

**Upper Skeena Laxyip  
Forest & Range  
Consultation and Revenue Sharing Agreement (FCRSA)  
(the “Agreement”)**

**Between:**

**Upper Skeena Watershed Simgigyt**, as represented by the Hereditary Chiefs on their own behalf and on behalf of their respective house (“**Wilp**”) members (collectively referred to in this Agreement as “**Upper Skeena Simgigyt**”)

**And**

**Gitxsan Treaty Society** incorporated under the *Societies Act*, S.B.C. 2015 c. 18 (“**GTS**”)

**And**

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

(Collectively the “**Parties**”)

**WHEREAS:**

- A. Upper Skeena Simgigyt have Aboriginal Interests within the Upper Skeena Laxyip.
- B. The Parties signed the Upper Skeena Laxyip Strategic Engagement Agreement in 2018 to realign and strengthen the relationship between Upper Skeena Simgigyt and British Columbia, respectful of Gitxsan hereditary structures, Gitxsan Ayookw (set of laws), and Gitxsan Aboriginal rights, including title, and to enable economic opportunities, including resource revenue sharing.
- C. The Parties intend this Agreement to assist Upper Skeena Simgigyt in their pursuit of activities to enhance the wellbeing of Gitxsan people and to assist in achieving stability and greater certainty for forest and range resource development within the Laxyip.
- D. The Upper Skeena Simgigyt and their Huwilp were among the Plaintiffs, along with a number of other Gitxsan Huwilp, in a land title action commenced in the Supreme Court of British Columbia under the style of cause *Delgamuukw v. British Columbia*, Action No. 0843 Smithers Registry.
- E. The *Declaration on the Rights of Indigenous Peoples Act* provides a framework for how the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) will be implemented in British Columbia. British Columbia intends to

take all measures necessary to ensure the laws of British Columbia are consistent with UNDRIP in accordance with the Act.

**THEREFORE THE PARTIES AGREE AS FOLLOWS:**

**ARTICLE 1 - INTERPRETATION**

**1.1 Definitions.** For the purposes of this Agreement, the following definitions apply:

**“Aboriginal Interests”** means:

- (a) asserted Gitxsan Aboriginal rights, including aboriginal title; or
- (b) determined Gitxsan Aboriginal rights, including Gitxsan Aboriginal title, which are recognized and affirmed under section 35(1) of the *Constitution Act, 1982*;

**“Administrative and/or Operational Decision”** means a decision made by the Minister or a Delegated Decision Maker related to forest and range resources under provincial legislation that is included in the First Annual List and/or Annual List as defined and set out in Appendix B;

**“Upper Skeena Laxyip SEA”** or **“SEA”** means the strategic engagement agreement between British Columbia and Upper Skeena Simgigyat signed on June 9, 2018 that includes agreement on a consultation process between Upper Skeena Simgigyat and British Columbia in relation to the potential adverse impacts of proposed provincial land and natural resource decisions on Aboriginal Interests within the Laxyip;

**“BC Fiscal Year”** means a period beginning on April 1 of a calendar year and ending on March 31 of the next calendar year;

**“Delegated Decision Maker”** means a person with authority to make statutory decisions with respect to forest and range resources under provincial legislation as amended from time to time;

**“Effective Date”** means the last date on which this Agreement has been fully executed by the Parties;

**“Eligible Volume”** means the volume of Crown timber provided to Upper Skeena Simgigyat in a Direct Award tenure under Section 47.3 of the *Forest Act* originating from the volume reallocation of the *Forestry Revitalization Act* that is appraised through the Market Pricing System;

**“First Fiscal Year of the Term”** means the BC Fiscal Year in which the Effective Date falls;

**“Huwilp”** means all of the Wilp within the Upper Skeena Laxyip;

**“Laxyip”** means the area shown in bold black on the map attached in Appendix A;

**“Licensee”** means a holder of a forest tenure or a range tenure;

**“Matrix”** means the table set out as a part of section 1.10 of Appendix B;

**“Minister”** means the Minister of Forests, Lands, Natural Resource Operations and Rural Development having the responsibility, from time to time, for the exercise of powers in respect of forests and range matters;

**“Operational Plan”** means a Forest Stewardship Plan, Woodlot Licence Plan, a Range Use Plan, or Range Stewardship Plan, as those terms are defined in provincial forest and range legislation;

**“Payment Account”** means the account described in subsection 4.1(a);

**“RA”** means a reconciliation agreement between British Columbia and Upper Skeena Simigiyat that creates a foundation for the reconciliation of aboriginal rights and/or aboriginal title with Crown sovereignty but is not a treaty in the meaning of section 35(1) of the *Constitution Act, 1982*;

**“Revenue Sharing Contribution”** means each payment to be made by British Columbia to Upper Skeena Simigiyat under Article 3 of this Agreement;

**“Term”** means the term of this Agreement set out in section 14.1;

**“Timber Harvesting Land Base”** means the portion of the total land area of a management unit considered by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development to contribute to, and be available for, long-term timber supply.

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

**1.3 Appendices.** The following Appendices and Schedule are attached to and form part of this Agreement:

Appendix A - Map of Upper Skeena Laxyip;

Appendix B - Consultation Process

B - Schedule 1 – List of Decisions;

Appendix C - Revenue Sharing Contribution Methodology;

Appendix D - Statement of Laxyip Huwilp Priorities Format; and,

Appendix E- Annual Report.

## **ARTICLE 2 - PURPOSE AND OBJECTIVES**

**2.1 Purpose and objectives.** The purposes and objectives of this Agreement are:

- (a) to establish a consultation process through which the Parties will meet their respective consultation obligations in relation to potential adverse impacts of proposed forest and range resource development activities, including Administrative and/or Operational Decisions or Operational Plans, on Aboriginal Interests within the Laxyip;
- (b) to provide a Revenue Sharing Contribution to support the capacity of the Upper Skeena Simgigyat to participate in the consultation process herein, as an accommodation for any adverse impacts to Aboriginal Interests within the Laxyip resulting from forest and range resource development within the Laxyip and so that Upper Skeena Simgigyat may pursue activities that will enhance the social, economic and cultural well being of their members; and
- (c) to assist in achieving stability and greater certainty for forest and range resource development within the Laxyip.

