

QUÉBEC-MI'GMAQ AGREEMENT ON THE PROCESS GOVERNING CONSULTATION AND  
ACCOMMODATION IN RESPECT OF HYDROCARBON ACTIVITIES  
(the “**Agreement**”)

BETWEEN

The MI'GMAQ as represented by the Chiefs and Councils of the Micmacs of Gesgapegiag, la nation Micmac de Gespeg and the Listuguj Mi'gmaq Government and their assembly, the Mi'gmawei Mawiomi and by Mi'gmawei Mawiomi Secretariat (“MMS”), a legal entity duly incorporated pursuant to the *Canada Corporations Act* (RSC 1970, c. C-32) (“**Mi'gmaq**”)

AND

THE GOUVERNEMENT DU QUÉBEC as represented by the Minister responsible for Indigenous Affairs, the Minister of Energy and Natural Resources, the Minister of the Environment and the Fight Against Climate Change and by the Minister responsible for Canadian Relations and the Canadian Francophonie (“**Québec**”)

(collectively referred to as the “**Parties**”)

PREAMBLE:

- A. Whereas the Mi'gmaq assert Aboriginal rights, including title, and Treaty rights over their traditional territory of Gespe'gewa'gi as illustrated in the Mi'gmaq map reproduced in Schedule A;
- B. Whereas the Mi'gmaq wish to protect their asserted rights under section 35 of the *Constitution Act, 1982*, and the ability of their current and future generations to exercise such rights in a meaningful manner;
- C. Whereas on July 24<sup>th</sup>, 2017, the Minister of Energy and Natural Resources, by Order, has withdrawn from mining exploration and mining operations the petroleum and natural gas forming part of the lands of Île d'Anticosti and whereas since April 13<sup>th</sup>, 2018, Anticosti island is on Canada's Tentative List, which is a preliminary step towards its submission for nomination for inscription on the World Heritage List;
- D. Whereas the Mi'gmaq consider that their way of life is particularly threatened by the effects of climate change and the acidification of the oceans, notably, because of their reliance on the harvesting of shell fish, moose and salmon, medicinal plants and the environment;
- E. Whereas the Mi'gmawei Mawiomi passed a resolution on September 14<sup>th</sup>, 2016, stating that it is against any form of fracking or chemical stimulation within Gespe'gewa'gi;
- F. Whereas the Mi'gmaq are very concerned by the risks and impact of hydrocarbon activities in Gespe'gewa'gi;
- G. Whereas Québec has taken steps in response to the concerns expressed by the Mi'gmaq regarding hydrocarbon activities in Eastern Québec;
- H. Whereas the Mi'gmaq have expressed concerns about meaningful consultation and accommodation in respect to hydrocarbon activities;
- I. Whereas the Parties desire to enter into a consultation and accommodation agreement in relation to hydrocarbon activities, through which Québec will fulfill its duty to consult and accommodate, when applicable;
- J. Whereas the Parties wish to strengthen their relationship through productive and more effective collaboration, and developing mutual respect in regards to hydrocarbon activities.

THEREFORE, the Parties agree as follows:

**1- DEFINITIONS**

- 1.1 **Emergency situation:** Means a situation that requires a rapid response from Québec and that is related to national security, public safety, public health, environmental protection or another issue of similar nature.
- 1.2 **Gespegewagi Management Plan (“GMP”):** Means the Land and Marine use plan developed by the Mi'gmaq in regard of the Gespe'gewa'gi as illustrated in Schedule A. The GMP reflects the Mi'gmaq's vision of development, based on their use of the territory and resources and seeks to harmonize the values of Mi'gmaq culture, the environment and the economy.
- 1.3 **Hydrocarbon activity (ies):** Means the hydrocarbon activities, as provided for in Schedule C-1, that are not subject to the environmental impact assessment and review procedure and the hydrocarbon activities, as provided for in Schedule C-2, that are subject to the environmental impact assessment and review procedure.
- 1.4 **Two-Eyed Seeing Approach:** Means the approach to be used by the Mi'gmaq that consists in using simultaneously the Indigenous Traditional knowledge and the scientific and technical Western knowledge during the consultation and accommodation processes under this Agreement.
- 1.5 **Water-First Approach:** Means the approach to be used by the Mi'gmaq in which development is measured according to its impact on water: such as impact on quality, quantity and rhythm of flow, that stems from Mi'gmaq intimate and sacred linkage to water.

## **2- PURPOSES OF THIS AGREEMENT**

- 2.1 Define consultation and accommodation processes applicable to Hydrocarbon activities that enable meaningful consultation and two way dialogue, in particular regarding the concerns expressed by the Mi'gmaq, and the accommodation measures to eliminate or diminish the adverse effects of Hydrocarbon activities on the rights asserted by the Mi'gmaq, where warranted.
- 2.2 Further the objective of reconciliation of Québec and the Mi'gmaq with respect to Hydrocarbon activities.
- 2.3 Ensure that the Mi'gmaq participate as early as possible in the decision-making process in respect of Hydrocarbon activities.
- 2.4 Respect the principles of sustainable development as defined in section 6 of the *Sustainable Development Act* (CQRL c. D-8.1.1), namely social equity and solidarity, precaution, biodiversity preservation and respect for ecosystem support capacity.

## **3- MI'GMAQ'S REPRESENTATION**

- 3.1 MMS shall be responsible to administer, coordinate and implement the obligations stipulated in this Agreement on behalf of the Mi'gmaq and, unless provided otherwise in this Agreement, shall represent the Mi'gmaq vis à vis Québec.
- 3.2 At anytime during the consultation and accommodation processes contemplated in Schedules C-1 and C-2 of this Agreement, a Mi'gmaq community shall notify Québec, by sending a copy of the document confirming the decision of Gespeg, Gesgapegiag or Listuguj's council, as the case may be, that it will continue the initiated consultation and accommodation processes directly with Québec and shall indicate who will be its designated representative.

