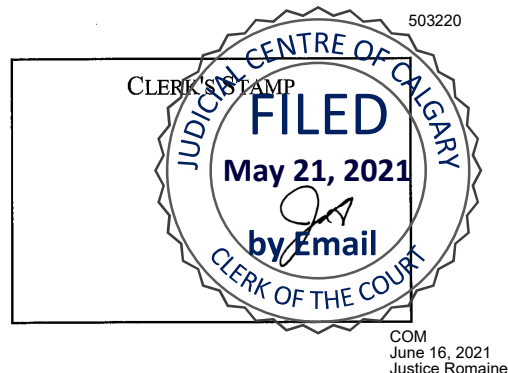


ENTERED

FORM 49
[RULE 13.19]



COURT FILE NUMBER 2101-05019
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, RSC 1985,
c C-36, AS AMENDED

AND IN THE MATTER OF THE
COMPROMISE OR ARRANGEMENT OF
COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT

AFFIDAVIT OF ROBERT BOOKER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: David Gruber / Keely Cameron
Telephone No.: 604-891-5150 / 403-298-3324
Fax No.: 403-265-7219
Client File No.: 91815.1

AFFIDAVIT OF ROBERT BOOKER

Sworn on May 21, 2021.

I, Robert Booker, of Prince Rupert, British Columbia, SWEAR AND SAY THAT:

1. I am the Chief Executive Officer ("CEO") at Ridley Terminals Inc. ("**Ridley**"). I have held this position since January 20, 2020. As such, I have personal knowledge of the facts and matters hereinafter deposed to except where stated to be based upon information and belief, and where so stated, as I verily believe the same to be true.
2. I have been professionally involved in the Canadian coal industry since 1983.

3. From 1983 to 1995, I worked in coal mines in northeast and southeast British Columbia, including roles as a geologist, technical services manager, blasting superintendent, manager of engineering and open pit superintendent.
4. From 1995 onwards, I became involved in the shipping and transportation of coal at marine ports in British Columbia, and since then I have continued to be involved in bulk exports. I have held positions from unionized foreman, superintendent, manager, Vice President, Senior Vice President and CEO. I have been engaged in all aspects of terminal management, transportation and logistics.
5. As a result of my experience, I have knowledge of Canadian coal industry, including transportation systems, major coal mining companies and coal products.
6. This Affidavit is sworn to support Ridley's Application for declarations that: (a) Coalspur Mines (Operations) Ltd. ("**Coalspur**") is bound by all of its contractual obligations to Ridley under the terminal services agreement, dated January 1, 2018 (the "**Terminal Services Agreement**"), the settlement agreement dated July 1, 2020 (the "**Settlement Agreement**") and the letter agreement dated February 13, 2021 (the "**Letter Agreement**") (collectively, the "**Agreements**"); and (b) pursuant to section 32 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 as amended (the "**CCAA**") the Agreements are not to be disclaimed or resiliated.
7. I have read the affidavit of Cordell Dixon sworn on May 21, 2021 ("**Dixon Affidavit**"). Capitalized terms not otherwise defined herein have the same meaning as in the Dixon Affidavit. To the extent that the matters to which he attests are within my personal knowledge in my capacity as CEO of Ridley, I adopt the contents of the Dixon Affidavit. To the extent he attests to matters that took place prior to my arrival as CEO in 2020, I have some awareness of such matters from having reviewed capital plans and similar records after taking my current position and what he attests to is consistent with my knowledge from that source.

Background

8. With respect to the evidence in the Dixon Affidavit concerning the entering into of the 2011 Agreement and the 2012 Amended Agreement, I would add the following context that I am aware of through my industry knowledge:
 - (a) The Vista Mine was one of several new thermal coal mining projects that were promoted in the late 2000s while world prices for thermal coal were considered favourable to new investment. However, domestic demand for thermal coal within North America was already satisfied by existing mines and there was little or no prospect of new consumers for thermal coal being constructed within North America. To the contrary, coal-fired power stations were being decommissioned. As such, the Vista Mine and the other thermal coal mining projects being promoted during that period could only be commercially developed if the output from such mines could be exported to international markets, particularly Asia, South America and Europe.
 - (b) In order for such exports to be feasible, the thermal coal produced would need primarily to be handled by either or both of Ridley Terminals or Westshore Terminals. In the late 2000s a very small amount of thermal coal could be handled by a terminal in Thunder Bay, Ontario, for export to Europe, but by the early 2010s even that option was no longer being used.
 - (c) The primary export market envisaged for new thermal coal mining projects in the late 2000s was Asia. That remains so today.
 - (d) Westshore Terminals had a much more up to date operation than Ridley Terminals, but was under long-term contract to Teck Resources Limited ("**Teck**"), Canada's largest exporter of coal (in Teck's case metallurgical coal), and under long-term contracts to export thermal coal supplied from the Powder River Basin in the United States which was being exported due to changes in government policy. These commitments left Westshore Terminals with very little capacity available for other coal exporters.

- (e) Westshore Terminals is geographically constrained, such that it is difficult, if not impossible, to increase capacity. Ridley Terminals, by contrast, would be able to increase capacity both by way of capital expenditure to upgrade the facility and there was the possibility of physically expanding its operations.
 - (f) As the former Senior Vice President of Operations and Maintenance at Neptune Terminal I am aware that Neptune Terminal's coal capacity is exclusively available to Teck, and there is no coal capacity available to any other shippers.
9. With respect to the evidence in the Dixon Affidavit concerning the entering into of the Termination and Mutual Release Agreement dated May 26, 2015, I would add the following context that I am aware of through my industry knowledge:
- (a) International thermal coal prices declined in the 2010s, reaching a low of around \$59 (USD) per metric tonne for 2015 at the Newcastle benchmark, which is the industry standard. In light of the decline in prices, investment in new thermal coal mining projects dried up. These projects were either suspended or restructured.
 - (b) The Vista Mine project, unlike many that were simply suspended, was restructured. That happened by virtue of Cline agreeing to take it private. Cline was controlled by Chris Cline, a colourful, driven and highly successful coal mining entrepreneur originally from West Virginia. Attached to this my Affidavit and marked as Exhibit "1" is a true copy of an obituary of Mr. Cline, who tragically died in a helicopter crash in 2019.
10. With respect to the evidence in the Dixon Affidavit concerning the entering into of the Terminal Services Agreement dated January 1, 2018, I would add the following context that I am aware of through my industry knowledge:
- (a) The international price of thermal coal began to recover in 2016 and by 2018 almost doubled from its 2015 price to \$107 (USD) per metric tonne at the Newcastle benchmark.
 - (b) By the same token that Ridley would not have made substantial capital investments had it not been for the Exclusivity Clause and the minimum throughput provisions in the Terminal Services Agreement, Cline would have

been unable to invest in Coalspur's development of the Vista Mine, and particularly in an underground mining facility, had Ridley not agreed to expand its capacity. Put simply, but for Ridley's agreement to expand its capacity, there would have been no way for Cline's projected output for the Vista Mine to be exported.

Settlement Agreement

11. At the time when I became the CEO of Ridley, the Terminal Services Agreement, attached thereto as Exhibit "10" in the Dixon Affidavit was in place.
12. Chris Cline was famous in the industry for his ability to meet ambitious targets, including targets that many thought were unachievable. After his tragic death, Coalspur began falling dramatically short of the output targets he had set and upon which the Terminal Services Agreement was premised.
13. From 2019 onwards, Coalspur has continued to push Ridley to invest in capacity to handle its projected volume of up to 12 million metric tonnes. Ridley, in reliance on Coalspur's representations, advanced capital investments at Ridley Terminal to meet its client's surging demands. Ridley installed an additional stacker, new dumper barrels, high speed apron feeders, ice crunchers and extended its existing conveyor lines.
14. In 2019, Coalspur failed to deliver the committed volume under the Terminal Services Agreement and was liable for a shortfall penalty of approximately \$10.5 Million. Although Ridley had the right to arbitrate, it sought to collaborate with Coalspur to achieve an amicable resolution in light of what it understood to be Coalspur's tenuous cash position at the time.
15. In or around July 2020, Ridley and Coalspur entered into the Settlement Agreement whereby Coalspur agreed to pay Ridley a principal amount of \$9,413,648 (the "**Principal Amount**"). Under the Settlement Agreement, Ridley would recover \$4,738,355 of the Principal Amount by withdrawing from a letter of credit held by Ridley as security for the performance of Coalspur's contractual obligations under the Terminal Services Agreement. Ridley would recover the remaining \$4,675,293 by applying a throughput rate surcharge in the amount of \$0.85/MT on each metric tonne of cargo handled at

Ridley Terminal. Attached to this my Affidavit and marked as Exhibit "2" is a true copy of the Settlement Agreement, dated July 1, 2020.

16. By virtue of entering into the Settlement Agreement, Ridley has foregone \$1.1 Million in shortfall penalties that were otherwise due under the Terminal Services Agreement, and provided Coalspur a means to gradually pay off the Principal Amount without having to do by way of a lump sum cash payment – which it said it did not have.

Capacity opens at Westshore

17. It was well known in the industry and disclosed in Westshore's public company filings that there was ongoing friction between Teck and Westshore over monopoly pricing, lost opportunity and contamination of Teck's metallurgical coal product by thermal coal at the Westshore Terminal. Such contamination would have the effect of substantially impacting Teck's reputation as a supplier of the highest quality metallurgical coal and reducing the net price Teck can receive on its metallurgical coal exports.
18. For some years, Teck had been announcing plans to invest in adding a metallurgical coal export facility to the Neptune Terminal.
19. Such announcements were met with skepticism in the industry until August 2020, when it was disclosed that Teck and Westshore had entered into an agreement in principle following the expiry of their current contract on March 31, 2021. That agreement in principle envisaged substantially reduced volume from Teck being handled by Westshore Terminals than under the current contract.

Letter Agreement

20. In or around February 2021, Ridley was again in the position of seeking to recover overdue payment from Coalspur. Ridley was not being paid for its services. Ridley learned from Coalspur that other transportation and logistics service providers, such as Canadian National Railway ("**CN Rail**") were being paid.
21. In or around February 5, 2021, Ridley learned that the Vista Mines had to be shut down due to a lack of tailing pond capacity.

22. In or around February 13, 2021, Ridley and Coalspur entered into a further agreement to facilitate repayment of approximately \$11.6 Million. Attached to this my Affidavit and marked as Exhibit "3" is a true copy of the Letter Agreement, dated February 13, 2020.

Further Negotiations

23. Ridley had been aware since October 2020 that Coalspur was claiming to be suffering a liquidity problem arising from delays in obtaining an environmental permit and because of arrangements it had entered into with Trafigura Group Pte. Ltd. ("**Trafigura**") for forward sale of its output which had created a significant liability because of recent increases in the international price of thermal coal.
24. After the entering into of the Letter Agreement, there were further without prejudice negotiations between Ridley and Coalspur through their respective ownership groups with a view towards providing some accommodation to Coalspur to assist with its liquidity problems.
25. In March 2021 I learned from CN that Coalspur was seeking to negotiate a return to business that would not require an insolvency restructuring, and that CN was willing to offer Coalspur some price assistance, which might include transporting Coalspur's product to Westshore Terminals instead of Ridley Terminals. I was told that Coalspur was being offered a great rate from Westshore. I advised CN of Ridley's Exclusivity Clause.
26. On March 30, 2021, Coalspur proposed to Ridley that the Agreements be amended in order to provide a flat rate of \$8.35 per metric tonne on a take or pay commitment of 3.6 million tonnes, and relief.
27. Further discussions about this proposal continued into April. Ridley responded by proposing a graduated rate scale based on volume with a lower take or pay commitment in 2021. Coalspur countered at a flat rate of \$10.53 per metric tonne with no take or pay commitment. Then each side made proposals at graduated rates with different take or pay commitments over time.

28. As of April 14, 2021, Coalspur owed Ridley the sum of \$11,287,950.08 under the Agreements, comprising of shortfall payments due and owing by Coalspur for 2019 and 2020, and various throughput rate surcharges.
29. On or about April 19, 2021, Coalspur informed Ridley that it intended to file proceedings under the *Companies Creditors Arrangement Act* ("CCAA"), with the caveat that the dates obtained under its anticipated CCAA filing were indented to be solely in the nature of a placeholder. Coalspur assured Ridley of its intentions to negotiate to obtain a resolution with Ridley, among other parties prior to its CCAA hearing.
30. On April 23 the parties reached a tentative agreement for a buyout of the Agreements in exchange for a payment of \$18 million. Ridley was reluctant to consider a buyout of the Agreements, but ultimately decided to do so on the basis that a substantial upfront cash payment would very materially enhance Ridley's financial ability to make the necessary investment that would be required to be able to handle wood pellets, which bulk product has a more promising future than thermal coal.
31. The without prejudice negotiations were terminated unilaterally by Ridley Terminals on the evening of April 23, 2021 when Cline/Coalspur sought to renegotiate agreed upon conditions for the cash buyout.
32. During this negotiation period, and still today, Ridley has been prepared to negotiate in good faith accommodations to assist Coalspur with its liquidity challenges.

This Proceeding

33. On or about April 22, 2021, Ridley received, among other things, Coalspur's application to commence proceedings under the CCAA. Attached to this my Affidavit and marked as Exhibit "4" is a true copy of the Originating Application filed by Coalspur, returnable April 26, 2021.
34. There was no time for Ridley to instruct counsel to appear at the scheduled hearing on April 26, 2021, and in any event there was no indication in the materials Ridley received that Coalspur intended within this proceeding to repudiate or disclaim the Agreements.

35. Attached to this my Affidavit and marked as Exhibit "5" is a true copy of the Application filed by Coalspur, dated April 30, 2021 for the comeback hearing in this proceeding. Again, there was no indication in these materials that Coalspur intended within this proceeding to repudiate or disclaim the Agreements.
36. Ridley understands that Coalspur resumed operations in or around May 3, 2021. Ridley was not contacted with respect to expected rail delivery.
37. Ridley made inquiries of Coalspur that it would be complying with its obligations under the Agreements and continue to ship coal to the Ridley Terminal. Attached to this my Affidavit and marked as Exhibit "6" is a true copy of the correspondence sent by Ridley's counsel, Mr. Gruber of Bennett Jones LLP, counsel to Ridley to Mr. Randal Van de Mossler, counsel to Coalspur, dated May 7, 2021 confirming that on May 5, 2021 a specific request was made for confirmation that Coalspur would be honouring the Agreements during the course of this proceeding.
38. Ridley did not receive a response to its inquiry.
39. On May 6, 2021, Coalspur sought and obtained an extension of the stay period of the CCAA proceedings to July 23, 2021. As there had been no indication up until that point that Coalspur intended within this proceeding to repudiate or disclaim the Agreements, Ridley did not take a position on that application.
40. The following morning, Ridley learned through CN Rail that Coalspur had shipped its coal to a marine terminal other than the Ridley Terminal, which could only mean that it was going to Westshore Terminal.
41. Shortly thereafter, on the afternoon of May 7, 2021, Coalspur delivered to Ridley notice of its intention to disclaim the Agreements ("**Notice to Disclaim**"). Attached to this my Affidavit and marked as Exhibit "7" is a true copy of the Notice to Disclaim, filed and served on May 7, 2021.
42. In respect of the Notice to Disclaim, there has followed an exchange of correspondence between counsel as follows:

- (a) Attached to this my Affidavit and marked as Exhibit "8" is a true copy of a letter from Coalspur's counsel to Ridley's counsel dated May 9, 2021;
- (b) Attached to this my Affidavit and marked as Exhibit "9" is a true copy of a letter from Ridley's counsel to Coalspur's counsel dated May 10, 2021;
- (c) Attached to this my Affidavit and marked as Exhibit "10" is a true copy of a letter from Coalspur's counsel to Ridley's counsel dated May 16, 2021;
- (d) Attached to this my Affidavit and marked as Exhibit "11" is a true copy of a letter from Ridley's Counsel to Coalspur's counsel dated May 17, 2021; and
- (e) Attached to this my Affidavit and marked as Exhibit "12" is a true copy of a letter from Coalspur's counsel to Ridley's counsel dated May 18, 2021.

No Enhanced Prospects of a Viable Compromise or Arrangement

43. It is Ridley's position that the Agreements are commercially reasonable, such that a disclaimer would not enhance of prospects of a viable compromise or arrangement.

(a) The Agreements are Commercially Reasonable

44. When the parties entered into the Terminal Services Agreement, Coalspur informed Ridley that it would eventually deliver a volume of approximately 12 Million metric tonnes of coal annually. Ridley could offer to Coalspur both an initial capacity of up to 6.75 million metric tonnes as well as the future capacity to handle 12 Million metric tonnes of coal, provided it completes additional capital investment. Westshore did not have such present or future capacities at the time. In light of Coalspur's projections, Ridley and Coalspur agreed to build in significant scaling rates to the throughput rates set out in cl. 4.1 of the Terminal Services Agreement (the "**Throughput Rates**"): as certain volume milestones are met, the rate decreases.

45. Further, Ridley would not have agreed to the schedule of the Throughput Rates absent the Exclusivity Clause. The Exclusivity Clause served as assurance for Ridley to invest in capital improvements to handle the anticipated tonnage from Coalspur.

46. Ridley believes that Coalspur's capital investment was similarly dependent on the terms of the Terminal Services Agreement. In particular, the incentive of the scaling Throughput Rates and the 12 million tonnage capacity gave Coalspur the affirmation to proceed with investment and mine openings. There would be no mining employment in Hinton, Alberta today if not for Ridley's agreement to provide Coalspur with the capacity it expected to need to export its output.
47. Coalspur delivered by rail 1,048,341 metric tonnes of coal in 2019 and 4,257,940 metric tonnes of coal in 2020. To the extent that Coalspur has failed to hit milestones provided for under the Throughput Rates and trigger lower rates, this is to no fault of Ridley.
48. Coalspur has indicated to Ridley that it anticipates exceeding 6 million metric tonnes in delivery in 2021. To date, Coalspur has delivered approximately 900,000 metric tonnes of coal in 2021, and is closing in on exhausting the top tiered rate of \$12.32 per million tonnes. For each subsequent million tonnes delivered, Coalspur is due to receive a price drop to \$12.06, \$10.49, \$9.96, and so forth. If Coalspur is held to its obligations under the Terminal Services Agreement and delivers tonnage approximate to its own projects, it can expect to benefit from the scaling Throughput Rates.
49. In recent months, Coalspur and Ridley has engaged in negotiations wherein Coalspur sought further economic concessions from Ridley. These discussions persisted through to April 23, 2021 and in Ridley's view, had not ended prior to Coalspur's commencement of proceedings under the CCAA.
50. Ridley has, to date, been open and willing to engage in dialogue with Coalspur and assist it in respect of its liquidity challenges.
51. Ridley was not contacted by the Monitor prior to the issuance of the Notice of Disclaimer.

(b) Coalspur's Terms with Westshore

52. I am not aware of what terms are applicable to Coalspur's throughput at Westshore Terminal during this proceeding, and I understand that Coalspur's counsel has refused to provide such information. Based on Westshore's public filings, its average loading rate for 2020 was \$12.08 per tonne and for the first quarter of 2021, \$11.13 per metric tonne.

Assuming Coalspur delivers its project volume for 2021, Ridley believes the scaling Throughput Rates are generally comparable, if not favorable to Westshore's rates as indicated by its public filings.

53. On the basis of the information provided by Coalspur with respect to the recovery plan, I estimate Westshore has received in excess of 175,000 metric tonnes of Coalspur product as of May 20, 2021.

Coalspur's Bad Faith Conduct

54. Ridley considers that Coalspur's conduct, in connection with its purported disclaimer of the Agreements, has been in bad faith. Coalspur has repeatedly taken steps to breach the Agreements without notice or prior warning to Ridley.
55. Coalspur did not respond to Ridley's inquiry of May 5, 2021 that it carry out its obligations under the Agreements. Instead, on May 7, 2021, Coalspur proceeded to reroute its coal shipments in breach of the Exclusivity Clause. Coalspur did not communicate to Ridley that it would be taking this step.
56. In fact, Ridley only came to know of Coalspur's conduct through a third party. During Ridley's regularly scheduled rail conference call with CN on May 7, 2021, Ridley learned that Coalspur did not send shipments of its coal to the Rupert Terminal. Later in the afternoon of May 7, Coalspur served the Notice to Disclaim.
57. It is clear to Ridley, from its correspondence with Coalspur and its subsequent lack of response, that Coalspur has no plans to reroute its coal shipments back to the Ridley Terminal and intends to ship future coal shipments to the Westshore Terminal.
58. Ridley believes that the Notice to Disclaim is an attempt by Coalspur to circumvent its obligations under the Agreements.

Disclaimer of the Agreements would Cause Significant Hardship to Ridley

59. It is Ridley's position that Coalspur's purported disclaimer of the Agreements ought to be dismissed as it would result in significant hardship to Ridley and the Prince Rupert community.

(a) Financial Hardship to Ridley

60. If the Agreements are disclaimed, Ridley anticipates that it would be pushed to the brink of insolvency by the end of the year.
61. Since 2011, Ridley has invested significant capital and resources into servicing its respective contracts with Coalspur. A disclaimer of the Agreements would force Ridley to halt capital spending and fundamentally alter its operations.
62. Moreover, in the past decade, the proportion of Ridley Terminal's business as it relates to coal has dwindled. Ridley has considered long term plans of diversifying into other commodities to sustain Ridley Terminal's business, while the Agreements are in place. If the Agreements were disclaimed, Ridley would have to rapidly repurpose the Ridley Terminal for delivery of other commodities, such as wood pellets, specialty agricultural products, mineral concentrates or liquid hydrogen. Ridley believes that it will be unable to sustain a rapid and unforeseen transition into these other commodities, due to: (a) a lack of experience in these commodities; (b) the uncertain future demands of these commodities; and (c) the existence of established competitors who would have a distinct market advantage over Ridley.
63. Further, Ridley owes \$164 Million on an outstanding loan agreement for a term ending on December 31, 2027 (the "**Ridley Loan**"). As the Agreements constitute "Material Contracts" under the terms of the Ridley Loan, a disclaimer would entitle the lender to demand immediate payment of the Ridley Loan. Ridley is unlikely to be able to raise sufficient funds to satisfy this debt call.

(b) Hardship to the Prince Rupert Community

64. It is further Ridley's position that Coalspur's purported disclaimer of the Agreements ought to be dismissed as it would result in significant harm to Ridley and the Prince Rupert community.
65. Ridley is a major employer in Prince Rupert including with respect to the First Nations in the community. Coalspur's shipments account for 40% of the volumes at the Ridley Terminal. Ridley has hired additional employees and invested in significant capital improvements specifically to fulfill the work generated under the Agreements.

66. Due to the financial hardship flowing from Coalspur's ongoing breach of the Agreements, Ridley has already terminated the employment of six staff members. The purported disclaimer would force Ridley to terminate an additional 14 employees later this month, including four women and five members of the First Nations in Prince Rupert. Ridley further anticipates that additional rounds of layoffs of 15% of Ridley's current staff will be required in the fall, should the Agreements be disclaimed.
67. Prince Rupert is a small community. The effect of mass layoffs and the elimination of numerous high paying positions would have a devastating impact on Prince Rupert and its citizens, especially its First Nations community.
68. Further, the loss of employment associated with a disclaimer of the Agreements disproportionately affects the Prince Rupert workforce. Ridley understands that Westshore hires its unionized personnel from a union hiring pool in New Westminster, British Columbia. If not given shifts by Westshore, those personnel may secure comparable employment at marine terminals along the Fraser River and Vancouver's inner harbor. The same opportunities are not available to terminated workers in the Port Rupert community.
69. Prince Rupert hosts an already vulnerable and disadvantaged population, as compared to the population of Metropolitan Vancouver and Delta, for instance:
 - (a) Prince Rupert has the highest child poverty rate in British Columbia, at 29.1% as compared to Metro Vancouver at 17.8%. Attached to this my Affidavit and marked as Exhibit "13" is a true copy of the 2020 BC Child Poverty Report Card, issued by BC Child and Youth Advocacy Coalition dated December 2020; and
 - (b) Prince Rupert has a low-income rate (individuals qualifying for Low-income status) of 17.6%, as compared to the British Columbia wide average rate of 15.5% and Delta's rate of 9.7%. Attached to this my Affidavit and marked as Exhibit "14" is a true copy of the 2016 Census agglomeration of Prince Rupert and Delta as collected by Statistics Canada.
70. The reallocation of jobs from the Ridley Terminal to the Westshore terminal would yield grossly disproportionate harm to the Port Rupert community.

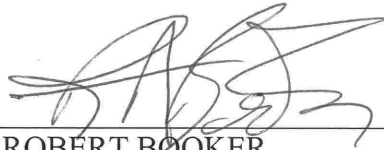
71. In the circumstances where Coalspur is seeking to disclaim the Agreements. Ridley has serious concerns about the hardship and prejudice this would cause, including the lasting harm to the financial and social wellbeing of Prince Rupert and its people.

SWORN BEFORE ME at the City of)
Vancouver, in the Province of British)
Columbia, this 21 day of May 2021.)



A Notary Public in and for British Columbia)

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ROBERT BOOKER)

THIS IS EXHIBIT "1"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER, SWORN THE 21 DAY
OF MAY, 2021.



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Chris Cline

1958 - 2019

Add a Memory

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July 5, 1958-July 4, 2019

CHRIS CLINE never forgot his upbringing in the West Virginia coal mines. As his business savvy made him a billionaire, he did not forget his hometown of Isaban, his home state or its people, especially children, in need.

Mr. Cline, 60, died Thursday in a helicopter crash off the coast of his private island Big Grand Bay in the Bahamas with his beloved daughter Kameron, 22. Five others were lost in the tragic accident.

Mr. Cline's grandfather and father were coal miners. As a child, he was digging dirt and filling bags for his father to use in packing blasting holes. He earned a penny a bag.

He went to work underground as a teenager. After leaving Marshall University early to help his father in a punch mine, the enterprising Mr. Cline borrowed money to buy the company's first continuous miner, an innovative improvement to coal production. He worked 16-hour shifts, seven days a week, month after month leading his crew, to pay it off. His big break came when he was able to buy an unprofitable mine for \$1 million, improve its performance, and flip it for \$17 million. One partner said, as quoted in Forbes, "He sees value in assets others overlook."

He'd found his calling.

He never stopped doubling down on deals.

His coal enterprises took him from Appalachia to Illinois to Canada. He offered cash incentives to his miners, installed advanced and safe mining equipment, and was ahead of his time in anticipating the market for coal. A mining engineer said, according to a Forbes magazine profile of Mr. Cline, "Those guys would run through a wall for him." Mr. Cline believed it was not enough to be innovative, you need a little luck. At Foresight, his four mine complexes were the most productive underground operations in the nation. He bought docks on the Mississippi River and built rail spurs to haul coal onto ships bound for India, Europe and Asia. The boy from Isaban had become a man of the world.

Mr. Cline understood opponents of burning coal while defending coal and his role in supplying the world with it. He believed that people deserved the cheapest energy they could get. He had a curious

HONOR THEIR MEM

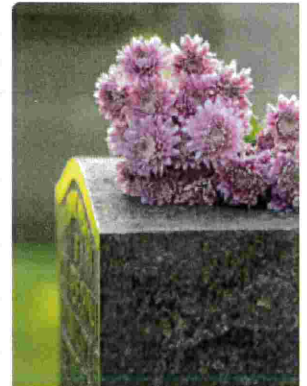
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mind, was eager to learn about everything and never stopped learning. As committed as he was to coal energy, for his Big Grand Cay property he installed solar panels and batteries. Where renewable energy sources made sense, he was eager to embrace them.

Upon learning of Mr. Cline's death, President Trump tweeted to 62 million people: "My greatest sympathies go out to the family and friends of great businessman and energy expert Chris Cline, his wonderful daughter, Kameron, and their friends, on the tragic accident which took place in the Bahamas. The great people of West Virginia will never forget them!"

As a reminder of the source of his wealth, Mr. Cline's first, battered hard hat is placed prominently above the fireplace of his Beckley mansion. At that house, he created a lake large enough for water skiing and a 400-foot water slide, built a go-kart track, and paint ball obstacle course. Though a billionaire, he never lost touch with the days that he lived in a single-wide trailer and used a blow dryer to thaw his water pipes.

Mr. Cline was generous with his philanthropy, publicly through the Cline Family Foundation, founded in 2009, but most importantly, privately, almost daily. The Foundation focuses on donations throughout West Virginia in recognition of the community's contribution to his success. It offers scholarships and grants, endows universities, and financially supports charitable organizations that make life better for children and older youth.

Among other donations, the Cline Family Foundation gave millions to West Virginia University, Marshall University, Place of Hope, a foster care and adoption organization; Peacehaven Community Farm, a home for disabled adults; orphanages in West Virginia and Haiti; Save the Children; humanitarian aid organizations in Tanzania; churches; and the Raleigh County YMCA, among other organizations, and many needy individuals over the years. He also supported The Benjamin School from which his daughter Kameron graduated in 2015. Few people beyond the recipients know details of Mr. Cline's many and constant personal acts of private charity.

He played as hard as he worked and was happiest in the company of his life-long friends and family. Mr. Cline kept close his friends from all phases of his life and regularly included them in his leisure activities. Sharing his adventures with his four children and his lifelong friends was his particular pleasure. He would take crowds of friends and family to the Super Bowl, the Big East Tournament, myriad other sporting events, and on his frequent world travels. He loved the beach and nothing pleased him more than sharing good times at his homes and on his yacht. Mr. Cline was an adventure junkie whether it was driving fast cars or riding a four-wheeler like a banshee through the West Virginia hills. He had a good relationship with his money: he was willing to spend it.



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ci



He had his beloved Candice with his first wife, Sabrina, who tragically died of cancer in 1987. While divorced from his second wife of 10 years, Kelly Cline Fama, in 2000, they shared three wonderful children, Logan, Tanner and Kameron, and a relationship of mutual respect for the rest of his life.

Mr. Cline often remarked that his children could not have better parents than Kelly and their step-dad, Phillip.

No matter what the demands of his business, Mr. Cline was devoted and committed to time with his children. In a statement, Mr. Cline's family said that he was "one of West Virginia's strongest sons, an American original, full of grit, integrity, intelligence, and humor." Of Mr. Cline's daughter Kameron, the family wrote that she was "a bright light to all who knew her, loving, smart, compassionate and full of joy and enthusiasm for life and other people." She graduated from [Louisiana State University](#) in May 2019 with a business degree and concentration in finance.

Her Benjamin School [teachers](#) wrote: "Kameron and the entire Cline family were all members of The Benjamin School community. Around campus, Kameron was known for her fun and upbeat personality. She joined the track team and excelled at the long jump, even qualifying for the state finals during her first year on the team. Kameron and classmate Brittney Searson shared a strong friendship; they were voted "Attached at the Hip" in their class superlatives. Ms. Searson died in the accident with her best friend.

Kameron graduated from The Benjamin School in May 2015.

Mr. Cline's survivors include a daughter, Candice Cline Kenan and her husband James Graham Kenan; two sons, Christopher Logan Cline and Alex Tanner Cline; and two brothers, Greg Cline and Kenneth Cline.

Kameron Cline's survivors include her mother and step-father, Kelly Cline Fama and Phillip George Fama of Mooresville, N.C.; a sister and brother-in-law, Candice Cline and James Graham Kenan; three brothers, Christopher Logan Cline, Alex Tanner Cline, and Ethan Phillip Fama; grandparents who died before her are Casey Eugene and Sybial Maxine Cantrell of Clendenin, Paul and Lassie Cline of Isaban; and step-grandparents, George and Mary Ann Fama of Beckley.

In lieu of flowers, the family would appreciate gifts to either: Powercross, (www.powercross.org) a ministry for student athletes, at 1133 West Front Street, Statesville, NC 28677; YMCA of Beckley-Raleigh County (www.ymcaswv.com), 121 East Main Street, Beckley, WV 25801.

A remembrance service will be held at the Raleigh County Armory, 200 Armory Drive, Beckley, W.Va., at 5 p.m. on Friday, July 12. All who wish to share our celebration of these wonderful lives are welcome to attend.



Published in Charleston Gazette-Mail from July 12 to July 14, 2019

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REMEMBER

Share memories or express condolences below.

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Add a memory or condolence to the guest book

"My heart is saddened and broken for the loss of a child..."

-Tammy Grubb Lester

"With heartfelt sympathy to Mr. Cline's family, friends,..."

-V Suggs-Moore

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THIS IS EXHIBIT "2"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
BENNETT JONES LLP
2500 PARK PLACE – 666 BARRARD ST
VANCOUVER, B.C. V6C 2X8
TEL: 604.891.5168 FAX: 604.891.5100

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

Dated for Reference the 1st day of July, 2020.

BETWEEN:

RIDLEY TERMINALS INC. ("RTI")

and

COALSPUR (MINES) OPERATIONS LTD. ("COALSPUR")

WHEREAS

- A. RTI is a company incorporated under the laws of Canada, and operates a bulk handling marine terminal on Ridley Island in the Port of Prince Rupert, British Columbia, Canada (the "Terminal").
- B. Coalspur is a company continued under the laws of Canada, and engaged in the mining and export of bulk coal from Alberta, Canada.
- C. RTI and Coalspur entered into a Terminal Services Agreement dated for reference January 1, 2018 (the "TSA").
- D. Pursuant to the terms of the TSA, RTI provides certain terminal services to Coalspur in respect of bulk coal cargo from the Coalspur Vista Coal Project (the "Cargo").
- E. RTI and Coalspur have a dispute (the "Dispute") regarding the calculation of the "Shortfall Payment" due and owing by Coalspur to RTI under Article 5.1 of the TSA, in respect of the 2019 Contract Year (as defined in Article 1.1 of the TSA) (the "2019 Shortfall Payment"), including:
1. the amount of the "Minimum Throughput Commitment" (as defined in Article 1.1 of the TSA) that accrued between January 1 and March 31 of the 2019 Contract Year.
 2. the existence, duration, and effect of certain "Relief Events" (as defined in Schedule B of the TSA, hereinafter the "Terms and Conditions of Use") that have arisen from the Vista Mine tower failure and the Terminal dumper outage in 2019.
- F. RTI and Coalspur now wish to resolve the Dispute.

NOW THEREFORE, IN CONSIDERATION OF the settlement of the Dispute, the payment described herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, RTI and Coalspur each covenant and agree as follows:



Handwritten signature and date: 08/17/20

PAYMENT

Principal Amount of 2019 Shortfall Payment

1. Coalspur agrees to pay RTI the total principal amount of **\$9,413,648** in respect of the 2019 Shortfall Payment, in accordance with the terms and conditions of this Settlement Agreement and Mutual Release (the "Principal Amount").
 - a. Coalspur agrees to pay RTI **\$4,738,355** in respect of the portion of the Principal Amount that accrued between January 1 and March 31, 2019.
 - i. In satisfaction of the \$4,738,355 portion of the Principal Amount that accrued between January 1 and March 31, 2019, Coalspur hereby consents to RTI immediately drawing down on the Letter of Credit held by RTI as security for the performance of Coalspur's contractual obligations under Article 8.2 of the TSA (the "Letter of Credit") in the amount of \$4,738,355, without further notice to Coalspur.
 - ii. To satisfy its contractual obligation to replenish the Letter of Credit under Article 8.2(a) of the TSA, Coalspur shall replenish the Letter of Credit in the amount of \$4,738,355 (in addition to any separate obligation to replenish other amounts withdrawn by RTI from the Letter of Credit under the terms of this Settlement Agreement and Mutual Release or otherwise), on or before December 31, 2021.
 - b. Coalspur agrees to pay RTI **\$4,675,293** in respect of the portion of the Principal Amount that accrued between April 1 and December 31, 2019.
 - i. To satisfy the \$4,675,293 portion of the Principal Amount that accrued between April 1 and December 31, 2019, Coalspur agrees to RTI imposing a "Throughput Rate" surcharge in the amount of \$0.85/MT (\$0.425/MT of railcar unloading and \$0.425/MT of ship loading) on each metric tonne of Cargo handled at the Terminal, in addition to the Throughput Rates provided for under Article 4 of the TSA, between July 1, 2020, and June 30, 2021 (the "Throughput Rate Surcharge").
 - ii. Should Coalspur fail to pay RTI the amount of \$4,675,293 in respect of the portion of the Principal Amount that accrued between April 1 and December 31, 2019, on or before June 30, 2021, via the Throughput Rate Surcharge or otherwise, Coalspur consents to RTI immediately drawing down on the Letter of Credit for any remaining balance of the \$4,675,293 due and owing on that date.
 - iii. In the event that RTI draws down on the Letter of Credit in respect of any remaining balance of the \$4,675,293 due and owing on June 30, 2021, Coalspur agrees to replenish the Letter of Credit in any such amount (in addition to any separate obligation to replenish other amounts

Handwritten signature and date: 2017/10

withdrawn by RTI from the Letter of Credit under the terms of this Settlement Agreement and Mutual Release or otherwise), on or before December 31, 2021, in order to satisfy Coalspur's contractual obligation to replenish the Letter of Credit under Article 8.2(a) of the TSA.

- iv. Should Coalspur deliver "Make-Up Tonnage" in accordance with Article 5.2 of the TSA and Sections 1(y) and 4.6 of the "Terms and Conditions of Use") in the 2020 Contract Year or the period of January 1 to June 30 of the 2021 Contract Year, any credit in respect of such Make-Up Tonnage will be deducted from any remaining balance of the \$4,675,293 portion of the Principal Amount, in the applicable Contract Year in which Coalspur delivers the Make-Up Tonnage.

Risk Premium

2. In addition to the Principal Amount, Coalspur also agrees to pay RTI a risk premium on each metric tonne of Cargo handled at the Terminal, until Coalspur has paid all amounts owing by Coalspur to RTI under the terms of this Settlement Agreement and Mutual Release (the "Risk Premium"), including (without limitation of the foregoing) any replenishment of the Letter of Credit.
 - a. The Risk Premium shall be in the amount of \$0.08/ MT (\$0.04/MT of railcar unloading and \$0.04/MT of ship loading) on each metric tonne of Cargo handled at the Terminal, commencing on July 1, 2020.

RELIEF EVENTS AND FORCE MAJEURE CLAIMS

3. RTI and Coalspur each acknowledge and agree that any Force Majeure claims (under Section 13 of the Terms and Conditions of Use) or Relief Events (under Section 4.5 of the Terms and Conditions of Use), arising from the Vista Mine tower failure or the Terminal dumper outage that occurred in 2019, have been fully and finally satisfied and accounted for by this Settlement Agreement and Mutual Release, for both the 2019 Contract Year, and the period from January 1 to June 1 of the 2020 Contract Year.

CALCULATION OF FUTURE SHORTFALL PAYMENTS

4. RTI and Coalspur each acknowledge and agree that any additional Shortfall Payment that may arise during the remaining term of the TSA will be calculated and payable in accordance with the terms of the TSA. For greater certainty, Coalspur accepts the calculation of Shortfall Payment pursuant to Article 5.1 of the TSA and Section 4.5 of the Terms and Conditions of Use, as set out in RTI's correspondence of May 15, 2020.



Handwritten signature and date: 06/17/20

MUTUAL RELEASE

5. RTI and Coalspur do each hereby remise, release, and forever discharge each other from any and all actions, causes of action, suits, proceedings, liabilities, obligations, contracts, claims, complaints, damages, debts, demands, dues, accounts, bonds, covenants, interests, rights, costs, and expenses of any nature or kind whatsoever, whether known or unknown, suspected or unsuspected, in law, in equity, or pursuant to statute, which they have or may have as against each other in connection with their dispute concerning the calculation and payment of the 2019 Shortfall Payment, and the existence, duration, and effect of the "Relief Events" that Coalspur alleges to have arisen from its Vista Mine tower failure and the Terminal dumper outage that occurred in 2019.

TSA AMENDMENT

6. RTI and Coalspur agree that the terms and conditions of this Settlement Agreement and Mutual Release constitute an amendment to the TSA, as applicable, and that, in the event of any inconsistency or conflict between the terms and conditions of this Settlement Agreement and Mutual Release and the TSA, the terms of this Settlement Agreement and Mutual Release shall prevail.

FURTHER ASSISTANCE

7. RTI and Coalspur covenant and agree to execute such further and other documents and instruments and to do such further and other things as may be necessary to implement and carry out the intent of this Settlement Agreement and Mutual Release, including any further amendments to the TSA that may be necessitated by this Settlement Agreement and Mutual Release.

CHANGE OF FACTS

8. RTI and Coalspur acknowledge that the facts in respect of which this Settlement Agreement and Mutual Release is made may prove to be other than or different from the facts in that connection now known by them or believed by them to be true. RTI and Coalspur accept and assume the risk of the facts being different and agree that all of the terms of this Settlement Agreement and Mutual Release shall be in all respects effective and not subject to termination, rescission, or variation by discovery of any difference in facts.

INDEPENDENT LEGAL ADVICE

9. RTI and Coalspur acknowledge that this Settlement Agreement and Mutual Release has been executed freely, voluntarily, and without duress, and that each of RTI and Coalspur has received such independent legal advice, if any, as it considers necessary in the circumstances.

Handwritten signature and date: AS 06/17/20

BINDING EFFECT AND ENUREMENT

10. In this Settlement Agreement and Mutual Release, RTI and Coalspur include their respective directors, officers, servants, employees, agents, contractors, affiliates, subsidiaries, owners, shareholders, principals, insurers, heirs, executors, administrators, predecessors, successors and assigns.

CONTRACTUAL, NOT RECITALS

11. RTI and Coalspur acknowledge and agree that the terms of this Settlement Agreement and Mutual Release are contractual and not recitals, and that the representations and covenants expressed herein are fundamental to the terms of the settlement of their dispute.

ENTIRE AGREEMENT

12. RTI and Coalspur acknowledge and agree that the provisions herein constitute the entire agreement between RTI and Coalspur and supersede all previous communications, representations, and agreements whether verbal or written between the parties with respect to the subject matter hereof. This Settlement Agreement and Mutual Release may not be modified or amended except by an instrument in writing signed by RTI and Coalspur.

CONFIDENTIALITY

13. RTI and Coalspur agree that they will at all times keep the terms and conditions of this Settlement Agreement and Mutual Release and the facts in respect of which this Settlement Agreement and Mutual Release is made and such further or other documents related to this Settlement Agreement and Mutual Release in the strictest confidence, and that disclosure of the terms and conditions of the Settlement Agreement and Mutual Release or such further related documents by RTI and Coalspur to any persons, other than their own legal advisors, accountants, or tax advisors, without express written consent of each of the other party, unless compelled to do so by a court or tribunal of competent jurisdiction or by operation of law, shall constitute a breach of the Settlement Agreement and Mutual Release, actionable by a claim for damages.

SEVERABILITY

14. RTI and Coalspur acknowledge and agree that if any part of this Settlement Agreement and Mutual Release is declared or held invalid for any reason, such invalidity shall not affect the validity of the remainder of the Settlement Agreement and Mutual Release, which shall continue in force and effect and be construed as if this Settlement Agreement and Mutual Release had been executed without the invalid portion, and it is hereby the declared intention of the Settlement Agreement and Mutual Release that this Settlement Agreement and Mutual Release would have been executed without reference to any portion which may, for any reason, be hereafter declared or held invalid.

Handwritten signature and date: 00/17/20

CAPTIONS

15. RTI and Coalspur acknowledge and agree that the captions appearing in this Settlement Agreement and Mutual Release have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Settlement Agreement and Mutual Release or any provision hereof.

COUNTERPARTS AND FACSIMILE

16. This Settlement Agreement and Mutual Release may be executed and delivered by facsimile transmission or Portable Document Format (PDF) e-mail and when so delivered this Settlement Agreement and Mutual Release shall be deemed to be an original executed and delivered agreement and binding upon RTI and Coalspur for all purposes as if originally executed and delivered. This Settlement Agreement and Mutual Release may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.

AUTHORITY AND CAPACITY

17. The persons executing this Settlement Agreement and Mutual Release on behalf of RTI and Coalspur each warrant and represent that they are authorized to execute this Settlement Agreement and Mutual Release on behalf of RTI and Coalspur, respectively.

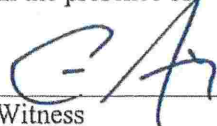
DISPUTE RESOLUTION

18. Any dispute between the parties arising from this Settlement Agreement and Mutual Release shall be resolved pursuant to Sections 17.1 and 17.6 of the Terms and Conditions of Use.

Signature page follows.

Handwritten signature and date: AS 06/17/20

SIGNED, SEALED AND DELIVERED
by **RIDLEY TERMINALS INC.**
in the presence of:



Witness

Carol Dixon

Print Name *VP FINANCE*

SIGNED at *R.T.I.*, on this *17th* day of
June, 2020.

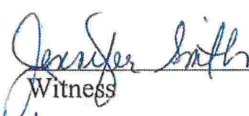


Authorized Signatory

Robert A. Booker, CEO

[Print Name and Title]

SIGNED, SEALED AND DELIVERED by
COALSPUR (MINES) OPERATIONS LTD
in the presence of:



Witness

Jennifer Smith, Manager Logistics

Print name

SIGNED at _____, on this ___ day of
June, 2020.

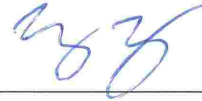


Authorized Signatory

Michael J. Beyer, CEO

[Print Name and Title]

THIS IS EXHIBIT "3"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
BENNETT JONES LLP
2500 PARK PLACE – 666 BURNARD ST
VANCOUVER, B.C. V6C 2X8
TEL: 604.891.5168 FAX: 604.891.5100



RIDLEY TERMINALS INC.

February 13, 2021

Delivered by email

Coalspur Mines (Operations) Ltd.
c/o CUTLASS COLLIERIES LLC
3801 PGA Blvd. Suite 903
Palm Beach Gardens, Florida 33410

Attention: Michael J. Beyer
Chief Executive Officer
mbeyer@clinegrp.com

Attention: Donald S. Swartz II
dswartz@clinegrp.com

Dear Sirs:

Re: Terminal Services Agreement (“TSA”) dated January 1, 2018, as amended, between Ridley Terminals Inc. (“RTI” and Coalspur Mines (Operations) Ltd (“Coalspur” or “Shipper”)

I write in regard to the above-noted matter, to confirm that RTI hereby agrees to the following payment terms:

1. On or before February 16, 2021, Shipper agrees to pay RTI the lump sum amount of CAD \$1,611,746.62 for the cost of previously unloading 261,589 MT of Cargo stored at the terminal as of February 5, 2021.
2. Shipper agrees to pay RTI the cost of unloading additional Cargo transported by the Shipper to the terminal on or after February 5, 2021, as follows:
 - a. For Unit Trains CS0327 (X21013), CS0328 (X21014), CS0329 (X21015), CS0330 (X21016) that arrived at the terminal between February 5, 2021 and February 16, 2021, Shipper shall make payment to RTI forthwith upon receipt of an RTI invoice for terminal services already rendered.
 - b. For Unit Trains arriving at the terminal after February 16, 2021, Shipper shall make payment at least one (1) business day prior to the arrival of each Unit Train at the terminal, in the amount of CAD \$147,782.88 per Unit Train. Any adjustments arising from a reconciliation between the amount of CAD \$147,782.88 and the amounts due and owing to RTI under the TSA in respect of the actual amount of Cargo unloaded from each Unit Train shall be reflected on the next RTI invoice.

