

**Simpcw First Nation
Forestry Consultation and Revenue Sharing Agreement (FCRSA)
(the "Agreement")**

**Between:
The Simpcw First Nation**

As Represented by
Chief and Council
(the Simpcw First Nation)

And

**Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Aboriginal Relations and Reconciliation
("British Columbia")**

(Collectively the "Parties")

WHEREAS:

- A. British Columbia and Simpcw First Nation are currently engaged in a Reconciliation Framework Agreement Negotiation in the spirit of developing a collaborative and positive working relationship based upon respect.
- B. In 2005, British Columbia and the First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and the Union of BC Indian Chiefs entered into a New Relationship and signed the Transformative Change Accord, the purposes of which is to implement a government-to-government relationship based on an effective working partnership, enhanced collaboration, mutual respect and recognition and accommodation of Aboriginal title and rights and achieve the mutual goals of closing the social and economic gap between First Nations and other British Columbians.
- C. In the spirit of the New Relationship and the Transformative Change Accord, British Columbia and Simpcw First Nation have undertaken a shared commitment to strengthening relationships on a government-to-government basis, and on focusing efforts to close the socio-economic gaps between Aboriginal and non-Aboriginal people.
- D. British Columbia and Simpcw First Nation are currently engaged in a Reconciliation Framework Agreement Negotiation in the spirit of developing a collaborative and positive working relationship based upon respect.
- E. This Agreement, and the benefits flowing from it, will assist the Simpcw First Nation in achieving progress towards the goals referred to in the previous recitals, and in particular help to address the conditions that contribute to economic challenges among Aboriginal people and to ensure that they can more fully benefit from and contribute to British Columbia's prosperity.

- F. British Columbia recognizes that Simpcw First Nation has a unique history and its own culture and traditions that help to define it, and that these characteristics, along with its relationship with British Columbia, form an important context for the cooperative efforts needed to improve the Simpcw First Nation community's well-being.
- G. The Simpcw First Nation has Aboriginal Interests within its Traditional Territory.
- H. British Columbia intends to consult with the Simpcw First Nation and to accommodate its Aboriginal Interests as appropriate (including accommodation by way of the payments provided through this Agreement), with respect to impacts on the Simpcw First Nation's Aboriginal Interests arising from forest resource development activities proposed within the Simpcw First Nation Traditional Territory.
- I. The Simpcw First Nation intends to fully participate in any consultation or information sharing with British Columbia or a Licensee in relation to forest resource development activities proposed within the Simpcw First Nation's Traditional Territory that may impact the Simpcw First Nation's Aboriginal Interests.
- J. This Agreement is intended to assist in achieving stability and greater certainty for forest resource development on Crown lands within the Traditional Territory of the Simpcw First Nation which will enhance the ability of the forestry and ranching industries to exercise timber harvesting and grazing rights in a timely, economic, and environmentally sustainable manner while longer term interests of the Simpcw First Nation are addressed through other agreements or processes including a Reconciliation Agreement.
- K. The Parties will utilize this Forestry Consultation and Revenue Sharing Agreement to demonstrate leadership and respect for each others' interests, while developing a successful long-term working relationship intended to address fundamental Simpcw First Nations Nation concerns, including those presented in the 1910 Memorial to Sir Wilfred Laurier.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1.0 Definitions

For the purposes of this Agreement, the following definitions apply:

- 1.1 "Aboriginal Interests" means asserted aboriginal rights (including aboriginal title) or determined aboriginal rights (including aboriginal title) which are recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- 1.2 "Administrative and/or Operational Decision" means a decision made by the Minister or a Delegated Decision Maker related to forest and range resources under provincial legislation as identified in the First Annual List and/or Annual List as defined in Appendix B.

- 1.3 “**Band Council Resolution**” means a resolution of Simpcw First Nation having the form of Appendix D.
- 1.4 “**BC Fiscal Year**” means a period beginning on April 1 of a calendar year and ending on March 31 of the next calendar year.
- 1.5 “**Delegated Decision Maker**” and “**DDM**” means a person with authority, to make statutory decisions with respect to forestry resources under provincial legislation as amended from time to time.
- 1.6 “**Designate**” has the meaning given to that term in section 3.1.1.
- 1.7 “**Effective Date**” means the date on which this Agreement has been ratified and signed by each of the Parties.
- 1.8 “**First Fiscal Year of the Term**” has the meaning given to that term in section 3.3.
- 1.9 “**Licensee**” means a holder of a forest tenure.
- 1.10 “**Matrix**” means the framework in Appendix B which will be used to define consultation between the Parties with respect to Operational and Administrative Decisions.
- 1.11 “**Minister**” means the Minister of Forests, Lands and Natural Resource Operations having the responsibility, from time to time, for the exercise of powers in respect of forests and range matters.
- 1.12 “**Operational Plan**” means a Forest Stewardship Plan, Woodlot Licence Plan, (as those terms are defined in forest and range legislation) that has or will have effect in the Simpcw First Nation’s Traditional Territory.
- 1.13 “**Payment Account**” has the meaning given to that term in section 3.1.3.
- 1.14 “**RA**” means a reconciliation agreement between British Columbia and the Simpcw First Nation that creates a foundation for the reconciliation of aboriginal rights and/or aboriginal title with Crown sovereignty but is not a treaty in the meaning of section 35(1) of the *Constitution Act, 1982*.
- 1.15 “**Revenue Sharing Contribution**” means each payment to be made by British Columbia to the Simpcw First Nation in accordance with Section 3.0 of this Agreement.
- 1.16 “**SEA**” means a strategic engagement agreement between British Columbia and the Simpcw First Nation that describes a consultation process between the Simpcw First Nation and more than one natural resource ministry of the Government of British Columbia.
- 1.17 “**Forest Tenure Opportunity Agreement**” means an agreement signed between the Minister and a First Nation that provides for the Minister to direct award forest tenure under the *Forest Act*.
- 1.18 “**Term**” has the meaning given to that term in section 11.1.
- 1.19 “**Timber Harvesting Land Base**” means the portion of the total land area of a management unit considered by Ministry of Forest, Lands and Natural