In such a case, a reference to MMS in this Agreement, subject to section 3.1, is deemed to be a reference to the representative designated by the community or communities to continue the consultation initiated.

- 3.3 Unless a notice is sent in accordance with section 3.2, MMS warrants, declares and confirms that it is duly mandated and authorized by Gespeg, Gesgapegiag and Listuguj's councils to represent and act on behalf of the Mi'gmaq in accordance with section 3.1.

## **4- FUNDING**

- 4.1 Québec will fund the Mi'gmaq to ensure their full participation in the consultation and accommodation processes through the funding available under the Consultation support component of the *Aboriginal Initiatives Fund III* (« AIF III »), pursuant to the applicable terms and conditions of this program and subject to the appropriation of funds by the National Assembly and the availability of funds.
- 4.2 Québec will make best efforts to process as early as possible requests of funding received from the Mi'gmaq in relation to the Consultation support component of the AIF III.
- 4.3 In the event that the AIF III is not renewed, Québec commits to search for an alternative source of funding.

## **5- SCOPE AND TERRITORY OF APPLICATION**

- 5.1 This Agreement applies when Québec is asked to grant or modify the right(s), permit(s), licence(s) or authorization(s) required to carry out Hydrocarbon activities within the territory of application as provided by in Schedule B (hereinafter called "territory of application").
- 5.2 The Parties agree that the territory of application constitutes a term specific to this Agreement. The provisions of section 5.1 do not affect the Parties' positions as to the Mi'gmaq claims on a given territory or the positions they may take in negotiations as to the territorial scope of potential agreements relating to such claims or the establishment of other consultation and accommodation processes.

## 6- CONSULTATION AND ACCOMMODATION PROCESSES

6.1 This Agreement provides for two specific consultation and accommodation processes as described in Schedule C-1 and Schedule C-2:

- a) hydrocarbon activities not subject to the environmental impact assessment and review procedure (Schedule C-1)
- b) hydrocarbon activities subject to the environmental impact assessment and review procedure (Schedule C-2)

6.2 The consultation and accommodation processes are implemented in accordance with the following principles:

- a) Each consultation and accommodation process is triggered as contemplated in section 5.1 of this Agreement and as further detailed in Schedules C-1 and C-2;
- b) In the implementation of the consultation and accommodation processes, a comprehensive approach to provide an overall vision of a Hydrocarbon activity is fostered. This approach aims, as much as possible, to regroup, for the purposes of the consultation and accommodation processes, the right (s), licence (s), permit (s) and authorization (s) required for a Hydrocarbon activity;
- c) The consultation and accommodation processes take place in a spirit of collaboration. The Parties will make every reasonable effort to ensure that they fully participate in the processes. In order to do so, they will act diligently and take into consideration the needs and the limitations expressed by the other Party;
- d) During their participation in the processes, the Mi'gmaq will address their concerns to Québec regarding adverse effects of a Hydrocarbon activity on the rights, including title, asserted by the Mi'gmaq. Furthermore, the Mi'gmaq may intend to use in particular, but not exclusively, the following approaches and tools:
  - the Water-First Approach;
  - the Two-Eyed Seeing Approach; and
  - the GMP.

The consultation and accommodation processes will allow for consultation and dialogue regarding the concerns expressed by the Mi'gmaq, including those stemming from the use of their approaches and tools, and the accommodation measures, where warranted;

- e) A sufficient timeframe is established in each of the consultation and accommodation processes to enable MMS to properly respond to the requests it receives from Québec. Either Party may request a change to the set timeframe; the other party may not deny such a request without reasonable grounds;
- f) When Québec has received no response or communication from MMS before a deadline of a consultation and accommodation process, it sends MMS a reminder notice at least 15 days before a deadline. In the event that MMS is unable to respond to a specific request it receives within the timeframe set out in the consultation and accommodation process or within a changed timeframe as provided for in paragraph e of section 6.2 of this Agreement, Québec will make a decision that takes into account the concerns of the Mi'gmaq of which it has knowledge with regards to the specific request;
- g) In the case of an Emergency situation, the consultation and accommodation processes could be modified or not followed by Québec during the period covering the said Emergency situation only. Québec will nevertheless notify MMS in writing of the Emergency situation as early as possible and make all reasonable efforts to address the concerns expressed by the Mi'gmaq.

6.3 The participation by the Mi'gmaq in a monitoring committee as provided for in the *Petroleum Resources Act* (CQLR, c. H-4.2), in a process held by the Bureau d'audiences publiques sur l'environnement as provided for in the *Environment Quality Act* (CQLR, c. Q-2) or in a process held by the Régie de l'Énergie does not replace the consultation and accommodation processes

established by this Agreement nor does it alter Québec's obligations stipulated under this Agreement.

## **7- INFORMATION AND CONFIDENTIALITY**

- 7.1 Subject to the applicable provisions respecting access to information, the Parties shall share relevant and available information. When information is shared in the context of a consultation and accommodation process conducted under this Agreement, the Parties shall determine if the shared information must be considered confidential and, if so, the Parties shall take the necessary steps to ensure confidentiality, as per the laws applicable.
- 7.2 Québec shall provide MMS with the most comprehensive and relevant information available, including information it receives from the proponent seeking the right, licence, permit or authorization in question. This information may pertain to, among other things, the nature of the planned activity, its location and the area affected, as well as the nature of the right, licence, permit or authorization requested.
- 7.3 MMS shall provide Québec with relevant and available information during the consultation and accommodation processes to enable Québec to fully understand the Mi'gmaq's concerns. This information shall pertain to, among other things, the nature and scope of the asserted rights of the Mi'gmaq and the projected adverse effects on these rights; the existence of the sites of interest and their degree of vulnerability as well as to the purposes and frequency of use of the territory of application.