DSS II
AS
13/2/21



3. Upon receipt of each Notice of Readiness in respect of Vessels loaded on or after February 5, 2021, RTI shall deliver to the Shipper an invoice in respect of Vessel loading services that have been or which are to be provided for each nominated Vessel (the "Vessel Loading Invoice"). Immediately upon receipt of each Vessel Loading Invoice:
 - a. For Vessels that have already been loaded, Shipper shall pay 100% of the Vessel Loading Invoice to RTI forthwith.
 - b. For Vessels that have not yet been loaded, Shipper shall:
 - i. prepay 75% of the amount of the Vessel's nominated tonnage to RTI; and
 - ii. pay any remaining amount owing to RTI forthwith, based on a reconciliation of the Vessel's nominated tonnage, and the amounts due and owing to RTI under the TSA, in respect of the actual amount of Cargo loaded on to the Vessel.
4. On or before February 28, 2021, Shipper agrees to pay to RTI the CAD equivalent for all outstanding demurrage and despatch amounts owed by Shipper to RTI.
5. Shipper and RTI further agree that when Shipper is issued a permit from the Alberta Energy Regulator sufficient to allow it to lift its Force Majeure declaration with Trafigura and resume normal mining operations, which Shipper shall make best efforts to obtain as soon as possible, Shipper will give notice of same to RTI. At that point, whatever amount Shipper then owes to RTI will be repaid by Shipper to RTI by way of a surcharge on all loading invoices (on a rateable per tonne basis) for the next nine million tonnes of Cargo Shipper delivers to RTI, without interest charge. For greater certainty, the parties agree that nothing in this provision shall affect RTI's right to draw down on the Letter of Credit provided by Coalspur for the benefit of RTI under the TSA, in accordance with Article 8.2 of the TSA.
6. The parties each agree that other than expressly set out in the terms of this agreement, they reserve all legal rights and remedies available to them, including (without limitation) those set out in the TSA.

DSS *RTI*
13/2/21

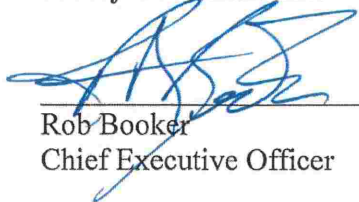


RIDLEY TERMINALS INC.

Should you agree to these terms, please countersign below, and return this letter to me.

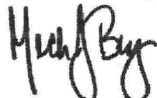
Yours truly,

Ridley Terminals Inc.

 12/2/21

Rob Booker
Chief Executive Officer

Coalspur Mines (Operations) Ltd., by its authorized signatories



Michael Beyer
Chief Executive Officer
CUTLASS COLLIERIES LLC



Don Swartz
Senior Vice President
CUTLASS COLLIERIES LLC

THIS IS EXHIBIT "4"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
BENNETT JONES LLP
2500 PARK PLACE – 666 BARRARD ST
VANCOUVER, B.C. V6C 2X8
TEL: 604.891.5168 FAX: 604.891.5100

COURT FILE NUMBER 2101 05019

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT **ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Telephone: (403) 260-7000
Facsimile: (403) 260-7024
Email: RVandemosselaer@osler.com / EPaplawski@osler.com
File Number: 1217428

NOTICE TO THE RESPONDENT

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: April 26, 2021
Time: 2:00 p.m.
Where: Edmonton Law Courts (by WebEx)
Before: The Honourable Mr. Justice Mah

Go to the end of this document to see what you can do and when you must do it.

Order Sought:

1. The Applicant, Coalspur Mines (Operations) Ltd. (“Coalspur” or the “Applicant”), seeks an Initial Order (the “Initial Order”), under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “CCAA”) substantially in the form attached hereto as Schedule “A”:
 - (a) declaring that the Applicant is a company to which the CCAA applies;
 - (b) authorizing the Applicant to remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “Property”) and continue to carry on business in a manner consistent with the preservation of its business (the “Business”) and Property;
 - (c) entitling the Applicant to make payment of all obligations owing in respect of employee wages and benefits;
 - (d) entitling the Applicant to pay reasonable expenses incurred by it in operating the Business in the ordinary course, including making payment of obligations owing in respect of goods and services supplied to the Applicant prior to the date of the Initial Order, subject to the consent of the Monitor;
 - (e) staying, for an initial period of not more than ten (10) days (the “Stay Period”), all proceedings and remedies taken or that might be taken in respect of the Applicant, the Business, or the Property, except as otherwise set forth in the Initial Order or otherwise permitted by law;
 - (f) preventing any Person from accelerating performance of any rights in respect of the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Honourable Court;
 - (g) restraining any Person from interfering with the supply of goods or services to the Applicant;

- (h) staying all proceedings and remedies taken or that might be taken in respect of claims against the directors or officers of the Applicant that relate to liability of such Persons in their capacity as directors or officers of the Applicant, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (i) appointing FTI Consulting Canada Inc. (“FTI”) as Monitor of the Applicant in these proceedings;
- (j) authorizing the Applicant to pay all reasonable fees and disbursements of its counsel, the Monitor and the Monitor’s counsel;
- (k) granting an Administration Charge in the amount of \$250,000 CAD;
- (l) scheduling a comeback application for hearing at a date and time to be set by this Honourable Court, but in no event later than May 6, 2021; and
- (m) such further and other relief as the Applicant may request and this Honourable Court may grant.

Basis for this claim:

2. Coalspur is a company to which the CCAA applies. It is a company which has claims against it in excess of \$5,000,000, and is insolvent.
3. Coalspur is an Alberta coal development company which owns and operates the Vista Coal Mine Project located approximately 10 kilometers east of Hinton, Alberta (the “Vista Coal Mine Project” or the “Project”). Coalspur is one of the most significant employers in the Hinton and Edson regions of Alberta, providing full time employment to more than 300 individuals.
4. While Coalspur’s operations have significant value, with Phase I alone having the capacity to produce roughly 6.5 million tonnes of clean coal per year, Coalspur’s ability to conduct its business and generate revenue and liquidity has been severely impacted by:

- (a) the shut down of the mine in February 2021 as a result of a permitting issue with the AER, thereby suspending all coal production and cutting off Coalspur's only source of revenue; and
 - (b) the simultaneous crystallization of an approximately \$59.9 million USD hedge obligation to Trafigura Lte. Ltd. following the rapid escalation in global coal prices in late 2020.
- 5. The result of the foregoing was to leave Coalspur with no inventory capable of monetization, little liquidity, and no ability to generate new coal production or revenue streams because of Project shut down. What little liquidity remained available to Coalspur was required to fund basic care and maintenance operations at the Project to protect the health and safety of all employees, safeguard the environment, and preserve the Project's assets and infrastructure.
- 6. As a result of Coalspur's lack of meaningful revenue since January, Coalspur currently faces a significant amount of ageing trade payables and declining liquidity to maintain care and maintenance operations at the Vista Coal Mine Project. Coalspur only has sufficient liquidity to allow it to maintain the Project on care and maintenance until the week of June 4, 2021.
- 7. Coalspur has now resolved the permitting issue with the AER and received approvals to restart mining operations. However, Coalspur lacks sufficient funding to restart the Project and begin producing coal because of the depletion of its coal inventory and the loss of all revenue since January 2021. Coalspur requires a significant injection of capital to fund it through mine start-up and initial production.
- 8. While Coalspur has not sought approval of interim financing and an Interim Financing Charge in this Originating Application, it is diligently working to finalize such financing and is hopeful to be in a position to seek approval at the hearing of this Originating Application of interim financing in an amount sufficient for the continued operation of Coalspur in the ordinary course of business (including restart and operation of the Vista Coal Mine Project, the sole and ordinary business of Coalspur) during the initial 10-day

period. In the event that Coalspur is in a position to apply for such relief, it will file an Amended Originating Application and a supplemental affidavit.

9. Coalspur urgently requires the protection of the CCAA in order to: (a) stabilize its Business and facilitate a restart of the mine for the benefit of all stakeholders; and (b) provide time to it to apply for and conduct a sales and investment solicitation process, identify and assess potential transactions and review other strategic alternatives that may be available to maximize the value of Coalspur for all stakeholders.

Affidavit or other evidence to be used in support of this application:

10. The Affidavit of Michael Beyer, sworn April 19, 2021.
11. Pre-Filing Report of the Monitor, to be filed.

Applicable Acts and regulations:

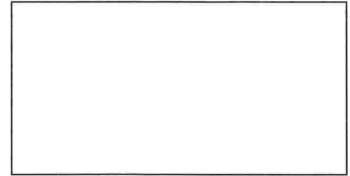
12. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36.
13. *Judicature Act*, RSA 2000, c J-2.
14. *Rules of Court*, Alta Reg 124/2010.
15. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

Clerk's Stamp:



COURT FILE NUMBER

COURT

JUDICIAL CENTRE

APPLICANTS:

COURT OF QUEEN'S BENCH OF ALBERTA

CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF COALSPUR MINES
(OPERATIONS) LTD.

DOCUMENT

CONTACT INFORMATION OF

PARTY FILING THIS

DOCUMENT:

CCA A INITIAL ORDER

OSLER, HOSKIN & HARCOURT LLP

Barristers & Solicitors

Brookfield Place, Suite 2700

225 6 Ave SW

Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski

Telephone: (403) 260-7000

Facsimile: (403) 260-7024

Email: RVandemosselaer@osler.com /

EPaplawski@osler.com

File Number: 1217428

DATE ON WHICH ORDER WAS

April 26, 2021

PRONOUNCED:

NAME OF JUDGE WHO MADE

The Honourable Mr. Justice Mah

THIS ORDER:

LOCATION OF HEARING:

Edmonton, Alberta

UPON the application of **COALSPUR MINES (OPERATIONS) LTD.** (the “**Applicant**”); **AND UPON** having read the Originating Application, the Affidavit of Michael Beyer, sworn April 19, 2021 (the “**Beyer Affidavit**”), and the Pre-Filing Report of the Proposed Monitor, to be filed; **AND UPON** reading the consent of FTI Consulting Canada Inc. to act as Monitor; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order; **AND UPON** hearing from counsel for the Applicant; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicant is a company to which the *Companies’ Creditors Arrangement Act* of Canada (the “**CCAA**”) applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. The Applicant shall:
 - (a) remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”);
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property;
 - (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

- (d) be entitled to continue to utilize the central cash management system currently in place as described in the Beyer Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.
4. To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:
- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
 - (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and
 - (c) with the consent of the Monitor, obligations owing for goods and services supplied to the Applicant prior to the date of this Order if, in the opinion of the Applicant after consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property.

5. Except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
 - (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
 - (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

6. The Applicant shall remit, in accordance with legal requirements, or pay:
 - (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:
 - (i) employment insurance,
 - (ii) Canada Pension Plan, and
 - (iii) income taxes,but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;
 - (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicant.
7. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.
8. Except as specifically permitted in this Order, the Applicant is hereby directed, until further order of this Court:
- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the date of this Order;
 - (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and
 - (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

9. Until and including May 6, 2021, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “Persons” and each being a “Person”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicant to carry on any business that the Applicant is not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment
11. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

12. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

13. During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. The Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the payment practices of the Applicant, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

14. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

15. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 11 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim

against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

APPOINTMENT OF MONITOR

16. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
17. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
 - (a) monitor the Applicant's receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
 - (c) advise the Applicant in the preparation of its cash flow statements;
 - (d) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicant to the extent that is necessary to adequately assess the Property,

Business, and financial affairs of the Applicant or to perform its duties arising under this Order;

- (e) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (f) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicant and any other Person; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

18. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.
19. The Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor

shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

20. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
21. The Monitor, counsel to the Monitor, counsel to the Applicant, and counsel to Cline Trust Company LLC (“CTC”), shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicant, and counsel for CTC, on a monthly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the respective amounts of \$100,000 (counsel to the Applicant), \$50,000 (counsel to the Monitor) and \$50,000 (Monitor) to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
22. The Monitor and its legal counsel shall pass their accounts from time to time.
23. The Monitor, counsel to the Monitor, the Applicant’s counsel, and CTC’s counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings.

VALIDITY OF CHARGES

24. The filing, registration or perfection of the Administration Charge shall not be required, and the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.
25. The Administration Charge shall constitute a charge on the Property and subject always to section 34(11) of the CCAA, the Administration Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.
26. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Administration Charge, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge, or further order of this Court.
27. The Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Administration Charge (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the provisions of any federal or provincial statutes; or

- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
 - (iii) the payments made by the Applicant pursuant to this Order and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

- 28. The Monitor shall (i) without delay, publish in the Calgary Herald and the Globe and Mail a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
- 29. The Monitor shall establish a case website in respect of the within proceedings at <http://cfcanada.fticonsulting.com/coalspur>.

GENERAL

30. The Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
31. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
32. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicant, the Business or the Property.
33. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
34. The Applicant and the Monitor are at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
35. Any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties

likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

36. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Daylight Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta

THIS IS EXHIBIT "5"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
BENNETT JONES LLP
2500 PARK PLACE – 666 BARRARD ST
VANCOUVER, B.C. V6C 2X8
TEL: 604.891.5168 FAX: 604.891.5100

ENTERED

48431

Form 7
[Rule 3.84]



COURT FILE NUMBER 2101-05019
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended

\$50
COM
May 6, 2021
Justice Shelley

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Telephone: (403) 260-7000
Facsimile: (403) 260-7024
Email: RVandemosselaer@osler.com / EPaplawski@osler.com
File Number: 1217428

NOTICE TO THE RESPONDENT

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: May 6, 2021
Time: 2:00 p.m.
Where: Edmonton Law Courts (by WebEx)
Before: The Honourable Madam Justice Shelley

Go to the end of this document to see what you can do and when you must do it.

Order Sought:

1. The Applicant, Coalspur Mines (Operations) Ltd. (“**Coalspur**” or the “**Applicant**”), seeks an Amended and Restated Initial Order (the “**Initial Order**”), under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “**CCAA**”) substantially in the form attached hereto as **Schedule “A”** amending and restating the Initial Order granted by the Honourable Mr. Justice Mah in the within proceeding on April 26, 2021 (the “**Initial Order**”) including, without limitation:
 - (a) extending the Stay Period up to and including July 23, 2021, or such further and other date as this Court may consider appropriate;
 - (b) declaring that the Applicant may file a plan of compromise or arrangement;
 - (c) declaring that the Applicant may pursue an orderly restructuring of the Business and the Property, including the authority to permanently or temporarily downsize the Business or terminate the employment of various employees;
 - (d) increasing the Administration Charge to the aggregate amount of \$500,000; and
 - (e) such further and other relief as the Applicant may request and this Honourable Court may grant.
2. Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Initial Order.

Basis for this claim:

Background

3. On April 26, 2021, this Court granted the Initial Order, *inter alia*, declaring that the Applicant is a company to which the CCAA applies, granting a stay of proceedings up to and including May 6, 2021, and appointing FTI Consulting Canada Inc. as Monitor in these proceedings.
4. The Applicant has been acting diligently and in good faith in these CCAA proceedings since the Initial Order was granted including, in consultation with the Monitor:

- (a) making arrangements to restart the Project (as defined below) from its current care and maintenance status including, among other things, organizing the return to work of approximately 250 employees, ordering necessary supplies and equipment, and completing all necessary start up planning and logistics;
- (b) engaging with its suppliers, contractual counterparties, the Alberta Energy Regulator, employees, equipment lessors, and other stakeholders regarding these CCAA proceedings, the Applicant's business during these CCAA proceedings, payment of pre-filing amounts and/or amounts accruing during these CCAA proceedings, and various other issues;
- (c) completing an initial draw under the Interim Lender Term Sheet in the amount of \$2,257,000 USD; and
- (d) reviewing its forecasted operating costs and expenses to reduce unnecessary capital and operational expenditures and conserve capital during these CCAA proceedings.

Extension of the Stay Period

- 5. The purpose of these CCAA proceedings is to: (a) stabilize the business, (b) provide the Applicant with necessary financing to facilitate a restart of the Vista Coal Mine Project located approximately 10 kilometers east of Hinton, Alberta (the "**Project**"); and (c) provide time to the Applicant to apply for and conduct a sales and investment solicitation process, identify and assess potential transactions and review other strategic alternatives that may be available to maximize the value of Coalspur for all stakeholders.
- 6. The Applicant requires an extension of the Stay Period up to and including July 23, 2021 to obtain the breathing room provided by the CCAA in order to continue advancing the foregoing purposes.
- 7. It is just, convenient, necessary, and in the best interest of the Applicant and its stakeholders that the Applicant be afforded the protection provided by the CCAA and an extension of the Stay Period as it continues to advance its restructuring efforts.
- 8. The Applicant has enough liquidity to fund its obligations and the costs of these CCAA proceedings through the end of the extended Stay Period.

9. The Monitor supports the extension of the Stay Period as sought by the Applicant.

Increase of the Administration Charge

10. The Monitor, the Monitor's counsel, the Applicant's counsel, and CTC's counsel will be essential to the Applicant's restructuring efforts.
11. The Monitor has reviewed the underlying assumptions upon which the proposed increase to the Administration Charge is based and is of the view that the proposed quantum of the proposed increase to the Administration Charge is reasonable in relation to the anticipated complexity of the CCAA proceedings and the services to be provided by the beneficiaries of the Administration Charge.
12. Circumstances exist which make the relief sought in the Amended and Restated Initial Order appropriate.
13. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Affidavit or other evidence to be used in support of this application:

14. The Affidavit of Michael Beyer, sworn April 19, 2021.
15. The Supplemental Affidavit of Michael Beyer, sworn April 23, 2021.
16. The Second Affidavit of Michael Beyer, sworn April 30, 2021.
17. Pre-Filing Report of the Monitor, filed April 27, 2021.
18. First Report of the Monitor, to be filed.

Applicable Acts and regulations:

19. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36.
20. *Judicature Act*, RSA 2000, c J-2.
21. *Rules of Court*, Alta Reg 124/2010.

22. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

Clerk's Stamp:



COURT FILE NUMBER 2101-05019
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANTS: IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT **AMENDED AND RESTATED INITIAL ORDER**
CONTACT INFORMATION **OSLER, HOSKIN & HARCOURT LLP**
OF PARTY FILING THIS Barristers & Solicitors
DOCUMENT: Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Telephone: (403) 260-7000
Facsimile: (403) 260-7024
Email: RVandemosselaer@osler.com / EPaplawski@osler.com
File Number: 1217428

DATE ON WHICH ORDER May 6, 2021
WAS PRONOUNCED:
NAME OF JUDGE WHO The Honourable Madam Justice Shelley
MADE THIS ORDER:
LOCATION OF HEARING: Edmonton, Alberta

UPON the application of **COALSPUR MINES (OPERATIONS) LTD.** (the "Applicant"); AND UPON having read the Affidavit of Michael Beyer, sworn April 19, 2021, (the "Beyer Affidavit"), the Supplemental Affidavit of Michael Beyer, sworn April 23, 2021, and the Second Affidavit of Michael Beyer, sworn April 30, 2021; AND UPON having read the Pre-filing Report of the Proposed Monitor, filed April 27, 2021 and the First Report of the Monitor,

to be filed; **AND UPON** reading the consent of FTI Consulting Canada Inc. to act as Monitor; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order; **AND UPON** hearing from counsel for the Applicant, counsel for the Monitor, and any other counsel present; **AND UPON** reviewing the Affidavit of Service of Elena Pratt, sworn May ____, 2021; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicant is a company to which the *Companies’ Creditors Arrangement Act of Canada* (the “**CCAA**”) applies.

PLAN OF ARRANGEMENT

3. The Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the “**Plan**”).

POSSESSION OF PROPERTY AND OPERATIONS

4. The Applicant shall:
 - (a) remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”);
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property;
 - (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to

retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

- (d) be entitled to continue to utilize the central cash management system currently in place as described in the Beyer Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and
- (c) with the consent of the Monitor, obligations owing for goods and services supplied to the Applicant prior to the date of this Order if, in the opinion of the Applicant

after consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or Property.

6. Except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

7. The Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:
 - (i) employment insurance,
 - (ii) Canada Pension Plan, and
 - (iii) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (b) all goods and services or other applicable sales taxes (collectively, “Sales Taxes”) required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected

after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

(c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicant.

8. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.

9. Except as specifically permitted in this Order, the Applicant is hereby directed, until further order of this Court:

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the date of this Order, save and except for permitted payments of principle and interest to Trafigura Lte. Ltd. as reflected in the Cash Flow Statements prepared by the Monitor from time to time;

(b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and

(c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. The Applicant shall, subject to such requirements as are imposed by the CCAA and such

covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 30), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$2,000,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and
- (d) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

11. The Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further order of

this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
 - (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; and
 - (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. Until and including July 23, 2021, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “Persons” and each being a “Person”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicant to carry on any business that the Applicant is not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment
15. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. The Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the payment practices of the Applicant, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

- 18. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person, other than the Interim Lender, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

- 19. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is

filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

APPOINTMENT OF MONITOR

20. FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
21. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
 - (a) monitor the Applicant's receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
 - (c) assist the Applicant, to the extent required by the Applicant, in its dissemination to the Interim Lender and its counsel on a monthly basis of financial and other information as agreed to between the Applicant and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
 - (d) advise the Applicant in the preparation of its cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but

not less than monthly, or as otherwise agreed to by the Interim Lender;

- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
 - (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
 - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicant to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicant or to perform its duties arising under this Order;
 - (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
 - (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicant and any other Person; and
 - (j) perform such other duties as are required by this Order or by this Court from time to time.
22. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any

duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.

23. The Monitor shall provide any creditor of the Applicant and the Interim Lender with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.
24. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
25. The Monitor, counsel to the Monitor, counsel to the Applicant, and counsel to Cline Trust Company LLC ("CTC"), shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicant, and counsel for CTC, on a monthly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the respective amounts of \$100,000 (counsel to the Applicant), \$50,000 (counsel to the Monitor) and \$50,000 (Monitor) to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
26. The Monitor and its legal counsel shall pass their accounts from time to time.
27. The Monitor, counsel to the Monitor, the Applicant's counsel, and CTC's counsel, as

security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 34 and 36 hereof.

INTERIM FINANCING

28. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from CTC in its capacity as interim lender (“**Interim Lender**”) in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the total of USD\$26,000,000 unless permitted by further order of this Court.
29. Such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicant and the Interim Lender dated as of April 22, 2021 (the “**Interim Lender Term Sheet**”), filed.
30. The Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Interim Lender Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities, and obligations to the Interim Lender under and pursuant to the Interim Lender Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
31. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the “**Interim Lender's Charge**”) on the Property to secure all obligations under the Interim Lender Term Sheet and the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this

Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before this the date this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 34 and 36 hereof.

32. Notwithstanding any other provision of this Order:
- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon at least 14 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Interim Lender Term Sheet, Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lender to the Applicant against the obligations of the Applicant to the Interim Lender under the Interim Lender Term Sheet, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
 - (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.
33. The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act of Canada* (the "BIA"), with respect to any advances made under the Interim Lender Term Sheet or the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

34. The priorities of the Administration Charge and the Interim Lender's Charge (the “Charges”), as among them, shall be as follows:
- (a) First – Administration Charge (to the maximum amount of \$500,000, unless further ordered by this Court); and
 - (b) Second - Interim Lender's Charge.
35. The filing, registration or perfection of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
36. The Charges shall constitute a charge on the Property and subject always to section 34(11) of the CCAA (and subject to paragraph 37 hereof), the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.
37. Notwithstanding paragraph 36 hereof, the Interim Lender’s Charge shall at all times rank subordinate to any lien or security interest held by Trafigura Pte Ltd., Komatsu International (Canada) Inc., dba Komatsu Financial or Caterpillar Financial Services Limited against any of the Property.
38. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or pari passu with, the Charges, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges, or further order of this Court.
39. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by:
- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;

- (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
- (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
- (d) the provisions of any federal or provincial statutes; or
- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof including the Interim Lender Term Sheet or the Definitive Documents shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicant entering into the Interim Lender Term Sheet, or the execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicant pursuant to this Order, including the Interim Lender Term Sheet or the Definitive Documents, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

40. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge and the Interim Lender’s Charge

amongst the various assets comprising the Property.

SERVICE AND NOTICE

41. The Monitor shall (i) without delay, publish in the Calgary Herald and the Globe and Mail a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
42. The Monitor shall establish a case website in respect of the within proceedings at <http://cfcanada.fticonsulting.com/coalspur>.

GENERAL

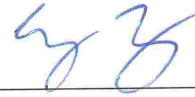
43. The Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
44. Notwithstanding Rule 6.11 of the Alberta Rules of Court, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
45. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicant, the Business or the Property.
46. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance

to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

47. The Applicant and the Monitor are at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
48. Any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
49. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Daylight Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta

THIS IS EXHIBIT "6"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
BENNETT JONES LLP
2500 PARK PLACE – 666 BARRARD ST
VANCOUVER, B.C. V6C 2X8
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David E. Gruber
Partner
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May 7, 2021

Via E-Mail

Mr. Randal Van de Mosselaer
Partner
Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 - 6th Avenue SW
Calgary, AB T2P 1N2

Dear Mr. Van de Mosselaer:

Re: Coalspur Mines (Operations) Ltd. ("Coalspur") Post Filing Breach of Contract

As you are aware, we act as counsel for Ridley Terminals Inc. ("**Ridley**"). Ridley and Coalspur entered into a Terminal Services Agreement ("**Agreement**") dated January 1, 2018, as amended, wherein Coalspur covenanted and agreed that all production from Coalspur's Vista Coal Project ("**Project**") destined for export from North America will be shipped exclusively through Ridley's Prince Rupert Terminal (the "**Ridley Terminal**").

When we spoke on the 5th, we requested that your client confirm that it would be complying with its obligations and shipping its coal to Ridley's Terminal. As yet you have not responded. Yet earlier today, Ridley learned through CN Rail that in contravention of this obligation, that a train is enroute to a terminal other than the Ridley Terminal. We are writing to demand that Coalspur comply with this obligation and reroute its current coal shipment to the Ridley Terminal immediately.

In addition to shipping to another provider being in violation of Coalspur's obligations, failure to comply with the Agreement will result in significant harm to Ridley, as Coalspur's shipments account for 40% of the volumes at the Ridley Terminal. As Ridley is a major employer in Port Rupert including with respect to the First Nations in the community, failure by Coalspur to address its obligations will result in significant harm to the Port Rupert community as Ridley will have no option but to terminate employees. Ridley has already had to carry out some terminations as a result of breaches by Coalspur prior to the commencement of the *Companies Creditors Arrangement Act* ("CCAA") proceedings.

Coalspur sought and obtained from the Court the benefit of a stay of proceedings of its agreements, including with Ridley. It has a corresponding obligation to honour those agreements unless and until they are disclaimed in accordance with the CCAA.

May 7, 2021

Page 2

We request your immediate confirmation that Coalspur will comply with its obligations by rerouting the shipment to the Ridley Terminal. Failure to provide such confirmation by end of day today will result in Ridley bringing an application for declaratory relief and damages as a result of Coalspur's non-compliance.

Further, we confirm receipt of the purported disclaimer of the Agreement this afternoon and advise that we will be bringing an application disputing same.

We request your urgent attention to this matter.

Yours truly,



David E. Gruber

DEG

cc: Emily Paplawski, Osler, Hoskin & Harcourt LLP
Kelly Bourassa, James Reid, and Jules Monteyne, Blake, Cassels & Graydon LLP
Karen Fellowes, Stikeman Elliott LLP



THIS IS EXHIBIT "7"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
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COURT FILE NUMBER 2101-05019

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT **IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF COALSPUR MINES (OPERATIONS)
LTD.**

DOCUMENT **NOTICE BY DEBTOR COMPANY TO DISCLAIM OR
RESILIATE AN AGREEMENT (FORM 4)**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Osler, Hoskin & Harcourt LLP
Barristers & Solicitors
Brookfield Place, Suite 2700
225 6 Ave SW
Calgary, AB T2P 1N2

Solicitors: Randal Van de Mosselaer / Emily Paplawski
Telephone: (403) 260-7000
Facsimile: (403) 260-7024
Email: RVandemosselaer@osler.com / EPaplawski@osler.com
File Number: 1217428

**To: FTI Consulting Canada Inc. in its capacity as Court-appointed Monitor of Coalspur
Mines (Operations) Ltd. (the "Monitor")**


And

to: Ridley Terminals Inc.

1. Proceedings under the *Companies' Creditors Arrangement Act* ("the Act") in respect of Coalspur Mines (Operations) Ltd. ("Coalspur") were commenced on the 26th day of April, 2021 (the "CCAA Proceedings").
2. In accordance with s. 32(1) of the Act, Coalspur hereby gives you notice of its intention to disclaim or resiliate the following agreements:
 - a. A January 1, 2018 Terminal Services Agreement between Ridley Terminals Inc. and Coalspur Mines (Operations) Ltd., a copy of which is attached hereto as Schedule "A";
 - b. A July 1, 2020 Settlement Agreement and Mutual Release between Ridley Terminals Inc. and Coalspur Mines (Operations) Ltd., a copy of which is attached hereto as Schedule "B";
 - c. A February 13, 2021 Letter Agreement between Ridley Terminals Inc. and Coalspur Mines (Operations) Ltd., a copy of which is attached hereto as Schedule "C";(collectively, the "Agreement").
3. In accordance with s. 32(2) of the Act, any party to the Agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the Agreement and to the Monitor, apply to court for an order that the Agreement is not to be disclaimed or resiliated.
4. In accordance with para. 32(5) of the Act, if no application for an order is made in accordance with s. 32(2) of the Act, the Agreement is disclaimed or resiliated on the 6th of June, 2021, being 30 days after the day on which this notice has been given.

Dated at the City of Calgary in the Province of Alberta this 7th day of May, 2021.

COALSPUR MINES
(OPERATIONS) LTD.

Per : 
Name: Michael Beyer

The Monitor approves the proposed disclaimer or resiliation.

Dated at the City of Calgary in the Province of Alberta this 7th day of May, 2021.

FTI Consulting Canada Inc. in its capacity as
Court-appointed Monitor of Coalspur Mines
(Operations) Ltd.

Per : 

Name: Deryck Helkaa

Title: Senior Managing Director

Schedule "A"

TERMINAL SERVICES AGREEMENT

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TERMINAL SERVICES AGREEMENT

THIS AGREEMENT dated for reference January 1, 2018 (the "Agreement"),

BETWEEN:

RIDLEY TERMINALS INC., a Federal Crown corporation incorporated under the laws of Canada, having its head office in Prince Rupert, British Columbia
("RTI")

AND:

COALSPUR MINES (OPERATIONS) LTD., a corporation continued under the laws of Canada, having its head office in Hinton, Alberta
("Shipper")

WHEREAS:

- A. RTI provides terminal services through its bulk handling terminal located at Ridley Island, Prince Rupert (the "Terminal");
- B. Shipper requires terminal services in respect of the Cargo to be delivered by rail to RTI; and
- C. Shipper and RTI wish to set out their agreement with respect to the provision of such terminal services at RTI.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions. In this Agreement, including any incorporated Terms and Conditions, Rules & Regulations or Tariff, the following terms have the following meanings:

- (a) "ADVO" has the meaning ascribed to that term in Section 3.3;
- (b) "Capacity Availability Date" has the meaning ascribed to that term in Section 3.2(c);
- (c) "Cargo" means bulk coal from the Vista Coal Project;
- (d) "Contract Year" means January 1 to December 31, prorated as required to reflect the commencement date of the Term and the termination date of the Terminal Services Agreement;
- (e) "CPI" means the Table 5 Canadian Consumer Price Index for All-items (catalogue #62-001-X), as published by Statistics Canada for such successor

index as may replace the same, or, in the event no such index exists, then the most nearly comparable index appropriately adjusted;

- (f) **"Dead Storage Area"** has the meaning ascribed to that term in Section 6.1(a);
- (g) **"Declared Contract Volume"** has the meaning ascribed to that term in Section 3.1;
- (h) **"Letter of Credit"** has the meaning ascribed to that term in Section 8.2;
- (i) **"Live Storage Area"** has the meaning ascribed to that term in Section 6.1(a);
- (j) **"Loading Reduction Volume"** means the difference between the quarterly volume loaded to Vessels and the quarterly volume unloaded from Unit Trains, provided Shipper has delivered to the Terminal, at least 90% of one-quarter of the annual Minimum Throughput Commitment for the relevant Contract Year;
- (k) **"Make-up Tonnage"** has the meaning ascribed to it in the Terms and Conditions of Use;
- (l) **"Minimum Throughput Commitment"** means 90% of the Declared Contract Volume;
- (m) **"Schedules"** means those schedules attached hereto;
- (n) **"Shortfall Payment"** has the meaning ascribed to that term in Section 5.1;
- (o) **"Term"** has the meaning ascribed to that term in Section 2.1;
- (p) **"Terminal"** has the meaning ascribed to that term in Recital A;
- (q) **"Terminal Loading Shortfall"** has the meaning ascribed to that term in Section 5.3;
- (r) **"Terminal Rules & Regulations"** means the Terminal Rules & Regulations published on the RTI website at <http://www.rti.ca>, as may be updated from time to time in accordance with Section 8.4;
- (s) **"Terms and Conditions of Use"** means those Terms and Conditions of Use (Coal & Petroleum Coke) attached hereto in Schedule "B", as may be updated from time to time in accordance with Section 8.4;
- (t) **"Unit Trains"** means unit train consists conforming to the requirements and specifications set out in this Agreement and the Terminal Rules & Regulations;
- (u) **"Vista Coal Project"** means Shipper's coal project located near Hinton, Alberta, Canada; and
- (v) **"Volume Reduction Option"** has the meaning ascribed to that term in Section 5.5(a).

The Schedules are incorporated into this Agreement and form an integral part of this Agreement.

ARTICLE 2 TERM OF AGREEMENT

2.1 Term.

- (a) Subject to the terms and conditions hereof, this Agreement will be effective and binding on the parties upon execution and delivery but the term will commence on January 1, 2019 and will expire on December 31, 2028 (the "Term").
- (b) The parties acknowledge and agree that if Shipper has not, by January 1, 2019, successfully obtained all material governmental licenses, permits, approvals and authorizations required for the Vista Coal Project to enable Shipper to comply with its obligations under this Agreement, RTI will have the right, in its sole discretion and without penalty, to terminate this Agreement with immediate effect upon delivery of written notice to Shipper.

2.2 Renewal. The parties may by mutual agreement renew this Agreement or extend the Term, on such terms and conditions and at such rates as may be agreed to at that time.

2.3 Effect of Termination. Termination of this Agreement shall not extinguish any obligation or debt owing by, or any liability for breach of this Agreement by any party to the Agreement existing or incurred at the time of termination. For greater certainty, such obligations, debts or liabilities shall include, without limitation, those obligations, debts or liabilities incurred by reason of an act or omission of a party, but unknown to the other party or otherwise contingent at the time of termination.

ARTICLE 3 DECLARED VOLUMES AND EXCLUSIVITY

3.1 Declared Contract Volume. In this Agreement, "Declared Contract Volume" means, subject to the ADVQ, a maximum of:

- (a) three million, five hundred thousand (3,500,000) tonnes of Cargo in 2019;
- (b) four million, five hundred thousand (4,500,000) tonnes of Cargo in 2020; and
- (c) four million, five hundred thousand (4,500,000) tonnes of Cargo in 2021, and in each Contract Year thereafter during the Term.

3.2 Right of First Refusal. Shipper desires a Declared Contract Volume of 5,500,000 tonnes in 2020 and 6,750,000 tonnes in 2021 and in each Contract Year thereafter during the Term, and as such, the parties agree as follows:

- (a) Commencing in 2020 and subject to (b) below, Shipper shall have a right of first refusal on any additional capacity which becomes available at the Terminal whether through expiration or termination of contracts, an increase in RTI's throughput capacity, or RTI's receipt of approval to build a 2nd operating berth during the Term;
- (b) Upon increase in available capacity, RTI shall offer Shipper all of the new available capacity up to a maximum of 5,500,000 tonnes in 2020, 6,750,000 tonnes in 2021, and 6,750,000 tonnes thereafter;

- (c) When additional capacity is offered by RTI to Shipper pursuant to this Section 3.2, RTI shall provide Shipper with six (6) months' written notice of when capacity is available. Upon notification, Shipper shall have thirty (30) calendar days to accept or reject additional capacity in writing. If accepted, such additional capacity will be made available to Shipper on the date that is six (6) months after RTI's initial delivery of written notice as provided herein (the "Capacity Availability Date"); and
- (d) Upon Shipper's acceptance of additional capacity in accordance with (c) above, Shipper and RTI will mutually agree to increase shipment volume over a six (6) month period following the Capacity Availability Date to reach an annualized rate equal to the new Declared Contract Volume.

Provided that, in the event that Shipper and RTI agree to a Declared Contract Volume in excess of 6,750,000 tonnes in any given Contract Year, Shipper acknowledges and agrees that:

- (i) If no substantial capital expenditures are required for RTI to bring new capacity online to deliver incremental Declared Contract Volume in excess of 6,750,000 tonnes to Shipper, Shipper will increase the amount of the Letter of Credit by C\$1,000,000 per additional 1,000,000 tonnes of new Declared Contract Volume.
- (ii) If substantial capital expenditures are required for RTI to bring new capacity online to deliver incremental Declared Contract Volume in excess of 6,750,000 tonnes to Shipper, the parties shall negotiate reasonably and in good faith for Shipper to provide a refundable deposit to RTI.

3.3 Additional Declared Volume Option Subject to available capacity at the Terminal, which shall be determined and declared from time to time during the Term by RTI in its sole discretion, Shipper may increase the Declared Contract Volume to a maximum 12,500,000 tonnes per annum (the "ADVO"). Shipper shall provide RTI with at least 12 months prior written notice of its desire to exercise the ADVO. Such notice shall, *inter alia*, specify the requested increase in Declared Contract Volume and the estimated date of delivery of the ADVO Cargo. Within twenty (20) Business Days of receipt of such written notice, RTI shall, acting in good faith, determine whether it has the capacity to handle the requested increase in Declared Contract Volume and so inform Shipper of its decision. Subject to capacity at the Terminal, as determined by RTI acting reasonably at the time of each ADVO request, Shipper may exercise the ADVO on multiple occasions for the duration of the Term.

3.4 Exclusivity. Except as provided for in Section 3.5, Shipper covenants and represents to RTI and the parties agree that all production from Shipper's Vista Coal Project destined for export from North America will be shipped exclusively through the Terminal.

3.5 Waiver of Exclusivity RTI agrees to waive the provisions of Section 3.4 hereof in the following events:

- (a) Exclusivity shall not apply to tonnage in excess of 4,500,000 tonnes until such time as RTI provides Shipper firm capacity for a Declared Contract Volume of 6,750,000 tonnes or more per year for the remainder of the Term.

- (b) that Shipper increases its Declared Contract Volume through the valid exercise of one or more ADVO's, and RTI is not able to handle the requested increase in Declared Contract Volume in a timely manner (other than due to Shipper's negligence or breach of contract, or Force Majeure declared by Shipper);
- (c) RTI refuses to accept the nomination for a Vessel below 60,000 DWT but only to the extent of the tonnage of Cargo designated for that specific nominated Vessel, provided that Shipper provides RTI with quarterly reports detailing such shipments;
- (c) a reduction in Declared Contract Volume if RTI invokes the Volume Reduction Option under Section 5.5, but only to the extent of the tonnage capacity purchased by RTI pursuant to such Section; or
- (d) the refusal of RTI to accept any nominated Cargo, to the extent of such tonnage.

**ARTICLE 4
THROUGHPUT AND OTHER RATES**

4.1 Throughput Rates.

- (a) In any Contract Year during the Term, the scaled throughput rates for the Services provided is as follows:

Incremental Volumes of Cargo Shipped in Contract Year (calculated as per example below)*	Throughput Rates (based on 174 or 200 car Unit Trains, as specified in subs. (b))
< 1MMT	C\$11.75 per tonne
1.0 - 2.0 MMT	C\$11.50 per tonne
>2.0 - 3.0 MMT	C\$10.00 per tonne
>3.0 - 4.5 MMT	C\$9.50 per tonne
>4.5 - 5.5 MMT	C\$8.75per tonne
>5.5 - 6.75 MMT	C\$8.00 per tonne
>6.75 – 12.5 MMT**	C\$8.00 per tonne
* Example, if Shipper throughputs 3.5 MMT in 2019, the throughput rate will be (\$11.75 x 1 MMT) + (\$11.50 x 1 MMT) + (\$10.00 x 1 MMT) + (\$9.50 x .5 MMT) = \$38 million in total **Exercise of ADVO required, in accordance with Section 3.3.	

- (b) The foregoing rates are based on the unloading of 174 car Unit Trains prior to January 1, 2021 and the unloading of 200 car Unit Trains or above from and after January 1, 2021. From and after January 1, 2021, the foregoing rates will be increased by C\$0.50 per tonne surcharge for Unit Trains less than 200 cars. The foregoing throughput rates and surcharges, will be adjusted annually for CPI in accordance with Section 4.4. The foregoing surcharges will not be applied if

Shipper's rail provider reduces the size of a Unit Train below the surcharge threshold level for safety reasons, provided that Shipper must provide RTI with reasonable documentation to evidence the rail provider's decision.

- (c) The rates in subsection (a) apply to loading Vessels greater than 60,000 tonnes of Cargo per Vessel. Requests by Shipper to load or partially load Vessels below 60,000 tonnes of Cargo will be delivered to RTI in writing not more than five (5) Business Days following Laycan request and will be subject to acceptance by RTI in RTI's sole discretion. Vessels accepted by RTI to be loaded with less than 60,000 tonnes will be subject to an additional charge of C\$20,000 per Vessel.
- (d) The Unit Train Dumping Rate contemplated in sub-clause 1.2(e)(i)(F)(i)(I) of the RTI Tariff, as well as any amended, successor or equivalent charge issued by RTI from time to time, shall not be applied to Unit Trains placed on RTI's outgoing tracks and released to Shipper's rail provider.

4.2 **Invoicing and Payment.** Invoicing and payment for the Services shall be in accordance with Sections 12.2 and 12.3 of the Terms and Conditions of Use.

4.3 **Storage Rate.** In any Contract Year during the Term, Shipper shall pay to RTI for such Contract Year a rate for the storage of Cargo in excess of the maximum number of tonnes specified in Section 6.1 calculated as follows:

- (a) For each day, commencing on the first day of the period, a daily storage rate equal to \$0.0333 multiplied by the number of tonnes of excess Cargo stored in the allotted Live Storage Area or the Dead Storage Area, as applicable, and the capacity of each Area as specified in Section 6.1.
- (b) The calculation under subsection 4.3(a) shall include the appropriate reduction for Cargo currently being loaded to Vessels at the time of the calculation.
- (c) The calculation for stored cargo for any given day shall be Cargo stored at end of previous day plus Cargo unloaded at Terminal by Train on the day, minus Cargo loaded to Vessels on such day.
- (d) To provide greater certainty, a spreadsheet setting out an example set of calculations of storage rates is attached to this Agreement as Exhibit 1.

4.4 **CPI Escalation.** On the first day of January in each year commencing January 1, 2019, the rates, fees and charges payable pursuant to each provision of this Agreement providing for a CPI adjustment shall be adjusted during the Term by multiplying:

- (a) the rates applicable as at the date of this Agreement as set out in such provisions, by
- (b) the greater of: (i) 1.0, and (ii) the fraction which has as numerator the CPI for the month of November immediately preceding the applicable Contract Year and as denominator the CPI for the month of November 2017. CPI applied shall not exceed 3.00%.

To provide greater certainty, a table setting out an example set of calculations of CPI escalation is attached to this Agreement as Exhibit 2.

ARTICLE 5
VOLUME COMMITMENTS

5.1 Shortfall Payment. If Shipper delivers less than the Minimum Throughput Commitment (as may be reduced due to one or more Relief Events in accordance with Section 4.5 of the Terms and Conditions of Use) in a Contract Year, Shipper shall pay to RTI the amount of \$6.00 per tonne of Shortfall Tonnage (the "Shortfall Payment"), adjusted in accordance with Section 4.4, and calculated and invoiced annually by RTI.

5.2 Make-Up Tonnage. If Shipper delivers Make-up Tonnage, Shipper shall be entitled to a credit of \$3.00 per tonne of Make-Up Tonnage (adjusted in accordance with Section 4.4) against charges otherwise payable in that subsequent Contract Year, up to the balance of any Shortfall Payments carried forward from prior Contract Years in respect of which the credit has not previously been utilized. Any credit not fully utilized at the end of the Term may be utilized during a renewal term, if any, and any credit not fully utilized at the expiration or earlier termination of this Agreement will be extinguished at the end of this Agreement.

5.3 RTI Loading Shortfall

Subject to compliance by Shipper with the provisions of this Agreement, if, in any quarter when Shipper has delivered one-quarter of the annual Minimum Throughput Commitment for the relevant Contract Year to the Terminal and Vessels arrive at the Terminal appropriately spaced and sufficient to load 100% of the volume of Cargo delivered by Shipper to the Terminal in that quarter, and RTI fails to load 100% of one-quarter of the Minimum Throughput Commitment for the relevant Contract Year (a "Terminal Loading Shortfall"), then Shipper's obligation to deliver the Minimum Throughput Commitment for the relevant Contract Year, together with any corresponding Shortfall Payment, will be reduced by the Loading Reduction Volume.