Resource Operations to contribute to, and be available for, long-term timber supply.

- 1.20 “**Traditional Territory**” means the Simpcw First Nation’s claimed or asserted Traditional Territory as shown in bold black on the map attached in Appendix A.
- 1.21 “**Treasury Board**” means the cabinet committee of British Columbia defined in the *Financial Administration Act*.

2.0 Purpose and Objectives

The purposes and objectives of this Agreement are:

- 2.1 In relation to potential impacts on Simpcw First Nation’s Aboriginal Interests resulting from forestry development in its Traditional Territory, to facilitate the Parties in meeting their respective legal consultation obligations by supporting the capacity of Simpcw First Nation to participate in consultation initiated by British Columbia and by establishing an agreed upon consultation process which may result in an accommodation of Simpcw First Nation’s interests being implemented, where appropriate, in addition to the Revenue Sharing Contribution provided as an economic accommodation in this Agreement; and
- 2.2 To provide an opportunity for the Simpcw First Nation to identify and pursue activities that will enhance and improve the social, cultural and economic well-being of its community and assist the Simpcw First Nation in achieving progress towards closing socio-economic gaps between the members of Simpcw First Nation and non-Aboriginal people in British Columbia.

3.0 Forest Revenue Sharing Contribution

- 3.1 Recipient Entity:
 - 3.1.1 Unless the Simpcw First Nation elects to have another entity (its “Designate”) receive Revenue Sharing Contributions pursuant to section 3.1.2, recognizing that any such election does not relieve the Simpcw First Nation of its obligation under this agreement, the Simpcw First Nation will be the recipient of the Revenue Sharing Contributions.
 - 3.1.2 Where the Simpcw First Nation chooses to have its Designate receive Revenue Sharing Contributions under this Agreement, British Columbia may withhold payment of the Revenue Sharing Contribution until it is satisfied that the Designate is a registered corporation or society with the legal authority and capacity to receive the funds for the purposes described in section 2.0 and that it has been appointed by Band Council Resolution documented in

Appendix D to receive the Revenue Sharing Contribution on behalf of the Simpcw First Nation.

- 3.1.3 Simpcw First Nation will establish and throughout the Term maintain a bank account in the name of Simpcw First Nation (or the Designate, as the case may be) at a Canadian financial institution into which direct deposits can be made by British Columbia for the purpose of receiving monies payable by British Columbia pursuant to this Agreement (the "Payment Account"). Simpcw First Nation will provide to British Columbia sufficient address and account information respecting the Payment Account to enable British Columbia to make direct deposit payments to the Payment Account.
- 3.2 Subject to section 3.1.2 and section 10.0 of this Agreement, British Columbia will during the Term make annual Revenue Sharing Contributions, calculated in accordance with Appendix C, to the Simpcw First Nation, or to its Designate, as the case may be, and, subject to section 3.4 and 3.6, the Revenue Sharing Contribution will be disbursed in two equal payments: the first payment to be paid on or before September 30th, and the second payment to be paid on or before March 31st.
- 3.3 Notwithstanding section 3.2, for the BC Fiscal Year in which the Effective Date falls (the "First Fiscal Year of the Term") the amount calculated in accordance with **Appendix C is deemed to be \$283,110**. For further certainty the first payment under this agreement will be on March 31, 2013.
- 3.4 Before November 30th of each year during the Term, Simpcw First Nation will receive written notification from British Columbia of the Revenue Sharing Contribution for the following BC Fiscal Year (including the summary document(s) and calculations identified in Appendix C) and the Simpcw First Nation agrees that such written notification will have the effect for the purposes of this Agreement of describing the amount of the Revenue Sharing Contribution under this Agreement for that following BC Fiscal Year.
- 3.5 For each BC Fiscal Year subsequent to the First Fiscal Year of the Term, the Revenue Sharing Contribution will be provided by British Columbia to the Simpcw First Nation or its Designate in the manner specified in section 3.2 only if Simpcw First Nation has published all of the necessary statements and reports before the appropriate dates as set out in section 6.0 of this Agreement, is in all other respects in compliance with the terms of this Agreement and this Agreement has not been suspended or terminated pursuant to section 10.0.
- 3.6 Notwithstanding any other provisions of this Agreement, the payment of money by British Columbia to the Simpcw First Nation pursuant to this Agreement is subject to:

- 3.6.1 there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable British Columbia in any BC Fiscal Year or part thereof when any such payment may be required, to make that payment;
- 3.6.2 Treasury Board not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in section 3.7.1., and
- 3.6.3 In the event of non-payment by British Columbia, the Simpcw First Nation's obligations under section 6, 8.1 and 10.3 of this Agreement are suspended for the period of non-payment.

