- 11.1 Within thirty (30) days of the Effective Date, Halfway River and the Province will each designate a Senior ECDA Official for the purposes of this Agreement and notify the other Party of the designated individual's name, position and contact information.
- 11.2 Each Party may from time to time change the name of the individual they designate as a Senior ECDA Official in accordance with subsection 11.1 by giving notice in writing to the other Party.

SECTION 12: CONSULTATION PROCESS

- 12.1 Subject to subsection 12.2, any consultation required in respect of any Government Actions in respect of a Contributing Project will be in accordance with the Shared Decision Making Process.
- 12.2 For the purposes of subsection 12.1, Government Actions does not include environmental assessment processes and decisions by the Province or Canada.
- 12.3 If the Regional Coal Agreement expires or is terminated prior to the end of the Term:
- (a) the Shared Decision-Making Process set out in the Regional Coal Agreement will be deemed to apply under this Agreement and the Parties will continue to rely on the terms and conditions of the Shared Decision Making Process notwithstanding the expiry or termination of the Regional Coal Agreement; or
 - (b) the Parties may agree to develop alternative engagement processes, for the purposes of consultation in relation to a Contributing Project.

SECTION 13: CONFIDENTIAL INFORMATION

- 13.1 Halfway River will make all reasonable efforts to keep confidential and to prevent the disclosure of information that the Province marks "confidential" including a Payment Statement, and will not disclose such information to any other person, except as required by law.
- 13.2 Despite subsection 13.1, Halfway River may disclose confidential information to their advisors, including legal, financial, tax and other professional advisors, provided that those advisors agree in writing to keep the information confidential and subject to any additional confidentiality provisions the Operator may require.
- 13.3 Despite any other provision of this Agreement, Halfway River may disclose the amount of Annual Mineral Tax Revenue Sharing Payments to the Halfway River Members.
- 13.4 Halfway River acknowledges that the Province has informed them of the confidentiality requirements under subsection 30(1) of the Mineral Tax Act.

SECTION 14: RELEASES, COVENANTS AND ACKNOWLEDGEMENTS

- 14.1 **Specified Date Release:** If a Contributing Project is a new Mine, Halfway River hereby releases and forever discharges the Province, each Provincial Agency and each Provincial Official, from all Claims which it ever may have had, has or may ever have, with respect to:
- (a) any legal obligation to consult and accommodate Halfway River;
 - (b) the potential infringement of Halfway River Treaty Rights; and
 - (c) any obligation to provide capacity funding, third party studies or payments or disbursements of any kind,
- in respect of Government Actions related to that Contributing Project taken before the Specified Date.
- 14.2 If a Contributing Project is an expansion of an existing Mine, Halfway River hereby releases and forever discharges the Province, each Provincial Agency and each Provincial Official, from all Claims which it ever may have had, has or may ever have, with respect to:
- (a) any legal obligation to consult and accommodate Halfway River;
 - (b) the potential infringement of Halfway River Treaty Rights; and
 - (c) any obligation to provide capacity funding, third party studies or payments or disbursements of any kind,
- in respect of Government Actions related to the Permit Amendment taken before the date of the Permit Amendment and Government Actions related to that Contributing

Project taken from and including the date of the Permit Amendment to the Specified Date.

14.3 Annual Releases After the Specified Date: For each BC Fiscal Year after the Specified Date, unless Halfway River terminates a Contributing Project Schedule in accordance with subsection 22.2 prior to receiving an Annual Mineral Tax Revenue Sharing Payment in respect of that Contributing Project, Halfway River will be deemed to have:

(a) covenanted and agreed that the Province has fulfilled any and all legal obligations to consult and accommodate the Halfway River and has avoided any unjustified infringements of Halfway River Treaty Rights in relation to Government Actions related to that Contributing Project taken in the BC Fiscal Year to which the Annual Mineral Tax Revenue Sharing Payment pertained; and

(b) released and forever discharged the Province, each Provincial Agency and each Provincial Official from all Claims which it ever may have had, has or may ever have with respect to

(i) any legal obligation to consult and accommodate Halfway River,

(ii) the potential infringement of Halfway River Treaty Rights, and

(iii) any legal obligation to provide capacity funding, revenue generation, revenue sharing and economic benefits, third party studies or payments or disbursements of any kind,

in respect of Government Actions related to that Contributing Project taken in the BC Fiscal Year to which the Annual Mineral Tax Revenue Sharing Payment pertained.

14.4 Covenants and Acknowledgements: Halfway River covenants and agrees that:

(a) it will not bring or continue any action or other proceeding against the Province, in its own name or by representative action, which is inconsistent with the releases, covenants and acknowledgements set out in Sections 14 to 16, nor will it participate in any such action or proceeding initiated by or in the name of Halfway River or the Halfway River Members;

(b) it will not unlawfully challenge or impede the right of the Province or an Operator, or any of their respective employees, contractors, agents, representatives or invitees, to gain access to a Contributing Project and to carry out any activities associated with the development and operation of a Contributing Project; and

(c) it will take reasonable actions, taking into account cultural or community processes, to help facilitate the resolution of any action that might be taken by any Halfway River Member that is inconsistent with the obligations of Halfway River in the Regional Coal Agreement and this Agreement.

- 14.5 For certainty, the release of Claims provided by Halfway River in relation to Government Actions in this section do not include any Claims related to any written agreement between Halfway River and the Province or a Provincial Agency to provide funding to assist Halfway River in implementing the Shared Decision Making Process or engaging in consultation in relation to a Contributing Project.