## **8- LIAISON COMMITTEE**

- 8.1 On the Date of entry into force of this Agreement, the Parties shall establish a liaison committee ("Liaison Committee") comprised of two (2) representatives of Québec and two (2) representatives of the Mi'gmawei Mawiomi, who shall be respectively appointed by the Parties. The Parties' representatives shall have authority required to enable the Liaison Committee to carry out its mandate.
- 8.2 The Liaison Committee will monitor in an advisory capacity the application of this Agreement. The Liaison Committee's responsibilities will be:
- a) to promote dialogue and co-operation between the Parties;
  - b) to make recommendations to the Parties on the implementation of this Agreement;
  - c) to propose a communication strategy;
  - d) to intervene, as provided at section 9.3, to help resolve disputes between the Parties;
  - e) to adopt minutes of the Liaison Committee's meetings;
  - f) to review this Agreement, as provided for in section 11 of this Agreement.

- 8.3 The Liaison Committee meets at least twice a year or when deemed necessary by the Parties.

## **9- DISPUTE RESOLUTION**

- 9.1 For the purposes of this dispute resolution mechanism, a dispute is defined as any controversy, claim, or disagreement arising out of the interpretation or implementation of this Agreement and which is formally raised in accordance with section 9.2 by any of the parties for dispute settlement.
- 9.2 Should a dispute arise during the implementation of this Agreement despite close cooperation between the Parties, the Parties will seek to settle the dispute out of court before resorting to legal proceedings. The dispute resolution mechanism is initiated when one of the Parties sends a written notice to the other Party specifying the subject of the dispute as well as the issue(s) to be resolved.
- 9.3 After receipt of the written notice, the Liaison Committee shall hold a meeting within ten (10) days, or within another delay determined by the Liaison Committee, in order to seek an amicable solution to the dispute.

If it deems it necessary to resolve the dispute, the Liaison Committee may hold more than one meeting, agree to extend a deadline for a specific consultation and accommodation process, to further document the issue, or to consult an expert to enlighten it on these issues.

The cost related to the consultation of an expert shall be agreed upon and shared equally between the Parties.

- 9.4 The Liaison Committee, after having held at least one meeting to resolve the dispute, may seek the help of an independent and unbiased third party mediator.

The mediation process is not binding to the Parties. A party can put an end to the mediation process at any time by giving a five (5) days written notice to the other party.

- 9.5 If the Parties decide to refer the dispute to mediation, each Party shall assume their own mediation expenses. The costs related to the mediation process, including the fees and expenses of the mediator and experts, shall be agreed upon and shared equally between the Parties.

- 9.6 Should the Liaison Committee be unable to resolve the dispute or to appoint a mediator, each of the Parties shall appoint a representative with sufficient authority to jointly seek to reach an amicable solution. In the case of Québec, the representative shall be a manager from each ministry involved. For the Mi'gmaq, except in cases identified in section 3.2, the representative shall be the Executive director of MMS. Each representative may appoint any other person required given the circumstances.

## **10- DATE OF ENTRY INTO FORCE, TERM, TERMINATION, AND AMENDMENT**

- 10.1 This Agreement shall come into force thirty (30) days after the date of the last signature (the "Date of entry into force").

- 10.2 The term of this Agreement is five (5) years after the Date of entry into force, renewable for further five (5) year periods upon written consent from both Parties. Six (6) months before the ending of this Agreement, Québec sends a written notice to MMS reminding it of its expiry date.

- 10.3 Either Party may terminate this Agreement by providing the other Party with six (6) weeks written notice.

- 10.4 A Mi'gmaq community may withdraw from this Agreement even if not all the communities want to withdraw. To do so the community must send a six (6) weeks written notice to the other parties.

In such a case, the Agreement will not automatically be terminated and the remaining parties will meet to assess whether the Agreement should be terminated or continued. In the latter case, the parties shall review the Agreement in order to propose amendments, as the case may be, to allow for the continuation of the Agreement.

- 10.5 The legal effects arising from sections 5.2 and 12.3 shall continue to apply and remain in force despite the end of this Agreement, regardless of the termination of this Agreement and the cause thereof.

- 10.6 This Agreement may be amended at any time with the written consent of the Parties.

## **11- REVIEW OF THE AGREEMENT**

- 11.1 This Agreement is subject to a review by the Liaison Committee two (2) years after its entry into force.

- 11.2 During the review provided for in section 11.1, the Liaison Committee shall review the implementation of this Agreement and assess whether amendments are warranted.

## **12- GENERAL PROVISIONS**

- 12.1 The preamble and Schedules form an integral part of this Agreement

- 12.2 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 or 35 of the *Constitution Act*, 1982.

- 12.3 This Agreement does not recognize, create, deny, define, alter or affect any aboriginal or treaty right that the Mi'gmaq may have under section 35 of the *Constitution Act*, 1982 and shall not be construed as an interpretative aid in the determination of such right.

- 12.4 Nothing in this Agreement is to be construed as an acceptance of or an admission by a Party of the position of the other Party. For more certainty, the participation in a consultation and

accommodation process is not to be interpreted to the effect that the Mi'gmaq have given their support to a Hydrocarbon activity.

- 12.5 This Agreement does not limit the positions that a Party may take in any other ongoing or future discussions, negotiations, settlements, court actions or proceedings outside the application of this Agreement.
- 12.6 Nothing in this Agreement shall be interpreted in a manner that requires a Party to act in a manner inconsistent with provincial or federal law.
- 12.7 By respecting the obligations set out herein, Québec will fulfill the obligations that it may have to consult in relation to Hydrocarbon activities.

However, nothing in this Agreement prevents the Mi'gmaq from seeking judicial enforcement if they consider that any of the consultation and accommodation processes stipulated by this Agreement has not been respected or if they consider that the accommodation measures adopted are not appropriate, including by seeking a temporary or permanent injunction.