4.0 Consultation Process

- 4.1 The Parties agree that consultation with respect to impacts to Simpcw First Nation's Aboriginal Interests arising from any Operational or Administrative Decisions or Operational Plans is to be carried out in accordance with the process set out in Appendix B of this Agreement.
- 4.2 British Columbia will use the map of the Simpcw First Nation's Traditional Territory that is set out in this Agreement as Appendix A, which is the traditional territory of the Simpcw First Nation.
- 4.3 Simpcw First Nation agrees that British Columbia may share the map of the Traditional Territory as set out in Appendix A with another provincial government agency and/or a licensee responsible for information sharing associated with a decision that is subject to this Agreement.
- 4.4 The Parties agree that in the event Simpcw First Nation enters into a SEA or RA with British Columbia after the Effective Date which includes a consultation process which addresses forest and range management and decision making, the consultation process set out in the SEA or RA will supersede and replace the consultation process set out in this Agreement for the term of the SEA or RA if the SEA or RA so provides; and in any such case, if the SEA or RA terminates prior to the end of the Term, the Parties agree that the consultation process set out in Appendix B of this Agreement will apply for the remainder of the Term.
- 4.5 In the event that the Effective Date falls after the date on which Simpcw First Nation enters into a SEA or RA with British Columbia that includes a consultation process which addresses forest and range management and decision making, and the SEA or RA is subsequently terminated prior to the end of the Term, the Simpcw First Nation agrees that this Agreement will be amended within 60 days of the date of termination of the SEA or RA to include a consultation process in this Agreement.

5.0 Acknowledgments and Covenants by Simpcw First Nation

- 5.1 Simpcw First Nation acknowledges that forest revenues received by British Columbia fluctuate and that the Revenue Sharing Contributions under this Agreement will vary over time.
- 5.2 Without prejudicing their sufficiency, Simpcw First Nation agrees that the Revenue Sharing Contributions made under section 3.0 of this Agreement constitute an accommodation for impacts on Simpcw First Nation Aboriginal Interests of Administrative Decisions, Operational Decisions and/or Operational Plans in the Traditional Territory from April 1, 2012 to the end of the term of this Agreement.
- 5.3 Simpcw First Nation agrees that during the term of this Agreement, if the consultation process set out in this Agreement is followed, British Columbia has adequately consulted and has provided an accommodation with respect to potential infringements of Simpcw First Nation's Aboriginal Interests in the context of Operational Decisions and Administrative Decisions that British Columbia will make and any forest or range practices that may be carried out under an Operational Plan in the Traditional Territory.

6.0 Community Priorities, Annual Reports and Records

- 6.1 Simpcw First Nation covenants and agrees as follows:
 - 6.1.1 Within 60 days of the Effective Date of this Agreement, Simpcw First Nation or its Designate will prepare a statement of community priorities covering the term of the Agreement, substantially in the form set out in Appendix E that outlines activities it intends to fund to help achieve the socio-economic objectives identified in section 2.2. This statement will outline the community priorities based on the First Fiscal Year Revenue Sharing Contribution.
 - 6.1.2 Before the end of each BC Fiscal Year, Simpcw First Nation or its Designate will update the statement of community priorities identified in section 6.1.1 based on the updated Revenue Sharing Contribution described in section 3.5.
 - 6.1.3 Within 90 days of the end of each BC Fiscal Year, Simpcw First Nation or its Designate will prepare an annual report, substantially in the form set out in Appendix F, identifying all expenditures made from the Payment Account since the date of the last such report (or, in the case of the first such report, since the Effective Date of this Agreement) and confirming that, aside from reasonable administrative expenses, all such expenditures were made for the purpose of accomplishing the purposes and objectives referred to in section 2.0.
 - 6.1.4 British Columbia retains the right at its sole discretion, such discretion to be exercised reasonably, to require an audit of expenditures made from the Payment Account to ensure that all such expenditures were made for appropriate purposes under this Agreement, such audit to

be at the expense of the Simpcw First Nation or its Designate.

6.1.5 The documents referred to in sections 6.1.1, 6.1.2, and 6.1.3 will be published by Simpcw First Nation or its Designate in a manner that can reasonably be expected to bring the information to the attention of its communities and the public.

6.1.6 Notwithstanding the termination or expiry of this Agreement, Simpcw First Nation or its Designate will continue to comply with the provisions of section 6.1 until 90 days after it receives the last Revenue Sharing Contribution from British Columbia.

