

Consolidated Shared Prosperity Agreement

dated for reference March 30, 2020, as amended July 28, 2021

Between

Tahltan Nation

**as represented by Tahltan Central Government,
Iskut Band and Tahltan Band
("Tahltan")**

AND

Her Majesty the Queen in Right of the Province of British Columbia,

**as represented by the Minister of Energy Mines and Petroleum Resources, the
Minister of Indigenous Relations and Reconciliation, the Minister of Forests, Lands,
Natural Resource Operations and Rural Development, and the Minister of
Environment and Climate Change Strategy ("the Province")**

(each a "Party" and collectively the "Parties").

1. WHEREAS:

- 1.1.** The Province recognizes that Tahltan's Title and Rights exist in Tahltan Territory and that Tahltan has a unique relationship to and connection with the land and resources throughout Tahltan Territory, which are important to the:
 - (a) the exercise of Tahltan's Title and Rights;
 - (b) well-being of Tahltan's community, culture, economy and health; and,
 - (c) maintenance of Tahltan's governance, laws and economy;
- 1.2.** The Parties acknowledge that the Tahltan Territory is the Province's most active mineral exploration region and has the potential to become a significant economic driver and world-class sustainable mining jurisdiction that benefits Tahltan and the Province;
- 1.3.** The Parties acknowledge that progress has been made through existing and past agreements to advance their shared interests in building an enduring, resilient government-to-government relationship in respect of land and resource use, and community, social and economic development within the Tahltan Territory, but recognize that more work needs to be done to advance those shared interests;
- 1.4.** The Province recognizes that Tahltan leadership and Tahltan members place value on addressing reconciliation, building strong, advanced and inclusive governance structures, and putting the land and Tahltan children at the centre of decision-making processes, and the Province wishes to stand united with Tahltan and embrace these values under a new government-to-government partnership where we can establish the foundation to achieve extraordinary success and address issues that arise as we walk a path together; and

- 1.5. The Parties wish to build on the progress made through existing and past agreements and enter into this Agreement to:
- (a) provide for incremental economic reconciliation of Tahltan Title and Rights over time;
 - (b) strengthen the foundation to build a deeper government-to-government relationship; and
- 1.6. confirm principles and proposed outcomes associated with the establishment of a new government-to-government collaborative, long-term and evolving relationship in relation to land, resources and economic development in the Tahltan Territory through the negotiation of a Foundation Agreement that is based on the recognition of Tahltan Aboriginal Title and Rights and, as applicable, the implementation of the *Declaration on the Rights of Indigenous Peoples Act*, the Province's Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples released on May 22, 2018, the Calls to Action of the Truth and Reconciliation Commission and the Supreme Court of Canada's decision in *Tsilhqot'in Nation v. British Columbia* 2014 SCC 44.

NOW THEREFORE the Parties agree as follows:

2. DEFINITIONS, SCHEDULES and INTERPRETATION

2.1. Definitions. In this Agreement the following definitions apply:

"Agreement" means this Shared Prosperity Agreement dated for reference March 30, 2020, including all its parts and schedules, as amended from time to time in accordance with its terms;

"Declaration on the Rights of Indigenous Peoples Act" means the *Declaration on the Rights of Indigenous Peoples Act* [SBC 2019] ch. 44;

"Dispute Resolution" means the process set out in section 9;

"Economic Development Funds" means the funds to be provided by the Province to Tahltan in accordance with section 7.1;

"Effective Date" means the last date on which all the authorized signatories to this Agreement have signed this Agreement;

"Foundation Agreement" means the agreement that the Parties will negotiate and attempt to reach agreement on referred to in section 6;

"Implementation Funds" means the funds to be provided by the Province to Tahltan in accordance with section 5.1;

"Interim Strategies" means the measures, approaches and processes referred to in sections 6.4(a) and 6.4(b), or either of them, that the Parties will negotiate and attempt to reach agreements on;

"Leadership Table" means the table established under section 8.1;

"Phase 1 Plan" means the land use plan referred to in section 6.3(a);

“Provincial Official” means:

- (a) any minister, public official, employee, contractor or agent or representative of the Province; or
- (b) any person acting as a Provincial decision maker under any enactment of the Province;

“Senior Officials” means the forum established under section 9.2;

“Tahltan Territory” means the traditional territory identified by the Tahltan located within British Columbia as shown on the map attached to this Agreement as Schedule”1”;

“Territory Plan” means the land use plan referred to in section 6.2(g) to be incrementally developed by the Parties in respect of the Tahltan Territory pursuant to terms of reference as agreed to by the Parties, this Agreement and the Foundation Agreement;

“Title and Rights” means Tahltan’s asserted or determined Aboriginal rights, including Aboriginal title and self-governance rights, recognized and affirmed under section 35 of the *Constitution Act, 1982*;

“Work Plans” means the work plans jointly developed and agreed to by the Parties in accordance with section 5.2.

2.2. Schedules. The following schedules are attached to and form part of this Agreement:

- Schedule “1” – Map of Tahltan Territory.

2.3. Interpretation. In this Agreement:

- (a) “includes” and “including” are not intended to be limiting;
- (b) the recitals and headings are inserted for convenience of reference only, do not form part of this Agreement and are not intended to define, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
- (c) any reference to a statute includes all regulations made under that statute and any amendments or replacement of that statute or its regulations;
- (d) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*;
- (e) any reference to a corporate entity includes any predecessor or successor to such entity; and
- (f) there will be no presumption that doubtful expressions, terms or provisions in this Agreement are to be resolved in favour of any Party.

3. PURPOSE

3.1. The purposes of this Agreement are to:

- (a) confirm the commitment of the Parties to negotiate and attempt to reach agreement

on the Foundation Agreement and identify the topics to be addressed by the Parties in those negotiations;

- (b) pilot Interim Strategies regarding:
 - i. the pace and scale of mineral development near Tahltan communities and cultural areas; and
 - ii. mineral and mineral-related permit predictability and efficiency within areas of high mineral investment interest;
- (c) set out the phased approach for the Parties to co-develop the Territory Plan;
- (d) provide the Implementation Funds to Tahltan to support the work under this Agreement; and
- (e) provide the Economic Development Funds to Tahltan as a contribution toward economic development and reconciliation in accordance with this Agreement.

4. NEGOTIATION PRINCIPLES

4.1. The Parties will negotiate the Foundation Agreement and, as applicable, the Interim Strategies based on and consistent with the following principles and approaches:

- (a) *Recognition and Implementation of Tahltan Aboriginal Title and Rights:* The negotiations will be based upon recognition of Tahltan Aboriginal Title and Rights in Tahltan Territory and, as applicable, the implementation of the *Declaration on the Rights of Indigenous Peoples Act*, the Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples released on May 22, 2018, the Calls to Action of the Truth and Reconciliation Commission, and the Supreme Court of Canada's decision in *Tsilhqot'in Nation v. British Columbia* 2014 SCC 44;
- (b) *Collaboration:* To the fullest extent possible, the Parties will avoid adversarial positions and jointly address challenges and achieve progress through respectful engagement, mutual understanding and a spirit of collaboration;
- (c) *Decision-Making and Mandates:* The Parties will structure their teams, negotiation tables and decision-making process to ensure quick access to individuals best positioned to provide the required mandate, decision, or direction;
- (d) *Sustained Progress:* The Parties commit to prioritize their intergovernmental relationship on the negotiation and implementation of the various matters under this Agreement, and will jointly manage and monitor progress accordingly; and
- (e) *Balance:* The Parties acknowledge that while many of the outcomes under this Agreement are economically oriented, achieving those outcomes is strongly influenced by achieving environmental, land use, social, and culture outcomes.

5. IMPLEMENTATION FUNDS

5.1. As soon as practicable after the Effective Date the Province will pay \$4 million to Tahltan Central Government to support the implementation of this Agreement by Tahltan (the "Implementation Funds").

