

Schedule 3

Co-Management Agreement

This Agreement made this day of 1990,

Between:

Her Majesty the Queen in right of the Province of Alberta, as represented by the Minister of Energy (hereinafter called the "Minister")

and

Métis Settlements General Council, a corporation established under the *Metis Settlements Act* (hereinafter called the "General Council")

and

Buffalo Lake Métis Settlement, a corporation established under the *Metis Settlements Act*

and

East Prairie Métis Settlement, a corporation established under the *Metis Settlements Act*

and

Elizabeth Métis Settlement, a corporation established under the *Metis Settlements Act*

and

Fishing Lake Métis Settlement, a corporation established under the *Metis Settlements Act*

and

Gift Lake Métis Settlement, a corporation established under the *Metis Settlements Act*

and

Kikino Métis Settlement, a corporation established under the *Metis Settlements Act*

and

Paddle Prairie Métis Settlement, a corporation established under the *Metis Settlements Act*

and

Peavine Métis Settlement, a corporation established under the *Metis Settlements Act*

WHEREAS:

1 The Alberta Métis Settlements Accord dated July 1, 1989 and executed by the Alberta Federation of Métis Settlement Associations and on behalf of Her Majesty the Queen in Right of the Province of Alberta contains provisions regarding the co-management of exploration for and development of, the Minerals, including provisions regarding the issuing of Resource Agreements in relation to those Minerals;

2 The Minister, under section 16(c) of the Act, may issue Dispositions in respect of Crown minerals pursuant to any procedure determined by him;

3 The Minister may, under section 10 of the *Government Organization Act*, enter into an agreement on or in connection with any matter under his administration; and

4 The Minister has determined that the procedure he will utilize for issuing the Resource Agreements will be subject to the procedure set forth in this agreement.

The parties hereto agree as follows:

Article 1 - Interpretation

101 In this agreement

- (a) "Act" means the *Mines and Minerals Act*;
- (b) "Affected Settlement Corporation" means, in respect of any Posting Request, Notice of Public Offering, Bid, Development Agreement or Resource Agreement with respect to any of the Minerals, the Settlement Corporation of the Settlement Area in which the Minerals are located;
- (c) "Affected Métis Settlement Access Committee" or "Affected MSAC" means, in respect of any Posting Request, recommended, proposed or approved terms and conditions of an NPO, or an NPO, with respect to any of the Minerals, the committee appointed under Article 2 in respect of the Settlement Area in which those Minerals are located;
- (d) "Bid" means an offer made to the Minister in response to a Notice of Public Offering, which, when accepted by the Minister, would create an agreement between the person making the offer and the Minister with respect to the issuing of a Resource Agreement for the Minerals the subject of the NPO and offer;
- (e) "Bidder" means the person making a Bid;
- (f) "Commissioner" means the Commissioner of the Métis Settlements Transition Commission under the *Metis Settlements Accord Implementation Act*;
- (g) "Development Agreement" means an agreement entered into by the Affected Settlement Corporation, General Council and a Bidder, setting out rights and obligations of those parties with regard to any of the matters referred to in section 303 and surface access of the Bidder to and the exploration for and development by the Bidder of, Minerals in respect of which the Bidder submitted a Bid;
- (h) "Disposition" means an agreement as defined in the Act;
- (i) "Effective Date" means _____, 1990;
- (j) "Métis Settlements Lands" means the parcels of land granted to the General Council by Her Majesty the Queen in right of Alberta by letters patent;
- (k) "Minerals" means the whole or any part of the mines and minerals, as defined in the *Mines and Minerals Act*, owned by the Minister in the whole or any part of the Métis Settlements Lands, that are not subject to a Disposition
 - (i) that was issued by the Minister before the Effective Date, or
 - (ii) that is issued by the Minister after the Effective Date but that arises out of, or that is a renewal, continuation, reinstatement or other like extension under the Act of any Disposition issued before the Effective Date;

- (l) "Notice of Public Offering" or "NPO" means a document issued by the Minister to the public, soliciting Bids to acquire Resource Agreements for rights in any of the Minerals;
- (m) "Occupant" means occupant as defined in Division 1 of Part 4 in the *Metis Settlements Act*;
- (n) "Overriding Royalty" means a right reserved in a Development Agreement to the General Council, for it to receive a share of the portion of production, or of the value of the portion of production, obtained by the Bidder pursuant to Resource Agreements referred to in the Development Agreement, that remains after payment of royalty to the Minister in relation to such production;
- (o) "Participation Option" means an option reserved in a Development Agreement to the General Council that allows the General Council to obtain from the Bidder who is a party to the Development Agreement, not more than a 25% specified undivided interest in the Resource Agreements referred to in the Development Agreement;
- (p) "Post" means, in respect of any Minerals, the issuing to the public of an NPO with respect to those Minerals by the Minister; and "Posted" has the corresponding meaning;
- (q) "Posting Period" means the period of time specified in an NPO that Bidders may submit Bids in response to the NPO;
- (r) "Posting Request" means a written request made to the Minister by any person that the Minister Post the Minerals specified in the request;
- (s) "Resource Agreement" means a Disposition,
 - (i) that is issued by the Minister after the Effective Date, and
 - (ii) under which the Minister grants rights in any of the Minerals, but does not include any Disposition
 - (iii) that arises out of or is a renewal, continuation, reinstatement or other like extension under the Act, of another Disposition issued before the Effective Date, or
 - (iv) in respect of which the person issued the Disposition has been notified by the Minister that the person will not be granted access to any Métis Settlements Lands to recover the Minerals the subject of the Disposition;
- (t) "Settlement Area" means "settlement area" as defined in the *Metis Settlements Act*, to the extent such settlement area is comprised of Métis Settlements Lands;
- (u) "Settlement Corporation" means each of the parties to this agreement, other than the Minister or the General Council.

