

**Kwadacha Band
Forest & Range
Consultation and Revenue Sharing Agreement (FCRSA)
(the "Agreement")**

**Between:
The Kwadacha Band**

As Represented by
Chief and Council
(the Kwadacha Band)

And

Her Majesty the Queen in Right of the Province of British Columbia
as represented by the Minister of Aboriginal Relations and Reconciliation
("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 and Kwadacha Band have undertaken a shared commitment to strengthening relationships on a government-to-government basis, and on focusing efforts to close the socio-economic gaps between Aboriginal and non-Aboriginal people.
- C. This Agreement, and the benefits flowing from it, will assist the Kwadacha Band 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.
- D. British Columbia recognizes that Kwadacha Band 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 the Kwadacha Band community's well-being.

- E. The Kwadacha Band has Aboriginal Interests within the Traditional Territory.
- F. British Columbia intends to consult with the Kwadacha Band and to accommodate its Aboriginal Interests as appropriate (including accommodation by way of the payments provided through this Agreement), with respect to impacts on the Kwadacha Band's Aboriginal Interests arising from forest and/or range resource development activities proposed within the Kwadacha Band Area of Interest.
- G. The Kwadacha Band intends to fully participate in any consultation or information sharing with British Columbia or a Licensee in relation to forest and/or range resource development activities proposed within the Kwadacha Band's Area of Interest that may impact the Kwadacha Band's Aboriginal Interests.
- H. This Agreement is intended to assist in achieving stability and greater certainty for forest and/or range resource development on Crown lands within the Area of Interest of the Kwadacha Band which will enhance the ability of the forestry and ranching industries to exercise timber harvesting and grazing rights in a timely, economic, and environmentally sustainable manner while longer term interests of the Kwadacha Band are addressed through other agreements or processes.

THEREFORE THE PARTIES AGREE AS FOLLOWS:

1.0 Definitions

For the purposes of this Agreement, the following definitions apply:

- 1.1 **"Aboriginal Interests"** means asserted aboriginal rights (including aboriginal title) or determined aboriginal rights (including aboriginal title) which are recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- 1.2 **"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 as identified in the First Annual List and/or Annual List as defined in Appendix B.
- 1.3 **"Area of Interest"** means the Kwadacha Band's Area of Interest for their Aboriginal Interests as shown in bold black on the map attached as Appendix A. This area is part of the larger Traditional Territory of Kaska Dena Council.
- 1.4 **"Band Council Resolution"** means a resolution of Kwadacha Band having the form of Appendix D.
- 1.5 **"BC Fiscal Year"** means a period beginning on April 1 of a calendar year and ending on March 31 of the next calendar year.
- 1.6 **"Delegated Decision Maker"** and **"DDM"** 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.
- 1.7 **"Designate"** has the meaning given to that term in section 3.1.1.

- 1.8 “**Effective Date**” means the date on which this Agreement has been ratified and signed by each of the Parties.
- 1.9 “**First Fiscal Year of the Term**” has the meaning given to that term in section 3.3.
- 1.10 “**Licensee**” means a holder of a forest tenure or a range tenure.
- 1.11 “**Matrix**” means the framework in Appendix B which will be used to define consultation between the Parties with respect to Operational and Administrative Decisions.
- 1.12 “**Minister**” means the Minister of Forests, Mines, and Lands or the Minister of Natural Resource Operations having the responsibility, from time to time, for the exercise of powers in respect of forests and range matters.
- 1.13 “**Operational Plan**” means a Forest Stewardship Plan, Woodlot Licence Plan, a Range Use Plan, or Range Stewardship Plan (as those terms are defined in forest and range legislation) that has or will have effect in the Kwadacha Band’s Area of Interest.
- 1.14 “**Payment Account**” has the meaning given to that term in section 3.1.3.
- 1.15 “**RA**” means a reconciliation agreement between British Columbia and the Kwadacha Band 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*.
- 1.16 “**Revenue Sharing Contribution**” means each payment to be made by British Columbia to the Kwadacha Band in accordance with Section 3.0 of this Agreement.
- 1.17 “**SEA**” means a strategic engagement agreement between British Columbia and the Kaska Dena Council that describes a consultation process between the Kaska Dena Council and more than one natural resource ministry of the Government of British Columbia.
- 1.18 “**Forest Tenure Opportunity Agreement**” means an agreement signed between the Minister and a First Nation that provides for the Minister to direct award forest tenure under the *Forest Act*.
- 1.19 “**Term**” has the meaning given to that term in section 11.1.
- 1.20 “**Timber Harvesting Land Base**” means the portion of the total land area of a management unit considered by Ministry of Forest, Mines and Lands to contribute to, and be available for, long-term timber supply
- 1.21 “**Traditional Territory**” means the Kaska Dena Council’s claimed or asserted Traditional Territory as shown in bold black on the map attached in Appendix G.
- 1.22 “**Treasury Board**” means the cabinet committee of British Columbia defined in the *Financial Administration Act*.

