

THIS FORESTRY AND MINING RESOURCE REVENUE SHARING AGREEMENT,
effective as of the 30th day of April, 2018 (the “Effective Date”)

B E T W E E N:

**Her Majesty the Queen in right of Ontario
as represented by the Minister of Natural Resources and
Forestry and the Minister of Northern Development and
Mines**

(the “Province”)

- and -

**ATTAWAPISKAT FIRST NATION, CHAPLEAU CREE FIRST
NATION, FORT ALBANY FIRST NATION, KASHECHEWAN
FIRST NATION, MISSANABIE CREE FIRST NATION, MOOSE
CREE FIRST NATION, TAYKWA TAGAMOU NATION**

**(referred to, individually, as a “Participating First Nation” and
collectively as the “Participating First Nations”)**

- and -

MUSHKEGOWUK COUNCIL (“MC”)

**(hereinafter the Participating First Nations, MC and Province
are referred to individually as a “Party” and collectively as the
“Parties”)**

WHEREAS the Parties have agreed to participate in sharing revenues from the forest and mining sectors in accordance with the terms set out in this Agreement;

AND WHEREAS the Parties recognize that the implementation of this Agreement is an important step towards achieving improved relations on a government to government basis, reconciliation between the Parties, improved socio-economic conditions for the communities and an improved economic and planning climate in areas where mineral production and forest activities are proximate to the Participating First Nations;

AND WHEREAS it is the Participating First Nations’ perspective that fair and equitable participation in and sharing of benefits of resource development on traditional lands should be honoured according to Treaties and their relationship with the Crown and in accordance with the intent of the United Nations Declaration on the Rights of Indigenous People;

AND WHEREAS the Province is participating in resource revenue sharing in the forest and mining sectors as part of its policy commitment under “The Journey Together: Ontario’s Commitment to Reconciliation with Indigenous Peoples” following the release of the final report of the Truth and Reconciliation Commission;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the Parties agree as follows:

1. PURPOSE

1.1 The purpose of the Agreement is to set out the Parties’ understanding regarding, and the terms and conditions upon which, they will share specified Crown forestry charges, mining tax and royalty revenues (the “**Revenues**”) received by the Province for the fiscal years 2018/2019 to 2022/2023 (each a “**Fiscal Year**”); for greater certainty the Fiscal Year commences on April 1 of a year, and concludes on March 31 of the following year.

2. FUNDS

2.1 The Revenues to be shared by the Province (the “**Funds**”) will be identified and calculated in accordance with Schedule “A” – Calculation of Forestry Portion of Funds, and Schedule “B” – Calculation of Mining Portion of Funds.

3. OBJECTIVES

3.1 The Parties’ objectives are to promote improved relations on a government to government basis, reconciliation between the Parties and improved socio-economic conditions for the Participating First Nations and an improved economic and planning climate. In furtherance of these objects, the Participating First Nations and MC will receive and spend Funds on one or more of the following matters:

- **Economic Development**, which could include providing the Participating First Nations and MC with direct economic benefits from forestry and mining and creating a more positive climate for investment and business partnerships, and enhancing the Participating First Nations’ and MC’s involvement and readiness in regard to resource planning and development;
- **Community Development**, which could include building stronger and more collaborative relationships among the Participating First Nations and MC and building governance structures including strengthening land and environmental management;
- **Cultural Development**, which could include the preservation, promotion and development of First Nations culture and language;

- **Education**, which could include creating greater capacity and more meaningful and longer term participation by Participating First Nations and MC in the forest and mining economies, including readying Participating First Nations' and MC's youth for participation in these economies; and
- **Health**, which could include assisting with restoring healthy and prosperous communities and supporting activities that enhance a community's health indicators over time.

4. ACKNOWLEDGEMENTS

4.1 The Parties acknowledge that,

- a) this Agreement does not reflect jurisdictional changes, or the positions of the Parties related to the nature of their governments or rights;
- b) the Parties have differing views and positions on their respective jurisdictions, rights and fiscal obligations, and these differing positions do not diminish the Parties' commitment to work constructively with each other to achieve practical outcomes and results;
- c) agreements directly between forestry and mining proponents and Participating First Nations are an important contribution to sustainable economic development and relationship-building, and this Agreement is not intended to discourage, inhibit or qualify the negotiation of such agreements;
- d) this Agreement is only one part of a broader discussion between the Participating First Nations, MC, the Province and third party proponents in relation to the Participating First Nations' and MC's forestry and mining objectives, and is not intended to:
 - i. discourage or limit future discussions or obligations related to forest management planning, forestry licenses or authorizations;
 - ii. determine or dictate the terms of other resource benefit sharing discussions beyond the scope of this Agreement;
- e) this Agreement is not intended to replace existing funding from the Province to which MC and the Participating First Nations may have access; and
- f) mining taxes, royalty revenues, and Crown forestry charges fluctuate from year to year, and accordingly the Funds payable under this Agreement will also fluctuate as more particularly set out in Schedules "A" and "B".