- 12.8 This Agreement does not affect any obligations that Québec may have towards Aboriginal peoples of Canada within the meaning of section 35 of the *Constitution Act, 1982* which are not part of this Agreement, nor does it affect the means at its disposal to fulfill these obligations.
- 12.9 This Agreement does not affect any obligation that Québec may have to consult with the Mi'gmaq on Hydrocarbon activities outside the territory of application of this Agreement.
- 12.10 The Parties warrant that their representatives will be duly authorized to carry out their obligations in accordance with the terms of this Agreement.
- 12.11 The Parties will signify their approval of this Agreement through the signatures of their representatives, who are authorized to sign the Agreement on behalf of their respective Party, as specified, for the Mi'gmaq, in the copies of the documents confirming the decision of Gespeg, Gesgapegiaq and Listuguj's councils attached to this Agreement (Schedule D).
- 12.12 Any notice required under this Agreement, except in Schedule C-1 and Schedule C-2, must be given in writing at the following coordinates:

- Secrétaire adjoint  
Secrétariat aux affaires autochtones  
905, avenue Honoré-Mercier, 1<sup>er</sup> étage  
Québec (Québec) G1R 5M6
  
- Executive Director  
Mi'gmawei Mawiomi Secretariat  
2 Riverside Drive West  
P.O. Box 135, Listuguj (Québec) G0C 2R0

Any changes of the address of either Party must be notified to the other without delay.

IN WITNESS WHEREOF, the Parties have signed eight copies of this Agreement in French and eight copies in English.

**THE MI'GMAQ**

\_\_\_\_\_  
Chief  
La nation Micmac de Gespeg

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

\_\_\_\_\_  
John Martin  
Chief  
Micmacs of Gesgapegiag

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

\_\_\_\_\_  
Darcy Gray  
Chief  
Listuguj Mi'gmaq Government  
Mi'gmawei Mawiomi Chair

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

\_\_\_\_\_  
Tanya Barnaby  
Executive Director  
Mi'gmawei Mawiomi Secretariat

At \_\_\_\_\_, on \_\_\_\_\_ 2019.



**GOVERNEMENT DU QUÉBEC**

\_\_\_\_\_  
Sylvie D'Amours  
Minister responsible for Indigenous Affairs

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

\_\_\_\_\_  
Sonia LeBel  
Minister responsible for Canadian Relations  
and the Canadian Francophonie

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

\_\_\_\_\_  
Jonatan Julien  
Minister of Energy and Natural Resources

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

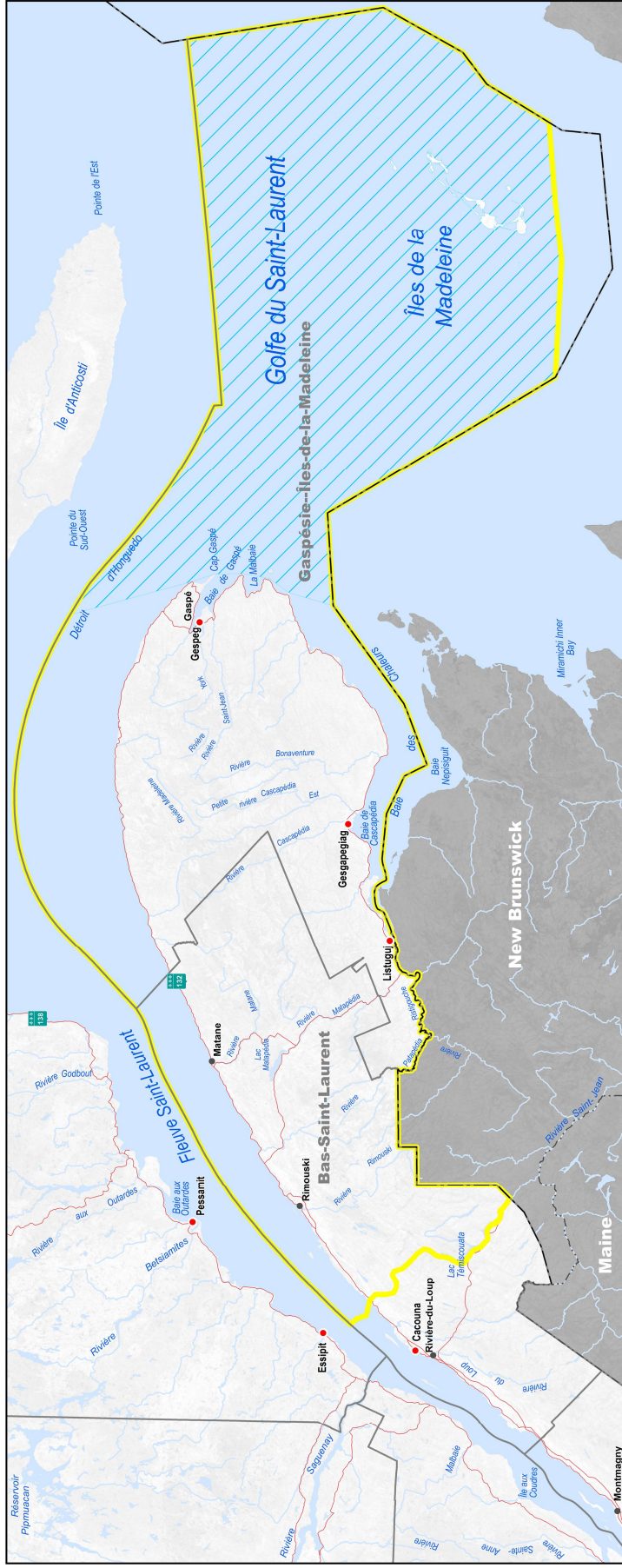
\_\_\_\_\_  
Benoit Charette  
Minister of the Environment and the Fight Against Climate Change

At \_\_\_\_\_, on \_\_\_\_\_ 2019.

SCHEDULE A- (Paragraph A of the Preamble)



SCHEDULE B – (Section 5.1)



**Territorial organization**

- Administrative region boundary
- Interprovincial border
- International border
- Territory of application of this Agreement
- Portion of the Saint Lawrence Gulf excluded from the territory of application. For greater certainty, the Îles de la Madeleine are included in the territory of application.

