

SETTLEMENT AND ROYALTY AGREEMENT

THIS SETTLEMENT AND ROYALTY AGREEMENT (the “Agreement”), dated May 27, 2016, is by and between LCT ENERGY, LP, a Pennsylvania limited partnership (“LCT”), and INDIAN LAKE BOROUGH, a Pennsylvania municipality located in Somerset County, Pennsylvania (the “Borough”) (each a “Party,” and together the “Parties”).

RECITALS:

WHEREAS, on June 25, 2014, the Commonwealth of Pennsylvania Department of Environmental Protection (the “DEP”) issued to LCT a certain Coal Surface Mining Permit No. 56120116 (the “Mining Permit”) for a surface coal mining operation in Indian Lake Borough and Stonycreek Township, Somerset County, Pennsylvania (the “Surface Mine Project”); and

WHEREAS, on or about July 25, 2014, the Borough filed an appeal of the DEP’s issuance of the Mining Permit with the Environmental Hearing Board of the Commonwealth of Pennsylvania (the “EHB”) in the matter of *Indian Lake Borough, Appellant, v. Commonwealth of Pennsylvania, Department of Environmental Protection and LCT Energy, LP, Permittee*, EHB Docket No. 2014-100-B (the “Appeal”), asserting various objections to the issuance of the Mining Permit; and

WHEREAS, LCT also contemplates submitting an application to the DEP for a permit to operate an underground coal mining operation in Indian Lake Borough and Stonycreek Township, Somerset County, Pennsylvania, to be located generally as set forth in the map attached hereto as Exhibit A (the “Underground Mine Project”); and

WHEREAS, the Parties agree that LCT’s obligations under this Agreement shall be dependent upon (i) LCT’s receipt of all grants, authorizations, licenses, permits, approvals, variances, exceptions, consents, certificates and/or orders (collectively, “Permits”) of any federal, state, local or multi-jurisdictional governmental authority (“Governmental Authority”), including land use and zoning approvals, necessary or appropriate for any aspect of the Surface Mine Project and Underground Mine Project; and

WHEREAS, the Parties agree that, in exchange for a royalty paid to the Borough on the terms and subject to the conditions set forth herein, the Borough shall withdraw the Appeal and fulfill the obligations to LCT as described herein; and

WHEREAS, the Borough is seeking in good faith and with all due speed to obtain the funds to install a water line to allow the Borough to accept public water and to decommission the Borough’s water well system; and

WHEREAS, it is understood by the Parties that this Agreement is not valid, binding, or effective until the date the Borough Council approves the Agreement at a public meeting (the “Effective Date”).

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the receipt and sufficiency of which consideration is mutually acknowledged, and intending to be legally bound, the Parties hereby covenant and agree as follows:

AGREEMENT:

1. Withdrawal of Appeal. No later than seven (7) days after the Effective Date, the Borough shall make the necessary filings with the EHB required to dismiss and discontinue the Appeal with prejudice.

2. Grant of Royalty. In exchange for and dependent on the Borough's fulfillment of the Borough's obligations in this Agreement, including, but not limited to, the obligations in Paragraphs 1 and 5 herein, LCT, on behalf of itself and any related mineral rights holders, hereby grants to the Borough a royalty interest equal to fifty-five cents (\$0.55) per ton (2,000 pounds) for all coal mined and sold from the Surface Mine Project and the Underground Mine Project (the "**Royalty**"). "**Sold**" or "**sale**" is defined as the exchange of coal mined by LCT from the Surface Mine Project or the Underground Mine Project to a customer and payment received by LCT from that customer.

3. Payment of Royalty; Statements. Payment of the Royalty, when due, shall be made by LCT to the Borough on or before the twenty-eight (28th) day of each calendar month for all sales made the preceding month. All payments to the Borough shall be paid by check and delivered to Indian Lake Borough, 1301 Causeway Drive Central City, PA 15926. Each payment of the Royalty hereunder shall be accompanied by a statement from LCT setting forth the number of tons of coal sold from the Surface Mine Project and/or the Underground Mine Project during the preceding calendar month and the calculation of the Royalty.

