

INCREMENTAL TREATY AGREEMENT

BETWEEN

**HAISLA NATION
AND
THE PROVINCE OF BRITISH COLUMBIA**



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HAISLA NATION INCREMENTAL TREATY AGREEMENT

INCREMENTAL TREATY AGREEMENT

This Agreement is dated for reference the 9th day of September, 2015.

BETWEEN:

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

AND:

Haisla Nation, on behalf of itself and its Members, as represented by its Chief and Council

(Collectively the "Parties" and individually a "Party")

WHEREAS:

- A. The Haisla Nation asserts that it has used, occupied and governed its traditional territory from time immemorial and has aboriginal title to and aboriginal rights within its traditional territory.
- B. The Haisla Nation commenced BC Supreme Court Action Number C996523, Vancouver Registry, claiming aboriginal rights and title as a protective writ and that litigation is subject to a formal abeyance agreement.
- C. The Haisla Nation is engaged with the Province and Canada in negotiating an Agreement-in-Principle in accordance with Stage 4 of the British Columbia Treaty Commission process.
- D. The Parties are desirous of creating momentum in treaty negotiations and wish to conclude an Agreement-in-Principle and a Final Agreement.
- E. 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, have entered into a New Relationship.
- F. This Agreement will provide the Haisla Nation with incremental treaty benefits in advance of a Final Agreement and is in the spirit and vision of the New Relationship.

NOW THEREFORE the Parties agree as follows:

ARTICLE 1: INTERPRETATION

1.1 Definitions. In this Agreement and the Recitals to this Agreement, unless the context requires otherwise:

“AIP” means the Haisla Nation Agreement-in-Principle currently being negotiated by the Parties and Canada in accordance with Stage 4 of the British Columbia Treaty Commission process;

“Chief Councillor” means, in respect of the Haisla Nation, “chief” within the meaning of the *Indian Act*;

“Closing” means the completion of those land transfers, deliveries and other matters contemplated by this Agreement in relation to a transfer of the Lands by the Province to the Haisla Trust Society on a Closing Date;

“Closing Date” means the date or dates on which the documents for the transfer of the Lands to the Haisla Trust Society under section 6.2 are uploaded and filed electronically in the Land Title Office.

“Council” and **“Band Council”** mean, in respect of the Haisla Nation, the elected “council” within the meaning of the *Indian Act*;

“Crown Corridor” means a highway (as defined in the *Transportation Act*) and the area of any other road, right-of-way, easement or licence over Crown land that is used for transportation or public utility purposes and that, where the Lands are not surveyed or have to be re-surveyed, is identified in Schedule 1;

“Crown Grant” means a “grant” (as defined in the *Land Act*) of the fee simple title to Land;

“Effective Date” means the date on which the Final Agreement takes effect;

“Final Agreement” means the treaty between the Haisla Nation Canada, the Province at the conclusion of Stage 5 of the British Columbia Treaty Commission process;

“Governmental Actions” means all processes, decisions, authorizations, permits, licences, approvals, Crown land dispositions, agreements and other actions whatsoever issued, granted, entered into or otherwise taken by a Provincial Official either before or after the date of this Agreement;

“Haisla Nation” is an “aboriginal people” within the meaning of s.35 of the *Constitution*

Act, 1982 and a “band” as that term is defined in the *Indian Act*”;

“**Haisla Nation Lands**” means those lands identified in the Final Agreement which form part of Haisla Nation Lands;

“**Haisla Trust Society**” means a society incorporated under the *Society Act* [RSBC 1996] c. 433, which the Haisla Nation has designated to take registered fee simple title to the Lands;

“**GST**” means the goods and services tax imposed under the *Excise Tax Act* (Canada);

“**Indian Act**” means the *Indian Act*, R.S.C. 1985, c.1-5;

“**ITA**” means this Incremental Treaty Agreement;

“**ITA Date**” means the date on which this Agreement is executed by the Parties;

“**Lands**” means Block E, District Lots 305, 306, Range 4 Coast District;

“**Member**” means any individual who is a “member of a band”, as that phrase is defined in the *Indian Act*, of the of the Haisla Nation;

“**New Relationship**” means the vision developed in March 2005 by the Province and the First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and Union of BC Indian Chiefs, that resulted in a new relationship founded on principles of mutual respect, recognition and reconciliation of Aboriginal rights;

“**Permitted Encumbrances**” means the reservations, exceptions, liens, charges, and interests described in Part 1 and 2 of Schedule 2 for the Lands or any encumbrances agreed to by the Parties;

“**Province**” means Her Majesty the Queen in right of the Province of British Columbia;

“**Provincial Official**” means:

- a) the Province or any minister, public official, employee, contractor or agent of the Province,
- b) any government corporation or any director, officer, employee, contractor or agent of a government corporation, or
- c) any person acting as a decision maker under any enactment of the Province;

“**PST**” means the sales tax imposed under the *Provincial Sales Tax Act*;

“**SOI Area**” means, for the purposes of this Agreement, the statement of intent area filed by the Haisla Nation with the British Columbia Treaty Commission on December 15, 1993.