5. PAYMENT AND USE OF FUNDS

- 5.1 The Province shall provide Funds to MC in accordance with the payment plan set out in Schedule “C”.
- 5.2 The MC will receive Funds in accordance with the payment plan in Schedule “C” and distribute Funds to the Participating First Nations on terms to be determined by MC and the Participating First Nations, consistent with the terms of this Agreement.
- 5.3 The administrative costs, set out in Schedule “F”, will be paid out of the Funds provided under this Agreement.
- 5.4 The Province is not obligated to provide any instalment of Funds to MC until reporting requirements set out in Schedule “D” have been satisfied.
- 5.5 The Participating First Nations and MC shall use the Funds only for capital or operating expenditures for the benefit of the Participating First Nations or MC for the matters set out in Section 3.1, or for administrative costs related thereto, as set out in Schedule “F”.
- 5.6 For greater certainty, the Participating First Nations and MC shall not use any portion of the Funds for:
 - per capita distributions or other forms of direct per capita distributions to members of Participating First Nations or any other person;
 - distribution to any Indigenous community located outside of Ontario;
 - the costs of litigation; and,
 - investing the Funds with a view to preserving or seeking a return on them without advancing any of the matters set out in Section 3.1.

6. REPORTING AND EVALUATION

- 6.1 The Parties acknowledge and agree that each of the Parties has its own financial accountability and reporting processes.
- 6.2 Each Participating First Nation and MC shall submit reports in the manner, at the times specified and containing the content set out in Schedule “D”.
- 6.3 The Province shall submit reports to MC in the manner, at the times specified and containing the content set out in Schedule “E”.
- 6.4 The Parties agree that an independent evaluator, jointly selected by the Parties, will be appointed by September 2021 to conduct an independent evaluation of

the Agreement, on terms and within a budget to be agreed to by the Parties, and which evaluation will be completed by March 31, 2022.

- 6.5 The independent evaluation may,
- i. use qualitative and quantitative performance measures determined jointly by the Parties,
 - ii. examine the effectiveness and transparency of the information provided by the Parties as required by Schedules “D” and “E”,
 - iii. include a narrative of examples of how the Funds have been used,
 - iv. provide an overview of the current use of Funds and reporting requirements, as well as lessons learned, and
 - v. provide recommendations to address any issues arising from implementation of this Agreement.
- 6.6 The Parties will have the opportunity to provide input to the independent evaluator, and the results of the independent evaluation will be available to all of the Parties.

7. COMMUNICATIONS

- 7.1 The Parties will jointly develop a communications approach to making any initial public announcements regarding this Agreement. This includes details about timing, content, profile, and reach. The Parties further agree to jointly discussing future communications opportunities.
- 7.2 The Province will inform the forest and mining industry stakeholders that agreements directly between forestry and mining proponents and Participating First Nations are an important contribution to sustainable economic development and relationship-building, and this Agreement is not intended to discourage, inhibit or qualify the negotiation of such agreements.

8. TERM AND TERMINATION

- 8.1 This Agreement shall expire on the same day that the final payment is made pursuant to Schedule “C” unless extended by written agreement of the Parties.
- 8.2 Commencing on or about April 15, 2022, the Parties shall meet to discuss whether they wish to extend the Agreement, and in the course of such discussion shall consider the independent evaluation conducted in accordance with Section 6.
- 8.3 The Province may terminate this Agreement upon giving at least ninety (90) days’ Notice to the other Parties and, in the case of such a termination, the Province’s obligations under Schedule “C” shall be pro-rated to the final day of the month in which the termination occurs.

- 8.4 All the Participating First Nations together may terminate this Agreement upon giving at least ninety (90) days' Notice to the Province and MC, such Notice to include a supporting Band Council Resolution from each Participating First Nation.
- 8.5 Where a Notice is given under either Sections 8.3 or 8.4, the representatives of the Parties will meet no later than thirty (30) days following receipt of the Notice, in order to discuss the circumstances which gave rise to the Notice and determine whether there is a basis for rescinding it.

9. OPTING IN AND OPTING OUT

- 9.1 Any Participating First Nation may opt out of this Agreement for the Fiscal Year commencing April 1, 2022, by providing written notice no later than January 1, 2022, in combination with a Band Council Resolution. Similarly, any Participating First Nation may opt out of this Agreement for the Fiscal Year commencing April 1, 2023, by providing written notice no later than January 1, 2023, in combination with a Band Council Resolution.
- 9.2 If a Participating First Nation opts out of this Agreement, then that Participating First Nation's notional allocated portion of revenues, as set out in Schedules "A" and "B", will no longer be included in payments of Funds made under this Agreement commencing in the Fiscal Year in which the opting out takes effect.
- 9.3 If a First Nation included in Schedules "A" and/or "B" provides written notice and a Band Council Resolution to the Parties expressing a desire to opt in to this Agreement and agrees to be bound by all its terms and conditions, with necessary changes having been made that do not affect the intent of this Agreement, and the Parties agree to the opting in, which in the case of the Participating First Nations must be evidenced by Band Council Resolutions, then the First Nation shall be deemed to be a party to this Agreement as a Participating First Nation effective in the same Fiscal Year as the opting in where the opting in occurs on or before June 30 of that Fiscal Year, or in the following Fiscal Year where the opting in occurs after June 30. The opting in First Nation's allocated portion of Funds, as set out in Schedules "A" and "B", will be included in the annual payment of Funds for the Fiscal Year in which the opting in takes effect.

