

Forest Tenure Opportunity Agreement
(the “Agreement”)

Between:

MAMALILIKULLA-QWE'QWA'SOT'EM FIRST NATION
TLOWITSIS FIRST NATION
DA'NAXDA'XW AWAETLALA FIRST NATION
GWA'SALA-'NAKWAXDA'XW FIRST NATION
K'OMOKS FIRST NATION

(collectively, the “Nanwakolas First Nations”)

and

Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Forests, Lands, and Natural Resource Operations
 (“British Columbia”)

(collectively the “Parties”)

WHEREAS:

- A. 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.
- B. In the spirit of the New Relationship and the Transformative Change Accord, British Columbia, the Nanwakolas First Nations and the Nanwakolas Council have entered into the Nanwakolas Reconciliation Protocol (RP), dated July 29th, 2011 and amended November 28th, 2011.
- C. In addition to the RP, the Province and the various Nanwakolas First Nations and the Nanwakolas Council have entered into previous agreements including the Enabling Process April 2001, Land Use Planning Agreement in Principle 2006, the Clearinghouse Pilot Agreement and the Nanwakolas/British Columbia Framework Agreement (SEA), to further strengthen government to government relationships.
- D. This Agreement, and the benefits flowing from it, will assist the various Nanwakolas First Nations 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.

- E. British Columbia recognizes that each of the Nanwakolas First Nations 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 their community's well-being.
- F. The Province acknowledges that the Nanwakolas First Nations have various Section 35 Rights within their Traditional Territories.
- G. British Columbia, the Nanwakolas First Nations and the Nanwakolas Council Society entered into a RP, which includes a commitment by British Columbia to invite the Nanwakolas First Nations to apply, on a non-competitive basis, for non-replaceable tenure opportunities from unused volume.
- H. This Agreement is intended to assist in achieving stability and greater certainty for forest resource development on Crown lands within the Traditional Territories of the Nanwakolas First Nations while longer term interests of the Nanwakolas First Nations are addressed through other agreements or processes.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Definitions

- 1.1. "Section 35 Rights" means asserted or proven aboriginal rights, including aboriginal title or modern treaty rights set out in a Final Agreement in the British Columbia Treaty Commission process; of the Nanwakolas First Nations recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- 1.2. "Effective Date" means the date on which this Agreement has been ratified and signed by each of the Parties.
- 1.3. "Forest Tenure" means an agreement granting rights to harvest Crown timber as defined in section 12(1) of the *Forest Act*.
- 1.4. "Licence" means a forest licence or a forestry licence to cut as defined in the *Forest Act*.
- 1.5. "Licensee" means a holder of a forest tenure.
- 1.6. "Licence Area" means an area defined by agreement between the licensee and British Columbia, over which the licensee will have the right to apply for cutting authorities to a specified level of harvest of Crown timber as defined in the *Forest Act*.

- 1.7. "Operating Area" means, in accordance with Sections 3.3, 3.4 and 3.5 of Appendix 2 Schedule B of the RP, an area within which the Nanwakolas First Nations harvesting rights will be exercised.
- 1.8. "RP" means the Reconciliation Protocol between British Columbia, the various Nanwakolas First Nations and the Nanwakolas Council dated July 29th, 2011 and amended November 28th, 2011.
- 1.9. "Representative" carries the same meaning as it is given in the *Forest Act*.
- 1.10. "Traditional Territories" means the asserted traditional territories of the Nanwakolas First Nations as shown on the map attached in Appendix A.
- 1.11. 'Nanwakolas Council' is the registered society, established by the Nanwakolas First Nations to provide a regional vehicle for the development and furtherance of a government-to-government relationship with the Province.

2. Purpose and Objectives

The purposes and objectives of this Agreement are to:

- 2.1. Provide an opportunity for the Nanwakolas First Nations to make progress toward their socio-economic objectives.
- 2.2. Promote and increase the Nanwakolas First Nations' participation in the forest sector by offering a forest tenure opportunity(s).
- 2.3. Provide an accommodation in respect of potential impacts of forestry decisions and operations within the Traditional Territories on the Nanwakolas First Nations' Section 35 Rights.
- 2.4. Fulfil the commitment in section 5.1 of Appendix 2, Schedule B of the RP to invite the Nanwakolas First Nations to apply for a non-replaceable volume-based forest licence.