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1.2 **Interpretation.** For purposes of this Agreement:

- a) “this Agreement” means this Incremental Treaty Agreement, including the Schedules and any agreement, document or instrument executed or delivered pursuant to this Agreement;
- b) “including” means “including, but not limited to” and “includes” means “includes, but not limited to”;
- c) the headings in this Agreement are for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision thereof;
- d) words importing gender include the masculine, the feminine or neuter gender and words in the singular include the plural and vice versa;
- e) any reference to a corporate entity includes and is also a reference to any corporate entity that was a predecessor to, or that is a successor to, such entity;
- f) a reference to a statute includes every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it;
- g) any reference to the delivery on Closing of an agreement, document or instrument “in the form” of an attached schedule means an agreement, document or instrument substantially in that form with such changes, additions or deletions as may be agreed by the representatives of the Parties; and
- h) there shall be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.

1.3 **Schedules.** The following are the Schedules to this Agreement:

- Schedule 1 – Maps of Lands
- Schedule 2 – Permitted Encumbrances (Part 1) and Interests Not Registered on Title (Part 2)
- Schedule 3 – Agreement of Haisla Trust Society
- Schedule 4 – Instruments of Registration (titles, survey plans, charges and other instruments)
- Schedule 5 – GST Certificate
- Schedule 6 – Consent of Haisla Nation in relation to Property Transfer Tax Matters

ARTICLE 2: RECONCILIATION AND PURPOSE

- 2.1 **Reconciliation.** The Haisla Nation acknowledges and agrees that in the spirit of the New Relationship and to advance Final Agreement negotiations the Lands transferred to the Haisla Nation in accordance with this Agreement constitute a contribution by the Province towards the reconciliation of the Province's and the Haisla Nation's interests and the settlement of the Haisla Nation's aboriginal rights and title claims within the Traditional Territory through treaty negotiations and, as such, the benefits provided to the Haisla Nation under this Agreement will be counted as a portion of the Province's and Canada's contribution towards the Final Agreement settlement.
- 2.2 **Purposes.** The purposes of this Agreement are to:
- a) demonstrate the commitment of the Parties to concluding a Final Agreement; and
 - b) in the spirit of the New Relationship, provide the Haisla Nation with land as incremental treaty benefit in advance of a Final Agreement, which will be transferred in accordance with this Agreement and will, on the Effective Date, become an element of the Final Agreement.

ARTICLE 3: COMING INTO EFFECT AND TERMINATION

- 3.1 **Coming into Effect.** This Agreement comes into effect when it has been executed and delivered by both Parties.
- 3.2 **Termination.** This Agreement may be terminated in writing by either Party on 90 days notice, or on a date mutually agreed on by the Parties, prior to the transfer of the Lands.
- 3.3 **Termination on Litigation.** Notwithstanding 3.2, the Province may terminate this Agreement, including the transfer of the Lands, in the event the Haisla Nation commences any action or other proceeding relating directly or indirectly to the Lands, including any Governmental Actions relating directly or indirectly to the Lands.
- 3.4 **Survival of Lands Conditions.** Notwithstanding 3.2, and subject to the Final Agreement, where any of the Lands are transferred under this Agreement,

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Articles 7 (Condition of Lands), 10 (Other Covenants) and 12 (Overlapping Claims) will survive the completion of the transfers or the termination of this Agreement and, for greater certainty, will continue to apply to the Lands.