10. DISPUTE RESOLUTION

- 10.1 If a dispute arises under this Agreement between the Province and another Party, the duly appointed representatives of the Parties to the dispute will meet as soon as is practicable to attempt to resolve the dispute. If the dispute cannot be resolved by the Parties to the dispute directly, the Parties shall discuss whether other appropriate approaches, including mediation and ones based in

First Nations principles, protocols and practices, may assist in reaching resolution of the dispute.

11. ISSUES WITH FORESTRY OR MINING ACTIVITIES

11.1 Where an “on the ground conflict” or direct action by a Participating First Nation individual or community occurs which is interfering with ongoing mining or forestry activities, Ontario shall approach the Participating First Nation community or communities that are most directly associated with the conflict and invite them to discuss approaches to attempt to resolve the conflict. If such an invitation is extended, the community or communities shall give it due consideration and communicate to Ontario whether or not they agree to hold such discussions, and if so under what constraints, if any.

12. GENERAL

12.1 **Amendment:** Amendments to this Agreement may be made only by written agreement of all of the Parties.

12.2 **Non-Derogation:** Nothing in this Agreement shall be construed so as to add to or create new Aboriginal or treaty rights or to affect the interpretation of or to abrogate or derogate from the protection provided for the existing Aboriginal or treaty rights of the Aboriginal people of Canada as recognized and affirmed in section 35 of the *Constitution Act, 1982*.

12.3 **Without Prejudice:** This Agreement shall be without prejudice to any rights or interests of the Parties not addressed in the Agreement and any position that any of the Parties may take in legal or administrative proceedings.

12.4 **Freedom of Information and Protection of Privacy:** The Parties acknowledge that the Province is bound by the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, Chapter F. 31, and that any information provided to the Province in connection with the Agreement may be subject to disclosure in accordance with that Act and as otherwise required by law.

12.5 Release, Indemnity and Insurance

- a) MC and each Participating First Nation hereby agree to release, indemnify and hold harmless Her Majesty the Queen in right of Ontario, Her ministers, agents, appointees and employees (the “Indemnified Parties”) from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, by whomever made, sustained, incurred, brought or prosecuted, in any way arising out of the performance of MC or the Participating First Nations of their respective obligations under this Agreement, including any distribution of Funds by

MC (or any failure of MC to distribute Funds), in whole or in part, to Participating First Nations, or any use of Funds by the MC or any Participating First Nation, unless solely caused by the negligence or wilful misconduct of the Indemnified Parties.

- b) MC and the Participating First Nations represent, warrant and covenant that each has, and will maintain, at its own cost and expense, with insurers having a secure A.M. Best rating of B+ or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person carrying out activities similar to those described in this Agreement would maintain, including commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than two million dollars (\$2,000,000) per occurrence. The policy will include the following:
 - i. the Indemnified Parties as additional insureds with respect to liability arising in the course of performance of the MC's or the Participating First Nations' obligations under the Agreement;
 - ii. a cross-liability clause;
 - iii. contractual liability coverage; and
 - iv. a 30 day written notice of cancellation.
- c) If requested, MC and the Participating First Nations will provide the Province with certificates of insurance, or other proof as may be requested by the Province, that confirms the insurance coverage as provided for in Section 12.5(b).

12.6 Over or Under Payments:

- a) If it has been determined that the Province has made an overpayment, it will be deducted from the next scheduled payment.
- b) If it has been determined that the Province has made an underpayment, it will be added to the next scheduled payment.
- c) For greater certainty, in the final Fiscal Year for which Funds are payable under the Agreement, any overpayment or underpayment will be addressed through the final payment, or second instalment, as provided for in Schedule "C".

12.7 Notice: Any notice required or permitted to be given under this Agreement ("Notice") shall be in writing and shall be given by facsimile or other means of electronic communication or by hand-delivery as hereinafter provided. Any such Notice, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or if delivered by hand shall be deemed to have been received at the time it is

delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee.