SECTION 15: FURTHER ACKNOWLEDGMENTS

- 15.1 If a Contributing Project is a new Mine, Halfway River acknowledges and agrees that the Province will be deemed to have fulfilled any and all legal obligations to consult and accommodate Halfway River and to have avoided any unjustified infringements of Halfway River Treaty Rights in relation to the Government Actions related to that Contributing Project before the Specified Date.
- 15.2 If a Contributing Project is an expansion of an existing Mine, Halfway River acknowledges and agrees that the Province will be deemed to have fulfilled any and all legal obligations to consult and accommodate Halfway River and to have avoided any unjustified infringements of Halfway River Treaty Rights in relation to the Government Actions related to that Contributing Project taken from and including the date of the Permit Amendment to the Specified Date.
- 15.3 The Province has no obligation to provide any financial or economic benefit to Halfway River in respect of Incremental Production except as provided in this Agreement.
- 15.4 For certainty, the acknowledgements in this section are not intended to affect any rights or interests Halfway River may have with respect to agreements with Operators or other third parties which pertain to the sharing of economic benefits in relation to Contributing Projects or Incremental Production.

SECTION 16: CONTINUING OBLIGATIONS

- 16.1 Subject to subsection 22.16, Sections 9, 13, 14, 15, and 16 will survive the termination of a Contributing Project Schedule or the termination of this Agreement.

SECTION 17: NOTICE OF WITHDRAWAL

- 17.1 Halfway River may at any time and for any reason give the Province a Notice of Withdrawal in respect of a Contributing Project.
- 17.2 At the request of Halfway River, the Parties' Senior ECDA Officials will meet within forty-five (45) days after a Notice of Withdrawal is delivered and endeavour to resolve the matter that gave rise to the Notice of Withdrawal.
- 17.3 If a Notice of Withdrawal is not rescinded within sixty (60) days after its delivery, either Halfway River or the Province may terminate the applicable Contributing Project Schedule

without proceeding through the Dispute Resolution procedures set out in Sections 19, 20, and 21 by delivering a Notice to Terminate in relation to that Contributing Project Schedule.

- 17.4 If Halfway River provides a Notice of Withdrawal, the Province may suspend making further payments for amounts otherwise payable in relation to that Contributing Project.
- 17.5 If a Notice of Withdrawal is rescinded and the Province has suspended one or more Annual Mineral Tax Revenue Sharing Payments under subsection 17.4, the Province will make those suspended Annual Mineral Tax Revenue Sharing Payments within sixty (60) days after the Notice of Withdrawal is rescinded.
- 17.6 If the Notice of Withdrawal is not rescinded prior to the date specified in a Notice to Terminate, the Province will be fully released and discharged from all of its obligations in respect of those Annual Mineral Tax Revenue Sharing Payments suspended under subsection 17.4.

SECTION 18: NO PROCEEDINGS

- 18.1 Neither Party may commence legal proceedings in relation to a Dispute except:
 - (a) to prevent the loss of a right of action due to the expiration of a limitation period;
 - (b) to obtain interlocutory or interim relief;
 - (c) with the consent of the other Party; or
 - (d) where the Dispute Resolution procedures set out in Sections 19 to 21 have been exhausted and the Contributing Project Schedule to which the proceedings pertain is terminated in accordance with subsection 22.2.

SECTION 19: DISPUTE RESOLUTION

- 19.1 The Parties agree that they will endeavour to resolve all Disputes in a co-operative and timely manner in accordance with the provisions of this Agreement.
- 19.2 A Party shall commence resolution of a Dispute by delivering a Notice of Dispute to the other Party setting out the relevant details pertaining to the Dispute.
- 19.3 The Parties will meet and attempt to resolve the Dispute through unassisted collaborative negotiation within thirty (30) days of delivery of the Notice of Dispute.
- 19.4 Where a Dispute is not resolved through informal collaborative negotiations within forty-five (45) days after delivery of the Notice of Dispute, then either Party may deliver a written Notice to Mediate to the other Party, requiring commencement of mediation in accordance with Section 20.

- 19.5 Nothing in Sections 19 to 21 creates a cause of action where none otherwise exists.
- 19.6 Halfway River and the Province may agree to waive or vary a procedural requirement set out in Sections 19 to 21 as it applies to a particular Dispute or agree to another appropriate approach to resolve the Dispute.
- 19.7 The Dispute Resolution processes in Sections 19 to 21 do not apply to:
- (a) conflicts or disputes in respect of any matter related to a Government Action or to the Shared Decision Making Process, as these disputes are addressed in the Regional Coal Agreement;
 - (b) conflicts or disputes in respect of the calculation of Annual Mineral Tax Revenue Sharing Payments, as these disputes are addressed in accordance with subsections 6.21 to 6.26;
 - (c) a Notice of Withdrawal delivered pursuant to subsection 17.1; and
 - (d) a Notice to Terminate, delivered pursuant to subsection 22.13.

