

INTERIM FORESTRY REVENUE SHARING AGREEMENT

BETWEEN:

Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Indigenous Relations and Reconciliation

("B.C.")

AND:

Nadleh Whut'en, Nak'azdli Whut'en, Saik'uz First Nation, Stellat'en First Nation, Takla Lake First Nation, Tl'azt'en Nation, Ts'ii Kaz Koh First Nation (Burns Lake Indian Band), each on their own behalf and on behalf of their members

("CSFNs")

AND:

Carrier Sekani Tribal Council

("CSTC")

(Hereinafter referred to individually as a "Party", including each CSFN as a "Party", and collectively as the "Parties")

WHEREAS:

- A. Pursuant to sections 3.3 and 3.6 of the Collaboration Agreement entered into on April 2, 2015, the Parties established the Forestry Table in January 2016 to negotiate a forestry agreement between them;
- B. The Parties entered into the *Whubats'ut'en Nus Whetee Agreement* (the "Interim Pathway Forward Agreement") on March 28, 2017 to continue their work together in a collaborative, step-wise manner towards ongoing reconciliation of Carrier Sekani and B.C. titles, rights, and interests in the Territories;
- C. Pursuant to section 11 (a) of the Interim Pathway Forward Agreement, the Parties have continued to negotiate forestry benefit sharing in connection with forest and range activities in the Territories;
- D. The Parties are currently negotiating a new government-to-government agreement commonly referred to as the "Pathway Forward 2.0 Agreement";
- E. The Parties have drafted a scoping document, which:
 - (i) provides a concise summary of the Forestry Table's proposals for the economic components and additional proposals in respect of the Pathway Forward 2.0 Agreement; and

- (ii) provides the basis for the Parties to seek the mandates required to complete the negotiation of the Pathway Forward 2.0 Agreement (the "**Scoping Document**");
- F. The Parties are currently seeking the mandates required to complete the negotiation of the Pathway Forward 2.0 Agreement based on the Scoping Document and other relevant documents;
- G. A key component of the Scoping Document involves the Parties entering into an interim forestry revenue sharing agreement on similar terms to the Interim Forestry Revenue Sharing Agreement the Parties entered into in July 2016 and March 2017; and
- H. This Interim Forestry Revenue Sharing Agreement ("**Agreement**") sets out the Parties' commitments in relation to interim revenue sharing for B.C.'s fiscal year 2018-2019 and 2019-2020;

NOW THEREFORE in consideration of the promises and mutual covenants and agreements hereinafter set out the Parties agree as follows:

1.0 Purpose

1.1 The purposes of this Agreement are to:

- 1.1.1 provide interim forestry revenue sharing payments to the CSFNs while the Parties' negotiation of the forestry agreement is ongoing;
- 1.1.2 confirm the engagement process the Parties will use to engage on proposed forest and range activities within the area identified by the CSFNs and illustrated in the map attached at Schedule "A" ("**Territories**"); and
- 1.1.3 assist in achieving stability and greater predictability in respect of forest and range activities within the Territories.

2.0 Interim Revenue Sharing Payments

2.1 As soon as practicable:

- 2.1.1 after the execution of this Agreement, B.C. will provide a payment to CSTC, on behalf of and for the benefit of the CSFNs, of \$4,294,755.00 for fiscal year 2018-2019; and
- 2.1.2 after March 31, 2019, and after receiving written notice from CSTC that it is ready to accept the payment, B.C. will provide notice to the CSTC of the amount for fiscal year 2019-2020 and provide a payment in that amount to CSTC, on behalf of and for the benefit of the CSFNs;

as interim revenue sharing payments derived from revenue collected by B.C. from timber harvested in the Territories (the "**Interim Forestry Revenue Sharing Payments**").

- 2.2 **Economic Accommodation.** Each Interim Forestry Revenue Sharing Payment constitutes a partial economic accommodation and is a component of any accommodation or compensation in relation to any impacts to, or infringements of, Carrier Sekani Aboriginal title and rights in

connection with provincial forest and range decisions in the B.C. fiscal year the Payment was made.

2.3 The Parties will discuss further revenue sharing payments as part of their negotiations of the Pathway Forward 2.0 Agreement.

2.4 **Enhanced Forestry Revenue Sharing.** The Parties acknowledge that B.C. is currently developing new approaches to reconciliation and revenue sharing, including forestry revenue and benefit sharing, which may lead to potential modifications to, or replacement of, existing policy applicable to forest consultation and revenue sharing agreements.