Notices and other communications shall be addressed as follows:

(a) if to the Province: Ministry of Northern Development and Mines
Corporate Policy Secretariat
Whitney Block 5th Flr, Rm 5630
99 Wellesley St. W.
Toronto, ON M7A 1W3
Telecopier: (647) 723-2126
Attention: Director

Ministry of Natural Resources and Forestry
Strategic and Indigenous Policy Branch
Whitney Block 5th Flr, Rm 5520
99 Wellesley St. W.
Toronto, ON M7A 1W3
Attention: Director

(b) if to MC: Mushkegowuk Council,
36 Birch Street South,
Timmins, ON
P4N 2A5
Phone: (705) 268-3594
Fax: (705) 268-3282

(c) if to a Participating First Nation: in accordance with the details set out in Schedule "G"

12.8 Entire Agreement

This Agreement, including:

Schedule "A" – Calculation of Forestry Portion of Funds
Schedule "B" – Calculation of Mining Portion of Funds
Schedule "C" – Payment Plan
Schedule "D" – MC and Participating First Nation Reporting
Schedule "E" – Provincial Reporting
Schedule "F" – Administrative Costs;
Schedule "G" – Notice Details for Participating First Nations

and any amending agreement entered into pursuant to Section 12.1 constitutes the entire Agreement between the Parties with respect to the subject matter contained in the Agreement and supersedes all prior oral or written representations and agreements.

12.9 Execution

- a) Concurrent with the execution of this Agreement, or not later than seven (7) days following execution (except where the resolution(s) are pursuant to the opt in provisions in Section 9.3 above), each Participating First Nation will deliver to the Province a certified copy of the resolution(s) approving and authorizing the execution of this Agreement that have been duly passed by the Band Council of each First Nation, failing which any First Nation that has not delivered such resolution shall be deemed not to be a Participating First Nation under this Agreement (unless and until that First Nation opts in pursuant to Section 9.3);
- b) This Agreement may be executed by fax or scanned email copy, and
- c) This Agreement may also be executed in any number of counterparts and all such counterparts shall for all purposes constitute one Agreement.

EXECUTED by the Parties effective as of the date set out at the beginning of this Agreement.

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO
as represented by the Minister of Natural
Resources and Forestry**

Name :

Title :

**HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO
as represented by the Minister of Northern
Development and Mines**

Name :

Title :

MUSHKEGOWUK COUNCIL

Name :

Title :

I have authority to bind the
Corporation

ATTAWAPISKAT FIRST NATION

Name :

Title :

CHAPLEAU CREE FIRST NATION

Name :

Title :

FORT ALBANY FIRST NATION

Name :

Title :

KASHECHEWAN FIRST NATION

Name :

Title :

MISSANABIE CREE FIRST NATION

Name :

Title :

MOOSE CREE FIRST NATION

Name :

Title :

**TAYKWA TAGAMOU
NATION**

Name :

Title :

SCHEDULE “A”- CALCULATION OF FORESTRY PORTION OF FUNDS

1.0 Definitions.

1.1 In this Schedule “A”, the following terms have the following meanings:

“**Agreement FMUs**” means the FMUs specified for the purposes of this Agreement in Appendix 1 to this Schedule;

“**FMU**” means a forest management unit designated from time to time under section 7 of the *Crown Forest Sustainability Act, 1994* (“CFSA”);

“**FMU Annual Funds**” means the portion of the Forestry Funds derived from the FMU Annual Revenues of an Agreement FMU;

“**FMU Annual Revenues**” means the revenues received by the Province for Crown forest resources harvested from an Agreement FMU, pursuant to section 31 of the CFSA in a Fiscal Year, which may fluctuate from year to year, and for greater certainty, do not include revenue from annual area charges under subsection 32(1), forest renewal charges under section 49, or forest future charges under subsection 51(5) of the CFSA;

“**FMU First Nation**” means a First Nation identified in association with an Agreement FMU as specified in Appendix 1 to this Schedule;

“**Forestry Portion of the Funds**” means the total annual revenue shared with Mushkegowuk Council determined using the Sharing Formula;

“**First Nation Allocation**” means the percentage of FMU Annual Revenue notionally allocated to a First Nation as specified in Appendix 1 to this Schedule;

“**Sharing Formula**” means the product of FMU Annual Revenues, Sharing Percentage, First Nation Allocation, and Number of FMU First Nations to generate the FMU Annual Funds for each forest management unit specified in Appendix 1, the sum of which equates to the Forestry Portion of the Funds, as explained in Section 2 below;

“**Sharing Percentage**” means 45%, being the percentage of the FMU Annual Revenue from each Agreement FMU used to calculate the Forestry Portion of the Funds for a Fiscal Year.