SECTION 20: MEDIATION

- 20.1 Mediation of a Dispute under a Notice to Mediate will proceed as follows:
- (a) upon the delivery of the Notice to Mediate, a Party directly engaged in a Dispute will participate in the mediation;
 - (b) the mediation will be conducted by one mediator appointed by agreement of Halfway River and the Province or, if there is no agreement within thirty (30) days after delivery of the Notice to Mediate, the mediator will be appointed by the British Columbia Mediator Roster Society using the Society's mediation rules;
 - (c) the mediation will be conducted in the manner that the mediator considers necessary and appropriate to assist the Halfway River and the Province to resolve the Dispute in a fair, efficient and cost-effective manner;
 - (d) the mediation will terminate on the earliest of:
 - (i) the expiration of sixty (60) days after the appointment of the mediator or any longer period agreed to by Halfway River and the Province,
 - (ii) the date either Halfway River or the Province withdraws its representatives from the mediation by notice in writing to the mediator, provided that no Party may withdraw until after the first meeting with the mediator,
 - (iii) the date on which Halfway River and the Province agree in writing to terminate the mediation, or
 - (iv) the date on which Halfway River and the Province sign a written agreement resolving the Dispute;

- (e) either Halfway River or the Province will:
 - (i) at the request of the other, provide timely disclosure of sufficient information and documents to enable a full examination of the subject matter of the Dispute, with the exception of privileged documents and subject to applicable information and privacy legislation and other laws imposing confidentiality requirements,
 - (ii) make every reasonable effort to appoint representatives with sufficient knowledge and authority to reach an agreement, or with ready access to such knowledge and authority, and
 - (iii) participate in the mediation in good faith;
- (f) the mediation process and all its related proceedings will be and will remain confidential, unless Halfway River and the Province agree otherwise;
- (g) subject to subsection 20.1(i), the mediation will not restrict in any way the positions that any of the Parties may take in any dispute, arbitration or court proceeding;
- (h) the mediator will not issue a report or make any recommendations unless requested to do so in writing by Halfway River and the Province;
- (i) any agreement reached through mediation will be recorded in writing, signed by authorized representatives of Halfway River and the Province and delivered to both Halfway River and the Province;
- (j) Halfway River and the Province will each bear the costs of their own participation, representation and appointments in the mediation; and
- (k) Halfway River and the Province will share equally all common costs of the mediation, including fees of the mediator, costs of meeting rooms, actual and reasonable disbursements incurred by the mediator, and fees of the British Columbia Mediator Roster Society.

20.2 If Halfway River and the Province are unable to resolve a Dispute and the mediation is terminated under subsection 20.1(d), Halfway River and the Province may, by written agreement, refer the Dispute for resolution by arbitration under Section 21.

SECTION 21: ARBITRATION

21.1 Arbitration of a Dispute will proceed in the following manner:

- (a) unless Halfway River and the Province agree otherwise, the arbitration will be conducted by:
 - (i) an arbitrator appointed by agreement, or
 - (ii) if there is no agreement under subsection 21.1(a)(i), within thirty (30) days after the written agreement under subsection 20.2, an arbitrator appointed

by the British Columbia International Commercial Arbitration Centre or, if the British Columbia International Commercial Arbitration Centre is unavailable, an arbitrator appointed by any other independent and impartial body or individual acceptable to Halfway River and the Province;

- (b) the arbitration process and all its related proceedings will be, and will remain, confidential, unless Halfway River and the Province agree otherwise;
- (c) subject to the exceptions in applicable arbitration legislation, the decision of the arbitrator is final and binding on all Parties; and
- (d) except as otherwise ordered by the arbitrator, Halfway River and the Province will
 - (i) bear the costs of their own participation, representation and appointments in the arbitration, and
 - (ii) share equally all common costs of the arbitration, including fees of the arbitrator, costs of hearing and meeting rooms, actual and reasonable disbursements incurred by the arbitrator, and administration fees of the British Columbia Commercial Arbitration Centre or other appointing authority.

SECTION 22: TERM AND TERMINATION

- 22.1 The term of this Agreement will commence on the Effective Date and continue until the date specified in a Notice to Terminate this Agreement prepared and delivered in accordance with subsection 22.2.
- 22.2 A Notice to Terminate a Contributing Project Schedule or this Agreement, as the case may be, must specify the date of termination and be:
 - (a) duly executed by and delivered to each of the Parties [*Mutual Agreement*];
 - (b) delivered by either Party in accordance with subsection 17.3 [*Notice of Withdrawal*];
 - (c) delivered by a Party in accordance with subsection 22.3 [*Material Breach*]; or
 - (d) delivered by Halfway River in accordance with subsection 22.5 [*Appropriation of Funds*] or 22.13 [*Non-Payment or Changes to Mineral Tax Act*].
- 22.3 A Party wishing to terminate a Contributing Project Schedule or this Agreement on the basis of a material breach must exhaust the Dispute Resolution processes set out in Sections 19 to 21 before delivering a Notice to Terminate.
- 22.4 For greater certainty, the Dispute Resolution processes set out in Sections 19 to 21 will have been exhausted if:
 - (a) no Notice to Mediate is delivered under subsection 19.4; or