4. Records; Audit. LCT shall keep and maintain true and complete books and records of all coal sold from the Surface Mine Project and the Underground Mine Project in a manner that enables the Borough to audit the Royalty. The Borough shall have the right to audit LCT's books and records to the extent they relate to this Agreement up to two (2) times per calendar year. The cost and expense of such audit shall be borne and paid by the Borough. Such audit shall take place at the office(s) of LCT at which such records reside, and shall be conducted during normal business hours and upon not less than ten (10) days' written notice. LCT treats its books and records that may be viewed as part of an audit pursuant to this **Section 4** as information that is confidential, proprietary and/or containing trade secrets. All information obtained by the Borough pursuant to this **Section 4** shall be treated as confidential, proprietary and a trade secret, and shall not be disclosed to third persons without the prior written consent of LCT (other than disclosures to the employees and representatives of the Borough who have a need to know the same in connection with the matters set forth in this Agreement), and shall be used only for the purposes of confirming compliance with the terms, conditions, obligations, and payments set forth in this Agreement.

5. Cooperation of the Borough.

(a) The Borough covenants and agrees that: (i) within three (3) months of the Effective Date, it shall make necessary and appropriate modifications to the Borough ordinance, Borough zoning ordinance or other municipal documents that are necessary for LCT to extract coal in connection with the Surface Mine Project and the Underground Mine Project within the Borough limits as a use permitted by right; (ii) in addition to providing the required public notice and public hearing for such modifications to the Borough's land use ordinances, as required by the Municipalities Planning Code, 53 P.S. §§10609 and 10610, the Borough shall also provide the optional notice of the zoning ordinance enactment as provided by the Municipalities Planning Code, 53 P.S. §10108; (iii) any Permits that LCT seeks from the Borough with respect to the Surface Mine Project or the Underground Mine Project shall be considered and issued with reasonable expedition and shall be subjected to only such conditions and requirements as are both customarily required for projects of similar nature and scope and are reasonably necessary and appropriate in connection with the Surface Mine Project and the Underground Mine Project; and (iv) so long as the projects do not impact the quality and quantity of the Borough waters of Indian Lake, the Borough shall not oppose, contest, or appeal the issuance or renewal of any Permits that are necessary or appropriate for any aspect of the Surface Mine Project or the Underground Mine Project. The Borough shall cooperate with LCT in the event of any appeal filed in response to actions taken under subsection (i) or (iii), and shall not settle any such appeals without the written consent of LCT.

(b) Notwithstanding the foregoing, in the event the permit application or any requested permit modification related to the Surface Mine Project or the Underground Mine Project is submitted by LCT to the DEP and such application either (i) locates either mine within one thousand (1000) feet of the waters of Indian Lake; or (ii) increases the mineable acreage by one hundred (100) acres for the Mining Permit or from Exhibit A for the Underground Mine Project, the Borough may comment on the proposed change, amendment or modification. In addition, LCT shall promptly notify the Borough if either event described in this Section 5(b) were to occur.

6. Monitoring and Data. LCT shall provide to the Borough the water quality and water quantity data that LCT submits to DEP related to the operation of the Surface Mine Project and the Underground Mine Project. In addition, LCT has installed two (2) piezometers in the locations shown on Exhibit A. LCT shall provide to the Borough the standard mining data generated from those piezometers, once before any mining activity from either the Surface Mine Project or the Underground Mine Project, and on a quarterly basis thereafter. Should the Borough determine that there has been a negative impact from LCT's mining operations, the Borough may approach the DEP and request that the DEP investigate or take action. The Parties may pursue any appeal rights to the EHB regarding the DEP's decision regarding the alleged impact by LCT's mining activities and any proposed remediation by the DEP. Within ten (10) days of the Effective Date, the Borough shall provide to LCT all groundwater data related to the Borough's water wells for the last thirty-six (36) months. The Borough shall provide to LCT future groundwater data for the Borough's water wells.

7. Underground Mine Project: Fractures. As part of its application to seek a permit for the Underground Mine Project, LCT shall:

(a) Provide borehole data sufficient to describe the stratigraphy at the areas which will be undermined;

(b) Depict linear traces of faults and fracture zones; and

(c) Provide the percent Rock Quality Designation results for overburden strata in each stream valley where underground mining will take place at depths less than 200 feet, which will evaluate potential subsidence and the potential for vertical fractures.

(d) LCT shall provide the Borough with the permit application materials described in this **Section 7** at the same time such materials are submitted to the DEP. In addition, LCT shall provide to the Borough any additional material submitted to DEP related to vertical fractures or subsidence issues that is not submitted with the original application, but is submitted by LCT as a result of requests by the DEP to LCT.