5.4 Diversion to Alternate Terminal

Shipper may, at Shipper's sole discretion, divert one or more Unit Trains and Vessels to an alternate unloading facility or terminal upon occurrence of any one of the following:

- (a) if Shipper notifies RTI in writing of any knowledge or indication that RTI will or may be unable to Unload a Unit Train or Load a Vessel, that is not otherwise caused or contributed by an act or omission of Shipper, and RTI confirms its inability to perform such Service within two Business Days after receiving written notice from Shipper;
- (b) if RTI gives notice under any of Sections 11.1, 11.2 or 13.6 of the Terms and Conditions of Use; or
- (c) under any of the conditions specified in Section 3.5 above,

provided that Shipper will resume directing Unit Trains and Vessels to RTI upon cessation of the foregoing in accordance with the terms of the Terminal Services Agreement once the number of Vessels required to be diverted from the Terminal are fully loaded with Cargo. Where Shipper diverts a Unit Train in accordance with this Section 5.3 and Shipper provides RTI with details of such diverted shipment satisfactory to RTI acting reasonably, Shipper's Minimum Throughput

Commitment and corresponding Shortfall Payments for such Contract Year will be reduced in such Contract Year by the number of tonnes that are so diverted.

5.5 Terminal Volume Reduction Option

- (a) If Shipper delivers less than the Minimum Throughput Commitment in two (2) consecutive Contract Years (following the initial two (2) Contract Years of the Term (January 1, 2019 - December 31, 2020), other than due to Shipper's negligence or breach of contract, or Force Majeure, RTI shall have the right, but not the obligation, to purchase from Shipper Terminal capacity corresponding to any or all of the unused Declared Contract Volume from the most recent Contract Year (the "Volume Reduction Option"). The parties acknowledge and agree that, upon RTI's exercise of the Volume Reduction Option, in each Contract Year remaining in the Term, the Declared Contract Volume shall be deemed reduced by the tonnage included in the Volume Reduction Option, without a requirement for any further amendment to this Agreement. For greater certainty, the Declared Contract Volume in the Contract Year in which RTI exercises the Volume Reduction Option will be reduced in proportion to the number of days remaining in such year after the notice is provided to Shipper pursuant to Section 5.5(b).
- (b) In the event that RTI elects to exercise the Volume Reduction Option, RTI shall:
 - (i) provide Shipper with ninety (90) days' notice of its exercise of the Volume Reduction Option, such notice to include the volume of tonnage by which the Declared Contract Volume will be reduced;
 - (ii) pay Shipper a one-time payment of C\$2.50 per tonne of unused Declared Contract Volume that is purchased; and
 - (iii) refund Shipper the amount of any Shortfall Payment that Shipper paid to RTI in the previous Contract Year that directly corresponds to the volume of tonnage that RTI elects to purchase under the Volume Reduction Option. No interest rate will be applicable to any such Shortfall Payment refunds.
- (c) The parties acknowledge and agree that:
 - (i) RTI shall not lose the Volume Reduction Option if RTI does not elect to exercise such option when available, provided that RTI may only exercise such option at a later date if Shipper continues to deliver less than the Minimum Throughput Commitment in subsequent consecutive Contract Years; and
 - (ii) the Volume Reduction Option shall not be extinguished upon its exercise. For greater certainty, if RTI exercises the Volume Reduction Option in respect of two (2) or more consecutive Contract Years, and Shipper ships less tonnage than the new Minimum Throughput Commitment in subsequent Contract Years, RTI may exercise the Volume Reduction Option to further reduce the Declared Contract Volume in future Contract Years as such option again becomes available.

ARTICLE 6
CARGO STORAGE, COAL BASE & ADJUSTMENTS

6.1 Storage.

- (a) RTI shall provide a storage area to Shipper during each and every Contract Year of the Term, and of any renewal or extension of the Term, as may be applicable, to store Cargo of one grade/quality at the Terminal at any one time up to the lesser of 270,000 tonnes and 8% of Shipper's annual throughput volume for the immediately preceding Contract Year (the "Live Storage Area"), provided that for the first three Contract Years the Live Storage Area shall be not less than 270,000 tonnes.
- (b) RTI represents and confirms that in addition to the Live Storage Area, RTI shall provide storage space that is out of reach of the stackers for one grade/quality of Cargo in an additional volume of 50,000 tonnes (the "Dead Storage Area"), for a total volume of 320,000 tonnes of Cargo.
- (c) Shipper may at its discretion use the Live Storage Area and the Dead Storage Area to stockpile up to two grades of thermal coal in either Area, it being understood by the parties that the physical dimensions of the storage space available to Shipper is determined on the basis of a calculation as if the Area were used to stockpile one grade of thermal coal.
- (d) RTI will store Cargo in the Live Storage Area and/or the Dead Storage Area, in a manner so as not to unreasonably subject Shipper to increased costs, and taking into account any written instructions provided by Shipper.

6.2 Coal Base and Cargo Adjustments. The parties acknowledge that a coal base will be provided by RTI to the designated Live Storage Area with all loss due to wind or shrinkage to the account of Shipper. Such coal base will remain the property of RTI at all times. The parties agree that any moisture gain/swell to the coal base shall be to the credit of Shipper, and any moisture gain/swell to the Cargo (other than the coal base) shall be to the credit of Shipper, with each such adjustment determined in accordance with Section 6.4.

6.3 Removal of Cargo Prior to Termination of Agreement. Cargo must be removed from the Shipper's Storage Area by the end of the Term or it will become property of RTI and RTI shall have the right to dispose of the Cargo in its sole discretion and, for greater certainty, no such disposal of Cargo by RTI shall result in any liability whatsoever of RTI to Shipper.

6.4 Surveys. Shipper agrees to engage a reputable third party surveyor to conduct surveys of Cargo stockpile volume at the Terminal on a quarterly basis during each Contract Year. Shipper will promptly provide copies of the surveys and results of each Cargo stockpile volume survey to RTI. The parties shall use *bona fide* efforts to agree on an adjustment factor to account for any gain or loss in volume of Cargo due to moisture.

**ARTICLE 7
REPRESENTATION AND WARRANTY**

7.1 Representation and Warranty. Shipper represents and warrants to RTI that, other than mineral rights that are leased by Shipper, Shipper owns the business and material assets of the coal mine carried on as the Vista Coal Project.

**ARTICLE 8
GENERAL**

8.1 Acknowledgement. RTI is a Crown corporation, administered by the Minister of Transport through Transport Canada, with statutory responsibilities relating to its regulation and control of a federal facility. From time to time, RTI may be required to make and/or enforce decisions as a regulator that involve or touch upon, directly or indirectly, this Agreement. Shipper acknowledges and agrees that RTI's statutory obligations as a regulator are separate and apart from its contractual obligations as a service provider hereunder.

8.2 Letter of Credit.

- (a) As security for the payment and performance of its obligations hereunder, and concurrent with the execution of (and as a condition precedent to the effectiveness of) this Agreement, Shipper shall cause to be issued to RTI an irrevocable standby letter of credit in the amount of \$10,000,000, in favour of RTI as beneficiary (a "Letter of Credit"), issued by a Canadian bank acceptable to RTI acting reasonably, and substantially in the form attached hereto as Schedule "A". The terms of such Letter of Credit shall, among other things:
- (i) permit RTI to make full or partial drawings on the Letter of Credit upon a Default Event (as that term is defined in the Terms and Conditions of Use) by Shipper hereunder;
 - (ii) shall, after the first five (5) years of the Term, provide for a reduction of \$1,000,000 per year starting in year 6 (2024) through year 10 (2028) of the Term; provided that, the Letter of Credit shall at all times be subject to increase pursuant to Section 3.2(d)(i) hereof; and
 - (iii) shall provide for automatic annual extensions for a period not less than the Term hereof,

and in the event of any drawing on the Letter of Credit, Shipper shall replenish the Letter of Credit security to \$10,000,000 during the first five (5) years of the Term (and subsequently to such adjusted amount required herein immediately prior to such drawing) by forthwith causing an additional Letter of Credit to be issued in favour of RTI for that purpose. Shipper will be solely responsible for replacing such Letter of Credit, to the satisfaction of RTI, if the issuing bank determines not to renew the Letter of Credit on expiry.

- (b) Notwithstanding the foregoing provisions of Section 8.2(a):

- (i) RTI shall not make more than one drawing on the Letter of Credit (including also any Letter of Credit issued as replacement or replenishment) for any one Default Event by Shipper;
- (ii) any withholding of payment for amounts disputed in good faith shall not constitute a Default Event by the withholding party, provided that amounts not in dispute are paid in accordance with this Agreement; and
- (iii) if RTI alleges a Default Event by Shipper that Shipper disputes in good faith, and RTI makes a drawing on the Letter of Credit for that alleged Default Event, Shipper shall not be obligated to replenish or replace the Letter of Credit until after the dispute regarding the alleged Default Event is resolved by settlement between the parties or by a final finding of liability by an arbitrator in accordance with the Terms and Conditions of Use.

8.3 **Notices.** Any notice required or permitted to be given by one party to the other hereunder other than Notices of Readiness and those pertaining to Unit Train or Vessel schedules will be in writing and will be given by email, fax or by delivering the same personally to a designated officer of the other party or by mailing the same by prepaid registered letter addressed to the addressee:

- (a) If to Shipper: Coalspur Mines (Operations) Limited
c/o CUTLASS COLLIERIES LLC
3801 PGA Blvd., Suite 903
Palm Beach Gardens, Florida 33410
Attention: Richard Verheij

Fax No. 561-626-4938
Email: rverheij@clinegrp.com

With a copy of such notice to:

Coalspur Mines (Operations) Limited
c/o CUTLASS COLLIERIES LLC
3801 PGA Blvd., Suite 903
Palm Beach Gardens, Florida 33410
Attention: Michael Snelling

Fax No. 780-865-3316
Email: MSnelling@clinegrp.com

- (b) If to RTI: Ridley Terminals Inc.
1610 – 400 Burrard Street,
Vancouver, B.C. V6C 3A6
Attention: Marc Dulude
President and Chief Operating Officer

Fax No. 604-428-2206
Email: mdulude@rti.ca

With a copy of such notice to:

Ridley Terminals Inc.
Bag 8000
Prince Rupert, B.C. V8J 4H3
Attention: Cordell Dixon

Fax No. 250-624-2389
Email: cdixon@rti.ca

Any such notice or other communication will be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is a Statutory Holiday, on the next following day). Notice sent by registered letter will be deemed to have been received by the party to whom it was addressed when presented by the post for signature. Either party may give notice of a change of address as aforesaid for the purpose of giving notices hereunder.

8.4 Terms and Conditions of Use, Terminal Rules & Regulations, and the RTI Tariff.

- (a) Shipper and RTI agree that the Terms and Conditions of Use in the form attached as Schedule "B" hereto, the Terminal Rules & Regulations, and the RTI Tariff, are adopted and incorporated by reference into and form an integral part of this Agreement. RTI reserves the right from time to time, to change, amend or modify the Terms and Conditions, the Terminal Rules & Regulations, and the RTI Tariff provided that:
 - (i) RTI provides Shipper with reasonable advance notice of any such change, amendment or modification, and
 - (ii) Such change, amendment or modification does not materially and adversely affect Shipper's rights and economic obligations under this Agreement.
- (b) Shipper and RTI agree that, except to the extent that the Terms and Conditions of Use, the Terminal Rules & Regulations or the RTI Tariff are inconsistent with, or conflict with in any respect, any provision of this Agreement, the parties shall abide by the Terms and Conditions of Use, the Terminal Rules & Regulations and the RTI Tariff. In the event of any inconsistency or conflict between this Agreement and the Terms and Conditions, the Terminal Rules & Regulations, or the RTI Tariff, the provisions will prevail in the following relative order of priority:
 - (i) Terminal Services Agreement
 - (ii) Terms and Conditions of Use
 - (iii) Terminal Rules and Regulations
 - (iv) RTI Tariff

8.5 Counterparts. This Agreement may be executed in as many counterparts as may be necessary or by fax or by .PDF or similar electronic document and each such counterpart agreement or fax so executed shall be deemed to be an original and such counterparts and fax copies and .PDF documents together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

RIDLEY TERMINALS INC.

By: 
Authorized Signatory

COALSPUR MINES (OPERATIONS) LTD.

By: 
Authorized Signatory

Exhibit 1 – Inventory Tracking and Storage Rate Calculation Example

Date	Item	Tonnage		Vessel	Vessel Status	Vessel Net Inventory Change	Total Inventory	Storage Fees		Daily Storage Fee @ 0.035/tonne
		Received	Shipped					By Period	By Tonnes	
June Opening Inventory:							130,000			
1-Jun-19	Train #1	7,200				7,200	137,200	No	0	-
2-Jun-19	Train #1 & #2	28,800				28,800	166,000	No	0	-
3-Jun-19	Train #3	18,000				18,000	184,000	No	0	-
4-Jun-19	Train #4	18,000				18,000	202,000	No	0	-
5-Jun-19	Train #5	18,000				18,000	220,000	No	0	-
6-Jun-19	Train #6	18,000				18,000	238,000	No	0	-
7-Jun-19	Train #7	18,000				18,000	256,000	No	0	-
8-Jun-19	Train #8	18,000				18,000	274,000	Yes	4,000	\$ 33.20
9-Jun-19	Train #9	18,000		Vessel #1	(17,500)	500	274,500	Yes	4,400	\$149.85
10-Jun-19	Train #10	18,000		Vessel #2	(40,000)	(22,000)	252,500	No	0	-
11-Jun-19	Train #11	18,000		Vessel #2	(40,000)	(22,000)	230,500	No	0	-
12-Jun-19	Train #12	18,000		Vessel #1	(27,500)	(9,500)	221,000	No	0	-
13-Jun-19	Train #13	18,000				18,000	239,000	No	0	-
14-Jun-19	Train #14	18,000				18,000	257,000	No	0	-
15-Jun-19	Train #15	18,000				18,000	275,000	Yes	1,000	\$160.50
16-Jun-19	Train #16	18,000		Vessel #2	(45,614)	(27,614)	247,386	No	0	-
17-Jun-19	Train #17	18,000		Vessel #2	(84,211)	(66,211)	181,175	No	0	-
18-Jun-19	Train #18	18,000		Vessel #2	(70,175)	(52,175)	129,000	No	0	-
19-Jun-19	Train #19	18,000				18,000	147,000	No	0	-
20-Jun-19	Train #20	18,000				18,000	165,000	No	0	-
21-Jun-19	Train #21	18,000				18,000	183,000	No	0	-
22-Jun-19	Train #22	18,000				18,000	201,000	No	0	-
23-Jun-19	Train #23	18,000				18,000	219,000	No	0	-
24-Jun-19	Train #24	18,000				18,000	237,000	No	0	-
25-Jun-19	Train #25	18,000				18,000	255,000	No	0	-
26-Jun-19	Train #26	18,000				18,000	273,000	Yes	3,000	\$99.90
27-Jun-19	Train #27	18,000				18,000	291,000	Yes	21,000	\$699.30
28-Jun-19	Train #28	18,000				18,000	309,000	Yes	39,000	\$1,298.70
29-Jun-19	Train #29	18,000				18,000	327,000	Yes	57,000	\$1,898.10
30-Jun-19	Pile Survey					8,500	335,500	Yes	65,500	\$2,131.15
June Closing Inventory:							335,500			

O.I.	130,000
Net Rail / (Shipped)	285,500
C.I.	335,500

Total Storage Fees. = \$4,626.70

Source: Vessel Loading					
Date / Time	Hours		Tonnage	Average Tonnage	
	Loading Begins	Loading Ends		Loaded (T)	Per Hour
Vessel #1	6/9/19 13:30	6/12/19 16:30	75.0	125,000	1,667
Vessel #2	6/16/19 11:00	6/18/19 20:00	57.0	200,000	3,509

Vessel #1			Vessel #2		
Hours Loading	Tonnage Shipped for Inventory		Hours Loading	Tonnage Shipped for Inventory	
9-Jun-19	10.5	17,500.0	16-Jun-19	13.0	45,614.0
10-Jun-19	24.0	40,000.0	17-Jun-19	24.0	84,211.0
11-Jun-19	24.0	40,000.0	18-Jun-19	20.0	70,175.0
13-Jun-19	16.5	27,500.0			
Total	75.0	125,000.0	Total	57.0	200,000.0

Source: Train Unloading					
Date / Time	Hours		Tonnage	Average Tonnage	
	Unloading Begins	Unloading Ends		Unloaded (T)	Per Hour
Train #1	6/1/19 22:00	6/2/19 3:00	5	18,000	3,600
Train #2	6/2/19 6:00	6/2/19 10:00	4	18,000	4,500

Train #1			Train #2		
Hours Unloading	Tonnage Received for Inventory		Hours Unloading	Tonnage Received for Inventory	
1-Jun-19	2.0	7,200.0	1-Jun-19	4.0	18,000.0
2-Jun-19	3.0	10,800.0			
	5.0	18,000.0			

Date	Inventory		Required Change	Adjustment Factor (1)	Change to Inventory	Updated Inventory
	Survey Value	29-Jun-19 Inventory				
30-Jun-19	337,000	327,000	10,000	0.85	8,500	335,500

(1) Train Tonnage from Coalport's Certified Scales
 (2) Tonnage loaded based on draft survey performed prior to ship departure from dock
 (3) Pile survey results are adjusted by 35% as a starting point. As additional information allows for more precise pile survey adjustments, the adjustment factor will be updated.

Exhibit 2 – CPI Escalation Calculation Example

Article 4.4 (Example)
CPI Escalation

Contract Year Base Year Applied	Beginning Period	End Period	Reported Escalation November CPI			By Contract		% Change Applied to Contract Rates
			Orig. Period	End Period	Actual %	% Floor	% Cap	
2019	Nov-17	Nov-18	134.6	134.0	4.2%	0.0%	0.0%	1.0%
2020	Nov-18	Nov-19	134.0	135.0	0.7%	0.0%	0.0%	1.0%
2021	Nov-19	Nov-20	135.0	134.0	(0.7%)	0.0%	0.0%	0.0%
2022	Nov-20	Nov-21	134.0	145.0	8.2%	0.0%	0.0%	3.0%
2023	Nov-21	Nov-22	145.0	147.0	1.4%	0.0%	0.0%	1.4%
2024	Nov-22	Nov-23	147.0	150.0	2.0%	0.0%	0.0%	2.0%
2025	Nov-23	Nov-24	150.0	160.0	6.7%	0.0%	0.0%	3.0%
2026	Nov-24	Nov-25	160.0	164.0	2.5%	0.0%	0.0%	2.5%
2027	Nov-25	Nov-26	164.0	167.0	1.8%	0.0%	0.0%	1.8%
2028	Nov-26	Nov-27	167.0	130.0	(77.2%)	0.0%	0.0%	0.0%

Yellow highlighted cells will be updated with November CPI each year.

Output used to adjust contract rates for relevant calendar years.

Rate Calculation Based on Example CPI Changes Above

Throughput Rates (Article 4.1(a))	Original Rate	CPI Adjusted Rate For the Following Contract Years(1)										
		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
<1MMT	\$11.75	\$12.10	\$12.22	\$12.35	\$12.52	\$12.69	\$12.85	\$13.15	\$13.55	\$13.89	\$14.34	\$14.76
1.0 - 2.0 MMT	\$11.50	\$11.85	\$11.96	\$12.09	\$12.25	\$12.42	\$12.67	\$13.06	\$13.46	\$13.80	\$14.24	\$14.66
>2.0 - 3.0 MMT	\$10.00	\$10.30	\$10.40	\$10.51	\$10.62	\$10.77	\$11.00	\$11.30	\$11.61	\$11.92	\$12.44	\$12.86
>3.0 - 4.5 MMT	\$9.50	\$9.79	\$9.88	\$9.98	\$10.10	\$10.23	\$10.41	\$10.65	\$10.95	\$11.25	\$11.81	\$12.23
>4.5 - 5.5 MMT	\$8.75	\$9.01	\$9.10	\$9.19	\$9.29	\$9.40	\$9.54	\$9.70	\$9.90	\$10.10	\$10.64	\$11.06
>5.5 - 6.5 MMT	\$8.00	\$8.24	\$8.32	\$8.41	\$8.51	\$8.64	\$8.78	\$8.96	\$9.13	\$9.30	\$9.83	\$10.25
>6.5 MMT(2)	\$8.00	\$8.24	\$8.32	\$8.41	\$8.51	\$8.64	\$8.78	\$8.96	\$9.13	\$9.30	\$9.83	\$10.25

(1) CPI Adjusted rate will be paid 50% on Term Load and 50% on Vessel Load

(2) see ADVO clause in Section 3.2

Flat Tonnage

(Article 4.1(b)) 700 tons	Original Rate	CPI Adjusted Rate For the Following Contract Years(1)										
		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
	\$0.50	\$0.52	\$0.52	\$0.53	\$0.54	\$0.55	\$0.56	\$0.58	\$0.59	\$0.60	\$0.61	\$0.61

(1) CPI Adjusted rate will be paid per ton, and is only payable per the terms of Section 4.1(b) of the Terminal Services Agreement

Storage Rates

(Article 4.3) 4 Mt	Original Rate	CPI Adjusted Rate For the Following Contract Years										
		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
	\$0.0333	\$0.034	\$0.035	\$0.035	\$0.036	\$0.037	\$0.037	\$0.038	\$0.039	\$0.040	\$0.040	\$0.040

Shortfall Rate

(Article 5.1)	Original Rate	CPI Adjusted Rate For the Following Contract Years										
		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
	\$6.00	\$6.102	\$6.242	\$6.384	\$6.493	\$6.583	\$6.717	\$6.919	\$7.092	\$7.223	\$7.294	\$7.294

Make-Up Rate

(Article 5.2)	Original Rate	CPI Adjusted Rate For the Following Contract Years										
		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	
	\$3.00	\$3.060	\$3.221	\$3.352	\$3.442	\$3.501	\$3.559	\$3.639	\$3.686	\$3.686	\$3.617	\$3.617

SCHEDULE "A"

Letter of Credit

Attached

SWIFT760 Guarantee / Standby Letter of Credit

:TO : Receiver
: : NOSCATTTPV
: : BK OF NOVA SCOTIA.
: : TRADE SERVICES CENTRE
: : 409 GRANVILLE ST., 7TH FL.,
: : VANCOUVER, BC V6C 1T2
:
:27 : Sequence of Total
: : 1/1
:
:28 : Transaction Reference Number
: : SLC7050356V
:
:23 : Further Identification
: : ISSUE
:
:30 : Date
: : 180703
:
:40C: Applicable Rules
: : ISPR
:
:77C: Details of Guarantee
: : WITHOUT ANY RISK OR RESPONSIBILITY ON YOUR PART, PLEASE ADVISE
: : BENEFICIARY OUR STANDBY LETTER OF CREDIT NO. SLC7050356V AS
: : FOLLOWS:
: :
: : BENEFICIARY:
: : RIDLEY TERMINALS INC.
: : 1610 - 400 BARRARD STREET
: : VANCOUVER, BC V6C 3A6
: : ATTN: MARC DULUDE, PRESIDENT AND CHIEF OPERATION OFFICER
: :
: : APPLICANT:
: : COALSPUR MINES (OPERATIONS) LTD
: : 110, MACLEOD AVENUE
: : HINTON, ALBERTA T7V 1X5
: :
: : AMOUNT: CAD 10,000,000.00 (TEN MILLION AND 00/100'S CANADIAN
: : DOLLARS ONLY).
: :
: : EXPIRY DATE: FEBRUARY 28, 2019 OR ANY AUTOMATICALLY EXTENDED
: : EXPIRY DATE AT OUR COUNTERS IN VANCOUVER, BC, CANADA.
: :
: : RE: STANDBY LETTER OF CREDIT IN RESPECT OF THE TERMINAL SERVICES
: : AGREEMENT DATED FOR REFERENCE JANUARY 1, 2018 (AS MAY BE AMENDED
: : AND/OR RESTATED FROM TIME TO TIME, THE 'TERMINAL SERVICES
: : AGREEMENT'), ENTERED INTO BETWEEN RIDLEY TERMINALS INC. (THE
: : 'BENEFICIARY') AND COALSPUR MINES (OPERATIONS) LTD. (THE
: : 'APPLICANT').
: :
: : AT THE REQUEST AND FOR THE ACCOUNT OF THE APPLICANT, WE, ROYAL
: : BANK OF CANADA, INTERNATIONAL TRADE CENTRE-BC, 1055 WEST GEORGIA
: : STREET, 6TH FLOOR, VANCOUVER, BC V6E 3S5 (THE 'BANK'), HEREBY
: : ESTABLISH AN IRREVOCABLE STANDBY LETTER OF CREDIT (THE 'LETTER
: : OF CREDIT') IN FAVOUR OF THE BENEFICIARY IN THE TOTAL AMOUNT OF
: : TEN MILLION AND 00/100'S CANADIAN DOLLARS (CAD 10,000,000.00)
: : (THE 'LETTER OF CREDIT AMOUNT'), AVAILABLE FOR PAYMENT UPON THE
: : FOLLOWING TERMS AND CONDITIONS:
: :
: : 1. THE BENEFICIARY MAY DRAW AGAINST THIS LETTER OF CREDIT UP TO

: : ANY AMOUNT NOT EXCEEDING THE LETTER OF CREDIT AMOUNT BY MAKING A
: : WRITTEN DEMAND FOR PAYMENT WHICH MUST BE RECEIVED AT THE
: : COUNTERS OF THE 'BANK', ON OR BEFORE FEBRUARY 28, 2019 OR ANY
: : AUTOMATICALLY EXTENDED EXPIRY DATE (THE 'EXPIRY DATE') AND
: : ACCOMPANIED WITH THE FOLLOWING DOCUMENTS:
: :
: : (A) THE WRITTEN DEMAND FOR PAYMENT MUST SET FORTH THE AMOUNT
: : DRAWN AND MAKE SPECIFIC REFERENCE TO THIS LETTER OF CREDIT
: : NUMBER; AND
: :
: : (B) THE WRITTEN DEMAND MUST BE ACCOMPANIED BY THE ORIGINAL OF
: : THIS LETTER OF CREDIT AND BY A WRITTEN STATEMENT BY THE
: : BENEFICIARY CERTIFYING THAT THE APPLICANT IS IN DEFAULT UNDER
: : THE PROVISIONS OF THE TERMINAL SERVICES AGREEMENT AND THAT THE
: : MONIES DRAWN BY THE BENEFICIARY ARE DUE AND PAYABLE IN
: : ACCORDANCE WITH SUCH AGREEMENT.
: :
: : 2. MULTIPLE AND PARTIAL DRAWINGS ARE PERMITTED.
: :
: : 3. IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE
: : DEEMED TO BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FROM YEAR
: : TO YEAR FROM THE PRESENT OR ANY FUTURE EXPIRATION DATE HEREOF,
: : UNLESS AT LEAST 60 (SIXTY) DAYS PRIOR TO THE PRESENT OR ANY
: : FUTURE EXPIRATION DATE, WE NOTIFY YOU IN WRITING VIA SWIFT
: : THROUGH THE ADVISING BANK OR BY COURIER THAT WE ELECT NOT TO
: : CONSIDER THIS LETTER OF CREDIT TO BE EXTENDED FOR ANY
: : ADDITIONAL PERIOD. UPON RECEIPT BY THE BENEFICIARY OF SUCH
: : NOTICE, IT MAY DRAW THE FULL OUTSTANDING AMOUNT HEREUNDER BY
: : MEANS OF A DEMAND.
: :
: : 4. THE BANK SHALL HONOUR ANY DEMAND FOR PAYMENT MADE AS
: : CONTEMPLATED BY THIS LETTER OF CREDIT WITHOUT INQUIRING WHETHER
: : THE BENEFICIARY HAS THE RIGHT AS BETWEEN IT AND THE APPLICANT TO
: : MAKE ANY SUCH DEMAND FOR PAYMENT AND WITHOUT ACKNOWLEDGING OR
: : ACTING
: : UPON ANY CLAIM OR INSTRUCTIONS OF THE APPLICANT, AND WILL PAY THE
: : AMOUNT DEMANDED TO, OR TO THE ORDER OF, THE BENEFICIARY.
: :
: : 5. FOR INFORMATION PURPOSES ONLY, THE BANK SHALL IMMEDIATELY
: : NOTIFY THE APPLICANT OF THE BANK RECEIVING A DEMAND FOR PAYMENT
: : UNDER THE TERMS OF THIS LETTER OF CREDIT.
: :
: : 6. THIS LETTER OF CREDIT WILL EXPIRE AT 4:00 P.M. ON THE EXPIRY
: : DATE, AND THE BENEFICIARY MAY CALL FOR PAYMENT OF ANY AMOUNT
: : OUTSTANDING UNDER THIS LETTER OF CREDIT AT ANY TIME UP TO 4:00
: : P.M. ON THAT DATE.
: :
: : 7. THE TERMINAL SERVICES AGREEMENT IS REFERRED TO HEREIN FOR
: : REFERENCE PURPOSES ONLY AND DOES NOT FORM PART OF THE TERMS OF
: : THIS LETTER OF CREDIT.
: :
: : 8. THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY
: : PRACTICES ISP98 OF THE INTERNATIONAL CHAMBER OF COMMERCE
: : PUBLICATION NO. 590 ('ISP98') AND, FOR ALL ISSUES NOT COVERED BY
: : ISP98, THE LAWS OF THE PROVINCE OF BRITISH COLUMBIA SHALL APPLY.
: : IN THE CASE OF CONFLICT, ISP98 SHALL PREVAIL. THE COURTS OF
: : BRITISH COLUMBIA SHALL HAVE EXCLUSIVE JURISDICTION OVER ANY
: : DISPUTE ARISING FROM THIS LETTER OF CREDIT.
: :
: : 9. ALL FEES AND CHARGES OF THE BANK ARE FOR THE ACCOUNT OF THE
: : APPLICANT.
: :
: : 10. TYPOGRAPHICAL AND SPELLING ERRORS SHALL NOT CONSTITUTE A

: DISCREPANCY.
:
: THIS STANDBY LETTER OF CREDIT IS TRANSFERABLE IN ITS ENTIRETY
: MORE THAN ONCE TO A NOMINATED TRANSFEREE THAT IS THE SUCCESSOR
: IN INTEREST TO THE PROPERTY OF THE BENEFICIARY. EACH TRANSFER
: MUST BE ISSUED BY ROYAL BANK OF CANADA, INTERNATIONAL TRADE
: CENTRE-BC, 1055 WEST GEORGIA STREET, 6TH FLOOR, VANCOUVER, BC
: V6E 3S5, UPON RECEIPT OF THE ORIGINAL LETTER OF CREDIT OR A
: DOCUMENT CALLED 'ORIGINAL ADVICE OF TRANSFER' AND BENEFICIARY'S
: OR TRANSFEREE BENEFICIARY'S SIGNED LETTER OF DIRECTION IN THE
: FORM OF SCHEDULE 'A' ATTACHED. (SIGNATURE(S) MUST BE VERIFIED BY
: A BANK SETTING OUT THE NAME AND ADDRESS OF THE TRANSFEREE OR
: NEXT TRANSFEREE AND STATING THAT ALL BENEFICIARY'S OR
: TRANSFEREE'S RIGHTS, TITLE AND INTEREST IN AND TO THIS LETTER OF
: CREDIT ARE TRANSFERRED TO SUCH SUCCESSOR IN INTEREST TO
: BENEFICIARY OR TRANSFEREE, AND OUR TRANSFER CHARGES PAID).
:
: WE WILL EFFECT THE TRANSFER, PROVIDED THAT THE TRANSFER COMPLIES
: WITH APPLICABLE LAW AND IS NOT A TRANSFER TO AN ENTITY THAT THE
: BANK IS PROHIBITED TO DEAL WITH.
:
: SCHEDULE 'A'
:
: INSTRUCTION TO TRANSFER IN ENTIRETY
:
: DATE:
:
: ROYAL BANK OF CANADA
: INTERNATIONAL TRADE CENTRE-BC,
: 1055 WEST GEORGIA STREET, 6TH FLOOR
: VANCOUVER, B.C. V6E 3S5
: ATTENTION: TRADE OPERATIONS
:
: RE: IRREVOCABLE STANDBY LETTER OF CREDIT NO. (INSERT NUMBER).
:
: FOR VALUE RECEIVED, THE UNDERSIGNED BENEFICIARY HEREBY
: IRREVOCABLY TRANSFERS ALL RIGHTS TO DRAW UNDER THE ABOVE
: IRREVOCABLE STANDBY LETTER OF CREDIT IN ITS ENTIRETY TO:
:
: (NAME OF TRANSFEREE)
:
: (ADDRESS)
:
: AND THE TRANSFEREE SHALL HEREAFTER HAVE THE SOLE RIGHTS AS
: BENEFICIARY THEREOF.
:
: ORIGINAL OF THIS IRREVOCABLE STANDBY LETTER OF CREDIT AND ANY
: AMENDMENTS IS RETURNED HERewith AND WE REQUEST YOU TO ISSUE A
: NEW IRREVOCABLE STANDBY LETTER OF CREDIT IN FAVOUR OF THE
: TRANSFEREE ON THE SAME TERMS AND CONDITIONS AS THOSE CONTAINED
: IN THE ABOVE IRREVOCABLE STANDBY LETTER OF CREDIT.
:
: ENCLOSED IS REMITTANCE OF CAD (INSERT AMOUNT) IN PAYMENT OF YOUR
: TRANSFER COMMISSION AND IN ADDITION THERETO WE AGREE TO PAY TO
: YOU ON DEMAND ANY EXPENSES WHICH MAY BE INCURRED BY YOU IN
: CONNECTION WITH THIS TRANSFER.
:
: WE HERewith WAIVE OUR RIGHT TO REFUSE ANY AMENDMENTS UNDER THE
: IRREVOCABLE STANDBY LETTER OF CREDIT, WHICH MAY BE DIRECTLY
: ADVISED TO THE TRANSFEREE.
:
: TRANSFER COMMISSION: 0.15 PERCENT (MINIMUM CAD 250.00)
:
:

: : YOURS TRULY,
: :
: : NAME OF BENEFICIARY
: :
: : AUTHORIZED SIGNATURE(S)
: :
: : BANK AUTHENTICATION
: :
: : BANK NAME
: :
: : NAMES AND SIGNATURE(S) OF
: : AUTHORIZED BANK OFFICER(S)
: :
: : UNQUOTE
: :
: : REGARDS
: : ROYAL BANK OF CANADA
: : INTERNATIONAL TRADE CENTRE-BC,
: : 1055 WEST GEORGIA STREET, 6TH FLOOR
: : VANCOUVER, B.C. V6E 3S5
: :
:72 : Sender to Receiver Information
: : NO MAIL CONFIRMATION TO FOLLOW.
: :

SCHEDULE "B"

Terms and Conditions of Use

**To the Terminal Services Agreement dated January 1, 2018
between Ridley Terminals Inc. and Coalspur Mines (Operations) Ltd.**



RIDLEY TERMINALS INC.

**TERMS AND CONDITIONS OF USE
(COAL AND PETROLEUM COKE)**

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1. AGREEMENT BETWEEN RTI AND SHIPPER

Terms and Conditions of Use, Terminal Rules & Regulations, and the RTI Tariff.

- (a) Shipper and RTI agree that these Terms and Conditions of Use, the Terminal Rules & Regulations, and the RTI Tariff, are adopted and incorporated by reference into and form an integral part of the Terminal Services Agreement. RTI reserves the right from time to time, to change, amend or modify the Terminal Rules & Regulations and the RTI Tariff provided that
 - (i) RTI provides Shipper with reasonable advance notice of any such change, amendment or modification, and
 - (ii) Such change, amendment or modification does not materially and adversely affect Shipper's rights and economic obligations under the Terminal Services Agreement. For clarity, if a change is found to materially and adversely affect Shipper's rights and economic obligations after the change is made, but during the Term, the change shall be void and Shipper shall not be bound by the change.

RTI shall not change the definition of Force Majeure during the Term.

- (b) Shipper and RTI agree that, except to the extent that the Terminal Services Agreement, the Terminal Rules & Regulations or the RTI Tariff are inconsistent with, or conflict with in any respect, any provision of these Terms and Conditions of Use, the parties shall abide by the Terminal Services Agreement, the Terminal Rules & Regulations and the RTI Tariff. In the event of any inconsistency or conflict between the Terminal Services Agreement, these Terms and Conditions of Use, the Terminal Rules & Regulations, or the RTI Tariff, the provisions will prevail in the following relative order of priority:
 - (i) Terminal Services Agreement
 - (ii) Terms and Conditions of Use
 - (iii) Terminal Rules & Regulations
 - (iv) RTI Tariff

2. DEFINITIONS

- (a) "Affiliate" has the meaning ascribed to that term in Section 17.5(a).
- (b) "Annual Forecast" has the meaning ascribed to that term in Section 4.2.
- (c) "Arbitration" has the meaning ascribed to that term in Section 17.1.
- (d) "Berth" or "Berths" means RTI's docks and transfer facilities including RTI's mooring buoys.

- (e) **"Business Days"** means any day that is not a Saturday, Sunday or Statutory Holiday.
- (f) **"Buyers"** means buyers of Cargo from Shipper.
- (g) **"Cargo"** has the meaning ascribed to it in the Terminal Services Agreement.
- (h) **"Cargo Sales Agreement"** means the agreement between Shipper and the Buyer for the purchase and sale of Cargo.
- (i) **"Combined Vessel"** has the meaning ascribed to that term in Section 10.2.
- (j) **"Commercially Reasonable Efforts"** means the efforts that a knowledgeable and prudent commercial person would use in similar circumstances.
- (k) **"Confidential Information"** has the meaning ascribed to that term in Section 17.2.
- (l) **"Contract Year"** means January 1 to December 31, prorated as required to reflect the commencement date of the Term and the termination date of the Terminal Services Agreement.
- (m) **"Declared Contract Volume"** will mean an annual volume of tonnes of Cargo agreed to by RTI and Shipper and fixed by the Terminal Services Agreement.
- (n) **"Default Event"** has the meaning ascribed to that term in Section 16.1.
- (o) **"dwt"** means deadweight tonnes of 2,204 pounds.
- (p) **"ETA"** means the estimated time of arrival.
- (q) **"Extended Force Majeure"** has the meaning ascribed to that term in Section 13.3.
- (r) **"Force Majeure"** has the meaning ascribed to that term in Section 13.2.
- (s) **"Free Pratique"** is the license granted by Transport Canada to a Vessel to enter Port.
- (t) **"High Wind Outage"** means a period of time that commences when RTI is unable to unload Unit Trains or is unable to load Vessels due to high winds and ends when the wind velocity has declined sufficiently to allow unloading or loading to recommence.
- (u) **"Laycan"** is an abbreviation of laydays cancelling (lay/can) and means the earliest date at which Laytime can commence and the latest date upon which the Vessel can arrive at the Berth without being at risk of being cancelled.
- (v) **"Laycan period"** means a period of ten (10) days, during which Shipper will make and keep the Vessel available for loading.
- (w) **"Laytime"** means the period of time, agreed by RTI and Shipper, that allows for the Loading of Cargo onboard a Vessel, subject to Sections 8.4, 8.5, and 8.6. Laytime will be calculated by dividing the total amount of Cargo Loaded onboard a Vessel (determined as per

Section 8.9 of these Terms and Conditions) by the applicable average Loading rate as set out in section 8.7 of these Terms and Conditions.

(x) **“Loading” and “Unloading”** means the loading of Cargo on Vessels or unloading of Cargo from Unit Trains.

(y) **“Make-Up Tonnage”** means an amount of Cargo in excess of the Minimum Throughput Commitment delivered by a Shipper in a Contract Year where Shipper made a previous Shortfall Payment.

(z) **“Master”** means the captain in command of the performing Vessel.

(aa) **“Minimum Throughput Commitment”** means a minimum percentage of the Declared Contract Volume as agreed by RTI and Shipper and fixed by the Terminal Services Agreement that Shipper is obligated to ship through the Terminal in a Contract Year.

(bb) **“Notice of Readiness” or “NOR”** means the written notification given by the Master or the Owner’s/Master’s nominee to RTI, that a Vessel is clean and ready in all respects to receive Cargo.

(cc) **“Operating Hours”** means operating hours of the Terminal under Section 5.1.

(dd) **“Owner(s)”** means owner or operator of the Vessel.

(ee) **“Partially Loaded Vessel”** has the meaning ascribed to that term in Section 10.1.

(ff) **“Person”** has the meaning ascribed to that term in Section 17.5(a).

(gg) **“Port”** means the Port of Prince Rupert.

(hh) **“Railway”** means Canadian National Railway Company, or its successors and assigns.

(ii) **“Relief Event”** means either

(i) in any quarter of a Contract Year, one or more events of Force Majeure (excluding Extended Force Majeure and other than a Force Majeure due to a High Wind Outage), having a cumulative duration in excess of 72 hours and, in any one Contract Year, in excess of 240 hours, or

(ii) in any quarter of a Contract Year, one or more High Wind Outages having a cumulative duration in excess of 96 hours, and, in any one Contract Year, in excess of 120 hours,

in either case, to the extent that it impedes Shipper’s ability to have its Cargo loaded or RTI’s ability to load Cargo.

(jj) **“RTI”** means Ridley Terminals Inc.

(kk) **“Sampling Plant”** means the sampling and testing plant located at the Terminal.

- (ll) "Semi-Annual Forecast" has the meaning ascribed to that term in Section 4.2.
- (mm) "Services" has the meaning ascribed to that term in Section 3.1.
- (nn) "Shipper" has the meaning ascribed to that term in the Terminal Services Agreement.
- (oo) "Shortfall Payment" has the meaning ascribed to that term in Section 4.5.
- (pp) "Shortfall Tonnage" means the amount by which the volume of Cargo actually delivered by Shipper in a Contract Year is less than the Minimum Throughput Commitment in such Contract Year.
- (qq) "Statutory Holidays" means New Year's Day (from noon on December 31 to 8:00 a.m. on January 2), Family Day (the second Monday in February), Good Friday, Easter Monday, Victoria Day (Monday before May 25), Canada Day (the first day of July), B.C. Day (the first Monday in August), Labour Day (the first Monday in September), Thanksgiving Day (the second Monday in October), Remembrance Day (November 11), Christmas Day (from noon on December 24 and including all of December 25), Boxing Day (December 26), and any other statutory holiday or holidays, which, notwithstanding Section 29 of the *Interpretation Act*, R.S.B.C. 1996, c. 238 will only include Sundays where the aforementioned Statutory Holidays fall on a Sunday, and which may be declared by the federal or provincial governments, and for greater certainty, means in respect of each such holiday the declared hours set out above or such other hours as RTI may from time to time advise Shipper provided that the number of hours specified by RTI in respect of any holiday will not exceed the number of hours for that same holiday as set out above.
- (rr) "Term" has the meaning ascribed to it in the Terminal Services Agreement.
- (ss) "Terminal" has the meaning ascribed to it in the Terminal Services Agreement.
- (tt) "Terminal Rules & Regulations" means the Terminal Rules & Regulations published on the RTI website at: <http://www.rti.ca>
- (uu) "Terminal Services Agreement" means the Terminal Services Agreement between RTI and Shipper for the delivery, Unloading, storage, handling and Loading of Cargo, including all Schedules attached thereto, as may be amended from time to time.
- (vv) "Terms and Conditions" means these Terms and Conditions of Use.
- (ww) "tonnes" means metric tonnes
- (xx) "Turn Time" has the meaning ascribed to that term in Section 8.3.
- (yy) "Unit Trains" means unit trains conforming to the requirements set out in the Terminal Services Agreement and Terminal Rules & Regulations.
- (zz) "Vessel" or "Vessels" will include any vessel accepted by RTI that utilizes the services and facilities of RTI for the Loading of Cargo.

3. SERVICES

3.1 SERVICES

The services (the "Services") to be provided by RTI to Shipper for the tonnage of Cargo shipped through the Terminal pursuant to the Terminal Services Agreement are as follows:

- (a) receiving and unloading Cargo from Unit Trains at the Terminal destined for Vessels;
- (b) providing Unit Train releases to the Railway immediately after the unloading of Unit Trains is complete;
- (c) providing Shipper with notice of any High Wind Outages;
- (d) providing storage space for Cargo delivered by Shipper to the Terminal in accordance with the Terminal Services Agreement;
- (e) loading the Cargo received at the Terminal for the account of Shipper from either storage at the Terminal or directly from Unit Trains onto Vessels;
- (f) providing and maintaining the Sampling Plant and ensure the Sampling Plant site is maintained in a state of cleanliness at all times in accordance with generally accepted coal industry sampling standards to enable third party sampling of the Cargo, including providing a clean area for sampling on arrival and discharge; and
- (g) providing the quality management and Cargo completion services described in Section 3.2.

3.2 QUALITY MANAGEMENT AND CARGO COMPLETION SERVICES

RTI will provide quality management and Cargo completion services to Shipper on the basis of best industry practices acting reasonably, for the tonnage of Cargo shipped pursuant to the Terminal Services Agreement, including:

- (a) storing Cargo in, and loading Cargo from, stockpiles located in a designated area of storage;
- (b) rotating Cargo every ninety (90) days, subject to the availability of Vessels;
- (c) safely and securely stockpiling the Cargo at the Terminal on an open site that is well-drained and stabilized;
- (d) maintaining such stockpiles in a satisfactory condition which, through the use of heavy equipment, shall include:
 - (i) the grooming and sloping of stockpiles to industry standard as required; and
 - (ii) ensuring that Cargo stored within the Live Storage Area is available for Loading by RTI;

(e) ensuring that the Cargo does not become commingled with other products or foreign matter and does not become contaminated;

(f) providing all personnel and equipment necessary under typical operating conditions for the performance of the obligations of RTI and ensuring that the equipment provided by RTI is reasonably clean while in contact with the Cargo;

(g) granting, upon receipt of prior written notice from Shipper or Shipper's agents, approval (not to be unreasonably withheld) for Shipper's agents or employees, including those persons engaged by Shipper (but not including Buyer's or Vessel's agents) to sample or assay the Cargo during the Vessel loading process. Such sampling or assaying of Cargo will be monitored by RTI's employees or third party contractors as set out in the Rules and Regulations, without charge to Shipper;

(h) managing the unloading of Cargo into stockpiles, or the unloading of Cargo from Unit Trains into stockpiles for transfer to a Vessel; provided that any additional bulldozing, heavy equipment work or other handling costs for areas not accessible by the stacker reclaimer will be at Shipper's cost as set out in the Terminal Rules & Regulations; and

(i) notifying Shipper if any of the Cargo at the Terminal is or becomes contaminated or a hazard, in which case Shipper will have thirty (30) days after receipt of such notice to either remedy or remove such Cargo from the Terminal; provided that if Shipper fails to remedy or remove such Cargo within thirty (30) days, Shipper will be liable for the costs of removal, provided further that if such contamination or hazard is shown to have resulted from any act or omission by RTI or its employees, the cost of removing the Cargo or remedying the price differential in disposing of such Cargo will be borne by the Terminal. Notwithstanding the provisions of this Section 3.2(i), Shipper will not be relieved from any liability it may otherwise have under the Terminal Services Agreement as a result of the operation of this Section 3.2(i), save and except for a volume adjustment to the declared volumes at Shipper's option where Cargo in excess of 10,000 tonnes is shown to have been contaminated or a hazard resulting from an act or omission by RTI or its employees..