**Sources**

Data	Organization	Year
Base Map	MERN	2019

**Production**

Ministère de l'Énergie et des Ressources naturelles  
 Direction des affaires autochtones

Note: this map is to be used for the sole purpose of implementing this Agreement

Gouvernement du Québec, Avril 2019

**Énergie et Ressources naturelles Québec**

Scale: 0, 50, 100km

## SCHEDULE C-1

### CONSULTATION AND ACCOMMODATION PROCESS FOR HYDROCARBON ACTIVITIES NOT SUBJECT TO THE ENVIRONMENTAL IMPACT ASSESSMENT AND REVIEW PROCEDURE

#### 1- SCOPE AND INTERPRETATION

- 1.1 This Schedule C-1 describes the consultation and accommodation process applicable when hydrocarbon activities are not subject to the environmental impact assessment and review procedure prescribed by the *Environment Quality Act* (CQLR, c. Q-2) and the *Regulation respecting the environmental impact assessment and review of certain projects* (CQLR, c. Q-2, r. 23.1) and require the following authorization(s), licence(s), permit(s) or right(s):
- a) exploration licence issued under the *Petroleum Resources Act* (CQLR, c. H-4.2) (“PRA”);
  - b) authorization under division VI of chapter III of the PRA, including a geophysical surveying or geochemical surveying authorization, a stratigraphic surveying authorization for drilling not referred to in section 13 of Part II of Schedule 1 of the *Regulation respecting the environmental impact assessment and review of certain projects*, a drilling authorization for drilling not referred to in section 13 of Part II of Schedule 1 of the *Regulation respecting the environmental impact assessment and review of certain projects*, a completion authorization, a fracturing authorization, a reconditioning authorization or a temporary or permanent closure authorization;
  - c) authorization under the *Environment Quality Act*;
  - d) pipeline construction or use authorization for oil pipelines or gas pipelines not referred to in section 9 of Part II of Schedule 1 of the *Regulation respecting the environmental impact assessment and review of certain projects*;
  - e) other related authorization(s), licence(s), permit(s) or right(s), including:
    - i. certain land rights such as a temporary occupation licence pursuant to the *Act respecting the lands in the domain of the State* (CQLR, c. T-8.1);
    - ii. a forestry permit for activities that require forest development activities pursuant to the *Sustainable Forest Development Act* (CQLR, c. A-18.1);
    - iii. authorization to carry on an activity in a wildlife habitat pursuant to the *Act respecting the conservation and development of wildlife* (CQLR, c. C-61.1).
    - iv. authorization to build a multi-purpose road pursuant to the *Sustainable Forest Development Act* (CQLR, c. A-18.1).
- 1.2 Furthermore, this Schedule C-1 will apply for activities that require authorizations, rights, permits or licences stipulated in section 8.4 of Schedule C-2.

#### 2- AUCTION PROCESS FOR AN EXPLORATION LICENCE

- 2.1 When Québec plans to launch an auction process for the awarding of an exploration licence, it sends a notice to MMS in writing, containing a description of the proposed licence and the territory that could be subject to it. The notice also includes:
- a) the nature of the licence, including the term of its renewal and the authorizations that may be requested by the proponent pursuant to such licence;
  - b) the timeframe provided by this Agreement for the consultation and accommodation process regarding an exploration licence;
  - c) the location of the proposed licence – the geographic area of the licence should be clearly mapped and submitted in a digital format compatible with ESRI’s ArcGIS software;
  - d) pertinent and available supporting documentation;
  - e) pertinent name, address and phone number of the contact person(s) regarding the auction process.

The notice is transmitted at least eighty (80) or sixty (60) days, according to the terms stipulated in section 3.5 of this Schedule, before a notice of auction is sent in accordance with section 23 of the

*Regulation respecting Petroleum exploration, production and storage licence and pipeline construction or use authorization* (CQRL, c. H-4.2, r. 3).

- 2.2 The consultation and accommodation process stipulated in sections 3.3 to 5.2 of this Schedule shall apply to this section by making the necessary adaptations.
- 2.3 If a notice of auction is sent in accordance with section 23 of the *Regulation respecting Petroleum exploration, production and storage licence and pipeline construction or use authorization*, Québec sends MMS a copy of the notice.

### 3- **EXPLORATION AND OTHER ACTIVITIES**

- 3.1 Upon receipt of the request (s) for the right(s), licence(s), permit(s) or authorization(s) necessary to carry out an exploration activity or another activity covered by this Schedule, Québec sends a notice in a clear, concise and understandable language to MMS in writing, containing the most complete, relevant and available information possible.
- 3.2 This information includes details and documentation relating, among other things, to the nature of the Hydrocarbon activity, its location, the area concerned, the time at which it is proposed to build the infrastructures and facilities required, if need be, to carry out the activity, and the proponent's rights and obligations, where applicable, and the items listed below:
- a) the nature of the authorization, permit, licence or right and its scope including its term, if applicable;
  - b) the timeframe provided by this Agreement for the consultation and accommodation process regarding right, permit, licence or authorization necessary to carry out the proposed activity;
  - c) the location of the proposed activity – the geographic area of the activity should be clearly mapped and submitted in a digital format compatible with ESRI's ArcGIS software;
  - d) pertinent and available supporting documentation;
  - e) pertinent name, address and phone number of the contact person(s) regarding the granting of the right, permit, licence or authorization.

Where the consultation and accommodation process to be conducted concerns a contemplated exploration activity for a well that has already been subject to one or more consultations with the Mi'gmaq under this Agreement, the information transmitted by Québec concerning the proponent, the site to be explored and the petroleum resources being sought is presented in such a way as to introduce the new elements.

- 3.3 Within the timeframe provided for in section 3.5, MMS sends to Québec a written response detailing, if that is the case, how the exploration activity contemplated may adversely affect the asserted rights and related interests of the Mi'gmaq, and proposing the accommodation measures it deems appropriate, where warranted.

