

BRITISH COLUMBIA CLEAN GROWTH INFRASTRUCTURE ROYALTY PROGRAM

ROYALTY DEDUCTION AGREEMENT

XXXXXXX PROJECT

THIS AGREEMENT dated for reference _____, 20____

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
REPRESENTED BY THE PERSON APPOINTED AS ROYALTY ADMINISTRATOR
UNDER SECTION 73(3) OF THE PETROLEUM AND NATURAL GAS ACT
(THE "ADMINISTRATOR")**

AND:

**[Name of Producer Proponent]
(THE "PRODUCER PROJECT PROPONENT")**

AND:

**[Name of Producer or Pipeline Company Proponent]
(THE "PARTNER PROJECT PROPONENT")**

WHEREAS:

- A. The Producer Project Proponent is a producer as defined under the *Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation*, (the Regulation).
- B. The Partner Project Proponent is a producer or pipeline company as defined under the Regulation.
- C. The Producer Project Proponent and the Partner Project Proponent (the "Project Proponents") have advised the Administrator pursuant to section 4(9) and 4(12) of the Regulation that they intend to undertake a project that is of a type contemplated in Section 4(9)(b) and/or Section 4(12)(b) of the Regulation (the "Project").
- D. The Parties have agreed to enter into this Agreement to set out the Project Proponents' entitlement to deduct a portion of the costs attributable to the Project from royalty or tax otherwise payable by the Project Proponents under the *Petroleum and Natural Gas Act*, (the Act) in accordance with the terms of the Agreement.
- E. The Project Proponents have obtained, or are in the process of obtaining, all necessary permits or authorizations under the *Oil and Gas Activities Act* (OGAA) or Canada Energy Regulator Act (CER Act) and other applicable laws.

THE PARTIES AGREE AS FOLLOWS:**1. Definitions and Interpretation**

1. In this Agreement:

“Agreement” means this Agreement;

“Business Day” means a day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia;

“Closing Time” means 2:00 PM (Pacific Time) on May 19, 2021;

“Construction” means the construction of the Project as described in Schedule A, which, for greater certainty:

- (a) includes any physical alteration of land, vegetation or any other aspect of the natural environment;
- (b) includes mobilization, on-site fabrication, installation, retrofit, replacement or conversion of any existing work or infrastructure; testing, commissioning and start-up, cleanup, demobilization, final permitting and reporting; and
- (c) does not include any activity conducted during the Design period;

“Design” means the design of the Project as described in Schedule A, which, for greater certainty:

- (a) includes any activities conducted solely for planning, engineering, applications, surveying, mapping, land acquisition, regulatory approval or off-site pre-fabrication; and
- (b) does not include any activity conducted during the Construction period;

“Eligible Costs” means the following costs, actually paid by the Project Proponents, to complete the Project:

- (a) costs paid for planning, designing, surveying, mapping, land acquisition, off-site pre-fabrication, obtaining licenses and approvals and engineering expenditures; and
- (b) all materials, labour and equipment charge-out costs incurred during Construction of the Project;

but excludes:

- (c) maintenance costs;
- (d) goods and services tax (GST);

- (e) costs associated with maintaining compliance with regulations, including the Greenhouse Gas Emission Reporting Regulation, B.C. Reg 249/2015;
- (f) contingency allowances, administration costs, emergency spill response and/or recovery caused by or relating to the project, overhead, accounting, interest and the purchase of, and amortization and depreciation on, capital equipment that is not integral to the operation of the project; and
- (g) any activity that occurs before the Design Start Date or after the Construction Completion Date.