3.3 EXTRA SERVICES

Any additional or extraordinary services requested by Shipper that are not contemplated by the Terminal Services Agreement will be subject to RTI's acceptance in its sole and unfettered discretion, with such costs to be charged to Shipper as set out in the Terminal Rules & Regulations.

3.4 SERVICES NOT PROVIDED

Services not provided by RTI to Shipper include:

(a) supplying labour to work in hazardous conditions, which include conditions involving Force Majeure;

(b) railcar switching or sorting of railcars, or otherwise handling of Unit Trains outside of those agreed in any Terminal Services Agreement, will be subject to extra charges pursuant to Section 3.3 payable by Shipper;

- (c) the sweeping and cleaning of a Vessel's decks; and
- (d) mechanical trimming of Vessels.

4. FORECASTS AND VOLUME COMMITMENTS

4.1 SHIPPER'S COMMENCEMENT FORECAST

Not later than sixty (60) days prior to the first anticipated shipment of Cargo, (i) under the Terminal Services Agreement, or (ii) following an extended cessation of shipments under the Terminal Services Agreement, Shipper will give written notice to RTI and the Railway of its estimate of such anticipated shipment date, along with its forecast for tonnage of Cargo that Shipper anticipates shipping during the remainder of that Contract Year, including an estimate of the amount of tonnage anticipated being shipped in each remaining calendar quarter of that Contract Year. RTI will be deemed to have accepted Shipper's proposed first shipment date if such is within any agreed or confirmed Laycan, or within ten (10) Business Days after receipt of written notice thereof, RTI does not object in writing thereto.

4.2 SHIPPER'S ANNUAL AND SEMI-ANNUAL FORECASTS

On October 1 of each Contract Year, Shipper will provide RTI and the Railway with its forecast of tonnage of Cargo that Shipper anticipates shipping during the next following Contract Year (the "Annual Forecast"), estimated on the basis of the amount of tonnage anticipated being shipped in each calendar quarter of that year. Shipper agrees to make all reasonable commercial efforts to ship the Cargo in shipments spread as evenly as possible throughout the Contract Year, and in the event Shipper is behind on its planned shipments, will make all reasonable commercial efforts to makeup such shortfall as soon as possible thereafter. On June 1 of each Contract Year, Shipper will provide RTI with an updated forecast for shipments for tonnage that Shipper anticipates shipping in the duration of such Contract Year (the "Semi-Annual Forecast"). RTI will be deemed to have accepted Shipper's Annual Forecast and updated Semi-Annual Forecasts if such forecast is within a previously agreed contract volume, or if, within ten (10) Business Days after receipt thereof, RTI does not object in writing thereto, provided that notwithstanding such Annual Forecasts or Semi-Annual Forecasts, the tonnage required to be shipped by Shipper pursuant to the Terminal Services Agreement during that Contract Year will be as set forth in Section 4.4.

4.3 SHIPPER'S MONTHLY FORECASTS

Forty-five (45) days prior to the commencement of each month of each Contract Year, Shipper will provide RTI, in writing, with a monthly shipping forecast as outlined in Section 7.1.

4.4 SHIPPER'S VOLUME COMMITMENTS

Provided that no Relief Event has occurred or is ongoing, Shipper will deliver to the Terminal during each Contract Year the Minimum Throughput Commitment.

4.5 SHORTFALL PAYMENT

If Shipper delivers less than the Minimum Throughput Commitment for a relevant Contract Year, as such Minimum Throughput Commitment may be reduced in the event of one or more Relief Events in such Contract Year, in accordance with the following formula:

Minimum Throughput Commitment divided by 365 (reduced by any Statutory Holidays that are not worked) multiplied by the aggregate number of days in excess of the cumulative hour thresholds set out in the definition of Relief Events in such Contract Year,

then Shipper will pay to RTI the amount fixed by the Terminal Services Agreement per tonne of Shortfall Tonnage (the "Shortfall Payment"). RTI will issue an invoice for the Shortfall Payment to Shipper within thirty (30) days after the end of the relevant year and the invoice will be payable in accordance with the provisions of Section 12.2.

4.6 MAKE-UP TONNAGE

If Shipper delivers Make-Up Tonnage under the Terminal Services Agreement, Shipper will be entitled to a credit against charges otherwise payable in a Contract Year in the amount fixed by the Terminal Services Agreement per tonne of Make-Up Tonnage up to the balance of any Shortfall Payments carried forward from prior Contract Years in respect of which the credit has not previously been utilized. Any credit not fully utilized at the expiration or earlier termination of the Term will be extinguished at the end of the Terminal Services Agreement.

4.7 NO RIGHT TO SELL CAPACITY

The Declared Contract Volume is reserved exclusively for the handling of Shipper's Cargo by RTI at the Terminal. Except as set forth herein, Shipper will not have the right to sell or assign any of its rights or capacity to third party shippers unless Shipper first offers the rights and capacity that it wants to sell or assign to RTI by providing written notice of the offer to RTI, which offer must specify the price at which the rights and capacity are offered and the duration for which the rights and capacity are to be sold or assigned, and which offer must be open for acceptance by RTI for at least twenty (20) days from the receipt of the offer. RTI may accept the offer by providing written notice of acceptance to Shipper within the time the offer is open for acceptance. If RTI accepts the offer during that time, Shipper will sell and assign the rights and capacity that were offered in the notice to RTI at the price and for the duration set forth in the notice. If RTI does not accept the offer during that time, Shipper may during the next thirty (30) days sell and assign the rights and capacity that were offered in the notice to a third party at the price or a higher price and for the duration set forth in the notice. If Shipper does not sell and assign the rights and capacity that were offered in the notice to a third party during that thirty (30) days, the provisions of this Section 4.7 will continue to apply if Shipper wants to sell or assign any of its rights or capacity under the Terminal Services Agreement to third party shippers. Any tonnage shipped by RTI or a third party pursuant to the sale of capacity by Shipper pursuant to this Section 4.7 will be deemed to be tonnage shipped by Shipper hereunder such that the Minimum Throughput Commitment for the applicable Contract Year will be correspondingly decreased, together with any corresponding Shortfall Payment, and to the extent that such tonnage would otherwise constitute Make-Up Tonnage, Shipper will be granted a credit therefore in accordance with Section 4.6 hereof.

4.8 TERMINAL'S VOLUME REDUCTION OPTION

In the event that Shipper fails to deliver the Minimum Throughput Commitment to the Terminal for two (2) consecutive Contract Years, then RTI will have the option to reduce all or a portion of such volume from Shipper on such terms and conditions as set out in the Terminal Services Agreement.

4.9 TERMINAL'S VOLUME COMMITMENT

RTI represents and warrants to Shipper that it has the capacity to receive, store and load the Declared Contract Volume in each Contract Year. Accordingly, provided that:

- (a) Shipper substantially complies with the provisions of the Terminal Services Agreement;
- (b) Shipper schedules with its Buyers sufficient Vessels, and provides schedules of such Vessels to RTI in accordance with Section 7; and
- (c) Shipper ensures that the required Cargo, complying inter alia with Section 5.2, is available at the Terminal to load such Vessels;

RTI will load, on a quarterly basis, no less than 100% of one-quarter of the Declared Contract Volume, and, subject to available capacity at the Terminal, as determined by RTI acting reasonably at the time of request by Shipper, RTI shall load, on a quarterly basis, up to 110% of one-quarter of the Declared Contract Volume in any Contract Year, reduced in a Contract Year in accordance with the following formula:

Declared Contract Volume divided by 365 (reduced by any Statutory Holidays that are not worked) multiplied by the aggregate number of days associated with any Relief Events in such Contract Year

5. DELIVERY OF CARGO TO TERMINAL

5.1 OPERATING HOURS

RTI will notify Shipper from time to time in writing of its Terminal operating hours (the "Operating Hours"). RTI will, unless expressly agreed with Shipper otherwise, maintain its Operating Hours up to twenty-four (24) hours per day, seven (7) days per week, save and except Statutory Holidays or during events of Force Majeure. Notwithstanding the foregoing, RTI may from time to time modify its Operating Hours as it deems necessary for the operation of the Terminal, unless such modifications will have a materially adverse impact on Shipper.

5.2 QUALITY OF CARGO TO BE PROVIDED

- (a) Shipper acknowledges that the quality and characteristics of the Cargo delivered to and stored at RTI is important for the efficient performance of the Services by RTI.
- (b) Shipper will ensure that the Cargo that is delivered by Shipper to the Terminal is demonstrably free-flowing and free of interfering levels of frozen Cargo and foreign material, including clay and rocks and discharges cleanly from rail cars.

(c) During the winter months (October 15th to April 15th), or such other times as necessary due to cold weather, Shipper will:

- (i) apply a side release agent to each railcar, to ensure the clean discharge of railcars during Cargo unloading operations; and
- (ii) apply a freeze conditioning agent to delivered Cargo to ensure the free flowing discharge of product from railcars during Cargo unloading operations.

(d) Whenever necessary or as requested by RTI due to safety or environmental concerns, Shipper will:

- (i) apply a spontaneous combustion treatment to Cargo being delivered to the Terminal;
- (ii) apply dust treatment to Cargo being delivered to the Terminal; and
- (iii) reimburse RTI for heavy equipment costs associated with rectifying a spontaneous combustion of Shipper's Cargo that would pose a safety or environmental concern,

provided that RTI may, upon arrival of a Unit Train at the Terminal, and in RTI's sole discretion, apply such treatments at Shipper's cost.

(e) Shipper will reimburse RTI for all costs incurred by RTI to remedy problems resulting from unacceptable Cargo, including but not limited to delivery of combusting, burning, dusting, contaminated, frozen or non-freeflowing Cargo. Delivery of Cargo with such characteristics, or delivery of Cargo on a Unit Train that is not properly assembled or does not conform to the requirements in the Terminal Services Agreement and these Terms and Conditions of Use, will entitle RTI to provide notice to Shipper suspending the Services for that Unit Train until such time as the problems have been substantially corrected, without liability whatsoever to RTI for any loss, damage, demurrage or expense, consequential or remote, sustained by Shipper as a result of such rejection, subject to RTI giving reasonable post-rejection notice to Shipper outlining the motives justifying such rejection.

5.3 ETA NOTIFICATION

Shipper will request the Railway to notify RTI (i) when the Unit Train is released to the Railway, and (ii) of the ETA of each Unit Train at the Terminal consistent with current practice, including updates at 24 hours, 12 hours, and again at four (4) hours, before such ETA.

5.4 ARRIVAL OUTSIDE OPERATING HOURS

If a Unit Train arrives outside of the then current Operating Hours it will be deemed to arrive at the commencement of the next Operating Hours.

5.5 ARRIVAL PRIOR TO ETA

If a Unit Train arrives at the Terminal prior to the ETA and outside of Operating Hours, the Unit Train will be deemed to have arrived as determined under Section 5.4 and Unloading will commence prior to or as if the original ETA had been met.

5.6 ARRIVAL AFTER ETA

If a Unit Train arrives at the Terminal more than one (1) hour after the ETA (the "ETA Margin"), RTI will provide notice to Shipper. RTI will unload Unit Trains arriving after ETA Margin as and when determined by RTI acting reasonably and balancing the interests of Shipper and RTI's other customers.

5.7 TITLE TO CARGO

Notwithstanding any transfer of control of the Cargo to RTI, title to the Cargo will remain with Shipper at all times while the Cargo is located at RTI.

6. STORAGE OF CARGO

6.1 STORAGE

During the Term RTI will provide a storage area, as a bailee for hire and subject to the obligations set out herein, at the Terminal for Shipper to store Cargo in an amount fixed by the Terminal Services Agreement. Shipper may request a storage area in addition to that fixed by the Terminal Services Agreement and RTI may, in its sole discretion, provide Shipper with such additional storage for a period of time as agreed by RTI and Shipper based on availability at the Terminal.

6.2 CARGO HANDLING

RTI will not be liable to Shipper for any quantities of Cargo that are lost during reasonable and prudent handling operations, including quantities lost by wind or shrinkage.

7. VESSEL SCHEDULING

7.1 SHIPPING SCHEDULES

(a) At least forty-five (45) days prior to the commencement of each calendar month, Shipper will submit to RTI an estimated monthly and reasonably evenly spaced shipping schedule. Such schedule will specify the tentative quantity of Cargo to be loaded for that given month, the number of anticipated vessels required to load such Cargo and the estimated date of arrival of each Vessel at the Port. Other than previously confirmed shipping dates or Laycan dates, RTI will be deemed to have accepted Shipper's shipping schedule if, within three (3) Business Days after receipt thereof, RTI does not object in writing thereto.

(b) Laycans confirming the forecasted shipments indicated within the shipping schedule must be secured as per Section 3.5 of the Terminal Rules & Regulations.

(c) At least fourteen (14) days prior to the first day of each individual Laycan, Shipper will provide to RTI a vessel nomination as per Section 3.6 of the Terminal Rules & Regulations. Shipper will promptly advise RTI of any change in the expected arrival date and tonnage specified in such fourteen (14) days' notice. If the estimated dates of arrival and/or tonnage specifications differ significantly from the approved monthly shipping schedule or confirmed Laycan Schedule, the acceptance of the Vessel will be subject to RTI's approval, not to be unreasonably withheld.

(d) Shipper will direct that the Master of the arriving Vessel will advise RTI of the Vessel's updated estimated time of arrival as per Section 3.8(a) of the Terminal Rules & Regulations.

8. LOADING

8.1 VESSEL SPECIFICATIONS

(a) All Vessels to be provided by Buyers or Shipper will be self-trimming, single-deck, gearless bulk carriers with sufficient deballasting pumping capacity, unless otherwise agreed to by RTI. Each Vessel in Berth will provide all necessary lights for night loading and will remove and replace hatch covers at the cost of the Vessel. If any Vessel does not materially comply with agreed specifications, RTI reserves the right to reject such Vessel, without liability whatsoever to Shipper for any loss, damage, demurrage or expense, consequential or remote, sustained by Shipper as a result of such rejection, subject to RTI giving notice to Shipper with details of the material non-compliance justifying such rejection. If the Vessel is rejected absent details of material non-compliance being provided by RTI, RTI shall be responsible for resulting loss, damage, demurrage and expense sustained by Shipper.

(b) Vessels must adhere to all size and characteristic restrictions as outlined in the Terminal Rules & Regulations unless previously agreed by agreement or confirmed nomination.

(c) Upon receipt of Vessel nomination, RTI will notify Shipper of the acceptance/rejection of the Vessel within three (3) Business Days.

8.2 NOTICE OF READINESS

The tendering and acceptance of a Vessel's Notice of Readiness will be as per Section 3.9(b) of the Terminal Rules & Regulations.

8.3 TURN TIME

Turn Time (which is sometimes also referred to generally by RTI as "free time") means the twenty-four (24) hour time period (or, if the Cargo Sales Agreement or charterparty provides for a longer period, then such longer period will apply) provided to RTI, that will precede the start of Laytime.

Turn Time will commence upon the later of:

(a) RTI's acceptance of Notice of Readiness; and

- (b) All Cargo required for Loading being available at RTI.

8.4 LAYTIME

Laytime will commence upon the expiration of Turn Time unless:

- (a) Vessel is sooner worked;
- (b) Vessel arrives to Port after Vessel's assigned Laycan; or
- (c) Vessel's Cargo to be loaded arrives at RTI after Vessel's assigned Laycan (provided such delay is not caused by RTI);
in which case, Laytime will commence when, by way of Loading performed by RTI, Cargo first enters the Vessel's hold(s).

Shipper will be responsible for and will indemnify RTI for any demurrage payable by RTI as a result of delays occurring after Laytime has commenced where such delays are caused by Cargo quality such that Cargo is not readily available for a normal continuous flow of Loading.

In the event that, due to a lack of available Cargo required for its Loading at RTI, a Vessel within Port is forced to await Berth and said Vessel falls outside of its assigned Laycan as a result of waiting for Cargo, Laytime will not commence until Cargo first enters the Vessel hold upon start of Loading by RTI. If Cargo is not available for loading; where such lack of available Cargo has been caused by RTI, but other than due to a Force Majeure, Shipper reserves the right to lightload the Vessel, provided that Shipper and RTI have a prior agreement for any additional costs, in which case Laytime will commence as normally scheduled.

Any time lost waiting for berth will count as Laytime, except if such waiting is not considered to be Laytime under the applicable Cargo Sales Agreement, or, unless such waiting is caused by lack of Cargo available for Loading at RTI or other such Buyer's or Shipper's default. Laytime will include the time taken for final draft survey.

Any time lost steaming from anchorage to Berth will not count as Laytime. Any delays caused by Vessel are not to count as Laytime. Time taken for interim draft checks or surveys requested by Vessel or Shipper will not count as Laytime. Laydays at the Port will be weather-working days during Operating Hours, but excluding Statutory Holidays unless used, in which event only half the time used will be counted as Laytime. Laytime will terminate upon completion of Loading.

8.5 LOADING INTERRUPTIONS

Loading interruptions caused by Force Majeure will not count as Laytime.

8.6 OTHER LOADING STOPPAGES

Loading stoppages due to the Buyer's, Shipper's, or a Vessel's requirements beyond normal shifting between holds during loading will not count as Laytime.

8.7 LOADING RATES

RTI will cause all Cargo loaded hereunder to be loaded aboard Vessels at the following average rates per weather-working day of twenty-four (24) consecutive hours. Loading rates will be calculated pro rata for a period of less than twenty-four (24) hours.

Partially Loaded and Combined Vessels (As per Section 10)

<i>Size of Cargo lift in Metric tonnes</i>	<i>Average Rate of Loading (tonnes per 24 hour weather-working day)</i>
Over 20,000 to and including 30,000	12,500
Over 30,000 to and including 45,000	15,000
Over 45,000	20,000

Fully Loaded Vessels

<i>Size of Vessel in Deadweight Tons (tonnes)</i>	<i>Average Rate of Loading (tonnes per 24 hour weather-working day)</i>
Over 60,000 to and including 75,000 dwt	25,000
Over 75,000 to and including 100,000 dwt	32,500
Over 100,000 to and including 125,000 dwt	40,000
Over 125,000 to and including 150,000 dwt	45,000
Over 150,000 to and including 180,000 dwt	50,000
Over 180,000 dwt	55,000

The rates specified in this Section 8.7 are predicated upon the use of self-trimming, single-deck, gearless bulk carrier Vessels. In the event a Buyer desires to utilize a different type of Vessel or Vessels for the shipment of Cargo at any time or from time to time and RTI consents to the use thereof in writing, Shipper and RTI will mutually determine and agree upon changes to such rates so that the same are applicable to such other type of Vessel or Vessels.

Shipper will have the right to schedule a Vessel with larger capacity than the pre-approved scheduled shipment, in this event, the guaranteed load rate will be based on the scheduled Cargo size.

8.8 EXTENDED DELAYS

In the event of a Vessel subject to demurrage being prevented from being loaded or sailing because of Force Majeure, such that RTI believes such Vessel will be delayed for more than

seven (7) days, RTI will advise Shipper and the parties will try and resolve the matter; otherwise, after the seven (7) day period is up, at the request of RTI Shipper will use commercially reasonable efforts to arrange for the Vessel to sail with less than a full load.

8.9 CALCULATION OF TONNES LOADED

The tonnages loaded on Vessel will be determined by a survey of the Vessel's draft and utilizing vessel immersion scale weights to the nearest tonne by a marine surveyor designated by Shipper and satisfactory to RTI. The certificate of weight prepared by such surveyor will be conclusive and will constitute the basis for use in determining final settlement between the parties. Such weighing will be for Shipper's account. Shipper will cause its surveyor to deliver a copy of the survey to Shipper and RTI forthwith following completion of the survey. RTI may have a representative of its own choosing present at all times when the weights are being computed or calculated.

9. DEMURRAGE AND DESPATCH RATES

9.1 DEMURRAGE AND DESPATCH RATES

Subject to Sections 10.1 and 10.2, if RTI will fail to load a Vessel within the Laytime allowed (calculated using the average rate of loading as set out in Section 8.7) other than because of a Force Majeure event or the Buyer's or Shipper's default hereunder, then demurrage will be paid by RTI to Shipper at the demurrage rates provided for in the applicable Cargo Sales Agreement or charterparty for all time lost after the expiration of allowable Laytime. Despatch will be paid by Shipper to RTI for Laytime saved at 50% of the demurrage rates provided for in the applicable Cargo Sales Agreement or charterparty when the Vessel is loaded sooner than required hereunder. Upon request of RTI from time to time, Shipper will provide RTI with evidence satisfactory to RTI of the applicable demurrage and despatch rates, subject to any confidentiality provisions contained in or relating to the applicable Cargo Sales Agreement or charterparty. If Shipper is unable to provide the Cargo Sales Agreement or charterparty, Shipper will provide a copy of the applicable provisions regarding the calculation of demurrage and despatch.

10. PARTIALLY LOADED VESSELS AND COMBINED VESSELS

10.1 PARTIALLY LOADED VESSELS

1. A Vessel which arrives at the Port with some of its compartments loaded with cargo, or which, after the loading of Shipper's Cargo into some of its compartments, sails from the Port with some of its compartments empty, is herein referred to as a "Partially Loaded Vessel". From time to time, RTI will accept Partially Loaded Vessels, but only on the following terms and conditions:

(a) RTI will be obliged to load only into holds that are clean and completely empty and that have hatch openings sufficient to permit the Cargo loading devices at the Terminal to operate at normal speed;

- (b) The average rate of Loading in the case of Partially Loaded Vessels will be determined on the basis of the total tonnes of Cargo Loaded thereon by RTI as per Section 8.7;
- (c) Any demurrage money payable hereunder in respect of a Partially Loaded Vessel will be pro-rated according to the proportion of Shipper's Cargo loaded to the dwt size of the Vessel at the Port; and
- (d) The parties acknowledge that the nomination of Vessels for partial loading of Cargo less than 60,000 tonnes of Cargo will only be approved by RTI in very exceptional circumstances.

10.2 COMBINED VESSELS

- (a) A vessel which arrives at the Port with all of its compartments completely empty and which is to be fully loaded at RTI, such Loading to be with multiple grades of Cargo on behalf of one or more Shippers, is herein referred to as a "Combined Vessel".
- (b) RTI will from time to time and at its sole discretion, accept Combined Vessels for Loading on the condition that the combined quantity of Shipper(s)' Cargo(s) to be loaded at RTI are collectively adequate to fully load the Vessel and Shipper being responsible for any additional costs of RTI.
- (c) The average rate of Loading in the case of Combined Vessels will be determined on the basis of the total tonnes of Cargo Loaded thereon by RTI, per grade, per Shipper as outlined in Section 8.7.
- (d) If there is no established custom for determining Laytime or paying demurrage or despatch for combined loading at the Terminal, these matters will be agreed by RTI and Shipper and the Buyers of such Cargo prior to such loading. The time taken for draft surveys for combined loading will not count as Laytime.

11. SUSPENSION OF SERVICES

11.1 CONVERSION OF TERMINAL EQUIPMENT

RTI will give Shipper as much advance notice as may be practicable, but not less than:

- (a) six (6) months' written notice in the event RTI plans to suspend its acceptance of Unit Trains for more than seven (7) days; and
- (b) three (3) months' written notice in the event RTI plans to suspend its acceptance of Unit Trains for seven (7) days or less;

in order to take any planned and announced suspension of services to allow for any planned modification or renovation of the Terminal. RTI and Shipper will mutually agree on the resolution of any related issues, including any charges or other costs which may be incurred, subject to the cooperation and agreement of the Railway. Where there is a suspension under this Section 11.1, the Minimum Throughput Commitment will be reduced in such Contract Year in proportion to the number of days of such suspension.

11.2 MAINTENANCE SHUTDOWN OF TERMINAL

Except where a shutdown is due to Force Majeure, RTI will provide Shipper with as much advance notice as may be practicable, but not less than the following:

(a) three (3) months prior to any proposed and planned maintenance shutdown of the Terminal or any proposed shutdown of the Terminal for improvements to be made which shutdown is anticipated to last for more than seven (7) days; and

(b) thirty (30) days prior to any proposed and planned maintenance shutdown of the Terminal, or any proposed shutdown of the Terminal for improvements to be made which is anticipated to last for seven (7) days or less.

Following the receipt of such notice by Shipper, the parties will discuss the impact of the proposed maintenance shutdown and will cooperate to attempt to minimize the impact on Shipper as a result of such shutdown. Where any such shutdown is unscheduled and persists for more than forty-eight (48) hours, RTI will provide written notice of such shutdown to the Railway and Shipper as promptly as is commercially possible. Where there is a shutdown under this Section 11.2, the Minimum Throughput Commitment will be reduced in such Contract Year in proportion to the number of days of such shutdown.

12. THROUGHPUT RATE, INVOICING AND PAYMENT

12.1 THROUGHPUT RATE

The throughput rate for the Services will be as set out in the Terminal Services Agreement.

12.2 INVOICING

Upon Unloading of the Cargo from Unit Trains at the Terminal, RTI will invoice Shipper a charge of 50% of the Throughput Rate then in force multiplied by the tonnes of Cargo Unloaded. Upon Loading of the Cargo to a Vessel, RTI will invoice Shipper a charge of 50% of the Throughput Rate then in force multiplied by the tonnes of Cargo Loaded as determined by RTI and Shipper pursuant to Section 8.9.

12.3 PAYMENT

Shipper will pay all invoices upon presentation and receipt. The amount of any invoice not paid in full by Shipper within:

(a) Fifteen (15) days after presentment will bear interest from the date of presentment to the date of payment at the rate per annum equal to the Bank of Canada's prime rate of interest plus six percent (6%); and

(b) Forty-five (45) days after presentment will bear interest from the 16th day after the date of presentment to the date of payment at a rate per annum of 12 percent (12%).

Any additional costs incurred by RTI relating to the handling or storage of Cargo or other services provided by RTI will be due as incurred and invoiced by RTI specifying the need and amount of such costs.

12.4 TAXES

Shipper is responsible to pay all applicable taxes relating to the Services and use of the Terminal, including but not limited to Goods and Services Tax on all amounts payable by Shipper to RTI under the RTI Terminal Services Tariff.

13. FORCE MAJEURE

13.1 FORCE MAJEURE

Neither party will be liable to the other for any delay in or failure to perform its obligations hereunder, including without limitation any obligation to pay, or continue to pay, demurrage charges regardless of whether demurrage has started or a Vessel has begun loading (other than non-payment of money, including without limitation non-payment of any Shortfall Payment required under Section 4.5) if any such delay or failure is due to, and during a period of, Force Majeure or Extended Force Majeure.

13.2 DEFINITION OF FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure to perform its obligations hereunder (other than non-payment of money) if any such delay or failure is due to Force Majeure, but only if and to the extent that such event or circumstance is beyond the affected party's reasonable control and foresight, and not caused directly by fault or negligence of the party seeking to have its performance obligations excused hereby. Force Majeure is defined as:

- (i) an act of God or the public enemy, act of war (whether war be declared or not), insurrection, rebellion, revolution, terrorist acts, sabotage, riots, civil disturbances or violent demonstrations;
- (ii) earthquakes, floods, tidal waves, storms (including, for clarity, tornados and other extreme atmospheric phenomena), High Wind Outage, slides, fire, explosions, epidemics, quarantine restrictions;
- (iii) declaration of force majeure by CN;
- (iv) material diminishment of services (including a reduction in the size of the Unit Trains) by CN due to safety issues, but only with respect to excusing Shipper's obligation to pay the surcharge imposed in Section 4.1(b) of the Terminal Services Agreement;
- (v) acts or refusals to act of any government or governmental agency in either its sovereign or contractual capacity, including the denial of or delay in granting any authorization, license, permit, consent, or approval which denial or delay will have a material adverse effect or the failure once granted to remain in full force and effect or to be renewed on substantially similar terms, unless the refusal, revocation or modification of any such necessary authorization, license, permit, consent, or approval was caused by the violation of the terms thereof or consented to by the party invoking Force Majeure;
- (vi) restrictions of any government or control on imports, exports, freight embargoes, railroad obstructions or obstruction of ocean navigation or non-availability or mechanical breakdown or destruction of equipment vital to the performance of a party's obligations

under this Agreement or in connection therewith not caused by inadequate maintenance, which will include Shipper's mine site equipment;

(vii) closure of one or more mines for any cause beyond the reasonable control of Shipper including mine cave-in, explosion, adverse geological conditions or a high wall failure;

(viii) strikes, walk-outs, work stoppages, lockouts, stoppages of labour, deliberate work slowdowns or other labour difficulties;

(ix) civil disobedience or actions caused by environmental lobbyists, non-governmental organizations, First Nation groups or local community groups or other persons;

(x) the taking of the Terminal by lawful expropriation, other lawful ouster of the Terminal or other lawful denial of rights of the Terminal or the premises upon which the Terminal is built;

(xi) judgments or orders of any court, including injunctions, not incurred as a result of a breach of this Agreement by any party; or

(xii) any other cause beyond the reasonable control of a party;

but Force Majeure shall not include a lack of funds or unfavourable market or economic conditions or a suspension of services pursuant to Section 11 hereof.

During Force Majeure or Extended Force Majeure, suffered by RTI only, Shipper shall have no obligation to make Shortfall Payment contemplated by Section 4.5 and shall be free to ship Cargo elsewhere.

13.3 FORCE MAJEURE AND EXTENDED FORCE MAJEURE

Where a condition of Force Majeure exists for twelve (12) or more months, the Force Majeure will be considered an "Extended Force Majeure".

During a Force Majeure or Extended Force Majeure suffered only by Shipper, RTI may take steps to sell such unused capacity on a spot basis, if RTI determines, acting reasonably, that such spot sales are feasible based on the anticipated duration of such Force Majeure or Extended Force Majeure.

In a Force Majeure suffered only by Shipper, Shipper shall have the option at its sole discretion to move into Extended Force Majeure for one year (months 13-24 from the original declaration of Force Majeure) in which case the following notification and payment terms shall govern:

(i) Shipper shall not owe any Shortfall Payments to RTI during the initial twelve (12) months from the original declaration of the Force Majeure.

(ii) Shipper shall notify RTI in writing no later than nine (9) months from the original declaration of Force Majeure of Shipper's decision as to whether it will enter Extended Force Majeure.

(iii) If Shipper elects to enter Extended Force Majeure, Shipper will be obligated to make monthly Shortfall Payments to RTI commencing on month thirteen (13) onward after the original declaration of Force Majeure until the earlier of:

- (A) the end of the Extended Force Majeure; or
- (B) twelve (12) months from entering Extended Force Majeure.

(iv) RTI shall have the right but not the obligation to terminate the Terminal Services Agreement as follows:

- (A) If Shipper does not enter Extended Force Majeure, RTI may terminate the Terminal Services Agreement at any point at or after the end of the twelfth (12th) month or later from the original declaration of Force Majeure; or
- (B) If Shipper enters Extended Force Majeure, RTI may terminate the Terminal Services Agreement at any point at or after the end of the twenty-fourth (24th) month or later from the original declaration of Force Majeure.

During an Extended Force Majeure suffered only by RTI, Shipper will have no obligation to make the Shortfall Payments contemplated in Section 4.5, and during such Extended Force Majeure, Shipper may provide RTI with six (6) months' notice in writing of its intent to terminate the Terminal Services Agreement. Such termination will become effective on the date that is six (6) months' following delivery of the written notice to RTI.

13.4 LABOUR DISPUTES

Each party will have complete discretion in respect of the terms and conditions of labour contracts and in respect of settlement of labour disputes. In no way will the exercise of its discretion prevent such party from relying on the provisions of Section 13.1, nor cause an event specified in Section 13.2 to be deemed within such party's control.

13.5 NOTICE OF FORCE MAJEURE

(a) If either party becomes aware of an event of Force Majeure it will promptly notify the other party by telephone and will give written notice thereof to the other party within five (5) days after the occurrence of the event of Force Majeure:

- (i) describing the event of Force Majeure in reasonable detail and stating, to the extent reasonably practicable at such time, its estimate of the duration of the event of Force Majeure;
- (ii) setting out in reasonable detail the obligations under the Terminal Services Agreement which cannot be performed as a result of the occurrence of the event of Force Majeure; and

(iii) containing particulars of the circumstances causing the party to be unable to perform its obligations under the Terminal Services Agreement as a direct result of the event of Force Majeure.

(iv) The foregoing notice will not be deemed a repudiation of the affected party's obligations under the Terminal Services Agreement nor allow any party to repudiate the Terminal Services Agreement.

(b) In addition to providing the unaffected party with the notice in Section 13.5(a), the affected party will promptly provide the unaffected party with copies of all relevant documentation in respect of the Force Majeure, including all reports, investigations, notices and documents as and when prepared, commissioned and/or received by the affected party.

13.6 REMOVAL OF FORCE MAJEURE

The party that is prevented from performing its obligations under the Terminal Services Agreement by an event of Force Majeure will:

(a) use all commercially reasonable efforts to curtail, contain or remove the Force Majeure condition and to resume, with the least possible delay, compliance with its obligations under the Terminal Services Agreement; and

(b) keep the unaffected party informed on a timely basis of any progress made in curtailing, containing or removing the Force Majeure condition.

13.7 REDUCTION OF CAPACITY

To the extent that a Force Majeure suffered by RTI reduces the capacity of the Terminal, any remaining capacity at the Terminal will be allocated, at RTI's sole discretion, acting reasonably, on a *pro rata* basis amongst all customers of RTI. Any anticipated or actual reduction of volumes for Shipper may be shipped by Shipper through other facilities.

13.8 DISPUTE REGARDING FORCE MAJEURE

If at any time the party not experiencing the Force Majeure disputes the affected party's claim of Force Majeure, the matter will be resolved in accordance with Section 17.1 herein.

14. INSURANCE, SITE SAFETY AND EMERGENCY CONTACTS

14.1 RTI'S INSURANCE

RTI will carry workers' compensation insurance for the protection of its employees and general liability insurance for the protection from third parties, as well as insurance for RTI's legal liability for damage to Vessels and Vessel equipment and for loss of or damage to Cargo. The general liability insurance will be in an amount of not less than \$50 million and the insurance for RTI's liability for damage to Vessels or Vessel equipment and for loss of or damage to Cargo will be in an amount of not less than \$10 million. RTI agrees to add Shipper as an additional insured on its general liability policies and obtain a waiver of subrogation in respect of all property insurance.

14.2 SHIPPER'S INSURANCE

(a) Shipper will carry workers' compensation insurance for the protection of its employees and general liability insurance for the protection from third parties on RTI site, including its employees, agents, and others for whom Shipper is at law responsible. The general liability insurance will be in an amount of not less than \$50 million. Upon request by RTI, Shipper will provide proof of insurance which RTI will determine to be adequate in its discretion, acting reasonably. Shipper agrees to add RTI as an additional insured on its general liability policies and obtain a waiver of subrogation in respect of all Cargo insurance. Shipper shall require any contractor to Shipper attending at the Terminal to have general liability insurance in an amount of not less than \$5 million adding RTI as an additional insured on such policy, and workers compensation insurance for the protection of the contractor's employees. Upon request by RTI, any contractor to Shipper will provide RTI with proof of insurance which RTI will determine to be adequate in its discretion, acting reasonably.

(b) Shipper shall not nominate a Vessel which is not entered in a P&I association in the International Group of Protection and Indemnity Clubs. Upon request by RTI, RTI will be provided with proof of Vessel's insurance, which RTI will determine to be adequate in its discretion, acting reasonably. Shipper shall not be responsible for damages caused by the negligence of a Vessel.

14.3 SITE SAFETY AND ACCESS RULES; EMERGENCY CONTACTS

(a) With adequate notice of the Terminal site safety and access rules being given by RTI to Shipper, Shipper will direct all of its employees, agents, contractors, advisors, lenders, invitees or other visitors, including the sampling company which makes use of the Sampling Plant under contract with Shipper, which visit the Terminal to comply with, and to cause its employees to comply with, all site safety and access rules established by RTI, as may be modified from time to time.

(b) RTI and Shipper will provide each other with emergency contact names and phone numbers (including alternate contacts), for local and out-of-province communications in the event of an emergency, and will update such information annually.

(c) RTI shall at all times be considered the prime contractor of the Terminal for all workers' compensation legislation.

15. INDEMNIFICATION

15.1 RTI INDEMNIFICATION OF SHIPPER

Subject to any express limitation on liability set forth in any other provision hereof, RTI will indemnify and save harmless Shipper from any losses, costs, expenses, damages and liabilities which Shipper may suffer or incur as a result of any negligent or wrongful act or omission of RTI, the servants or employees of RTI, or any other person for whom RTI is vicariously liable.

15.2 SHIPPER INDEMNIFICATION OF RTI

Subject to any express limitation on liability set forth in any other provision hereof, Shipper will indemnify and save harmless RTI from any losses, costs, expenses, damages and liabilities which RTI may suffer or incur as a result of any negligent or wrongful act or omission of Shipper, the servants or employees of Shipper, or any other person for whom Shipper is vicariously liable.

15.3 EXCLUSION OF CONSEQUENTIAL DAMAGES

Notwithstanding any other provision hereof, neither Shipper nor RTI will be liable for any consequential, indirect, incidental or punitive damages of any kind under the Terminal Services Agreement, howsoever caused and whether arising in contract, tort (including negligence) or otherwise, whether as a result of a loss by Shipper of present or prospective profits, expenditures, investments, or commitments made in connection with the Terminal Services Agreement, or on account of any other reason or cause.

16. DEFAULT

16.1 DEFAULT

An event of default (a "Default Event") will exist with respect to

(a) either party if such party has committed a material default in the performance of its obligations hereunder, and

(i) notice has been given to such party by the other party specifying the default;

(ii) in the case of default in any payment hereunder which does not pertain to an invoice in dispute, more than fifteen (15) Business Days have elapsed since the date that the notice was delivered to such party and payment has not been made during that time by the defaulting party; or

(iii) in the case of default hereunder for reason other than non-payment, more than fifteen (15) Business Days have elapsed since the date that the notice was delivered to such party and a complete remedy has not been implemented by the defaulting party or reasonable efforts commenced to remedy such default have been taken during that time by the defaulting party; and

(b) either party if such party becomes insolvent, admits in writing its inability to pay its debts as they become due, commits an act of bankruptcy, is adjudged or declared bankrupt or makes an assignment for the benefit of creditors, a proposal or similar action under the *Bankruptcy and Insolvency Act* (Canada), the *Companies Creditors Arrangement Act* (Canada) or any similar legislation, or commences any other proceedings relating to it under any dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect, or consents to any such proceeding.

16.2 TERMINATION FOR DEFAULT

At any time after thirty (30) days' notice, in accordance with the notice provisions of the

Terminal Services Agreement, has been given in respect of a Default Event by the non-defaulting party to the defaulting party, and where there is no evidence that a bona fide effort has been made by the defaulting party to remedy the Default Event, the non-defaulting party may exercise any right or remedy available to it, at law or in equity, and may without prejudice to any other right or remedy, terminate the Terminal Services Agreement by written notice to the other party to that effect, effective on a date specified in such notice, which date will not be earlier than the date on which such notice is given.

17. GENERAL

17.1 ARBITRATION

All disputes arising out of or in connection with the Terminal Services Agreement, or in respect of any legal relationship associated with or derived from the Terminal Services Agreement will be finally resolved by arbitration ("Arbitration") administered by the ADR Institute of Canada Inc. under its Arbitration Rules. There will be a single arbitrator appointed and the seat of Arbitration will be Vancouver, British Columbia, Canada. The language of the Arbitration will be English.

17.2 CONFIDENTIALITY

RTI and Shipper agree that the terms of the Terminal Services Agreement, these Terms and Conditions and any data or information exchanged between the parties pursuant to the Terminal Services Agreement or these Terms and Conditions (the "Confidential Information"), including any data or information disclosed as part of any Arbitration under Section 17.1, will be kept strictly confidential, except:

- (a) that Shipper may disclose the existence of the Terminal Services Agreement and these Terms and Conditions, the Declared Contract Volume, and the Term and any renewal thereof in any prospectus or annual information form or other documentation required by law to be disclosed by Shipper to the public from time to time;
- (b) that the parties may disclose such Confidential Information, on a strictly confidential basis, to:
 - (i) their respective officers, agents, employees, consultants, professional advisors and lenders and, with the consent of the other party, to other third parties, to the extent such disclosure is necessary to carry out the purpose and intent of the Terminal Services Agreement;
 - (ii) in the case of RTI, to the Government of Canada and to the financial advisor appointed by Transport Canada from time to time; and
 - (iii) to any person having a bona fide interest in acquiring all or part of the shares or assets of a party provided that any potential acquirer's use will be restricted solely to its evaluation of completing an acquisition transaction with or in respect of such party and who has signed a confidentiality agreement to that effect that contains equivalent confidentiality protections as those contained in the Terminal Services Agreement;

(c) to the extent required to be disclosed by law or by the Arbitration process pursuant to Section 17.1, provided that the party who is required to disclose will provide prompt written notice to the other party of the required disclosure, and the disclosure will be made, when possible, with a demand for confidentiality; or

(d) to the extent the same is or may otherwise become public information (other than by a breach of this Section).

If Confidential Information is to be disclosed to agents or consultants (including any engineers engaged by RTI or Shipper as contemplated in the Terminal Services Agreement), RTI or Shipper, as applicable, will advise the other party and will, prior to disclosing such information, cause such agent or consultant to enter into a confidentiality agreement with RTI or Shipper, as applicable, that contains equivalent confidentiality protections as those contained in the Terminal Services Agreement and these Terms and Conditions.

Upon termination of the Terminal Services Agreement each party agrees to return to the other party upon request all Confidential Information and all documents and materials containing Confidential Information provided by the other party other than:

(e) any documents or materials containing Confidential Information that is contained on a party's computer systems, retrieval systems and databases, which such party will destroy instead of returning to the other party (other than to the extent contained on back-up tapes or other back-up media made in the ordinary course of business that are not readily accessible and would not be commercially reasonable to destroy); and

(f) any documents or materials prepared by or for a party that include or refer to any Confidential Information of the recipient, which the recipient will destroy instead of returning to the other party (other than archival copies of those documents and materials, which may be retained for its legal files if and to the extent required to demonstrate compliance with applicable laws or professional standards);

(i) but will continue to keep any Confidential Information, documents or materials containing Confidential Information stored on any back-up tapes or other back-up media that are not destroyed, and any documents or material prepared by or for such party that include or refer to any Confidential Information that are not destroyed confidential in accordance with this Section 17.2, and will not use any of the Confidential Information for any other purpose.

17.3 CURRENCY

All references to dollar amounts or to "\$" are to Canadian currency unless otherwise specified.

17.4 SEVERABILITY

If any provision of the Terminal Services Agreement or these Terms and Conditions is illegal or unenforceable in any relevant jurisdiction then such provision will be deemed severable from every other provision of the Terminal Services Agreement and the Terminal Services Agreement and the Terms and Conditions will remain in full force and effect save for any such provisions.

17.5 ASSIGNMENT

RTI may assign its rights under the Terminal Services Agreement to a party who acquires all or substantially all of the assets of RTI and that, to the satisfaction of the Government of Canada and Shipper, acting reasonably, has sufficient capacity to perform the obligations of RTI; however, RTI will remain liable to Shipper for RTI's obligations under the Terminal Services Agreement, unless the assignee has executed an assumption agreement in favour of Shipper, in a form reasonably satisfactory to Shipper, agreeing to assume all of the obligations of RTI under the Terminal Services Agreement. Upon completion of an assignment and assumption in accordance with the foregoing, RTI will have no further liability for any breach of any obligation to be performed by the assignee under the Terminal Services Agreement after the date of such assignment and assumption.

Shipper may assign or delegate its rights and obligations under the Terminal Services Agreement to:

(a) any of its Affiliates, provided that no such assignment or delegation will relieve Shipper from any obligation hereunder. Any assignment or delegation of the Terminal Services Agreement is subject to the written consent of RTI, such consent not to be unreasonably withheld. Where used herein, "Affiliate" means, in relation to Shipper, any other Person or group of Persons, acting in concert, directly or indirectly, that controls, is controlled by or under common control with Shipper, and for the purposes of this definition, "control" means the possession, directly or indirectly, by a Person, or a group of Persons acting in concert, of the power to direct or cause the direction of the management and policies of another Person, whether through the ownership of voting securities, by contract, or otherwise, and "Person" means an individual, a partnership, a corporation, a limited liability company, an association, an unlimited liability company, a joint stock company, a trust, a joint venture or an unincorporated organization; or

(b) a party who acquires all or substantially all of the assets of Shipper who evidences to RTI's satisfaction, acting reasonably, the capacity of the assignee to perform its obligations under the Terminal Services Agreement including its creditworthiness and its ability to meet its throughput obligations; however, Shipper will remain liable to RTI for Shipper's obligations under the Terminal Services Agreement, unless the assignee has executed an assumption agreement in favour of RTI, in a form reasonably satisfactory to RTI, agreeing to assume all of the obligations of Shipper under the Terminal Services Agreement. Upon completion of an assignment and assumption in accordance with the foregoing, Shipper will have no further liability for any breach of any obligation to be performed by the assignee under the Terminal Services Agreement after the date of such assignment and assumption. Notwithstanding the foregoing, Shipper will, upon demand by RTI, assume and pay all fees and expenses (including reasonable legal expenses) of RTI in connection with any duly authorized assignment or delegation of the Terminal Services Agreement requested by Shipper, whether or not such assignment or delegation requested by Shipper has been finalized or executed.

17.6 APPLICABLE LAW

The Terminal Services Agreement and these Terms and Conditions will be governed by and construed in accordance with the laws of British Columbia and the laws of Canada applicable therein.

17.7 TERMINATION FOR CHANGE IN LAW OR POLICY

It is acknowledged that any costs specified under the Terminal Services Agreement and these Terms and Conditions that have been specifically agreed to and assumed by RTI and Shipper herein are based upon such costs as are necessary to comply with current governmental laws, rules and regulations as presently enforced. To the extent that (i) any applicable law, rule or regulation is modified, amended, revoked or replaced, (ii) any new law is enacted and comes into force and effect subsequent to the date of execution of the Terminal Services Agreement, or (iii) there occurs a change in policy affecting the enforcement of such applicable laws, rules and regulations, that has the effect of increasing the capital costs and/or expenditures of RTI or Shipper to the point where RTI or Shipper is forced to operate at a loss (the Affected Party), the Affected Party will advise the other party in writing of any such increased costs and/or expenditures and request that the other party discuss an equitable resolution of such costs and expenditures. If the parties cannot agree on an equitable solution within thirty (30) days of written notification, the Affected Party may at its discretion elect to terminate the Terminal Services Agreement.