ARTICLE 4: REPRESENTATIONS AND WARRANTIES

4.1 Haisla Nation Representations. The Haisla Nation represents and warrants to the Province, with the intent and understanding that they will be relied on by the Province in entering into this Agreement, that:

- a) its Members have provided it with a mandate to negotiate an AIP and Final Agreement;
- b) it, as represented by its Chief and Council, has the legal power, capacity and authority to accept, execute and deliver this Agreement and to carry out its obligations under this Agreement;
- c) the Haisla Trust Society is and on the Closing Date will be a society in good standing and duly incorporated under the *Society Act* (British Columbia), all the members of which are members of the Council of the Haisla Nation and the Haisla Trust Society is controlled by the Haisla Nation;
- d) the Haisla Trust Society has the legal power, capacity and authority to enter into and to carry out its obligations under each transaction and agreement to which it is a party in accordance with this Agreement; and
- e) the Province has fulfilled its obligation to consult and, where appropriate, accommodate with Haisla Nation in relation to the transfer of the Lands to the Haisla Trust Society and the Permitted Encumbrances.

4.2 Provincial Representations. The Province represents and warrants to the Haisla Nation, with the intent and understanding that they will be relied on by the Haisla Nation in entering into this Agreement, that:

- a) it has the legal power, capacity and authority to enter into this Agreement; and
- b) on satisfaction or waiver of the conditions precedent under 5.2, it will have the legal power, capacity and authority to transfer the fee simple title to the Lands to the Haisla Trust Society as contemplated by this Agreement.

ARTICLE 5: CONDITIONS PRECEDENT

- 5.1 **Band Council Resolution.** Prior to the execution of this Agreement, the Haisla Nation will deliver to the Province a Resolution made by its elected Council authorizing the Haisla Nation's representatives named in the resolution to execute this Agreement on behalf of the Haisla Nation.
- 5.2 **Conditions Precedent to Land Transfers.** The obligation of the Province to transfer any of the Lands to the Haisla Nation under this Agreement is subject to:
- a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province in any fiscal year, when any expenditure in respect of an obligation may be required, to make that expenditure;
 - b) the Province and Canada reaching an agreement satisfactory to the Province, in its sole discretion, on or before the ITA Date on cost sharing the value of the Lands for treaty settlement purposes;
 - c) the representations and warranties of the Haisla Nation under this Agreement being true and correct on the Closing Date;
 - d) the Haisla Nation having complied with all covenants of the Haisla Nation under this Agreement on the Closing Date;
 - e) surveys for the Lands having been completed on or before the Closing Date; and
 - f) the Province having given notice that the minister responsible has authorized the disposition of the Lands in accordance with provincial law.
- 5.3 **Satisfaction of Conditions Precedent.** The Province will not be required to attempt to satisfy the conditions precedent under 5.2 until such time as the Haisla Nation has notified the Province in writing that it is prepared to proceed with the transfer of the Lands under this Agreement.
- 5.4 **Waiver of Conditions Precedent.** The conditions precedent set out in 5.2 are for the sole benefit of the Province and may be waived by the Province on written notice to the Haisla Nation.

ARTICLE 6: TRANSFER OF LANDS

- 6.1 **Closing Deliveries by the Province.** Subject to the Permitted Encumbrances and the terms of this Agreement, including the satisfaction or waiver of the conditions precedent under 5.1 and 5.2, the Province will provide the Haisla Trust Society with a Crown Grant transferring the indefeasible title to the Lands within 120 days after the satisfaction or waiver of the condition in 5.2 f).
- 6.2 **Closing Deliveries by Haisla Nation.** Not less than 14 days before the Closing Date, the Haisla Nation will execute and deliver, or cause to be executed and delivered, or deliver, as the case may be, to the Province:
- a) an agreement executed by the Haisla Trust Society in the form attached as Schedule 3 in relation to the Lands;
 - b) a certificate signed by an officer of the Haisla Trust Society in the form attached as Schedule 6 confirming the Haisla Trust Society's GST registration number and registered status;
 - c) a signed consent of the Haisla Nation in relation to Property Transfer Tax form executed by the Haisla Nation (Schedule 6);
 - d) a letter of undertaking signed by the Haisla Nation's legal counsel undertaking, among other things, that the Province will be provided with a signed copy of the Agreement of the Haisla Trust Society (Schedule 3) and the GST Certificate (Schedule 5); and
 - e) all such other documents that may be necessary or advisable for the Haisla Nation or the Haisla Trust Society to provide to complete the transactions contemplated under this Agreement.
- 6.3 **Registration of Lands.** The Lands transferred under 6.1 will be registered in the Land Title Office.
- 6.4 **Future Statutory Right of Way.** The Parties may negotiate a Crown Corridor or other appropriate form of access instrument or agreement through the Lands.
- 6.5 **Closing Procedure.** Legal counsel for the Haisla Nation and the Province will confirm in writing the manner in which the documents necessary or advisable to transfer and register the Lands will be produced, managed, exchanged and delivered. Without limiting the generality of the foregoing, legal counsel responsible for registering the Lands will:
- a) provide a letter of undertaking to legal counsel for the other Party;
 - b) use the Land Title and Survey Authority electronic filing system; and

- c) provide all documents filed under 6.5 b) to legal counsel for the other Party.