“Fiscal Year” means a period commencing April 1st and terminating March 31st of the following year;

“GHG” means “greenhouse gas” as defined in Section 4 of the Regulation;

“Ministry” means the Ministry of Energy, Mines and Low Carbon Innovation;

“Parties” means the Administrator and the Project Proponents, and **“Party”** means any one of them as applicable;

“Pipeline Company” has the same meaning as in section 1 of the Regulation;

“Producer” has the same meaning as in section 1 of the Regulation;

“Project” means the project described in Schedule A and constructed according to the specifications described in Schedule C, including any amendments to the Project accepted by the Administrator in accordance with Section 3;

“Project Completion” means the completion of all Design and Construction activities as described in Schedule A;

“Project Completion Date” means the date that the Design and Construction components of the Project were completed, as specified in a Statutory Declaration of Completion submitted to the Administrator as part of an application for a Royalty Deduction under Section 7;

“Royalty Deduction” means a deduction from royalty or tax otherwise payable by the Project Proponent under the Act;

“Step” means a step of the Project as set out in Schedule A;

“Step Completion Date” means the date that the Design and Construction components of the Step were completed as specified in a Statutory Declaration of Completion submitted to the Administrator as part of an application for a Royalty Deduction under Section 7;

“Verification Body” means an International Organization for Standardization 14065

accredited organization that is independent from the Project Proponent;

2. Any headings or titles are for convenience of reference and do not affect the construction or interpretation of this Agreement. Unless something in the subject matter or context results in an inconsistency, references in this Agreement to Sections and Schedules are to Sections and Schedules of this Agreement.
3. In this Agreement, words in the singular include the plural and words in the plural include the singular.

2. Schedules

The following attached schedules form a part of this Agreement:

- (a) Schedule A – Project Description and Map; and
- (b) Schedule B – Documentation Required for Release of Royalty Deduction.

3. Project Amendments

1. The Project Proponent may, at any time during the term of this Agreement, submit a written request to the Administrator to amend the Project (“**Proposed Amendment Request**”) that includes a reasonably detailed description of the changes to the Project proposed by the Project Proponent. The Administrator may refuse to review or consider a Proposed Amendment Request until it is determined, in his or her sole discretion, that all necessary or advisable information has been received to review and consider the request of the Project Proponent.
2. Despite paragraph 1 above, a Proposed Amendment Request to the Project will not be considered by the Administrator within 3 months of the Reference Date to this Agreement or within 3 months of any date on which a written approval has been issued to amend the project.
3. The Administrator has the sole discretion to accept or reject a Proposed Amendment Request to the Project. The Administrator will inform the Project Proponents of the Administrator’s decision whether to accept or reject any Proposed Amendment Request.
4. If the Administrator accepts the Proposed Amendment Request, the Parties will take steps to amend Schedule A to reflect the Proposed Amendment Request as soon as reasonably practicable after the Administrator informs the Project Proponents that the Administrator accepted the Proposed Amendment Request.
5. If the Project Proponents constructs the Project in manner that is inconsistent with Schedules A:

- (a) the Administrator may demand from the Project Proponents, an amount equal to any and all Royalty Deductions that have been allowed by the Administrator under this Agreement, and
- (b) the Administrator will not be required to review or consider any subsequent application for a Royalty Deduction under this Agreement.

4. Completion of Project

- 1. The Parties agree that the Project Proponent will not be entitled to any Royalty Deduction in respect of the Project if the Project Proponent commences construction prior to the Closing Time.
- 2. The Parties agree that the Project Proponents will only be eligible for Royalty Deductions under this Agreement if Project Completion occurs on or before December 31, 2023. Should unusual or exceptional circumstances arise, the Project Proponents may propose a different Project completion date to the Administrator in which case the Administrator has the sole discretion to amend the date by which the Project may be completed under the Agreement in accordance with Section 3, paragraphs 1 through 5.
- 3. A Project or Step will be considered complete on the date specified in the Statutory Declaration of Completion executed by the Project Proponents in the form described under Schedule B, submitted to and received by the Administrator.

5. Project Supervisor

The Project Proponents must identify the project supervisor and ensure that the project supervisor is available, with reasonable notification, to meet with, and provide information to the Administrator during the term of this Agreement. The Project Proponent may appoint a replacement project supervisor at any time during the term of this Agreement by providing the Administrator with written notice of the name and contact details of the replacement project supervisor.