17.8 INTERPRETATION

In the Terminal Services Agreement, including for certainty in these Terms and Conditions:

- (a) the singular includes the plural, and vice versa;
- (b) a reference to gender includes all genders;
- (c) all technical or industry specific phrases or words not otherwise defined herein have the well known meaning ascribed to such terms as of the date of this Contract in the industry or trade in which they are applied or used; and
- (d) "including" means "including, without limitation".

17.9 HEADINGS

The headings herein are for convenience of reference only.

Schedule "B"

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

Dated for Reference the 1st day of July, 2020.

BETWEEN:

RIDLEY TERMINALS INC. ("RTI")

and

COALSPUR (MINES) OPERATIONS LTD. ("COALSPUR")

WHEREAS

A. RTI is a company incorporated under the laws of Canada, and operates a bulk handling marine terminal on Ridley Island in the Port of Prince Rupert, British Columbia, Canada (the "Terminal").

B. Coalspur is a company continued under the laws of Canada, and engaged in the mining and export of bulk coal from Alberta, Canada.

C. RTI and Coalspur entered into a Terminal Services Agreement dated for reference January 1, 2018 (the "TSA").

D. Pursuant to the terms of the TSA, RTI provides certain terminal services to Coalspur in respect of bulk coal cargo from the Coalspur Vista Coal Project (the "Cargo").

E. RTI and Coalspur have a dispute (the "Dispute") regarding the calculation of the "Shortfall Payment" due and owing by Coalspur to RTI under Article 5.1 of the TSA, in respect of the 2019 Contract Year (as defined in Article 1.1 of the TSA) (the "2019 Shortfall Payment"), including:

1. the amount of the "Minimum Throughput Commitment" (as defined in Article 1.1 of the TSA) that accrued between January 1 and March 31 of the 2019 Contract Year.
2. the existence, duration, and effect of certain "Relief Events" (as defined in Schedule B of the TSA, hereinafter the "Terms and Conditions of Use") that have arisen from the Vista Mine tower failure and the Terminal dumper outage in 2019.

F. RTI and Coalspur now wish to resolve the Dispute.

NOW THEREFORE, IN CONSIDERATION OF the settlement of the Dispute, the payment described herein, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, RTI and Coalspur each covenant and agree as follows:



Handwritten signature and date: 08/19/20

PAYMENT

Principal Amount of 2019 Shortfall Payment

1. Coalspur agrees to pay RTI the total principal amount of **\$9,413,648** in respect of the 2019 Shortfall Payment, in accordance with the terms and conditions of this Settlement Agreement and Mutual Release (the "Principal Amount").
 - a. Coalspur agrees to pay RTI **\$4,738,355** in respect of the portion of the Principal Amount that accrued between January 1 and March 31, 2019.
 - i. In satisfaction of the \$4,738,355 portion of the Principal Amount that accrued between January 1 and March 31, 2019, Coalspur hereby consents to RTI immediately drawing down on the Letter of Credit held by RTI as security for the performance of Coalspur's contractual obligations under Article 8.2 of the TSA (the "Letter of Credit") in the amount of \$4,738,355, without further notice to Coalspur.
 - ii. To satisfy its contractual obligation to replenish the Letter of Credit under Article 8.2(a) of the TSA, Coalspur shall replenish the Letter of Credit in the amount of \$4,738,355 (in addition to any separate obligation to replenish other amounts withdrawn by RTI from the Letter of Credit under the terms of this Settlement Agreement and Mutual Release or otherwise), on or before December 31, 2021.
 - b. Coalspur agrees to pay RTI **\$4,675,293** in respect of the portion of the Principal Amount that accrued between April 1 and December 31, 2019.
 - i. To satisfy the \$4,675,293 portion of the Principal Amount that accrued between April 1 and December 31, 2019, Coalspur agrees to RTI imposing a "Throughput Rate" surcharge in the amount of \$0.85/MT (\$0.425/MT of railcar unloading and \$0.425/MT of ship loading) on each metric tonne of Cargo handled at the Terminal, in addition to the Throughput Rates provided for under Article 4 of the TSA, between July 1, 2020, and June 30, 2021 (the "Throughput Rate Surcharge").
 - ii. Should Coalspur fail to pay RTI the amount of \$4,675,293 in respect of the portion of the Principal Amount that accrued between April 1 and December 31, 2019, on or before June 30, 2021, via the Throughput Rate Surcharge or otherwise, Coalspur consents to RTI immediately drawing down on the Letter of Credit for any remaining balance of the \$4,675,293 due and owing on that date.
 - iii. In the event that RTI draws down on the Letter of Credit in respect of any remaining balance of the \$4,675,293 due and owing on June 30, 2021, Coalspur agrees to replenish the Letter of Credit in any such amount (in addition to any separate obligation to replenish other amounts

Handwritten signature and date: 06/17/20

withdrawn by RTI from the Letter of Credit under the terms of this Settlement Agreement and Mutual Release or otherwise), on or before December 31, 2021, in order to satisfy Coalspur's contractual obligation to replenish the Letter of Credit under Article 8.2(a) of the TSA.

- iv. Should Coalspur deliver "Make-Up Tonnage" in accordance with Article 5.2 of the TSA and Sections 1(y) and 4.6 of the "Terms and Conditions of Use") in the 2020 Contract Year or the period of January 1 to June 30 of the 2021 Contract Year, any credit in respect of such Make-Up Tonnage will be deducted from any remaining balance of the \$4,675,293 portion of the Principal Amount, in the applicable Contract Year in which Coalspur delivers the Make-Up Tonnage.

Risk Premium

2. In addition to the Principal Amount, Coalspur also agrees to pay RTI a risk premium on each metric tonne of Cargo handled at the Terminal, until Coalspur has paid all amounts owing by Coalspur to RTI under the terms of this Settlement Agreement and Mutual Release (the "Risk Premium"), including (without limitation of the foregoing) any replenishment of the Letter of Credit.
 - a. The Risk Premium shall be in the amount of \$0.08/ MT (\$0.04/MT of railcar unloading and \$0.04/MT of ship loading) on each metric tonne of Cargo handled at the Terminal, commencing on July 1, 2020.

RELIEF EVENTS AND FORCE MAJEURE CLAIMS

3. RTI and Coalspur each acknowledge and agree that any Force Majeure claims (under Section 13 of the Terms and Conditions of Use) or Relief Events (under Section 4.5 of the Terms and Conditions of Use), arising from the Vista Mine tower failure or the Terminal dumper outage that occurred in 2019, have been fully and finally satisfied and accounted for by this Settlement Agreement and Mutual Release, for both the 2019 Contract Year, and the period from January 1 to June 1 of the 2020 Contract Year.

CALCULATION OF FUTURE SHORTFALL PAYMENTS

4. RTI and Coalspur each acknowledge and agree that any additional Shortfall Payment that may arise during the remaining term of the TSA will be calculated and payable in accordance with the terms of the TSA. For greater certainty, Coalspur accepts the calculation of Shortfall Payment pursuant to Article 5.1 of the TSA and Section 4.5 of the Terms and Conditions of Use, as set out in RTI's correspondence of May 15, 2020.


06/17/20

MUTUAL RELEASE

5. RTI and Coalspur do each hereby remise, release, and forever discharge each other from any and all actions, causes of action, suits, proceedings, liabilities, obligations, contracts, claims, complaints, damages, debts, demands, dues, accounts, bonds, covenants, interests, rights, costs, and expenses of any nature or kind whatsoever, whether known or unknown, suspected or unsuspected, in law, in equity, or pursuant to statute, which they have or may have as against each other in connection with their dispute concerning the calculation and payment of the 2019 Shortfall Payment, and the existence, duration, and effect of the "Relief Events" that Coalspur alleges to have arisen from its Vista Mine tower failure and the Terminal dumper outage that occurred in 2019.

TSA AMENDMENT

6. RTI and Coalspur agree that the terms and conditions of this Settlement Agreement and Mutual Release constitute an amendment to the TSA, as applicable, and that, in the event of any inconsistency or conflict between the terms and conditions of this Settlement Agreement and Mutual Release and the TSA, the terms of this Settlement Agreement and Mutual Release shall prevail.

FURTHER ASSISTANCE

7. RTI and Coalspur covenant and agree to execute such further and other documents and instruments and to do such further and other things as may be necessary to implement and carry out the intent of this Settlement Agreement and Mutual Release, including any further amendments to the TSA that may be necessitated by this Settlement Agreement and Mutual Release.

CHANGE OF FACTS

8. RTI and Coalspur acknowledge that the facts in respect of which this Settlement Agreement and Mutual Release is made may prove to be other than or different from the facts in that connection now known by them or believed by them to be true. RTI and Coalspur accept and assume the risk of the facts being different and agree that all of the terms of this Settlement Agreement and Mutual Release shall be in all respects effective and not subject to termination, rescission, or variation by discovery of any difference in facts.

INDEPENDENT LEGAL ADVICE

9. RTI and Coalspur acknowledge that this Settlement Agreement and Mutual Release has been executed freely, voluntarily, and without duress, and that each of RTI and Coalspur has received such independent legal advice, if any, as it considers necessary in the circumstances.



Handwritten signature and date: 06/17/20

BINDING EFFECT AND ENUREMENT

10. In this Settlement Agreement and Mutual Release, RTI and Coalspur include their respective directors, officers, servants, employees, agents, contractors, affiliates, subsidiaries, owners, shareholders, principals, insurers, heirs, executors, administrators, predecessors, successors and assigns.

CONTRACTUAL, NOT RECITALS

11. RTI and Coalspur acknowledge and agree that the terms of this Settlement Agreement and Mutual Release are contractual and not recitals, and that the representations and covenants expressed herein are fundamental to the terms of the settlement of their dispute.

ENTIRE AGREEMENT

12. RTI and Coalspur acknowledge and agree that the provisions herein constitute the entire agreement between RTI and Coalspur and supersede all previous communications, representations, and agreements whether verbal or written between the parties with respect to the subject matter hereof. This Settlement Agreement and Mutual Release may not be modified or amended except by an instrument in writing signed by RTI and Coalspur.

CONFIDENTIALITY

13. RTI and Coalspur agree that they will at all times keep the terms and conditions of this Settlement Agreement and Mutual Release and the facts in respect of which this Settlement Agreement and Mutual Release is made and such further or other documents related to this Settlement Agreement and Mutual Release in the strictest confidence, and that disclosure of the terms and conditions of the Settlement Agreement and Mutual Release or such further related documents by RTI and Coalspur to any persons, other than their own legal advisors, accountants, or tax advisors, without express written consent of each of the other party, unless compelled to do so by a court or tribunal of competent jurisdiction or by operation of law, shall constitute a breach of the Settlement Agreement and Mutual Release, actionable by a claim for damages.

SEVERABILITY

14. RTI and Coalspur acknowledge and agree that if any part of this Settlement Agreement and Mutual Release is declared or held invalid for any reason, such invalidity shall not affect the validity of the remainder of the Settlement Agreement and Mutual Release, which shall continue in force and effect and be construed as if this Settlement Agreement and Mutual Release had been executed without the invalid portion, and it is hereby the declared intention of the Settlement Agreement and Mutual Release that this Settlement Agreement and Mutual Release would have been executed without reference to any portion which may, for any reason, be hereafter declared or held invalid.

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06/17/20

CAPTIONS

15. RTI and Coalspur acknowledge and agree that the captions appearing in this Settlement Agreement and Mutual Release have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope or meaning of this Settlement Agreement and Mutual Release or any provision hereof.

COUNTERPARTS AND FACSIMILE

16. This Settlement Agreement and Mutual Release may be executed and delivered by facsimile transmission or Portable Document Format (PDF) e-mail and when so delivered this Settlement Agreement and Mutual Release shall be deemed to be an original executed and delivered agreement and binding upon RTI and Coalspur for all purposes as if originally executed and delivered. This Settlement Agreement and Mutual Release may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same document.

AUTHORITY AND CAPACITY

17. The persons executing this Settlement Agreement and Mutual Release on behalf of RTI and Coalspur each warrant and represent that they are authorized to execute this Settlement Agreement and Mutual Release on behalf of RTI and Coalspur, respectively.

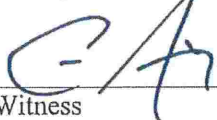
DISPUTE RESOLUTION

18. Any dispute between the parties arising from this Settlement Agreement and Mutual Release shall be resolved pursuant to Sections 17.1 and 17.6 of the Terms and Conditions of Use.

Signature page follows.


06/19/20

SIGNED, SEALED AND DELIVERED
by **RIDLEY TERMINALS INC.**
in the presence of:



Witness

Cooper Dixon

Print Name *VP Finance*

SIGNED at *R.T.I.*, on this *17th* day of
June, 2020.




Authorized Signatory

Logan A. Booker, CEO

[Print Name and Title]

SIGNED, SEALED AND DELIVERED by
COALSPUR (MINES) OPERATIONS LTD
in the presence of:



Witness

Jennifer Smith, Manager Logistics

Print name

SIGNED at _____, on this ___ day of
June, 2020.



Authorized Signatory

Michael J. Beyer, CEO

[Print Name and Title]

Schedule "C"



RIDLEY TERMINALS INC.

February 13, 2021

Delivered by email

Coalspur Mines (Operations) Ltd.
c/o CUTLASS COLLIERIES LLC
3801 PGA Blvd. Suite 903
Palm Beach Gardens, Florida 33410

Attention: Michael J. Beyer
Chief Executive Officer
mbeyer@clinegrp.com

Attention: Donald S. Swartz II
dswartz@clinegrp.com

Dear Sirs:

Re: Terminal Services Agreement (“TSA”) dated January 1, 2018, as amended, between Ridley Terminals Inc. (“RTI” and Coalspur Mines (Operations) Ltd (“Coalspur” or “Shipper”)

I write in regard to the above-noted matter, to confirm that RTI hereby agrees to the following payment terms:

1. On or before February 16, 2021, Shipper agrees to pay RTI the lump sum amount of CAD \$1,611,746.62 for the cost of previously unloading 261,589 MT of Cargo stored at the terminal as of February 5, 2021.
2. Shipper agrees to pay RTI the cost of unloading additional Cargo transported by the Shipper to the terminal on or after February 5, 2021, as follows:
 - a. For Unit Trains CS0327 (X21013), CS0328 (X21014), CS0329 (X21015), CS0330 (X21016) that arrived at the terminal between February 5, 2021 and February 16, 2021, Shipper shall make payment to RTI forthwith upon receipt of an RTI invoice for terminal services already rendered.
 - b. For Unit Trains arriving at the terminal after February 16, 2021, Shipper shall make payment at least one (1) business day prior to the arrival of each Unit Train at the terminal, in the amount of CAD \$147,782.88 per Unit Train. Any adjustments arising from a reconciliation between the amount of CAD \$147,782.88 and the amounts due and owing to RTI under the TSA in respect of the actual amount of Cargo unloaded from each Unit Train shall be reflected on the next RTI invoice.

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13/2/21



3. Upon receipt of each Notice of Readiness in respect of Vessels loaded on or after February 5, 2021, RTI shall deliver to the Shipper an invoice in respect of Vessel loading services that have been or which are to be provided for each nominated Vessel (the "Vessel Loading Invoice"). Immediately upon receipt of each Vessel Loading Invoice:
 - a. For Vessels that have already been loaded, Shipper shall pay 100% of the Vessel Loading Invoice to RTI forthwith.
 - b. For Vessels that have not yet been loaded, Shipper shall:
 - i. prepay 75% of the amount of the Vessel's nominated tonnage to RTI; and
 - ii. pay any remaining amount owing to RTI forthwith, based on a reconciliation of the Vessel's nominated tonnage, and the amounts due and owing to RTI under the TSA, in respect of the actual amount of Cargo loaded on to the Vessel.
4. On or before February 28, 2021, Shipper agrees to pay to RTI the CAD equivalent for all outstanding demurrage and despatch amounts owed by Shipper to RTI.
5. Shipper and RTI further agree that when Shipper is issued a permit from the Alberta Energy Regulator sufficient to allow it to lift its Force Majeure declaration with Trafigura and resume normal mining operations, which Shipper shall make best efforts to obtain as soon as possible, Shipper will give notice of same to RTI. At that point, whatever amount Shipper then owes to RTI will be repaid by Shipper to RTI by way of a surcharge on all loading invoices (on a rateable per tonne basis) for the next nine million tonnes of Cargo Shipper delivers to RTI, without interest charge. For greater certainty, the parties agree that nothing in this provision shall affect RTI's right to draw down on the Letter of Credit provided by Coalspur for the benefit of RTI under the TSA, in accordance with Article 8.2 of the TSA.
6. The parties each agree that other than expressly set out in the terms of this agreement, they reserve all legal rights and remedies available to them, including (without limitation) those set out in the TSA.

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RTI
13/2/21

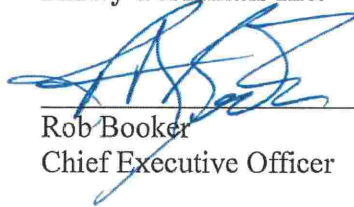


RIDLEY TERMINALS INC.

Should you agree to these terms, please countersign below, and return this letter to me.

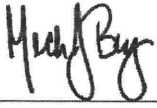
Yours truly,

Ridley Terminals Inc.

 13/9/21

Rob Booker
Chief Executive Officer

Coalspur Mines (Operations) Ltd., by its authorized signatories



Michael Beyer
Chief Executive Officer
CUTLASS COLLIERIES LLC



Don Swartz
Senior Vice President
CUTLASS COLLIERIES LLC

THIS IS EXHIBIT "8"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
Barrister & Solicitor
BENNETT JONES LLP
2500 PARK PLACE – 666 BURRARD ST
VANCOUVER, B.C. V6C 2X8
TEL: 604.891.5168 FAX: 604.891.5100

Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 – 6th Avenue S.W.
Calgary, Alberta, Canada T2P 1N2
403.260.7000 MAIN
403.260.7024 FACSIMILE

OSLER

Calgary

May 9, 2021

Toronto

Randal Van de Mosselaer
Direct Dial: 403.260.7060
rvandemosselaer@osler.com
Our Matter Number: 1217428

Montréal

SENT BY ELECTRONIC MAIL
gruberd@bennettjones.com

Ottawa

Vancouver

Bennett Jones LLP
2500 Park Place
666 Burrard Street
Vancouver BC V6C 2X8

New York

Attention: David Gruber

Dear Sir:

Re: *In the matter of Coalspur Mines (Operations) Ltd.*
Alberta Court of Queen's Bench File No. 2101-05019

As you know, we are counsel to Coalspur Mines (Operations) Ltd. (“CMO”). We write in response to your letter of May 7, 2021, which was received by us at 4:49 p.m. on Friday May 7. The time at which your letter was received explains, in part, our inability to reply by “end of day” as demanded in your letter.

Capitalized terms use in this letter and not otherwise defined shall have the same meaning as they were given in your May 7 letter.

There are a number of suggestions raised in your letter with which we wish to take issue.

Firstly, it is our understanding that there were direct communications between our respective clients on Friday May 7 during which Ridley was advised that CMO intended to send the coal production from the Vista coal mine to a terminal other than the Ridley Terminal.

Secondly, and more importantly, there are various legal positions suggested in your letter which are incorrect. We can only presume that your letter was written without the benefit of first having read the fairly recent decision of Romaine J. in *Bellatrix Exploration Ltd* (Re), 2020 ABQB 809 (“**Bellatrix**”). You will see from this case (on facts remarkably similar to ours) that two of the main propositions set out in your letter were expressly rejected by the Court in *Bellatrix*. Specifically:

1. Your letter intimates that CMO’s failure to deliver its coal production to the Ridley Terminal is a “post-filing breach of contract”. That exact argument was

raised by BP (the contractual counterparty in Bellatrix - see para. 11) and rejected by Justice Romaine (at para. 70):

“First, BP submits that it is a post-filing creditor. This is incorrect: its damages claim arises from a pre-filing contract, whether it is an [eligible financial contract] or not.”

This decision is consistent with a long history of cases in this area and its accuracy cannot be doubted.

2. Your letter also suggests that “[CMO] has a corresponding obligation to honour those agreements unless and until they are disclaimed in accordance with the CCAA.” That argument was also advanced by BP and expressly rejected by Romaine J. in Bellatrix:

“Therefore, BP submits that the “clear implication” of the statutory disclaimer provisions of the CCAA is that a company is required to perform its obligations under executory contracts as of the filing date, unless and until those contracts can be validly disclaimed under section 32.” [Para. 42]

...

“The disclaimer provisions are thus not rendered meaningless by the existence of a less formal option, but provide an opportunity for orderly termination and certainty to the parties to the disclaimed contract. Implying an obligation to perform an uneconomic contract that may affect the ability of the CCAA debtor to attempt to restructure would require more direct statutory language.” [Para. 47 – Emphasis added.]

It should be noted that BP’s application for leave to appeal Justice Romaine’s decision in Bellatrix was dismissed by the Alberta Court of Appeal: *Bellatrix Exploration Ltd (Re)*, 2021 ABCA 85.

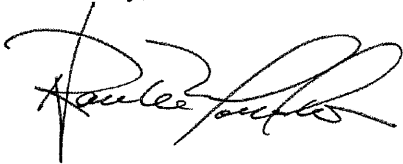
It is of course your client’s right to bring an application under s.32(2) of the CCAA to challenge the disclaimer of the Agreement, notice of which was served on your office and on your client on May 7. We look forward to receiving your application materials in this regard and to resolving that application in due course. As Justice Romaine notes in paragraph 45 of Bellatrix:

“While the solvent party to a contract that the debtor merely stops performing may not have available to it the same statutory process, it may apply to the court

for an order compelling performance as BP initially purported to do. The court supervising the CCAA proceedings in its consideration of such an application would likely take into account factors similar to those set out in section 32(4), including whether compelling performance would interfere with the prospect of a viable arrangement, and whether refusing such an order would cause significant financial hardship to a party to the contract.”

Accordingly, we would suggest whether your client chooses to bring an application to take issue with CMO’s failure to perform the Agreement, or to bring an application under s.32(2) to challenge CMO’s disclaimer of the Agreement, would be effectively the same application. It seems to use that it would make little sense to bring two separate applications to deal with the same issues, but I will leave that to you and your client to decide. Either way, we look forward to receiving your application materials and addressing the matters raised therein in due course. But what cannot be seriously contended in the face of Justice Romain’s decision in *Bellatrix* is that our client’s failure to perform the Agreement is a “post-filing breach of contract”, or that “[CMO] has [an] obligation to honour those agreements unless and until they are disclaimed in accordance with the CCAA”, as suggested in your May 7 correspondence.

Yours truly,



Randal Van de Mosselaer
RSV:ep

cc: *Client*
Kelly Bourassa, James Reid, Blakes
Deryck Helkaa, Dustin Olver, FTI Consulting
Karen Fellowes, Stikeman Elliott LLP
Gunnar Benediktsson, Norton Rose Fulbright LLP

THIS IS EXHIBIT "9"
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David E. Gruber
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May 10, 2021

Via E-Mail

Mr. Randal Van de Mosselaer
Partner
Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 - 6th Avenue SW
Calgary, AB T2P 1N2

Dear Mr. Van de Mosselaer:

Re: Coalspur Mines (Operations) Ltd. ("Coalspur") Post Filing Breach of Contract

We have for response your letter dated May 9, 2021.

Your stated understanding – that there were direct communications between our respective clients on Friday May 7 during which Ridley Terminals Inc. ("Ridley") was advised that Coalspur intended to send the coal production from the Vista coal mine to a terminal other than the Ridley Terminal – is either wrong or strikingly incomplete. Mr. Booker, the CEO of Ridley attempted to speak with Mr. Swartz, VP of Coalspur at 10:18 a.m. PT but Mr. Swartz did not take the call, and replied by text only that he was on calls with the lawyers and monitors. At 13:11 PT Mr. Swartz left a voice message for Mr. Booker saying only that he was on his way to the airport to pick up family and was going to give Mr. Booker a call about a letter from Coalspur's lawyers that was coming later in the afternoon. It was only after our letter was sent to you that Mr. Booker and Mr. Swartz spoke and Mr. Booker received confirmation of the information that had been provided by CN Rail to Ridley in the morning.

We were aware of the decision of Romaine J. in *Bellatrix Exploration Ltd. (Re)*, 2020 ABQB 809 ("Bellatrix") when we wrote our letter to you on Friday. In our view, Bellatrix has no application to the facts at hand. In particular, the agreement between Coalspur and Ridley is not an eligible financial contract ("EFC"), and unlike the contract at issue in Bellatrix is subject to the *Companies' Creditors Arrangement Act* ("CCAA") stay which Coalspur sought and obtained. In an earlier unreported decision in the Southern Pacific CCAA, Romaine J. came to a different conclusion with respect to a non-EFC contract than she did in Bellatrix, awarding post-filing compensation for a terminated rail transloading contract accruing prior to the date disclaimer became effective. In light of that earlier decision, we do not believe it can seriously be contended that Romaine J. intended in Bellatrix to set out a doctrine that would apply beyond EFCs.

May 10, 2021

Page 2

Our client learned today that yet another train has been loaded and is heading to Westshore Terminals in breach of the agreement with Ridley. We invite Coalspur to reconsider its willful and commercially immoral conduct, which in our view is simply contemptuous of the CCAA process. If it does not do so, we may seek orders that would have the effect of deterring such contemptuous conduct by CCAA debtors in the future, including by way of aggravated or punitive damages.

We will serve you our application materials in due course. In the meantime pursuant to s. 32(8) of the CCAA we require written reasons for the proposed disclaimer of the Ridley agreement. We also demand production of all communications between Coalspur and Westshore Terminals, including their respective agents, from April 30, 2021 to date.

Yours truly,



David E. Gruber

DEG

cc: Emily Paplawski, Osler, Hoskin & Harcourt LLP
Kelly Bourassa, James Reid, and Jules Monteyne, Blake, Cassels & Graydon LLP
Karen Fellowes, Stikeman Elliott LLP
Deryck Helkaa, Dustin Olver, FTI Consulting



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May 16, 2021

Randal Van de Mosselaer
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Vancouver

New York

Attention: David Gruber

Dear Sir:

**Re: *In the matter of Coalspur Mines (Operations) Ltd.*
Alberta Court of Queen's Bench File No. 2101-05019 (the "CCAA Action")**

As you know, we are counsel to Coalspur Mines (Operations) Ltd. ("**Coalspur**") in connection with the above noted proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 ("**CCAA**"). A copy of the Amended and Restated Initial Order granted by the Honourable Madam Justice Shelley on May 6, 2021 and other public information related to Coalspur's CCAA Action can be found on the website of the Court-appointed Monitor at: <http://cfcanada.fticonsulting.com/coalspur/>.

We write in response to the request made in your letter of May 10, 2021 for written reasons pursuant to section 32(8) of the CCAA for Coalspur's disclaimer or resiliation of the following agreements:

- a. Terminal Services Agreement between Ridley Terminals Inc. ("**Ridley**") and Coalspur, dated January 1, 2018;
- b. Settlement Agreement and Mutual Release between Ridley and Coalspur, dated July 1, 2020; and
- c. Letter Agreement between Ridley and Coalspur, dated February 13, 2021;
(collectively, the "**Ridley Agreement**").

Below are the requested reasons.

Given the nature of Coalspur's business, including fluctuating global coal prices, significant fixed operating costs, and the early stages of operations at the Vista Coal Mine Project, including as a result of the Permit Issue and Trafigura's enforcement of its security (all as described in the Affidavit of Michael Beyer sworn on April 19, 2021 in the CCAA

Action) Coalspur must continue to carefully manage its cash flows and liquidity position during its CCAA proceedings.

Since commencement of the CCAA Action, Coalspur has, in consultation with the Monitor, undertaken a review of its current suite of contractual obligations with a view to identifying potential cost reductions, improve its liquidity position and facilitate a successful restructuring of its business.

In connection with this review, Coalspur has determined that the Ridley Agreement is no longer economical to Coalspur and is financially burdensome. Coalspur believes that disclaimer of the Ridley Agreement will enhance the prospects of a viable compromise or arrangement being made by Coalspur by saving Coalspur more than USD \$86 million over the remaining term of the Ridley Agreement, of which approximately USD \$13 million is expected to be realized in 2021 alone. In addition, Coalspur estimates that there will be additional indirect savings of at least USD \$23 million over the remaining term of the Ridley Agreement as a result of its disclaimer.

In addition to the foregoing cost savings, the Ridley Agreement includes burdensome minimum volume commitments which permit little flexibility to Coalspur in the event the Vista Coal Mine Project experiences an operational issue/outage which results in projected production targets not being met. Coalspur expects that disclaimer of the Ridley Agreement will minimize its financial risk in the event of future operational issues at the Vista Coal Mine Project.


As a result, Coalspur expects that disclaimer of the Ridley Agreement will significantly improve its liquidity and assist with achieving a meaningful restructuring.

Disclaimer of the Ridley Agreement is not expected to negatively impact Coalspur's operations.

Coalspur believes that it must reduce its operating costs and improve its liquidity in order to be sustainable in the long term and better positioned to adapt to fluctuating market conditions.

Accordingly, Coalspur, with the support of the Monitor, has determined that the Ridley Agreement should be disclaimed by way of CCAA disclaimer.

Yours truly,

A handwritten signature in black ink, appearing to read 'Randal Van de Mosselaer', written in a cursive style.

Randal Van de Mosselaer
RSV:ep

cc: *Client*
Emily Paplawski, Osler
Kelly Bourassa, James Reid, Blakes
Deryck Helkaa, Dustin Olver, FTI Consulting
Karen Fellowes, Stikeman Elliott LLP
Gunnar Benediktsson, Norton Rose Fulbright LLP

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Partner
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May 17, 2021

Via E-Mail

Mr. Randal Van de Mosselaer
Partner
Osler, Hoskin & Harcourt LLP
Suite 2700, Brookfield Place
225 - 6th Avenue SW
Calgary, AB T2P 1N2

Dear Mr. Van de Mosselaer:

Re: Coalspur Mines (Operations) Ltd. ("Coalspur") Reasons for Disclaimer

On May 10, 2021, we requested in accordance with section 32(8) of the *Companies Creditors Arrangement Act*, RSC 1985, c C-36 ("CCAA") reasons for Coalspur's disclaimer or resiliation of the agreements as between Ridley Terminals Inc. ("Ridley") and Coalspur. In response, on May 16, 2021 we received a brief response to our request containing a number of unsubstantiated statements.


To enable Ridley to properly respond to the proposed disclaimer, we request the following additional information:

1. A copy of the information that was provided to the Monitor to obtain approval for the disclaimer.
2. Evidence to substantiate Coalspur's assertion that the disclaimer will result in Coalspur saving "more than USD \$86 million over the remaining term of the Ridley Agreement, of which approximately USD \$13 million is expected to be realized in 2021 alone. In addition, Coalspur estimates that there will be additional indirect savings of at least USD \$23 million over the remaining term of the Ridley Agreement as a result of its disclaimer."
3. A copy of the agreement(s) that Coalspur has reached or intends to enter into to replace the Ridley Agreements.
4. As previously requested, we still require production of all communications between Coalspur and Westshore Terminals, including their respective agents, from April 30, 2021 to date.

May 17, 2021
Page 2

Given that Ridley is required to file its application by Friday and this information should be readily available to Coalspur, we request that it be provided to Ridley by end of day Tuesday, May 18, 2021.

Yours truly,



David E. Gruber

DEG

cc: Emily Paplawski, Osler, Hoskin & Harcourt LLP
Kelly Bourassa, James Reid, and Jules Monteyne, Blake, Cassels & Graydon LLP
Karen Fellowes, Stikeman Elliott LLP
Gunnar Benediktsson, Norton Rose Fulbright LLP
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New York

Attention: David Gruber

Dear Sir:

**Re: *In the matter of Coalspur Mines (Operations) Ltd. (“Coalspur”)*
Alberta Court of Queen’s Bench File No. 2101-05019**

We write in response to yours of May 17, 2021.

It is our view that our correspondence of May 16, 2021 complies with both the letter and the spirit of Coalspur’s obligations under s.32(8) of the CCAA. That section obliges Coalspur to “provide in writing the reasons for the proposed disclaimer or resiliation.” Coalspur has provided those reasons in its correspondence of May 16, 2021.

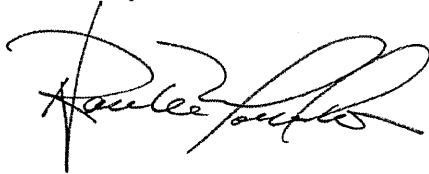
The various requests in your letter of May 17, 2021 go well beyond a request for the “reasons for the proposed disclaimer”. On the contrary, your letter is plainly a request for copies of various documents, and your client appears to be treating s.32(8) as providing your client with a broad right of discovery. Even more surprising is the request for “evidence” from Coalspur – a request which would be inappropriate even in the context of a formal discovery process. Neither we nor the Monitor are aware of any authority which would permit such a broad right of discovery as part of a s.32(8) request. Accordingly, the requests in your letter of May 17, 2021 are respectfully declined.

As you know, we have booked the entire afternoon of June 16, 2021 (commencing at 2:00 p.m. MT) before Madam Justice Romaine. It is our intention to bring an application at that time to address various of the allegations in your May 7, 2021 correspondence (including whether: (a) Coalspur has an obligation to honour its agreements with your client unless and until those agreements are disclaimed in accordance with the CCAA, and (b) whether any such breach of contract is a post-filing breach). We are preparing our application materials in this regard and will provide them to you in due course.

In the meantime, we look forward to receiving your application materials for your application under s.32(2) of the CCAA. Given that we have reserved the entire afternoon of June 16, and given that there would appear to be sufficient time on that date, we would encourage you to make your application returnable at that time. If you are agreeable, we can then come to an agreement on scheduling the necessary steps between now and June 16, including cross-examinations on affidavits, the filing of responding materials, and the exchange of Briefs of Argument.

We look forward to hearing from you.

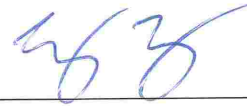
Yours truly,

A handwritten signature in black ink, appearing to read "Randal Van de Mosselaer". The signature is fluid and cursive, with a large initial "R" and "V".

Randal Van de Mosselaer
RSV:ep

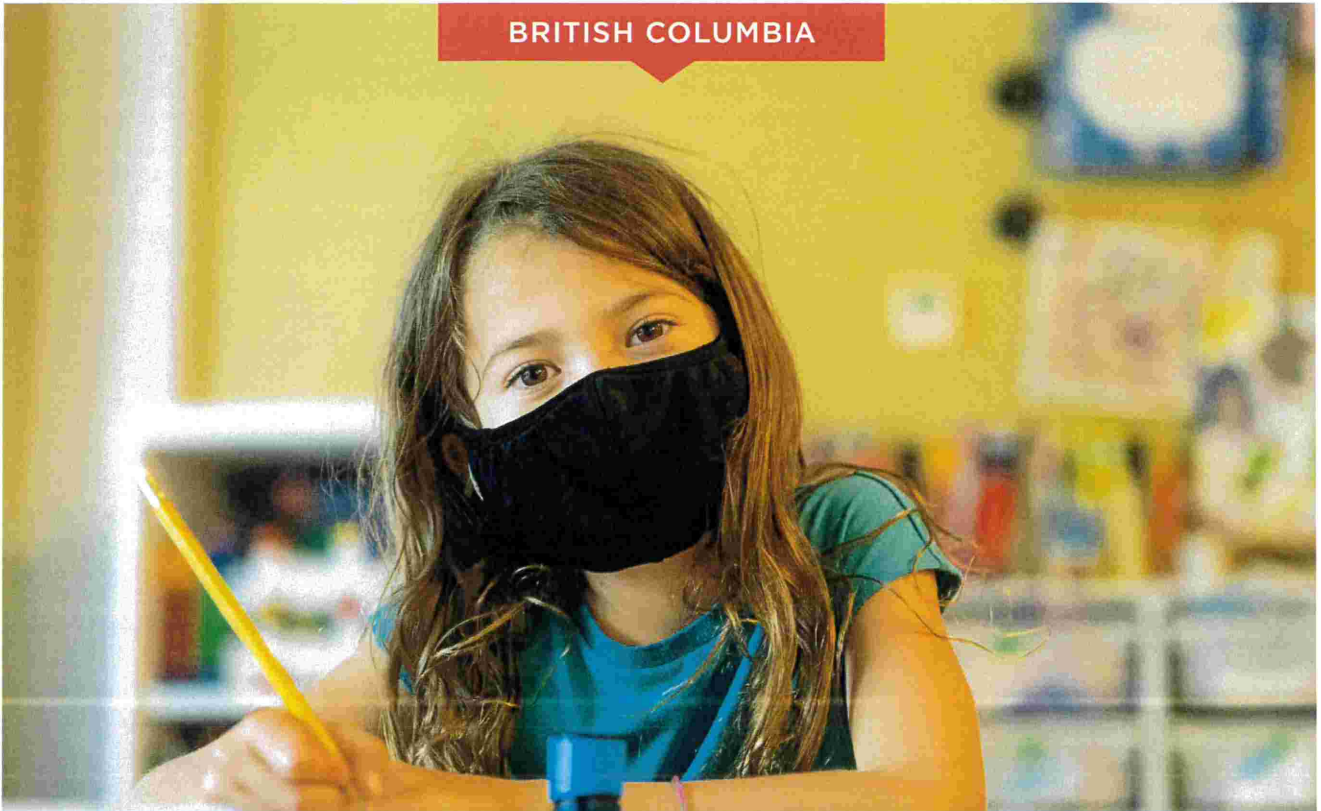
cc: *Client*
Emily Paplawski, *Osler*
Kelly Bourassa, *Blakes*
Deryck Helkaa and Dustin Olver, *FTI Consulting*
Karen Fellowes, *Stikeman Elliott LLP*

THIS IS EXHIBIT "13"
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BRITISH COLUMBIA



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Introduction

BC'S CHILD POVERTY RATE HIGH AND LIKELY TO WORSEN DUE TO PANDEMIC

First Call has been publishing the BC Child Poverty Report Card for twenty-four years. It is profoundly disappointing that in 2018, the most recent year for which data is available, one in five BC children live in poverty. In 2018, there were 159,570 children and youth living in poor households with many living in deep poverty.

This year's BC Child Poverty Report Card is published ten months into the COVID-19 pandemic. Emerging data, personal stories and other reports tell us the economic, social and health impacts of the pandemic on children, youth and families has been profound. The pandemic has amplified pre-existing inequities and poor children and their families have been among the worst affected.

It is profoundly disappointing that our 24th annual BC Child Poverty Report Card still shows one in five (159,570) BC children are poor.

While the data in this report does not reflect the current situation for families, it gives us a good understanding of which children were at greater risk of living in poverty before the pandemic began.

In 2018, poverty was more prevalent among children under six in BC (21.7%) than among children 0 to 17-years-old (18.5%). The 2016 Census data showed visible minority (racialized) children's poverty rates in BC were all higher than the poverty rate for non-visible minorities. Arab, Korean and West Asian children had more than double or triple the risk of poverty compared to non-visible minority children. The Census also recorded a

44.9% poverty rate for new immigrant children in BC.

On-reserve child poverty data in 2018 indicates even higher rates. The child poverty rate on forty-two BC First Nations reserves in 2018 was 40.7%, with at least 3,500 children living in poverty. The child poverty rate was much higher on these rural reserves (51.2%) than on the urban reserves (32.9%), with 1,870 children on rural reserves living in poverty and 1,630 children on urban reserves living in poverty.

The continuing legacy of colonialism is still very apparent in these numbers. First Call also recognizes that reserves do not reflect the larger traditional territories of BC's First Nations where many First Nations children and families live.

And in 2018, the child poverty rate for children in lone-parent families was 50.4%, five times the 10.2% rate for their counterparts in couple families. Most of these families are female-led.

The data also tells us that most poor children live in a household where one or more parents are working. In 2018, just over 38,538 dependent children lived in households receiving social assistance, representing about 24% of BC's poor children that year.

The pandemic has amplified pre-existing inequities and poor children and their families have been among the worst affected. While the data in this report does not reflect the current situation for families, it gives us a good understanding of which children were at greater risk of living in poverty before the pandemic began.

In recent years, both the Canadian and BC governments introduced official poverty reduction strategies. The BC Poverty Reduction Strategy Act, passed unanimously in November 2018, contains a target to reduce the province's child poverty rate by 50% by 2024. This was followed in 2019 by the publication of TogetherBC—British Columbia's Poverty Reduction Strategy. The first annual progress report required under the Act was due to be presented to the Legislature on October 1, 2020 and is expected soon, after the delay caused by the provincial election in October of this year.

We can see that the first full year of an improved Canada Child Benefit in 2017 helped to lift some families out of deep poverty but the incremental improvement to the child poverty rate in 2018 tells us the benefit, as measured by poverty reduction, has stalled. Simultaneously, we have heard from many families who are not receiving the benefit. The federal government must ensure that all families who are entitled to the benefit receive it by reducing barriers related to tax filing and other administrative tests.

We can predict the improved BC Child Opportunity Benefit that families. We hope to see this impact in our 2022 Child Poverty Report Card.

Government can build on emergency COVID-19 measures for youth in and from care. That means providing income and other supports beyond the age of 19 so youth who 'age out' do not become destitute and homeless. By acting on the recommendation in this report to reduce or eliminate child and family poverty, government can also do much more to ensure children are not taken into care because of household poverty.

Governments at all levels must meaningfully collaborate with First Nations, Métis and Inuit governments and Indigenous organizations to develop plans to prevent, reduce and eradicate child and family poverty in Indigenous communities.

While the full and long-term economic effects of the pandemic on children and youth in BC are still not known, we do know that government income benefits are crucial to child and youth well-being along with safe and affordable housing, food security, online access, child care, public education, mental health supports and other social services.

Lifting families out of poverty during COVID-19 and in the subsequent recovery period will require coordinated efforts between all levels of government. This year's Child Poverty Report Card and the impacts of COVID-19 highlighted in stories from struggling families show we still have a long way to go in BC to ensure all children and youth have what they need to thrive.

“There is nothing that is more significantly associated with the removal of children from their families — than poverty.”

— Dr. Mary Ellen Turpel-Lafond

Testimony, National Inquiry into Missing and Murdered Indigenous Women and Girls, October 4, 2018

KATHRYN'S STORY

KATHRYN LIVES ON VANCOUVER ISLAND with her husband and her 13-year-old son, Gabriel. Her son was diagnosed with autism when he was five years old. For many years, her son had teachers who were experienced in supporting children with special educational needs. However, in recent years, her son's teachers have changed and aren't as experienced. She would get regular phone calls from school asking her to pick up her son, including several calls where they told her they had lost her son. Her husband works long hours in a different city, and so can't be at home to help with child care.



“Work would bleed into my personal time. There were no boundaries between the two. I wasn't giving 100% in either my job or parenting. I would work 12+hour days and just make cereal for my child because I didn't have time to cook anything.”

At the start of the pandemic, Kathryn was temporarily laid off from her job. At the same time, she began home-schooling Gabriel as he needs constant support. In July 2020, she was temporarily hired back and struggled to balance her work and caring for her son. A few month's later she decided to resign from her job.

“Work would bleed into my personal time. There were no boundaries between the two. I wasn't giving 100% in either my job or parenting. I would work 12+hour days and just make cereal for my child because I didn't have time to cook anything.”

Initially, Kathryn didn't miss the drop in income. With COVID the family doesn't go anywhere so their expenses are lower. However, they began to experience a series of setbacks. Her husband's car broke down, followed by her laptop, dishwasher and her car. “Things snowball when you don't have any money. I don't have freedom when I don't have any money to fix things.”

The whole situation has impacted her mental health and Gabriel gets more agitated as he senses the tension and anxiety. Even though schools have reopened, she has decided to continue home-schooling Gabriel as she doesn't trust the school to support him. Kathryn would like to see more investment in the education system in BC. She would like standards of practice to be introduced for educational assistants, so that they can better support children like Gabriel.

One in Five BC Children Living in Poverty

BC'S CHILD POVERTY RATES

In 2018, the child poverty rate in British Columbia was 18.5% as measured by Statistics Canada's Census Family Low Income Measure (CFLIM) after income taxes, using taxfiler data. This represents 159,570 or one in five, BC children living in poverty. In 2018, BC (18.5%) had a slightly higher child poverty rate than Canada (18.2%).

1 out of 5

BC children are poor
— higher than the
national average.

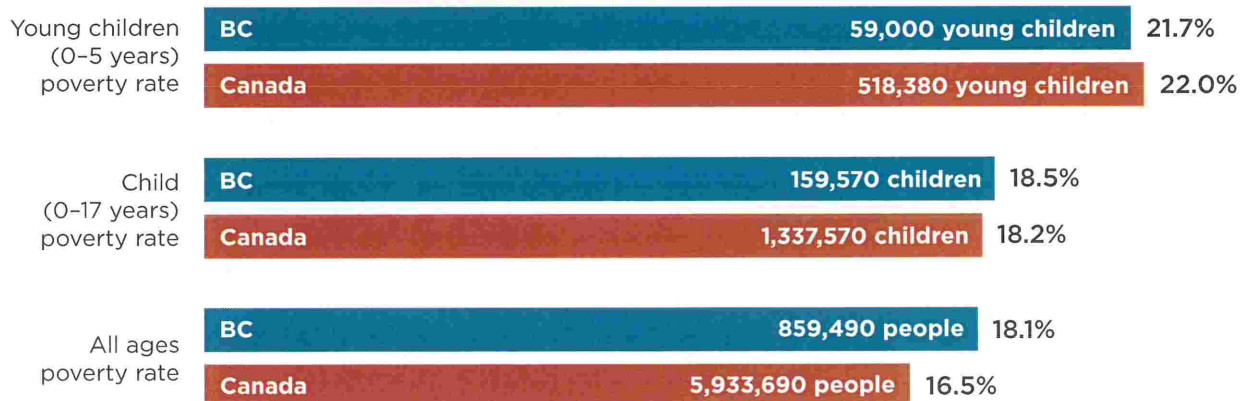


The 2018 rates were down incrementally from 2017 when BC's child poverty rate was 19.1% and Canada's was 18.6%. In 2018 poverty was more prevalent among children under six in BC at 21.7% than among children 0 to 17-years-old at 18.5%.