For greater certainty, MMS response may include Mi'gmaq's concerns, questions, comments and proposed accommodation measures, including concerns arising from the Mi'gmaq Citizens Consultation Process.

- 3.4 If MMS has had exchanges with the proponent and such information is relevant to the consultation and accommodation process, it may inform Québec of the measures that may have been put forward by the proponent to address the Mi'gmaq's concerns.
- 3.5 For the consultation and accommodation process initiated during the first two years after the coming into force of this Agreement, the steps provided in sections 3.6 to 3.8 of this Schedule must be completed within eighty (80) days following the receipt of the notice pursuant to section 3.1 of this Schedule. After this period of two years, this timeframe is of sixty (60) days.
- 3.6 Before MMS sends its written response to Québec, exchanges shall take place, at MMS's request, between Québec's representatives and MMS to enhance understanding of the exploration or other activity contemplated, its technical aspects, potential adverse effects, the Mi'gmaq's concerns relating to these effects and possible accommodation measures to eliminate or minimize adverse effects of the activity on Mi'gmaq asserted rights and related interests, if appropriate.

These exchanges may also include experts from Québec.

- 3.7 If the parties so agree, the proponent may be asked to participate in these exchanges in order to discuss with MMS the Mi'gmaq's questions and concerns and to facilitate the exchange of information.
- 3.8 If MMS send its written response at least ten (10) days before the end of the delay provided in section 3.5, additional exchanges on potential adverse effects and accommodation measures may take place to conclude the consultation and accommodation process.
- 3.9 MMS is informed of the concerns and accommodation measures that are considered to be submitted to the responsible minister in preparation of his decision.
- 3.10 The main elements of the response of MMS as well as, if applicable, both the accommodation measures that are recommended and those proposed by the Mi'gmaq but not recommended are submitted to the responsible minister in preparation of his decision.

#### 4- **DECISION**

- 4.1 Québec informs MMS in writing of its decision concerning the granting of the right(s), permit(s), licence(s) or authorization(s) necessary to carry out the contemplated exploration or other activity.
- 4.2 The letter includes a summary of the consultation and accommodation process carried out, explains how Québec has taken into account the concerns raised by MMS, and describes, if applicable, the accommodation measures retained by Québec.
- 4.3 The said accommodation measures shall be entered as conditions for the exercise of the right(s), permit(s), licence(s) or authorization(s) granted, or shall otherwise be implemented.

#### 5- **AMENDMENTS**

- 5.1 Québec informs MMS in writing when the proponent files an application to amend an authorization, permit, licence or right previously issued if the proposed amendment affects an accommodation measure included in the authorization or is likely to create or increase the following impacts of the activity on the Mi'gmaq:
- a) impacts on the use of resources and territory;
  - b) impacts on harvesting activities;
  - c) impacts on water.
- 5.2 MMS may, within seven (7) days following the receipt of the written notice, request a consultation and accommodation process on the proposed amendments pursuant to sections 3.1 to 4.3 of this Schedule with all necessary adaptations.

#### 6- **SIGNIFICANT OR COMMERCIAL DISCOVERY OF PETROLEUM**

- 6.1 "Significant discovery" means a discovery indicated by the first well on a geological feature that demonstrates by testing the existence of petroleum in that feature and, having regard to geological and engineering factors, suggests the existence of an accumulation of petroleum that has potential for sustained production according to the PRA.
- 6.2 "Commercial discovery" means a discovery of petroleum that has been demonstrated to contain petroleum reserves that justify the investment of capital and effort to bring the discovery to production according to the PRA.
- 6.3 After Québec is notified by a proponent of a significant or commercial discovery of petroleum in the territory covered by its exploration licence, as stipulated in sections 38 and 39 of the PRA, it shall inform MMS in writing. The correspondence summarizes the technical information pertaining to the significant or commercial discovery provided in accordance to sections 47 and 48 of the *Regulation respecting Petroleum exploration, production and storage licence and pipeline construction or use authorization*.
- 6.4 At the request of MMS, exchanges will take place with Québec's representatives, including its experts, to obtain additional clarification on the technical information submitted by letter and allow for a better understanding of it.

6.5 If the parties so agree, the proponent may be invited to take part in these exchanges in order to discuss with MMS the Mi'gmaq's questions and concerns and to facilitate the exchange of information.

## SCHEDULE C-2

### CONSULTATION AND ACCOMMODATION PROCESS FOR HYDROCARBON ACTIVITIES SUBJECT TO THE ENVIRONMENTAL IMPACT ASSESSMENT AND REVIEW PROCEDURE

#### 1. SCOPE, INTERPRETATION AND DEFINITION

1.1 This Schedule C-2 describes the consultation and accommodation process applicable when hydrocarbon activities are subject to the environmental impact and review procedure prescribed by the *Environment Quality Act* (CQLR, c. Q-2) and the *Regulation respecting the environmental impact assessment and review of certain projects* (CQLR, c. Q-2., r. 23.1). This Schedule applies to:

- a) Production projects;
- b) Storage projects;
- c) Oil or gas drillings in wetlands and bodies of waters within the meaning of the *Environment Quality Act* (s. 46.0.2), within an urbanization perimeter indicated in the land use planning and development plan applicable to the territory concerned or an Indian reserve and at less than 1,000 m from such a perimeter or such a reserve (section 13 of Part II of Schedule 1 of the *Regulation respecting the environmental impact assessment and review of certain projects*); or
- d) Oil pipelines or gas pipelines referred to in section 9 of Part II of Schedule 1 of the *Regulation respecting the environmental impact assessment and review of certain projects*.

(hereinafter a “Project”)

1.2 A “production project” is a project to produce petroleum which requires, in particular, the awarding of a production licence under the *Petroleum Resources Act* (CQLR, c. H-4.2) by Québec.