3. Forest Tenure Opportunity

- 3.1. After execution of this Agreement, the Nanwakolas First Nations, may apply to the Regional Executive Director, in a form acceptable to the Regional Executive Director, for non-replaceable tenure opportunities (the "Licence(s)") on a non-competitive basis for up to 182,285 cubic metres total volume within Tree Farm Licence 39, Block 2 and up to 75,000 cubic metres total volume within the Mid Coast Timber Supply Area.

The Licence(s) will be comprised of:

Management Unit	Licence(s)	Allowable Annual Cut (AAC) (m ³ /yr)	Total Volume in m ³	Term in Years
Mid Coast TSA	Non-Replaceable Forest Licence or Forestry Licence to Cut	n/a	75,000	5
TFL 39, Block 2	Non-Replaceable Forest Licence or Forestry Licence to Cut	n/a	182,285	5
Totals		n/a	257,285	n/a

3.2. If the Nanwakolas First Nations, or their Representative already holds an existing Licence(s) that has or have been previously directly awarded under section 47.3 of the Forest Act, then the District Manager or Regional Executive Director may extend one or more of those existing Licence(s), authorizing additional volume or allowable annual cut (AAC) for those licences in the amounts identified under section 3.1.

3.3. The appointment of a Representative for the purpose of holding the Licence(s) must be made in accordance with the *Forest Act*.

3.4. The Operating Area for the Licence referenced in section 3.1 within the Mid Coast Timber Supply is outlined on the map attached to this Agreement as Appendix B.

The Parties agree that the Operating Area for the Licence referenced in section 3.1 within TFL 39, Block 2, prior to the issuance of the non-replaceable forest tenure, will be determined between the holder of TFL 39, British Columbia and Nanwakolas First Nations. A map of the determined Operating Area will be attached as an integral part of this Agreement.

3.5. The Licence(s) under section 3.1 of this Agreement will:

3.5.1. be a non-replaceable forest licence as defined under the *Forest Act*;

3.5.2. include other terms and conditions required by law including the condition that the Nanwakolas First Nations and /or their Representative must comply with this Agreement; and,

3.5.3. include other terms and conditions as may be required by the Regional Executive Director and agreed to by the Nanwakolas First Nations.

- 3.6. Notwithstanding any other provision of this Agreement, British Columbia neither makes nor offers any guarantee of the financial viability of any operations under the Licence(s) referred to in section 3.1.
- 3.7. During the term of this Agreement and notwithstanding section 3.6, the Nanwakolas First Nations agree that British Columbia has provided to the Nanwakolas First Nations an accommodation in respect of potential impacts of forestry decisions and operations within the Traditional Territories on the Nanwakolas First Nations' Section 35 Rights, in the form of the Licence(s) provided for under this Agreement.
- 3.8. If the Licence(s) entered into under this Agreement remain(s) in effect beyond the term of this Agreement, the Licence(s) will continue to be considered by the Parties to be an accommodation as contemplated in sections 2.3 and 3.7 until the Licence(s) expires or is terminated.
- 3.9. Any Licence(s) entered into under this Agreement can only be transferred in accordance with the *Forest Act*.
- 3.10. Where the Nanwakolas First Nations has entered into a RP with British Columbia before the Effective Date of this Agreement which includes a commitment by British Columbia to invite the Nanwakolas First Nations to apply for a non-replaceable volume based forest licence and that commitment is fulfilled by the invitation in section 3.1 of this Agreement, termination or expiry of the RP will not affect any licence issued pursuant to this Agreement or affect the terms of this Agreement.

4. Reporting of Tenure Information

- 4.1. If British Columbia, in its commitment to the goals of the Transformative Change Accord requires certain information on measurable benefits for communities as a result of this Agreement, British Columbia will use the information available to the Parties under Sections 7.1 and 8.1 of Appendix 2 Schedule B of the RP.
- 4.2. If the RP is subsequently terminated, or a Nanwakolas First Nation(s) withdraws from the RP prior to the end of the term of this Agreement, the Nanwakolas First Nation(s) which are no longer a party to the RP will cooperate with British Columbia in providing information on measurable benefits for communities as a result of this Agreement. The information will be provided in a format acceptable to both Parties and in a manner that maintains the confidentiality of that information in accordance with applicable statutory requirements.

5. The Nanwakolas First Nations Traditional Territories

- 5.1. British Columbia will use the map of the Nanwakolas First Nations Traditional Territories used in the RP which map will be set out in this Agreement as Appendix A.