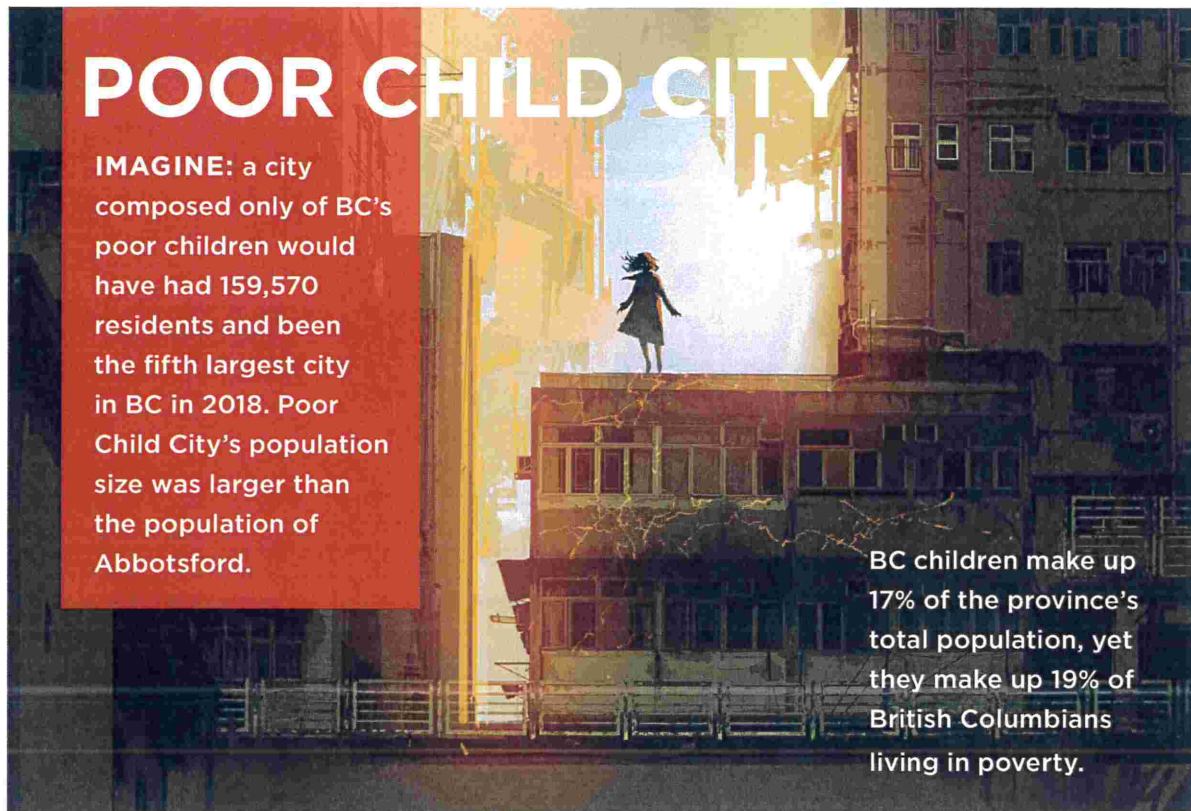
This 18.5% child poverty rate was slightly higher than the poverty rate of 18.1% for BC's overall population. The same was true for the Canadian rates, with a child poverty rate of 18.2% that was higher than the all-ages rate of 16.5%. Child poverty rates remain higher than overall poverty rates in nine provinces and territories, showing how urgently we still need to improve financial and social supports for families with children across the country.

The gap between the all-ages poverty rate and the child poverty rate continued to narrow in nearly all provinces and territories between 2017 and 2018 as child poverty rates declined very slightly. The incremental improvement to the child poverty rate between 2017 and 2018 likely reflects the full impact

All Ages, Child (0-17 years old) and Children Under Age 6 Poverty Rates, BC and Canada, CFLIM After Tax, 2018



Source: Statistics Canada. Table I-13, Community Data Program, 2018



of the first full year of the improved Canada Child Benefit in 2017. In 2018, there were no significant changes to benefits for families with children.

In 2018, just over one third, or 59,000 of BC's poor children were under the age of six. This was an increase of 7,240 young children from 51,760 in 2017 and represented a poverty rate of 21.7% for children under six. The poverty rate for children under six was also higher than the poverty rate for the broader population at 18.1%.

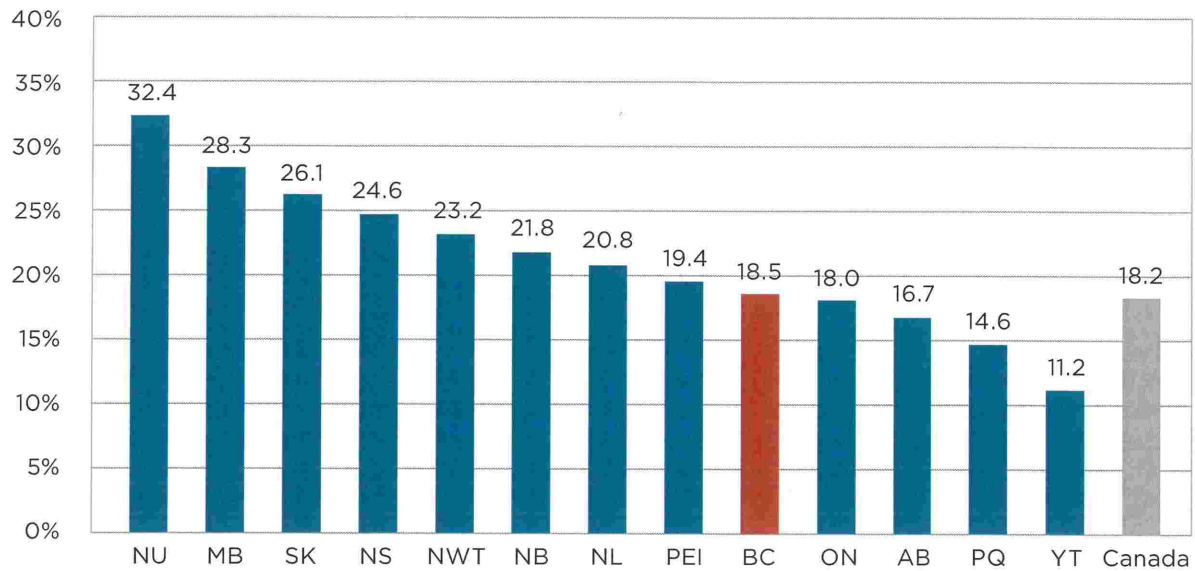
For the under six age group, BC did only slightly better than the Canadian average of 22%. Similar to the previous year, the 2018 BC poverty rate for younger children remained higher than the overall child poverty rate, a worrisome trend, given the importance and sensitivity of child development in the early years.

CHILD POVERTY - A CANADA-WIDE PROBLEM

From coast to coast, child poverty is a Canada-wide problem. British Columbia's child poverty rate of 18.5% was the ninth-highest of Canada's thirteen provinces and territories in 2018, down from eighth highest in 2017, but still a mediocre performance. Ontario, Alberta, Quebec, and the Yukon Territory all had lower child poverty rates than BC in 2018.

The high child poverty rates across Canada demonstrate that the provincial and federal governments still have a lot of work to do to eliminate child poverty.

Child Poverty Rates, by Province/Territory, CFLIM After Tax, 2018



Source: Statistics Canada. Table I-13, Community Data Program, 2018

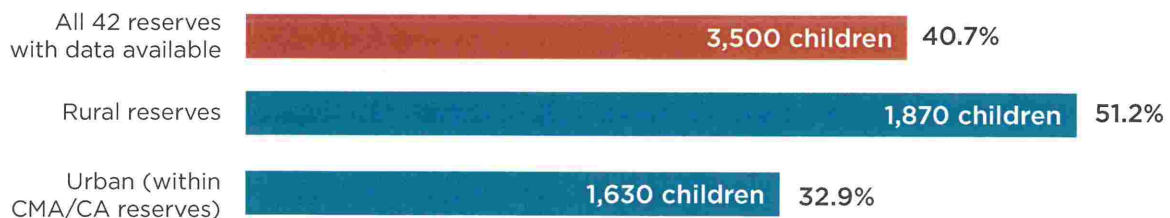
HIGH LEVELS OF ON-RESERVE CHILD POVERTY

As high as the overall rates of child poverty were in British Columbia in 2018, on-reserve child poverty data available this year indicate even higher rates. The following data is based on only 42 First Nations reserves with child poverty data available through taxfiler data. There were many First Nations reserves in BC without child poverty data available.

The child poverty rate on forty-two BC First Nations reserves in 2018 was 40.7%, with at least 3,500 children living in poverty. The child poverty rate was much higher on rural reserves (51.2%) than on urban reserves (32.9%), with 1,870 children on rural reserves living in poverty and 1,630 children on urban reserves living in poverty.

The continuing legacy of colonialism is still very apparent in these numbers. First Call also recognizes that reserves do not reflect the larger traditional territories of BC's First Nations.

Child (0-17 year old) poverty rate, 42 BC First Nations reserves, CFLIM-AT, 2018



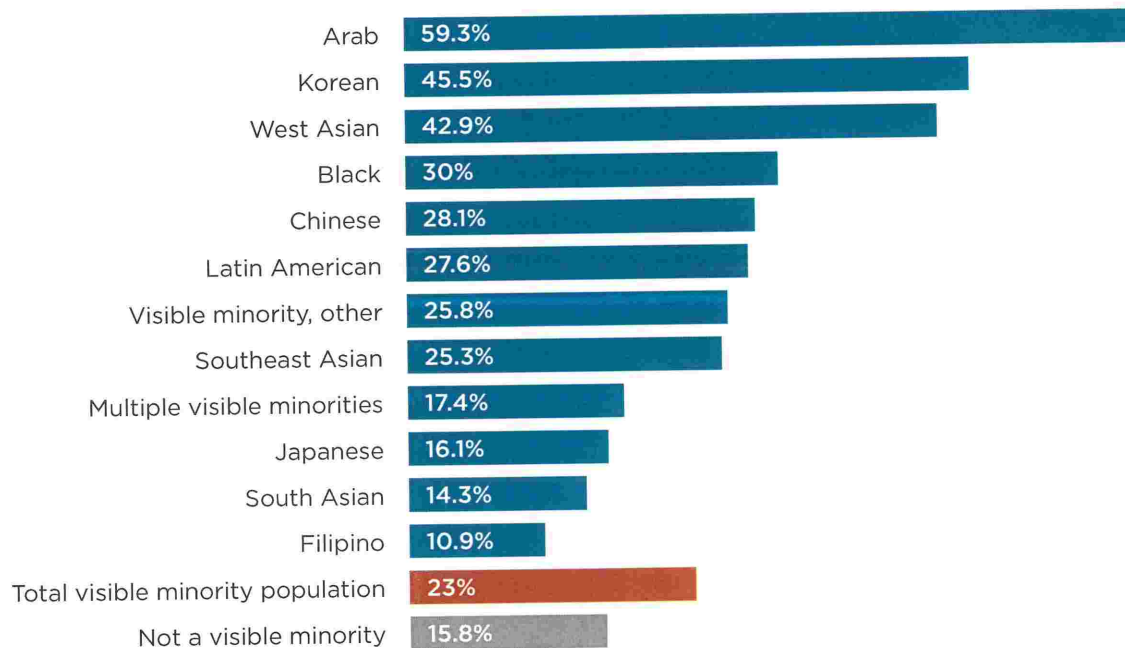
Source: Statistics Canada. Table I-13, Community Data Program, 2018

SOME CHILDREN ARE AT MUCH HIGHER RISK OF GROWING UP IN POVERTY

As the data above on child poverty on First Nations reserves shows, the overall child poverty statistics hide the fact that some children in BC are more at risk of living in poverty than others.

2016 Census data based on the LIM after tax measure showed that most visible minority (racialized) children's poverty rates in BC were higher than the poverty rate for non-visible minorities. Arab, Korean and West Asian children had more than double or triple the risk of poverty compared to non-visible minority children. The census also recorded a 44.9% poverty rate for new immigrant children in BC.

BC Child Poverty Rates For Different Population Groups



Source: Statistics Canada. 2016 Census



Most visible minority (racialized) children's poverty rates in BC were higher than the poverty rate for non-visible minorities.

PHOTO JACOB LUND/NOUN

BC's Child Poverty Rates Over Time

PERCENTAGE OF POOR CHILDREN OVER TIME

It's been thirty-two years since the House of Commons made a unanimous commitment to end child poverty by the year 2000. In 1989, the child poverty rate was 22.0% in Canada and 21.9% in BC. In 2000, BC's child poverty rate reached a thirty-year high at 27.6%.

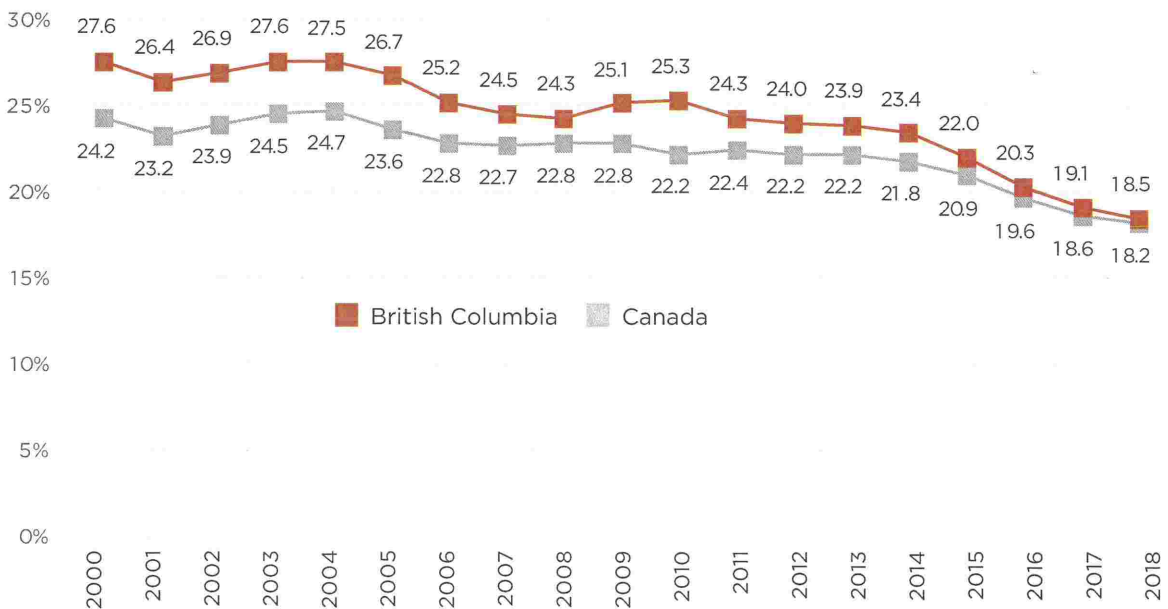
It is encouraging to see there has been a particularly strong decrease in the number of children living in poverty in recent years, including a decrease from 23.4% in 2014 to 18.5% in 2018—34,800 fewer children living in poverty in BC. We know that families benefited from improved government income supports including the Canada Child Benefit starting in 2016.

BC's child poverty rate from 2000 to 2018 remained consistently higher than the Canadian average.

For every year out of the past nineteen years (2000-2018), British Columbia has had a higher child poverty rate than Canada, based on the Census Family Low Income Measure (CFLIM), after tax. However, the gap between the two poverty rates has been narrowing. In 2018, BC's child poverty rate was only slightly higher than Canada's rate. This is the smallest gap between the federal and provincial rates during the 2000-2018 period.

While progress has been made, one in five children in BC were still living in poverty in 2018. There is much work to be done to fulfill our obligation to children and their families and to meet poverty reduction targets.

Child Poverty Rates, Canada and British Columbia, CFLIM After Tax, 2000-2018



Source: Statistics Canada. Table 11-10-0018-01

NUMBER OF POOR CHILDREN OVER TIME

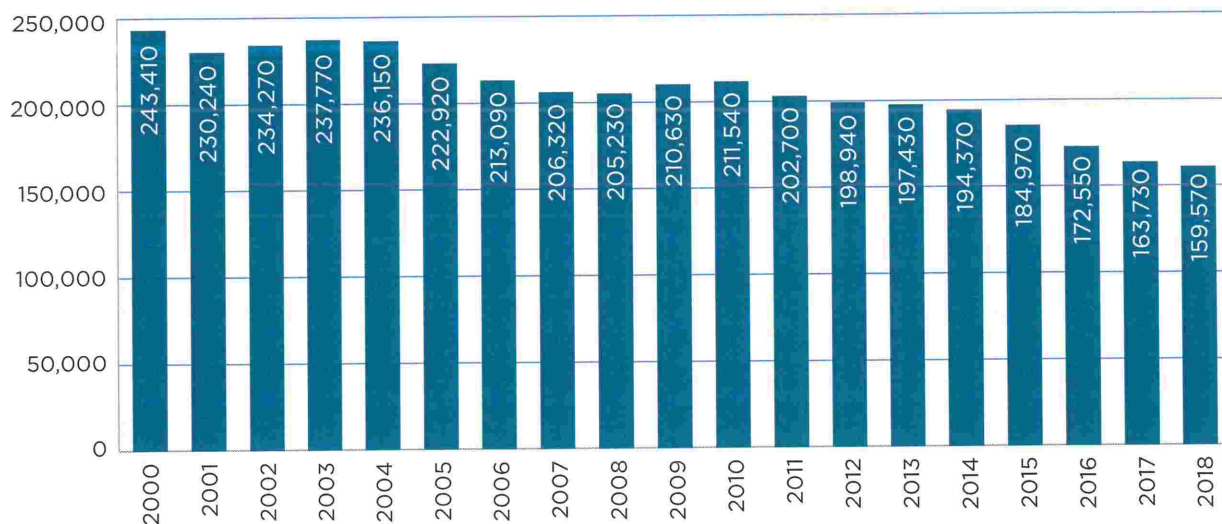
The number of poor children (0-17 years old) in British Columbia, based on the Census Family Low Income Measure (CFLIM), after tax, declined every year from 2010 to 2018. However, the number of BC children living in poverty in 2018 remained unacceptably high at 159,570.

There were 4,160 fewer children living in poverty in 2018 than in 2017. This falls short of the decrease of 8,820 fewer poor children from 2016 to 2017. In 2018, the BC government committed to reducing child poverty by 50% over the next five years using 2016 as the base year. Assuming the rate of reduction in child poverty between 2017-2018 continues, it would take many more years to reach the goal of reducing child poverty by half and that's before the onset of COVID-19.

The number of children living in poverty in BC has decreased by 83,840 children in the past 18 years, but the rate of child poverty in the province is still 1 in 5 children.

In order to meet government's target, the rate of decline in child poverty must almost quadruple in 2019 and in each of the next three years.

Number of poor children, British Columbia, based on CFLIM-AT, 2000-2018



Source: Statistics Canada

EARLY CHILDHOOD DEVELOPMENT TRENDS IN BC

The Human Early Learning Partnership's 2016-2019 Wave 7 Early Development Instrument (EDI) Report shows increasing vulnerability among young children over the last fifteen years, trending from 29.9% in the 2004-2007 Wave 2 report to 33.4%. The report noted that "half of childhood vulnerability on the EDI can be explained by socio-economic characteristics." This includes factors like income and wealth.¹



¹ Human Early Learning Partnership. EDI BC. Early Development Instrument British Columbia, 2016-2019 Wave 7 provincial report. Vancouver, BC: University of British Columbia, Faculty of Medicine, School of Population and Public Health; 2019 Nov. http://earlylearning.ubc.ca/media/edibc_wave7_2019_provincialreport.pdf

BC Child Poverty by Family Type

CHILD POVERTY IN LONE-PARENT AND COUPLE FAMILIES

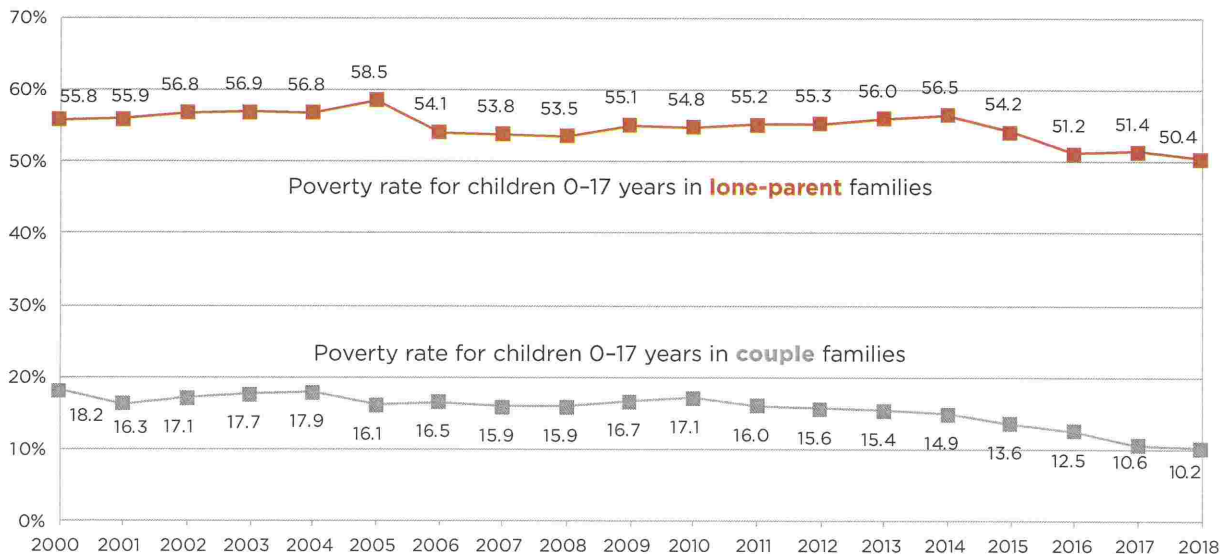
Children in lone-parent families in British Columbia have consistently suffered much higher poverty rates than their counterparts in couple families. For the past eighteen years (2000-2018), more than half of all children in lone-parent families in BC have lived in poverty. In 2018, the child poverty rate for children in lone-parent families was 50.4%, five times the 10.2% rate for their counterparts in couple families.

Over these last eighteen years, there has been more success in reducing child poverty rates among children in couple families in BC than in lone parent families: the child poverty rate among children in couple families decreased by 8 percentage points between 2000 and 2018 (from 18.2% to 10.2%), while the child poverty rate among children in lone parent families decreased by only 5.4 percentage points (from 55.8% in 2000 to 50.4% in 2018).

One in every **two** BC children of single parents were poor in 2018.



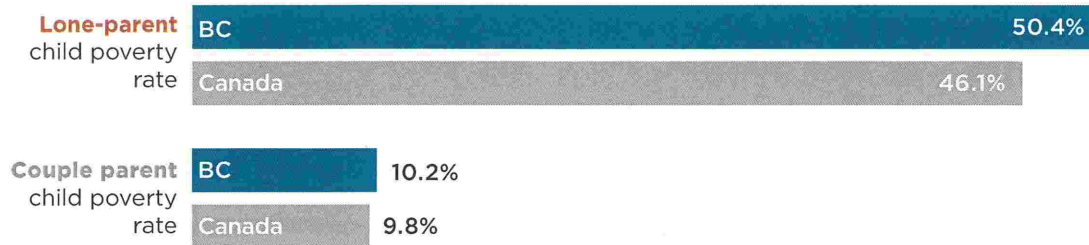
Child Poverty Rate by Family Type, CFLIM-AT, British Columbia, 2000-2018



Source: Statistics Canada, Table 11-10-0018-01, 2018

BC's child poverty rate did decrease slightly between 2017 and 2018 for both children in couple families (from 10.6% to 10.2%) and children in lone-parent families (from 51.4% to 50.4%). Yet in 2018, BC's child poverty rates were still higher than Canada's for children in both these family types, as illustrated in the following graph.

Child Poverty Rates by Family Type, Canada and BC, CFLIM, After-Tax, 2018



Source: Statistics Canada: Table: 11-10-0018-01

PROPORTIONS OF BC CHILDREN IN DIFFERENT FAMILY TYPES

While only one in five children (20%) in British Columbia were in lone-parent families in 2018, over half (55%) of all children living in poverty in BC were in lone-parent families. In 2018, there were 84,430 poor children in lone parent families in BC, compared with 70,070 poor children in couple families. Between 2017 and 2018 there was a small decrease in the number of poor children in both couple and lone-parent families in BC: 2,000 fewer in couple families and 2,260 fewer in lone-parent families.

Proportion of BC Children 0-17 in Couple Families and Lone-Parent Families, 2018



Source: Statistics Canada, Table 39-10-0041-01, 2018

While the poverty rate for BC children in lone-parent families overall was 50.4% in 2018, the rates varied widely depending on family composition and location. The poverty rate for BC children in large (3+ children) lone-parent families in 2018 was extremely high at 59.3%. Child poverty rates for children in lone-parent families across 26 BC cities and towns ranged from a low of 43.4% in Victoria to a high of 60.4% in Prince Rupert, a dramatic 17 percentage point difference. The 10.2% provincial poverty rate for children in couple families in 2018 included a range from 5.1% in Cranbrook to 13.5% in Port Alberni, an 8.4 percentage point difference.

The 5,070 BC children under 18 who were not living in census families in 2018 had the most challenging situation of all, with a poverty rate of 99%. While the data definition indicates “they may be living with a family to whom they are related or unrelated, or living alone or with other non-family persons,” we know very little about the children, or likely youth, captured in this statistic.

INCOME INEQUALITY IN MEDIAN INCOMES BY FAMILY TYPE

Income inequality among different family types can be measured in several ways. Lone-parent families had a median after-tax annual family income of \$45,230 in BC in 2018, just over half (55%) of the median after-tax family income of \$82,990 for couple families with children. Poor lone-parent families had a median after-tax family income of only \$20,820 in 2018, more than \$24,000 less than the median annual incomes of all lone-parent families. The gap was even larger for poor couple families who had a median after-tax family income of only \$23,660, over \$59,000 less than the median income of all couple families in BC. The median income of poor couple families with children in BC was also the lowest of all provinces for this family type.¹



WOMEN'S POVERTY

In BC in 2018, 81% of lone-parent families were female-led. These families' median annual income was \$44,590, just 68% of the male lone-parent median income of \$65,440. For many lone mothers, the difficulty of finding affordable quality child care — so they can sustain employment — remains one of the most common obstacles that leaves them raising their children in poverty.

Source: Statistics Canada. Table 11-10-0011-01

BIANCA'S STORY

BIANCA LIVES ON INCOME ASSISTANCE with her two young children in Vancouver. She spent her early years in foster care, but from age 4 she lived with her mother and sister, eventually becoming a three-generation family living together in her mother's small apartment. This summer, her mother passed away and Bianca couldn't keep the apartment. Desperate, she said, “I power called BC Housing as I didn't want to become homeless.” Bianca succeeded in getting a new apartment. She uses a foodbank to get necessities for her children. She found that during the COVID-19 lockdown, essentials such as diapers and wipes got more expensive because grocery stores were pushing up prices. Bianca worries about the impact that isolation is having on her children who have spent a lot of time indoors, since their summer programs were cancelled. She would like government to provide support for low cost internet access. “Everything is on the internet these days.”

¹ Median income data from Statistics Canada Table: 11-10-0017-01 and Table: 11-10-0020-01.

Depth of Family Poverty

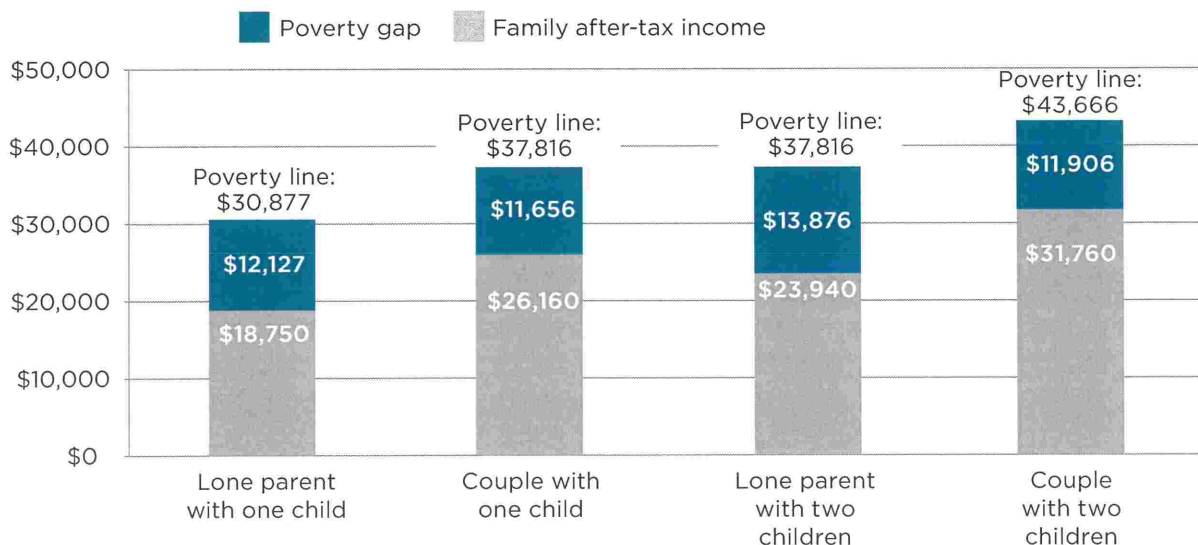
POOR BC FAMILIES LIVING FAR BELOW THE POVERTY LINE

Living at the poverty line is a challenge, but many poor families actually live far below the poverty line.

Not only were many families with children in BC living in poverty in 2018, these families were typically living far below the poverty line, based on the Census Family Low Income Measure (CFLIM) after tax.

- Poor lone parent families with 1 child had a median after-tax income of \$18,750 in 2018 in BC, or \$12,127 below the \$30,877 poverty line for a family of this size. They would have to increase their after-tax income by \$1,011 per month to meet this threshold.
- Poor couple families with 1 child had a median after-tax income of \$26,160 in 2018 in BC, or \$11,656 below the \$37,816 poverty line for a family of this size. They would have to increase their after-tax income by \$971 per month to meet this threshold.
- Poor lone parent families with 2 children had a median after-tax income of \$23,940 in 2018 in BC, or \$13,876 below the \$37,816 poverty line for a family of this size. They would have to increase their after-tax income by \$1,156 per month to meet this threshold.
- Poor couple families with 2 children had a median after-tax income of \$31,760 in 2018 in BC or \$11,906 below the \$43,666 poverty line for a family of this size. They would have to increase their after-tax income by \$992 per month to meet this threshold.

Depth of Low Income for Families in British Columbia, 2018



Source: For median after-tax family income: Statistics Canada. Table F-20 After-tax low income status of census families (census family low income measures, CFLIM-AT) by family type and family composition, adjusted methodology, 2018. For CFLIM Income Thresholds: Statistics Canada. Technical Reference Guide for the Annual Income Estimates for Census Families, Individuals and Seniors, T1 Family File, Final Estimates, 2018. Table G. P.12.

BC's median incomes for all family types in low income were below the Canadian averages in 2018 and the poverty gaps for all family types were larger than the national averages.

IMPACT OF LIVING IN DEEP POVERTY: HOMELESSNESS

In the November 2020 report on the Metro Vancouver homelessness count, a total of 54 children under 19 years of age (2%) and 139 youth between 19 and 24 years (6%) were found experiencing homelessness, for a total of 193 children and youth representing 8% of the homeless population. Compared to 16% in 2017 and 20% in 2014, young people are the only age group where the count results showed a reduction, continuing a decreasing trend. However, youth homelessness is often hidden and likely to be under-counted.

The largest numbers of homeless youth under 25 were found in Vancouver (104), Surrey (33) and Langley (25).

Disturbingly, some children and youth have a much higher chance of becoming homeless than others. 45% of youth under 25 (85 youth) counted in the report were or had been in government care. 53% of Indigenous respondents of all ages indicated they had been in Ministry care as a youth or child, compared to 21% of non-Indigenous respondents. Indigenous people of all ages continue to be vastly overrepresented in the homeless population.

A 2018 Metro Vancouver homeless youth count identified LGBTQ2S youth as overrepresented in the count at 26%. In that report, homeless children and youth reported facing many challenges, including 72% struggling with mental illness, 57% managing some kind of addiction and 52% identifying family conflict as the reason they first became homeless.

In the 2020 count, 29% of respondents reported experiencing homelessness for the first time before age 19; 43% were first homeless before age 25.¹

Disturbingly, some children and youth have a much higher chance of becoming homeless than others. 45% of youth under 25 (85 youth) counted in the report were or had been in government care. 53% of Indigenous respondents of all ages indicated they had been in Ministry care as a youth or child, compared to 21% of non-Indigenous respondents.



¹ 2020 Homelessness Count in Metro Vancouver, Final Data Report, November 2020: <https://www.vancitycommunityfoundation.ca/initiatives/2020-homeless-count>

IMPACT OF LIVING IN DEEP POVERTY: FOOD INSECURITY

According to 2017-2018 Canadian Community Health Survey (CCHS) data, 3.2% of BC households experienced severe food insecurity, 5.5% were moderately food insecure and 3.7% were marginally food insecure, for a total of 12.4%. Due to low welfare benefit rates, 66% of BC households on social assistance were food insecure.

“Food insecurity is more prevalent among households with children than those without children. (...) Among households with children, the risk of food insecurity is much higher for lone parents than couples.”²

In 2017-2018, the highest rates were seen among female lone-parent households, with nearly one third (32%) facing food insecurity. This was three times the 11% food insecurity rate among two-parent households. Overall, 56,100 BC households with children were food insecure.

Addressing child and family poverty is the key solution to high levels of hunger in Canada. Feeding children healthy meals in schools also an important goal. Canada is the only G7 country without a National School Food Program and was recently ranked 37th of 41 countries around providing healthy food for kids.³

Two thirds of households on social assistance are food insecure; but working households make up the majority (65%) of food insecure households in BC.⁴

FOOD INSECURITY

Poverty is the root cause of food bank use. A 2019 study, *Money speaks: Reductions in severe food insecurity follow the Canada Child Benefit*, found that a significant decrease in food insecurity in the lowest income families corresponded to an increase in the Canada Child Tax Benefit.

FOOD BANK USE

In 2019, BC food banks recorded 124,713 visits, including 38,074 visits by children. This represents 30% of food bank users. 14% of the users were currently employed, and another 3% were recently employed.

Of those helped in B.C., 31% were families with children; half were two-parent families and half were lone-parent families.

Source: Food Banks Canada. *Hunger Count 2019*.

In 2019, BC food banks recorded 124,713 visits, including **38,074** visits by children.



2 Tarasuk V, Mitchell A. (2020) *Household food insecurity in Canada, 2017-18*. Toronto: Research to identify policy options to reduce food insecurity (PROOF). Page 10.
3 The Coalition for Healthy School Food, www.healthyschoolfood.ca/bc-chapter.
4 Tarasuk, supra note 2.

Child Poverty and Working Parents

MINIMUM WAGES NOT ENOUGH FOR FAMILIES RAISING CHILDREN

After the lost decade between 2001 and 2011, when BC's minimum wage remained stagnant at \$8.00 per hour, minimum wage has increased in recent years and will reach \$15.20 per hour in June 2021. This is still well below the living wage in most parts of BC, as will be shown later in this document.

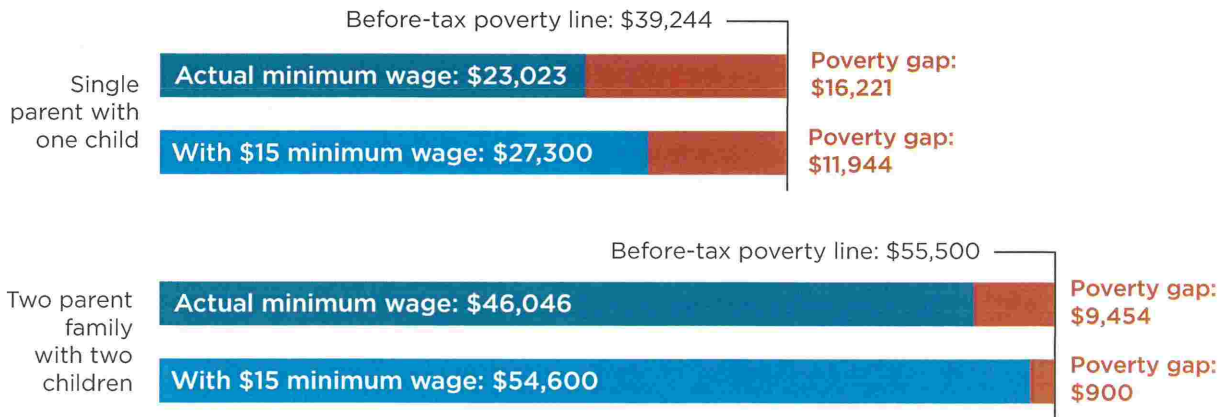
As of June 2018, the minimum wage in BC was \$12.65/hour. A single parent with one child working full-time, full-year at minimum wage would have only earned \$23,023 in employment income, leaving them \$16,221 below the Low Income Measure (LIM) before-tax poverty line of \$39,244, for this family type and size. At the June 2018 minimum wage, the single parent with one child would have had to work a 60-hour week to just to reach the before-tax poverty line minimum threshold.

A \$15-an-hour minimum wage would have made a huge difference for these families.

A two-parent family with two children with both parents working full-time, full-year at the 2018 minimum wage would have earned \$46,046 in employment income, leaving them \$9,454 below the LIM before-tax poverty line of \$55,500 for this family type and size. At the June 2018 minimum wage, both parents in this family would have had to work a 42-hour week to reach the before-tax poverty line minimum threshold.



Before-Tax Employment Incomes for Different Family Sizes and Minimum Wage Levels, Full-Time, Full-Year Work at Minimum Wage, Compared with LIM Before Tax, BC, 2018



Source: Statistics Canada. Table 11-10-0232-01 Low income measure (LIM) thresholds

The BC minimum wage increased in June 2019 to \$13.85 and in June 2020 to \$14.60. These increases have helped to reduce the depth of many working poor families' poverty. However, they have not lifted parents who work minimum wage jobs and their children out of poverty.

A \$15-an-hour minimum wage would have made a huge difference for these families. If the BC minimum wage had been \$15 an hour in 2018, that single parent with one child working full-time, full-year for minimum wage would have earned \$27,300 in employment income, falling \$11,944 short of the poverty line instead of \$16,221 short. That two-parent family with two children with both parents working full-time, full-year for a \$15 an hour minimum wage would have earned \$54,600, putting them only \$900 short of the before-tax poverty threshold, instead of \$9,454 short.

LIVING WAGES

Although a \$15 an hour minimum wage would greatly improve the lives of BC's working poor, it would still be a struggle for families earning this wage to meet their basic living expenses. This is why First Call hosts the Living Wage for Families Campaign to raise awareness about the negative impact of low-wage poverty on families and communities. When employers pay a living wage, they are contributing to a key solution to the problem of child and family poverty. The living wage is well above the poverty line, but still only provides a bare-bones budget without room for savings or paying off debt. It is recalculated annually to take into account family expenses.

Living wage calculations are based on the annual budget a two-parent, two-child family would need to meet their basic needs (food, clothing, child care, shelter, transportation, health care, etc.)¹

As shown in the graph below, in 2018 significant proportions of two-parent families with two children were earning less than the 2018 regional living wage in these nine communities. For instance, in Metro Vancouver one in five (20.9%) of these family types were earning less than the living wage.

Percentage of Two Parent-Two Child Families with Total Incomes Below Regional Living Wages, 2018



¹ CCPA. BC Living Wage 2018. https://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2018/04/BC_LivingWage2018_final.pdf

The Living Wage for Families Campaign has certified 200 Living Wage Employers, including municipalities, non-profit organizations and companies in British Columbia. For up-to-date living wage calculations for BC communities and a list of living wage employers in the province, visit livingwageforfamilies.ca.



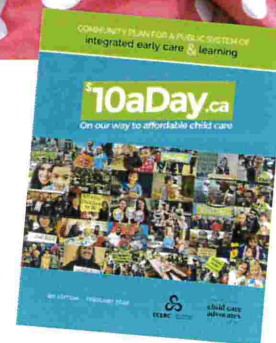
10ADAY PLAN

Access for families to a public system of affordable, high-quality child care is key to an effective poverty reduction strategy. Substantially increased public funding for high quality, affordable, accessible child care that meets diverse family needs is essential to achieving First Call's vision for BC families with young children.

Both the federal and BC governments have been paying more attention to child care in recent years, including a commitment to supporting the Indigenous Early Learning and Child Care strategy led by BC Aboriginal Child Care Society. The BC government is lowering parent fees, raising educator wages and education, creating more licensed spaces and other initiatives.

But too many BC families are still facing high fees, wait lists, inconsistent quality and accessibility barriers. Access to affordable child care is even more urgent now, as families struggle with the economic fallout of the COVID-19 pandemic. The Coalition of Child Care Advocates of BC recommends that the BC government move now to:

- Expand \$10aDay programs province-wide, where families pay a maximum of \$10 per day, with no parent fees for families earning less than \$45,000 annually;
- Shift public funding for child care to the non-profit and public sector as the most efficient way to build new spaces that remain as public assets; and
- Establish provincial wage grids that raise early childhood educators' income levels to solve the recruitment and retention issues in the child care sector.



First Call supports the \$10aDay Child Care Plan which would cost families \$10 a day for a full-time program, \$7 a day for part-time, and no user fee for families with annual incomes under \$45,000.

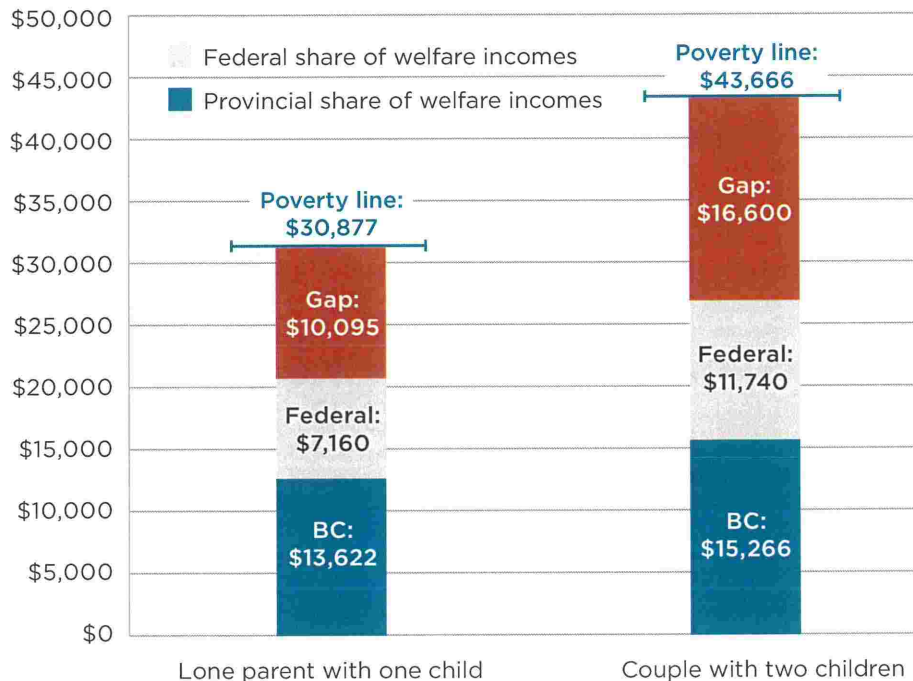
Children in Families on Welfare

WELFARE INCOMES WELL BELOW POVERTY LINES

It continues to be a major struggle for families on welfare in British Columbia to meet their basic needs and welfare incomes have been consistently low for decades. In 2018, welfare incomes in BC were well below the after-tax poverty lines. (Census Family Low Income Measure – After Tax). A single parent with one child had a welfare income of \$20,782, which is \$10,095 below the after-tax poverty line of \$30,877 for a family of this size. A couple with two children had a welfare income of \$27,006, \$16,660 short of the after-tax poverty line of \$43,666 for a family of this size.

Looking across the country, BC had the second lowest annual 2018 welfare income for a couple with two children and the fourth lowest for a single parent with one child.¹ On average in 2018, 38,538 dependent children lived in families receiving welfare each month in BC. This was up slightly from 2017 when the monthly average was 38,044 children and youth in families receiving welfare in BC.²

Federal and Provincial Shares of Welfare Incomes and Poverty Gaps by Family Type in BC, 2018



In 2018, a family of four on welfare had to get by on \$27,006. That's 38% below the poverty line leaving a poverty gap of \$16,660.

Source: *Welfare in Canada*, 2018, Maytree November 2019

1 Anne Tweddle and Hannah Aldridge, *Welfare in Canada*, 2018, Maytree November 2019.
2 Ministry of Social Development and Poverty Reduction BC Employment and Assistance Summary Report, www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/ministries-organizations/social-development-poverty-reduction/bcea-caseload-6page.pdf

In 2018, households with children received an increased in the Canada Child Benefit which rose from a maximum of \$533 to \$541 per month for a child under the age of six and from \$450 to \$457 per month for a child aged between six and 17. Households also received the provincial the BC Early Childhood Tax Benefit, that provided up to \$55 per month for each child under six years. All households were eligible for the GST credit, the BC Sales Tax Credit and the BC Low Income Climate Action Tax Credit. These payments form a significant part of the total income of families on welfare and BC does not deduct them from their welfare benefits.

Both levels of government have a part to play in increasing welfare incomes; for example, the combined federal contribution of \$7,160 and the provincial contribution of \$10,095 for single parent family welfare incomes in BC in 2018 were inadequate for raising these families out of poverty.