6.2 If Simpcw First Nation requires funding ("capacity") to engage in consultation processes on forestry pursuant to this Agreement or a subsequent SEA or RA as referenced in section 4.4 up to \$35,000 annually of the Revenue Sharing Contribution will be used by Simpcw First Nation for that capacity during the Term of this Agreement

7.0 Security Deposits

7.1 In recognition of Simpcw First Nation entering into this Agreement, British Columbia may choose not to request a silviculture deposit(s) pertaining to licence(s) entered into as a result of the invitation to apply under a Forest Tenure Opportunity Agreement entered into between Simpcw First Nation (or a legal entity controlled by the Simpcw First Nation) and British Columbia.

7.2 Simpcw First Nation agrees that British Columbia may apply any payment that Simpcw First Nation is entitled to receive under this Agreement, to a maximum of the amounts that British Columbia would have obtained in a silviculture deposit, in order to fully or partially satisfy any unfulfilled financial obligations of Simpcw First Nation to British Columbia arising from a licence(s) entered into as a result of the invitation to apply under a Forest Tenure Opportunity Agreement entered into between Simpcw First Nation (or a legal entity controlled by the Simpcw First Nation) and British Columbia.

7.3 Prior to British Columbia applying any payment to satisfy unfulfilled Simpcw First Nation financial obligations arising from a licence(s) in accordance with section 7.2, British Columbia will notify the Simpcw First Nation of the unfulfilled financial obligation(s).

8.0 Stability for Land and Resource Use

8.1 Simpcw First Nation and the Province will work in partnership, in a timely manner, to discuss and resolve issues in relation to any acts of intentional interference by members of the Simpcw First Nation with provincially authorized forestry activities.

9.0 Dispute Resolution

- 9.1 If a dispute arises between British Columbia and the Simpcw First Nation regarding the interpretation of a provision of this Agreement, the duly appointed representatives of the Parties will meet as soon as is practicable to attempt to resolve the dispute.
- 9.2 If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of British Columbia and the Simpcw First Nation.
- 9.3 If the interpretation dispute cannot be resolved by the Parties directly, the Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

10.0 Suspension and Termination

- 10.1 British Columbia may suspend the making of further Revenue Sharing Contributions under this Agreement if it determines, acting reasonably, that Simpcw First Nation is not fulfilling its obligations under sections 4.0 and 6.0 or sections 8.1 or 10.3 of this Agreement, or where the Simpcw First Nation has outstanding unfulfilled financial obligations to British Columbia arising from a licence(s) issued further to an agreement between the Simpcw First Nation and British Columbia. Upon making any such determination, British Columbia will provide notice to Simpcw First Nation of the alleged non-compliance, and the Parties will then attempt to resolve their differences.
- 10.2 If the alleged non-compliance by Simpcw First Nation is not resolved within 60 days of the notice provided in section 10.1, British Columbia will notify Simpcw First Nation that the alleged non-compliance remains unresolved and, without limiting the actions that may be taken by British Columbia, may terminate this Agreement.
- 10.3 If, during the term of this Agreement, Simpcw First Nation challenges or supports a challenge to an Administrative Decision and/or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions or plans, by way of legal proceedings or otherwise, on the basis that, contrary to section 5.2, the Revenue Sharing Contribution provided for in section 3.0 of this Agreement does not provide an accommodation for impacts on Simpcw First Nation's Aboriginal Interests then, without limiting any actions that may be taken by British Columbia, the Revenue Sharing Contribution provided for in section 3.0 may be suspended or this Agreement may be terminated by British Columbia.
- 10.4 This Agreement will terminate prior to the end of the Term in any one of the following circumstances; 90 days' written notice of termination is given by one Party to the other; termination occurs in accordance with any of the provisions of section 10.0; or upon mutual agreement of the Parties. In the event of such early termination of this Agreement, the Revenue Sharing Contribution for the BC Fiscal Year in which termination becomes effective will be prorated to the termination date.

- 10.5 If a Party gives written notice of its intention to terminate this Agreement effective 90 days from the date of the notice, the Parties will, prior to the end of the 90-day period, meet and will attempt to resolve any issue that may have given rise to the termination notice.

11.0 Term

- 11.1 The term of this Agreement commences on the Effective Date and, unless terminated earlier in accordance with any of the provisions hereof, will end on the day immediately before the third anniversary of the Effective Date.

12.0 Renewal of the Agreement

- 12.1 Prior to the expiry of the Term, if the terms and conditions of this Agreement are being met, British Columbia and Simpcw First Nation will, if each party has received such authorizations as it may require, begin negotiations for the renewal of this Agreement or for a new agreement.

13.0 Amendment of Agreement

- 13.1 Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
- 13.2 Either Party may request the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.

14.0 Entire Agreement

- 14.1 This Agreement and any amendment to it constitute the entire Agreement between the Parties with respect to the subject matter of this Agreement.