- (b) Notice to Mediate is delivered, but the mediation is terminated under subsection 20.1(d).
- 22.5 Despite subsection 22.3, if the Province does not make, or reduces, an Annual Mineral Tax Revenue Sharing Payment in the circumstances set out in Section 8, Halfway River may, without exhausting the Dispute Resolution procedures set out in sections 19 to 21, terminate a Contributing Project Schedule, or this Agreement in its entirety, by delivering a Notice to Terminate.
- 22.6 For greater certainty:
 - (a) the termination of a Contributing Project Schedule by either the Province or Halfway River does not result in the termination of this Agreement or any other Contributing Project Schedule; and
 - (b) the delivery of a Notice of Withdrawal by Halfway River from a specific Contributing Project Schedule does not affect any other Contributing Project Schedule.
- 22.7 Except as provided in subsection 22.9, all Parties will be fully released and discharged from the performance of their obligations arising as of the date specified in a Notice to Terminate:
 - (a) in respect of a Contributing Project, if the Notice to Terminate specifies that the Contributing Project Schedule in respect of that Contributing Project is terminated; or
 - (b) under this Agreement in its entirety, if the Notice to Terminate specifies that this Agreement is terminated.
- 22.8 If a Notice to Terminate a Contributing Project Schedule is delivered in accordance with subsection 22.7, this Agreement is and will be deemed to be amended to delete the Contributing Project Schedule from it as of the date specified in the Notice to Terminate.
- 22.9 Subject to subsections 22.10 and 22.13, the Parties remain bound by their obligations under this Agreement despite any breach by any Party of its obligations under this Agreement.
- 22.10 If Halfway River are in material breach of their obligations under Sections 4, 7, 9, 10, or 13 to 15 of this Agreement, or any representation or warranty made by Halfway River in this Agreement is untrue or incorrect in any material respect, the Province may suspend making further Annual Mineral Tax Revenue Sharing Payments after first providing Halfway River a Notice of Dispute setting out the specifics of the alleged material breach or untrue or incorrect representation or warranty relied on.
- 22.11 If Annual Mineral Tax Revenue Sharing Payments payable by the Province are suspended under subsection 22.10 and the material breach is remedied or the representation or warranty required by this Agreement is made true and correct in all material respects prior to the date specified in a Notice to Terminate, the Province will make any Annual

Mineral Tax Revenue Sharing Payments within sixty (60) days after that material breach is remedied or the representation or warranty is made true and correct in all material respects.

22.12 If Annual Mineral Tax Revenue Sharing Payments payable by the Province are suspended under subsection 22.10 and the material breach is not remedied or the representation or warranty required by this Agreement is not made true and correct in all material respects prior to the date specified in a Notice to Terminate, the Province will be fully released and discharged from all of its obligations in respect of those suspended Annual Mineral Tax Revenue Sharing Payments including its obligation to make those suspended Annual Mineral Tax Revenue Sharing Payments to Halfway River.

22.13 Despite any other provision in this Agreement,

(a) if the Province does not make an Annual Mineral Tax Revenue Sharing Payment for any reason other than:

- (i) there not being sufficient monies available in an appropriation for that payment or Treasury Board having controlled or limited the expenditure for that payment as contemplated by Section 8; or
- (ii) this Agreement having been suspended by the Province as the result of a material breach by the Halfway River in accordance with Section 22,

then Halfway River may, without exhausting the Dispute Resolution processes set out in Sections 19 to 21, terminate that Contributing Project Schedule by issuing a Notice to Terminate; and

(b) if the Province makes significant changes to the *Mineral Tax Act* tax regime, and the Parties are unable to negotiate alternative Mine revenue sharing opportunities in accordance with subsection 6.10, then Halfway River may, without exhausting the Dispute Resolution processes in Sections 19 to 21, terminate any Contributing Project Schedule or this Agreement in its entirety by issuing a Notice to Terminate.

22.14 The Notice to Terminate delivered pursuant to subsection 22.13 shall specify:

- (a) a termination date at least thirty (30) days following delivery of the Notice to Terminate; and
- (b) whether Halfway River chooses to have the releases, covenants and acknowledgements of Halfway River set out in Sections 9, 14 and 15 become inoperative in relation to that Contributing Project.

22.15 If Halfway River gives a Notice to Terminate in accordance with subsection 22.13, the Senior ECDA Officials will meet within thirty (30) days to discuss the matter.

22.16 Notwithstanding any other provision of this Agreement:

- (a) if a Contributing Project Schedule or this Agreement is terminated pursuant to subsection 22.13 prior to Halfway River having received at least five (5) Annual Mineral Tax Revenue Sharing Payments for that Contributing Project;
- (b) if the Notice to Terminate was issued pursuant to subsections 22.13; and
- (c) if Halfway River chooses to have the releases, covenants and acknowledgements of Halfway River set out in Sections 9, 14, and 15 become inoperative in relation to that Contributing Project,

then the releases, covenants and acknowledgements of Halfway River set out in Sections 9, 14, and 15 in relation to that Contributing Project will be inoperative as of the date the Notice to Terminate is delivered.

- 22.17 If a Contributing Project Schedule is terminated in accordance with subsections 22.13 and 22.14, and if the releases, covenants and acknowledgements of Halfway River set out in Sections 9, 14 and 15 are inoperative in accordance with subsection 22.16, Halfway River will repay, or will cause to be repaid, all payments for the Contributing Project made by the Province to Halfway River. If Halfway River does not make all repayments, the Province may, without limiting any other legal remedy it may have, offset the amount owing from any other future Annual Mineral Tax Revenue Sharing Payments that would otherwise be owing in relation to other Contributing Projects under this Agreement, or from other provincial payments to be made by the Province to Halfway River under any other agreement or program.
- 22.18 Halfway River may terminate the Regional Coal Agreement if the Province is in material breach of its obligations under Section 5 of this Agreement, provided Halfway River has exhausted the Dispute Resolution processes set out in Sections 19 to 21.