ARTICLE 7: CONDITION OF LANDS

- 7.1 **Lands “As Is”.** The Haisla Nation acknowledges and agrees that the Lands acquired by the Haisla Trust Society under this Agreement are acquired “as is”.
- 7.2 **Viability of Lands.** The Haisla Nation acknowledges and agrees that the Province has not given any representation or warranty concerning:
 - a) physical access to the Lands including, without limitation, overland access;
 - b) the economic feasibility of the development of the Lands;
 - c) the fitness of the Lands for any particular use, including the intended use of it by the Haisla Nation or by the Haisla Trust Society; and
 - d) the provisions of any enactments or bylaws of any governmental body which relate to the development, use and occupation of the Lands.
- 7.3 **Environmental Condition.** The Haisla Nation:
 - a) waives the requirement, if any, of the Province to provide a site profile as defined in the *Environmental Management Act* for any of the Lands; and
 - b) acknowledges and agrees that the Province has not given any representation or warranty concerning the condition of the Lands (including surface water and groundwater), environmental or otherwise, including the presence or absence of any toxic, hazardous, dangerous or potentially dangerous substances on or under the Lands and on or under any surrounding or neighbouring land and the current and past uses of the Land and any surrounding or neighbouring land.
- 7.4 **Environmental Conditions Post-Closing.** The Haisla Nation will from and after the Closing:
 - a) assume all environmental liabilities relating to the Lands including, but not limited to, all liability for the clean-up of any contamination or any other toxic, hazardous, dangerous or potentially dangerous substances or conditions on or under the Lands or migrating from the Lands (including surface water and groundwater) and any other costs of remediation of the Lands, whether disclosed or undisclosed, know or unknown, created or existing, that arose before the Closing Date or arose before and continues after the Closing Date;

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- b) indemnify and save harmless the Provincial Officials from and against all claims, demands, liabilities, losses, damages, costs or expenses suffered or incurred by them after the Closing arising out of or in connection with all environmental liabilities described in 7.4 a); and
- c) release the Provincial Officials from and against all claims, demands, liabilities, losses, damages, costs, actions, causes of action, suits and proceedings with respect to any and all environmental liabilities described in a).

ARTICLE 8: ENCUMBRANCES

- 8.1 **Permitted Encumbrances.** The Haisla Nation acknowledges that it is familiar with the Permitted Encumbrances and accepts fee simple title to the Lands subject to the Permitted Encumbrances and covenants not to do, or allow to be done, anything that would interfere with any rights under any of the Permitted Encumbrances or that would otherwise result in any claim against the Province by anyone claiming by, through or under a Permitted Encumbrance.
- 8.2 **Finalization of Permitted Encumbrances.** The Parties acknowledge that between the execution of this Agreement and the registration of the Lands with the Land Title and Survey Authority:
 - a) the Permitted Encumbrances may require updating;
 - b) the Permitted Encumbrances will be as identified and agreed by the Parties on the Closing Date;
 - c) Schedule 2 (Permitted Encumbrances) and Schedule 4 (Instruments of Registration) will be revised and will, as revised, form part of this Agreement; and
 - d) the Permitted Encumbrances will be subject to the Final Agreement.

ARTICLE 9: TRANSACTION COSTS

- 9.1 **Property Tax and Other Costs.** The Province is responsible for the following costs in connection with the transfer of the Lands:
 - a) the cost associated with ensuring the Lands have a survey which meets the requirements for registration in the Land Title Office;
 - b) any other costs or fees associated with the preparation of Crown Grants or

any other documents required to register the Lands and Permitted Encumbrances including, without limitation, any fees charged by the Land Title and Survey Authority; and

c) property transfer tax payable under the *Property Transfer Tax Act*.

9.2 **Public Utility Permitted Encumbrances.** Notwithstanding 9.1, all costs associated with the surveying and registration of Permitted Encumbrances held by a public utility will be the responsibility of the public utility.

9.3 **GST, PST and Other Charges.** The Haisla Nation is responsible for any federal tax or PST, including GST and any other transfer or registration charges for which the Province has not expressly agreed to accept responsibility under the terms of this Agreement.