2.5 If, during the Term, B.C. modifies, enhances or replaces its policy approach to the provincial forestry revenue sharing or compensation that is applicable to this Agreement as of March 31, 2018, including by modifying, enhancing or replacing its current policy applicable to forest consultation and revenue sharing agreements, such that it would result in greater forestry revenue and benefit sharing or compensation more favourable to the CSFNs than the Interim Forestry Revenue Sharing Payment in any applicable B.C. fiscal year for the period of time that the new policy applies (the "**More Favourable Forestry Revenue and Benefit Sharing**"), then:

2.5.1 B.C. will inform the CSTC and CSFNs of the changes to the policy approach and the More Favourable Forestry Revenue and Benefit Sharing; and

2.5.2 the Parties will amend the Agreement in accordance with that new policy approach, if required, to ensure that:

(a) the Interim Forestry Revenue Sharing Payment in any applicable B.C. fiscal year is as favourable as the More Favourable Forestry Revenue and Benefit Sharing, calculated in accordance with that new policy approach and based on the period of time in the applicable B.C. fiscal year identified in the new policy (the "**Additional Revenue and Benefit Sharing**"); and

(b) the Additional Revenue and Benefit Sharing constitutes a partial economic accommodation and is a component of any accommodation or compensation in relation to any impacts to, or infringements of, Carrier Sekani Aboriginal title and rights in connection with provincial decisions in the B.C. fiscal year it was made.

3.0 **Engagement Process**

3.1 While the Parties may develop improvements to decision-making processes for forest and range activities as part of their negotiations of the Pathway Forward 2.0 Agreement:

3.1.1 the Parties will collaborate on certain strategic proposed decisions in relation to forest and range activities in the Territories that are agreed to in advance by the Parties;

3.1.2 B.C. will continue to discharge its consultation obligations with Individual CSFNs on proposed decisions in relation to forest and range activities in their respective Territories in accordance with s. 35 of the *Constitution Act, 1982*; and

3.1.3 for greater certainty the Parties will participate in the consultation and collaborative processes in good faith.

4.0 Annual Reports

- 4.1 The CSFNs will, in accordance with their respective annual planning and budgetary reporting processes, advise their membership of receipt of their portion of the Interim Forestry Revenue Sharing Payments and how these funds have been or will be used.

5.0 Stability for Land and Resource Use

- 5.1 The Parties are developing a new outcome based predictability model to deliver stability for land and resource use during their negotiation of the Pathway Forward 2.0 Agreement, and intend to include it and implement therein.
- 5.2 In the interim, the affected CSFNs will respond promptly to any discussions sought by B.C. in relation to any acts of intentional interference by members of that CSFN with provincially authorized forest and range activities and will work co-operatively with B.C. to attempt to resolve any intentional interference with a provincially authorized forest and range activity in a manner consistent with the Parties' government-to-government relationship and that attempts to avoid litigation wherever possible.

6.0 Dispute Resolution

- 6.1 If a dispute arises between B.C. and any CSFN regarding the interpretation of a provision of this Agreement, the duly appointed representatives of each Party will meet as soon as is practicable to attempt to resolve the dispute.

7.0 Term

- 7.1 **Term.** The term of this Agreement will commence on April 1, 2018 and will end on the earliest of (i) March 31, 2020, (ii) the date on which a forestry agreement between the Parties supersedes this Agreement or (iii) the date on which this Agreement is terminated pursuant to section 7.2.
- 7.2 **Termination.** The CSFNs or B.C. may terminate this Agreement if their negotiations come to an end without concluding and entering into the Pathway Forward 2.0 Agreement or another similar government-to-government agreement.

8.0 General Provisions

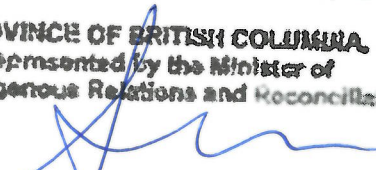
- 8.1 **CSTC and CSFN Representations and Warranties.** Each CSFN and the CSTC represents and warrants to B.C., with the intent and understanding that they will be relied on by B.C. in entering into this Agreement, that they have the legal power, capacity, and authority to enter into this Agreement on their own behalf and on behalf of their members, and that this Agreement is a valid and binding obligation upon them.
- 8.2 **BC Representations and Warranties.** B.C. represents and warrants to CSTC and each CSFN, with the intent and understanding that the CSTC and CSFNs will rely on them in entering into this Agreement, that it has the legal power, capacity, and authority to enter into this Agreement, and that this Agreement is a valid and binding obligation upon B.C.
- 8.3 **Authority to enter Agreement.** Each CSFN will deliver to B.C. a band council resolution, and CSTC will deliver to B.C. a resolution, confirming approval of this Agreement and the authority of its representative to sign this Agreement.