6. Inspections, Audits and Safety

- 1. The Administrator, or his or her designated representative, may, at reasonable times, on written notice to and with the permission of the Project Proponents, with such permission not to be unreasonably withheld, access the Project site and the offices of the Project Proponents for the purpose of conducting inspections, monitoring progress of the Project and conducting audits or reviews of documentation concerning the Project, including whether (i) costs claimed by the Project Proponents under this Agreement constitute Eligible Costs, and (ii) whether the costs have actually been paid by the Project Proponents. The Project Proponents will, and will cause their employees, agents and contractors to, provide reasonable assistance to the Administrator for those purposes.

2. At any time prior to the earlier of:
 - (a) the termination of this Agreement pursuant to paragraph 1(c) of Section 15; and
 - (b) the date that is 60 months after the termination of this Agreement pursuant to paragraphs 1(a) or (b) of Section 15,

the Administrator, or his or her designated representative, may request any records and information related to the Project, and the Project Proponents must, within 30 days of a request, send the requested records and information in paper or electronic form to the Administrator. The Administrator may conduct, or cause to be conducted, an audit or review of the requested records and information for the purpose of determining whether:

- (c) costs claimed by the Project Proponents under this Agreement constitute Eligible Costs, and
 - (d) the costs claimed have actually been paid by the Project Proponents.
- 7. Application for Royalty Deduction**

1. The Project Proponents may apply to the Administrator for a deduction from royalty or tax otherwise payable by the Project Proponents under the Act for Eligible Costs expended in relation to the Project for each Step identified in Schedule A upon completion of the Step.
2. The application for a deduction must be accompanied by an executed version of all documents required under Schedule B.
3. Subject to Section 7, paragraph 4, 5, 6, and 7, upon receipt of an application for deduction in relation to a Project, the Administrator will review the application within 90 days, and if the application meets the requirements of the Regulation and this Agreement:
 - (a) the Administrator will allow up to 50% of the Royalty Deduction requested at such time ; and
 - (b) the Administrator will allow up to 50% of the Royalty Deduction requested 1-year after completion of the Project.
4. If the Administrator allows the deduction, the Parties agree that the Producer Project Proponent(s) are entitled to the deduction in the following proportions:
 - (a) xxx % entitlement for [Name of Producer Project Proponent] for each Step.
 - (b) xxx % entitlement for [Name of Producer Project Proponent] for each Step.

5. The Parties acknowledge and agree that:
- (a) the eligible Royalty Deduction allowed by the Administrator in respect of a Step will not exceed 50% of the lesser of:
 - i. the total estimated completion cost for a Step shown in Schedule A; and
 - ii. the amount of Eligible Costs actually spent by the Project Proponent to complete that Step of the Project.
 - (b) the Administrator may allow a Royalty Deduction in respect of a Step that is less than the total Royalty Deduction requested by the Project Proponents in respect of such Step if the Administrator determines, in their sole discretion, that any cost claimed by the Project Proponents in respect of such Step does not constitute an Eligible Cost.
6. If the Administrator reasonably believes that any information accompanying the application for deduction is incorrect or inadequate, a notification will be sent by the Administrator, to the Project Proponents of the inadequacy. The Project Proponents must, within 30 days of receiving the notification, provide the further information to the requester. The Administrator is not required to begin a review of the application for a deduction or subsequent applications for deductions concerning the Project until the further information requested of the Project Proponents have been provided, and the Administrator is satisfied that no further information is required in order to review the application.
7. If the Project Proponents' application for a deduction in relation to a Step is received by the Administrator more than six months after the completion date set out in Schedule A with respect to that Step, the Administrator has the sole discretion to refuse to review the application.