## **ARTICLE 3 - REVENUE SHARING CONTRIBUTIONS**

**3.1 Calculation and timing of payments.** Subject to Articles 5 and 13, during the Term, British Columbia will:

- (a) make annual Revenue Sharing Contributions, calculated in accordance with Appendix C, to the GTS on behalf of Upper Skeena Simgigyat; and
- (b) pay the annual Revenue Sharing Contribution in two equal instalments, the first to be made on or before September 30<sup>th</sup> and the second to be made on or before March 31<sup>st</sup>.

- 3.2 First Fiscal Year.** Notwithstanding section 3.1, for the 2019/2020 Fiscal Year, the Revenue Sharing Contribution is deemed to be \$134,228.10 which will be due for payment on or before March 31, 2020.
- 3.3 Prorated amounts.** For the purposes of determining the amount of the Revenue Sharing Contribution for partial BC Fiscal Years, the amount will be prorated to the month in which the Agreement is signed by the Parties; is terminated under section 13; or to the end of the month in which the Agreement expires.
- 3.4 Subsequent BC Fiscal Year amounts.** Before November 30<sup>th</sup> of each year during the Term, British Columbia will provide written notice to Upper Skeena Simigiyat of the amount of the Revenue Sharing Contribution for the following BC Fiscal Year and the summary document(s) and calculations identified in Appendix C.
- 3.5 Amount agreed to.** Upper Skeena Simigiyat agree that the amount set out in the notice provided under section 3.4 will be the amount of the Revenue Sharing Contribution payable under this Agreement for that following BC Fiscal Year.
- 3.6 Changes to Provincial Revenue Sharing Formulas.** The Parties agree that if, during the Term of this Agreement, British Columbia introduces changes to the provincial revenue sharing calculation formula described in Appendix C to this Agreement, any such changes will be incorporated into the calculation of the Revenue Sharing Contribution provided through this Agreement for the following BC Fiscal Years that this Agreement is in effect.

## **ARTICLE 4 - DELIVERY OF PAYMENTS**

- 4.1 Payment Account.** GTS will:
- (a) establish and, throughout the Term, maintain an account on behalf of Upper Skeena Simigiyat at a Canadian financial institution into which direct deposits can be made by British Columbia for the purpose of receiving monies payable by British Columbia pursuant to this Agreement (the "Payment Account"); and
  - (b) provide to British Columbia sufficient address and account information respecting the Payment Account to enable British Columbia to make direct deposit payments to the Payment Account.
- 4.2 Requirement to make a payment.** British Columbia may withhold a Revenue Sharing Contribution it would otherwise be required to make until Upper Skeena Simigiyat has met the requirements set out in section 4.1.

## **ARTICLE 5 - CONDITIONS OF PAYMENT**

**5.1 Reporting and compliance requirements.** For each BC Fiscal Year following the First Fiscal Year of the Term, the requirement to make a Revenue Sharing Contribution is subject to:

- (a) Upper Skeena Simgigyt having published all of the necessary statements and reports before the applicable dates as set out in Article 8 of this Agreement;
- (b) Upper Skeena Simgigyt being in all other respects in compliance with the terms of this Agreement; and
- (c) Revenue Sharing Contributions not having been suspended under Article 13 of this Agreement.

**5.2. Appropriation.** Notwithstanding any other provisions of this Agreement, the payment of money by British Columbia to Upper Skeena Simgigyt pursuant to this Agreement is subject to:

- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable British Columbia in any BC Fiscal Year or part thereof when any such payment may be required, to make that payment; and
- (b) Treasury Board not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in (a).

## **ARTICLE 6 - CONSULTATION**

**6.1 Satisfaction of consultation obligations.** The Parties agree that subject to 6.3, the process set out in Appendix B of this Agreement will be the means by which they will fulfill their obligations to consult on proposed Operational Plans or proposed Administrative and/or Operational Decisions and, where appropriate, the means by which British Columbia will identify potential measures to accommodate any potential adverse impacts on the Aboriginal Interests within the Laxyp resulting from Operational Plans or Administrative and/or Operational Decisions.

**6.2 Map may be shared.** British Columbia may share the map attached as Appendix A, including digital versions of the map, with other provincial agencies or with a Licensee responsible for information sharing associated with Operational Plans or Administrative and/or Operational Decisions.

**6.3 SEA or RA applies.** The Parties agree that notwithstanding 6.1:

- (a) if before the Effective Date Upper Skeena Simgigyt enters into a SEA or RA that includes a consultation process which addresses forest and range management and decision making, the consultation process set out in the SEA or RA will continue after the Effective Date;

- (b) if after the Effective Date, Upper Skeena Simigiyat enters into a SEA or RA that includes a consultation process which addresses forest and range management and decision making, the consultation process set out in the SEA or RA will supersede and replace the consultation process set out in this Agreement for the term of the SEA or RA; and
- (c) if the SEA or RA referred to in (a) or (b) comes to the end of its term or is terminated prior to the end of the Term, the consultation process set out in Appendix B of this Agreement will apply for the remainder of the Term.

**6.4 Capacity funding.** The Parties acknowledge and agree that to assist Upper Skeena Simigiyat to engage in consultation under this Agreement and in consultation under any SEA or RA that addresses but does not provide capacity funding for forest and range related consultation, Upper Skeena Simigiyat will, under section 1.4 of Appendix C, receive capacity funding of no less than \$35,000 per annum.

## **ARTICLE 7 - ACKNOWLEDGMENTS AND COVENANTS**

- 7.1 Revenue Sharing Contributions will vary.** Upper Skeena Simigiyat acknowledge that forest revenues received by British Columbia fluctuate and that the Revenue Sharing Contributions under this Agreement will vary over time.
- 7.2 Revenue Sharing Contributions are an accommodation.** Upper Skeena Simigiyat agree that the Revenue Sharing Contributions made under this Agreement is an accommodation for any potential adverse impacts of Administrative and/or Operational Decisions, and any forest or range development practices that may be carried out under Operational Plans on the Aboriginal Interests within the Laxyip.
- 7.3 Where consultation process followed.** Upper Skeena Simigiyat agree that if the consultation process set out in this Agreement is followed, British Columbia has adequately consulted and has provided an accommodation with respect to potential adverse impacts of Administrative and/or Operational Decisions, and any forest or range development practices that may be carried out under an Operational Plan, on Aboriginal Interests within the Laxyip.