- 8.4 **Funding.** Notwithstanding any other provisions of this Agreement, the Interim Forestry Revenue Sharing Payments in section 2.1 are subject to:
- 8.4.1 there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable B.C. to make the Interim Revenue Sharing Payment; and
 - 8.4.2 Treasury Board not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in section 2.1.
- 8.5 **Further Mandates Required.** The Parties acknowledge and agree that they may require new or additional mandates and approvals with respect to the Scoping Document, the negotiation of Pathway Forward 2.0 Agreement, the negotiation of a Comprehensive Reconciliation Agreement, and related matters.
- 8.6 **Other Programs and Opportunities.** This Agreement supports the CSFNs in accessing other forestry economic opportunities and benefits that may be available.
- 8.7 **Other Arrangements.** For greater certainty, this Agreement is without prejudice to, and does not preclude, any CSFN from securing economic benefits or other arrangements from forestry companies carrying out forest and range activities in the Territories.
- 8.8 **Not a Treaty.** The Parties agree this Agreement:
- 8.8.1 does not constitute a treaty or land claim agreement within the meaning of section 25 and section 35 of the *Constitution Act, 1982*;
 - 8.8.2 does not establish, define, limit, amend, abrogate or derogate from any CSFN Aboriginal rights, including title, recognized and affirmed by section 35 of the *Constitution Act, 1982*; and
 - 8.8.3 is without prejudice to the ability of a CSFN to bring a claim of past or future infringement(s) of any CSFN title and rights, subject to section 35 of the *Whubats'ut'en Nus Whetee Agreement* but, for greater certainty, only until the term of that agreement expires or it is otherwise terminated.
- 8.9 **No Admissions.** Nothing in this Agreement will be construed as:
- 8.9.1 an admission of the validity of, or any fact or liability in relation to, any claims relating to alleged past or future infringements of any CSFN Aboriginal rights, including title, recognized and affirmed by section 35 of the *Constitution Act, 1982*;
 - 8.9.2 an admission or acknowledgement of any obligation to provide any financial, economic or other compensation, including those in this Agreement, as part of B.C.'s obligation to consult and, as appropriate, accommodate; or
 - 8.9.3 in any way limiting the position the Parties may take in any proceeding or in any discussion or negotiation between the Parties, except as expressly contemplated in this Agreement.
- 8.10 **No Fettering.** Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise of any decision-making authority.


- 8.11 Emergencies. Nothing in this Agreement affects the ability of either Party to respond in any emergency circumstances.
- 8.12 No Presumption of Ambiguity. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 8.13 Ts'il Kaz Koh. "Ts'il Kaz Koh First Nation" means the "band", as that term is defined in the Indian Act, R.S.C. 1985, c. 1-5, named "Burns Lake".
- 8.14 Amendment. This Agreement may be amended by agreement of the Parties in writing.
- 8.15 Execution in Counterpart. This Agreement may be executed in counterparts and by facsimile or email, and such counterparts, when executed and delivered, will constitute an original and all such counterparts together will constitute one and the same agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as set out below:


PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of
Indigenous Relations and Reconciliation,

Per: 
Authorized Signatory
Name: Scott Fraser
Date: Dec. 19/18


CARRIER SEKANI TRIBAL COUNCIL,
on its own behalf and on behalf of its
members

Per: 
Authorized Signatory
Name: REG MUELLER
Date: Dec 31/18

NADLEH WHUTEN on their own behalf
and on behalf of their members,

Per: 
Authorized Signatory
Name: Larry Likieski
Date: Dec 22 2018

NAK'AZDLI WHUTEN on their own
behalf and on behalf of their members

Per: 
Authorized Signatory
Name: Alexander McInnon
Date: Dec 2, 2018

SAKUX FIRST NATION on their own
behalf and on behalf of their members

Per: [Signature]
Authorized Signatory

Name: Chief Jackie Thomas

Date: Nov. 6, 2018

STELLAYEN FIRST NATION on their
own behalf and on behalf of their
members

Per: [Signature]
Authorized Signatory

Name: Archie Patrick

Date: Oct 31, 2018

TAKLA LAKE FIRST NATION on their own
behalf and on behalf of their members

Per: [Signature]
Authorized Signatory

Name: John French

Date: Oct. 22, 2018

TL'AZT'EN NATION on their own
behalf and on behalf of their members

Per: Beverly John
Authorized Signatory

Name: Beverly John

Date: Nov 21, 2018

TS'IL KAZ KOH FIRST NATION on their
own behalf and on behalf of their
members

Per: [Signature]
Authorized Signatory

Name: Dan George

Date: Nov 2, 2018