8. **Maximum Deduction**

"Maximum Deduction" means an amount which is the lesser of: **XX%** of the estimated completion cost for a Step shown in Schedule A or **XX%** of the amount of Eligible Costs actually spent by the Project Proponents to complete that Step of the Project.

9. **Notification**

1. After the Administrator has allowed a Royalty Deduction, the Royalty Administrator will promptly notify the Project Proponents and the British Columbia Ministry of Finance of the amount of the Project Proponents' allowable Royalty Deduction.
2. The Project Proponents will promptly notify the Administrator if the Project Proponents:

- (a) Intend to, or have taken steps to, cancel, terminate or suspend the Project or any aspect of it; or
- (b) Experience any material delay in respect of achieving Project Completion or completing any Step.

10. Defaults

1. The Producer Project Proponent is not eligible to make an application for Royalty Deduction under this Agreement if the Producer Project Proponent is in arrears in making any royalty payments or any other payment under this Agreement or the Act to the Administrator or the Province of British Columbia.
2. If the Administrator determines that a deduction allowed pursuant to this Agreement was greater than the amount to which the Project Proponents are entitled, the Administrator may demand from the Project Proponents, an amount equal to the difference between the amount allowed and the amount to which the Project Proponents are not entitled.

11. Payments

The Project Proponents must pay to the Administrator the amounts demanded by the Administrator under paragraph 5 of Section 3 and paragraph 2 of Section 10 within 90 days of the issuance of the demand by the Administrator.

12. Consent to Use and Disclosure

The Project Proponent hereby consents to the use and disclosure by:

- (a) the Administrator; and
- (b) Her Majesty the Queen in Right of the Province of British Columbia (the "Province") and its servants, employees, officials, agents and representatives,

of information provided by or on behalf of the Project Proponent to the Administrator or the Province in respect of:

- (c) total estimated and actual Project costs;
- (d) estimated and actual GHG emissions reductions associated with carrying out the Project;
- (e) the Royalty Deduction amount for the Project;
- (f) any barriers to the implementation of the Project as identified by the Project Proponent; and,

in such a manner as to not readily identify the location of the Project or that the Project Proponent is the person responsible for the Project.

13. Dispute Resolution

1. The Parties agree to negotiate all disputes arising from this Agreement in good faith after a Party provides the other Party with written notice of a dispute.
2. If the Parties are unable to resolve the dispute within 30 Business Days after the notice was provided, either party may refer the dispute to court.
3. For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of British Columbia and the courts of the Province of British Columbia will have exclusive jurisdiction to entertain any action arising under this Agreement. Each of the Parties attorns to the jurisdiction of the courts of the Province of British Columbia.

14. Project Proponents' Indemnity Related to Work

The Project Proponents indemnify and save harmless the Administrator, Her Majesty the Queen in right of the Province of British Columbia (the Province), and its servants, employees, officials, agents, representatives, contractors and consultants (the Indemnified Parties), from and against all claims, liabilities, demands, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by any of the Indemnified Parties before, on, or after, the completion of the Project or early termination of this Agreement where the claims, liabilities, demands, costs and expenses, fines, penalties, assessments and levies or any of them are based upon or arise out of the negligence of, or for anything done or omitted to be done by, or the gross negligence or wilful misconduct of the Project Proponents, their directors, officers, employees, agents, consultants, contractors or subcontractors, in connection with carrying out the Project Proponents' obligations under this Agreement, or the Project, which indemnity will survive the termination of this Agreement.

15. Termination

1. This Agreement terminates on the earlier of:
 - (a) the written mutual consent of the Parties;
 - (b) termination in accordance with Section 15, paragraph 2; or
 - (c) full release of the Royalty Deduction available under this Agreement.
2. Subject to Section 15, paragraph 3, the Administrator may terminate this Agreement in the event of a breach by the Project Proponents of any obligation under this Agreement if, after giving 60 days written notice to the Project Proponents, the Project Proponents

have not rectified or commenced to rectify the breach to the satisfaction of the Administrator. If, any time after the expiry of such 60-day period, the Administrator forms the opinion that the Project Proponents have failed to diligently continue actions to rectify the breach, the Administrator may terminate this Agreement immediately upon providing written notice to the Project Proponents.

