

**AMENDMENT TO THE AGREEMENT  
TO CONDUCT A COOPERATIVE ENVIRONMENTAL  
ASSESSMENT, INCLUDING THE ESTABLISHMENT OF A  
JOINT REVIEW PANEL,  
FOR THE SITE C CLEAN ENERGY PROJECT  
Between  
The Minister of the Environment, Canada  
- and -  
The Minister of Environment, British Columbia**

**WHEREAS** each of the Parties signed the Agreement to Conduct a Cooperative Environmental Assessment, Including the Establishment of a Joint Review Panel, of the Site C Clean Energy Project (hereinafter referred to as the “Agreement”) dated February 8, 2012; and

**WHEREAS** section 11 of the Agreement allows it to be amended at any time with mutual consent of both the Federal Minister of the Environment and the British Columbia Minister of Environment; and

**WHEREAS** section 126(1) of the *Canadian Environmental Assessment Act, 2012* provides that the environmental assessment of the Project is continued under the process established under that Act and the Agreement is considered to have been entered into by the Federal Minister of the Environment under section 40 of that Act; and

**WHEREAS** the Parties wish to amend the Agreement to reflect the provisions of the *Canadian Environmental Assessment Act, 2012*.

**Now therefore**, the Parties hereby amend the Agreement as follows:

**1. The Preamble to the Agreement is amended as follows:**

- a) **References to the *Canadian Environmental Assessment Act* are updated to the *Canadian Environmental Assessment Act, 2012* in the second and fourth paragraphs as follows:**

**WHEREAS** the Minister of the Environment, Canada (the federal Minister of the Environment) has statutory responsibilities pursuant to the *Canadian Environmental Assessment Act, 2012 (CEAA 2012)*; and

**WHEREAS** British Columbia Hydro and Power Authority is proposing to construct and operate a dam and hydroelectric generating station on the Peace River near Fort St. John, British Columbia, referred to as the Site C Clean Energy Project, which is subject to environmental assessment requirements under both the *CEAA 2012* and the *BCEAA*; and

**b) The following paragraphs are added after the eighth paragraph:**

**WHEREAS** the *Canadian Environmental Assessment Act* has been repealed and the *Canadian Environmental Assessment Act, 2012* has come into force; and

**WHEREAS** pursuant to section 126 of the *Canadian Environmental Assessment Act, 2012*, the assessment by the joint review panel is continued under the process established under the *Canadian Environmental Assessment Act, 2012* as if it had been referred to a review panel under section 38 of the *Canadian Environmental Assessment Act, 2012*;

**2. Section 1 of the Agreement “Definitions” is amended as follows:**

*Canadian Environmental Assessment Act, 2012* or **CEAA 2012** refers to the *Canadian Environmental Assessment Act, 2012*

**Federal Authority** has the same meaning as set out in subsection 2(1) of the *CEAA 2012*.

**Joint Review Panel** means an independent body established pursuant to this Agreement and considered to be a review panel established under an agreement entered into under the *CEAA 2012*, pursuant to section 126(1) of *CEAA 2012*.

**Joint Review Panel Stage** means those portions of the environmental assessment process that occur from the time the Proponent submits the amended EIS to the Panel, in accordance with section 3.14 of this Agreement, to the time the Joint Review Panel Report is submitted.

**Public Registry** means both the Canadian Environmental Assessment Registry established under section 78 of the *Canadian Environmental Assessment Act 2012* which will be maintained by the Agency; and the British Columbia Project Information Centre (e-PIC) established under section 25 of the *BCEAA* which will be maintained by the Executive Director of EAO.

**3. Section 3.11 of the Agreement is amended as follows:**

3.11. The Working Group will review the EIS and submit comments and information requests to the Agency and EAO, which will provide comments to the Proponent. The Proponent will provide a detailed response to these comments. The

Proponent's response will be considered by the Agency and EAO, and the Agency and EAO will direct the Proponent to supplement the EIS as required.

**4. Section 3.14 of the Agreement is amended as follows:**

3.14. The Agency and EAO will determine when the EIS is satisfactory to them and then direct the proponent to submit the amended EIS to the Panel. When the proponent submits the amended EIS to the Panel, the Pre-Panel Stage is complete and the Joint Review Panel Stage will commence.

**5. Section 3.15 of the Agreement is amended as follows:**

3.15. The Pre-Panel Stage is not expected to exceed 24 calendar months from the date that the Notice of Consideration under the CEAA was posted on the Agency's website (August 2, 2011).

**6. Section 4 of the Agreement is amended as follows:**

**a) Section 4.1 of the Agreement is amended as follows:**

4.1. A Joint Review Panel will be established pursuant to sections 40 and 42 of the *CEAA 2012* and pursuant to the *BCEAA* for the purposes of conducting an environmental assessment of the Project.

**b) Adding new sections numbered 4.2, 4.4, as follows:**

4.2. The Parties must establish the Joint Review Panel within 260 days of the coming-into-force of *CEAA 2012*. Any time taken by the proponent to prepare or make revisions to its EIS, or to prepare its responses to public or Working Group comments, is not included in this time period.