## **ARTICLE 8 - LAXYIP HUWILP PRIORITIES, ANNUAL REPORTS and RECORDS**

- 8.1 Statement of Laxyip Huwilp Priorities.** Upper Skeena Simigiyat covenant and agree that they will:
  - (a) within 60 days of the Effective Date, based on the First Fiscal Year

Revenue Sharing Contribution, prepare a statement of Laxyip Huwilp priorities for the Term substantially in the form set out in Appendix D that outlines activities they intend to fund to help achieve the socio-economic objectives referred to in section 2.1(b); and

- (b) before the end of each BC Fiscal Year, consider whether the statement of Laxyip Huwilp priorities identified in subsection (a) should be revised based on the updated Revenue Sharing Contribution for subsequent BC Fiscal Years agreed to under section 3.5.

**8.2. Annual Report.** Within 90 days of the end of each BC Fiscal Year, Upper Skeena Simgigyat will prepare an annual report, substantially in the form set out in Appendix E, identifying all expenditures made from the Payment Account since the date of the last such report or in the case of the first such report, since the Effective Date of this Agreement, and confirming that, aside from reasonable administrative expenses, all such expenditures were made in furtherance of the purposes and objectives referred to in section 2.1.

**8.3. Publication.** The statement of Laxyip Huwilp priorities and annual report referred to in sections 8.1 and 8.2 will be published by Upper Skeena Simgigyat in a manner that can reasonably be expected to bring the information to the attention of their communities and the public within 90 days of the end of each BC Fiscal Year.

**8.4. Audit.** British Columbia may, at its sole discretion and at the sole expense of Upper Skeena Simgigyat, require an audit of the expenditures made from the Payment Account to determine that all such expenditures were made in furtherance of the purposes and objectives referred to in section 2.1.

**8.5. Delivery of Report.** The annual report referred to in section 8.2 will be provided to British Columbia within 120 days of the end of each BC Fiscal Year.

**8.6. Continuing Obligations.** Notwithstanding the termination or expiry of this Agreement, the provisions of this Article 8 will continue to apply for 120 days after Upper Skeena Simgigyat receives the final Revenue Sharing Contribution from British Columbia.

## **ARTICLE 9 - SECURITY DEPOSITS**

**9.1 Silviculture Deposit.** In consideration of Upper Skeena Simgigyat entering into this Agreement, British Columbia may choose not to require a silviculture deposit pertaining to a licence entered into as a result of a direct award tenure agreement entered into between Upper Skeena Simgigyat, or a legal entity controlled by the Upper Skeena Simgigyat, and British Columbia.



## **ARTICLE 10 – SET OFF**

**10.1 Set off.** In addition to any other right under this Agreement, British Columbia may set off against any payment that Upper Skeena Simgiyat is entitled to receive under this Agreement, any unfulfilled financial obligations of Upper Skeena Simgiyat to British Columbia arising from a licence entered into as a result of a direct award tenure agreement between Upper Skeena Simgiyat, or a legal entity controlled by the Upper Skeena Simgiyat, and British Columbia.

**10.2 Notice.** British Columbia will notify Upper Skeena Simgiyat of the amount of the unfulfilled financial obligation before it exercises its right of set off under section 10.1.

## **ARTICLE 11 - ASSISTANCE**

**11.1 Cooperation and Support.** Upper Skeena Simgiyat will respond in a timely manner to any discussions sought by British Columbia in relation to any acts of interference by Wilp members related to an Administrative and/or Operational Decision, an Operational Plan or activities carried out pursuant to those decisions or plans and will work co-operatively with British Columbia to assist in resolving any such matters.

## **ARTICLE 12 - DISPUTE RESOLUTION**

**12.1 Dispute Resolution Process.** If a dispute arises between British Columbia and Upper Skeena Simgiyat regarding the interpretation of a provision of this Agreement:

- (a) duly appointed representatives of the Parties will meet as soon as is practicable to attempt to resolve the dispute;
- (b) if the Parties' representatives are unable to resolve the dispute, the issue will be referred to more senior representatives of British Columbia and Upper Skeena Simgiyat; and
- (c) if the dispute cannot be resolved by the Parties directly under subsections (a) or (b), the Parties may agree to other appropriate approaches to assist in reaching resolution of the issue.

## **ARTICLE 13 - SUSPENSION and TERMINATION**

**13.1 Suspension of Revenue Sharing Contributions.** In addition to any other right under this Agreement, British Columbia may suspend further Revenue Sharing Contributions under this Agreement where Upper Skeena Simgigytat:

- (a) is in material breach of their obligations under Articles 6, 8 or 11 or Appendix B of this Agreement; or
- (b) has outstanding unfulfilled financial obligations to British Columbia arising from a licence issued further to an agreement between Upper Skeena Simgigytat and British Columbia.

**13.2 Notice of Suspension.** Where Revenue Sharing Contributions are suspended under section 13.1, British Columbia will provide notice to Upper Skeena Simgigytat of the reason for the suspension, including the specific material breach or the outstanding unfulfilled financial obligation on which it relies and the Parties will meet to attempt to resolve the issue giving rise to the suspension.

**13.3 Termination following suspension.** If the issue giving rise to the suspension of Revenue Sharing Contributions is not resolved within 60 days after notice is provided under section 13.2, British Columbia may terminate the Agreement at any time by written notice.

**13.4 Proceedings inconsistent with acknowledgments.** Notwithstanding any other provision of this Agreement, British Columbia may suspend Revenue Sharing Contributions and may terminate this Agreement at any time by written notice where Upper Skeena Simgigytat or GTS challenge or support a challenge to an Administrative and/or Operational Decision, an Operational Plan or activities carried out pursuant to those decisions or plans, by way of legal proceedings or otherwise, on the basis that:

- (a) contrary to section 7.2, a Revenue Sharing Contribution provided for under this Agreement does not constitute an accommodation for adverse impacts of such decisions, plans or activities on Aboriginal Interests within the Laxyip; or
- (b) contrary to section 7.3, by British Columbia or a Licensee following the consultation process described in Appendix B, British Columbia has not adequately consulted with Upper Skeena Simgigytat regarding the potential adverse impacts of such decisions, plans or activities on Aboriginal Interests within the Laxyip.

**13.5 Termination by Either Party.** This Agreement may be terminated by British Columbia or by Upper Skeena Simgigytat on ninety (90) days written notice or on a date mutually agreed on by British Columbia and Upper Skeena Simgigytat.

