

## INTERIM FORESTRY REVENUE SHARING AGREEMENT

BETWEEN:

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

("B.C.")

AND:

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

("CSFNs")

AND:

**Carrier Sekani Tribal Council**

("CSTC")

(Hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**")

### WHEREAS:

- A. Pursuant to sections 3.3 and 3.6 of the Collaboration Agreement entered into on April 2, 2015, the Parties established the Forestry Table in January 2016 to negotiate a forestry agreement between them;
- B. As a sign of good faith, the Parties have entered into a Letter of Intent on May 31, 2016 and have agreed to take a number of steps to begin to address their interests while their negotiation of a forestry agreement is ongoing;
- C. Pursuant to section 12 (a) of the *Whubats'ut'en Wus Whetee Agreement*, or Interim Pathway Forward Agreement, entered into in March 2017, the Parties agreed to conclude an interim revenue sharing agreement on similar terms to the Interim Revenue Sharing Agreement entered into in July 2016; and
- D. This Interim Forestry Revenue Sharing Agreement ("**Agreement**") sets out the Parties' commitments in relation to interim revenue sharing for B.C.'s fiscal year 2017-2018;

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

## **1.0 Purpose**

1.1 The purposes of this Agreement are to:

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

## **2.0 Interim Revenue Sharing Payments**

- 2.1 As soon as practicable after the execution of this Agreement, and after receiving written notice from CSTC that it is ready to accept the payment, B.C. will provide a payment to CSTC, on behalf of and for the benefit of the CSFNs, of \$3,945,651 as an interim revenue sharing payment derived from revenue collected by B.C. from timber harvested in the Territories (the "**Interim Revenue Sharing Payment**").
- 2.2 The Interim Revenue Sharing Payment constitutes a partial economic accommodation and is a component of any accommodation or compensation that may be required for impacts to any CSFN Aboriginal title and rights in connection with timber harvesting and range activities in the Territories from April 1, 2017 to March 31, 2018.
- 2.3 The Parties will discuss further revenue sharing payments for the period beginning on April 1, 2018 as part of the negotiations under Part 2 or section 11 of the *Whubats'ut'en Wus Whetee Agreement*.

## **3.0 Engagement Process**

- 3.1 While the Parties are developing the decision-making processes for forest and range activities pursuant to their negotiations under the *Whubats'ut'en Wus Whetee Agreement*:
  - 3.1.1 the Parties will collaborate on certain strategic proposed decisions in relation to forest and range activities in the Territories that are agreed to in advance by the forestry table;
  - 3.1.2 B.C. will continue to discharge its consultation obligations with individual CSFNs on proposed decisions in relation to forest and range activities in their respective Territories in accordance with s. 35 of the *Constitution Act, 1982*; and
  - 3.1.3 for greater certainty the Parties will participate in the consultation and collaborative processes in good faith.

## **4.0 Annual Reports**

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

## **5.0 Stability for Land and Resource Use**

- 5.1 If a CSFN becomes aware that one or more of its members could take, or has taken, steps to frustrate, delay, stop or otherwise physically impede B.C., a provincially authorized forest or range operator, or any of their employees, contractors or representatives from gaining access to, or carrying out, forest and range activities in the Territories (an “**Interference**”), then that CSFN will work with its members and seek to prevent any potential Interference or address any actual Interference.
- 5.2 A Party will provide the other Parties with written notice of any potential or actual Interference as soon as practicable.
- 5.3 Upon receiving notice of any Interference, B.C. and the affected CSFN(s) will review the concerns underlying the Interference.

## **6.0 Dispute Resolution**

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

## **7.0 Term**

- 7.1 The term of this Agreement will commence when it is executed and will end on March 31, 2018 or when the Parties execute a forestry agreement that supersedes this Agreement, whichever is sooner.