9.4 **Annual Taxes and Other Costs.** Subject to the Final Agreement, and in accordance with provincial law, the Haisla Trust Society is responsible for any and all annual taxes payable in respect of the Lands. For greater certainty, on and after the Closing Date, the Province is not required to assume financial or other obligations with respect to the Lands.

ARTICLE 10: OTHER COVENANTS

10.1 **Other Haisla Nation Covenants.** The Haisla Nation further acknowledges and covenants that:

a) in order to preserve the possibility of the Lands becoming "Haisla Nation Lands" in accordance with the Final Agreement, the Haisla Nation will not permit the Haisla Trust Society to dispose of its fee simple estate in the Lands to a third party for monetary profit, for a period of time commencing on the Closing Date and ending on the earlier of:

- i. the 10 year anniversary of the Closing Date; or
- ii. the Effective Date; and,

b) the Lands are subject to all applicable laws, including zoning, land use, land development and property tax laws.

10.2 **Disposition of Interests in Lands.** Notwithstanding 10.1 a), the Haisla Nation may charge or encumber the Lands provided that the Haisla Nation advises the intended charge or encumbrance holder in writing that the Lands will, on or before the Effective Date, be transferred by the Haisla Trust Society to the Haisla Nation or British Columbia to become Haisla Nation Lands.

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- 10.3 **Indemnity for Charges.** The Haisla Nation will indemnify and save harmless the Province and all Provincial Officials from any and all damages, losses, liabilities or costs that they may suffer or incur in connection with or as a result of any suit, action, claim, proceeding or demand arising in connection with any Permitted Encumbrance, or any charge or encumbrance granted to the Haisla Nation under 10.2, the transfer of the fee simple estate in the Lands to the Haisla Nation and the Lands becoming Haisla Nation Lands.
- 10.4 **Failure to Ratify.** The restriction on the disposition of the Lands under 10.1 a) will not apply where the Final Agreement is not ratified by the Parties or Canada, or the Final Agreement is not approved, given effect, declared valid and given the force of law under federal and provincial law.
- 10.5 **Registration of Unregistered Interests.** For the purposes of 10.4, the Haisla Nation will consent, or will cause the Haisla Trust Society to consent, to the registration of any interests identified in Schedule 2 which are not registered against the Lands in the Land Title Office on or after the Closing Date.

ARTICLE 11: STATUS OF LANDS ON EFFECTIVE DATE

- 11.1 **Status of Lands on Effective Date.** As part of Final Agreement negotiations, the Parties will negotiate the status of the Lands transferred under this Agreement to the Haisla Nation.

ARTICLE 12: OVERLAPPING CLAIMS

- 12.1 **Shared Territories.** Neither the Province nor Haisla Nation are aware of any overlaps or claimed shared territories of other First Nations over the Lands. If, prior to the ITA Date, any Party becomes aware of any such overlap or claim the Parties will discuss the matter.
- 12.2 **Other First Nations' Litigation.** In the event of any action, proceeding, suit, claim or demand whatsoever, whether known or unknown, and whether in law, in equity or otherwise, brought by any other aboriginal group against the Province or any Provincial Official with respect to the transfer of the Lands to the Haisla Trust Society on behalf of the Haisla Nation in accordance with this Agreement, the Haisla Nation will provide the Province with reasonable assistance, upon request, in support of its defence of the action, proceeding, suit, claim or demand.

ARTICLE 13: EXISTING LITIGATION

- 13.1 **Existing Legal Proceedings.** The Parties acknowledge that there is no existing litigation which requires abeyance for the purposes of this Agreement.
- 13.2 **New Litigation.** If, at any time within 10 years of the Closing Date, the Haisla Nation decides to commence any action or other proceeding relating to any Governmental Action within the SOI Area, the Haisla Nation will notify the Province of its intention to commence litigation, and the reasons for doing so. Promptly after the Province receives this notification from the Haisla Nation the Parties will meet to discuss and attempt to resolve the matter.