**13.6 Meet to attempt to resolve issue.** If British Columbia or Upper Skeena Simgigytat gives written notice under section 13.5, they will, prior to the end of the notice period, meet and attempt to resolve any issue that may have given rise to the termination notice.

**13.7 Effect of Termination.** Where this Agreement is terminated under this Article 13, the Revenue Sharing Contribution for the BC Fiscal Year in which termination becomes effective will be prorated to the termination date.

## **ARTICLE 14 - TERM**

**14.1 Term.** The term of this Agreement will be three (3) years commencing on the Effective Date unless it is extended under section 14.2 or terminated under Article 13.

**14.2 Extension of the Term.** At least two months prior to the third anniversary of the Effective Date, the Parties will evaluate the effectiveness of this Agreement and decide whether to extend the Term.

**14.3 Terms of the Extension.** Where the Parties agree to extend the Term they will negotiate and attempt to reach agreement on the terms of the extension.

**14.4 Evaluation.** Either Party may, on an annual basis, request the participation of the other Party to review the effectiveness of this Agreement and to consider potential amendments to it.

## **ARTICLE 15 – REPRESENTATIONS and WARRANTIES**

**15.1 Legal power, capacity and authority of British Columbia.** British Columbia represents and warrants to Upper Skeena Simigiyat and GTS with the intent and understanding that they will be relied on by Upper Skeena Simigiyat and GTS in entering into this Agreement, that it has the authority to enter into this Agreement and to make the covenants and representations in this Agreement that this Agreement is a valid and binding obligation of British Columbia.

**15.2 Legal power, capacity and authority of GTS.** GTS represents and warrant to British Columbia, with the intent and understanding that they will be relied on by British Columbia in entering into this Agreement, that:

- (a) it is a duly incorporated society under the *Societies Act*, and that it is in good standing;
- (b) it has the legal power, capacity and authority to enter into this Agreement for and on behalf of itself and to engage in the structures and processes under this Agreement on behalf of its members; and
- (c) this Agreement is valid and binding obligation upon it.

**15.3 Legal power, capacity and authority of Upper Skeena Simigiyat.** Upper Skeena Simigiyat each represent and warrant to British Columbia that they have the authority to enter into this Agreement and to engage in the structures and processes under this Agreement on behalf of their Wilp members and that this Agreement is a valid and binding obligation on them.

## **ARTICLE 16 - NOTICE and DELIVERY**

**16.1 Delivery of Notices.** Any notice, document, statement or report contemplated under this Agreement must be in writing and will be deemed validly given to and received by a Party, if delivered personally, on the date of delivery, or, if delivered by mail, email or facsimile copier, when received by the Parties at the addresses as follows:

if to British Columbia:

Deputy Minister  
Ministry of Indigenous Relations and Reconciliation  
P.O. Box 9100 STN PROV GOVT  
Victoria B.C. V8W 9B1  
Telephone: (778) 974-5479  
Fax: (250) 387-6594

and if to the Upper Skeena Simigiyat or to GTS:

Maxwell Stevens – Upper Skeena Laxyp Facilitator  
P.O. Box 229  
1650 Omenica Street  
Hazelton, BC V0J1Y0  
250-842-6780  
mstevens@gitxsan.ca

**16.2 Change of Address.** Each Party may, from time to time, give notice to the other Parties of a change of address or facsimile number and after the giving of such notice, the address or facsimile number specified in the notice will, for purposes of section 16.1, supersede any previous address or facsimile number for the Party giving such notice.

## **ARTICLE 17 - GENERAL PROVISIONS**

**17.1 Governing law.** This Agreement will be governed by and construed in accordance with the laws of British Columbia.

**17.2 Not a Treaty.** This Agreement does not:

- (a) constitute a treaty or a lands claims agreement within the meaning of sections 25 or 35 of the *Constitution Act, 1982* (Canada); or
- (b) affirm, recognize, abrogate or derogate from any Aboriginal Interests.

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

- (a) an admission of the validity of, or any fact or liability in relation to, any claims relating to alleged past or future infringements of Aboriginal Interests;
- (b) an admission or acknowledgement of any obligation to provide any financial, economic or other compensation, including those in this Agreement, as part of British Columbia's obligation to consult and, as appropriate, accommodate; or
- (c) in any way limiting the position the Parties may take in any proceedings or in any discussions or negotiations between the Parties, except as expressly contemplated in this Agreement.

**17.4 No Fettering.** Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by British Columbia or its agencies of any statutory, prerogative, executive or legislative power or duty.

**17.5 No Implied Waiver.** Any waiver of any term or breach of this Agreement is effective only if it is in writing and signed by the waiving Party and is not a waiver of any other term or breach.

**17.6 Assignment.** Upper Skeena Simigiyat and GTS must not assign, either directly or indirectly, this Agreement or any right of Gitxsan under this Agreement without the prior written consent of British Columbia.

**17.7 Emergencies.** Nothing in this Agreement affects the ability of any Party to respond to any emergency circumstances.

**17.8 Acknowledgment.** The Parties acknowledge and enter into this Agreement on the basis that Aboriginal Interests exist within the Laxyip but that the specific nature, scope or geographic extent of those Aboriginal Interests have yet to be determined. The Parties intend that broader processes that may be engaged in to bring about reconciliation may lead to a common understanding of the nature, scope and geographic extent of Aboriginal Interests within the Laxyip.

**17.9 Third Parties.** This Agreement is not intended to limit any obligation of forest or range licensees or other third parties to Upper Skeena Simigiyat.

**17.10 Other Economic Opportunities and Benefits.** This Agreement does not preclude Upper Skeena Simigiyat from accessing forestry economic opportunities and benefits, which may be available to it, other than those expressly set out in this Agreement.

- 17.11 Validity of Agreement.** If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of it to any person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.
- 17.12 Entire Agreement.** This Agreement and any amendment to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement.
- 17.13 Further Acts and Assurances.** Each Party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.
- 17.14 Execution in Counterpart.** This Agreement may be entered into by a separate copy of this Agreement being executed by each Party and that executed copy being delivered to the other Party by a method provided for in Article 16 or any other method agreed to by the Parties.
- 17.15 Amendment in Writing.** No amendment to this Agreement is effective unless it is agreed to in writing and signed by the Parties.