2.0 Purpose and Objectives

The purposes and objectives of this Agreement are:

- 2.1 In relation to potential impacts on Kwadacha Band's Aboriginal Interests resulting from forest and range development in its Area of Interest, to facilitate the Parties in meeting their respective legal consultation obligations by supporting the capacity of Kwadacha Band to participate in consultation initiated by British Columbia and by establishing a consultation process which results in appropriate accommodation measures being implemented, where appropriate, in addition to the Revenue Sharing Contribution provided as an accommodation in this Agreement; and
- 2.2 To provide an opportunity for the Kwadacha Band to identify and pursue activities that will enhance and improve the social, cultural and economic well-being of its community and assist the Kwadacha Band in achieving progress towards closing socio-economic gaps between the members of Kwadacha Band and non-Aboriginal people in British Columbia.

3.0 Forest Revenue Sharing Contribution

3.1 Recipient Entity:

- 3.1.1 Unless the Kwadacha Band elects to have another entity (its "Designate") receive Revenue Sharing Contributions pursuant to section 3.1.2, recognizing that any such election does not relieve the Kwadacha Band of its obligation under this agreement, the Kwadacha Band will be the recipient of the Revenue Sharing Contributions..
- 3.1.2 Where the Kwadacha Band chooses to have its Designate receive Revenue Sharing Contributions under this Agreement, British Columbia may withhold payment of the Revenue Sharing Contribution until it is satisfied that the Designate is a registered corporation or society with the legal authority and capacity to receive the funds for the purposes described in section 2.0 and that it has been appointed by Band Council Resolution documented in Appendix D to receive the Revenue Sharing Contribution on behalf of the Kwadacha Band.
- 3.1.3 Kwadacha Band will establish and throughout the Term maintain a separate bank account in the name of Kwadacha Band (or the Designate, as the case may be) 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"), which bank account will be used solely for the purpose of receiving monies payable under this Agreement and implementing the objectives described in

section 2.0. Kwadacha Band will 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.

- 3.2 Subject to section 3.1.2 and section 10.0 of this Agreement, British Columbia will during the Term make annual Revenue Sharing Contributions, calculated in accordance with Appendix C, to the Kwadacha Band, or to its Designate, as the case may be, and, subject to section 3.4 and 3.6, the Revenue Sharing Contribution will be disbursed in two equal payments: the first payment to be paid on or before September 30th, and the second payment to be paid on or before March 31st.
- 3.3 Notwithstanding section 3.2, for the BC Fiscal Year in which the Effective Date falls (the "First Fiscal Year of the Term") the amount calculated in accordance with Appendix C is deemed to be \$113,124.
- 3.4 For the purposes of determining the amount of the Revenue Sharing Contribution for partial BC Fiscal Years, the amount will be prorated for each month or part thereof that this Agreement is in effect.
- 3.5 Before November 30th of each year during the Term, Kwadacha Band will receive written notification from British Columbia of the Revenue Sharing Contribution for the following BC Fiscal Year (including the summary document(s) and calculations identified in Appendix C) and the Kwadacha Band agrees that such written notification will have the effect for the purposes of this Agreement of describing the amount of the Revenue Sharing Contribution under this Agreement for that following BC Fiscal Year.
- 3.6 For each BC Fiscal Year subsequent to the First Fiscal Year of the Term, the Revenue Sharing Contribution will be provided by British Columbia to the Kwadacha Band or its Designate in the manner specified in section 3.2 only if Kwadacha Band has published all of the necessary statements and reports before the appropriate dates as set out in section 6.0 of this Agreement, is in all other respects in compliance with the terms of this Agreement and this Agreement has not been suspended or terminated pursuant to section 10.0.
- 3.7 In addition to section 3.2, on the Effective Date, the Kwadacha Band will be paid a payment to bridge the period from the date of the last payment to which the Kwadacha Band is entitled under its *KASKA DENA Forest and Range Agreement* to the Effective Date of this Agreement (the "Bridging Amount"), which additional payment will be calculated on the basis of the Revenue Sharing Contribution for the First Fiscal Year of the Term but prorated for the period from the date of the last payment under the *KASKA DENA Forest and Range Agreement* to the Effective Date.
- 3.8 Kwadacha Band agrees that for the period between the end of the term of its *KASKA DENA Forest and Range Agreement* and the Effective Date, it

has been adequately consulted and accommodated by British Columbia in relation to all Administrative Decisions, Operational Decisions, and Operational Plans made during that period that could impact its Aboriginal Interests.