SECTION 23: AMENDMENT

- 23.1 Either Halfway River or the Province may notify the other in writing if it wishes to negotiate or implement any potential amendments to this Agreement.
- 23.2 After notice is provided under subsection 23.1, Halfway River and the Province may, if both agree, commence negotiation of potential amendments to this Agreement.
- 23.3 Any amendment to this Agreement must be in writing and signed by Halfway River and the Province.
- 23.4 If Government Actions require the Province to amend a Contributing Project Schedule, and the Parties are unable to agree upon the required amendments, the Province may after exhausting the Dispute Resolution processes in Sections 19 to 21 suspend any Annual Mineral Tax Revenue Sharing Payments related to the Contributing Project until the Province and Halfway River agree on the amendments to the Contributing Project Schedule or otherwise resolve the Dispute.

SECTION 24: GENERAL PROVISIONS

- 24.1 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 24.2 This Agreement does not create, amend, define, affirm, recognize, limit, abrogate, extinguish, replace or derogate from any Halfway River Treaty Rights.
- 24.3 Except as expressly set out herein, this Agreement does not limit the position a Party may take in any legal or administrative proceedings or in any discussions or negotiations between Halfway River and the Province.
- 24.4 Nothing in this Agreement is to be construed as an acceptance of or admission by a Party of the position of another Party regarding any matter, including its jurisdiction, responsibilities or decision-making authority or as an admission of liability.
- 24.5 No partnership, joint venture, agency, fiduciary or employment relationship will be deemed to be created by this Agreement or by any actions of the Parties under this Agreement.
- 24.6 This Agreement does not constitute an admission by the Province that a Project, including any Government Action associated with a Project, has resulted or may result in any unjustified infringement of Halfway River Treaty Rights.
- 24.7 This Agreement does not constitute an admission by the Province of an obligation to provide financial or economic benefits, as provided in this Agreement, as part of the Province's obligation to consult and accommodate in relation to a Project.
- 24.8 This Agreement does not address and is not intended to be interpreted as addressing compensation for alleged past or future infringements of Halfway River Treaty Rights that are not related to a Project.
- 24.9 For greater certainty, this Agreement does not address and is not intended to be interpreted as addressing compensation for alleged past or future infringements of the Halfway River Treaty Rights that are related to a pre-existing operation that is a predecessor to a Project, where the Project is an expansion or a modification of the pre-existing operation.
- 24.10 This Agreement is not intended to be interpreted in a manner that would affect or interfere with any legislative authority of the Province or fetter the discretion of any decision-making authority.
- 24.11 Nothing in this Agreement precludes Halfway River from:
- (a) continuing to negotiate and implement revenue- and benefits-sharing agreements with Operators and other governments;
 - (b) accessing economic opportunities and benefits, which may be available to Halfway River, other than those expressly set out in the Agreement; or

- (c) participating in government programs for which Halfway River may be eligible.

SECTION 25: NOTICE AND DELIVERY

- 25.1 If any notice or other communication is required to be given by a Party under this Agreement, it will be made in writing and it will be effectively given by:
- (a) personal delivery to the address of the other Party set out below, on the date of delivery;
 - (b) pre-paid registered mail to the address of the other Party mentioned in this Agreement, on the date the registered mail is delivered; or
 - (c) facsimile to the facsimile number of the other Party set out in this Agreement, on the date the facsimile is received.
- 25.2 The address and facsimile numbers are:
- (a) for Halfway River:
Halfway River First Nation
PO Box 59 Wonowon, BC V0C 2N0
Fax: (250) 772-5200
Attention: Chief and Council
 - (b) for the Province:
Ministry of Aboriginal Relations and Reconciliation
PO Box 9100 Stn Prov Govt
Victoria, BC V8W 9B1
Fax: (250) 387-6073
Attention: Assistant Deputy Minister, Strategic Initiatives Division
- 25.3 Halfway River or the Province may at any time give notice to the other of any change of information in accordance with subsection 25.1.

SECTION 26: INTERPRETATION

- 26.1 This Agreement is to be interpreted so that all the provisions are given as full effect as possible.
- 26.2 This Agreement will be governed by and construed in accordance with the applicable laws of British Columbia.
- 26.3 This Agreement and any amendments to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement, unless otherwise agreed in writing by Halfway River and the Province.
- 26.4 There will be no presumption that any ambiguity in any of the provisions of this Agreement should be interpreted in favour of any Party.
- 26.5 If any provision of this Agreement is found by a court of competent jurisdiction to be void or unenforceable at law, it will be severed from this Agreement and the remainder of the Agreement will remain in full force and effect.
- 26.6 If any provision of this Agreement is found by a court of competent jurisdiction to be void or unenforceable at law, the Parties agree to negotiate and attempt to reach agreement on a replacement for that provision with a view to achieving the intent of the Parties as expressed in this Agreement and, if no agreement is reached, Halfway River and the Province may agree to refer the matter to the Dispute Resolution process set out in section 19.
- 26.7 All headings in this Agreement are for convenience only and do not form a 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.
- 26.8 In this Agreement, words in the singular include the plural and words in the plural include the singular, unless the context otherwise requires.
- 26.9 The use of the word "including" does not limit the generality of the preceding term or phrase.
- 26.10 In this Agreement, a reference to a statute includes all regulations made under that statute and any amendments or replacements.
- 26.11 No term, condition, covenant or other provision of this Agreement will be deemed to have been waived unless such waiver is expressed in writing and signed by the Party giving the waiver.
- 26.12 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.
- 26.13 This Agreement may be entered into by the Province and Halfway River respectively signing a separate copy of this Agreement, including a photocopy or faxed or scanned copy, and delivering it to the other by fax or electronic mail. Each facsimile or scanned

copy will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

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

SIGNED in the presence of:

Simon Coley this 30 day
of September, 2015 at
Victoria

S. Coley
Signature of witness

Halfway River First Nation, on behalf of itself and
its Members, as represented by the Chief and
Council

[Signature]
Chief Darlene Hunter

SIGNED in the presence of:

Simon Coley this 30 day
of September, 2015 at
Victoria

S. Coley
Signature of witness

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

[Signature]
John Rustad, Minister

SCHEDULE 1

CALCULATION OF ANNUAL MINERAL TAX REVENUE SHARING PAYMENTS

Calculation of Annual Mineral Tax Revenue Sharing Payment

1. For each BC Fiscal Year, the Annual Mineral Tax Revenue Sharing Payment to Halfway River will be calculated as follows:

Annual Mineral Tax Revenue Sharing Payment = Sum of Annual Payments from Zones A, B, C, and D.

