

**AGREEMENT UNDER THE *CANADIAN ENVIRONMENTAL
ASSESSMENT ACT, 2012* CONCERNING
THE ENVIRONMENTAL ASSESSMENTS
OF THE ROSE LITHIUM – TANTALUM AND
JAMES BAY LITHIUM MINE PROJECTS**

BETWEEN: **CREE NATION GOVERNMENT**, a legal person established in the public interest pursuant to Section 11 of the *James Bay and Northern Quebec Agreement* and the *Act respecting the Cree Nation Government* (Quebec), represented by its Chairman, Grand Chief Dr. Abel Bosum;

(**“Cree Nation Government”**)

AND: **MINISTER OF THE ENVIRONMENT**, the Honourable Catherine McKenna;

(**“Minister”**)

AND: **CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY**, represented by its President, Ronald Hallman;

(**“Agency”**)

(hereinafter, together the **“Parties”**, and separately a **“Party”**)

WHEREAS Critical Elements Corporation and Galaxy Lithium (Canada) Inc. (together, the **“Proponents”**) propose to carry out, respectively, the Rose Lithium – Tantalum Mine Project and the James Bay Lithium Mine Project, as described in the descriptions submitted by the Proponents and set out in **Schedules A and B** (together, the **“Projects”**);

WHEREAS the Projects are subject to the Provincial environmental and social impact assessment and review procedure stipulated in Section 22 of the *James Bay and Northern Québec Agreement* (**“JBNQA”**) treaty;

WHEREAS the Canadian Environmental Assessment Agency (**“Agency”**) determined on October 19, 2012 for the Rose Lithium – Tantalum Mine Project and on December 14, 2017 for the James Bay Lithium Mine Project that federal environmental assessments were required pursuant to the *Canadian Environmental Assessment Act, 2012* (**“CEAA 2012”**);

WHEREAS the Minister has not referred the environmental assessments of the Projects to a review panel;

WHEREAS under the CEAA 2012, the Agency is the responsible authority and must conduct environmental assessments for the Projects in accordance with the requirements of CEAA 2012 and must also ensure that the Crown's legal duty to consult in relation to s. 35 of the *Constitution Act, 1982* is fulfilled in a manner consistent with the Honour of the Crown;

WHEREAS the Supreme Court of Canada stated in *Québec (Attorney General) v. Moses* ("**Moses Decision**") that "Common sense as well as legal requirements suggest that the *CEAA* assessment will be structured to accommodate the special context of a project proposal in the James Bay Treaty territory, including the participation of the Cree"¹;

WHEREAS the Agency has issued to the Proponents on March 7, 2019 notices:

- (a) confirming that the Environmental Impact Statements (EIS) provided for their respective projects were considered consistent with the EIS guidelines;
- (b) advising them that the federal timelines under CEAA 2012 had restarted and that the Agency had entered into the analysis phase of the EIS;
- (c) informing them that public consultations on the EIS summaries would be held until April 6, 2019;

WHEREAS, by letters of March 4, 7 and 19, 2019, the Cree Nation Government advised the Agency of certain concerns respecting such public consultations and proposed measures to ensure that the federal environmental assessment process for the proposed Projects comply with the requirements of the *Moses Decision* and with the spirit and objectives of the JBNQA;

WHEREAS, in response, the Agency and the Cree Nation Government entered into negotiations in respect of this Agreement;

WHEREAS it is appropriate, in these circumstances, to complete the environmental assessments of the Projects in accordance with the requirements under CEAA 2012 in a manner that:

- (a) respects the spirit and objectives of the JBNQA;
- (b) provides for the special, collaborative participation of the Cree people; and
- (c) takes into account the special context of project proposals in the JBNQA territory;

WHEREAS section 26 of CEAA 2012 provides the authority for the Agency to delegate any part of the environmental assessment and the preparation of the federal environmental assessment

¹ [2010] 1 SCR 557, par. 48.

report, with the exception of decision-making under subsection 27(1) of CEAA 2012, which remains with the Minister of the Environment;

WHEREAS it is appropriate to enable the Parties to collaborate, to the extent possible, to complete the separate environmental assessments for each of the Projects;