2.0 Sharing Formula

2.1 Subject to Section 2.2 below, the Province will calculate the Forestry Portion of the Funds to be provided to Mushkegowuk Council in accordance with Section 5 of the Agreement, at the times specified in Schedule “C” – Payment Plan, in accordance with the formula set out below:

<p>a. For each Agreement FMU, the Province will multiply the FMU Annual Revenue by the Sharing Percentage.</p> <p>b. The Province will multiply the product of the resulting number by the First Nation Allocation.</p> <p>c. The Province will multiply the product of the resulting number by the number of FMU First Nations to arrive at the FMU Annual Funds.</p> <p>d. The Province will repeat the operations in a. through c. above for each Agreement FMU, and then add all the resulting FMU Annual Funds together to arrive at the Forestry Portion of the Funds for a Fiscal Year.</p>	<p>FMU Annual Revenues X</p> <p>Sharing Percentage X</p> <p>First Nation Allocation X</p> <p>Number of FMU First Nations =</p> <p>FMU Annual Funds</p> <p>Add all FMU Annual Funds for a Fiscal Year to arrive at the Forestry Portion of the Funds for the Fiscal Year.</p>
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2.2 The Province shall include in the calculation of the Forestry Portion of the Funds in accordance with Section 2.1 above, only the First Nation Allocations corresponding to those First Nations specified in Appendix 1 that have delivered a Band Council Resolution to the Province in accordance with Sections 9.3 or 12.9 of the Agreement.

3.0 Reduction in Forestry Funds Where a Participating First Nation Opt's Out

3.1 Where a Participating First Nation has exercised its right to opt out of the Agreement pursuant to Section 9.2 of the Agreement, the corresponding First Nation Allocation(s) will not be included in the calculation of the Forestry Portion of the Funds pursuant to Section 2.1 above, beginning in the Fiscal Year in which the opting out occurred.

4.0 Increase in Forestry Funds Where a First Nation Opts In

- 4.1 Where a First Nation has opted in to the Agreement pursuant to Section 9.3 of the Agreement, the corresponding First Nation Allocation(s) as set out in Appendix 1 shall be included in the calculation of the Forestry Portion of the Funds pursuant to Section 2.1 above, commencing in the Fiscal Year following the Fiscal Year in which the opting in takes effect.

5.0 Changes to Agreement FMU

- 5.1 Where an Agreement FMU is no longer designated as a FMU, or where an Ontario Local Forest Management Corporation is incorporated under section 3 of the *Ontario Forest Tenure Modernization Act, 2011* to operate within an Agreement FMU, the Agreement FMU shall be removed from Appendix 1 commencing in the Fiscal Year following the first Fiscal Year in which the Agreement FMU is no longer designated as a FMU or in which the Ontario Local Forest Management Corporation is incorporated.

Appendix 1 to Schedule A

NOTE: This table includes the First Nation Allocations made notionally among the First Nations that are agreed as being associated with the listed Agreement FMUs (and that may or may not be participating in the Agreement at any given time). These notional First Nation Allocations do not necessarily represent how the Funds are internally distributed once provided.

Agreement FMU	FMU First Nations	First Nation Allocation
Abitibi River Forest	Moose Cree	14.29%
	Taykwa Tagamou	14.29%
Gordon Cosens Forest	Chapleau Cree	11.11%
	Missanabie Cree	11.11%
	Moose Cree	11.11%
	Taykwa Tagamou	11.11%
Hearst Forest	Missanabie Cree	20.00%
	Moose Cree	20.00%
Magpie Forest	Chapleau Cree	16.67%
	Missanabie Cree	16.67%
Pineland Forest	Chapleau Cree	25.00%
Romeo Malette Forest	Chapleau Cree	16.67%
	Taykwa Tagamou	16.67%
Spanish Forest	Chapleau Cree	9.09%
Algoma Forest	Missanabie Cree	16.67%

SCHEDULE B – CALCULATION OF MINING PORTION OF FUNDS

1. Contributing Mine

- 1.1 A “**Contributing Mine**” means a mine in Ontario in Commercial Production (“**Commercial Production**” means as determined by the Province) and as agreed to by the Parties as being in proximity to the Participating First Nations and included in Appendix 1.
- 1.2 If, after April 1, 2018 and during the course of the Agreement, a mine in Ontario that is not included in Appendix 1 commences Commercial Production, and the Parties agree the mine is in proximity to the Participating First Nations, the Parties agree to amend Appendix 1 to add that mine as a Contributing Mine and to set out the notional allocation percentages for that mine for each Participating First Nation.
- 1.3 If, at any time during the course of this Agreement, a mine that is included in Appendix 1 is determined to have ceased Commercial Production the Parties agree to amend Appendix 1 to remove that mine as a Contributing Mine.
- 1.4 Where the Province has determined that a mine has commenced or ceased Commercial Production as provided by Sections 1.2 and 1.3 above, the Province will share information with the Parties regarding the basis on which that determination was made.