3.9 Notwithstanding any other provisions of this Agreement, the payment of money by British Columbia to the Kwadacha Band pursuant to this Agreement is subject to:

3.9.1 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

3.9.2 Treasury Board not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in section 3.9.1.

4.0 Consultation Process

4.1 The Parties agree that consultation with respect to impacts to Kwadacha Band's Aboriginal Interests arising from any Operational or Administrative Decisions or Operational Plans is to be carried out in accordance with the process set out in Appendix B of this Agreement.

4.2 British Columbia will use the map of the Kwadacha Band's Area of Interest, as shown in Appendix A, which is a subset of the map used in the *KASKA DENA Forest and Range Agreement* which map will be set out in this Agreement as Appendix G, unless this is the first such agreement between British Columbia and Kwadacha Band in which event the Kwadacha Band will provide a hard copy map of its Traditional Territory and a digital copy of the Traditional Territory boundary conforming to current government mapping standards, which hard copy will be set out in this Agreement as Appendix A.

4.3 Kwadacha Band agrees that British Columbia may share the map of the Area of Interest as set out in Appendix A with another provincial government agency and/or a licensee responsible for information sharing associated with a decision that is subject to this Agreement.

4.4 The Parties agree that in the event Kwadacha Band enters into a SEA or RA with British Columbia after the Effective Date which 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 if the SEA or RA so provides; and in any such case, if the SEA or RA terminates prior to the end of the Term, the Parties agree that the consultation process set out in Appendix B of this Agreement will apply for the remainder of the Term.

- 4.5 In the event that the Effective Date falls after the date on which Kwadacha Band enters into a SEA or RA with British Columbia that includes a consultation process which addresses forest and range management and decision making, and the SEA or RA is subsequently terminated prior to the end of the Term, the Kwadacha Band agrees that this Agreement will be amended within 60 days of the date of termination of the SEA or RA to include a consultation process in this Agreement.

5.0 Acknowledgments and Covenants by Kwadacha Band

- 5.1 Kwadacha Band acknowledges that forest revenues received by British Columbia fluctuate and that the Revenue Sharing Contributions under this Agreement will vary over time.
- 5.2 Kwadacha Band agrees that the Revenue Sharing Contributions made under section 3.0 of this Agreement constitute an accommodation for impacts on Kwadacha Band Aboriginal Interests of Administrative Decisions, Operational Decisions and/or Operational Plans in the Area of Interest.
- 5.3 Kwadacha Band agrees that during the term of this Agreement, 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 infringements of Kwadacha Band's Aboriginal Interests in the context of Operational Decisions and Administrative Decisions that British Columbia will make and any forest or range practices that may be carried out under an Operational Plan in the Area of Interest

6.0 Community Priorities, Annual Reports and Records

- 6.1 Kwadacha Band covenants and agrees as follows:
- 6.1.1 Within 60 days of the Effective Date of this Agreement, Kwadacha Band or its Designate will prepare a statement of community priorities covering the term of the Agreement, substantially in the form set out in Appendix E that outlines activities it intends to fund to help achieve the socio-economic objectives identified in section 2.2. This statement will outline the community priorities based on the First Fiscal Year Revenue Sharing Contribution.
- 6.1.2 Before the end of each BC Fiscal Year, Kwadacha Band or its Designate will update the statement of community priorities identified in section 6.1.1 based on the updated Revenue Sharing Contribution described in section 3.5.
- 6.1.3 Within 90 days of the end of each BC Fiscal Year, Kwadacha Band or its Designate will prepare an annual report, substantially in the form set out in Appendix F, 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 for the purpose of accomplishing the purposes and objectives referred to in section 2.0.

- 6.1.4 British Columbia retains the right at its sole discretion, such discretion to be exercised reasonably, to require an audit of expenditures made from the Payment Account to ensure that all such expenditures were made for appropriate purposes under this Agreement, such audit to be at the expense of the Kwadacha Band or its Designate.
- 6.1.5 The documents referred to in sections 6.1.1, 6.1.2, and 6.1.3 will be published by Kwadacha Band or its Designate in a manner that can reasonably be expected to bring the information to the attention of its communities and the public.
- 6.1.6 Notwithstanding the termination or expiry of this Agreement, Kwadacha Band or its Designate will continue to comply with the provisions of section 6.1 until 90 days after it receives the last Revenue Sharing Contribution from British Columbia.
- 6.2 If Kwadacha Band requires funding ("capacity") to engage in consultation processes on forest and range decisions, or with other provincial Ministries where Kwadacha Band has entered into an SEA and/or RA with British Columbia, up to \$35,000 annually of the Revenue Sharing Contribution will be used by Kwadacha Band for that capacity during the Term of this Agreement.

