

# LIQUEFIED NATURAL GAS PROJECT AGREEMENTS ACT

[SBC 2015] CHAPTER 29

Assented to July 21, 2015

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## Definitions

1 In this Act:

"carbon tax change" means either or both of the following enacted after this Act comes into force:

- (a) an amendment to the Carbon Tax Act or the regulations under that Act, if the amendment applies only with respect to liquefaction activities;
- (b) an enactment that creates a tax that applies only to greenhouse gas emissions resulting from liquefaction activities, including a regulation under the enactment and an amendment to the enactment or regulation;

"greenhouse gas" has the same meaning as in the Greenhouse Gas Reduction Targets Act;

"greenhouse gas regulatory change" means any or all of the following enacted after this Act comes into force:

- (a) an amendment to
  - (i) the Greenhouse Gas Industrial Reporting and Control Act, or
  - (ii) regulations under that Act enacted on or before December 31, 2015,if the amendment applies with respect to liquefaction activities;
- (b) a modification or termination of an incentive program;
- (c) an enactment that creates a regulatory scheme that applies only to greenhouse gas emissions resulting from liquefaction activities, including a regulation under the enactment and an amendment to the enactment or regulation;

"incentive program" means

- (a) the Liquefied Natural Gas Environmental Incentive Program as set out in the document of that name laid before the Legislative Assembly on July 13, 2015, and
- (b) an incentive program, in respect of liquefaction activities, substantially the same as the program referred to in paragraph (a);

"liquefaction activities" has the same meaning as in the Liquefied Natural Gas Income Tax Act;

"LNG" has the same meaning as in the Liquefied Natural Gas Income Tax Act;

"LNG facility" has the same meaning as in the Liquefied Natural Gas Income Tax Act;

"LNG project agreement" means an agreement that includes the provision by the government of an indemnity, as described in section 2 (1), respecting an LNG facility;

"LNG tax change" means either or both of the following enacted after this Act comes into force:

(a) an amendment to the Liquefied Natural Gas Income Tax Act or the regulations under that Act, other than an amendment

(i) to, or the enactment of, an administrative, enforcement or anti-avoidance provision, or

(ii) to correct a technical error;

(b) an enactment that creates a capital tax or an income tax or any other tax on profit derived from liquefaction activities, if the tax applies only in relation to the liquefaction activities, including a regulation under the enactment and an amendment to the enactment or regulation;

"minister" means the Minister of Finance;

"natural gas tax credit change" means an amendment enacted after this Act comes into force

(a) to section 172 of the Income Tax Act, to a regulation that prescribes a percentage for the purposes of subsection (4.1) of that section to change that percentage or to an enactment that provides substantially the same benefit as provided under that section, whether the enactment is structured as a tax credit or refund, or

(b) to the Liquefied Natural Gas Income Tax Act or the regulations under that Act, if the amendment results in a reduction of a benefit referred to in paragraph (a) of this definition, other than an amendment

(c) to the description of "B" in section 172 (2) (b) of the Income Tax Act

(i) to change the reference to "11%" to a lower percentage as a consequence of an amendment to section 14 (2) or 16 (1) (b) of that Act, or

(ii) to change the reference to "11%" to a higher percentage as a consequence of an amendment to section 14 (2) or 16 (1) (b) of that Act, if the reference to "8%" is also changed to a comparably higher percentage,

(d) to, or the enactment of, an administrative, enforcement or anti-avoidance provision, or

(e) to correct a technical error;

"tax law change" means a carbon tax change, an LNG tax change or a natural gas tax credit change.

#### LNG project agreements

2 (1) Subject to subsections (2) to (4) and section 9, with the approval of the Lieutenant Governor in Council, the minister may, on behalf of the government, enter into an LNG project agreement under which the government provides to a person an indemnity respecting

(a) the amount of additional tax paid by the person in the event of a tax law change, and

(b) the person's direct costs of complying with a greenhouse gas regulatory change.

(2) An LNG project agreement must

(a) include a provision that the indemnity is conditional on the minister being satisfied that a final investment decision has been made respecting the LNG facility,

(b) be in respect of only one LNG facility,

(c) include provisions

(i) establishing a threshold that applies for losses or expenditures attributable to tax law changes and greenhouse gas regulatory changes, and

(ii) providing that the indemnity referred to in subsection (1) does not apply in relation to losses or expenditures that are less than the threshold,

(d) provide that the agreement is governed by the laws of British Columbia,

(e) provide that the venue for any proceeding to resolve a dispute arising out of or related to the agreement must be in British Columbia,

(f) include a provision for determining the date when the LNG facility is to be considered, for the purposes of subsection (3), to begin commercial operations, which date must not be later than the date of the first departure of LNG in commercial quantities from the LNG facility, and

(g) include a provision that the government's financial obligation in relation to the agreement is limited solely to the indemnity referred to in subsection (1).

(3) An LNG project agreement may not be for a term that ends later than 25 years after the later of the following:

(a) the effective date of the agreement;

(b) the date the applicable LNG facility begins commercial operations.

(4) An LNG project agreement entered into under subsection (1) may include any other terms, conditions or limitations that the minister considers necessary or advisable, including terms limiting the applicability of the indemnity referred to in that subsection further than the applicability is limited by the definition in section 1 of "carbon tax change", "greenhouse gas regulatory change", "LNG tax change" or "natural gas tax credit change", as applicable.

(5) For certainty, subsection (4) does not authorize the minister to provide, in an LNG project agreement, an indemnity respecting payments made or costs incurred as a result of

(a) an amendment or enactment not identified in the definition in section 1 of "carbon tax change", "greenhouse gas regulatory change", "LNG tax change" or "natural gas tax credit change", or

(b) the creation, modification or termination of any program other than an incentive program.

#### Ratification

3 (1) The Lieutenant Governor in Council may, by order, ratify an LNG project agreement that

(a) was entered into by the minister, on behalf of the government, before this Act comes into force, and

(b) includes a provision making the agreement subject to ratification by an enactment.

(2) An indemnity provided under an LNG project agreement ratified under subsection (1) is effective on the date of ratification.

#### Financial Administration Act

4 Section 72 (3), (4) and (8) of the Financial Administration Act does not apply to an indemnity provided to a person by the government under an LNG project agreement.

#### Assignments

5 If an LNG project agreement provides that an assignment of the agreement, in whole or in part, may be made only with the consent of the minister, the minister may consent to the assignment only with the approval of the Lieutenant Governor in Council.

#### Payment of indemnity

6 Money required to be paid by the government under an LNG project agreement must be paid out of the consolidated revenue fund.

#### Set-off of amounts owed

7 The government may retain money by way of set-off, out of any money due or payable to a person by the government under an LNG project agreement, if

(a) the person owes money to the government, or

(b) an overpayment has been made by the government to the person.

#### Publication

8 The minister must, as soon as practicable, publish

(a) an LNG project agreement entered into under section 2 (1) or ratified under section 3, and

(b) if the minister has been notified that an assignment of an LNG project agreement referred to in paragraph

(a) of this section has occurred, a notice

(i) stating that the assignment has occurred,

(ii) setting out the date of the assignment, and

(iii) identifying the relevant parties.

#### Authority circumscribed

9 (1) The minister may not enter into an LNG project agreement under section 2 (1) on a date later than 10 years after the date this Act comes into force.

(2) Subsection (1) does not apply to an amendment to an LNG project agreement.

Commencement

10 This Act comes into force on the date of Royal Assent.

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