5.2. As soon as practicable after payment of the Implementation Funds to Tahltan Central Government under section 5.1 and in accordance with the time frames and targeted budgets further identified in this Agreement as applicable, the Parties will jointly develop the following work plans related to the activities to be undertaken in accordance with this Agreement:

- (a) negotiation of the Foundation Agreement, including the identification and negotiation of lands in the Dease Lake, Iskut and Telegraph Creek areas for transfer to Tahltan under the Foundation Agreement and work to support the development of a Tahltan Nation constitution;
- (b) negotiation of the Interim Strategies;
- (c) development of the Phase 1 Plan; and
- (d) any such other matter as the Parties may agree.

(collectively the “Work Plans”)

5.3. The Parties will strive to reach consensus on the content of the Work Plans and may refer any disputes regarding the content of the Work Plans to the Leadership Table for resolution.

5.4. The Implementation Funds will be managed by Tahltan Central Government and used by Tahltan to undertake the agreed to activities identified in the Work Plans.

5.5. The provision of the Implementation Funds to Tahltan will not in any way affect the obligations of the Parties under any other agreement between the Parties.

6. FOUNDATION AGREEMENT NEGOTIATIONS

6.1. The Parties will make good faith efforts to negotiate the Foundation Agreement by December 31, 2021.

6.2. The Parties wish to achieve the following outcomes through the negotiation of the Foundation Agreement:

- (a) the establishment of a long-term government-to-government relationship through which substantial progress in reconciliation will be advanced;
- (b) the recognition of Tahltan’s governance structures and harmonization of the Parties’ respective jurisdictions and titles;
- (c) the joint development of predictable processes that use longer-term, flexible, progressive and dynamic approaches for building and meeting shared aspirations for positive and strong individual, community, cultural, environmental and economic outcomes;
- (d) the joint development of standards and processes that create a competitive, sustainable and world-class mining jurisdiction in Tahltan Territory;
- (e) the joint development and implementation of standards and processes for other agreed to natural resource sectors in Tahltan Territory;

- (f) amendments to or replacements of existing agreements between the Parties;
- (g) the joint development and implementation on an incremental basis of a land use plan for the Territory ("Territory Plan");
- (h) the establishment of mechanisms for transformative change in the relationship between the Parties in a staged, structured, and shared manner that is transparent, includes all critical stakeholders and the public as required, and allows for learning to occur as that relationship unfolds over time;
- (i) the identification of the roles and contributions by Canada to reconciliation with Tahltan, including fiscal settlements;
- (j) the provision of immediate measures to be implemented within the first five years of the term of the Foundation Agreement that address:
 - i. measures related to economic reconciliation of Tahltan Aboriginal Title and Rights provided that, in acknowledgement of the Economic Development Funds provided under this Agreement, any financial payment that may be negotiated in respect of this measure will not commence prior to the third anniversary of the effective date of the Foundation Agreement, unless otherwise agreed to by the Parties;
 - ii. recognition of the Tahltan Central Government as the governing body of the Tahltan, support for the development of a Tahltan constitution and Tahltan governing bodies and recognition of Tahltan's Title and Rights;
 - iii. identification and negotiation of the transfer of agreed-to lands to Tahltan and the establishment of conditions and processes with Canada to add agreed-to lands to reserve lands;
 - iv. an improved fiscal relationship, including through the sharing of revenue streams;
 - v. implementation of socio-cultural initiatives to:
 - 1. enable Tahltan citizens, their communities and governments to enhance community wellbeing;
 - 2. advance Tahltan socio-cultural priorities, including but not limited to, language and culture revitalization, regional revitalization and infrastructure, health and social development (including family wellness), education, employment and training; and
 - 3. explore opportunities for building on the strengths of Tahltan communities through innovative partnerships and coordinated actions;
 - vi. creation of government-to-government processes and structures;
 - vii. growth of Tahltan/Provincial public service capacity and relations;
 - viii. implementation of shared and consent-based decision-making processes;

- ix. increasing regulatory efficiency, with a near-term emphasis in the mining sector;
 - x. collaborative, enhanced, effective and efficient environmental stewardship, protection, restoration and assessment, including potential agreements pursuant to section 41 of the *Environmental Assessment Act* [S.B.C. 2018] ch.51;
 - xi. improved natural resource management, including forest, water and wildlife management;
 - xii. identification and implementation of climate change mitigation measures;
 - xiii. identification and issuance to Tahltan of agreed to natural resource and other tenures;
 - xiv. implementation funding; and
- (k) identification of longer-term milestones that the Parties will strive to achieve after the first five-year period of the Foundation Agreement.