7.0 Security Deposits

- 7.1 In recognition of Kwadacha Band entering into this Agreement, British Columbia may choose not to request a silviculture deposit(s) pertaining to licence(s) entered into as a result of the invitation to apply under a Forest Tenure Opportunity Agreement entered into between Kwadacha Band (or a legal entity controlled by the Kwadacha Band) and British Columbia.
- 7.2 Kwadacha Band agrees that British Columbia may apply any payment that Kwadacha Band is entitled to receive under this Agreement, to a maximum of the amounts that British Columbia would have obtained in a silviculture deposit, in order to fully or partially satisfy any unfulfilled financial obligations of Kwadacha Band to British Columbia arising from a licence(s) entered into as a result of the invitation to apply under a Forest Tenure Opportunity Agreement entered into between Kwadacha Band (or a legal entity controlled by the Kwadacha Band) and British Columbia.
- 7.3 Prior to British Columbia applying any payment to satisfy unfulfilled Kwadacha Band financial obligations arising from a licence(s) in accordance with section 7.2, British Columbia will notify the Kwadacha Band of the unfulfilled financial obligation(s) and will discuss the proposed action with the Kwadacha Band.

8.0 Stability for Land and Resource Use

- 8.1 Kwadacha Band will respond immediately to any discussions sought by British Columbia in relation to any acts of intentional interference by members of Kwadacha Band with provincially authorized forest and/or range activities and will work co-operatively with British Columbia to assist in resolving any such matters.

9.0 Dispute Resolution

- 9.1 If a dispute arises between British Columbia and the Kwadacha Band regarding the interpretation of a provision of this Agreement, the duly appointed representatives of the Parties will meet as soon as is practicable to attempt to resolve the dispute.
- 9.2 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 Kwadacha Band.
- 9.3 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 issue.

10.0 Suspension and Termination

- 10.1 British Columbia may suspend the making of further Revenue Sharing Contributions under this Agreement if it determines, acting reasonably, that Kwadacha Band is not fulfilling its obligations under sections 4.0 and 6.0 or sections 8.1 or 10.3 of this Agreement, or where the Kwadacha Band has outstanding unfulfilled financial obligations to British Columbia arising from a licence(s) issued further to an agreement between the Kwadacha Band and British Columbia. Upon making any such determination, British Columbia will provide notice to Kwadacha Band of the alleged non-compliance, and the Parties will then attempt to resolve their differences.
- 10.2 If the alleged non-compliance by Kwadacha Band is not resolved within 60 days of the notice provided in section 10.1, British Columbia will notify Kwadacha Band that the alleged non-compliance remains unresolved and, without limiting the actions that may be taken by British Columbia, may terminate this Agreement.
- 10.3 If, during the term of this Agreement, Kwadacha Band challenges or supports a challenge to an Administrative Decision and/or Operational Decision or an Operational Plan or activities carried out pursuant to those decisions or plans, by way of legal proceedings or otherwise, on the basis that, contrary to section 5.2, the Revenue Sharing Contribution provided for in section 3.0 of this Agreement does not provide an accommodation for impacts on Kwadacha Band's Aboriginal Interests then, without limiting any actions that may be taken by British Columbia, the Revenue Sharing

Contribution provided for in section 3.0 may be suspended or this Agreement may be terminated by British Columbia.

- 10.4 This Agreement will terminate prior to the end of the Term in any one of the following circumstances; 90 days' written notice of termination is given by one Party to the other; termination occurs in accordance with any of the provisions of section 10.0; or upon mutual agreement of the Parties. In the event of such early termination of this Agreement, the Revenue Sharing Contribution for the BC Fiscal Year in which termination becomes effective will be prorated to the termination date.
- 10.5 If a Party gives written notice of its intention to terminate this Agreement effective 90 days from the date of the notice, the Parties will, prior to the end of the 90-day period, meet and will attempt to resolve any issue that may have given rise to the termination notice.

11.0 Term

- 11.1 The term of this Agreement commences on the Effective Date and, unless terminated earlier in accordance with any of the provisions hereof, will end on the day immediately before the third anniversary of the Effective Date.

12.0 Renewal of the Agreement

- 12.1 Prior to the expiry of the Term, if the terms and conditions of this Agreement are being met, British Columbia and Kwadacha Band will, if each party has received such authorizations as it may require, begin negotiations for the renewal of this Agreement or for a new agreement.

13.0 Amendment of Agreement

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

14.0 Entire Agreement

- 14.1 This Agreement and any amendment to it constitute the entire Agreement between the Parties with respect to the subject matter of this Agreement.

15.0 Notice

- 15.1 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 in this section of the Agreement.

- 15.2 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. If received after 4:00 p.m., it will be deemed to have been received on the next business day.
- 15.3 The address of either Party may be changed by notice in the manner set out in this section of the Agreement.