102 The descriptive headings appearing above the Articles of this agreement are inserted for convenience only and do not constitute a part of this agreement.

103 In this agreement, except where otherwise expressly provided or where the context does not permit

- (a) words in the singular include the plural and vice versa;
- (b) words importing any one of the masculine, feminine or neuter genders include the other genders, and a reference to a person includes a body corporate; and

- (c) “herein”, “hereof” or “hereunder” and similar expressions when used in a section shall be construed as referring to the whole of this agreement and not to that section only.

104 In this agreement, the days referred to in any provision that contains a reference to a period of days shall be days that are neither a Saturday nor a holiday as defined in the *Interpretation Act*.

105 Except as provided in this agreement, the procedures and practices generally utilized by the Minister from time to time for the issuing of Dispositions under section 16(b) of the Act, will apply to the issuing of Resource Agreements with respect to any of the Minerals.

106 Unless otherwise expressly provided herein, references in this agreement to statutes are references to those statutes as amended or substituted from time to time.

Article 2 - Métis Settlement Access Committees

201 A settlement access committee shall be appointed for each Settlement Area in accordance with this Article.

202 Each settlement access committee shall comprise 5 members appointed as follows:

- (a) one member to be appointed by the Minister,
- (b) one member to be appointed by the Energy Resources Conservation Board, which member may be part of the staff of the Board but not a member of the Board,
- (c) one member to be appointed by the Settlement Corporation for the Settlement Area in respect of which the committee is being appointed,
- (d) one member to be appointed by the General Council, and
- (e) one member to be appointed by the Commissioner or, if the Commissioner ceases to be appointed, by mutual agreement of the other four members, such member to be chair of the committee.

203 A person appointed under section 202 as a member of a settlement access committee may be appointed as a member of any other settlement access committee.

204 Anyone who has appointed a member of a settlement access committee under section 202 may at any time revoke the appointment and appoint a replacement member.

205 The costs of each member of a settlement access committee shall be borne by the person or government appointing him.

Article 3 - Posting

301 The Minister shall refer a Posting Request for Minerals that the Minister is willing to Post, to the Affected MSAC within 4 days after receipt by the Minister of recommendations regarding the Posting Request from the Crown Mineral Disposition Review Committee appointed under the *Land Surface Conservation and Reclamation Act*.

302 The Minister, the General Council and the Affected Settlement Corporation shall cause the Affected MSAC in relation to a Posting Request, to recommend in writing to the Minister within 42 days after the Minister has referred the Posting Request to the Affected MSAC,

- (a) that the Posting Request be denied, or

- (b) that the Minerals that are the subject of the Posting Request be Posted, and any special terms and conditions that should be included in the NPO in relation to the Minerals so Posted.

303 An Affected MSAC may, for the purposes of section 302(b), recommend terms and conditions concerning the environmental, socio-cultural, and land use impacts, and employment and business opportunities of exploration for and development of the Minerals referred to in a Posting Request, including terms and conditions concerning reservation to the General Council of an Overriding Royalty, Participation Option, or both, with respect to such development.

304 If the Affected MSAC has recommended under section 302(b) that Minerals not be Posted, the Minister may issue Dispositions in respect of the Minerals, provided the Minister has, before issuing any such Disposition, notified each person issued such Disposition that he will not be granted access to any Métis Settlements Lands to recover the Minerals.

305 The Minister may issue a Disposition under section 304 in accordance with the Act and, in doing so, need not comply with the provisions hereof other than section 304.

306 If the Affected MSAC has recommended under section 302(b) that Minerals be Posted, the Minister shall prepare, based on the terms and conditions recommended by the Affected MSAC in accordance with section 303, the terms and conditions in that respect he proposes to include in the NPO and deliver them to the Affected MSAC for approval.

307 The Affected MSAC shall approve or disapprove in writing, of the proposed terms and conditions delivered to them by the Minister under section 306, within 14 days after they are received from the Minister.

308 If the Affected MSAC disapproves of proposed terms and conditions delivered to them under section 306, the Minister shall, unless he decides not to Post the Minerals, amend those terms and conditions and resubmit them to the Affected MSAC for approval in accordance with section 306, and the Affected MSAC shall approve or disapprove of the amended terms and conditions in accordance with section 307, the Minister and the Affected MSAC to repeat this procedure until either the Affected MSAC has approved of the terms and conditions proposed by the Minister or the Minister decides not to Post the Minerals.