1.3 A “storage project” is a project to use an underground reservoir in order to store materials that the government determines by regulation, including natural gas, which requires, in particular, the awarding of a storage licence under the *Petroleum Resources Act* by Québec. According to the *Petroleum Resources Act*, an underground reservoir is a subsurface geological environment that contains or may contain petroleum in a natural porosity system or in a source rock.

1.4 “Oil or gas drilling” refers to a drilling activity that requires the deliverance of a stratigraphic surveying authorization or a drilling authorization according to the *Petroleum Resources Act* by Québec. For the purposes of this Schedule, this drilling activity occurs in the cases listed in subparagraph c of section 1.1 of this Schedule.

1.5 “Oil pipelines or gas pipelines” refers to the project of building or using a pipeline, which, in particular, requires the granting of a pipeline construction or use authorization under the *Petroleum Resources Act* by Québec. The oil pipelines or gas pipelines covered by this Schedule are those referred to in section 9 of Part II of Schedule 1 of the *Regulation respecting the environmental impact assessment and review of certain projects*.

1.6 The parties shall ensure that the relevant steps of the consultation and accommodation process are carried out within the maximum regulatory time within which the recommendation of the Minister of the Environment and the Fight Against Climate Change must be submitted to the government for a decision, once the environmental impact assessment statement of the Project has been filed.

### CONSULTATION AND ACCOMMODATION PROCESS

#### 2. AUCTION PROCESS

2.1 In the specific case provided for in section 49 of the *Petroleum Resources Act* where an auction process is required in order to award a production or storage licence, Québec sends, at least eighty (80) or sixty (60) days, according to the terms expressed in section 2.3, before the notice of auction is sent by the Minister of Energy and Natural Resources, a notice to MMS in writing, containing a description of the proposed licence and the territory that could be subject to it.

2.2 Within the timeframe provided for in section 2.3, MMS sends to Québec a written response containing its comments about the auction, in particular regarding the location of the proposed licence.

2.3 For the first two years after the coming into force of this Agreement, MMS sends the written response within eighty (80) days following the receipt of the notice. After this period of two years, this timeframe is of sixty (60) days.



2.4 If a notice of auction is sent in accordance with section 23 of the *Regulation respecting Petroleum exploration, production and storage licence and pipeline construction or use authorization* (CQRL, c. H-4.2, r. 3), Québec sends MMS a copy of the notice.

2.5 Once the auction process is completed and a bidder is selected, the following provisions apply.

### **3. PROJECT NOTICE AND MINISTERIAL DIRECTIVE**

3.1 Before a Project is filed in the public register, the ministère de l'Environnement et de la Lutte contre les changements climatiques (the "MELCC") will inform MMS in writing that a project notice has been received.

3.2 As soon as copies of the project notice and the ministerial directive produced for the carrying out of the environmental impact assessment statement applicable to the Project, are filed in the public register, Québec notifies MMS in writing.

At the same time, MMS is invited to take part in the consultation organized by the Minister of the Environment and the Fight Against Climate Change on the issues to be addressed by the impact assessment.

3.3 Unless otherwise indicated in accordance with paragraph 2, it is understood that for all Projects, the Mi'gmaq will have concerns and issues regarding to :

- a) impacts on the use of resources and territory;
- b) impacts on harvesting activities;
- c) impacts on water;
- d) economic and social impacts on Mi'gmaq communities.

Within forty (40) days following the receipt of the notice provided by section 3.2, or otherwise agreed upon in accordance with paragraph e of section 6.2 of the Agreement, MMS will confirm in writing that the elements listed in paragraph 1 are applicable to the particular Project and will add, as the case may be, other issues, concerns and comments of the Mi'gmaq.

If MMS wants the Mi'gmaq issues, comments and concerns to be published in the public register, they must submit them through the procedure for publication in the register within the delay provided by section 8 of the *Regulation respecting the environmental impact assessment and review of certain projects*.

3.4 Preliminary discussions on the Project will take place between Québec and MMS if the latter so requests.

3.5 As soon as possible, and not later than at the time at which the directive is sent to the proponent, Québec informs the proponent of the existence of this Agreement and of the consultation and accommodation process that will be carried out by Québec with MMS during the environmental impact assessment and review procedure for the Project. Québec also encourages the proponent to contact MMS in order to foster consideration of the Mi'gmaq's issues, comments and concerns when preparing its impact assessment statement.

3.6 Québec sends the proponent, for preparation of its impact assessment statement, comments, issues and concerns raised by the Mi'gmaq, together with the written response provided by MMS in accordance with the second paragraph of section 3.3.

3.7 Québec reminds the proponent that its environmental impact assessment statement must contain in particular the elements provided in subparagraph 3 of the first paragraph of section 5 of the *Regulation respecting the environmental impact assessment and review of certain projects*.

3.8 MMS may collaborate with the proponent, if it chooses to do so, by sharing the available and relevant information that may be useful for the preparation of the environmental impact assessment statement.

### **4. SUBMISSION OF THE ENVIRONMENTAL IMPACT ASSESSMENT STATEMENT**

4.1 As soon as the environmental impact assessment statement of the proponent is filed in the public register, Québec notifies MMS in writing.

4.2 At MMS request, exchanges shall take place between Québec, and MMS in order to enhance understanding of the Project, its technical aspects, repercussions, potential adverse effects, and possible accommodation measures, where appropriate. The proponent may be approached to take part in these

discussions if the Québec and MMS so agree. The requests or exchanges may continue throughout the environmental assessment of the Project.

4.3 Within forty five (45) days following receipt of the notice provided by section 4.1 or otherwise agreed upon in accordance with paragraph e of section 6.2 of the Agreement, MMS sends a written response to Québec including their questions, issues, comments and the concerns the Mi'gmaq have at that time in the process detailing, if that is the case, how the Project may adversely affect the rights and related interests asserted by the Mi'gmaq, and proposing, if applicable, the accommodation measures it deems appropriate. MMS may include, in the written response, relevant information about the Mi'gmaq, in order for the proponent to complete its impact assessment.