15.0 Notice

- 15.1 Any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement, will be in writing and will be effective if delivered, sent by registered mail, or transmitted by facsimile to the address of the other Party as in this section of the Agreement.
- 15.2 Any notice or other communications will be deemed to have been given on the date it is actually received, if received before 4:00 p.m. If received after 4:00 p.m., it will be deemed to have been received on the next business day.
- 15.3 The address of either Party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia
Deputy Minister
Ministry of Aboriginal Relations and Reconciliation
P.O. Box 9100 STN PROV GOVT
Victoria B.C. V8W 9B1
Telephone: (250) 356-1394
Fax: (250) 387-6594

Simpcw First Nation

Chief Rita Matthew
Simpcw First Nation
Box 220
Barriere, BC VOE 1EO
Telephone: (250) 672-9995
Facsimile: (250) 672-5858

16.0 Miscellaneous


- 16.1 This Agreement shall be interpreted in a manner consistent with provincial and federal law.
- 16.2 This Agreement is not a treaty or a lands claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* and does not define or amend aboriginal rights, or limit any priorities afforded to aboriginal rights, including aboriginal title.
- 16.3 This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.
- 16.4 Subject to paragraph 10.3, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 16.5 British Columbia acknowledges and enters into this Agreement on the basis that the Simpcw First Nation has Aboriginal Interests within their Traditional Territory but that the specific nature, scope or geographic extent of Aboriginal Interests of the Simpcw First Nation have yet to be determined. Broader processes engaged in to bring about reconciliation will result in a common understanding of the nature, scope and geographic extent of Aboriginal Interests or treaty interests of the Simpcw First Nation.
- 16.6 References in this Agreement to Crown lands are without prejudice to the Simpcw First Nation's Aboriginal title and/or rights claims over those lands.
- 16.7 Subject to Section 5.2, this Agreement does not address or affect any claims by the Simpcw First Nation regarding impacts on its Aboriginal Interests resulting from past Operational or Administrative Decisions made by British Columbia prior to the effective date of this Agreement


- 16.8 This Agreement and any decisions made during the term of this Agreement do not change or affect the positions either Party has, or may have, regarding jurisdiction and authorities
- 16.9 Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.
- 16.10 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 16.11 The applicable laws of British Columbia and Canada shall govern this Agreement.
- 16.12 This Agreement is not intended to limit any obligation of forest or range Licensees or other third parties to the Simpcw First Nation.
- 16.13 This Agreement does not exclude the Simpcw First Nation from accessing forestry economic opportunities and benefits, which may be available to the Simpcw First Nation, other than those expressly set out in this Agreement.
- 16.14 Nothing in this Agreement is to be construed as an acceptance of or admission by a Party of the position of the other Party or as an admission of fact or liability.
- 16.15 This Agreement does not constitute an admission of an obligation to provide financial or economic benefits, as provided in this Agreement, as part of the British Columbia's obligation to consult and accommodate.
- 16.16 If any part of this Agreement is void or unenforceable at law, that part shall be severed from this Agreement and the rest of the Agreement shall remain in effect and fully enforceable.
- 16.17 If any part of this Agreement is void or unenforceable at law, the Parties agree to negotiate and attempt to reach agreement, to the extent reasonably possible and as their respective interests may require, on a replacement for the severed part with a view to achieving the intent of the Parties as expressed in this Agreement.
- 16.18 All headings in this Agreement are for convenience only and do not form a part of this Agreement and are not intended to interpret, define, limit, enlarge, modify or explain the scope, extent or intent of this Agreement or any of its provisions.
- 16.19 In this Agreement, words in the singular include the plural, and words in the plural include the singular unless the context or any specific definition otherwise requires.
- 16.20 The appendices to this Agreement form part of the Agreement.
- 16.21 This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be

an original for all purposes and all counterparts taken together will be deemed to constitute one document.

Signed on behalf of:

Simpcw First Nation


Chief Rita Matthew


Councillor


Councillor

Councillor


Witness of Simpcw First Nation signatures

Jan. 28-13
Date

Councillor


Councillor


Councillor

Signed on behalf of:

Government of British Columbia


Ida Chong
Minister of Aboriginal Relations and
Reconciliation

Feb 18/13
Date


Witness of Minister signature

Simpcw First Nation

Councillor

Councillor

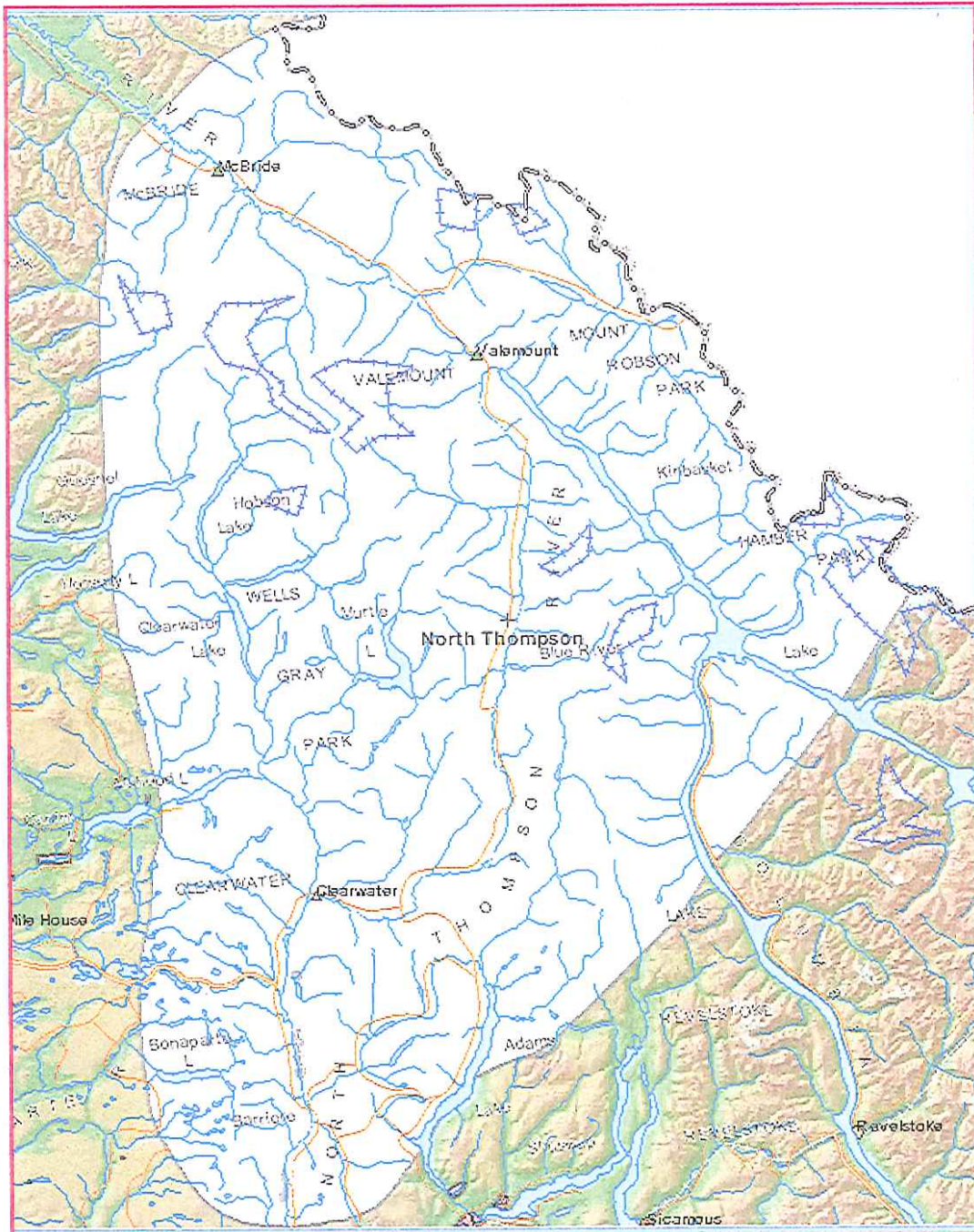
Councillor _____

Government of British Columbia

Date _____

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APPENDIX A
Map of Simpcw First Nation Traditional Territory
(the Simpcw First Nation)



APPENDIX B

Consultation

On Operational and Administrative Decisions and Operational Plans.

In order to facilitate consultation with respect to Operational and Administrative Decisions and Operational Plans, the Parties have agreed to use the Matrix framework set out in section 1.10 of this Appendix ("section 1.10"), which allows the Parties to determine which Operational and Administrative Decisions and Operational Plans will require consultation, as well as the associated appropriate level of consultation for those decisions and plans.

- 1.1 British Columbia agrees to consult with Simpcw First Nation in accordance with the applicable consultation level agreed to by the Parties under section 1.10 on Operational Plans, Operational Decisions, and Administrative Decisions that may potentially adversely impact Simpcw First Nation's Aboriginal Interests within the Traditional Territory.
- 1.2 Simpcw First Nation agrees to fully participate with British Columbia and/or Licensees or licence proponents, as set out in this Agreement and in accordance with the applicable level of consultation to which the Parties have agreed under section 1.10, in information sharing and/or consultation regarding proposed Operational Decisions, Administrative Decisions, and Operational Plans dealing with forest and range development within the Traditional Territory.
- 1.3 In this Appendix, "First Annual List" means a list of Operational and Administrative Decisions and Operational Plans, which may require consultation during the First Fiscal Year of the Term or part thereof in which the Effective Date occurs, that is provided to the Simpcw First Nation by British Columbia in advance of the Parties entering into this Agreement.
- 1.4 Prior to entering into this Agreement, the Parties will agree on the applicable consultation levels for the decisions on the First Annual List, using the consultation levels described in section 1.10.
- 1.5 In this Appendix, "Annual List" means an annual list of Operational and Administrative Decisions and Operational Plans that may require consultation in a fiscal year of the Agreement in which those decisions are anticipated to be made, and that will be provided to the Simpcw First Nation by British Columbia before March 31st of each year after the First Fiscal Year of the Term.
- 1.6 For fiscal years subsequent to the First Fiscal Year of the term, the Parties will meet annually on or before March 31st to discuss the Annual List and, in the case of decisions and plans for which the Parties have not already agreed to a consultation level described in section 1.10 in a preceding fiscal year, the Parties will agree on the consultation levels that will be applicable to those Operational and Administrative Decisions and Operational Plans on the Annual List, in accordance with section 1.10.