309 Upon receipt of approval of proposed terms and conditions for an NPO under section 307 or 308, the Minister shall include such NPO in the next public offering of minerals scheduled by the Minister that follows such receipt by not less than 21 days.

310 In addition to any proposed terms and conditions included in an NPO pursuant to this Article, the Minister may, in accordance with section 105, also include in the NPO, any terms and conditions recommended by the Crown Mineral Disposition Review Committee appointed under the *Land Surface Conservation and Reclamation Act*.

Article 4 - Industry Consultation

401 The General Council and the Affected Settlement Corporation shall appoint an individual as their representative to consult with potential Bidders for Minerals requested to be Posted in a Posting Request, and shall notify the Affected MSAC of the name of the appointee before the Affected MSAC recommends any special terms and conditions to the Minister pursuant to section 302(b) in connection with that Posting Request.

402 To ensure fairness in the process for issuing Resource Agreements, the General Council and Affected Settlement Corporation shall ensure that the representative appointed by them under section 401 only conducts such consultation through public meetings open to all potential Bidders, the schedule for which shall initially be determined and provided to the Affected MSAC by the General Council and Affected Settlement Corporation concurrently with the name of their representative.

403 A representative appointed under section 401 may change a schedule of public meetings he is to conduct, with respect to all public meetings scheduled other than the first, by way of announcement at any such scheduled public meeting.

Article 5 - Award of Agreements

501 Within 2 days after the date of the public offering specified in an NPO, the Minister shall provide the General Council and the Affected Settlement Corporation with the name of the Bidder who has offered the greatest amount of bonus payment to the Minister and whose Bid otherwise meets the requirements of the NPO soliciting that Bid and the procedures and practices referred to in section 105.

502 The General Council and Affected Settlement Corporation may negotiate with the Bidder whose name was provided to them under section 501, with respect only to topics identified in the terms and conditions included in the NPO as open to negotiation and, within 7 days after being provided with that name, notify the Minister that

- (a) the Bidder's Bid should be rejected, or
- (b) the General Council and Affected Settlement Corporation have entered into a Development Agreement with the Bidder.

503 Upon receipt of a notice under section 502(a) in respect of a Bid or upon the expiration of 7 days referred to in section 502 without the Minister receiving a notice under clause (a) or (b) of that section, the Minister shall reject the Bid and the procedure set out in sections 501 and 502 shall, until

- (a) a Development Agreement is entered into with one of the Bidders,
- (b) there are no further Bidders for the Minister to refer to the General Council and the Affected Settlement Corporation, or
- (c) the Minister refuses to refer to the General Council and the Affected Settlement Corporation any further Bidders who submitted Bids in response to the NPO,

whichever occurs sooner, be repeated by the Minister, the General Council and the Affected Settlement Corporation, except that the next Bidder, if any, referred to the General Council and the Affected Settlement Corporation shall be the Bidder whose Bid offered the next greatest amount of bonus payment to the Minister compared to the Bid last rejected, and the name of that next Bidder shall be provided to the General Council and the Affected Settlement Corporation within 2 days after the Minister receives notice under section 502(a) that the last Bid was rejected.

504 The Minister shall, within 21 days after he receives notice that a Development Agreement has been entered into in respect of any Minerals in accordance with section 502(b), issue an Agreement in respect of those Minerals to the Bidder who is a party to the Development Agreement, or, to the Bidder and the General Council in specified undivided interest, if he receives a written notice from the Bidder within that 21 day period, directing him to issue the Agreement to the Bidder and General Council and indicating their respective specified undivided interests in the Agreement.

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

Article 6 - Amendment of Procedure

601 The Minister may from time to time amend any time period specified in Articles 2, 3, 4 or 5 by written notice to the other parties, provided such amendment shall not shorten or

extend any such time period by more than the greater of one day or 20% (rounded to the nearest day) of the time period so specified.

602 Subject to sections 601 to 603, the parties agree that this agreement may be otherwise amended by mutual agreement between the Minister and the General Council.

603 In the event the Minister and the General Council cannot agree under section 602 with respect to any amendment proposed to this agreement by either, the matter shall be resolved by arbitration under the *Arbitration Act* of Alberta, by an arbitration panel comprising 5 arbitrators, one to be appointed by each of

- (a) the Minister,
- (b) the Energy Resources Conservation Board under the *Energy Resources Conservation Act*,
- (c) the Commissioner, and

two to be appointed by the General Council.

604 If a Commissioner ceases to be appointed, the member of any arbitration panel to be appointed by the Commissioner shall be appointed by agreement between the Minister and the General Council.

Article 7 - General

701 This agreement is governed by the laws of the Province of Alberta.

702 This agreement may not be assigned by any party.

703 Any settlement corporation established under the *Metis Settlements Act* that is not a party hereto on the day this agreement is made, may be made a party to this agreement by mutual agreement between that settlement corporation and all the parties to this agreement.

704 This agreement ensures to the benefit of the parties hereto and their respective successors.

In witness whereof the parties hereto have duly executed this agreement.