6. Economic and Operational Stability within the Nanwakolas First Nations Traditional Territories

- 6.1. Each Party will respond immediately to any discussions sought by the other Party in relation to any acts of intentional interference by members of the Nanwakolas First Nations with provincially authorized forest activities and will work co-operatively in resolving any such matters.

7. Term and Termination

- 7.1. The term of this Agreement is 5 years.
- 7.2. This Agreement will take effect on the date on which the last Party has executed it.
- 7.3. This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - 7.3.1. expiry of its term;
 - 7.3.2. 90 days notice by either Party to the other Party; or
 - 7.3.3. mutual agreement of the Parties.
- 7.4. This Agreement may be terminated by British Columbia if the Licence(s) or any of them issued pursuant to section 3.1 is or are cancelled, surrendered or otherwise terminated under the Forest Act.
- 7.5. Prior to the expiry of the 90 days when 90 day notice of termination has been given under section 7.3.2, the Parties agree to meet and endeavour to resolve the issue that has given rise to the 90 day notice of termination.

8. Dispute Resolution

- 8.1. If a dispute arises between the Parties regarding the interpretation of a provision of this Agreement, the Parties or Representative will meet as soon as is practicable to attempt to resolve the interpretation dispute.
- 8.2. 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 Nanwakolas Council.

- 8.3. 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 dispute.

9. Renewal of the Agreement

- 9.1. Prior to the expiry of the term of this Agreement, if the terms and conditions of this Agreement are being met and if each Party has received such authorizations as it may require to either renew this Agreement or negotiate a new agreement, British Columbia and the Nanwakolas First Nations will negotiate a renewal of this Agreement or, where applicable, negotiate a new agreement.

10. Amendment of Agreement

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

11. Suspension or Cancellation by the Minister

- 11.1. Without limiting the actions that may be taken by the Minister or by British Columbia, the Minister or a person authorized by the Minister may suspend or cancel the Licence(s) issued under this Agreement, if the Minister or a person authorized by the Minister determines that the Nanwakolas First Nations or the Nanwakolas First Nations Representative are not in compliance with this Agreement.
- 11.2. If this Agreement is terminated in accordance with section 7.3.2 or 7.3.3, the Minister may cancel the Licence(s) issued pursuant to this Agreement.
- 11.3. Prior to contemplating any action referred to in sections 11.1 or 11.2, British Columbia will provide notice to the Nanwakolas First Nations of any alleged contravention of this Agreement that may lead to the Nanwakolas First Nations not being in compliance with this Agreement.
- 11.4. Nanwakolas First Nations will be given the opportunity to comply with this Agreement.

12. Entire Agreement

- 12.1. This Agreement, and any amendment to it, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement.

13. Notice

- 13.1. 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 set out in this section of the Agreement.
- 13.2. 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. on that day.
- 13.3. The address of either Party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia	Nanwakolas First Nations
Deputy Minister	
Ministry of Forests, Lands and Natural Resource Operations	Nanwakolas First Nations
P.O. Box 9525 STN PROV GOVT	203-2005 Eagle Drive
Victoria, B.C. V8W 9C3	Campbell River, B.C. V9H 1V8
Telephone: (250) 356-5012	Telephone: (250) 286-7200
Facsimile: (250) 953-3687	Facsimile: (250) 286-7222

- 13.4. 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 facsimile. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.
- 13.5. British Columbia is not in breach of any duty merely as a result of any contraventions by the Nanwakolas First Nation's Representative in respect of any licences issued under this Agreement.

14. Miscellaneous

- 14.1. This Agreement is to be interpreted in a manner consistent with provincial, federal and constitutional law.
- 14.2. Except as set out in this Agreement, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 14.3. British Columbia acknowledges and enters into this Agreement on the basis that the Nanwakolas First Nations have Section 35 Rights within their Traditional Territories but that the specific nature, scope and geographic extent of those Section 35 Rights have not yet been determined, and further that broader processes engaged in to

bring about reconciliation will eventually result in a common understanding of the nature, scope and geographic extent of them.

- 14.4. This Agreement does not exclude the Nanwakolas First Nations from accessing forestry economic opportunities and benefits, which may be available to them, other than those expressly set out in this Agreement.
- 14.5. 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.
- 14.6. 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.
- 14.7. 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.
- 14.8. This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.
- 14.9. There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 14.10. The laws of British Columbia will govern this Agreement.
- 14.11. This Agreement is not intended to limit any obligation of forest Licensees or other third parties to the Nanwakolas First Nations.
- 14.12. The appendices to this Agreement form part of the Agreement.