2. Calculation of Mining Funds per Contributing Mine

- 2.1 The Mining Funds (“MF”) per Contributing Mine will be calculated as follows:

$$\mathbf{MF = SP \times TARM \times AP}$$

Where:

- a) “**SP**” or “Sharing Percentage” means 40% per Contributing Mine for those that are in Commercial Production prior to April 1, 2018, and 45% per Contributing Mine for Contributing Mines that are added to Appendix 1 in accordance with Section 1.2 above; and,

- b) “**TARM**” or “Total Attributed Revenue per Mine” equals the **BR + VR**

where:

“**BR**” or “Baseline Revenue” means one half of the OMTRT divided equally by the number of mines in Commercial Production in Ontario (subject to adjustment pursuant to Section 2.2 below); and

“**VR**” or “Value Revenue” means one half of the OMTRT x (GMR ÷ TGMR);

where:

“**OMTRT**” or “Ontario Mining Tax and Royalty Total” means the total mining taxes and royalties received by Ontario on an annual basis in relation to mines in Commercial Production in Ontario, as published annually in the *Public Accounts of Ontario*;

“**GMR**” or “Gross Mine Revenue” means the gross revenue of a mine in Commercial Production in Ontario, as determined by the Province using various sources, including annual financial statements related to that mine, where publicly available; and

“**TGMR**” or “Total Gross Mine Revenues” means the sum total of the GMRs; and

- c) “**AP**” or “Allocation Percentage” is determined by
- i) notionally allocating a percentage share to each Participating First Nation and any other First Nation in proximity to the Contributing Mine, and
 - ii) totalling the percentage shares allocated to the Participating First Nations;

and which notional allocations and total Allocation Percentage per Contributing Mine to the Participating First Nations are set out in Appendix 1.

- 2.2 In the case of a Contributing Mine that has been added to or removed from Appendix 1 during the course of a Fiscal Year in accordance with Section 1.2 or 1.3 above, the TARM for the purposes of calculating the Mining Funds pursuant to Section 2.1 above will be prorated as follows:

$$\text{TARM} = \text{ABR} + \text{VR}$$

where “**ABR**” or “**Adjusted Baseline Revenue**” means the BR x [number of full months in Commercial Production during the Fiscal Year divided by 12].

- 2.3 Where a Participating First Nation has exercised its right to opt out of the Agreement pursuant to Section 9.1 of the Agreement, then that Participating First Nation’s notional allocation percentage will not be included in determining the AP for the purposes of calculating the Mining Funds per Contributing Mine pursuant to Section 2.1 above, beginning with the Fiscal Year in which the opting out occurred.
- 2.4 Where a First Nation has opted in to the Agreement pursuant to Section 9.3 of the Agreement, then that First Nation’s notional allocation as set out in Appendix 1 will be included in determining the AP for the purposes of

calculating the Mining Funds per Contributing Mine pursuant to Section 2.1 above.

- 2.5 The Parties agree to discuss amendments to Appendix 1 at the request of the Province when the Province determines that a Contributing Mine is in proximity to a First Nation that is not identified in Appendix 1 and that that First Nation should be considered in determining the notional allocations described in paragraph 2.1c)i) above.

3.0 Total Funds Payable

- 3.1 The mining portion of the Funds payable under the Agreement will be the sum total of the Mining Funds calculated for each Contributing Mine pursuant to Section 2.1 above.

4.0 Additional Provisions

- 4.1 The Province makes no representations or warranties as to the accuracy of any information obtained and relied upon in calculating the Gross Mine Revenue pursuant to Section 2.1 above.
- 4.2 The Province agrees to inform the Parties of any significant changes to the mining tax and royalty regimes in place in Ontario during the term of the Agreement and the Parties agree to discuss amendments to this Schedule or the Agreement, as may be appropriate as a result of those changes.

Appendix 1 to Schedule B - Notional Allocations and AP per Contributing Mine

NOTE: This table represents the allocations made notionally among the First Nations that are represented by MC and are agreed as being in proximity to the listed Contributing Mines (and that may or may not be a Participating First Nation at any given time). These notional allocations are used to arrive at an AP for the purposes of calculations under s. 2.1; these allocations do not necessarily represent how the Funds are internally distributed once provided

Proximate FN\Contributing Mine	Detour Lake Gold	Victor Diamond	Island Gold	Kidd Creek
Missanabie Cree			25%	
Attawapiskat		25%		
Kashechewan		25%		
Moose Cree	33%	25%		
Taykwa Tagamou	33%			25%
Fort Albany		25%		
Chapleau Cree				
AP	66%	100%	25%	25%

SCHEDULE C – PAYMENT PLAN

1. Payment Schedule

- 1.1 Subject to Sections 2.1, 2.2, and 2.3 below, the Province shall pay to MC the Funds for a Fiscal Year at the times and in the percentages specified in Table 1 to this Schedule.
- 1.2 The MC shall distribute the Funds to Participating First Nations on terms consistent with this Agreement and in the amounts as determined between MC and the Participating First Nations.
- 1.3 For the purpose of making a payment described in Section 1.1 above, the Province shall deposit the Funds, in Canadian Dollars, into an account designated by MC that resides at a Canadian financial institution and is in the name of MC.