Signed on behalf of:

**Upper Skeena Simgiyat**

  
Geel (Catherine Blackstock)

  
Witness

  
Date

"see attached" #1  
Miluulak (Alice Jeffrey)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

  
Wii Minosik (Larry Skulsh)

  
Witness

June 2 2020  
Date

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Nii Kyap

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gwinin Nitxw (Yvonne Lattie)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

  
Wii Gaak (Dorothy Lattie)

  
Witness

<sup>DSH</sup>  
May 5-20 June 5.90 .  
Date



**Wii Gyet**  
(Beverly Anderson/Lloyd Morrison)



Witness

June 3, 2020

Date



**Maxwell Steven**  
(Upper Skeena Laxyip Facilitator)

Witness

March 26, 2020

Date



Signed on behalf of:

**Gitxsan Treaty Society (GTS)**



Brian Williams – Authorized  
Representative of GTS

May 26/20

Date

Signed on behalf of:

**Government of British Columbia**



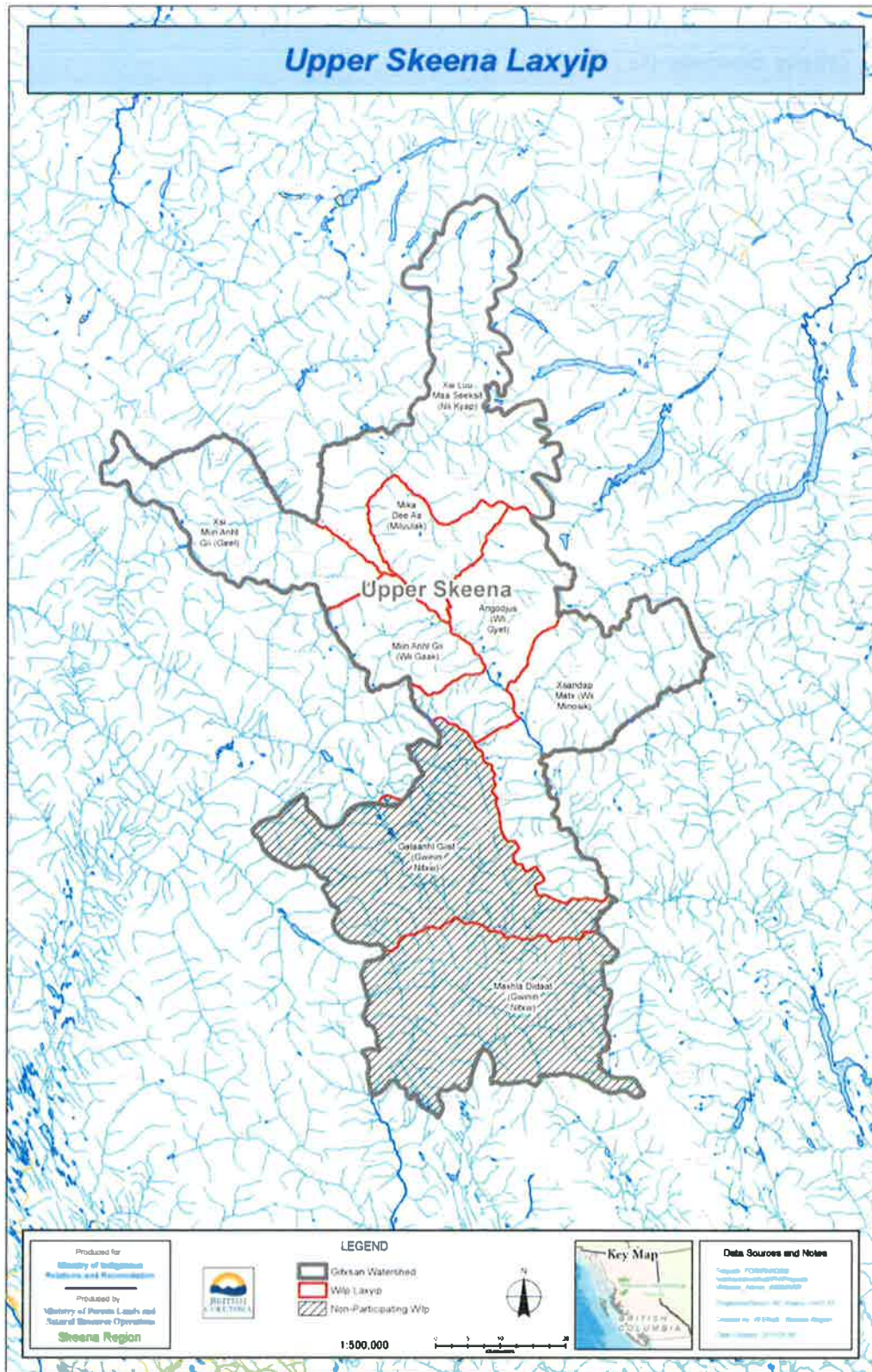
Minister of Indigenous Relations and  
Reconciliation