British Columbia

Deputy Minister
Ministry of Aboriginal Relations and Reconciliation
P.O. Box 9100 STN PROV GOVT
Victoria B.C. V8W 9B1
Telephone: (250) 356-1394
Fax: (250) 387-6073

Kwadacha Band

Chief Donny Van Somer
Kwadacha Band
207-513 Ahbau Street
Prince George, BC V2M 3R8
Telephone:(250) 563-4161
Facsimile:(250) 563-2668

16.0 Miscellaneous

- 16.1 This Agreement shall be interpreted in a manner consistent with provincial and federal law.
- 16.2 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.
- 16.3 This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.
- 16.4 Subject to paragraph 10.3, this Agreement will not limit the positions that a Party may take in future negotiations or court actions.
- 16.5 British Columbia acknowledges and enters into this Agreement on the basis that the Kwadacha Band has Aboriginal Interests within their Area of Interest but that the specific nature, scope or geographic extent of Aboriginal Interests of the Kwadacha Band have yet to be determined. Broader processes engaged in to bring about reconciliation will result in a common understanding of the nature, scope and geographic extent of Aboriginal Interests or treaty interests of the Kwadacha Band.
- 16.6 References in this Agreement to Crown lands are without prejudice to the Kwadacha Band's Aboriginal title and/or rights claims over those lands.
- 16.7 With the exception of matters or decisions dealt with in section 3.8, this Agreement does not address or affect any claims by the Kwadacha Band regarding impacts on its Aboriginal Interests resulting from past Operational or Administrative Decisions made by British Columbia prior to the effective date of this Agreement
- 16.8 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
- 16.9 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.
- 16.10 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.
- 16.11 The applicable laws of British Columbia and Canada shall govern this Agreement.
- 16.12 This Agreement is not intended to limit any obligation of forest or range Licensees or other third parties to the Kwadacha Band.
- 16.13 This Agreement does not exclude the Kwadacha Band from accessing forestry economic opportunities and benefits, which may be available to the Kwadacha Band, other than those expressly set out in this Agreement.

- 16.14 Nothing in this Agreement is to be construed as an acceptance of or admission by a Party of the position of the other Party or as an admission of fact or liability.
- 16.15 This Agreement does not constitute an admission of an obligation to provide financial or economic benefits, as provided in this Agreement, as part of the British Columbia's obligation to consult and accommodate.
- 16.16 If any part of this Agreement is void or unenforceable at law, that part shall be severed from this Agreement and the rest of the Agreement shall remain in effect and fully enforceable.
- 16.17 If any part of this Agreement is void or unenforceable at law, the Parties agree to negotiate and attempt to reach agreement, to the extent reasonably possible and as their respective interests may require, on a replacement for the severed part with a view to achieving the intent of the Parties as expressed in this Agreement.
- 16.18 All headings in this Agreement are for convenience only and do not form a part of this Agreement and are not intended to interpret, define, limit, enlarge, modify or explain the scope, extent or intent of this Agreement or any of its provisions.
- 16.19 In this Agreement, words in the singular include the plural, and words in the plural include the singular unless the context or any specific definition otherwise requires.
- 16.20 The appendices to this Agreement form part of the Agreement.

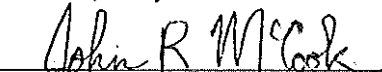
16.21 This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

Signed on behalf of:

Kwadacha Band



Chief Donny Van Somer



Councillor



Councillor



Witness of Kwadacha Band signatures

March 9th / 2011
Date

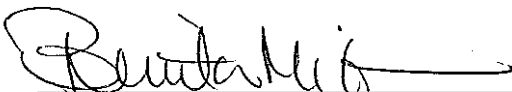
Signed on behalf of:

Government of British Columbia



~~Barry Penner~~ MARY POLAK
Minister of Aboriginal Relations and
Reconciliation

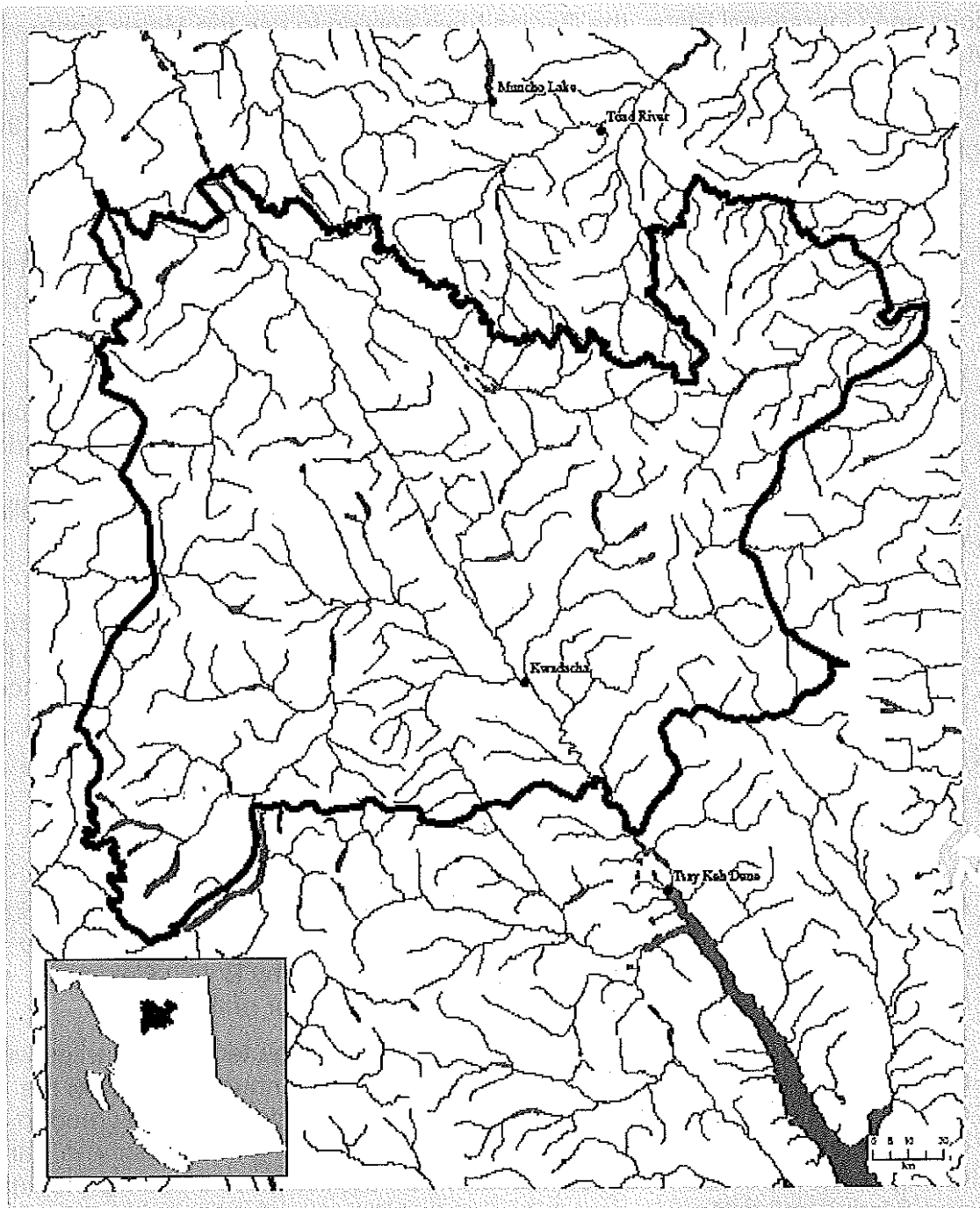
03.31.11
Date



Witness of Minister signature

Appendix A

Map of Kwadacha Band Area of Interest



APPENDIX B

Consultation On Operational and Administrative Decisions and Operational Plans.

In order to facilitate consultation with respect to Operational and Administrative Decisions and Operational Plans, the Parties have agreed to use the Matrix framework set out in section 1.10 of this Appendix ("section 1.10"), which allows the Parties to determine which Operational and Administrative Decisions and Operational Plans will require consultation, as well as the associated appropriate level of consultation for those decisions and plans.

- 1.1 British Columbia agrees to consult with Kwadacha Band in accordance with the applicable consultation level agreed to by the Parties under section 1.10 on Operational Plans, Operational Decisions, and Administrative Decisions that may potentially adversely impact Kwadacha Band's Aboriginal Interests within the Area of Interest.
- 1.2 Kwadacha Band agrees to fully participate with British Columbia and/or Licensees or licence proponents, as set out in this Agreement and in accordance with the applicable level of consultation to which the Parties have agreed under section 1.10, in information sharing and/or consultation regarding proposed Operational Decisions, Administrative Decisions, and Operational Plans dealing with forest and range development within the Area of Interest.
- 1.3 In this Appendix, "First Annual List" means a list of Operational and Administrative Decisions and Operational Plans, which may require consultation during the First Fiscal Year of the Term or part thereof in which the Effective Date occurs, that is provided to the Kwadacha Band by British Columbia in advance of the Parties entering into this Agreement.
- 1.4 Prior to entering into this Agreement, the Parties will agree on the applicable consultation levels for the decisions on the First Annual List, using the consultation levels described in section 1.10.
- 1.5 In this Appendix, "Annual List" means an annual list of Operational and Administrative Decisions and Operational Plans that may require consultation in a fiscal year of the Agreement in which those decisions are anticipated to be made, and that will be provided to the Kwadacha Band by British Columbia before March 31st of each year after the First Fiscal Year of the Term.
- 1.6 For fiscal years subsequent to the First Fiscal Year of the term, the Parties will meet annually on or before March 31st to discuss the Annual List and, in the case of decisions and plans for which the Parties have not already agreed to a consultation level described in section 1.10 in a preceding fiscal year, the Parties will agree on the consultation levels that will be applicable to those Operational and Administrative Decisions and Operational Plans on the Annual List, in accordance with section 1.10.