Calculation of Annual Payment from Zones A, B, C and D

Calculation of Annual Payment from Zone A

2. For each BC Fiscal Year, the Annual Payment from Zone A to Halfway River will be calculated as follows:
 - (i) if the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone A is less than or equal to thirty-nine million and one hundred thousand dollars (\$39,100,000), then the Annual Payment from Zone A is an amount equal to 10.63% of the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone A; or
 - (ii) if the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone A is greater than thirty-nine million and one hundred thousand dollars (\$39,100,000), then the Annual Payment from Zone A is an amount equal to 10.63% of \$39,100,000 plus 1.7% of the Incremental Mineral Tax Revenue above \$39,100,000, for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone A.

Calculation of Annual Payment from Zone B

3. For each BC Fiscal Year, the Annual Payment from Zone B to Halfway River will be calculated as follows:
 - (i) if the Incremental Mineral Tax Revenue, for Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone B is less than or equal to fifty-two million and eight hundred thousand dollars (\$52,800,000), then the Annual Payment from Zone B is an amount equal to 6.63% of the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone B; or

- (ii) if the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone B is greater than fifty-two million and eight hundred thousand dollars (\$52,800,000), then the Annual Payment from Zone B is an amount equal to 6.63% of \$52,800,000 plus 1.0% of the Incremental Mineral Tax Revenue above \$52,800,000 for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone B.

Calculation of Annual Payment from Zone C

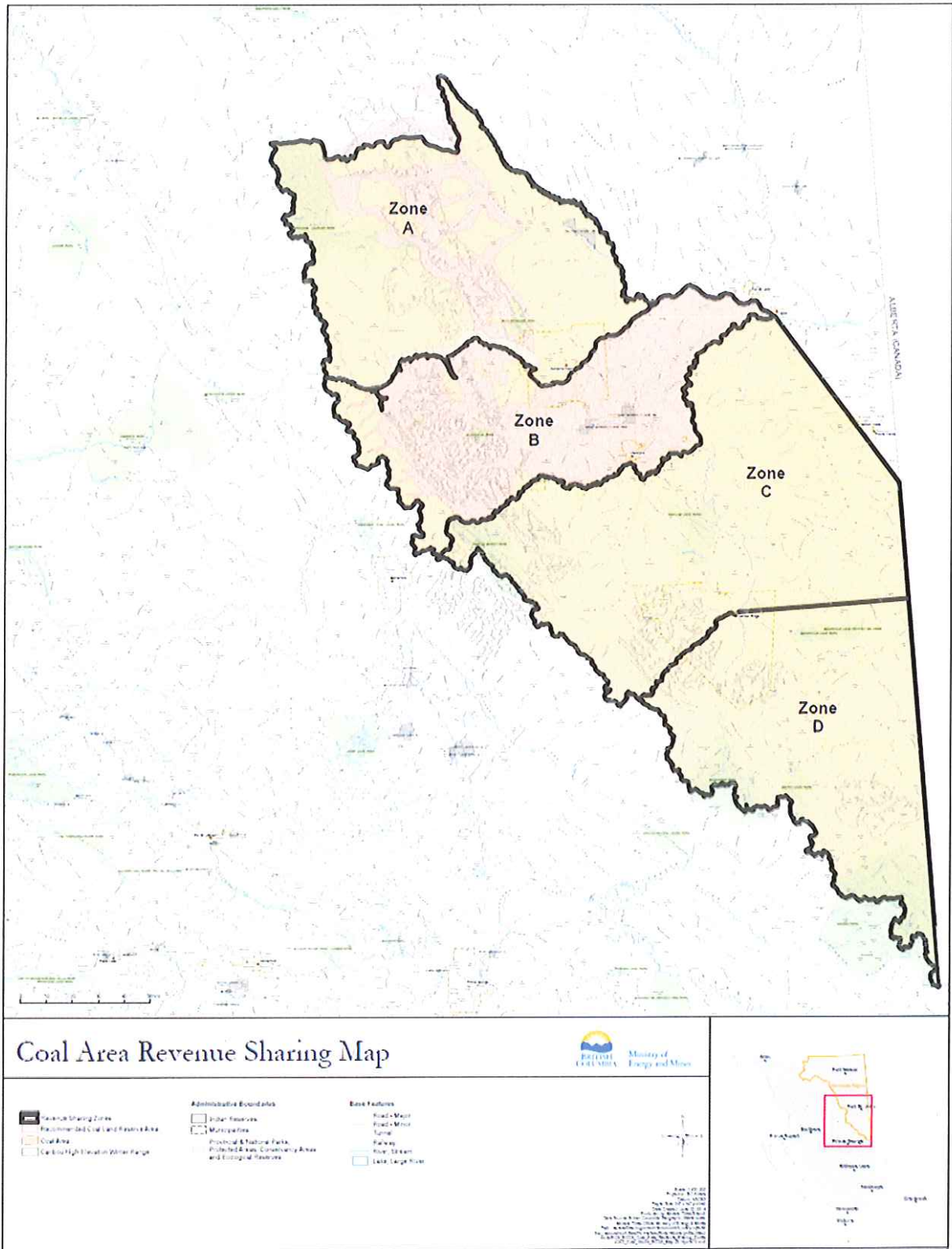
- 4. For each BC Fiscal Year, the Annual Payment from Zone C to Halfway River will be calculated as follows:
 - (i) if the Incremental Mineral Tax Revenue, for Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone C is less than or equal to fifty-two million and eight hundred thousand dollars (\$52,800,000), then the Annual Payment from Zone C is an amount equal to 6.63% of the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within BC Fiscal Year, for all Contributing Projects from Zone C; or
 - (ii) if the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone C is greater than fifty-two million and eight hundred thousand dollars (\$52,800,000), then the Annual Payment from Zone C is an amount equal to 6.63% of \$52,800,000 plus 1.0% of the Incremental Mineral Tax Revenue above \$52,800,000 for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone C.