4.4 Québec submits questions, issues, concerns or comments from the Mi'gmaq to the proponent.

As soon as possible, Québec sends a notice to MMS informing it of how he has treated, at this stage, the questions, issues, comments or concerns that have been raised by the Mi'gmaq. This notice will also indicate which questions, issues, comments or concerns, as the case may be, should be answered by the proponent.

The written response provided by MMS in accordance with section 4.3 is sent to the proponent.

4.5 If MMS took part in the preparation of the environmental impact assessment upon an invitation from the proponent, and if an information is relevant to the consultation and accommodation process, MMS informs Québec of the measures that may have been put forward by the proponent in this context.

4.6 As soon as the document containing the proponent's responses to Québec's questions and comments is filed in the register, Québec notifies MMS in writing. If MMS has new questions, issues, concerns or comments on the proponent's responses, it sends them to Québec within thirty (30) days, or otherwise agreed upon in accordance with paragraph e of section 6.2 of the Agreement. At the request of MMS, discussions will take place with Québec, within the applicable timeframe.

4.7 Québec sends to the proponent, if the case may be, questions, issues, comments or concerns raised in accordance with section 4.6 that have not been answered.

4.8 After the minister has considered the impact assessment statement to be admissible, Québec notifies MMS of it in writing.

## **5. PUBLIC INFORMATION PERIOD**

5.1 Once the impact assessment statement is deemed admissible by the Minister of the Environment and the Fight Against Climate Change, a public information period of thirty (30) days is held by the proponent, except in the case provided for in the last paragraph of section 31.3.5 of the *Environment Quality Act*. Québec informs MMS in writing of the beginning of the public information period, if applicable.

5.2 MMS is informed in writing by Québec if a mandate is conferred to the Bureau d'Audiences publiques sur l'environnement ("BAPE") or not and of its duration.

5.3 MMS notifies Québec of the beginning of the Mi'gmaq Citizen Consultation Process and may invite Québec to participate in the process. MMS may invite the proponent to participate at these meetings.

Québec will participate in the Mi'gmaq Citizen Consultation Process in order to provide general information regarding the Project, the legislative and regulatory framework applicable and the consultation and accommodation process. MMS and Québec will beforehand collaborate on the planning and scheduling of this participation.

5.4 The Mi'gmaq Citizens Consultation Process is conducted within a period of a maximum of:

- a) 75 days if only a public information period is conducted under the *Environment Quality Act*;
- b) 125 days if a mandate is given to the BAPE.

5.5 MMS may submit questions raised during the Mi'gmaq Citizens Consultation Process to Québec. The latter will answer those questions, to such extent as is possible, before the end of the exchanges provided in section 7.1.

## **6. ANALYSIS OF THE PROJECT**

- 6.1 As soon as the environmental analysis carried out by MELCC for the Project is initiated, Québec informs MMS in writing, of the beginning of this analysis, of its timetable and inquire about its views with regard to the Project.
- 6.2 At MMS request, exchanges shall take place between Québec and MMS in order to enhance understanding of the Project, its technical aspects, repercussions, potential adverse effects, and possible accommodation measures, where appropriate. Before or after the receipt of the written response of MMS provided in accordance with section 6.3, these exchanges may also include experts from Québec.
- 6.3 Within thirty (30) days from the reception of the notice provided for in section 6.1 or otherwise agreed upon in accordance with paragraph e of section 6.2 of the Agreement, MMS sends a written response to Québec, setting out any comments, issues, and concerns that it has not previously submitted in writing, in particular regarding how the Project may adversely affect the rights and related interests asserted by the Mi'gmaq and proposing, if applicable, the accommodation measures it deems appropriate.

## **7. FINALIZATION OF DISCUSSIONS ON CONCERNS AND ACCOMMODATION**

- 7.1 Once the written response from MMS has been tabled to Québec in accordance with section 6.3, Québec and MMS will discuss MMS's response, possible comments, issues and concerns and, if applicable, accommodation measures to eliminate or minimize adverse effects of the Project on the Mi'gmaq's asserted rights and related interests. The Mi'gmaq Citizens Consultation Process will also be discussed. Additional discussions on the appropriate accommodation measures may take place if the parties deem them to be necessary to finalize the consultation and accommodation process provided by this Schedule.
- 7.2 MMS is informed of the concerns and accommodation measures that are considered to be submitted to the minister in preparation of his recommendation to the government if applicable.
- 7.3 The main elements of the response of MMS as well as, if applicable, both the accommodation measures that are recommended and those proposed by the Mi'gmaq but not recommended are submitted to the minister in preparation of his recommendation to the government for decision.

## **8. DECISION**

- 8.1 As soon as the decision to authorize or not the Project is published in the Gazette officielle du Québec, Québec informs MMS in writing of the decision and sends copies of the order-in-council and the environmental analysis report. The review of the consultation, explaining how Québec has taken the comments and concerns of the Mi'gmaq into consideration, and, if applicable, describing any accommodation measures retained by Québec is sent to MMS at the same time.
- 8.2 As applicable the said accommodation measures are entered as conditions within the authorization issued by the government in accordance with section 31.5 of the *Environment Quality Act* (CQRL, c. Q-2). If accommodation measures need to be otherwise implemented, MMS is informed of how they will be implemented.
- 8.3 Québec issues authorizations, rights, permits and licences required to carry out the activities included in the Project, as authorized by government, which were addressed in the consultation and accommodation process.
- 8.4 Subject to section 9, for activities which were not addressed in the consultation and accommodation process in this Schedule, or those that were not part of the Project as authorized by the government, and that require authorizations, rights, permits and licences, sections 3.1 to 4.3 in Schedule C-1 shall apply, with the necessary adaptations.

## **9. AMENDMENTS**

- 9.1 Upon receipt of an application to amend the authorization issued by the government, Québec informs MMS in writing.
- 9.2 For the consultation and accommodation process on the proposed amendment, sections 6.2 to 8.2 of this Schedule apply, with the necessary adaptations.