8. Underground Mine Project: Hydrogeology. As part of its application to seek a permit for the Underground Mine Project, LCT shall:

(a) Submit a hydrologic data map;

(b) Provide information on lakes, ponds, and dams as required by the DEP;

(c) Provide information on public water supplies as required by the DEP;

(d) Provide the results of water quality analyses, pumping tests, water level and flow measurements sufficient to describe the groundwater and surface water resources of the permit area and adjacent areas;

(e) Describe the quality and volume of mine drainage which is anticipated at the end of the 5-year permit period and upon complete development of the planned mine;

(f) Estimate the post-mining pool level, and indicate the basis of this estimate;

(g) Provide a description for the potential for post-mining discharges to occur from the proposed mine, with particular attention to areas with thin and/or fractured overburden;

(h) Provide a description for the potential for seepage along downgradient outcrops of the mined seam and adjacent aquifers; and

(i) Submit a proposed hydrologic monitoring plan.

(j) LCT shall provide the Borough with the permit application material described in this **Section 8** at the same time such materials are submitted to the DEP. In addition,

LCT shall provide to the Borough any additional material submitted to DEP related to hydrogeology that is not submitted with the original application, but is submitted by LCT as a result of requests by the DEP to LCT.

9. Representations and Warranties of LCT. LCT represents and warrants unto the Borough as follows:

(a) The execution, delivery and performance of this Agreement and all other agreements and documents to be executed, delivered and performed by LCT in connection with this Agreement has been duly authorized by all necessary partnership action on the part or on behalf of LCT. This Agreement and all other agreements and documents to be executed, delivered and performed by LCT in connection with this Agreement, upon due execution and delivery hereof or thereof (as the case may be), do and shall constitute the valid and binding obligations of LCT, enforceable in accordance with their respective terms, subject to applicable bankruptcy and insolvency laws and to general principles of equity.

(b) The individuals signing this Agreement on behalf of LCT are fully authorized and empowered to execute and deliver this Agreement on behalf of LCT.

10. Right to Inspection and Indemnification. The Borough shall have the right to inspect the Surface Mine Project and the Underground Mine Project up to two (2) times per calendar year. The cost and expense of such inspection shall be borne and paid by the Borough. Such inspection shall be undertaken by one individual hired by the Borough, with substantial mining experience and who has proper safety training. The inspection shall be conducted pursuant to LCT's site procedures, during normal business hours and upon not less than ten (10) days' written notice. All information obtained by the inspector and the Borough pursuant to this **Section 10** shall be treated as confidential, proprietary and a trade secret, and shall not be disclosed to third persons without the prior written consent of LCT (other than disclosures to the employees and representatives of the Borough who have a need to know the same in connection with the matters set forth in this Agreement), and shall be used only for the purposes of confirming compliance with the terms, conditions, and obligations set forth in this Agreement. The Borough agrees that it will fully indemnify, defend, protect and hold LCT, its officers, directors, stockholders, employees, affiliated, associated, partner, parent and subsidiary companies harmless from any and all liability, judgments, demands, claims, suits, loss, costs or expenses for any and all claims and demands for loss or damage to any property, including loss of use, or injury or death of any persons, or loss of services, attorney's fees and costs, directly or indirectly arising out of or caused by or incident to the inspections set forth in this **Section 10**.

11. Representations and Warranties of the Borough. The Borough represents and warrants unto LCT as follows:

(a) The execution, delivery and performance of this Agreement and all other agreements and documents to be executed, delivered and performed by the Borough in connection with this Agreement has been duly authorized by all necessary municipal action on the part or on behalf of the Borough. This Agreement and all other agreements and documents to be executed, delivered and performed by the Borough in connection with this Agreement, upon

due execution and delivery hereof or thereof (as the case may be), do and shall constitute the valid and binding obligations of the Borough, enforceable in accordance with their respective terms, subject to applicable bankruptcy and insolvency laws and to general principles of equity.

(b) The individuals signing this Agreement on behalf of the Borough are fully authorized and empowered to execute and deliver this Agreement on behalf of the Borough.