August 13, 2020

**Date**

\_\_\_\_\_  
Witness of Minister signature

**APPENDIX A**  
**Map of Upper Skeena Laxyip**



## APPENDIX B

### Consultation Process for Administrative and/or Operational and Operational Plans within Upper Skeena Laxyip

- 1.0 In this Appendix, **“Parties”** means British Columbia and Upper Skeena Simgigyt and a **“Party”** refers to either British Columbia or Upper Skeena Simgigyt.
- 1.1 British Columbia will consult with Upper Skeena Simgigyt on proposed Administrative and/or Operational Decisions and Operational Plans that may potentially adversely impact Aboriginal Interests within the Laxyip, in accordance with this Appendix B.
- 1.2 Upper Skeena Simgigyt will fully participate in information sharing and/or consultation with British Columbia, Licensees or proponents regarding proposed Administrative and/or Operational Decisions or Operational Plans within the Laxyip in accordance with this Appendix B.
- 1.3 In order to facilitate consultation, the Parties will use the Matrix set out in section 1.10 of this Appendix to determine which proposed Administrative and/or Operational Decisions and Operational Plans will require consultation, as well as the appropriate level of consultation for those decisions and plans.
- 1.4 The level of consultation required for the types of Administrative and/or Operational Decisions and Operational Plans listed in Schedule 1 (the “List of Decisions”) will be the level indicated in the column of Schedule 1 headed “Consultation Level”, unless the Parties agree to a different consultation level under section 1.11 of this Appendix.
- 1.5 If on or before January 31<sup>st</sup> a Party requests that the List of Decisions or the consultation level for a type of decision or plan set out in it be revised for a subsequent BC Fiscal Year, the Parties will discuss that request and if the Parties agree to a revision, update the List of Decisions on or before March 31<sup>st</sup> of the current fiscal year.
- 1.6 If British Columbia becomes aware of proposed Administrative and/or Operational Decisions or Operational Plans not contained in the List of Decisions that will have effect within the Laxyip of Upper Skeena Simgigyt during the current fiscal year, British Columbia will notify the Upper Skeena Simgigyt of those decisions or plans and the Parties will, with reference to the criteria set out in the Matrix, seek to agree on the consultation levels that will be applicable to those decisions or plans.
- 1.7 If the Parties cannot agree upon which consultation level in section 1.10 of this Appendix should apply to a particular or any Operational or Administrative Decision or Operational Plan, then British Columbia will consult with Upper Skeena Simgigyt on the basis of British Columbia’s consultation procedures in effect at the time as well as the applicable case law respecting consultation obligations.
- 1.8 In reviewing and responding to a proposed Administrative and/or Operational Decision or Operational Plan submitted to them, Upper Skeena Simgigyt will,

unless otherwise agreed by the Parties, provide the party (i.e. British Columbia, Licensee or proponent) that supplied the proposed decision or plan to them, with all reasonably available information that will identify any potential adverse impacts to their Aboriginal Interests that may occur as a result of the proposed Administrative and/or Operational Decision or Operational Plan within the Laxyp or forest or range resource development practices that may be carried out pursuant to that decision or plan.

1.9 If a proposed Administrative and/or Operational Decision or Operational Plan is submitted to Upper Skeena Simgigat and no response is received within the consultation period set out in section 1.10 of this Appendix for the consultation level applicable to the proposed Administrative and/or Operational Decision or Operational Plan, then British Columbia may proceed to make a decision regarding the decision or plan.

1.10 The Parties agree that:

- (a) as set out in the table below (the "Matrix") there will be six (6) potential levels of consultation for a proposed Administrative and/or Operational Decision or Operational Plan;
- (b) subject to the List of Decisions, the appropriate consultation level for a proposed Administrative and/or Operational Decision or Operational Plan will be determined by reference to the criteria set out in the Matrix; and
- (c) the consultation period applicable to a consultation level is the period referred to in the Matrix, the List of Decisions or as otherwise agreed to by the Parties, whichever period is the longest.



Level	Description	Intent
<b>1. Information Sharing:</b> prior to formal consultation process	Referral to Upper Skeena Simgigat during planning to provide opportunity to incorporate Aboriginal Interests prior to submitting plan/request to Decision Maker.	Proponent or Licensee engages directly with Upper Skeena Simgigat and provides summary of communications to British Columbia.
<b>2. Available on Request</b>	Type of notification whereby British Columbia informs Upper Skeena Simgigat they will not be sending out information.	British Columbia notifies on an annual basis which decision(s) fall in this category. Upper Skeena Simgigat can request more detail if they wish.
<b>3. Notification</b>	Notify in writing Upper Skeena Simgigat about an upcoming decision and provide overview information. Would be an opportunity for comment.	British Columbia provides Upper Skeena Simgigat base level information and a short reasonable time (21-30 calendar day consultation period determined by

Level	Description	Intent
		the Parties) to comment. Limited follow-up.
<b>4. Expedited Consultation Process</b>	Where there is an imminent threat to a resource value (e.g. mountain pine beetle spread control) an expedited consultation process is undertaken.	Intense but short timeline (about 10 calendar days). A justification for shortening the period would be given by describing the imminent threat. May require a meeting.
<b>5. Normal Consultation</b>	Follow on "normal" track for consultation guided by up-to-date consultation policy. Meetings to resolve issues where possible and make decision in a timely manner.	Intent to follow this course in most circumstances. Usually a 30 – 60 calendar day consultation period. May involve meaningful discussion of accommodation options where appropriate. British Columbia will notify Upper Skeena Simigiyat of the final decision where requested by the Upper Skeena Simigiyat.
<b>6. Deep Consultation</b>	Use reasonable effort to inform in an accessible manner and to engage in full discussions around the proposed decision. Make reasonable efforts to accommodate where necessary. Preliminary assessments may indicate a significant Aboriginal Interest and a significant impact to that interest.	Would involve meaningful discussion of suitable accommodation options and interim solutions where appropriate. May require extended timelines. British Columbia will provide the Upper Skeena Simigiyat with the final decision and rational in writing.

- 1.10 The Parties may agree to increase or decrease the consultation level for a specific proposed Administrative and/or Operational Decision or Operational Plan where detailed Aboriginal Interest information is provided that indicates a different consultation level is appropriate.
- 1.11 Unless requested by the Upper Skeena Simigiyat, British Columbia is not obligated to inform the Upper Skeena Simigiyat of the Delegated Decision Maker's decision where the consultation level in respect of the proposed decision was level three (3) or lower.



## Schedule 1 – List of Decisions

### 2019 DSS List of Decisions - Appendix B, Schedule 1

Decision Category <sup>1</sup> (see footnotes)	Decision <sup>2</sup> (see footnotes)	Decision Type	Delegated Decision Maker	Consultation Level <sup>3</sup> (see footnotes)	Comments
Allowable Annual Cut Decisions at Timber Supply Area Level	Timber supply reviews (TSR)	Admin	Chief Forester	6	3 stages - TSR process initiation, data package and timber supply analysis report
	AAC apportionment	Admin	Minister	6	
Community Forest Agreement (CFA)	Minister offers CFA	Admin	Minister	5	
	CFA area recommendation by DM; expansion of CFA area	Admin	District Manager	5	
	CFA timber supply review (TSR)	Admin	District Manager	3	
	CFA management plan approval and amendments	Admin	District Manager	3 or 5	new plan approval = level 5 amendment to increase AAC = level 5 amendment to decrease AAC = level 3