ARTICLE 14: DISPUTE RESOLUTION

- 14.1 **Representatives.** If a dispute arises between the Province and the Haisla Nation regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.
- 14.2 **Senior Representatives.** If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of the Province and the Haisla Nation.
- 14.3 **Other Means.** The Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

ARTICLE 15: NOTICES

- 15.1 **Notices.** Any notice, document, statement, report, demand or grant that any Party may be required or may desire to give to any other Party under this Agreement must be in writing, unless otherwise specified herein, and will be deemed validly given to and received by the addressee, if served personally, on the date of personal service or, if delivered by mail, email or facsimile copier, when received as follows:

if to the Province:

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Deputy Minister
Ministry of Aboriginal Relations and Reconciliation
P.O. Box 9100 Stn. Prov. Govt.
Victoria, B.C. V8W 9B1

Fax: (250) 387-6073

and if to the Haisla Nation:

Chief Councillor
Haisla Nation
500 Gitksan Ave.
Haisla PO Box 1101
Kitamaat Village BC CAN
V0T 2B0

Fax: (250) 632-2840

- 15.2 **Change of Address.** Either Party may, from time to time, give written notice to the other Party of any change of address, email address or facsimile number of the Party giving such notice and after the giving of such notice, the address, email address or facsimile number therein specified will, for purposes of this Agreement be conclusively deemed to be the address, email address or facsimile number of the Party giving such notice.

ARTICLE 16: GENERAL

- 16.1 **Entire Agreement.** This Agreement is the entire agreement between the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Agreement. The Schedules and Appendices to this Agreement form part of this Agreement.
- 16.2 **Further Acts and Assurances.** Each of the Parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed

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all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better and absolute performance of the terms and conditions of this Agreement.

16.3 No Implied Waiver. Any waiver of:

- a) a provision of this Agreement;
- b) the performance by a Party of an obligation under this Agreement; or
- c) a default by a Party of an obligation under this Agreement,

will be in writing and signed by the Party giving the waiver and will not be a waiver of any other provision, obligation or subsequent default.

16.4 Successors. This Agreement will endure to the benefit of and be binding upon the Haisla Nation and its successors and permitted assigns and the Province and its assigns.

16.5 No Admissions. Nothing in this Agreement will be construed as:

- a) admission by the Province of the validity of any claim by the Haisla Nation to any aboriginal right or aboriginal title within the meaning of section 35 of the *Constitution Act, 1982* (Canada); or
- b) an acknowledgment by the Province that it has an obligation to provide financial or economic accommodation to the Haisla Nation.

16.6 Not a Treaty. This Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982* (Canada); or
- b) recognize, affirm, define, deny, limit or amend the aboriginal rights or aboriginal title of the Haisla Nation.

16.7 No Fettering. Nothing in this Agreement shall be interpreted in a way that fetters the discretion given to any Provincial Official in an enactment.

16.8 Amendment. This Agreement may be amended from time to time by the Parties in writing.

16.9 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.


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16.10 Execution in Counterpart. This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile transmission.

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

Signed on behalf of the Haisla Nation by by the Haisla Council in the presence of:


Chief Councillor


Witness


Per: Councillor


Per: Councillor

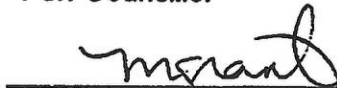

Per: Councillor


Per: Councillor



Per: Councillor


Per: Councillor



Per: Councillor


Per: Councillor


Per: Councillor

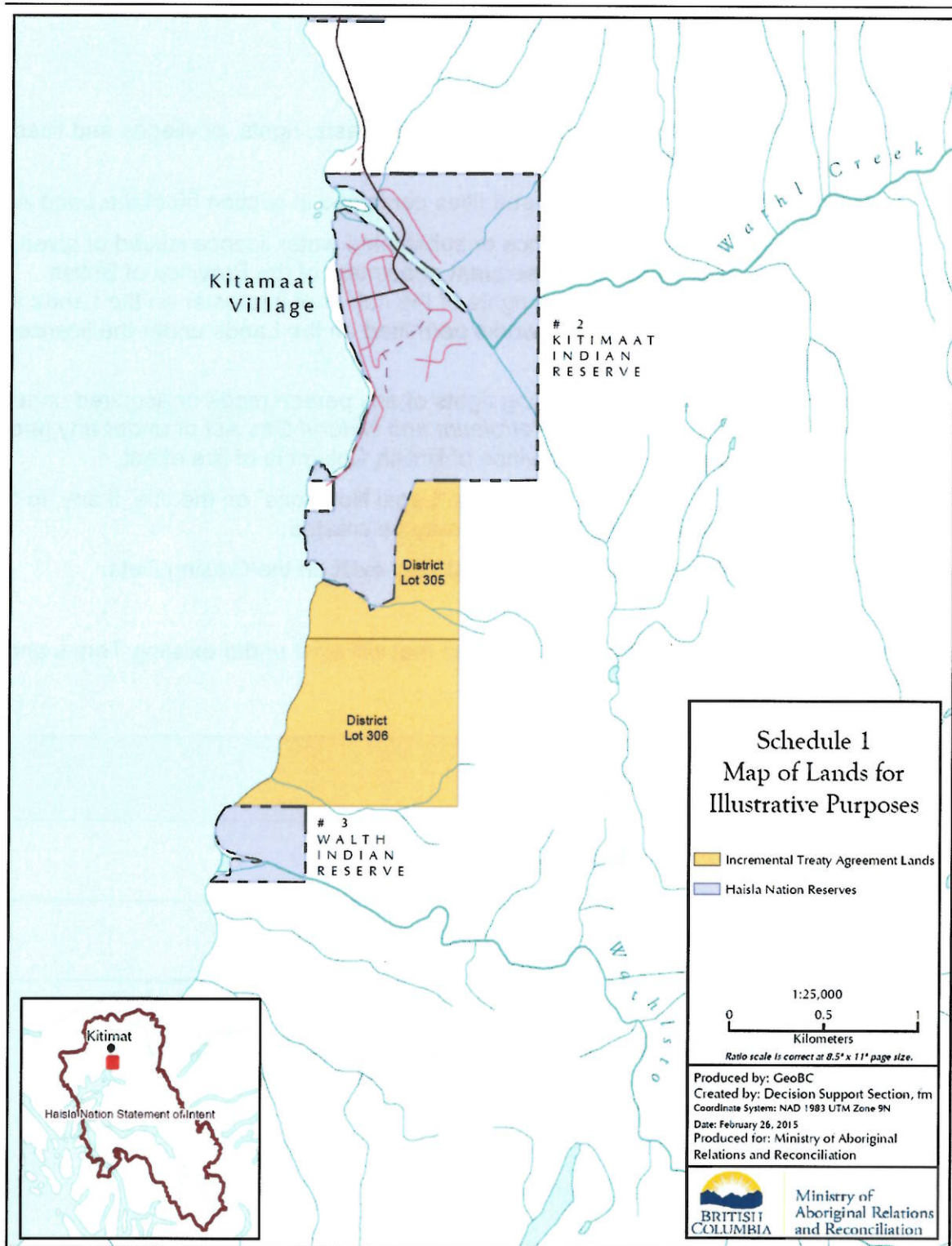

Per: Councillor

Signed on behalf of Her Majesty the Queen in Right of the Province of British Columbia by the Minister of Aboriginal Relations and Reconciliation


Honourable John Rustad
Minister of Aboriginal Relations
and Reconciliation


Witness

Schedule 1 – Map of Lands for Illustrative Purposes



Schedule 2 – Permitted Encumbrances

Part 1 – Permitted Encumbrances on the Lands

In respect of all of the Lands:

1. All subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown grant of the Lands.
2. All the interests, rights, privileges and titles contained in section 50 of the *Land Act*.
3. Any conditional or final water licence or substituted water licence issued or given under the *Water Act*, or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Lands and to maintain, repair and operate any works permitted on the Lands under the licence at the date of the Crown Grant.
4. All subsisting grants to, or subsisting rights of any person made or acquired under the *Mineral Tenure Act*, *Coal Act* or *Petroleum and Natural Gas Act* or under any prior or subsequent enactment of the Province of British Columbia of like effect.
5. All notations and endorsements noted as “Legal Notations” on the title, if any, to the Land or any parcel from which the Land may be created.
6. Any road easements or rights-of-way that may exist on the Closing Date.

And in addition, in respect of the Lands, Tenures that will exist under existing Terms and Conditions:

Permitted Encumbrance	Tenure detail
Trapline	Registration #TR0603T058
Guiding Territory	Certificate # 601071, Michael Lewis

Note: As of the date of signing, the Parties are not aware of any Permitted Encumbrances as set out in 1, 3, 5 and 6 above on the Lands.

Part 2 – Permitted Encumbrances—Interests Not Registered on Title

Any utility and local government interests for hydro, telephone, cablevision, heating/natural gas, water infrastructure, storm drains, dykes and waste disposal/sewer existing on the Closing Date continue on the Lands shown in Schedule “1”.

Note: As of the date of signing, the Parties are not aware of any Permitted Encumbrances—Interests Not Registered on Title on the Lands.

Schedule 3 – Agreement of Haisla Trust Society

WHEREAS:

- A. Her Majesty the Queen in the Right of the Province of British Columbia as represented by The Minister of Aboriginal Relations and Reconciliation and the Haisla Nation have entered into an Agreement date as of _____ (the "Agreement") whereby the Haisla Trust Society is acquiring fee simple title to those lands legally described as:

Block E, District Lots 305, 306, Range 4 Coast District

(the "Lands").