6.3. The Parties acknowledge that the joint development and implementation of the Territory Plan is a key component of the Foundation Agreement, and to help achieve that outcome:

- (a) the Parties will, by the 3rd anniversary of the Effective Date, jointly develop a phase 1 plan for an area to be agreed to by the Parties in land use plan terms of reference (the “Phase 1 Plan”);
- (b) the Parties will, within 60 days of the Effective Date, develop a Phase 1 Plan Work Plan; and
- (c) Tahltan Central Government will target \$1.4 million of the Implementation Funds to cover the costs of the Phase 1 Plan Work Plan over the three-year period from the Effective Date.

6.4. The Parties agree that, while they are negotiating the Foundation Agreement, there is a need to develop innovative solutions to issues that are critical to their relationship and essential to the success of the Foundation Agreement and accordingly:

- (a) on or before June 30, 2021, the Parties will negotiate and attempt to reach agreement on measures to be piloted on an interim basis to address Tahltan concerns in respect of:
 - i. potential mineral development in the areas of Sheslay, Mt. Edziza, Level Mountain and adjacent to Tahltan communities; and
 - ii. placer and jade mining in Tahltan Territory; and
- (b) on or before June 30, 2021, the Parties will negotiate and attempt to reach agreement on measures to improve mineral development regulatory efficiency and predictability to be piloted on an interim basis within specific targeted areas of high mineral exploration and potential development.

(collectively the “Interim Strategies”)

- 6.5.** The Work Plan in respect of the Interim Strategies will be developed by the Parties within 60 days of the Effective Date.
- 6.6.** If the Parties have not reached agreement on the Interim Strategies by June 30, 2021, they will refer any outstanding issues to the Leadership Table and the Leadership Table will meet as soon as practicable to discuss and attempt to resolve the outstanding issues by no later than September 30, 2021.
- 6.7.** The Interim Strategies will:
- (a) be rooted in the recognition of Tahltan Title and Rights; use of jointly developed objective social, economic, cultural and environmental standards and criteria; and use of jointly developed and sourced high quality, accessible, and trusted social, economic, cultural and environmental information;
 - (b) apply best practices under existing decision-making processes;
 - (c) describe how each Interim Strategy will be incorporated into the Phase 1 Plan;
 - (d) describe how each Interim Strategy will relate to immediate measures, targets and milestones in the Foundation Agreement;
 - (e) identify policy requirements to give effect to each Interim Strategy;
 - (f) attempt to avoid triggering third-party compensation and, where unavoidable, describe how compensation will be addressed;
 - (g) explore opportunities to use federal and or other third-party programs and initiatives, to support development and implementation of the Interim Strategies;
 - (h) identify for each Interim Strategy the decision types it will apply to; and
 - (i) avoid the need for Provincial legislative changes to be made to implement the Interim Strategies.
- 6.8.** While negotiating the Foundation Agreement, the Parties will also work together to:
- (a) identify lands in the Dease Lake, Iskut and Telegraph Creek areas that could be transferred to Tahltan, Iskut Band or Tahltan Band as community lands under the Foundation Agreement; and
 - (b) explore mechanisms to support Tahltan's access to clean energy opportunities and climate initiatives, including implementation of Clean BC.
- 6.9.** Although the Parties will negotiate the Foundation Agreement bilaterally between them, they acknowledge that Canada's participation and agreement will be required to fully address certain reconciliation and recognition measures, including land, governance and fiscal measures, and will work diligently to secure the appropriate assurances from Canada regarding those measures on or before the third anniversary of the effective date of the Foundation Agreement.