	CFA tenure boundary amendment	Admin	Delegated Decision Maker	5	
<b>First Nation Woodland Licence (FNWL)</b>	FNWL area selection and changes to boundary; FNWL offer to FN	Admin	Delegated Decision Maker	5	
	FNWL management plan approval and amendments	Admin	Delegated Decision Maker	3 or 5	new plan approval = level 5 amendment to increase AAC = level 5 amendment to decrease AAC = level 3
	FNWL Forest Stewardship Plan or Woodlot Licence Plan approval and amendments	Operational	Delegated Decision Maker	5	
<b>General Forest Tenure Admin</b>	Non Replaceable Forest Licence issuance or extension	Admin	Regional Executive Director	5	
	Forest Licence Replacement	Admin	Regional Executive Director	3	
	Forest Licence consolidation/subdivision	Admin	Minister	5	

	Forest Licence <i>Forest Act</i> Section 18 Transfers between Timber Supply Areas	Admin	Regional Executive Director	5	
	Forest Tenure Transfers	Admin	Regional Executive Director	3	
	Forest licence crediting of volume between licences; (Cut Control Regulation Division 5)	Admin	Regional Executive Director or District Manager	3	allows volume transfers between forest licenses, TSLs that specify an AAC and major forestry license to cuts (require lay-out & reforestation)
	New Forest Stewardship Plan	Operati onal	District Manager	6	as per FSP business/consultatio n process in effect at District level
	Forest Stewardship Plan extension	Operati onal	District Manager	6	
	Forest Stewardship Plan amendments requiring approval	Operati onal	District Manager	2 or 5	as per FSP business/consultatio n process in effect at District level (level 2 if amendment is for adding a new party to the FSP w/ no FDU change)



	Cutting Permit (blanket salvage): new permits or amendments	Operational	District Manager	3	
	Cutting Permit issuance (stand alone permit)	Operational	District Manager	5	as per post-FSP business/consultation process in effect at District level
	Road Permit issuance and amendment	Operational	District Manager	5	as per post-FSP business/consultation process in effect at District level
	Occupant Licence To Cut issuance	Operational	District Manager	3	level 3 for stand-alone permits
	Forestry Licence to Cut and master licence to cut issuance	Operational	District Manager	3	Forest salvage, community wildfire protection, misc purposes ; as per SSS/FLTC consultation process in effect at District level
	Special Use Permit issuance, amendment, replacement, transfer	Operational	District Manager	2, 3 or 5	Replacement = level 2 Transfer = level 2 Amendment = level 3 New issuance (stand alone) = level 3 New issuance (included in block planning packages) = level 5 as per post-FSP business/consultation process in effect at District level

					n process in effect at District level
	Free Use Permit issuance	Operational	District Manager	2	Annual advisory: i.e. First Nation cultural use, firewood, etc.
<b>Woodlot Licence</b>	New woodlot opportunity	Admin	Regional Executive Director	5	
	Woodlot top-ups (area increase)	Admin	District Manager	3	
	Woodlot boundary change	Admin	District Manager	2	
	Woodlot licence replacement	Admin	District Manager	2	
	New woodlot management plan and/or amendment to existing management plan	Admin	District Manager	3	(includes AAC recommendation)
	New Woodlot Licence Plan submission and/or amendment to existing plan	Operational	District Manager	3	

	Woodlot licence transfer	Admin	District Manager	2	
	Woodlot licence 1 CP	Operational	District Manager	2 or 3	level 2 if associated with management plan consultation < 1 year old level 3 if not associated with management plan consultation < 1 year old
	Woodlot private land deletions	Admin	District Manager	2	
<b>Forest Health/Silviculture</b>	Chemical treatments for silviculture purposes (requires Pest Management Plan)	Admin/Operational	Delegated Decision Maker	1,5	
	Pest Management Plan (forest health purposes)	Admin/Operational	Delegated Decision Maker	1,5	
<b>Recreation</b>	Development of new recreation sites or trails	Admin	Regional Executive Director/District Manager	5	
	De-commission plan for recreation sites	Admin	Regional Executive Director	3	
	Set recreation site objectives	Operational	District Manager	5	Includes trail objective setting

<b>Government Action Regulation</b>	Government actions regulation order	Admin	Delegated Decision Maker	5	(i.e. Visual quality objectives, old growth management areas, wildlife habitat areas/measures, etc. See GARegulations for full listing)
<b>Range</b>	New license issuance and associated Range Use Plan (RUP)	Admin	District Manager	5	(re-issuance of relinquished tenure or no previous tenure)
	Non-replaceable permit issuance (max 10 year term) and/or RUP	Admin	District Manager	5	re-issuance of relinquished tenure or no previous tenure
	Range license replacement	Admin	District Manager	3	Advisory upon occurrence
	Range tenure transfer	N/a	N/a	2	Advisory upon annual roll-up; tenure holder process
	Grazing lease replacement	Admin	Minister	3	
	Grazing lease transfer	n/a	n/a	2	Advisory upon occurrence
	Tenure boundary amendments	Admin	District Manager	3	
	AUM adjustment	Admin	District Manager	2 or 3	adjustments > 10% of current authorized level = level 3 adjustments <= 10% of current aothorized level = level 2 (advisory upon occurrence)

	New Range Use Plan (RUP)	Operational	District Manager	2 or 3	contains no or smaller scale proposed developments = level 2 contains larger scale proposed developments = level 3
	RUP extension	Admin	District Manager	2	
	RUP amendments (major)	Operational	District Manager	2 or 3	amendments not including larger scale proposed developments or changes to operational regime = level 2 amendments altering operational regime of including larger scale proposed developments = level 3
	Range developments not in RUP	Operational	District Manager	2 or 3	small scale (eg .fencing <250m) = level 2 large scale (eg .fencing >250m) = level 3
	Pest Management Plan (for invasive plants only)	Operational	Regional Executive Director	1,5	plan prepared at Branch/Regional level
<b>BC Timber Sales</b>	TSL issuance and associated access	Operational	Timber Sale Manager	5	as per BCTS annual operating plan consultation process
<b>Landbase Investment Strategy (LBIS)</b>	Stand treatments to meet timber objectives	Operational	Delegated decision maker	varies	as per treatment type

**Notes to matrix:**

<sup>1</sup> This consultation matrix does not apply to Administrative or Operational Decisions associated with multi permitted, non-forestry related projects (i.e. mine, clean energy project, etc).

<sup>2</sup> Further to clause 1.11 of Appendix B, where a determination has been made with a consultation level 4 or higher, the Upper Skccna Simgigyat request to only be informed of the outcome of decision(s) with background shading under this column.