2. Payments Subject to Reporting

- 2.1 Where any Participating First Nation has not met the reporting requirements as set out in the Agreement and Schedule “D”, that Participating First Nation’s allocated portion of revenues, as set out in Schedules “A” and “B”, will not be included in the Funds payable under this Agreement in the next scheduled payment of Funds.
- 2.2 Where MC has not met the reporting requirements with regard to MC’s Annual and Final Reports as set out in this Agreement and Schedule “D”, no Funds will be payable under this Agreement at the next scheduled payment of Funds.
- 2.3 The Province shall not make a payment of Funds until MC and each Participating First Nation have provided the insurance certificate to the Province or other proof as the Province may request pursuant to Section 12.5 c) of the Agreement.

TABLE 1 – Payment Plan

Fiscal Year:	Payment Date:
2018-2019	Prior to December 31, 2019 (100% of Funds)
2019-2020	Prior to December 31, 2020 (100% of Funds)
2020-2021	Prior to December 31, 2021 (100% of Funds)
2021-2022	Prior to December 31, 2022 (100% of Funds)
2022-2023	First Instalment (80% of Funds) - Prior to December 31, 2023 Second Instalment (20% of Funds) – Prior to December 31, 2024

SCHEDULE D – MC AND PARTICIPATING FIRST NATION REPORTING

1. Annual Reports

- 1.1 Each Participating First Nation and MC shall complete an Annual Report in the form and with the content set out in Appendix 1.

2. Final Report

- 2.1 In addition to the Annual Reports to be completed for the final Fiscal Year of this Agreement and at the same time that those Reports are submitted, each Participating First Nation and MC shall prepare a Final Report satisfactory to the Province that includes:

- a) a narrative description of how Funds were used over the term of the Agreement to meet the objectives set out in Section 3.1 of the Agreement including specific examples of projects or initiatives of benefit to the Participating First Nations; and
- b) challenges experienced in the implementation of the Agreement and approaches that were adopted to effectively address those challenges.

3. Reporting Timetable

- 3.1 Each Participating First Nation shall submit completed Reports to MC and MC shall, in turn, submit all completed Reports to the Province, in accordance with the following timetable:

Annual Reporting Timetable

Fiscal Year	Submission of Reports to MC by Each Participating First Nation	Submission of Reports to Province by MC
2018-19	April 30, 2020	June 1, 2020
2019-20	April 30, 2021	June 1, 2021
2020-21	April 30, 2022	June 1, 2022
2021-22	April 30, 2023	June 1, 2023
2022-23	April 30, 2024*	June 1, 2024*

*to include Final Reports in addition to Annual Reports

- 3.2 The Province shall review the Annual Reports submitted for each Fiscal Year and shall respond in writing to MC within thirty (30) days of receipt with any concerns it may have with respect to any of the Annual Reports, including that an Annual Report was not received, which concerns shall be addressed to the satisfaction of the Province prior to September 1 of the calendar year in which the Report was submitted or due; where the Province does not respond with any concerns about any specific Annual Report within thirty (30) days of receipt, the Province shall be deemed to have accepted those Annual Reports for which no concerns were raised.
- 3.3 Where the concerns of the Province with regard to a Participating First Nation's Annual Report have not been addressed to the satisfaction of the Province by September 1 of the calendar year in which the Annual Report was submitted or, where the Province has not received a Participating First Nation's Annual Report by September 1 of the calendar year in which it was due, then that Participating First Nation's notionally allocated portion of revenues, as set out in Schedules "A" and "B", will not be included in the Funds payable under this Agreement in the next scheduled payment of Funds.
- 3.4 Where the concerns of the Province to an Annual Report of MC have not been addressed to the satisfaction of the Province by September 1 of the calendar year in which the Annual Report was submitted or, where the Province has not received an Annual Report from MC by September 1 of the calendar year in which it was due, then no Funds will be payable under this Agreement at the next scheduled payment of Funds.
- 3.5 In the year in which a Final Report is also required, the process and consequences described in sections 3.2, 3.3 and 3.4 above apply with regard to both the Annual Report and Final Report required to be submitted.
- 3.6 For greater certainty, the consequences with regard to Funds payable under this Agreement for failure to provide Annual Reports or Final Reports satisfactory to the Province as set out in sections 3.3, 3.4 and 3.5 above cannot be rectified or reversed by submission of Annual Reports or Final Reports after September 1 of the calendar year in which they were first submitted or due.

Appendix 1 to Schedule D – FORM OF ANNUAL REPORT

TO: PROVINCE

FROM: [INSERT NAME OF COUNCIL OR PARTICIPATING FIRST NATION]

PART I – ANNUAL SUMMARY

The undersigned [*Council or Participating First Nation*] confirms it received Funds totalling \$ _____ for the Fiscal Year ended March 31, _____.