7. ECONOMIC GROWTH

- 7.1.** The Parties wish to work together to grow the Tahltan and Provincial economies and, to support achieving that goal, the Province will, as soon as practicable after the Effective Date, pay \$16 million to Tahltan Central Government for economic development purposes (the “Economic Development Funds”).
- 7.2.** Tahltan Central Government will use the Economic Development Funds for economic development opportunities that benefit Tahltan.
- 7.3.** Tahltan agrees that the Economic Development Funds constitute a component of any accommodation, including economic accommodation, or compensation that may be required for any impacts on Tahltan Aboriginal Title and Rights arising from decisions or authorizations of the Province or Provincial Officials made before or after the Effective Date, and is a contribution by the Province towards reconciliation of Provincial and Tahltan interests.
- 7.4.** The benefits provided to Tahltan under this Agreement are a contribution by the Province to any final settlement that may be reached in the future regarding Tahltan Title and Rights.

8. IMPLEMENTATION

- 8.1.** To facilitate the implementation of this Agreement, the Parties will establish a Leadership Table comprised of the Parties’ Chief Negotiators and other senior Tahltan and Provincial Officials as required.
- 8.2.** The funding for Tahltan to participate in the Leadership Table with the Province is included in the Implementation Funds.
- 8.3.** The Leadership Table will act as the forum through which the Parties’ representatives will work collaboratively to:
 - (a) approve and oversee implementation of the communication plan referred to in section 10.1;
 - (b) address implementation issues under this Agreement;
 - (c) **[DELETED]**
 - (d) resolve disputes referred to it under the Dispute Resolution section of this Agreement; and
 - (e) any other matter that the Parties agree the Leadership Table should undertake.
- 8.4.** Each Party will, as soon as practicable after becoming aware of a matter to be referred to the Leadership Table under section 8.3, provide notice of the matter to the other Party.
- 8.5.** Leadership Table representatives will meet at a minimum of once during every 4 month period after the Effective Date and as soon as practicable upon receiving notice referred to under section 8.4 or received in accordance with the Dispute Resolution section of this Agreement and set its own meeting schedule as appropriate to the circumstances.

9. DISPUTE RESOLUTION

- 9.1.** If a dispute arises in respect of the interpretation or implementation of this Agreement (a "Dispute"), that Dispute will be referred to the Leadership Table for resolution.
- 9.2.** In the event the Leadership Table is unable to resolve a Dispute referred to them, the Dispute will be referred to a forum comprised of Provincial Assistant Deputy Ministers and Tahltan governing body representatives (the "Senior Officials") to resolve the Dispute.
- 9.3.** In the event the Dispute is not resolved by the Senior Officials, the Parties may, on mutual consent, refer the Dispute to a mutually agreed-upon mediator, with each Party paying its own costs of the mediation and one-half of the costs of the mediator.
- 9.4.** If dispute resolution efforts are unsuccessful then either Party may elect to terminate the Agreement by providing 60-days written notice to the other Party.

10. ENGAGEMENT

- 10.1.** The Parties will develop a communication plan as soon as practicable after the Effective Date to further engage Tahltan membership, the mineral industry, the financial community and other stakeholders to progressively build an understanding of this Agreement.
- 10.2.** The Parties will coordinate and utilize existing engagement processes including the Regional Mining Alliance and land use planning communication initiatives to support implementation of section 10.1.

11. [DELETED]

12. GENERAL PROVISIONS

12.1. Representations and Warranties.

- (a) Each of the Tahltan Central Government, the Iskut Band Council and the Tahltan Band Council represents and warrants to the Province, with the intent and understanding that they will be relied on by Province 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 this Agreement is a valid and binding obligation upon Tahltan.
- (b) The Province represents and warrants to Tahltan, with the intent and understanding that Tahltan will rely on them in entering into this Agreement, that it has the authority to enter into this Agreement and that this Agreement is a valid and binding obligation upon the Province.