- 1.7 When British Columbia becomes aware of proposed types of Operational or Administrative Decisions or Operational Plans not contained in the Annual List that will have effect within the Area of Interest of Kwadacha Band during the current fiscal year, British Columbia will notify the Kwadacha Band of those new types of decisions or plans and the Parties will seek to agree on the consultation levels that will be applicable to those Operational and Administrative Decisions and Operational Plans, in accordance with section 1.10.
- 1.8 In reviewing and responding to an Operational Decision, Administrative Decision, or Operational Plan submitted to them, Kwadacha Band will, unless otherwise agreed by the Parties, provide the party (i.e. British Columbia, a licensee or proponent) that supplied the proposed decision or plan to them, with all reasonably available information that will identify any potential impacts to their Aboriginal Interests that may occur as a result of proposed forest and/or range resource development activities pursuant to that Operational Decision, Administrative Decision or Operational Plan within the Area of Interest.
- 1.9 If no response is received from Kwadacha Band within the timeframe set out in section 1.10, then British Columbia may conclude that Kwadacha Band does not intend to respond or participate in the consultation process in respect of the Operational or Administrative Decision or Operational Plan and that a decision may proceed.
- 1.10 The Parties agree to the following description and intent of the consultation levels:

Information On Request	requires that the Province provides information on these activities if requested;
Engagement Level 1	requires notification to the Kaska Dene Council after a Provincial resource agency makes their decision;
Engagement Level 2	contains a short turn-around for a response from the Kaska Dene Council. (15 – 40 business days);
Engagement Level 3	requires government-to-government discussions with the technical staff and subsequent recommendations (25 – 40 business days);
Engagement Level 4	requires advanced government-to-government discussions and subsequent recommendations between Managers and Chief (40 – 60 business days);

- 1.11 The Parties may agree to adjust the consultation levels for specific circumstances where detailed aboriginal interest information is shared that would suggest a different consultation level.
- 1.12 Kwadacha Band agrees that the province is not obligated, unless requested by the Kwadacha Band, to inform the Kwadacha Band of the Delegated Decision Maker's decision for decisions on which the consultation level has been level three (3) or lower.
- 1.13 If the Parties cannot agree upon which consultation level in section 1.10 should apply to a particular or any Operational or Administrative Decision or Operational Plan, then British Columbia will consult with Kwadacha Band on the basis of British Columbia's consultation procedures in effect at the time as well as the applicable case law respecting consultation obligations.

**As per Section 1.3 - Kwadacha First Nation
First Annual List for 2011/2012**

Information On Request requires that the Province provides information on these activities if requested;

Engagement Level 1 requires notification to the Kaska Dene Council after a Provincial resource agency makes their decision;

Engagement Level 2 contains a short turn-around for a response from the Kaska Dene Council. (15 – 40 business days);

Engagement Level 3 requires government-to-government discussions with the technical staff and subsequent recommendations (25 – 40 business days);

Engagement Level 4 requires advanced government-to-government discussions and subsequent recommendations between Managers and Chief (40 – 60 business days);

Information Available Upon Request	Engagement Level 1	Engagement Level 2	Engagement Level 3	Engagement Level 4
<u>Other Tenures</u> ▪ Free Use Permit / Special Use Permit issuance <u>Woodlots</u> ▪ Direct award of woodlot through FRA/FRO process ▪ Existing and new woodlot management plans & amendments ▪ Woodlot minor boundary change	<u>Timber Supply Area</u> ▪ Allowable annual cut (Section 18 of the Forest Act) transfer <u>Non-replaceable Forest Licence</u> ▪ Transfer <u>Forest Licence</u> ▪ Transfer <u>Forest Licence To Cut</u> ▪ Transfer	Opportunity to lower to Level 1 should the Applicant choose to engage with the Kaska using the Level 3 process on their Annual Operating Plan ▪ TSL issuance ▪ CP issuance ▪ CP amendments (major) ▪ Road Permits <u>Salvage</u> ▪ Non replaceable Forest Licence issuance	<u>Timber Supply Area</u> ▪ AAC TSR re-apportionment ▪ AAC TSA license consolidation or subdivision <u>Forest Licence</u> ▪ issuance ▪ replacement ▪ amendment <u>Non Replaceable Forest Licence</u> ▪ issuance ▪ Amendment	<u>Timber Supply Area</u> ▪ AAC timber supply review ▪ AAC uplift disposition <u>Forest Stewardship Plan</u> ▪ New <u>Woodlots</u> New woodlot opportunity / and new woodlot management plan (sets AAC)