3. If the Project Proponents dispute the existence of a breach in a court under Section 13, paragraph 2, the Parties agree that the period of 60 days referred to in Section 13, paragraph 2 is extended until a decision confirming the existence of the breach is made by the court.
4. Sections 6, 13, 14, 15, 17 and 25 of this Agreement, the obligation to meet all payment obligations, and any other sections of this Agreement which, by their terms or nature, are intended to survive the completion of the termination of this Agreement, will continue in force indefinitely, even after this Agreement ends.

16. No Fettering; Not an Authorization

The Parties acknowledge and agree that nothing in this Agreement is intended to or is to be construed in any way that fetters the discretion of any government, including the Province, or any official, appointee or employee of any government, in exercising any powers provided pursuant to any enactment. This Agreement does not operate as a permit, licence, approval or other statutory authority which the Project Proponents or any other person may be required to obtain from the Province, or any of its officials, agencies or employees, or any other government, agency, or person, including the Oil and Gas Commission and the Canada Energy Regulator, in order to carry out the Project or for any other reason.

17. Governing Law

This Agreement is governed by and must be interpreted in accordance with the laws of the Province of British Columbia.

18. Assignment and Enurement

The Project Proponent may not assign this Agreement or the rights and obligations of a Party under it without the prior written consent of the Administrator. Any purported assignment in breach of this restriction is void. The Administrator may not unreasonably withhold consent to assignment of this Agreement, provided however that it will be reasonable for the Administrator to withhold consent to assignment if the assignment would result in the benefit of Royalty Deductions allowed by the Administrator under this Agreement to be transferred from the Project Proponents to any other person. This Agreement is binding upon and enures to the benefit of the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

19. Waiver

Any Party may waive a breach of an obligation set out in this Agreement. However, no waiver has any effect, or binds the Party making the waiver, unless it is in writing and unless otherwise provided, any waiver will be limited to the specific breach waived. A waiver does not limit or affect the rights of a Party with respect to any other breach.

20. Counterpart and Electronic Execution

This Agreement may be executed manually or electronically and in counterpart and all executed counterparts together constitute one agreement.

21. Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter dealt with by this Agreement and cancels and supersedes any prior agreements, understandings, negotiations, and discussions between the Parties with respect to the subject matter. Other than as may be provided under applicable law, there are no representations, warranties, terms, conditions, undertakings or collateral agreements, express or implied, between the Parties with respect to the subject matter covered by this Agreement other than as expressly set out in this Agreement.

22. Severability

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by any court of competent jurisdiction, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

23. No Third Party Beneficiaries

This Agreement is solely for the benefit of the Parties and their successors and permitted assigns and, except as provided in Section 18 and as otherwise expressly contemplated in this Agreement, nothing in it is intended to or shall confer upon or give to any other person any legal or equitable right, benefit or remedy of any nature or kind under or by reason of this Agreement.

24. Remedies Cumulative

The rights and remedies of the Parties under this Agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled.

25. Notices

1. All communications under this Agreement between the Parties must be in writing. Any communication under this Agreement is deemed to have been received:
 - (a) if served personally, on the date of receipt;
 - (b) if by regular mail, on the fifth Business Day following mailing;
 - (c) if, between the time a notice is mailed in accordance with subparagraph(b) and the time it is actually received, there occurs a postal strike, lockout or slowdown that might reasonably affect delivery of the notice, the notice is not deemed to be given until the party actually receives it;
 - (d) subject to subsection (f), if delivered by electronic mail before 1630 hrs (Pacific Time) on a Business Day, on the day it was sent;
 - (e) subject to subsection (f), if delivered by electronic mail and sent after 1630 hrs (Pacific Time) on a Business Day, then the communication will be deemed to be received on the next Business Day; and
 - (f) if a communication is sent by electronic mail, the party sending the communication must take reasonable steps to ensure that the transmission has been successfully completed.