4.4. The Proponent will submit the amended EIS to the Joint Review Panel.

**c) Inserting a new section 4.5 as follows, and updating the numbering in the remaining sections of section 4, and amending section 4.3 to accurately account for timelines:**

4.5. The Joint Review Panel shall satisfy its Terms of Reference and submit its final report to the federal Minister of the Environment and the Executive Director of the EAO within 225 days from the submission of the EIS by the Proponent to the Joint Review Panel. This time period does not include any time required by the proponent to prepare any additional information required by the Panel.

4.6. The Joint Review Panel Stage of the assessment, including preparation and submission of the Joint Review Panel Report, is not expected to exceed eight calendar months from the time the EIS is submitted to the Joint Review Panel.

**d) Replacing section 4.13, 4.15 and 4.16 as follows, and updating the numbering:**

4.16. The Joint Review Panel will conduct its review in accordance with the requirements of the CEEA 2012 and associated Regulations, and the requirements in the Terms of Reference.

4.18. The Joint Review Panel may request clarification of the Terms of Reference by sending a letter signed by the chairperson to the President of the Agency and the Executive Director of EAO setting out the request. Upon receiving a request for clarification from the Joint Review Panel, the President of the Agency, on behalf of the federal Minister of the Environment, and the Executive Director of EAO, on behalf of the provincial Minister of Environment, are authorized jointly to provide the Joint Review Panel such clarification. Should clarification be requested, the President and the Executive Director will use best efforts to ensure a joint response is provided to the Joint Review Panel's letter within 14 calendar days. The Joint Review Panel will continue with the joint review to the extent possible while waiting for the response in order to adhere to the time periods of the Terms of Reference. The Joint Review Panel will notify the public of any clarifications to the Terms of Reference.

4.19. The Joint Review Panel may seek an amendment to the Terms of Reference by sending a letter signed by the chairperson to the President of the Agency and the Executive Director of EAO setting out the request. In seeking an amendment, the Joint Review Panel may recommend to the Parties whether a public comment period on the proposed amendment is warranted. The President of the Agency, on behalf of the federal Minister of the Environment, and the Executive Director of EAO, on behalf of the provincial Minister of Environment, are authorized to jointly consider and, if appropriate, amend the Terms of Reference. Should an amendment be requested, the President and the Executive Director will use best efforts to ensure a joint response is provided to the Joint Review Panel's letter within 14 calendar days. The Joint Review Panel will continue with the joint review to the extent possible while waiting for the response in order to adhere to the time lines of the original Terms of Reference. The Joint Review Panel will notify the public of any amendments to the Terms of Reference.

**e) Section 4.19 of the Agreement is amended as follows:**

4.22. The Joint Review Panel will have all the powers and duties of a panel described in section 45 of the CEEA 2012 and those set out in the Terms of Reference, as well as powers described in subsection 14(4) of the BCEAA.

**7. Section 5 of the Agreement is amended as follows:**

**a) Sections 5.1 and 5.3 of the Agreement are amended by updating references to the *Canadian Environmental Assessment Act, 2012*, as follows:**

- 5.1. A public registry will be maintained by the Agency during the course of the joint review in a manner that provides for convenient public access, and that complies with sections 78 to 81 of the CEAA 2012.
- 5.3. Subject to sections 45(4) 45(5), and 81 of the CEAA 2012, the public registry will include all records produced, collected or submitted relating to the environmental assessment of the Project.

**b) Section 5.4 is deleted.**

**8. Section 8.1 of the Agreement is amended as follows:**

- 8.1. Once the Joint Review Panel submits its Report to the federal Minister of the Environment and the Executive Director of EAO, the Executive Director will prepare a Referral Package for the provincial Minister of Environment and other responsible provincial Minister's consideration, which may include the following documents:
  - Draft report summarizing the activities that took place during the Pre-Panel Stage as stated in section 3.16
  - Draft provincial report regarding consultation and accommodation
  - The Joint Review Panel Report
  - Draft response of the Executive Director to the Joint Panel Review Report
  - Draft Environmental Assessment CertificatePreparation of the draft Referral Package is not expected to exceed 45 days from the time that the Joint Review Panel Report is submitted to the Executive Director of EAO.

**9. Sections 9.1 and 9.2 of the Agreement are amended as follows:**

- 9.1. Once the Joint Review Panel report has been made public, a Steering Committee will be established consisting of senior representatives of EAO and the Agency in its role as Responsible Authority and federal Crown consultation coordinator.
- 9.2. The Steering Committee will discuss elements of the proposed provincial response to and the federal Minister's potential decision on the Joint Review Panel Report, the recommendations and conclusions contained in the Joint Review Panel Report, and key issues and responsibilities respecting these recommendations and conclusions in order for EAO and federal government to prepare and finalize their respective key documents.