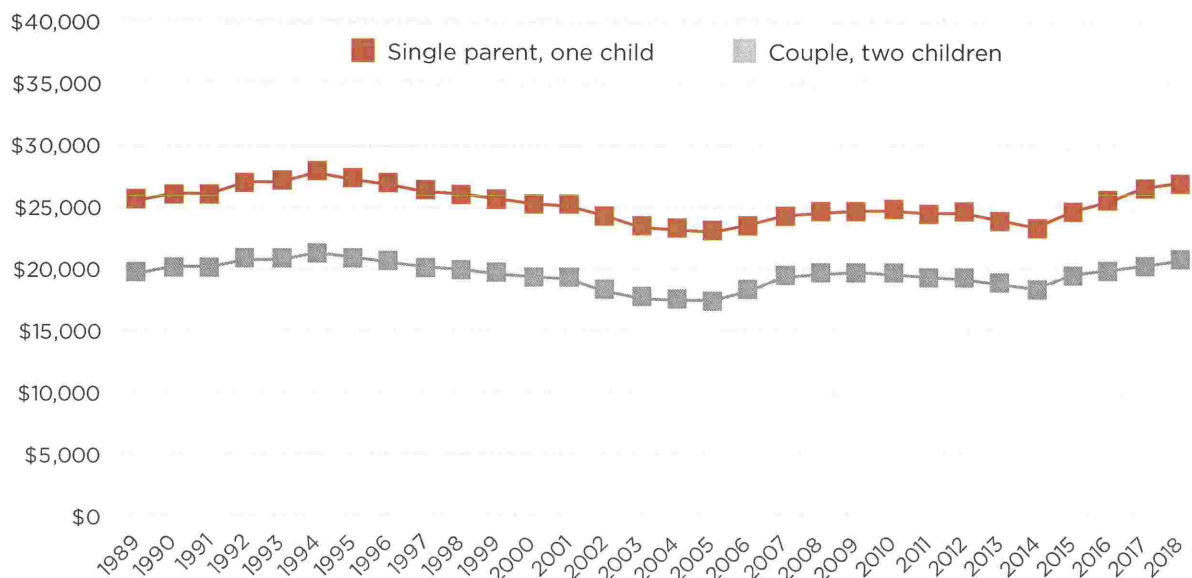
WELFARE INCOMES LOSING VALUE OVER TIME

In 2018, British Columbia was the only province to increase welfare at rates higher than inflation (2.3%) for both a single parent with one child (5.0%) and a couple household with two children (4.0%). In 2018, a single parent with one child received \$20,782 in total welfare income, over \$500 more than in 2017. Total welfare incomes for couples with two children in 2018 were \$27,006, an increase of over \$400 above the rate in 2017. These increases helped reduce the depth of poverty for families with children on social assistance.

The percentage increases for BC families with children were lower than the percentage increases provided for an individual (11.3%) and a single person on disability assistance (13.0%).

However, over the past thirty years (1989–2018), BC’s welfare incomes, which are not indexed to inflation annually, have lost value. The total welfare income for a lone parent with one child was at its highest in 1994 at \$21,283, in 2018 constant dollars, about \$500 more per year than this family received in 2018. Welfare incomes for couple families with two children in 2018 were still about \$800 less than in 1994, in 2018 constant dollars.

Welfare incomes (adjusted for inflation, 2018 constant dollars), by family type, BC, 1989–2018



Source: *Welfare in Canada*, 2018, Maytree November 2019

LOW WELFARE RATES ARE CONDEMNING TENS OF THOUSANDS OF CHILDREN AND YOUTH IN BC TO POVERTY

For most of these families (68%), working is not an option. These families do not fall under the “expected to work” category and have medical conditions, multiple barriers, disabilities and other challenges that prevent them from working. Low welfare incomes are especially tough on single parent families, as 74% of the families with children on welfare were single parent families in 2018. Families living below the poverty line are frequently forced to rely on food banks and other sources of charity to feed and clothe their children.

While government did increase welfare rates in 2018, First Call is calling for continued, significant increases in welfare rates for all recipients, and the annual indexing of the rates based on increases in the cost of living. Government could also expand the Single Parent Employment Initiative to include two parent families and allow people to take post-secondary programs that are longer than 12 months.

NADINE IS A MOM OF THREE CHILDREN, living in the Okanagan. She’s a member of the Métis Nation and is currently on maternity leave from a job in the social services sector.

In early 2020, she gave birth to her third child but unfortunately her marriage ended the following month. Currently, Nadine’s ex-husband is unemployed and is not paying any child-support. Nadine supports her family on her maternity benefits which fall far short of covering the family’s expenses. “I’ve now become one of those single mothers who’s struggling. I never thought it would happen to me.”

NADINE’S STORY

The COVID-19 pandemic meant that the family had to isolate right after the baby’s birth. A big challenge for Nadine is the feeling of isolation and loneliness while going through a stressful divorce. During the summer she drove her children to the beach, as it was a free outdoor activity. However, she is now unable to afford her car and pay for rent and groceries.

Nadine is accessing several family support programs that provide her with grocery gift cards, baby items and an outreach play therapist who drops off home-cooked food and loaned toys. In addition to food, she gets social connection from talking to the therapist. She doesn’t have a home printer so she can’t print referral forms, and without a car can’t make use of food vouchers at distant locations. “For someone who has worked all my life; I’ve never had to ask for help, the most humbling thing is asking for help.”

Nadine is planning to return to work in early 2021 but she’s worried about how she’ll manage as a single parent and pay for child care. Her job requires out of town travel so she will need to hire someone to care for her children, something that she can’t afford. In addition, once back at work she will lose access to legal aid and the lawyer who is helping her through her divorce.

“I’ve now become one of those single mothers who’s struggling. I never thought it would happen to me.”

“I can either choose to pay rent or make sure there’s food on the table. Right now, I am quite behind on my rent and at risk of being evicted. The children are very emotionally distraught and are very angry. They have been isolated as well through it all, not only from school, but from their friends through the pandemic. Families that were really strong are now breaking up. I thought it was just me.”

Child Poverty Across BC

CHILD POVERTY BY REGIONAL DISTRICTS

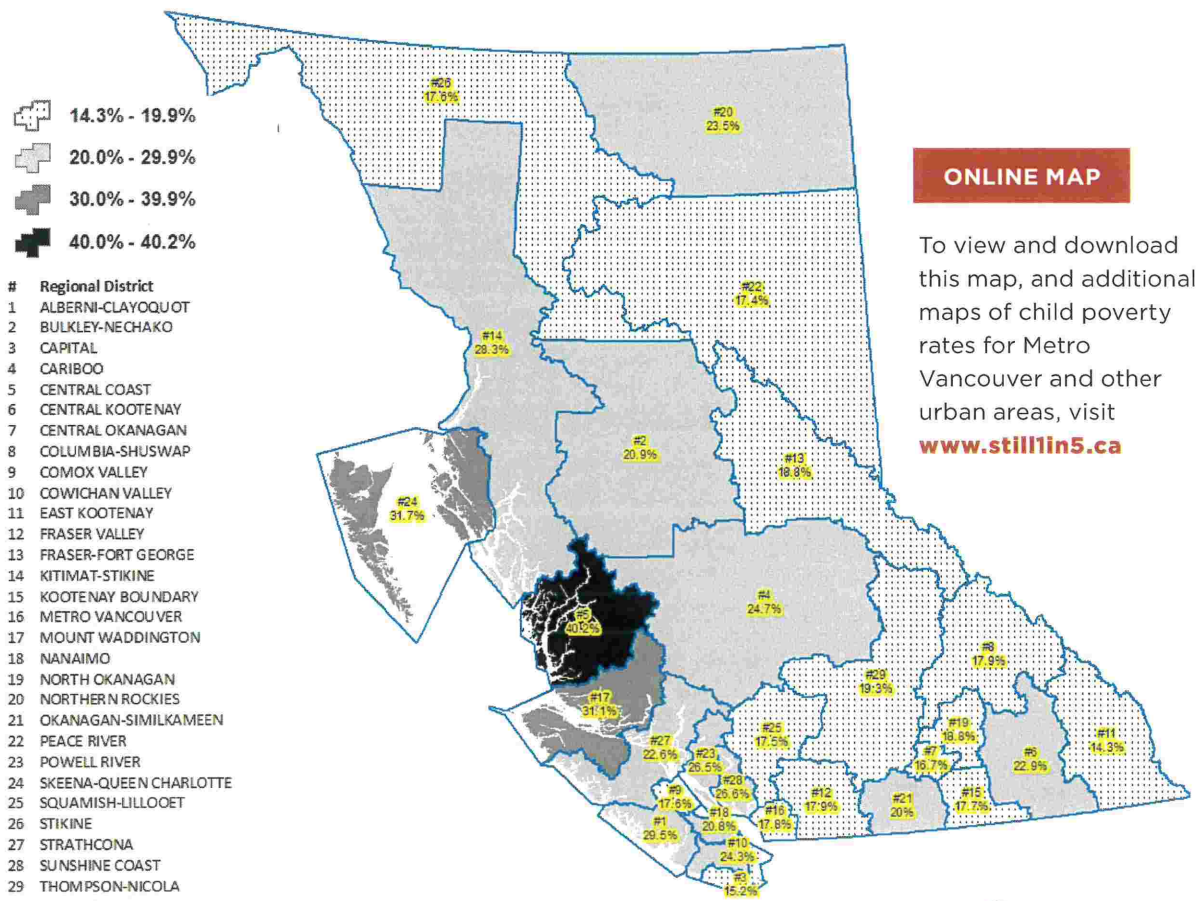
Thousands of children in each of British Columbia's regional districts were living in poverty in 2018

The regional districts with the highest child poverty rates were located along the coastal areas and included:

- Central Coast (40.2%),
- Skeena-Queen Charlotte (31.7%), and
- Mount Waddington (31.1%).

21 out of the **29** regional districts in BC had at least **1,000** children living in poverty.

% of Children 0-17 Years Old in British Columbia in Low Income Families, by Regional District, Based on Census Family Low Income After Tax Measure (CFLIM-AT), 2018



ONLINE MAP

To view and download this map, and additional maps of child poverty rates for Metro Vancouver and other urban areas, visit www.stillin5.ca

Source Data: Statistics Canada
Table 1-13 After tax low income status of tax filers and dependents (census family low income measure, CFLIM-AT) for couple and lone parent families by family composition, 2018

CHILD POVERTY IN BC'S URBAN AND RURAL AREAS

Of BC's urban areas, 16 out of 26 had at least 1,000 children living in poverty in 2018, with especially large numbers in Metro Vancouver (79,280 poor children), the Victoria Census Metropolitan Area (8,690 poor children) and the Abbotsford-Mission Census Metropolitan Area (6,800 poor children).

There were 23,550 poor children living in rural areas in BC in 2018 with 12 out of 26 urban areas showing child poverty rates of 20.0% or more. Urban areas with high rates of child poverty were concentrated along the outer coast and Vancouver Island. The highest child poverty rates were in the Prince Rupert Census Agglomeration (29.1%), the Port Alberni Census Agglomeration (28.7%) and the Duncan Census Agglomeration (26.9%). 23.3% of all children in rural BC lived in poverty.

Of BC's regional districts, 21 out of 29 regional districts had at least 1,000 children living in poverty in 2018. Regional districts on the outer coast and parts of Vancouver Island had the highest child poverty rates with the Central Coast Regional District (40.2%), the Skeena-Queen Charlotte Regional District (31.7%) and Mount Waddington Regional District (31.1%), showing more than three in ten children living in poverty.

Metro Vancouver Census Tracts

There were 79,280 children (or 17.8% of all children) in the Vancouver Census Metropolitan Area (Vancouver CMA) living in poverty in 2018. One in ten or more children lived in poverty in 426 out of 460 Vancouver CMA census tracts (92.6% of Vancouver CMA census tracts). One hundred or more children lived in poverty in 370 out of 460 Vancouver CMA census tracts (80.4%). Areas with clusters of high child poverty rate census tracts included Northeast Vancouver, Central Richmond, South Burnaby and North Surrey.

Metro Vancouver was home to 79,280 poor children in 2018.



ONLINE MAP

To view and download maps of child poverty rates in BC urban areas, visit

www.stillin5.ca

Victoria Census Tracts

There were 8,690 children (or 14.7% of all children) in the Victoria Census Metropolitan Area (CMA) living in poverty in 2018. One in ten or more children lived in poverty in 61 out of 75 Victoria CMA census tracts (81.3% of Victoria CMA census tracts). One hundred or more children lived in poverty in 39 out of 75 Victoria CMA census tracts (52.0%). There was a cluster of high child poverty rate census tracts surrounding Downtown Victoria and southern Saanich.

Abbotsford Mission Census Tracts

There were 6,800 children (or 16.3% of all children) in the Abbotsford-Mission Census Metropolitan Area (Abbotsford-Mission CMA) living in poverty in 2018. One in ten or more children lived in poverty in 33 out of 37 Abbotsford-Mission census tracts (89.2%). One hundred or more children lived in poverty in 31 out of 37 Abbotsford-Mission CMA census tracts (83.8%). The area along South Fraser Way from West Abbotsford to Downtown Abbotsford had some of the census tracts with the highest poverty rates in the Abbotsford-Mission CMA.

Kelowna Census Tracts

There were 5,970 children (or 16.7% of all children) in the Kelowna Census Metropolitan Area (Kelowna CMA) living in poverty in 2018. One in ten or more children lived in poverty in 38 out of 40 Kelowna CMA census tracts (95.0% of Kelowna CMA census tracts). One hundred or more children lived in poverty in 28 out of 40 Kelowna CMA census tracts (70.0%). High child poverty rate census tracts were clustered along Highway 97 from Downtown to Rutland.

Chilliwack Census Tracts

There were 4,610 children (or 19.3% of all children) in the Chilliwack Census Agglomeration (Chilliwack CA) living in poverty in 2018. One in ten or more children lived in poverty in 32 out of 32 Chilliwack CA census tracts (100.0%). One hundred or more children lived in poverty in 18 out of 32 Chilliwack CA census tracts (56.3%). The area around Downtown Chilliwack had a concentration of high poverty census tracts.

Kamloops Census Tracts

There were 3,340 children (or 16.4% of all children) in the Kamloops Census Agglomeration (Kamloops CA) living in poverty in 2018. One in ten or more children lived in poverty in 20 out of 29 Kamloops CA census tracts (69.0%). One hundred or more children lived in poverty in 16 out of 29 Kamloops CA census tracts (55.2%). High child poverty rate census tracts were clustered around Downtown near the Thompson River and the North Shore near Tranquille Road.

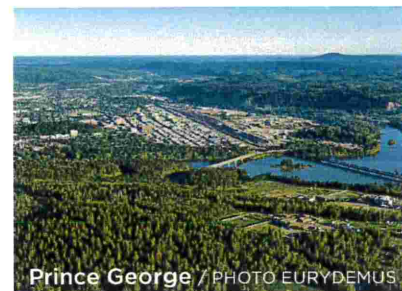
Nanaimo Census Tracts

There were 3,940 children (or 21.0% of all children) in the Nanaimo Census Agglomeration (Nanaimo CA) living in poverty in 2018. One in ten or more children lived in poverty in 22 out of 22 Nanaimo CA census tracts (100.0%). One hundred or more children lived in poverty in 16 out of 22 Nanaimo CA census tracts (72.7%). High child poverty rate census tracts were clustered in and around Downtown Nanaimo.

Prince George Census Tracts

There were 3,430 children (or 18.5% of all children) in the Prince George Census Agglomeration (Prince George CA) living in poverty in 2018. One in ten or more children lived in poverty in 20 out of 25 Prince George CA census tracts (80.0%). One hundred or more children lived in poverty in 13 out of 25 Prince George CA census tracts (52.0%). High child poverty rate census tracts were clustered in and around Downtown Prince George.

3,430 children were living in poverty in Prince George in 2018.



ONLINE MAP

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www.stilltin5.ca

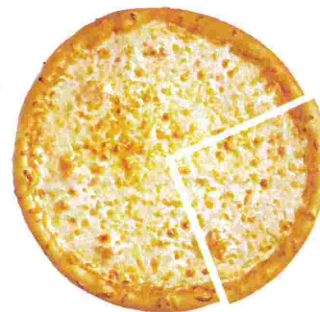
Growing Income Inequality

In 2018, the richest 10% of British Columbia families had 26% of the total pre-tax family income, equal to the combined incomes of the poorest 50% of families. The poorest 10% of families had just 2.3% of the total family income pie. The richest 50% of families held a total of 74% of the family income pie.

BC Average Total Family Income Pie Shares, 2018

10% of BC's richest families have the same share of the income pie as 50% of the lowest income families.

Richest half of BC families' share: **74%**



Poorest half of BC families' share: **26%**

WHY INCOME INEQUALITY MATTERS

There is ample evidence that socioeconomic position is one of the most important social determinants of health. Children who are raised in poverty face risks to their health over their life course.¹ In contrast, healthy, well-supported children and youth are more likely to become the engaged and contributing citizens that are essential for creating a healthy, sustainable society.

International studies have shown that high rates of economic inequality negatively impact both the rich and the poor on a range of health and wellness measures.² B.C. studies also show the impacts of poverty on people's vulnerability to chronic disease and the effects on their life span.³ The vulnerability of children is underscored by the research demonstrating a direct correlation between a large gap between the rich and the poor in wealthy societies and reduced child well-being.⁴

Allowing income and wealth inequality to continue to grow in B.C. brings increased health and social costs related to higher rates of many chronic diseases, obesity, mental illness, suicide, violence and addictions. Beyond these negative health effects and the widespread suffering that accompanies them, growing socioeconomic inequity erodes social cohesion, empathy and compassion, which leads to increased social isolation, stigmatization and marginalization of the poor, distrust, crime, stress and despair.

Inequality reduces social mobility,⁵ undermining the promise of a fair society and increasing social alienation for those left behind.

1 World Health Organization, Commission on Social Determinants of Health, *Closing the Gap in a Generation, Health Equity through Action on the Social Determinants of Health, 2008*.

2 The Equality Trust, [The Spirit Level equalitytrust.org.uk/about-inequality/spirit-level](http://equalitytrust.org.uk/about-inequality/spirit-level).

3 Health Officers Council of BC, 2008 and 2013, healthofficerscouncil.net/positions-and-advocacy/poverty-and-health-inequities/

4 Equality Trust, equalitytrust.org.uk/child-well-being

5 A tale of two Canadas: Where you grew up affects your income in adulthood, *The Globe and Mail*, by Doug Saunders and Tom Cardoso, June 2017, theglobeandmail.com/news/national/a-tale-of-two-canadas-where-you-grow-up-affects-your-adult-income/article35444594/

INCOME INEQUALITY GROWTH OVER TIME: THE RICH ARE GETTING RICHER

Growing income inequality is mainly driven by the growth in the income of the richest families. Between 1989 and 2018, the inflation-adjusted average total incomes for families in all income brackets increased in BC. However, the richest families saw their incomes rise much faster than poorer families. The richest 10% of families saw their incomes increase by \$115,400 (59.4% rate of growth) over these 29 years, while the poorest 10% of families saw their incomes increase by only \$6,700 (31.8% rate of growth). Families in the ninth (second richest) decile saw the second largest percentage rate of income growth (35.9%) and absolute income increases (+\$48,100) during this period.

Of the Canadian provinces, British Columbia has the second largest disparity between its richest and poorest families, behind only Ontario. The richest 10% of BC families collect 11.3 times as much income as the poorest 10% of families.⁶

Changes in Average Total Incomes by Decile Group, Families in BC, in constant 2018 Dollars

Decile	1989	2018	1989 to 2018	
	Average annual income (\$)		Annual income gain (\$)	Rate of income growth (%)
Lowest decile	\$21,100	\$27,800	\$6,700	31.8%
Second decile	\$36,700	\$48,400	\$11,700	31.9%
Third decile	\$51,600	\$62,600	\$12,000	23.3%
Fourth decile	\$63,300	\$78,700	\$15,400	24.3%
Fifth decile	\$75,400	\$94,600	\$19,200	25.5%
Sixth decile	\$87,200	\$110,400	\$23,200	26.6%
Seventh decile	\$100,100	\$127,400	\$27,300	27.3%
Eighth decile	\$115,200	\$148,500	\$33,300	28.9%
Ninth decile	\$133,800	\$181,900	\$48,100	35.9%
Highest decile	\$194,400	\$309,800	\$115,400	59.4%
Total families	\$87,900	\$119,100	\$31,200	35.5%

Source: Statistics Canada. Table 11-10-0192-01, 2018 Upper income limit, income share and average income by economic family type and income decile.

From 1989 to 2018, the richest 10% of families saw their incomes increase by \$115,400 (59.4%), while the poorest 10% of families saw their incomes increase by just \$6,700 (31.8%).



⁶ Statistics Canada. Table 11-10-0192-01 Upper income limit, income share and average income by economic family type and income decile.

Importance of Government Help: Public Policy Matters

GOVERNMENT TRANSFERS REDUCE CHILD POVERTY IN CANADA

Federal and provincial government income support programs play a huge role in reducing child poverty in Canada. Government transfers include payments such as Employment Insurance benefits, Goods and Services Tax Credit (GST) and Harmonized Tax Credit (HST), Federal Child Benefits, Old Age Security and federal supplements, Canada Pension Plan and Quebec Pension Plan benefits, Workers' Compensation benefits, social assistance benefits, provincial refundable tax credits and family benefits, and other government transfers.

In the absence of these types of government transfers to family incomes, Canada's child poverty rate in 2018 would have risen to one out of three.

In the absence of these types of government transfers to family incomes, Canada's child poverty rate in 2018 would have risen to one out of three (33.1%), based on the CFLIM-After Tax. Over two million Canadian children (2,441,890) would have been poor without these government programs and benefits. With federal and provincial transfers, the child poverty rate was reduced by 44.4%, from 33.1% to 18.2%, keeping over a million children out of poverty.

GOVERNMENT TRANSFERS REDUCE CHILD POVERTY IN BC

Without government transfers British Columbia's child poverty rate was 29.2% in 2018. This represented 251,850 children.

Support for low-income families through government transfers in the form of the Canada Child Benefit (CCB), the Canada Workers Benefit and other income transfers made a significant contribution to lifting children out of poverty. The CCB alone reduced the BC child poverty rate by 7.3 percentage points, protecting 63,530 children from falling into poverty.

Government transfers in total lowered the BC child poverty rate from 29.2% to 18.5%, a 36.6% reduction, meaning 92,280 BC children were kept out of poverty in 2018 thanks to government help.

92,280 BC children were kept out of poverty in 2018 thanks to government help.

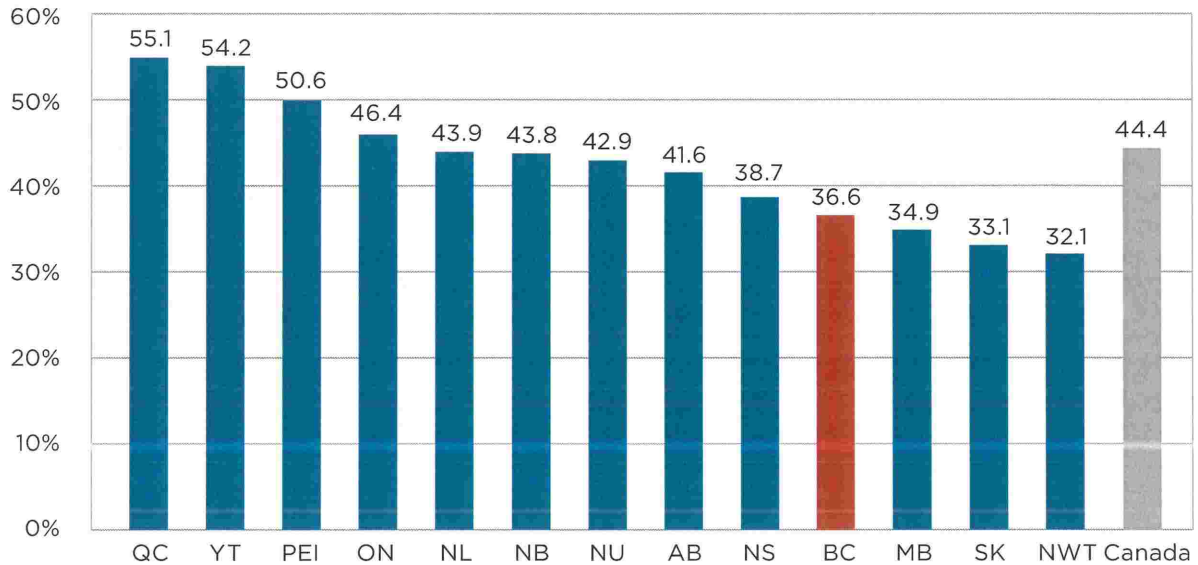


Over **two million** Canadian children would have been poor using family market income alone. With federal and provincial transfers, the number of poor children was lowered to **1,337,570**.

GOVERNMENT TRANSFERS BY PROVINCE – HOW DOES BC COMPARE?

The graph below shows the percentage of children kept out of poverty by government transfers in 2018 in Canada and individual provinces and territories.

Percentage of Children Kept out of Poverty in 2018 by Government Transfer Payments



Source: Statistics Canada custom tabulation, data from T1 Family Files 2018

Although government transfers in British Columbia have helped to reduce poverty, there were still many provinces and territories that used government transfers to make larger reductions in child poverty. The rate of child poverty reduction in BC (36.6%) due to government transfers ranked 10th out of 13 provinces and territories and below the Canadian average of 44.4%.



NEW BC CHILD OPPORTUNITY BENEFIT

Families began receiving the new BC Child Opportunity Benefit this in October 2020. Those already receiving it saw an increase in the amount of their payments. Families with children 6 years and older, who were no longer eligible for the previous BC Early Childhood Tax Benefit, have begun to receive this new benefit because it now includes children up to their 18th birthday.

We will be able to see the impact of this enhanced and expanded benefit in the child poverty statistics for BC when they are released by Statistics Canada in 2022.

The BC government's new BC Child Opportunity Benefit, in effect as of October 2020, should help BC keep its commitment to reduce child poverty by 50% over 5 years, starting in January 2019.

COVID-19 MAGNIFIES INEQUITIES FOR LOW INCOME CHILDREN & YOUTH

“The lessons learned from the COVID-19 pandemic highlight one key factor: children’s most basic rights to life, survival and development are in jeopardy and their best interests must be given paramount consideration in Canada’s recovery efforts.”¹

The economic, social and health impacts of the COVID-19 pandemic on British Columbia’s children, youth and families has been profound. As numerous emerging studies are documenting, pre-pandemic inequities, including the risk of experiencing poverty, are being magnified and deepened.

The full and long-term economic effects of the pandemic on children and youth in BC are still not known or experienced, as emergency income and other supports have helped many families but are due to expire in the coming months. Future child and family poverty data will help paint the picture.

The inequitable impacts of the pandemic on families raising children and on young people themselves are showing up in indicators on job loss and income insecurity, housing insecurity, food insecurity, the digital divide, access to child care, education, health care and other social services, and mental health.

The federal Fall Economic Statement 2020 reports:

The virus has disproportionately spread in low-income and racialized communities. Job and wage losses have been higher among young people, low-income workers, people living with disabilities, and women. Mothers with small children, racialized and newcomer women and the women who often take on the additional burden of unpaid care work, also have reduced access to community services and supports. Lower-wage workers, who were already vulnerable to income shocks given lower savings and reduced access to credit, also lost jobs in disproportionate numbers.²

The federal report also notes that an Oxfam-commissioned survey indicated Indigenous respondents were three times as likely as white respondents to say that increased unpaid care responsibilities had affected their economic opportunities and that they have had to give up looking for paid work.

Survey data from BC is showing the pandemic’s impacts are hitting people of colour harder through disproportionate job losses and financial hardship.³

1 Children First Canada, *Raising Canada 2020: The top 10 threats to childhood in Canada and the impact of COVID-19* (September 2020), p. 7, childrenfirstcanada.org/raising-canada.

2 Supporting Canadians and Fighting Covid-19 Fall Economic Statement 2020, budget.gc.ca/fes-eea/2020/report-rapport/toc-tdm-en.html.

3 CBC. People of colour in B.C. likelier to suffer job loss, financial hardship from COVID-19, survey reveals. [cbc.ca/news/canada/british-columbia/covid-impact-racial-ethnic-backgrounds-1.5686051](https://www.cbc.ca/news/canada/british-columbia/covid-impact-racial-ethnic-backgrounds-1.5686051)

As some of the stories accompanying this report illustrate and other BC reports and surveys corroborate, many families raising children with disabilities and complex medical needs are among those whose economic security is even more threatened due to the loss of access to services, the need to provide 24/7 care for their children without respite and the resulting impacts on their employment.⁴

Children's and youth's access to education, especially the shift to online learning during the pandemic, is strongly mediated by inequities related to family income, along with digital literacy and disability status. This threatens to have long-term impacts on their future employment prospects and earning potential.

All levels of governments in Canada have a duty to make sure their pandemic response and recovery efforts prioritize and protect the rights of children and youth to economic, housing and food security, as well as access to health care, education and other social services. Pre-COVID-19 failures to uphold these basic rights cannot be allowed to continue. Commitments to 'build back better' for young people and to address inequities need to show up in public investments and policy development.

AMY'S STORY

AMY WAS SPONSORED by her partner Brian and moved to Vancouver from Mexico in 2015. Both of her daughters were born in Canada.

Brian is an alcoholic and for many years Amy was scared leaving the marriage would threaten her immigration status. During the pandemic his drinking increased and Amy left him in July 2020. She moved to a transition house and then to second stage housing. She is now renting a room from her sister, who lost her job during the pandemic and is struggling to pay the bills. She shares her bedroom with her two children and the common areas with her sister and family.

Amy would like the government to provide more affordable child care so she can focus on her studies or looking for work.

Amy would like to have her own place, but rent is expensive, and many places don't accept families with children or allow her in a one bedroom flat with three people.

Because of COVID-19, she has lost a lot of connections with friends and community social spaces. To lessen the risk of contracting the disease, she and her children only go outside once a day. "It's more lonely and my kids aren't able to develop their social skills with their friends right now."

Amy's now enrolled in two online courses. However, she struggles to concentrate while looking after her children.

She tries to do her homework and studies late at night, after her children are asleep, but she's too tired to focus. She would like the government to provide more affordable child care so she can focus on her studies or looking for work.

⁴ Representative for Children and Youth of BC. Left Out: Children and Youth with Special Needs during the Pandemic. December 2020. <https://rcybc.ca/reports-and-publications/cysn-report/>

Recommendations: What Needs to Happen

The data and stories in this report document the scope of growing income inequality in British Columbia and the resulting continued high levels of poverty. They also illuminate the causes of child, youth and family poverty and the policy solutions that are available to us to address these root causes.

FIRST CALL RECOMMENDATIONS

First Call has been calling for a 50% reduction in BC's child poverty rate by 2020 for over a decade. In the ten years between 2009 and 2018, the rate has only been reduced by 26%, from 25.1% to 18.5%, using the CFLIM after tax measure and tax filer data. This slow rate of progress is unacceptable and when the effects of the COVID-19 pandemic are accounted for we are likely to see even this progress eroded.

Therefore, it is imperative that federal and provincial government commitments must be ambitious and fully-funded to ensure poverty reduction targets are met or, preferably, exceeded.

We also recognize that children of recent immigrants and refugees, Indigenous children, children of female lone-parent families, children in racialized families, children affected by disabilities, and youth transitioning out of government care are at greater risk of living in poverty, and we call for specific efforts targeted to achieve major reductions in poverty levels for these populations.

First Call offers the following recommendations as concrete steps that federal, provincial and local governments can take to achieve or exceed their stated poverty reduction targets.

- P** The provincial government should make sure all workers in BC are covered by the hourly **minimum wage** by the end of 2021 and establish a permanent Fair Wages Commission with research staff to examine issues related to low wages in BC and to give advice to the government on increases to the minimum wage.
- P** Amend the *Employment Standards Act* to provide all workers, regardless of their employment status (full time, part time, casual) or length of service, with the right to paid **sick leave**.
- F P L** Governments at all levels should ensure their direct and contract employees are paid a **living wage** that allows them to meet their basic needs, properly support their children and avoid chronic financial stress.
- P** The provincial government should significantly raise income and disability assistance rates to bring total **welfare incomes** up to the CFLIM after-tax poverty thresholds and index them to inflation.

Federal and provincial government commitments must be ambitious and fully-funded to ensure poverty reduction targets are met or, preferably, exceeded.

Area of responsibility:

- F** Federal
- P** Provincial
- L** Local

5. **P** Adjust income and disability assistance rates for families with a **child with disabilities** to recognize the additional costs associated with raising a child with extra support needs.
6. **P** The provincial government should expand the **post-secondary program** options eligible for support under the Single Parent Employment Initiative and, in the absence of enhancements to BC's refundable post-secondary grants, allow all those on income assistance to retain benefits while attending a post-secondary institution.
7. **F** The federal government should ensure the **Canada Child Benefit**, in combination with other income measures, raises all families with children above the CFLIM after tax poverty lines calculated through tax filer data and ensure access to this and other federal benefits for families in population groups with higher rates of poverty.
8. **P** The provincial government should index the **BC Child Opportunity Benefit** to inflation to ensure the value of the benefit does not erode over time.
9. **F P** The federal and provincial governments should ensure **maternity and parental leave** benefits are universally available to all parents (regardless of work status) and that the benefit levels are not less than the CFLIM after-tax poverty lines.
10. **F** The federal government should enhance **Employment Insurance** to expand access, duration and levels of benefits to prevent and reduce child and family poverty.
11. **F P** The federal and provincial governments should address growing income inequality and generate revenue for poverty reduction programs by eliminating or reducing highly regressive and expensive **tax loopholes**, closing tax havens, taxing extreme wealth and implementing excess profit tax focused on corporate pandemic windfalls.
12. **F P** The federal and provincial governments should collaborate with First Nations, Métis and Inuit governments and Indigenous organizations to develop plans to prevent, reduce and eradicate child and family poverty in **Indigenous communities**. The federal government must comply with the rulings of the Canadian Human Rights Tribunal to provide adequate funding for child welfare services on reserve and ensure the full application of Jordan's Principle for First Nations, Métis and Inuit peoples.
13. **P** The provincial government must increase program funding and support for more equitable distribution of available resources to ensure families raising **children with disabilities** and complex medical needs have timely, universal access everywhere in BC to a core suite of early intervention therapies; timely assessments; family respite; health, medical and in-home supports.
14. **F P** The federal and provincial governments should intensify their efforts to help **immigrants and refugees** adjust to life in Canada by enhancing employment assistance, removing long-standing barriers to qualification for professionals trained abroad, making more language training with child care available, and improving employment standards and human rights protections and enforcement.
15. **F** The federal government should immediately cancel all outstanding **refugee transportation** loan debt and cease seeking repayment of transportation costs for all new refugees coming to Canada. This budget adjustment should not reduce the number of refugees targeted for resettlement.

16. **F P** The provincial government should review and enhance supports to **grandparents** raising grandchildren and other kinship care providers. The federal government should allow grandparents on CPP Disability who are raising their grandchildren to continue to receive the CPP children's benefit after they turn 65 and remove administrative barriers to receiving the Canada Child Benefit for kinship care providers.
17. **P** The provincial government should automatically enroll all **young people transitioning out of care** in an income support program that meets their basic living costs.
18. **F P L** The federal, provincial and local governments should scale up their funding to build thousands of new social and affordable rental **housing** units and maintain existing affordable housing stock to reduce the number of families in core housing need and to eliminate homelessness. This should include designating additional housing, created by BC Housing, for youth leaving care so they can find an affordable, safe dwelling as opposed to homelessness.
19. **P** The provincial government should tie **rent control** to the unit to remove the incentive for evictions of current tenants to raise the rent for new tenants.
20. **F P** Both the federal and provincial governments should continue to prioritize new **child care** investments in their 2021 budgets and beyond to establish universal access to a system of high-quality, inclusive child care for BC children and families that has no parent fee for families with annual incomes under \$45,000, creates enough licensed child care spaces for all who choose them, ensures early childhood educators are paid compensation that reflects their education and the importance of the work they do and ensures there are adequate resources and support for the implementation of the Indigenous Early Learning and Child Care Framework.
21. **F P** The provincial and federal governments should contribute funding to establish a universal, cost-shared, healthy **school food program** for all K-12 students that is respectful of local contexts, connected to community and curriculum, health-promoting and sustainable.
22. **P** The provincial government should ensure **K-12 public education** funding is sufficient to mitigate inequalities and to ensure appropriate inclusion of students with diverse learning needs. This includes restoring funding to school districts for special education assistants, lost programming in the arts, libraries, counsellors, school psychologists, custodial services, and deferred maintenance, among other areas that still require urgent attention in future provincial budgets. Schools need additional funds to implement the public health response measures during the pandemic.
23. **F P** The federal and provincial government should create universal **access to post-secondary** education by eliminating tuition fees.
24. **F P** The provincial and federal governments should work with industry to ensure lower income families and youth have **access to technology** (both hardware and internet access) so that they are able to apply for financial assistance and access other supports.
25. **F P** The federal and provincial governments should work together to introduce universal coverage for all Canadians for prescription drugs, dental care, eye care and hearing aids as essential aspects of **health care**.
26. **P** The provincial government should increase investment in public health initiatives aimed to support maternal health and healthy infant development, as well as non-barriered, free, community-based programs and **services for all families** with young children to ensuring these supports are available throughout the province and designed to reach families experiencing poverty and other threats to their ability to thrive.

APPENDIX 1

MEASURING POVERTY REDUCTION

When announcing legislated poverty reduction goals in 2018, both the federal and BC governments set the Market Basket Measure (MBM) as the official poverty line. The MBM sets an absolute measure of material deprivation for a reference family of 4, 2 parents and 2 children ages 9 and 13.

The Census Family Low Income Measure (CFLIM) after tax captures income inequality which makes it a better predictor of child development and health outcomes. This is why the international community, including UNICEF and the OECD, use the LIM and why Campaign 2000 and its provincial partners have historically used the CFLIM in our Child Poverty Report Cards, and continue to do so.

In 2018, using the CFLIM and more comprehensive taxfiler data, there were 159,570 children living in poverty in BC. Using the recently updated MBM and Canadian Income Survey data, there were 90,000. Survey data relies on a representative sample of respondents, which is acknowledged to risk under-reporting the disposable incomes of both the very wealthy and the very poor. The MBM calculation also currently excludes people living on First Nations reserves and in the Territories.

First Call encourages government to avoid politicizing child poverty by overstating improvements in the poverty rate. Indeed, we agree that both levels of government have established better public policies—income transfers in particular—that have benefited children and their families. Evaluating the outcomes of policy initiatives becomes difficult when different methods of measurement and data sources produce conflicting results.

The following chart contains the Census Family Low Income Measure, after tax used in this report card for different family sizes based on the number of adults and children in each family type.

Statistics Canada's 2018 Thresholds for After-Tax Census Family Low Income Measure (CFLIM)

Number of family members	Income threshold
1	\$21,833
2	\$30,877
3	\$37,816
4	\$43,666

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JOIN THE FIRST CALL COALITION

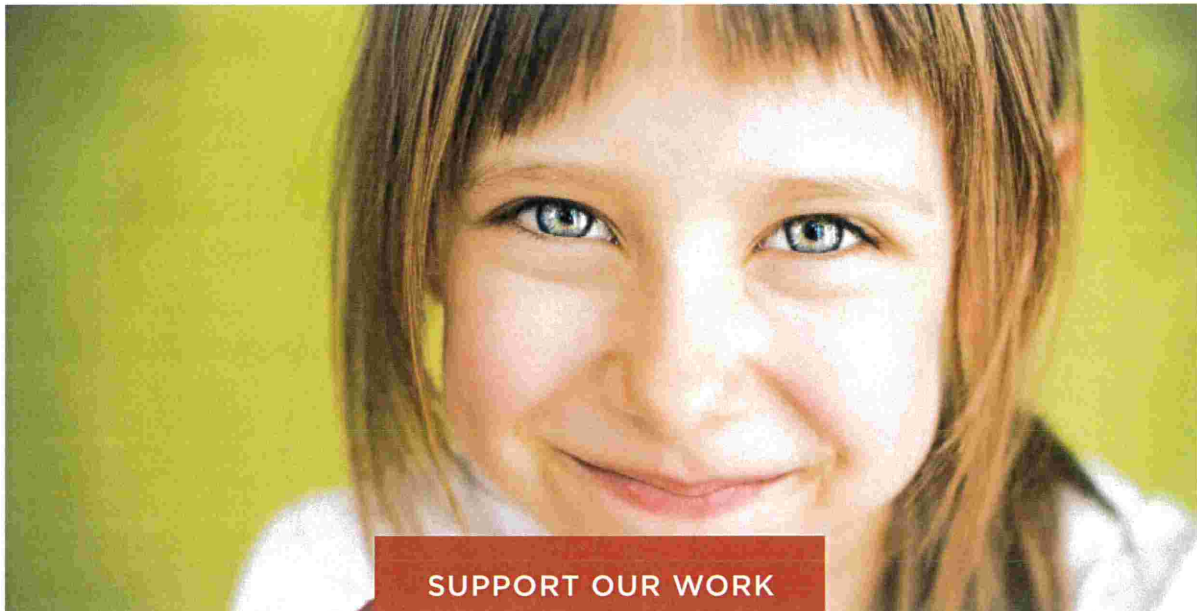
If you are a British Columbia-based organization that believes in putting children and youth first, we invite you to join the First Call coalition.

We offer members the opportunity to be a part of a strong and effective cross-sectoral coalition of provincial and regional organizations who put children and youth first through public education, community mobilization and public policy advocacy. First Call coalition members are united in their commitment to the 4 Keys to Success for Children and Youth, which we welcome you to explore here: firstcallbc.org/about-us/our-approach

Together in the First Call coalition, we share information, provide our members with tools and resources and advocate collectively for BC's children and youth.

If you are interested in joining our coalition, see the **member registration form** at firstcallbc.org/our-coalition/join-the-coalition.

For more information, please **email us** at info@firstcallbc.org and we'll be in touch shortly.



First Call's annual Child Poverty Report Cards have helped countless individuals & groups like YOU advocate for BC's children & youth.

Help support our work by making a **donation** at firstcallbc.org



First Call: BC Child and Youth Advocacy Coalition is a non-partisan coalition of over 100 provincial and regional organizations who have united their voices to **PUT CHILDREN AND YOUTH FIRST** in BC through public education, community mobilization and public policy advocacy.

OUR VISION is that all BC's children and youth have the rights, opportunities and resources required to thrive.

First Call's work is guided by the **4 KEYS TO SUCCESS** for children and youth:

1. A strong commitment to early childhood development
2. Support in transitions from childhood to youth to adulthood
3. Increased economic equality
4. Safe and caring communities

First Call puts children and youth first through **3 STRATEGIES**:

1. **Public Education:** First Call works to raise the public profile of child and youth issues through public education, including our weekly child and youth sector newsletter, public presentations, regular media commentary, and the publication of research reports.
2. **Community Mobilization:** First Call works to mobilize local and provincial support for children and youth through coalition and Early Childhood Development Roundtable meetings, campaigns for public policy changes, and developing advocacy tools.
3. **Public Policy Advocacy:** First Call advocates for public policies and the allocation of resources for the benefit of children and youth through annual provincial and federal budget submissions, regular correspondence and dialogue with government decision-makers, producing this annual BC Child Poverty Report Card and by hosting the Living Wage for Families Campaign.

First Call's charitable activities are hosted by the Vancity Community Foundation.

putting children and youth first

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604-709-6970 Toll free 1 800 307 1212 info@firstcallbc.org firstcallbc.org

THIS IS EXHIBIT "14"
REFERRED TO IN THE
AFFIDAVIT OF ROBERT
BOOKER SWORN THE 21 DAY
OF MAY, 2021.



YU (ROY) LOU
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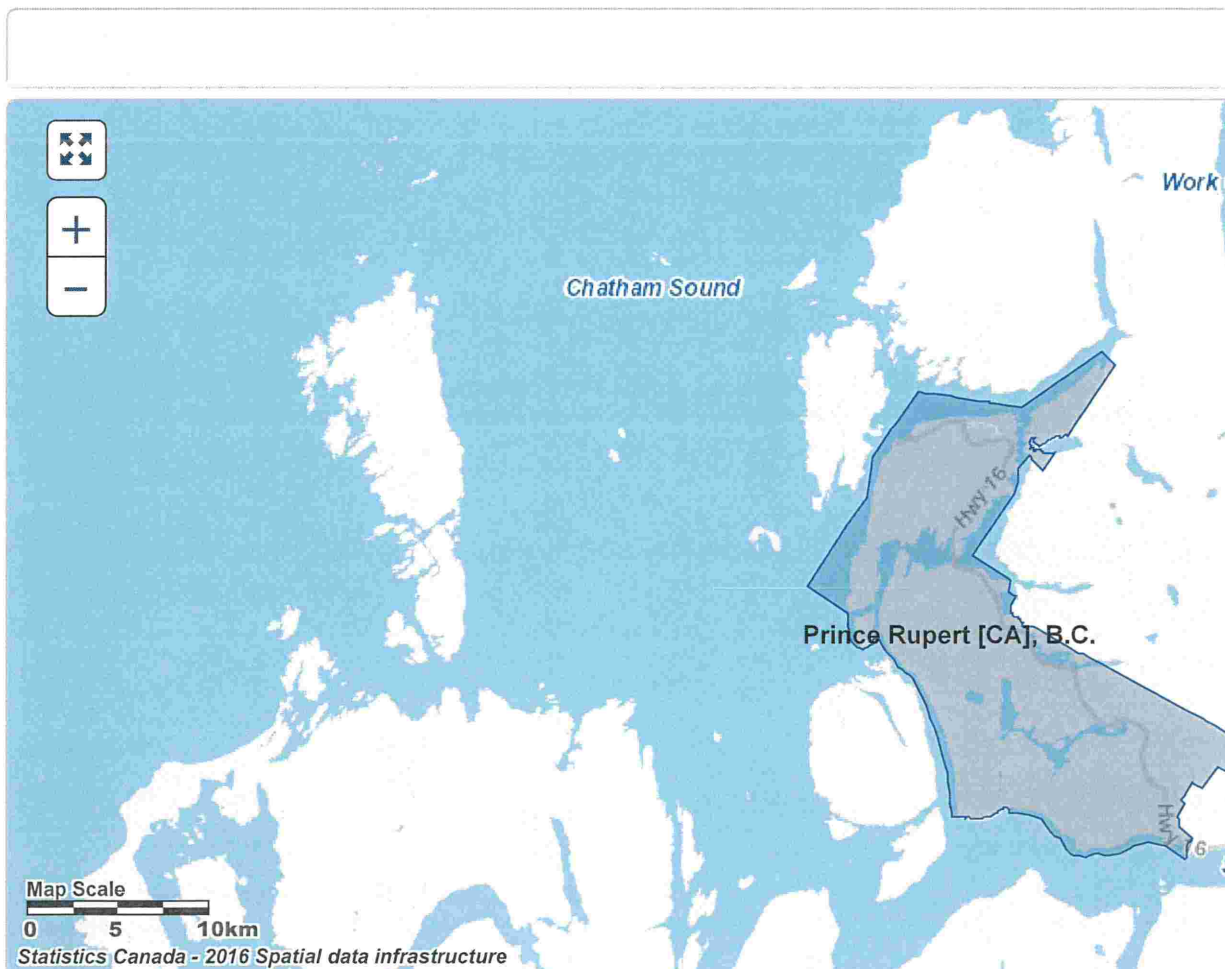
[Home](#) > [Census Program](#) > [Data products, 2016 Census](#)

> [Focus on Geography Series](#) > Census agglomeration of Prince Rupert

Focus on Geography Series, 2016 Census

Prince Rupert, (CA (Census agglomeration)) - British Columbia

 [Data quality](#)



Displayed boundary: Census metropolitan areas or census agglomerations
Geographic area selected: Prince Rupert [CA], B.C.