- 1.7 When British Columbia becomes aware of proposed types of Operational or Administrative Decisions or Operational Plans not contained in the Annual List that will have effect within the Traditional Territory of Simpcw First Nation during the current fiscal year, British Columbia will notify the Simpcw First Nation of those new types of decisions or plans and the Parties will seek to agree on the consultation levels that will be applicable to those Operational and Administrative Decisions and Operational Plans, in accordance with section 1.10.
- 1.8 In reviewing and responding to an Operational Decision, Administrative Decision, or Operational Plan submitted to them, Simpcw First Nation will, unless otherwise agreed by the Parties, provide the party (i.e. British Columbia, a licensee or proponent) that supplied the proposed decision or plan to them, with all reasonably available information that will identify any potential impacts to their Aboriginal Interests that may occur as a result of proposed forest and/or range resource development activities pursuant to that Operational Decision, Administrative Decision or Operational Plan within the Traditional Territory. If the Simpcw First Nation requires an extension of the time period set out in the consultation matrix in this appendix, the Simpcw First Nation shall request an extension within 5 days of the expiry of any application time period and the request for the extension shall not be unreasonably withheld. The Parties will work together to discuss a reasonable revised timeframe.
- 1.9 If no response is received from Simpcw First Nation within the timeframe set out in section 1.10, then British Columbia may conclude that Simpcw First Nation does not intend to respond or participate in the consultation process in respect of the Operational or Administrative Decision or Operational Plan and that a decision may proceed.
- 1.10 The Parties agree to the following description and intent of the consultation levels:



Level	Description	Intent
1. Information Sharing: prior to formal consultation process	Referral to Simpcw First Nation during planning to provide opportunity to incorporate Aboriginal Interests prior to submitting plan/request/application to Decision Maker.	Proponent or tenure holder engages directly with Simpcw First Nation, and provides summary of communications to British Columbia. Proponent or tenure holder will provide the Simpcw First Nation with all information reasonably requested by the Simpcw First Nation to identify and address potential impacts on Aboriginal

Level	Description	Intent
		interests.
2. Available on Request	Type of notification whereby British Columbia informs Simpcw First Nation they will not be sending out information.	British Columbia notifies on an annual basis which decision(s) fall in this category. Simpcw First Nation can request more detail if they wish.
3. Notification	Notify in writing Simpcw First Nation about an upcoming decision and provide overview information. Would be an opportunity for comment.	British Columbia provides Simpcw First Nation base level information and a short reasonable time (21-30 calendar day consultation period determined by the Parties) to comment. Limited follow-up.
4. Expedited Consultation Process	Where there is an imminent threat to a resource value (e.g. mountain pine beetle spread control) an expedited consultation process is undertaken.	Intense but short timeline (about 10 calendar days). A justification for shortening the period would be given by describing the imminent threat. May require a meeting.
5. Normal Consultation	Follow on “normal” track for consultation guided by up-to-date consultation. If requested, meetings to discuss concerns and resolve issues and make decisions in a timely manner. British Columbia will provide the Simpcw First Nation with all information reasonably requested by the Simpcw First Nation in a timely manner to identify and address potential impacts on Aboriginal Interests.	Intent to follow this course in most circumstances. Usually a 30 – 60 calendar day consultation period. May involve meaningful discussion of accommodation options where appropriate. British Columbia will notify Simpcw First Nation of the final decision where requested by the Simpcw First Nation.
6. Deep Consultation	Use reasonable effort to inform in an accessible manner and to engage in full discussions around the proposed decision. Make reasonable efforts to accommodate where necessary. Preliminary assessments may indicate a significant aboriginal interest and a significant impact to that interest. Follow on “deep” track for consultation guided by up-to-date consultation. Meetings to discuss concerns and resolve issues and make decisions in a timely manner.	Would involve meaningful discussion of suitable accommodation options and interim solutions where appropriate. May require extended timelines. British Columbia will provide the Simpcw First Nation with the final decision and rationale in writing.

Level	Description	Intent
	British Columbia will provide the Simpcw First Nation with all information reasonably requested by the Simpcw First Nation in a timely manner to identify and address potential impacts on Aboriginal Interests. Where such information is unavailable, the Parties will make the efforts to work together to determine how such information may be acquired.	

- 1.11 The Parties may agree to adjust the consultation levels for specific circumstances where detailed aboriginal interest information is shared that would suggest a different consultation level.
- 1.12 Simpcw First Nation agrees that the province is not obligated, unless requested by the Simpcw First Nation, to inform the Simpcw First Nation of the Delegated Decision Maker's decision for decisions on which the consultation level has been level three (3) or lower.
- 1.13 If the Parties cannot agree upon which consultation level in section 1.10 should apply to a particular or any Operational or Administrative Decision or Operational Plan, then British Columbia will consult with Simpcw First Nation on the basis of British Columbia's consultation procedures in effect at the time as well as the applicable case law respecting consultation obligations.
- 1.14 Where the Simpcw First Nation provides information to British Columbia or otherwise raises concerns in relation to any decision to be made in the above matrix, British Columbia will seriously consider and if required substantially address and accommodate those concerns.
- 1.15 For any decision at level 6, British Columbia shall, if requested by the Simpcw First Nation, provide the Simpcw First Nation with a preliminary assessment analysis in relation thereto.