Signed on behalf of:

ON BEHALF OF THE NANWAKOLAS FIRST NATIONS
as represented by:


MAMALILIKULLA-QWE'QWA'SOT'EM
FIRST NATION



Witness



TLOWITSIS FIRST NATION


Witness



DA'NAXDA'XW AWAETLALA
FIRST NATION


Witness


GWA'SALA'NAKWAXDA'XW
FIRST NATION


Witness


K'OMOKS FIRST NATION


Witness

Date November 28, 2012

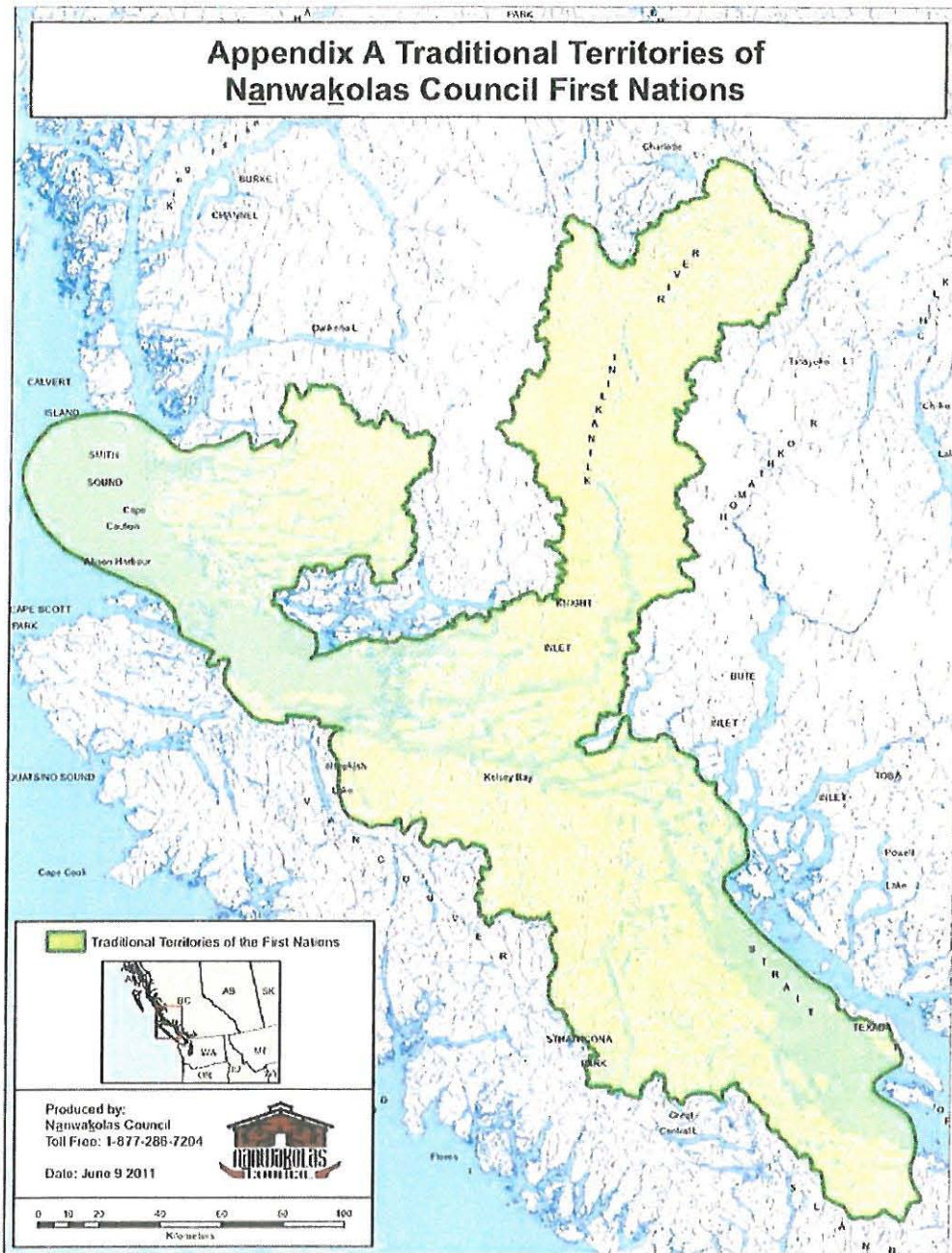
Signed on behalf of:

British Columbia

Steve Thomson Date Dec 21, 2012
Steve Thomson
Minister of Forests, Lands and Natural Resource Operations

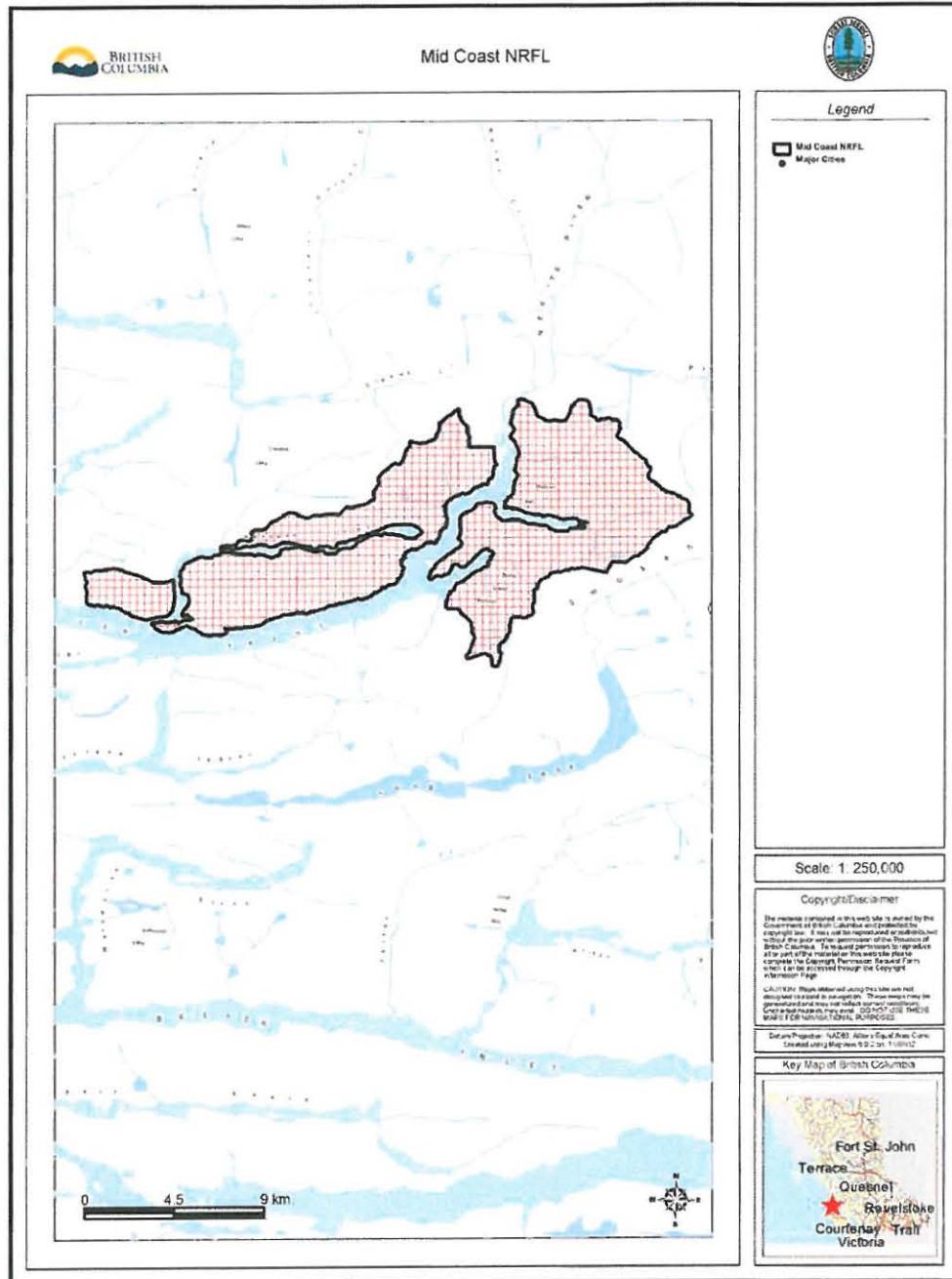
Witness of Minister Signature

Appendix A Traditional Territories of Nanwakolas Council First Nations



APPENDIX B

Licence Area and Operating Area Maps



APPENDIX B

Licence Area and Operating Area Maps

TFL 39, Block 2 Operating Area Map will be appended in accordance with Section 3.4.