12. Notices. Any notices or other communications required or permitted hereunder or otherwise in connection herewith shall be in writing and shall be deemed to have been duly given when delivered in person or transmitted by facsimile transmission or on receipt after dispatch by registered or certified mail, postage prepaid, addressed, as follows:

If to LCT: LCT Energy, LP
938 Mount Airy Drive
Suite 200
Johnstown, PA 15904
Attn: Mark Tercek, President
Facsimile: (814) 254-4212

With a copy to: James V. Corbelli, Esq.
Babst, Calland, Clements and Zomnir, P.C.
Two Gateway Center
6th Floor
Pittsburgh, PA 15222
Facsimile: (412) 394-6576

If to the Borough: Indian Lake Borough
1301 Causeway Drive
Central City, PA 15926
Attn: Theresa Weyant
Facsimile: (814) 267-3346

With a copy to: Daniel W. Rullo, Esq.
Barbera, Clapper, Beener, Rullo & Melvin, LLP
146 West Main St.
Somerset, PA 15501-0775
Facsimile: (814) 443-2422

or such other address(es) as the Party to which notice is to be given has furnished in writing to the other Party. A notice of change in address shall not be deemed to have been given until received by the addressee.

13. Independent Judgment; Advice of Legal Counsel. Each Party acknowledges and affirms that in making the decision to enter into this Agreement and to consummate the transactions contemplated hereby, it has relied solely on the basis of its own independent investigation, analysis and evaluation, and has been represented by and consulted with legal

counsel. This Agreement was jointly drafted by the Parties, and shall not be construed against either Party on the basis that it was drafted by such Party.

14. No Admission. The execution and delivery of this Agreement and performance of the Parties hereunder is not and shall not be construed in any way, in any matter, action or proceeding, as an admission of wrongdoing or liability on the part of either Party.

15. Entire Agreement. This Agreement (including the recitals and exhibits hereto, which are fully incorporated herein), constitutes the entire understanding and agreement between the Parties pertaining to the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties with respect thereto. No amendment, supplement, modification or waiver of this Agreement or any right or duty herein shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver unless otherwise expressly provided.

16. Costs and Fees. Each Party shall be solely responsible for any and all fees and costs of their respective legal counsel incurred in connection with the negotiation, execution, delivery and enforcement of this Agreement and all agreements, instruments and filings contemplated to be delivered in connection herewith.

17. Further Assurances. The Parties each agree to do, execute, acknowledge and deliver all such further acts, instruments and assurances and to take all such further action before or after the Effective Date as shall be necessary or desirable to carry out fully this Agreement and to consummate and effect fully the transactions contemplated hereby.

18. Force Majeure. Notwithstanding any other provisions of this Agreement, if any activities or undertakings of LCT hereunder are delayed or interrupted, directly or indirectly, by reason of any act of God, civil disturbance, fire, explosion, earthquake, subsidence, flood, war, sabotage, terrorism, rebellion, insurrection, riot, armed hostilities, adverse weather conditions, adverse Legal Proceedings (as defined below), adverse Legal Requirement (as defined below, and including actions or decisions, or lack thereof, of Governmental Authorities), or any other event that is beyond the reasonable control of LCT (“Force Majeure”), LCT shall not be liable to the Borough for failure to perform such activities and undertakings during such period of Force Majeure. Notwithstanding the foregoing, LCT shall give prompt notice to the Borough of any event of Force Majeure and shall take commercially-reasonable steps to mitigate the effects of the Force Majeure event to the extent reasonably possible.

“Legal Proceeding” means any legal action, litigation, proceeding, suit, arbitration, order, judgment, decree, claim, writ, injunction, or Governmental Authority investigation or action (including bankruptcy or condemnation).

“Legal Requirement” means any law, statute, code, act, constitution, ordinance, judgment, decree, injunction, advisory, circular, order, resolution, rule, regulation, Permit, order, standard, directive, and other requirement of any Governmental Authority, whether now or

hereafter enacted, created, promulgated or issued, of any kind or nature, including all zoning, land use, building, health, safety, security and environmental laws.

19. Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the Commonwealth of Pennsylvania, without regard to any rules relating to conflicts of law.

20. Interpretation. The term “including” means “including, without limitation,” or “including, but not limited to,” as applicable.

21. Counterparts. This Agreement may be executed by the Parties in multiple counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. Such counterparts may be exchanged by e-mail delivery of a “.pdf” or similar format file, and such “.pdf” copy of each Party’s respective signature shall be binding on such Party as if the same were an original signature.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have executed this Agreement effective as of the Effective Date.

ATTEST:

LCT ENERGY, LP

By: *Sherri L. Andrews*
Name: SHERRI L. ANDREWS
Title: ACCOUNTING MANAGER

By: *Mark Tercek*
Name: Mark Tercek
Title: President

ATTEST:

INDIAN LAKE BOROUGH

By: *Theresa Weyant*
Name: Theresa Weyant
Title: Borough Secretary

By: *Robert F. Hanson*
Name: Robert F. Hanson
Title: Council Member, by Authority of Council