<sup>3</sup> To clarify timelines specified in Appendix B the following apply for the duration of this supplement: Level 3 = 30 calendar days; level 4 = 10 calendar days, level 5 = 60 calendar days

## **APPENDIX C**

### **Revenue Sharing Contribution Methodology**

#### **Traditional Territory Forest Revenue Sharing Component**

- 1.0 In each BC Fiscal Year that this Agreement is in effect, and subsequent to the release by the Minister of Finance of the previous BC Fiscal Year's public accounts, a summary document will be prepared of the DJA/DKM/DSS District forest revenue, defined as the total of stumpage, waste and annual rent payments received by the Crown for the previous 2 BC Fiscal Years. An average amount over 2 years will be calculated for the DJA/DKM/DSS Forest District.
- 1.1 For the purposes of the summary document in section 1.0 of this Appendix, the stumpage payments from Eligible Volume in Upper Skeena Simigiyat's forest licence (if applicable) will not be included in the calculations of forest revenue.
- 1.2 The amount of the forest revenue attributed to the Upper Skeena Simigiyat's Laxyip will be calculated by determining the percent of Upper Skeena Simigiyat's Laxyip that falls within the Timber Harvesting Land Base in the DJA/DKM/DSS Forest Districts, applied against the forest revenue described in section 1.0 of this Appendix. This calculation will prorate for overlapping territories of other First Nations.
- 1.3 The Traditional Territory Forest Revenue Sharing Component will be calculated by multiplying 4 percent of the forest revenue attributed to the Upper Skeena Laxyip as described in section 1.2 of this Appendix.
- 1.4 If Upper Skeena Simigiyat is not receiving capacity funding for forestry consultation through a SEA or RA, then it will receive \$35,000 or the amount calculated in accordance with section 1.3, whichever is greater, which may be used by Upper Skeena Simigiyat as capacity funding to participate in the consultation process in accordance with section 6.0 of this Agreement.
- 1.5 For each BC Fiscal Year that this Agreement is in effect, the calculations outlined in sections 1.0 to 1.4 of this Appendix will be performed.

#### **Direct Award Tenure Forest Revenue Sharing Component**

- 2.0 Subsequent to the release by the Minister of Finance of the previous BC Fiscal Year's public accounts, a summary document will be prepared detailing of Upper Skeena Simigiyat's forest licence (if applicable) forest revenue, defined as the total of stumpage payments received by the Crown for the previous BC Fiscal Year from Eligible Volume within the forest licence.
- 2.1 The Direct Award Forest Tenure Revenue Sharing Component will be calculated by multiplying 50 percent of the forest revenue as described in section 2.0 of this Appendix.

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

### **Forest Revenue Sharing Transition**

- 3.0 The Parties agree that a transition to revenue sharing based entirely on Forest Revenue will be phased in over the Term.
- 3.1 For each BC Fiscal Year that this Agreement is in effect, a portion of the Revenue Sharing Contribution is calculated by adding the total of the Traditional Territory Forest Revenue Sharing Component to the Direct Award Tenure Forest Revenue Sharing Component for that BC Fiscal Year.
- 3.2 For each BC Fiscal Year that this Agreement is in effect, the remaining portion of the Revenue Sharing Contribution is calculated by determining the value of the payments that were made by British Columbia to Upper Skeena Simigiyat in any given full year under the Upper Skeena Simigiyat Forest and Range Opportunity Agreement (“the Annual Amount”) and applying the following percentages to that Annual Amount:
- |                              |             |
|------------------------------|-------------|
| 3.2.1 2019/20 BC Fiscal Year | 40 percent; |
| 3.2.2 2020/21 BC Fiscal Year | 40 percent  |
| 3.2.3 2021/22 BC Fiscal Year | <b>TBD</b>  |
- 3.3 Notwithstanding section 3.2 of this Appendix, if the Revenue Sharing Transition Calculation for BC Fiscal years 2019/20, 2020/21 and 2021/22 under section 3.1 provides:
- (a) an amount calculated under sections 1.3 and 2.1 of this Appendix that is equal to or greater than the annual payments received under the Upper Skeena Simigiyat Forest and Range Opportunity Agreement, then Upper Skeena Simigiyat will receive the annual payments described by the Revenue Sharing Calculation in section 3.1 for BC Fiscal Years 2019/20, 2020/21 and 2021/22; and
  - (b) an amount calculated under the Revenue Sharing Transition Calculations in sections 3.1 and 3.2 of this Appendix that is greater than the annual payments received under the Upper Skeena Simigiyat Forest and Range Opportunity Agreement, then Upper Skeena Simigiyat will receive an annual payment for BC fiscal Years 2019/20, 2020/21 and 2021/22 that is equal to the annual payment received under the Upper Skeena Simigiyat Forest and Range Agreement.



## APPENDIX D

### Upper Skeena Simgigat Statement of Laxyip Huwilp Priorities

*(Example only)*

Socio-economic Priority	Annual Amount			Specific Outcomes	Measurement Criteria
	2019/2020	2020/2021	2021/2022		

2019/2020 Revenue Sharing Contribution \$To Be Determined

2020/2021 Revenue Sharing Contribution \$To Be Determined

2021/2022 Revenue Sharing Contribution \$To Be Determined

## APPENDIX E

### Upper Skeena Simgigyt Statement of Laxyip Huwilp Priorities

#### Annual Report

*(Example only)*

Socio-economic Priority	2019/2020 Planned Expenditures	2019/2020 Actual Expenditures	Outcomes Achieved	Variance Explanation


#### Confirmation

In accordance with section 8.2 of the Agreement, Upper Skeena Simgigyt confirms that aside from reasonable administrative expenses, all actual expenditures were made for the purpose of furthering the purposes and objectives set out in section 2.1 of the Agreement.

Signed this \_\_\_\_\_ day of \_\_\_\_\_:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name) On behalf of (Upper Skeena Simgigyt)

  
Miluulak (Alice Jeffrey) - designates  
Monica Jeffrey

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

  
Wii Minosik (Larry Skulsh)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Nii Kyap

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gwinin Nitxw (Yvonne Lattie)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Wii Gaak (Dorothy Lattie)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

**Upper Skeena**

Attachment #1

Rec'd by Email June 15/2010.