12.2. Term and Survival.

- (a) The term of this Agreement will commence on March 31, 2020 and end on the earliest of April 1, 2023 or the termination of this Agreement by a Party pursuant to sections 9.4 or 12.2(b) to 12.2(e) (the "Term");
- (b) Either Party may terminate this Agreement at any time following 60-days written notice of their intention to terminate this Agreement to the other Party which includes a detailed explanation of the reason to terminate;

- (c) Within 10 days of receipt of a notice to terminate under section 12.2(b) the Leadership Table will meet to discuss the reasons for termination, seek to address the reasons and consider measures that the Parties may take to address the reasons;
- (d) If the Leadership Table is able to address the reasons for termination to the satisfaction of both Parties, this Agreement will not be terminated. If the Leadership Table is not able to address the reasons for termination, the Party providing notice of their intention to terminate may terminate this Agreement by providing a final notice of termination to the other Party at any time after the 60 days written notice under section 12.2(b) has been provided advising that this Agreement is terminated;
- (e) Either Party may terminate this Agreement on written notice to the other Party at any time after April 1, 2022, without the need to provide written notice pursuant to section 12.2(b), if the Foundation Agreement has not come into force by April 1, 2022;
- (f) In the event of a termination of this Agreement, any unused portions of the Implementation Funds at the time of the termination will be added to the Economic Development Funds and will be used by the Tahltan Central Government in the same manner as the Economic Development Funds; and
- (g) Sections 7.3 and 7.4 survive the termination of this Agreement.

12.3. Not a Treaty.

- (a) The Parties agree:
 - i. this Agreement does not constitute a treaty or land claim agreement within the meaning of section 25 and section 35 of the *Constitution Act, 1982*;
 - ii. this Agreement does not define, limit, amend, abrogate or derogate from any of the Tahltan's Title and Rights; and
 - iii. further processes are required to establish the scope and geographic extent of Tahltan's Title and Rights.

12.4. No Admissions.

- (a) Nothing in this Agreement will be construed as:
 - i. an admission by the Province that any decision of the Province or a Provincial Official has or will result in an infringement of any Tahltan Title and Rights;
 - ii. an admission by the Province that it has an obligation to provide financial or economic accommodation or compensation for any infringement of any Tahltan Title and Rights;
 - iii. an admission by Tahltan of any Provincial authority or jurisdiction in the Tahltan Territory; or
 - iv. 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.

12.5. Further Mandates.

- (a) The Parties acknowledge and agree that, notwithstanding any provision of this Agreement, further internal decisions, mandates, policies, approvals and authorities are required by each Party in order to reach agreement on and finalize the Foundation Agreement, Interim Strategies, Phase 1 Plan, and Territory Plan and that any obligation to reach agreement on or implement any of those agreements or measures under this Agreement is subject to each Party obtaining all required internal mandates and approvals and that neither Party is providing any assurance to the other that any required mandate or approval will be obtained.

12.6. Risks Acknowledged.

- (a) Tahltan acknowledges and agrees that all or part of the Economic Development Funds that is invested or applied to an economic development initiative carries an inherent risk and may be lost, decline in value or fail to achieve an intended value.
- (b) Tahltan acknowledges and agrees that the Province is not guaranteeing or providing any assurance in connection with, and is not liable for, any investment or use by Tahltan of the Economic Development Funds.

12.7. Amendment.

- (a) This Agreement may only be amended by agreement of all Parties in writing.

12.8. Confidentiality and Information Sharing.

- (a) The Parties recognize that through the implementation of this Agreement, some relevant knowledge and information may be confidential or sensitive in nature and that confidential or sensitive knowledge or information may be shared by each Party.
- (b) Where a Party shares knowledge or information and identifies in writing that knowledge or information as confidential, the Party receiving that knowledge or information will make all reasonable efforts to prevent the disclosure of that information to the public, except as required by the Freedom of Information and Protection of Privacy Act ("FOIPPA") or as otherwise required by law.
- (c) For certainty, nothing in this Agreement limits or affects any obligation the Province may have under law with respect to the disclosure of any confidential information that has been provided to it by Tahltan.
- (d) The Province acknowledges that the disclosure of confidential information to any other party requesting such confidential information under FOIPPA could be reasonably expected to harm the relations between the Province and Tahltan and that if the Province receives a request under FOIPPA or is otherwise required by law to disclose confidential information, the Province will provide Tahltan with notice of the request and the opportunity to express any views regarding the disclosure.

[illegible]