WHEREAS it is appropriate to collaborate to the extent possible with the provincial Environmental and Social Impact Review Committee (“**COMEX**”) responsible for the assessment and review of the Projects under Section 22 of the JBNQA in order to ensure efficiency and avoid duplication;

WHEREAS, in parallel with the project specific process contemplated in this Agreement, the Cree Nation Government and the Agency intend to pursue their discussions to define a process for federal environmental assessments external to the JBNQA assessment process in respect of projects situated or having impacts in the territory subject to Section 22 of the JBNQA;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PRINCIPLES

1. The environmental assessment of the Projects shall be carried out pursuant to the legislative requirements of CEAA 2012 and consistent with the spirit and objectives of the JBNQA, in particular, Sections 22 and 24.

SEPARATE ASSESSMENTS

2. The environmental assessments of the Projects shall be carried out separately.

ASSESSMENT COMMITTEE

3. The Parties hereby establish a joint Assessment Committee to which the Agency hereby delegates the activities required to complete the environmental assessments of the Projects under CEAA 2012, including those identified in the work plan in **Schedule C**.
4. The Assessment Committee shall be composed of two representatives appointed by the Agency and two representatives appointed by the Cree Nation Government.
5. One representative appointed by the Agency and one representative appointed by the Cree Nation Government shall serve as Co-Chairs of the Assessment Committee.
6. The Agency shall provide the Assessment Committee with logistical and secretarial support as required to carry out its functions under this Agreement.

FUNCTIONS

7. The Assessment Committee shall be responsible for the following functions in relation to the environmental assessments of the Projects:
 - (a) Identify, after consultation with the potentially affected Cree First Nation communities, the key documents or summary key documents to be made available in Cree and English or French;
 - (b) Carry out all of the remaining steps of the environmental assessments of the Projects, including those identified in the work plan in **Schedule C**;
 - (c) Carry out, as part of the environmental assessments, certain procedural aspects of Crown consultations in accordance with **Schedule D**;
 - (d) Prepare, by consensus to the extent possible, the documents relevant to completion of the environmental assessments of the Projects, such as the environmental assessment reports, including proposed conditions for the Minister's approval, summaries of public and First Nations comments, and recommended conclusions;
 - (e) Submit the reports to the Agency and the Cree Nation Government.
8. The environmental assessments of the Projects shall take into account at least the factors and elements provided for by CEAA 2012 as well as by Section 22 of the JBNQA, including the purposes, alternatives, environmental impacts and social impacts of the Projects.

SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS

9. In deciding whether the Projects are likely to cause significant adverse environmental effects in relation to section 5 of CEAA 2012, the Minister shall consider:
 - (a) the environmental assessment reports, including proposed conditions and recommended conclusions;
 - (b) the views of the Cree Nation Government and Cree First Nations potentially affected; and
 - (c) the implementation of any mitigation measures that the Minister considers appropriate to address such effects, having regard to items (a) and (b).
10. If the views of the Agency and the Cree Nation Government differ on the recommended conclusions as to the significance of the effects, the President of the Agency and the Executive Director of the Cree Nation Government shall meet with a view to seeking consensus before referring the matter to the Minister for decisions.

11. If the Agency and the Cree Nation Government are unable to reach consensus, they shall ensure that any non-consensus views are clearly and fairly articulated in decision materials for the Minister.
12. The Minister shall provide the Cree Nation Government with written reasons for the decisions made pursuant to subsection 52 (1) of CEAA 2012, taking into account the views of the Cree Nation Government and, if applicable, an explanation as to why certain views of the Cree Nation Government cannot be accommodated.
13. In the event that the Minister decides that a Project is likely to cause significant adverse environmental effects and refers the matter of whether those effects are justified to the Governor in Council, the Minister shall ensure that the views and positions of the Cree Nation Government with respect to the Projects are transmitted to the Governor in Council as part of the referral.

COLLABORATION WITH QUÉBEC

14. The Parties shall make best efforts to collaborate to the extent possible with the COMEX responsible for the provincial environmental and social impact assessment and review of the Projects under Section 22 of the JBNQA in order to ensure efficiency and avoid duplication.