## **8.0 General Provisions**

- 8.1 **CSTC and CSFN Representations and Warranties.** Each CSFN and the CSTC represents and warrants to B.C. with the intent and understanding that they will be relied on by B.C. in entering into this Agreement, that they have the legal power, capacity and authority to enter into this Agreement on their own behalf and on behalf of their members and this Agreement is a valid and binding obligation upon them.
- 8.2 **BC Representations and Warranties.** B.C. represents and warrants to CSTC and each CSFN, with the intent and understanding that the CSTC and CSFNs will rely on them in entering into this Agreement, that it has the legal power, capacity and authority to enter into this Agreement and that this Agreement is a valid and binding obligation upon B.C.
- 8.3 **Authority to enter Agreement.** Each CSFN will deliver to B.C. a band council resolution, and CSTC will deliver to B.C. a resolution, confirming approval of this Agreement and the authority of its representative to sign this Agreement.
- 8.4 **Funding.** Notwithstanding any other provisions of this Agreement, the Interim Revenue Sharing Payment in section 2.1 is subject to:
- 8.4.1 there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable B.C. to make the Interim Revenue Sharing Payment; and

- 8.4.2 Treasury Board not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in section 2.1.
- 8.5 **Other Programs and Opportunities.** This Agreement supports the CSFNs in accessing other forestry economic opportunities and benefits that may be available.
- 8.6 For greater certainty, this Agreement is without prejudice to, and does not preclude, any CSFN from securing economic benefits or other arrangements from forestry companies carrying out forest and range activities in the Territories.
- 8.7 **Not a Treaty.** The Parties agree this Agreement:
- 8.7.1 does not constitute a treaty or land claim agreement within the meaning of section 25 and section 35 of the *Constitution Act, 1982*;
- 8.7.2 does not establish, define, limit, amend, abrogate or derogate from any CSFN Aboriginal rights, including title, recognized and affirmed by section 35 of the *Constitution Act, 1982*; and
- 8.7.3 is without prejudice to the ability of a CSFN to bring a claim of past or future infringement(s) of any CSFN title and rights subject to section 35 of the *Whubats'ut'en Wus Whetee Agreement*.
- 8.8 **No Admissions.** Nothing in this Agreement will be construed as:
- 8.8.1 an admission of the validity of, or any fact or liability in relation to, any claims relating to alleged past or future infringements of any CSFN Aboriginal rights, including title, recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- 8.8.2 an admission or acknowledgement of any obligation to provide any financial, economic or other compensation, including those in this Agreement, as part of B.C.'s obligation to consult and, as appropriate, accommodate; or
- 8.8.3 in any way limiting the position the Parties may take in any proceeding or in any discussion or negotiation between the Parties, except as expressly contemplated in this Agreement.
- 8.9 **No Fettering.** Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise of any decision-making authority.
- 8.10 **Emergencies.** Nothing in this Agreement affects the ability of either Party to respond to any emergency circumstances.
- 8.11 **No Presumption of Ambiguity.** There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 8.12 **Ts'il Kaz Koh.** "Ts'il Kaz Koh First Nation" means the "band", as that term is defined in the *Indian Act*, R.S.C. 1985, c. 1-5, named "Burns Lake".
- 8.13 **Amendment.** This Agreement may be amended by agreement of the Parties in writing.

8.14 **Execution in Counterpart.** This Agreement may be executed in counterparts and by facsimile or email, and such counterparts, when executed and delivered, will constitute an original and all such counterparts together will constitute one and the same agreement.

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

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

Per: John Rustad  
Authorized Signatory

Name: John Rustad

Date: March 28, 2017

**CARRIER SEKANI TRIBAL COUNCIL,**  
on their own behalf and on behalf of  
their members

Per: Terry Teegee  
Authorized Signatory

Name: Terry Teegee

Date: March 12/17

**NADLEH WHUT'EN on their own behalf**  
and on behalf of their members

Per: Larry Nooski  
Authorized Signatory

Name: Larry Nooski

Date: March 14, 2017

**NAK'AZDLI WHUT'EN on their own**  
behalf and on behalf of their members

Per: Alex McKinnon  
Authorized Signatory

Name: Alex McKinnon

Date: March 13, 2017

**SAIK'UZ FIRST NATION on their own**  
behalf and on behalf of their members

Per: Jackie Thomas  
Authorized Signatory

Name: Jackie Thomas

Date: March 15, 2017

**STELLAT'EN FIRST NATION on their**  
own behalf and on behalf of their  
members

Per: Archie Patric  
Authorized Signatory

Name: Archie Patric

Date: Mar 15, 2017

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

Per: [Signature]  
Authorized Signatory

Name: Sandra A. Frenkel

Date: March 16<sup>th</sup>/2017

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

Per: [Signature]  
Authorized Signatory

Name: Justin Monk

Date: March 13, 2017

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

Per: [Signature]  
Authorized Signatory

Name: Dan George

Date: March 12, 2017

**APPENDIX A**  
**CSFN Territories**