**10. Section 10 of the Agreement is amended as follows:**

**a) Sections 10.1 and 10.2 are amended as follows:**

- 10.1 The Parties agree to make best efforts to coordinate the timing of the issuance of the federal Minister of the Environment's environmental assessment decision statement under section 54 of the *CEAA 2012* and the announcement of the decision of the provincial Minister of the Environment and other responsible provincial Minister under section 17 of the *BCEAA*. If timing of the release cannot be coordinated, each Party will give advance notice to the other Party regarding timing of decisions.
- 10.2. The federal and/or the provincial Minister of Environment may require the Joint Review Panel to clarify any of the conclusions or recommendations set out in the Joint Review Panel Report.

**b) Adding new section 10.4 as follows:**

- 10.4. The federal Minister of the Environment will issue an environmental assessment decision statement for the Project within 174 calendar days of the receipt of the Joint Review Panel report. If the federal Minister of the Environment requires the proponent to undertake additional studies or collect additional information in accordance with section 47(2) of the *CEAA 2012*, the time required by the proponent to prepare and submit this information is not included in the 174 calendar day period.

**11. Section 11.1 of the Agreement is amended as follows:**

- 11.1. This Agreement, and any amendment to it, comes into force upon its execution by both Parties. Subject to section 4.19, this Agreement can be amended at any time with mutual consent of both Parties.

**12. Part II of Appendix 1 to the Agreement, entitled "Joint Review Panel Terms of Reference" is amended by updating sections 2.1 and 2.7 as follows:**

- 2.1. The Joint Review Panel must conduct an assessment of the environmental, economic, social, health and heritage effects of the Project referred to in the Description of the Project (Part I) in a manner consistent with the requirements of the *CEAA 2012* and the *BCEAA*.
- 2.7. All information obtained by the Joint Review Panel for the environmental assessment of the Project shall be made publicly available, unless the Joint Review Panel determines that subsections 45(4) or 45(5) of the *CEAA 2012* applies to the information provided by a participant.

**13. Part III of Appendix 1 to the Agreement, entitled “Joint Review Panel Terms of Reference” is amended by updating sections 3.9, 3.11, 3.13 and 3.17 as follows:**

- 3.9. The public hearing shall be open to the public, unless the Joint Review Panel determines that subsection 45(3) of the CEAA 2012 applies to the information provided by a participant.
- 3.11. Should the Joint Review Panel retain the services of non-governmental experts, the names of the experts retained and any documents obtained or created by the experts and that are submitted to the Joint Review Panel must be placed on the public registry, subject to the provisions in section 45 of the CEAA 2012. For greater certainty, this shall exclude any information subject to solicitor-client privilege.
- 3.13 Following the completion of the public hearing, the Joint Review Panel must prepare and submit to the federal Minister of the Environment and the Executive Director of EAO, a report in accordance with the Terms of Reference, which must include:
- a description of the Joint Review Panel process;
  - the rationale, conclusions and recommendations of the Joint Review Panel relating to the environmental assessment of the Project, including any recommended mitigation measures and follow-up programs;
  - an identification of those conclusions that relate to the environmental effects to be taken into account under Section 5 of the CEAA 2012;
  - an identification of recommended mitigation measures that relate to the environmental effects to be taken into account under Section 5 of the CEAA 2012;
  - a summary of any comments received, including those from the public and Aboriginal Groups;
  - recommendations with respect to conditions to be attached to the Environmental Assessment Certificate; and
  - an executive summary in both official languages.
- 3.17. The Joint Review Panel must submit the Joint Review Panel Report to the federal Minister of the Environment and the Executive Director of EAO at the earliest possible date, and no later than 90 calendar days from the date that the chairperson of the Joint Review Panel closes the hearing to the receipt of further information. The Panel must not release the Report publicly. The federal and provincial governments will publish and make available the Joint Review Panel Report as submitted. Further to section 4.6 of this Agreement and section 4.1 of these Terms of Reference, the Joint Review Panel Stage of the assessment is not expected to exceed eight calendar months from the submission of the EIS by the Proponent to the Joint Review Panel.

**14. Appendix 1 is amended by adding “PART IV – TIMELINES” as follows:**

- 4.1. Subject to section 4.2 of these Terms of Reference, the Panel shall satisfy its Terms of Reference and submit its final report to the federal Minister of the Environment and the Executive Director of EAO within 225 days from the submission of the EIS by the proponent to the Joint Review Panel.
- 4.2. The time period between the issuance by the Joint Review Panel of any request for information as per section 3.2 of these Terms of Reference and the submission of the requested information by the proponent is not included in the timeline referred to in section 4.1 of these Terms of Reference.

**15. The Agreement, as hereby amended in accordance with the terms thereof and remains in full force and effect.**

ORIGINAL SIGNED BY:

ORIGINAL SIGNED BY:

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The Honourable Peter Kent  
Minister of the Environment, Canada

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The Honourable Terry Lake  
Minister of Environment, British Columbia

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Date

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Date



## Appendix 2

# SITE C ENVIRONMENTAL ASSESSMENT

If inconsistencies are identified between this schematic and the text of the agreement, the text supersedes this schematic