APPENDIX C

Revenue Sharing Contribution Methodology

Traditional Territory Forest Revenue Sharing Component

- 1.0 In each BC Fiscal Year that this Agreement is in effect, and subsequent to the release by the Minister of Finance of the previous BC Fiscal Year's public accounts of British Columbia, a summary document will be prepared of the Central Cariboo, Columbia, Headwaters, Kamloops, 100 Mile House and Okanagan Shuswap Forest Districts' forest revenue, defined as the total of stumpage, waste and annual rent payments received by the Crown for the previous 2 BC Fiscal Years. An average amount over 2 years will be calculated for these four districts.
- 1.1 For the purposes of the summary document in section 1.0 of this Appendix, the stumpage payments from Simpcw First Nation's eligible license will not be included in the calculations of forest revenue.
- 1.2 The amount of the forest revenue attributed to the Simpcw First Nation's Traditional Territory will be calculated by determining the percent of Simpcw First Nation's Traditional Territory that falls within the Timber Harvesting Land Base in the Central Cariboo, Columbia, Headwaters, Kamloops, 100 Mile House and Okanagan Shuswap Forest Districts' , applied against the forest revenue described in section 1.0 of this Appendix. This calculation will prorate for overlapping territories of other First Nations.
- 1.3 The Traditional Territory Forest Revenue Sharing Component will be calculated by multiplying 3 percent of the forest revenue attributed to the Simpcw First Nation as described in section 1.2 of this Appendix.
- 1.4 Where the calculation in section 1.3 of this Appendix is less than \$35,000, Simpcw First Nation will receive a maximum of \$35,000 to provide capacity to participate in the consultation process in accordance with section 4.0 of this Agreement.
- 1.5 For each BC Fiscal Year that this Agreement is in effect, the calculations outlined in sections 1.0 to 1.4 of this Appendix will be performed.

Direct Award Tenure Forest Revenue Sharing Component

- 2.0 Subsequent to the release by the Minister of Finance of the previous BC Fiscal Year's public accounts of British Columbia, a summary document will be prepared of Simpcw First Nation's eligible license's forest revenue, defined as the total of stumpage payments received by the Crown for the previous BC Fiscal Year. (
- 2.1 The Direct Award Forest Tenure Revenue Sharing Component will be calculated by multiplying 35 percent of the forest revenue as described in section 2.0 of this Appendix.

- 2.2 For each BC Fiscal Year that this Agreement is in effect, the calculations outlined in sections 2.0 and 2.1 of this Appendix will be performed.

Forest Revenue Sharing Transition

- 3.0 The Parties agree that new methods to calculate the Revenue Sharing Contribution will be phased in over the next 3 years.
- 3.1 For each BC Fiscal Year that this Agreement is in effect, a portion of the Revenue Sharing Contribution is calculated by determining the total of the Traditional Territory Forest Revenue Sharing Component and the Direct Award Tenure Forest Revenue Sharing Component for that BC Fiscal Year ("the sum") and applying the following percentages to that sum:
- 3.1.1 2012/13 BC Fiscal Year: 80 percent; and
- 3.1.2 2013/14 BC Fiscal Year: 100 percent
- 3.2 For each BC Fiscal Year that this Agreement is in effect, the remaining portion of the Revenue Sharing Contribution is calculated by determining the value of the payments that were made by British Columbia to Simpcw First Nation in any given full year under the *Kamloops Indian Band Forest and Range Interim Measures Agreement* which expired on March 24, 2010 ("the Annual Amount") and applying the following percentages to that Annual Amount:
- 3.2.1 2012/13 BC Fiscal Year: 55 percent; and
- 3.2.2 2013/14 BC Fiscal Year: 50 percent.
- 3.3 The Parties agree that for all subsequent fiscal years that this Agreement is in effect the Revenue Sharing Contribution will be the sum of:
- 3.3.1 the Traditional Territory Forest Revenue Sharing Component and the Direct Award Tenure Forest Revenue Sharing Component calculated in this Appendix.

APPENDIX D

Band Council Resolution Appointing the Recipient Entity for this Agreement (“Designate”)

APPENDIX E

Simpcw First Nation First Nation Statement of Community Priorities

(Example only)

Socio-economic Priority	Annual Amount			Specific Outcomes	Measurement Criteria
	2012/2013	2013/2014	2014/2015		

2012/2013 Revenue Sharing Contribution \$To Be Determined

2013/2014 Revenue Sharing Contribution \$To Be Determined

2014/2015 Revenue Sharing Contribution \$To Be Determined

APPENDIX F

Simpcw First Nation First Nation Statement of Community Priorities

Annual Report

(Example only)

Socio-economic Priority	2012/2013 Planned Expenditures	2013/2014 Actual Expenditures	Outcomes Achieved	Variance Explanation