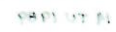
- B. As a condition of the Haisla Trust Society's acquisition of fee simple title to the Lands the Haisla Nation and the Haisla Trust Society have agreed that the Haisla Trust Society grant and enter into this release and waiver on the terms set out below.

NOW THEREFORE in consideration of the premises, and the sum of ONE (\$1.00) DOLLAR and other valuable consideration paid by the Province to the Haisla Trust Society, the receipt of which is hereby acknowledged by the Haisla Trust Society, the Haisla Trust Society hereby release, waives, acknowledges and agrees as follows:

1. The terms "Province" and "Haisla Nation" and any other capitalized terms used herein and defined in the Agreement have the meaning given to those terms in the Agreement.
2. The Haisla Trust Society waives the requirement, if any, of the Province to provide a site profile as defined in the *Environmental Management Act* in connection with its acquisition of the Lands.
3. The Haisla Trust Society agrees with the Province that each covenant, representation, warranty, acknowledgement and every other term of the Agreement given by Haisla Nation or otherwise set out in the Agreement which is for the benefit of the Province is legally binding on the Haisla Trust Society in relation to the Lands as fully and as effectively as if the Haisla Trust Society had entered into and executed the Agreement along with the Haisla Nation, including, without limitation, each of those representations and acknowledgements set out in section 4.1, 10.1-10.3 and 10.5 of the Agreement.
4. In order to preserve the possibility of the Lands becoming "Haisla Nation Lands" in accordance with the Final Agreement, the Haisla Nation will:
 - a) not permit the Haisla Trust Society to dispose of its fee simple estate in the Lands to a third party for monetary profit, for a period of time commencing on the Closing Date and ending on the earlier of the 10 year anniversary of the Closing Date or the Effective Date and
 - b) carry out actions agreed upon by British Columbia and the Haisla Nation to facilitate the Lands becoming Haisla Nation Lands on Effective Date.
5. By executing and delivering this instrument each of the parties intends to create both a contract and a deed executed and delivered under seal.

Signed, Sealed and Delivered as of _____, 2015 by: _____

4891 57 41



Schedule 5 – GST Certificate

FORM 221(2)(b) (CERTIFICATE AS TO REGISTRATION STATUS OF PURCHASER)

Certificate as to Registration Status of Purchaser

(Paragraphs 221(2)(b) and (c))

FROM: *[the "Vendor"]*
TO: *[the "Purchaser"]*
RE: *[the "Property"]*

THE PURCHASER HEREBY CERTIFIES TO THE VENDOR PURSUANT TO PARAGRAPHS 221(2)(b) AND (c) OF *THE EXCISE TAX ACT* (THE "ACT") THAT THE PURCHASER:

is a prescribed recipient under the Act.

[OR]

is registered under Part IX of the Act, its registration number is *[number]* and the Purchaser will account for the tax payable in respect of the purchase of the Property in accordance with the Act.

The Purchaser acknowledges that the Vendor is relying on this Certificate in connection with the sale of the Property.

Each term that is used in the Certificate and that is defined in, and for the purposes of, Part IX of the Act has the meaning assigned to it in Part IX of the Act.

DATED *[month, day, year]*.

[Name of Corporate Vendor]

[Name of Individual Vendor]

Per: _____

Schedule 6 – Consent of Haisla Nation in relation to Property Transfer Tax Matters

TO WHOM IT MAY CONCERN:

1. 9.1(c) of the Incremental Treaty Agreement (the Agreement) between the Province of British Columbia and the Haisla Nation, executed _____, 2015, provides that the Province is responsible for property transfer tax payable under the *Property Transfer Tax Act* (RSBC 1996), c. 378 in relation to the transfer of land under the Agreement (the Property Transfer Tax).
2. In the event that:
 - a. an exemption from Property Transfer Tax is not enacted prior to the date on which payment of that tax is due, or
 - b. the Province pays the Property Transfer Tax,then Haisla Nation hereby
 - c. consents to the disclosure by the Ministry of Finance of Property Tax information to the Ministry of Aboriginal Relations and Reconciliation, and
 - d. agrees that if there is any refund payable in respect of the Property Transfer Tax paid by the Province, then the amount of that refund may be retained by the Province.

Executed on the _____ day of _____, 20__

Signature of the duly authorized signatory for Haisla Nation

Name and Title (please print)