The addresses for the Parties are:

Royalty Administrator: Ministry of Energy, Mines and Low Carbon Innovation

Physical Address: 4th Floor, 1810 Blanshard Street
Victoria, BC V8T 4J1

Mailing Address: P.O. Box 9323, Stn Prov Government
Victoria, BC V8W 9N3

Email: MNGDInfrastructure@gov.bc.ca

Producer Project Proponent: XXXXXXXXX

Physical Address: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Mailing Address: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Primary Contact: XXXXXXXXXXXXXXXXXXXXXXXX

Primary Contact Email: XXXXXXXXXXXXXXXXXXXXXXXX

Partner Project Proponent: XXXXXXXXX

Physical Address: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Mailing Address: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Primary Contact: XXXXXXXXXXXXXXXXXXXXXXXX

Primary Contact Email: XXXXXXXXXXXXXXXXXXXXXXXX

SIGNED on behalf of **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**, by the person appointed as **ROYALTY ADMINISTRATOR** under section 73(3) of the *Petroleum and Natural Gas Act*

Name (Printed):
Royalty Administrator

Date

Signed on behalf of **NAME OF PRODUCER PROJECT PROPONENT** by a duly authorized signatory

Name (Printed):
Title:

Date

Signed on behalf of **NAME OF PARTNER PROJECT PROPONENT** by a duly authorized signatory

Name (Printed):
Title:

Date

Schedule A.1 – Project Description

PROJECT SUMMARY
DESCRIPTION OF STEP 1
DESCRIPTION OF STEP 2
DESCRIPTION OF STEP 3

SCHEDULE		
Design (Step 1)	Start Date	YYYY-MM-DD
	Completion Date	YYYY-MM-DD
Construction (Step 1)	Start Date	YYYY-MM-DD
	Completion Date	YYYY-MM-DD
Design (Step 2, if applicable)	Start Date	YYYY-MM-DD
	Completion Date	YYYY-MM-DD
Construction (Step 2, if applicable)	Start Date	YYYY-MM-DD
	Completion Date	YYYY-MM-DD
Design (Step 3, if applicable)	Start Date	YYYY-MM-DD
	Completion Date	YYYY-MM-DD
Construction (Step 3, if applicable)	Start Date	YYYY-MM-DD
	Completion Date	YYYY-MM-DD

ESTIMATED COST			
Task	Step 1	Step 2	Step 3
Design	\$	\$	\$
Construction	\$	\$	\$
Total Estimated Cost: (per Step)	\$	\$	\$
Estimated Cost Summary			
Total Estimated Cost: (Project)	\$		
Maximum Royalty Deduction: (Project)	\$		
Royalty Deduction Requested: (max 50%)	%		

EMISSIONS REDUCTION SUMMARY	
Estimated Greenhouse Gas Emissions Reductions: (Jan 1, 2021 – Dec 31, 2031, in tonnes CO ₂ e)	

Schedule A.2 – Project Map

(insert here)

Schedule B – Documentation Required for Release of Royalty Deduction

The Project Proponent must provide the following materials in both electronic and hard copy formats to the Administrator when applying for release of an approved Royalty Deduction upon completion of a project.

Project Type:	Electrification Infrastructure	Emissions Reductions Infrastructure
Required Documents (denoted with X)		
Cover Letter	X	X
Statutory Declaration	X	X
Detailed List of Invoices	X (electronic copy only)	X (electronic copy only)
Emissions Reduction Report	X	X

Further information and electronic template files of applicable documents are provided on the program website:

<https://www2.gov.bc.ca/gov/content/industry/natural-gas-oil/oil-gas-royalties/clean-growth-infrastructure-royalty-program/royalty-deduction-submission>