The [*Council or Participating First Nation*] reports that the Funds so received, were spent by the [*Council or Participating First Nation*] between April 1, _____ and March 31, _____ related to the following:

Economic development:	\$ _____
Community Development:	\$ _____
Cultural Development:	\$ _____
Education:	\$ _____
Health:	\$ _____
Administrative Costs:	\$ _____

[PARTICIPATING FIRST NATION/COUNCIL CHIEF]

And/or Quorum of Councillors

[Signature(s) of Councillor(s)]

[City, Canada]

Date: _____

PART II - ANNUAL AUDITOR'S REPORT

TO THE DESIGNATED REPRESENTATIVE OF THE PROVINCE UNDER THE FORESTRY AND MINING RESOURCE REVENUE SHARING AGREEMENT

We have audited the receipts and disbursements of [*COUNCIL OR PARTICIPATING FIRST NATION*] for the year starting April 1 of _____, and ending March 31 of _____, related to the expenditure of Funds under the Forestry and Mining Resource Revenue Sharing Agreement by [*Council or Participating First Nation*] as specified in Part I – Annual Summary for the period specified above. Completion of Part I – Annual Summary is the responsibility of [*Council or Participating First Nation*]. Our responsibility is to express an opinion on that Annual Summary based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by [*Council or Participating First Nation*], as well as evaluating the overall financial statement presentation.

In our opinion, Part I – Annual Summary presents fairly, in all material respects, the report on distributions and expenditures of Funds received under the Forestry and Mining Resource Revenue Sharing Agreement by the [*Council or Participating First Nation*] during the year starting April 1 of _____, and ending March 31 of _____,

[*Name of Chartered Accountants/or other Audit Certified Licensed Public Accountants*]

SCHEDULE E - PROVINCIAL REPORTING

1. Provincial Funding Report

- 1.1 Concurrent with making a payment of Funds in accordance with Schedule “C”, the Province shall provide the MC with a report (the “Funding Report”) that describes:
- a) with respect to the calculation of the forestry portion of the Funds, the numbers used to calculate the portion, including the FMU Annual Funds for each Agreement FMU calculated for the applicable Fiscal Year, and a breakdown of the calculation of the forestry portion of the Funds made in accordance with Schedule “A”;
 - b) with respect to the calculation of the mining portion of the Funds, the numbers used to calculate the portion, including a breakdown of the calculation of the Total Attributed Revenue per Mine as described in Schedule “B”.
- 1.2 For greater certainty, with regard to the final Fiscal Year for which Funds are payable under the Agreement, the Funding Report will be provided concurrent with the payment of the First Instalment of the Funds.

2. Review of Reports

- 2.1 MC shall have thirty (30) days upon receipt of the Funding Report to review the Funding Report and raise any concerns with it; where MC has not raised any concerns within thirty (30) days of receipt of the Funding Report, the Funding Report and corresponding payment shall be deemed to have been accepted.
- 2.2 Where concerns are raised that result in a recalculation by the Province of the Funds payable, any overpayment or underpayment will be addressed pursuant to Section 12.6 of the Agreement.

SCHEDULE F – ADMINISTRATIVE COSTS

1. Administrative Costs

- 1.1 The following costs of MC and the Participating First Nations shall be borne by them out of the Funds provided under the Agreement:
- a) costs related to the completion and delivery of Reports to the Province as set out in Schedule “D”;
 - b) costs related to participation in the third party evaluation required by Section 6.4 of the Agreement, which shall include 50% of all costs related to the procurement and acquisition of an independent evaluator;
 - c) costs associated with the receipt, management, distribution and disbursement of Funds;
 - d) costs related to participation in any dispute resolution or mediation process under this Agreement; and
 - e) costs associated with the negotiation of an extension or amendment of the Agreement or the negotiation of a new or alternative agreement or arrangement related to the sharing of Provincial forestry and mining revenues.

SCHEDULE G – NOTICE DETAILS FOR PARTICIPATING FIRST NATIONS

Attawapiskat First Nation
Telephone: (705) 997-2166
Fax: (705) 997 2116
Attawapiskat, ON
P0L 1A0
P.O. Box 248

Chapleau Cree First Nation
P.O. Box 400
Chapleau, ON
P0M 1K0
Phone: (705) 864-0784
Fax: (705) 864-1760

Fort Albany First Nation
P.O. Box 1
P0L 1H0
Ontario
Phone: 705-278-1044
Fax: 705-278-1193

Kashechewan First Nation
P.O. Box 1
P0L 1H0
Ontario
Phone: 705-278-1044
Fax: 705-278-1193

Missanabie Cree First Nation
559 Queen St E,
Sault Ste. Marie,
ON P6A 2A3

Moose Cree First Nation
22 Jonathan Cheechoo Drive
P.O. Box 190
Moose Factory, ON P0L 1W0
Phone : (705) 658-4619
Fax : (705) 658-4734

Taykwa Tagamou Nation
RR.#2, Box 3310
Cochrane, Ontario P0L 1C0

Phone: 705-272-5766
Fax: 705-272-5785