FUNDING

15. The Agency shall provide funding to the Cree Nation Government in order to facilitate its participation in the functions of the joint Assessment Committee established under this Agreement. This funding shall be in addition to that provided to the Cree First Nations and other interested Cree interveners to participate in the environmental assessment processes.
16. The funding for eligible activities and expenses to facilitate the participation of the Cree Nation Government in the functions of the Joint Assessment Committee shall be determined according to the National Program Guidelines for the Participant Funding Program of the Agency (<https://www.canada.ca/en/environmental-assessment-agency/services/policy-guidance/participant-funding-program-national-program-guidelines.html#afl>).

TIME LIMITS

17. The Parties shall make all reasonable efforts
 - (a) to carry out all activities under this Agreement within the time limits established for these Projects under CEAA 2012; and

- (b) to align activities, to the extent possible, with the time limits of the provincial environmental and social impact assessment and review processes carried under Section 22 of the JBNQA for the Projects.

WITHOUT PREJUDICE

- 18. This Agreement, as well as the CEAA 2012 assessment of the Projects carried out in accordance with this Agreement, are without prejudice to, without admission in regard to, and under reserve of the respective rights, claims and positions of the Parties concerning the scope or application of any federal assessment and review process external to the JBNQA to any other project.
- 19. This Agreement applies only to the Projects and may not be raised as a precedent or admission in the courts or elsewhere in regard to any other project.

PREAMBLE

- 20. The preamble forms an integral part of this Agreement.

AND THE PARTIES HAVE SIGNED:

MINISTER OF THE ENVIRONMENT

<Original signed by>

Honourable Catherine McKenna

JUN 26 2019

Date

CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY

<Original signed by>

Per: Ronald Hallman, President

JUN 27 2019

Date

CREE NATION GOVERNMENT

<Original signed by>

Per: Grand Chief Dr. Abel Bosum, Chairman

13 June 2019
Date

SCHEDULE A

DESCRIPTION OF ROSE LITHIUM – TANTALUM MINE PROJECT

OVERVIEW OF PROPOSAL

Critical Elements Corporation is proposing the construction, operation and decommissioning of an open pit lithium and tantalum mine located approximately 38 kilometres north of Nemaska, in Quebec. As proposed, the project includes the operation of an open pit, waste and tailings impoundment area, an industrial ore processing facility and the option of transforming concentrate off-site. The mine would produce about 4,500 tonnes of ore per day over a 17-year life span.

DETAILED DESCRIPTION OF PROPOSAL

See project description, including revisions, prepared by Critical Elements Corporation regarding the Rose Lithium – Tantalum Mine Project and posted on the Canadian Environmental Assessment Registry.

SCHEDULE B

DESCRIPTION OF JAMES BAY LITHIUM MINE PROJECT

OVERVIEW OF PROPOSAL

Galaxy Lithium (Canada) Inc. is proposing the construction, operation and decommissioning of an open-pit lithium mine located approximately 100 kilometers east of James Bay and the Eastmain Cree Village, in Quebec. As proposed, the James Bay Lithium Mine Project would have an estimated mine life of 15 to 20 years, and produce on average 5,480 tonnes of ore per day. The project would include an open-pit mine and concentrator facility, tailings, waste rock, ore and overburden storage areas, as well as related infrastructure.

DETAILED DESCRIPTION OF PROPOSAL

See project description, including revisions, prepared by Galaxy Lithium (Canada) Inc. regarding the James Bay Lithium Mine Project and posted on the Canadian Environmental Assessment Registry.

SCHEDULE C

WORKPLAN

(THE ACTIVITIES AND DELIVERABLES OUTLINED IN THIS WORK PLAN MAY BE AMENDED
IN THE COURSE OF THE EA PROCESSES BY THE ASSESSMENT COMMITTEE)

Days remaining for James Bay lithium mine project: 245 on April 24, 2019.

Days remaining for Rose lithium-Tantalum mine project: 235 days on April 24, 2019.