Median income of households

- In 2015, the median total income of households in Prince Rupert was \$73,421, a change of 23.2% from \$59,611 in 2005¹.

Figure 1.1 description

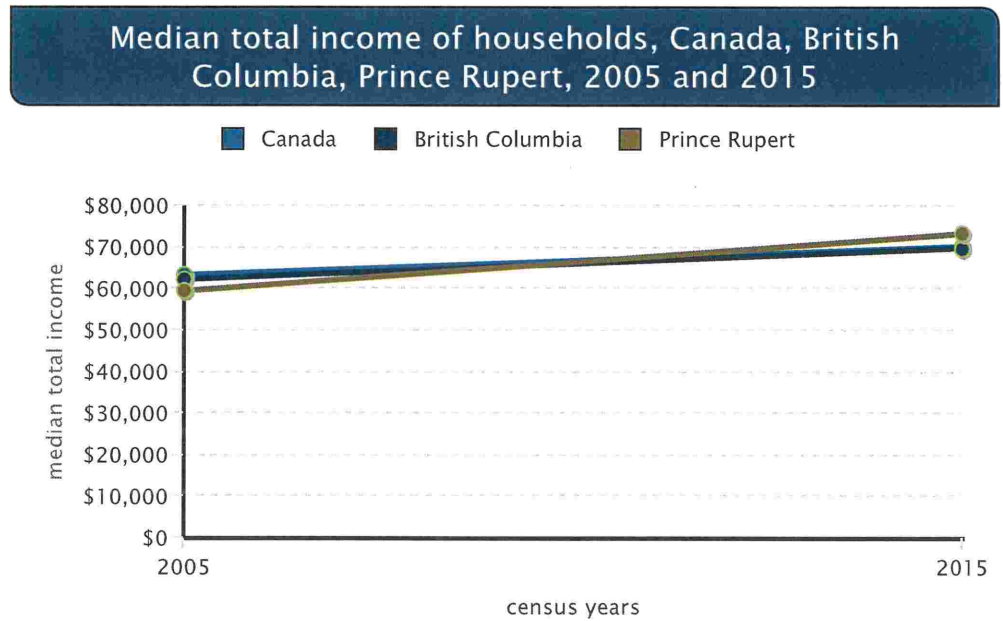
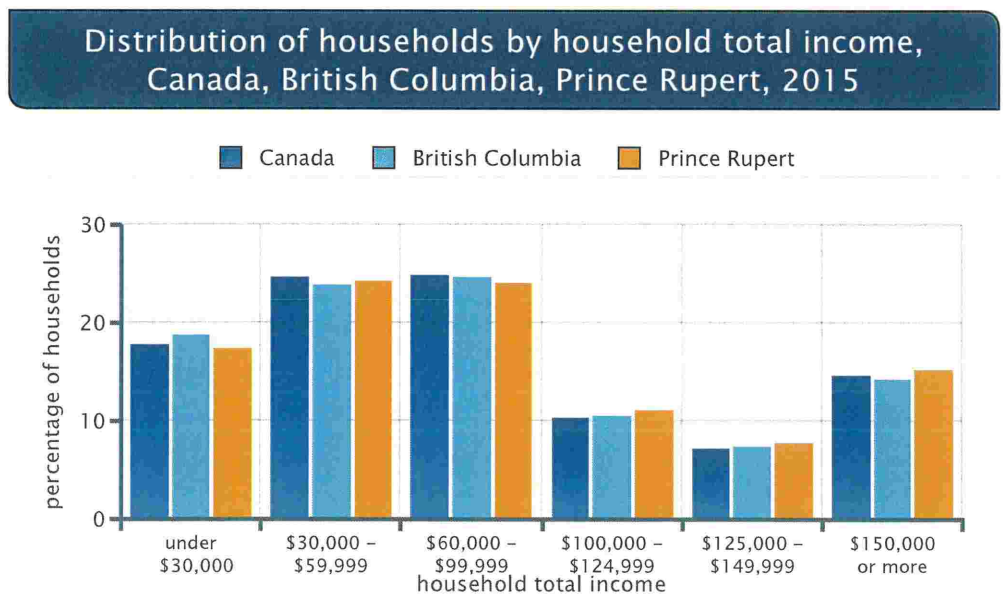


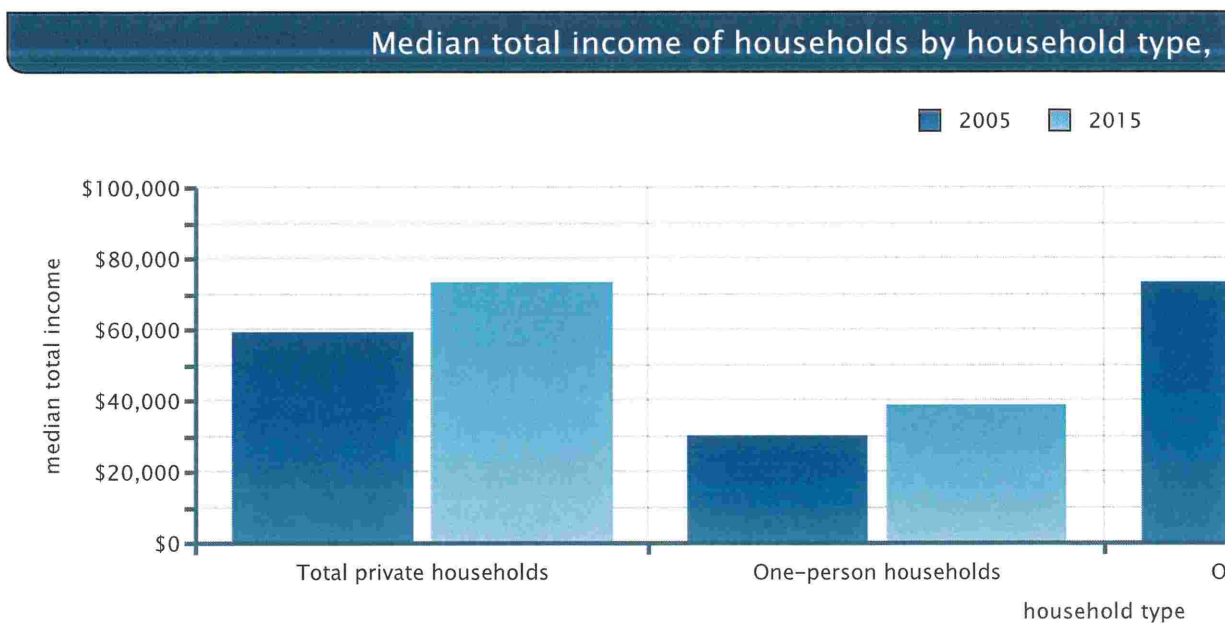
Figure 1.2 description



Number and median total income of households, Prince Rupert and its census subdivisions, 2005 and 2015

Geography	Number of households			Median total income of households		
	2006	2016	% change	2005	2015	% change
Prince Rupert	5,065	4,930	-2.7	59,615	73,284	22.9
Prince Rupert (3) (CA)	5,290	5,105	-3.5	59,611	73,421	23.2
Port Edward (DM) (District municipality)	...	170	78,848	...

Figure 1.3 description



Low income

- In 2015, 2,205 persons or 17.6% were in low income, while in 2005, 21.4% of the persons in Prince Rupert lived in low income².
- The low-income rate for persons under 18 years of age was 25.9% compared to 15.1% for persons aged 18 to 64 and 15.7% for persons 65 and over in 2015.
- Persons living in lone-parent families had a higher rate of low income at 36.3%, while those living in couple families without children had a lower rate of 8.0%.

Figure 1.4 description

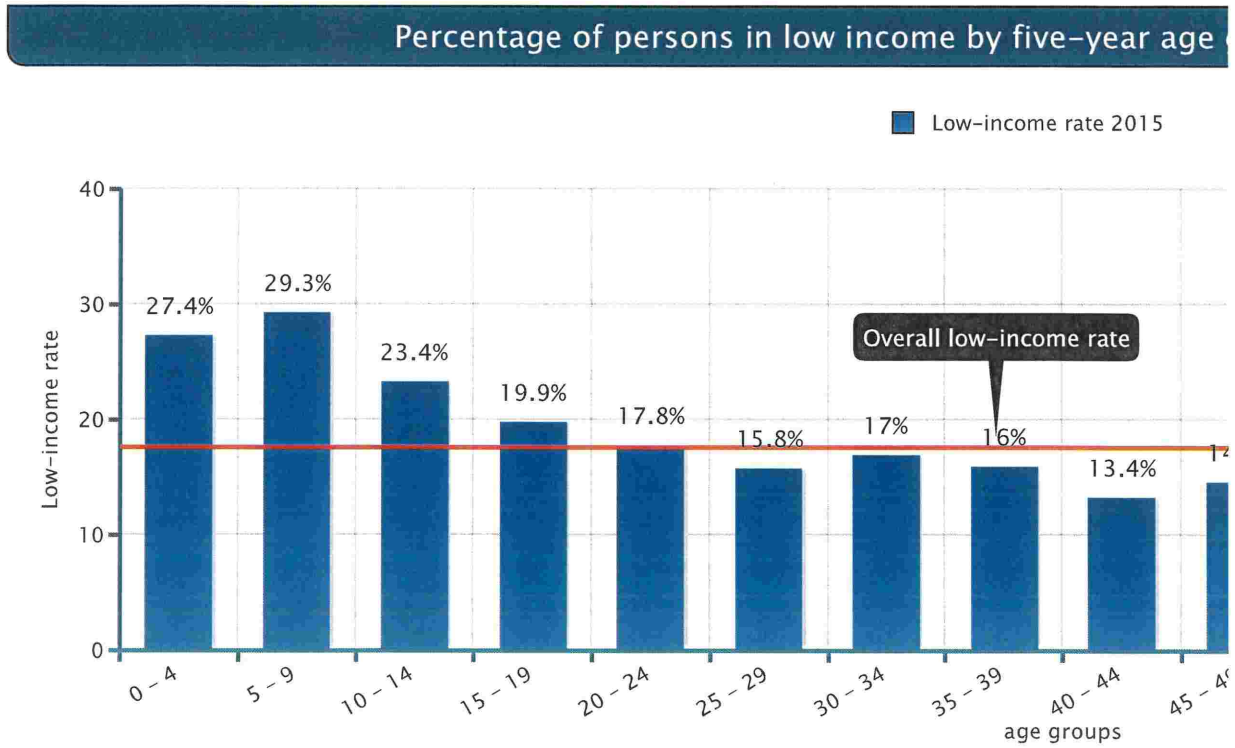


Figure 1.5 description

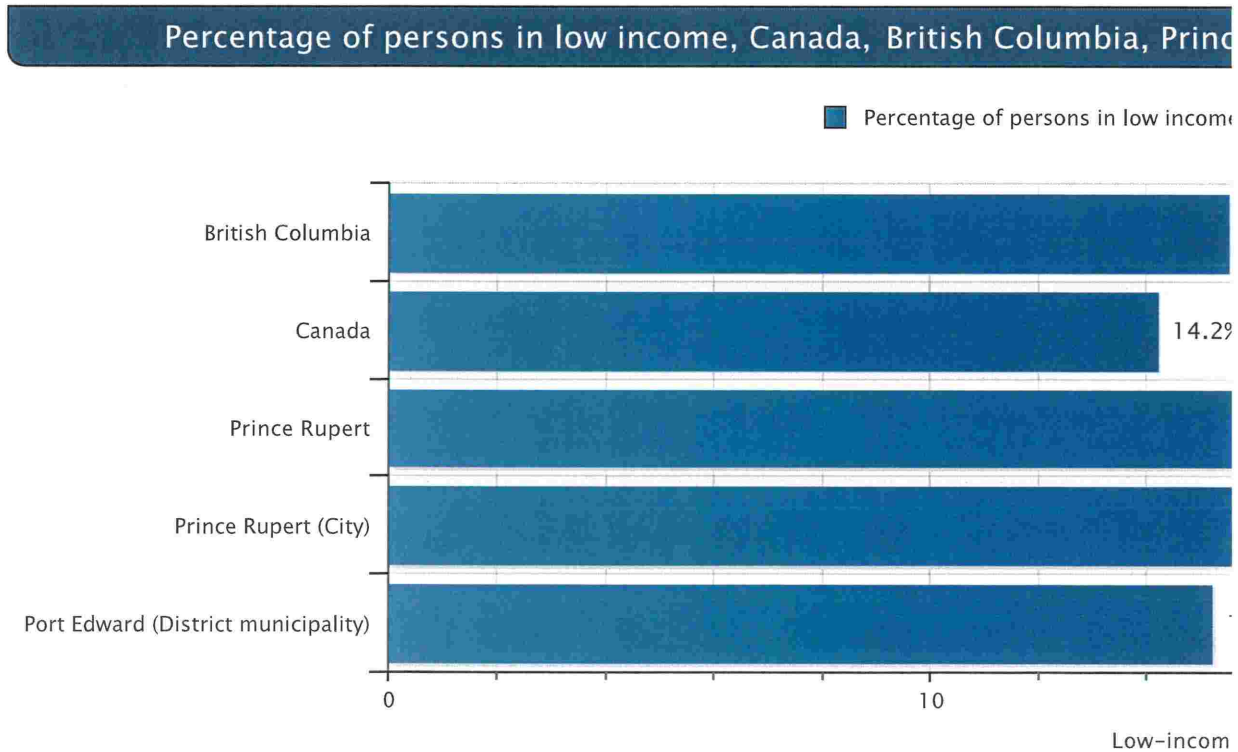
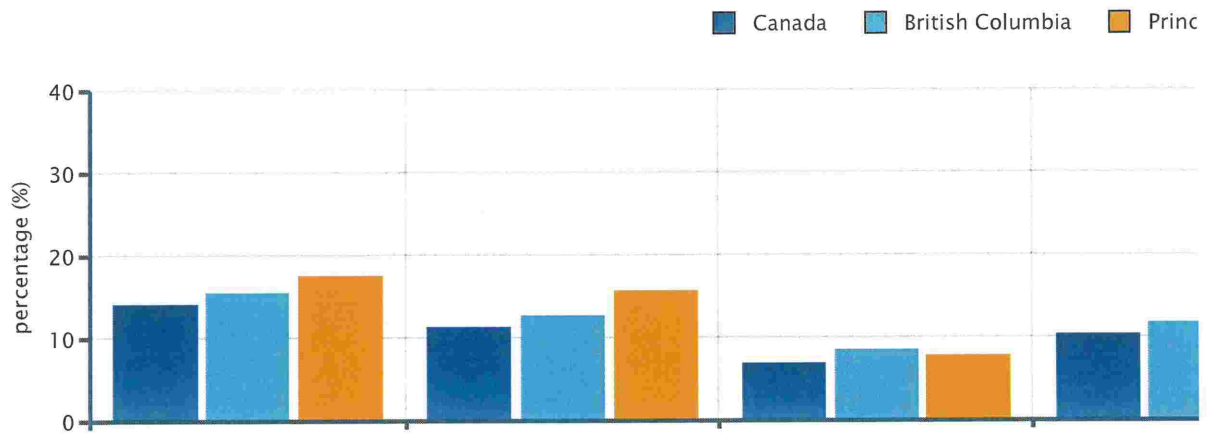


Figure 1.6 description

Percentage of persons in low income by census family type, Canada



Savings

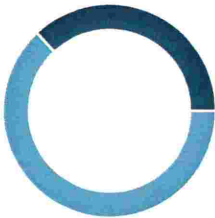
- In 2015, 63.0% of households in Prince Rupert contributed to Registered Retirement Savings Plans (RRSPs), Registered Pension Plans (RPPs), or Tax-free Savings Accounts (TFSAs). In British Columbia, 64.2% of households contributed to an account while 65.2% of households contributed nationally.

Percentage of households contributing to RRSPs, RPPs or TFSAs, RRSPs, RPPs and TFSAs Prince Rupert, 2015

Figure 1.7 description

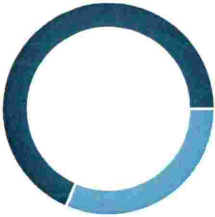
RRSPs, RPPs or TFSAs

- Contributing
- Not contributing



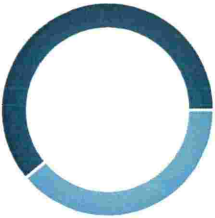
RRSPs

- Contributing
- Not contributing



RPPs

- Contributing
- Not contributing



TFSAs

- Contributing
- Not contributing



Median contribution amount

\$ 7,376

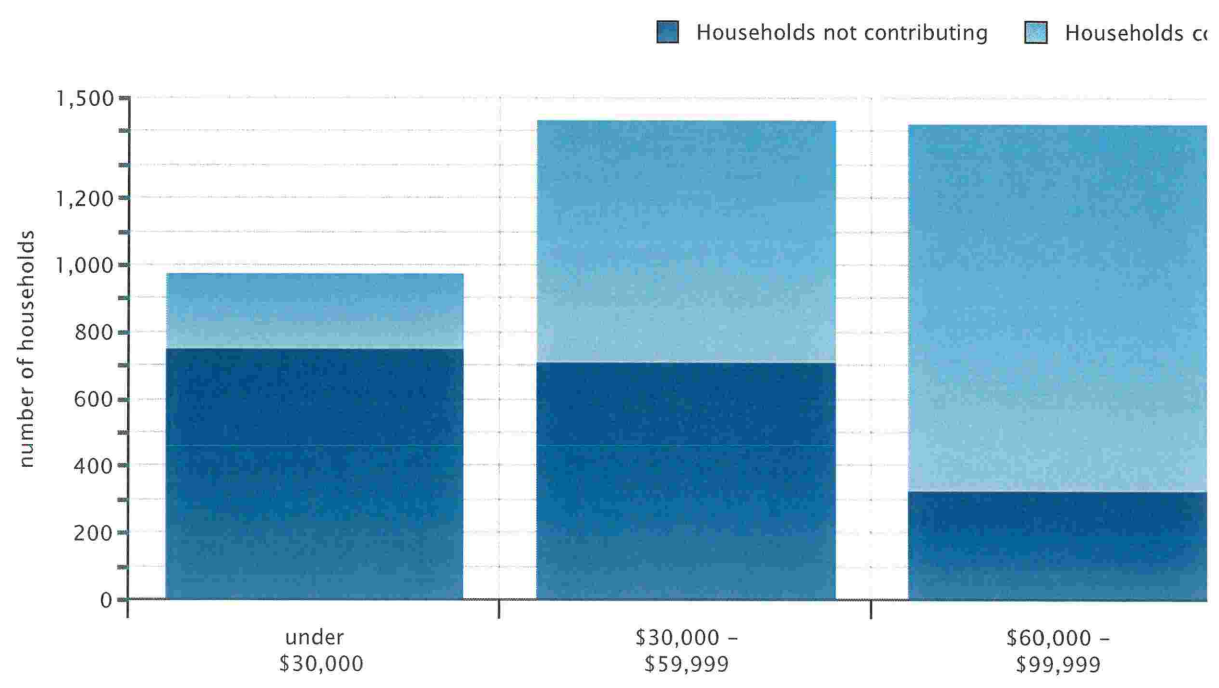
\$ 3,892

\$ 4,208

\$ 5,352

Figure 1.8 description

Household contributions to RRSPs, RPPs, or TFSAs by after-tax household income

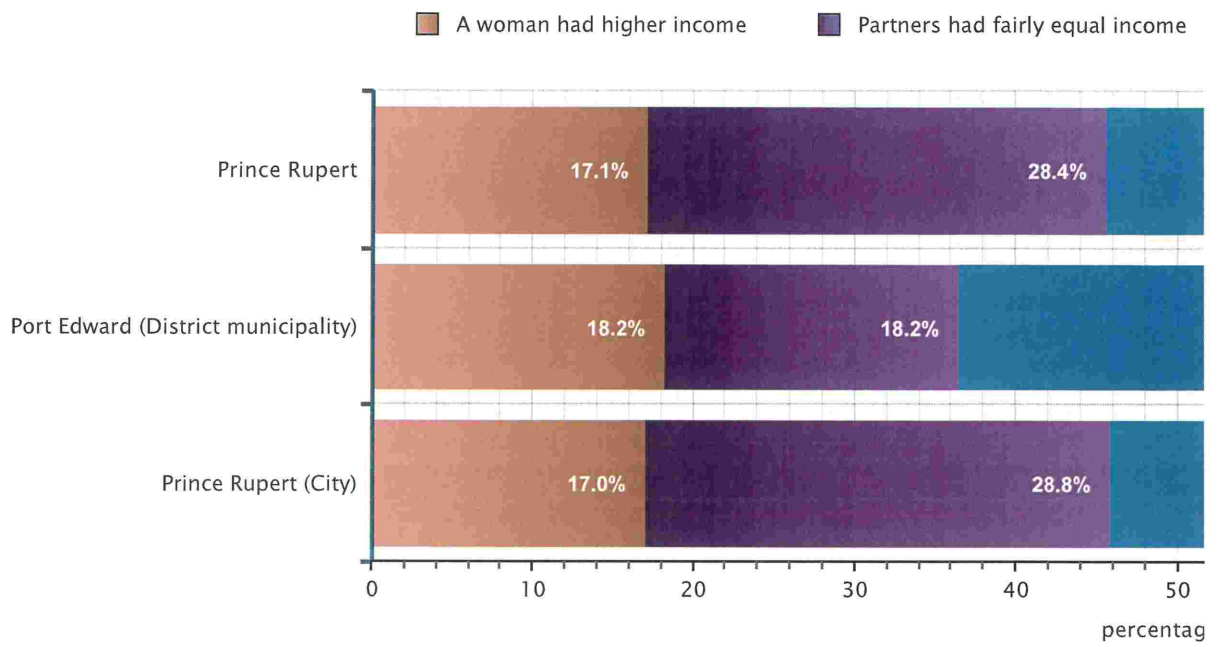


Income of couples

- In 28.4% of couples in Prince Rupert, each partner had fairly equal incomes³ in 2015 while men had higher income in 54.6% of couples and women had higher income in the remaining 17.1% of couples.
- For Canada overall, each partner had fairly equal incomes in 32.0% of couples with men having the higher income in 50.7% of couples and women having higher income in 17.3% of couples.

Figure 1.9 description

Characteristics of couples' total income, Prince Rupert and



- In 2015, the median total income of couples in Prince Rupert was \$93,888.
- The median income of higher-income partners in 2015 was \$64,333 and the median income of lower-income partners was \$24,736.

Symbols:

- ... not applicable
- .. incompletely enumerated Indian reserve or Indian settlement
- r revised
- E use with caution

Note(s):

1. Dollar amounts have been inflated where necessary to 2015 constant dollars using the consumer price index (CPI).
2. Low-income status is determined based on low-income measure, after-tax (LIM-AT). For a one-person household, the after-tax low-income measure (LIM-AT) was \$22,460 in 2015. For larger households, this amount was adjusted upward by multiplying it by the square root of household size. Persons in a private household with after-tax income below this threshold were considered to be in low income.
3. Fairly equal income where no spouse or partner receives more than 60% of the couple's total income.

Couples with a negative or zero combined income are considered to have no income, and they are excluded from the calculations of statistics.

Source:

Statistics Canada. 2017. *Focus on Geography Series, 2016 Census*. Statistics Canada Catalogue no. (number). 98-404-X2016001. Ottawa, Ontario. Data products, 2016 Census.

Date modified:

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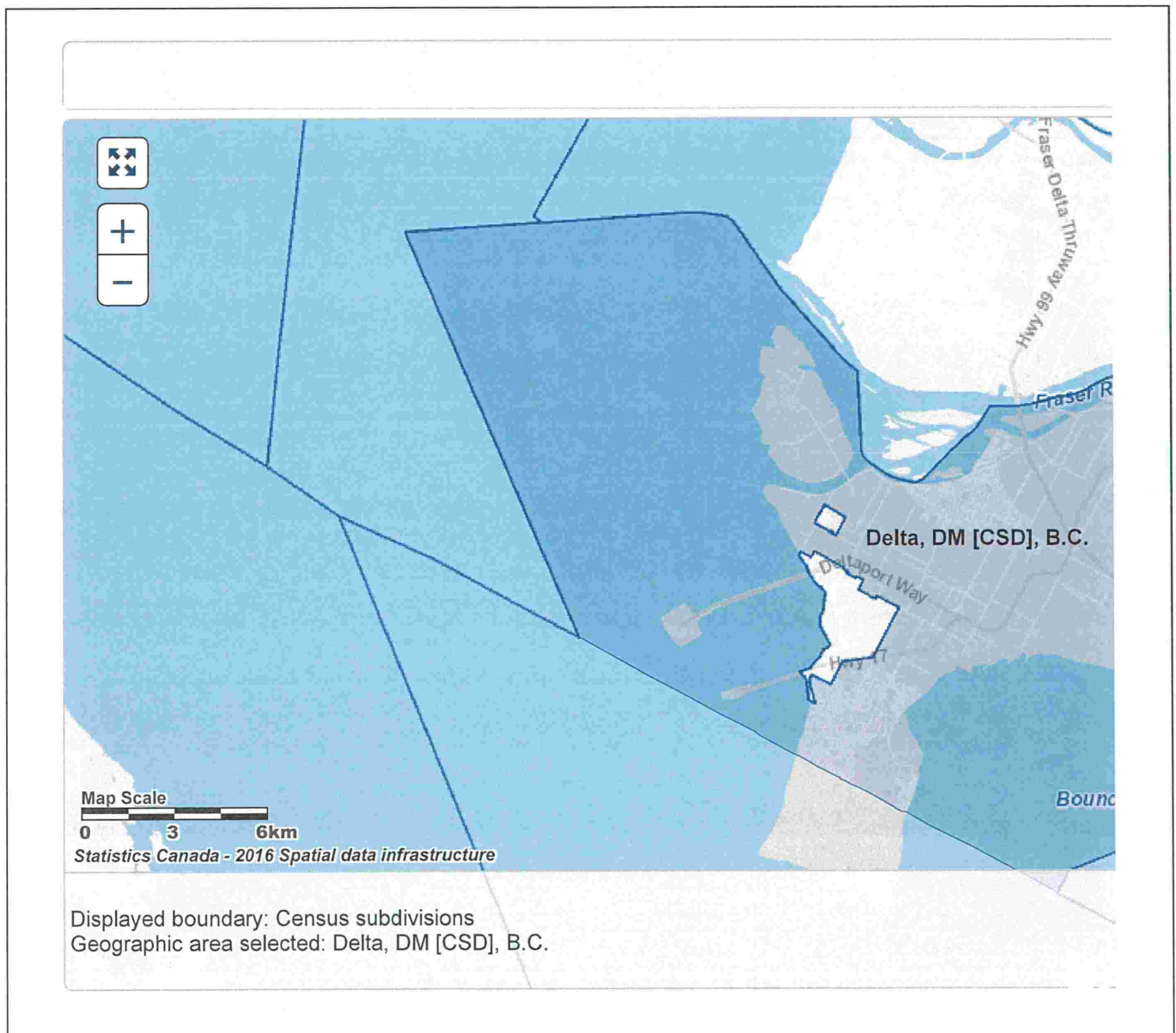
[Home](#) > [Census Program](#) > [Data products, 2016 Census](#)

> [Focus on Geography Series](#) > Census subdivision of Delta, DM.(District.municipality.)

Focus on Geography Series, 2016 Census

Delta, District municipality (CSD.(Census subdivision)) - British Columbia

[Data quality.](#)

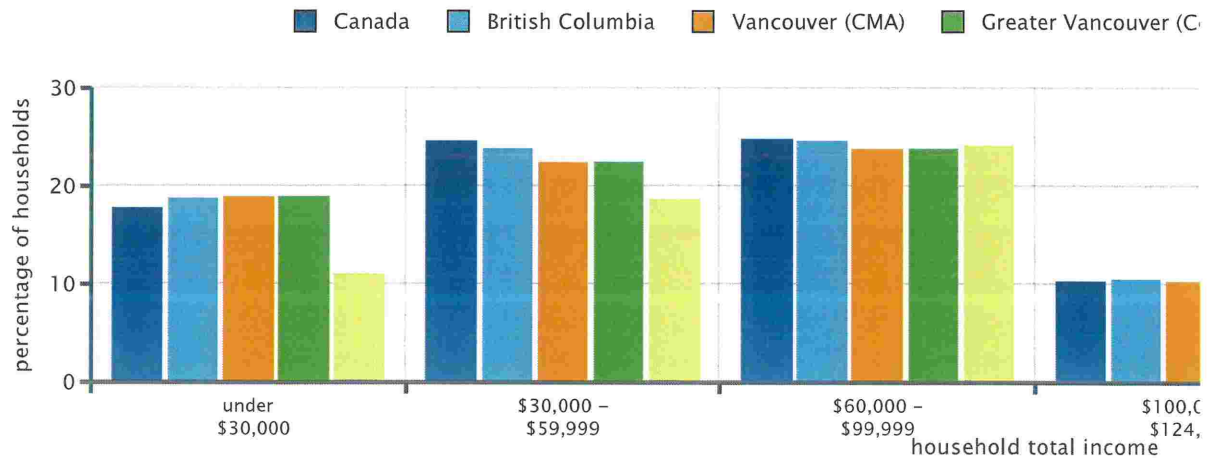


Median income of households

- In 2015, the median total income of households in Delta was \$92,300, a change of 7.4% from \$85,938 in 2005¹.

Figure 1.1 description

Distribution of households by household total income, Delta

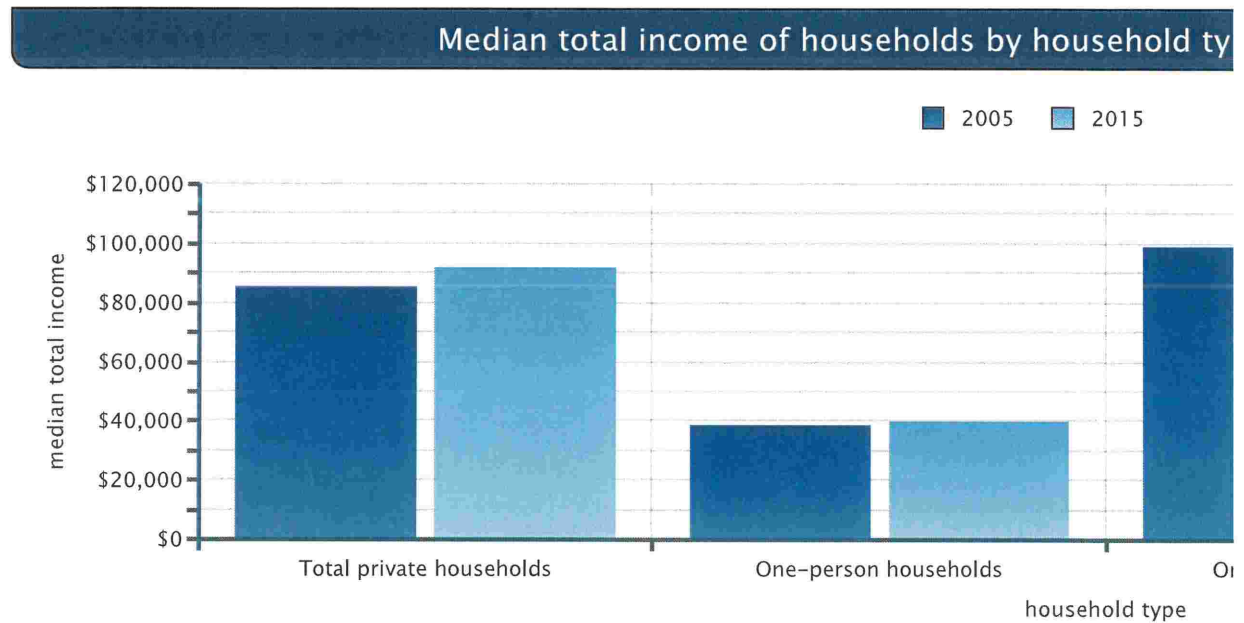


Number and median total income of households, Delta and its neighbouring census subdivisions, 2005 and 2015

Geography	Number of households			Median total income of households		
	2006	2016	change	2005	2015	change
			%			%
Surrey (City)	131,140	169,965	29.6	71,177	77,494	8.9
Delta (District municipality)	33,495	35,760	6.8	85,938	92,300	7.4
Richmond (City)	61,435	73,455	19.6	63,303	65,241	3.1
Greater Vancouver A (Regional district electoral area)	4,500	6,105	35.7	43,854	46,322	5.6

Geography	Number of households			Median total income of households		
	2006	2016	% change	2005	2015	% change
	New Westminster (City)	27,045	32,705	20.9	57,694	64,695
Tsawwassen (Indian reserve)	...	320	84,053	...

Figure 1.2 description



Low income

- In 2015, 9,745 persons or 9.7% were in low income, while in 2005, 9.0% of the persons in Delta lived in low income².
- The low-income rate for persons under 18 years of age was 12.7% compared to 8.9% for persons aged 18 to 64 and 8.8% for persons 65 and over in 2015.
- Persons living in lone-parent families had a higher rate of low income at 22.4%, while those living in couple families without children had a lower rate of 4.7%.

Figure 1.3 description

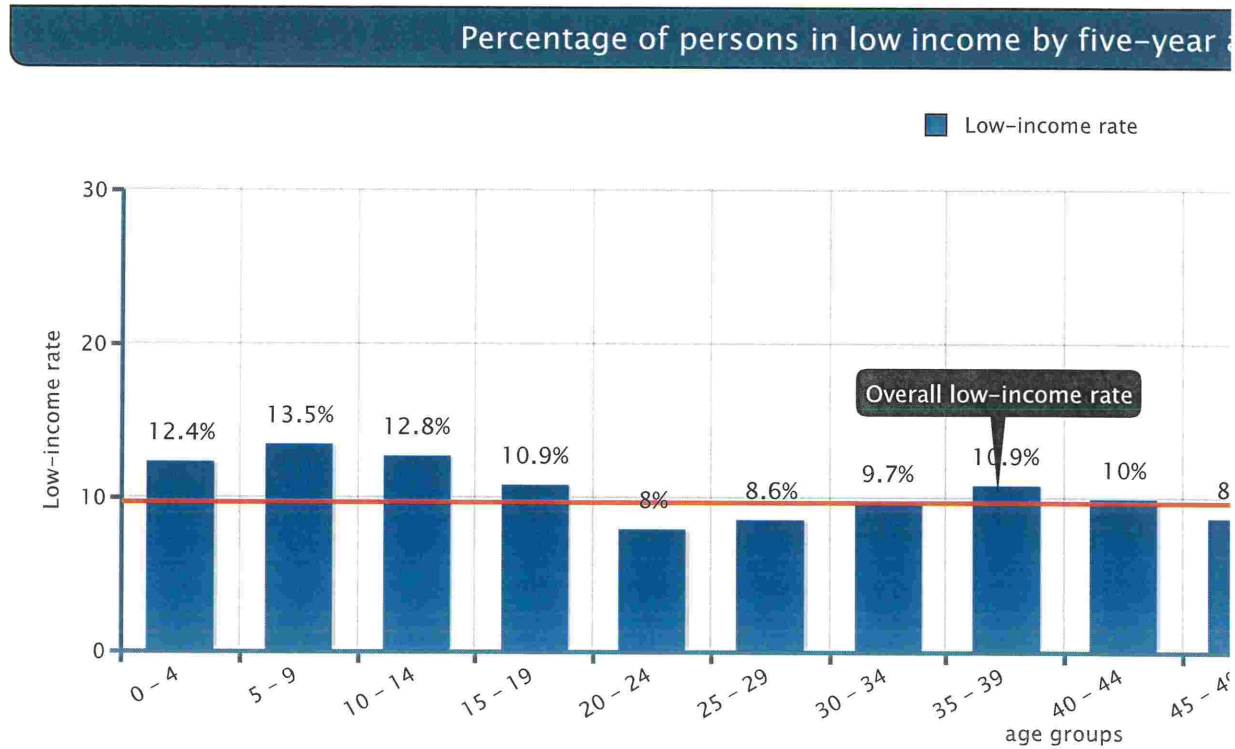


Figure 1.4 description

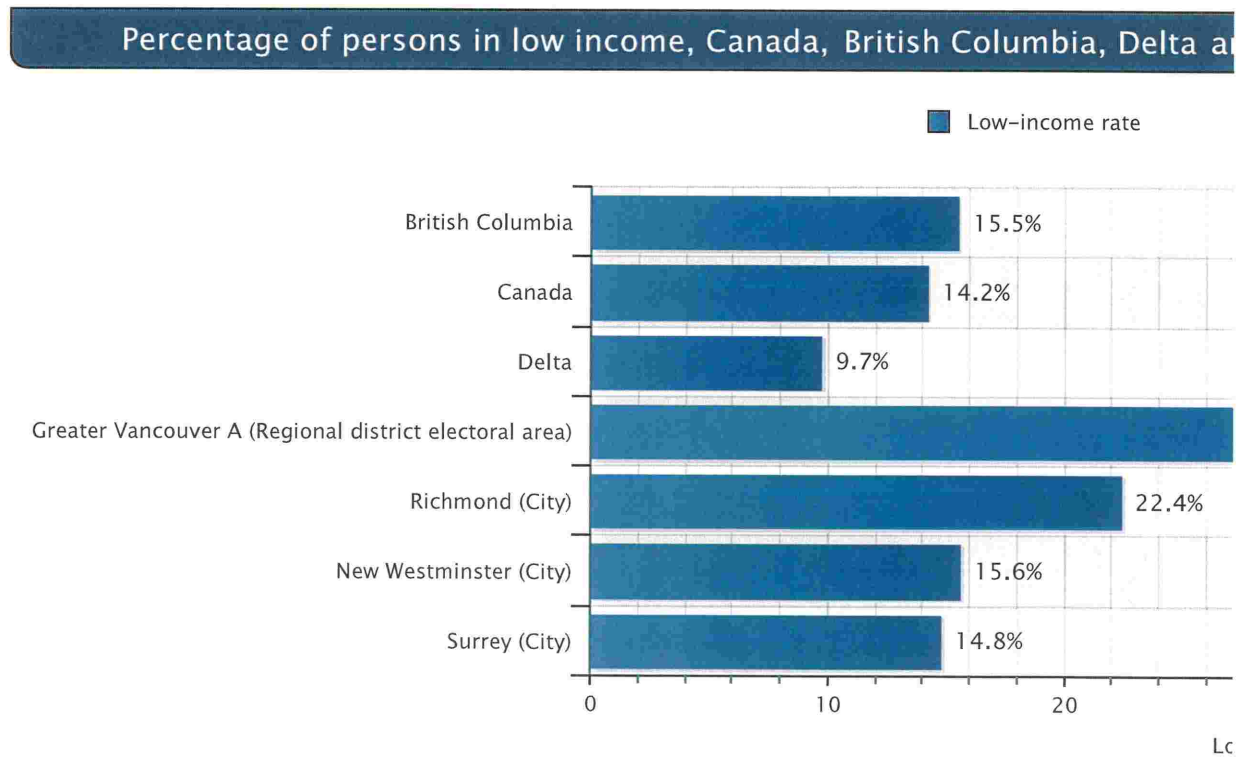
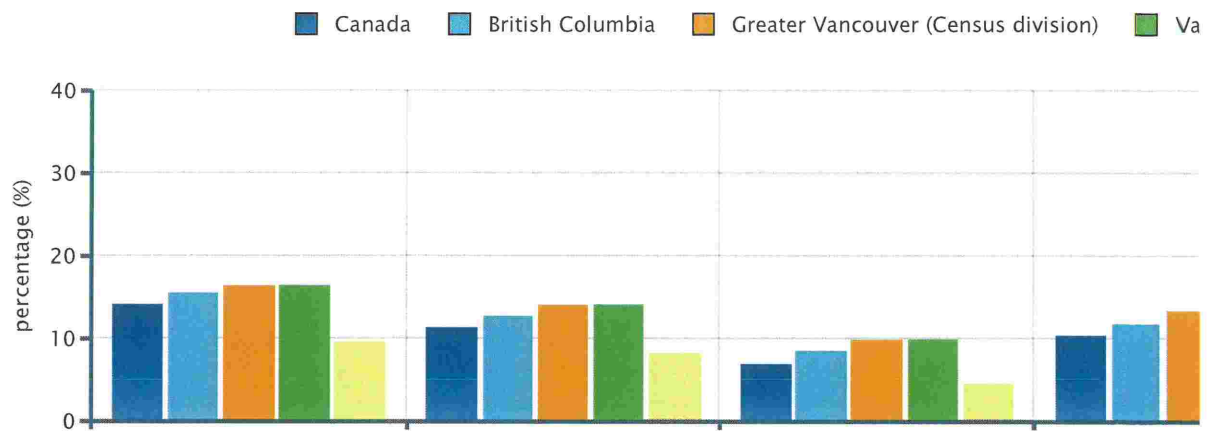


Figure 1.5 description

Percentage of persons in low income by census family type, Delta



Savings

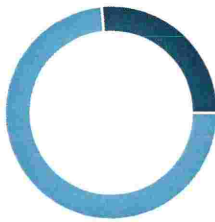
- In 2015, 73.5% of households in Delta contributed to Registered Retirement Savings Plans (RRSPs), Registered Pension Plans (RPPs), or Tax-free Savings Accounts (TFSA). In British Columbia, 64.2% of households contributed to an account while 65.2% of households contributed nationally.

Percentage of households contributing to RRSPs, RPPs or TFSAs, RRSPs, RPPs and TFSAs, Delta, 2015

Figure 1.6 description

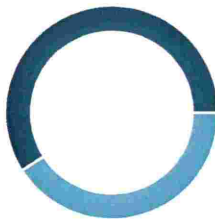
RRSPs, RPPs or TFSAs

- Contributing
- Not contributing



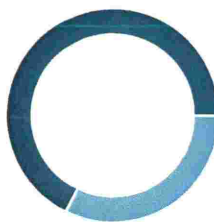
RRSPs

- Contributing
- Not contributing





RPPs

- Contributing
- Not contributing



TFSAs

-  Contributing
-  Not contributing



Median contribution amount

\$ 10,145

\$ 5,009

\$ 4,596

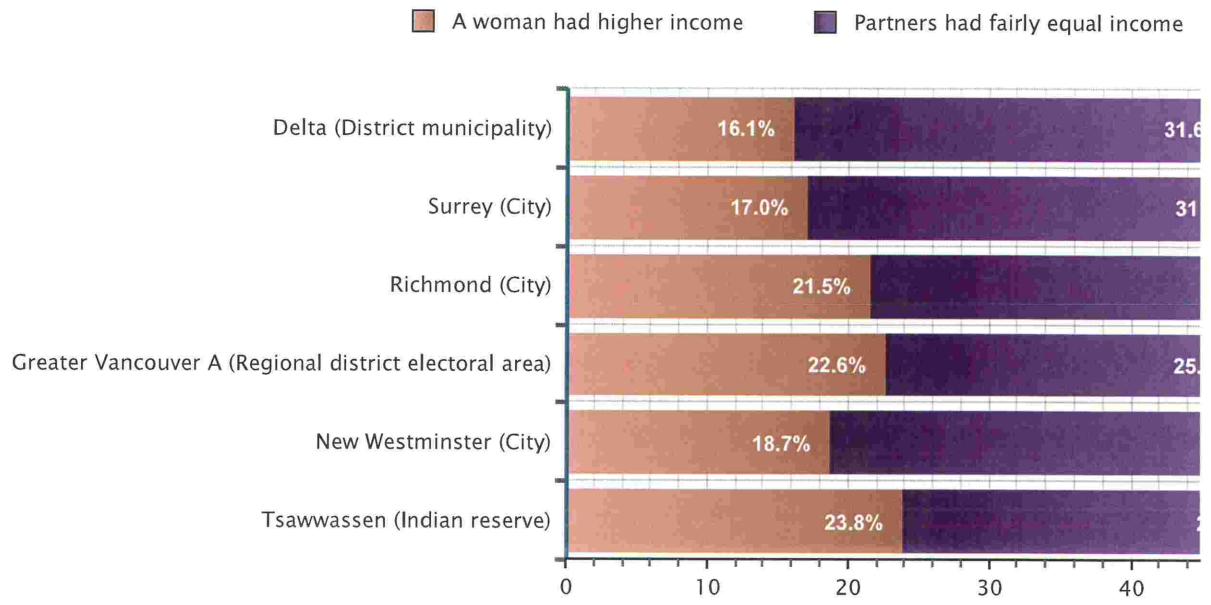
\$ 9,789

Income of couples

- In 31.6% of couples in Delta, each partner had fairly equal incomes³ in 2015 while men had higher income in 52.3% of couples and women had higher income in the remaining 16.1% of couples.
- For Canada overall, each partner had fairly equal incomes in 32.0% of couples with men having the higher income in 50.7% of couples and women having higher income in 17.3% of couples.

Figure 1.7 description

Characteristics of couples' total income, Delta and its neighbors



- In 2015, the median total income of couples in Delta was \$97,419 compared to \$87,688 for all couples in Canada.
- The median income of higher-income partners in 2015 was \$65,520 and the median income of lower-income partners was \$27,561.

Symbols:

- ... not applicable
- .. incompletely enumerated Indian reserve or Indian settlement
- r revised
- E use with caution

Note(s):

1. Dollar amounts have been inflated where necessary to 2015 constant dollars using the consumer price index (CPI).
2. Low-income status is determined based on low-income measure, after-tax (LIM-AT). For a one-person household, the after-tax low-income measure (LIM-AT) was \$22,460 in 2015. For larger households, this amount was adjusted upward by multiplying it by the square root of household size. Persons in a private household with after-tax income below this threshold were considered to be in low income.

3. Fairly equal income where no spouse or partner receives more than 60% of the couple's total income.

Couples with a negative or zero combined income are considered to have no income, and they are excluded from the calculations of statistics.

Source:

Statistics Canada. 2017. *Focus on Geography Series, 2016 Census*. Statistics Canada Catalogue no. (number). 98-404-X2016001. Ottawa, Ontario. Data products, 2016 Census.

Date modified:

2019-06-19