Calculation of Annual Payment from Zone D

- 5. For each BC Fiscal Year, the Annual Payment from Zone D to Halfway River will be calculated as follows:
 - (i) if the Incremental Mineral Tax Revenue, for Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone D is less than or equal to fifty-two million and eight hundred thousand dollars (\$52,800,000), then the Annual Payment from Zone D is an amount equal to 6.63% of the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within the BC Fiscal Year, for all Contributing Projects from Zone D; or
 - (ii) if the Incremental Mineral Tax Revenue, for the Mine Fiscal Year which ended within BC Fiscal Year, from all Contributing Projects from Zone D is greater than fifty-two million and eight hundred thousand dollars (\$52,800,000), then the Annual Payment from Zone D is an amount equal to 6.63% of \$52,800,000 plus 1.0% of the Incremental Mineral Tax Revenue above \$52,800,000, for the Mine Fiscal Year which ended within the BC Fiscal Year, from all Contributing Projects from Zone D.

6. For greater certainty, for each BC Fiscal Year, the calculation of Annual Payments for each Zone will be based on the Incremental Mineral Tax Revenue from the Mine Fiscal Year which ended within that BC Fiscal Year for which the Annual Mineral Tax Revenue Sharing Payment is being calculated for Contributing Projects from each respective Zone.