Step	Estimated Duration	Actions/Deliverables	Consultation Action
First information request (IR)	60 days (planned to be sent to the proponent at the beginning of May)	1) Request advice from Federal departments (questions/comments) and the Cree Nation Government 2) Prepare and send the first IR to the proponent	Obtain First Nations views on Environmental Impact Statement and integrate their questions and comments into the IR
Additional information prepared by the proponent	Unknown (outside federal clock)		Share information received with First Nations
Conformity review of the additional information submitted to the Joint Assessment Committee (JAC)	15-30 days (outside federal clock)	Request advice from Federal departments (conformity of the additional information) and the Cree Nation Government	
Second IR (if needed)	30 days	1) Request advice from Federal departments (questions/comments) and the Cree Nation Government 2) Prepare and send the Second IR to the proponent	Obtain First Nations views on Additional information and integrate their questions and comments into the second IR
Additional information prepared by the proponent	Unknown (outside federal clock)		Share information received with First Nations
Conformity review of the additional information	15-30 days (outside federal clock)	Request advice from Federal departments (conformity of the additional information) and the Cree Nation Government	

Step	Estimated Duration	Actions/Deliverables	Consultation Action
Draft EA report (summary of the information and analyses taken into account to establish whether the project is likely to cause significant adverse environmental effects, after taking into account the proposed mitigation measures) and potential conditions	60 days	1) Request final advice from Federal departments and the Cree Nation Government 2) Complete Environmental Impact Assessment and additional information analysis 3) Prepare the Draft EA Report including the following appendices: - Summary of Crown Consultations with First Nations - Summary of Public concerns 4) Draft potential conditions 5) Review communication products for public consultation	Obtain First Nations' overall views on the project (impacts on rights, land use, etc.)
Public consultation on the Draft EA report and potential conditions	30 days	1) Request comments from Federal departments and the Cree Nation Government on the Draft EA Report 2) Compile comments received on the Draft EA Report	Consultation* of First Nations to obtain their views on the Draft EA Report * The Agency shall retain responsibility for the public and Crown consultations of First Nations
Preparation of Final EA Report and recommended conditions for the Minister's decision	45 days	1) Integrate comments received by Federal departments, the Cree Nation Government, the affected Cree First Nations and entities, and the public, into the Final EA Report and recommended conditions 2) Prepare an additional appendix to the Final EA Report: Summary of key comments received on the Draft Environmental Assessment Report	Prepare the Adequacy of consultation assessment report* *This deliverable is prepared by the Agency
30 days are left at the end of the timeline for the Minister's Decision			
Monitoring of conditions		Prepare follow-up program for monitoring of the projects, as applicable	The Agency and the Cree Nation Government are to discuss means of coordination with respect to monitoring as part of the follow-up program for the projects, if applicable

SCHEDULE D

DELEGATION OF CERTAIN PROCEDURAL ASPECTS OF CROWN CONSULTATION

1. The Parties acknowledge that, notwithstanding the delegation of certain procedural aspects of consultation, Canada retains the responsibility to ensure that the duty to consult has been satisfied, including determining the scope, content and adequacy of consultation.
2. The Assessment Committee will:
 - (a) Organize and hold public hearings in the Cree First Nation communities identified in **Schedule E** in a manner similar to the public hearings normally conducted by COFEX and COMEX; and
 - (b) Provide documentation to inform decision-making in respect of the Projects, which should include:
 - i. A detailed section of the environmental assessment report for each of the Projects;
 - ii. A separate report that summarizes what occurred, what was learned and what was addressed with the Cree First Nations set out in **Schedule E**; and/or
 - iii. Correspondence setting out the views of any of the Cree First Nations set out in **Schedule E** in respect of the Projects.
3. The Assessment Committee and the Agency will discuss:
 - (a) Crown consultations with a view to ensuring adequate implementation thereof; and
 - (b) Issues raised during Crown consultations and the consequential accommodations.

SCHEDULE E

CREE FIRST NATIONS AFFECTED BY PROJECTS

A. ROSE LITHIUM – TANTALUM MINE PROJECT

- Cree Nation of Nemaska
- Cree Nation of Eastmain
- The Crees of the Waskaganish First Nation
- Cree Nation of Ouje-Bougoumou
- Cree Nation of Mistissini

B. JAMES BAY LITHIUM MINE PROJECT

- Cree Nation of Nemaska
- Cree Nation of Eastmain
- The Crees of the Waskaganish First Nation
- Cree First Nation of Waswanipi