SCHEDULE 2 **Map of Coal Area and Zones**



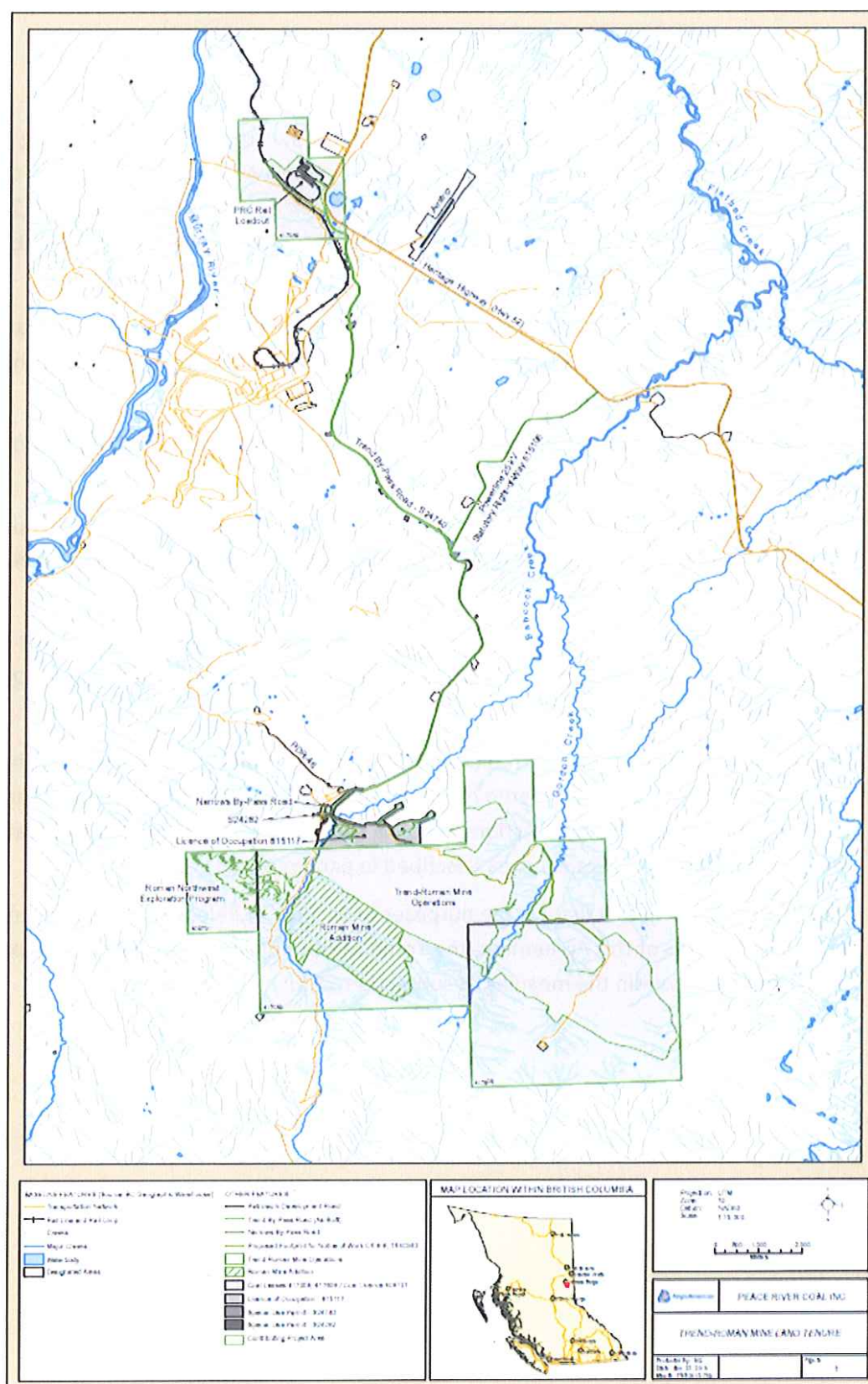
SCHEDULE 3

TREND MINE CONTRIBUTING PROJECT

CONTRIBUTING PROJECT DESCRIPTION

- 1 (1) The "Contributing Project" described in this "Schedule 3 – Trend Mine Contributing Project" is the Trend Mine, currently owned and operated by Anglo American Metallurgical Coal Ltd. and subsidiary Peace River Coal Inc., under Permit C-244 as amended on August 7, 2013, and located approximately thirty (30) kilometers south of Tumbler Ridge, British Columbia as shown in Figure 1 including:
 - (a) all associated infrastructure, processing plant, operations sites, pit and dump areas, access roads, rail line, conveyor, power facilities, and other physical facilities that supports the Trend Mine operations;
 - (b) any changes or modifications to the elements described in paragraph (a) that may be made from time to time; and
 - (c) all matters relating to the exploration, planning, permitting, construction, maintenance, repair, operation and reclamation of the Trend Mine within the Contributing Project Area.
- (2) If, as a result of a Government Action, the Mine area for the Trend Mine is changed from the area shown in Figure 1, the Parties will amend Figure 1 in accordance with Section 23 to reflect that change.
- (3) Incremental Production for the Trend Mine Contributing Project is production attributable to the C-224 Permit Amendment dated August 7, 2013 and all subsequent amendments to the C-224 permit and Government Actions enabling expansion of the Trend Mine operation within the Contributing Project Area described in paragraph 1(1)(a).
- (4) The Parties acknowledge that for the purposes of Section 14 Releases, Covenants and Acknowledgments of this Agreement, the Trend Mine Contributing Project is an expansion of an existing Mine within the meaning of subsection 14.2.

Figure 1: Contributing Project Area



SPECIFIED DATE FOR THE CONTRIBUTING PROJECT

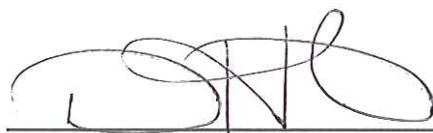
- 2 (1) The Specified Date for the Trend Mine Contributing Project is the Effective Date of the Agreement.

SIGNED in the presence of

Halfway River First Nation

Simon Coley this 30 day
of September, 2015 at
Victoria:


Signature of witness


Chief Darlene Hunter

SIGNED in the presence of

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

Simon Coley this 30 day
of September, 2015 at
Victoria:


Signature of witness


John Rustad, Minister

SCHEDULE 4

QUINTETTE MINE CONTRIBUTING PROJECT

CONTRIBUTING PROJECT DESCRIPTION

- 1** (1) The "Contributing Project" described in this "Schedule 4 – Quintette Mine Contributing Project" is the Quintette Mine, currently operated by Teck Coal Ltd., under Permit C-156 as amended June 20, 2013, and located approximately fifteen (15) kilometers southeast of Tumbler Ridge, British Columbia as shown in Figure 1, including:
 - (a) all associated infrastructure, processing plant, operations sites, pit and dump areas, ditches and tailings pipelines, access roads, rail line and loadout, conveyor, power facilities, and other physical facilities;
 - (b) any changes or modifications to the elements described in paragraph (b) that may be made from time to time; and
 - (c) all matters relating to the exploration, planning, permitting, construction, maintenance, repair, operation and reclamation of the Quintette Mine within the Contributing Project Area.
- (2) If, as a result of a Government Action, the Mine area for the Quintette Mine is changed from the area shown in Figure 1 the Parties will amend Figure 1 in accordance with Section 23 to reflect that change.
- (3) Incremental Production for the Quintette Mine Contributing Project is production attributable to the C-156 Permit Amendment dated June 20, 2013, and all subsequent amendments to the C-156 permit and Government Actions enabling expansion of the Quintette Mine operation within the Contributing Project Area described in paragraph 1(1)(a).
- (4) The Parties acknowledge that for the purposes of Section 14 Releases, Covenants and Acknowledgments of this Agreement, the Quintette Mine Contributing Project is an expansion of an existing Mine within the meaning of subsection 14.2.

SPECIFIED DATE FOR THE CONTRIBUTING PROJECT

- 2 (1) The Specified Date for the Quintette Mine Contributing Project is the Effective Date of the Agreement.

SIGNED in the presence of

Halfway River First Nation

Simon Coley this 30 day
of September, 2015 at
Victoria :

S. Coley
Signature of witness

[Signature]
Chief Darlene Hunter

SIGNED in the presence of

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

Simon Coley this 30 day
of September, 2015 at
Victoria :

S. Coley
Signature of witness

[Signature]
John Rustad, Minister