Information Available Upon Request	Engagement Level 1	Engagement Level 2	Engagement Level 3	Engagement Level 4
<p><u>Range</u></p> <ul style="list-style-type: none"> ▪ Transfer ▪ Range developments – small scale ▪ Range tenure - minor boundary change ▪ Range tenure - minor amendments ▪ District annual weed plan and weed activities <p><u>Other Activities</u></p> <ul style="list-style-type: none"> ▪ Current Fire and Pest Reforestation (surveys, site preparation, planting, brushing) ▪ Forest Health (surveys, pruning, spacing, pheromone baiting for bark beetles, invasive plant treatments) ▪ Site Productivity (surveys, site prep, planting, spacing) ▪ Sustainable Forest Management (SFM) Planning ▪ Backlog reforestation (surveys, site preparation, planting, brushing) 	<p><u>Forest Stewardship Plan</u></p> <ul style="list-style-type: none"> ▪ Extension <p><u>Salvage</u></p> <ul style="list-style-type: none"> ▪ Small scale salvage forest license to cut ▪ Salvage plan amendments ▪ Salvage - blanket CP's for major licensees <p><u>Community Forest Agreement</u></p> <ul style="list-style-type: none"> ▪ Allowable annual cut determination ▪ Management plan approval and amendments <p><u>Woodlots</u></p> <ul style="list-style-type: none"> ▪ Replacement ▪ Transfers ▪ FDP/WLP submissions and amendments <p><u>Range</u></p> <ul style="list-style-type: none"> ▪ 1 year grazing permits issuance ▪ Range animal unit month (AUM) adjustment 	<p><u>Forest Licence to Cut</u></p> <ul style="list-style-type: none"> ▪ BCTS ▪ Non small scale salvage ▪ Major amendment <p><u>Timber Sale Licence</u></p> <ul style="list-style-type: none"> ▪ Transfer or major amendment ▪ conversion <p><u>Other Tenures</u></p> <ul style="list-style-type: none"> ▪ Occupant license to cut issuance <p><u>Community Forest Agreement</u></p> <ul style="list-style-type: none"> ▪ Award <p><u>Woodlots</u></p> <ul style="list-style-type: none"> ▪ Award ▪ Top ups (area increases, AAC increases) ▪ Private land deletions 	<p><u>Forest Stewardship Plan</u></p> <ul style="list-style-type: none"> ▪ Major amendment <p><u>Annual Operating Plan</u> (no Provincial authority)</p> <ul style="list-style-type: none"> ▪ Opportunity to lower to TSL/CP/RP engagement to Level 1 should the Applicant choose to engage with the Kaska using the level 3 process on their annual operating plan <p><u>Salvage</u></p> <ul style="list-style-type: none"> ▪ Community salvage license issuance and licence amendments <p><u>Range</u></p> <ul style="list-style-type: none"> ▪ Range use plan (RUP), or stewardship plan ▪ Range use plan amendments <p>Weeds: invasive "plant pest management plan" process</p>	

Information Available Upon Request	Engagement Level 1	Engagement Level 2	Engagement Level 3	Engagement Level 4
<ul style="list-style-type: none"> ▪ Management Unit or Watershed Level Strategies (silviculture strategies, watershed restoration plans, ecosystem restoration plans, species and ecosystems at risk recovery strategies/management plans, forest health strategy, integrated visual design and visual rehabilitation plans) ▪ Impeded stands (brushing) ▪ Stand Treatments to meet timber objectives (surveys, spacing, pruning, stand treatment and forest health monitoring) ▪ Stand Treatments to meet timber objectives (fertilization) ▪ Forest Dynamics and Decision Support (site productivity estimation) 	<p><u>Other Activities</u></p> <ul style="list-style-type: none"> ▪ Forest Investment Account – Resource Inventories (Archaeological Overview Assessments) ▪ Forest Investment Account – Environmental maintenance on non-status Forest Roads (access management planning and prioritizing; project plan including inspection and maintenance report, design, or prescriptions; major works; and follow-up inspections. ▪ Forest Investment Account – Terrestrial (road deactivation, landslide and gully rehabilitation, treatments, treatment effectiveness evaluation) 	<p><u>Range</u></p> <ul style="list-style-type: none"> ▪ New range tenure - new opportunity (no previous tenure in area) ▪ Direct award of new range tenure ▪ Range tenure replacement (existing tenure) ▪ Range tenure major amendments, boundary changes ▪ Grazing lease replacement ▪ Range developments - large scale not in RUP. ▪ New range tenure vacancy (relinquished tenure) <p><u>Other Activities</u></p> <p>Forests for Tomorrow/BCTS Silviculture MSP. Snag falling. Brushing. Fertilization/Planting</p>		

Information Available Upon Request	Engagement Level 1	Engagement Level 2	Engagement Level 3	Engagement Level 4
<ul style="list-style-type: none"> ▪ Stand Treatments to meet non-timber objectives (treatments e.g., pruning trees or shrubs for forage production, and treatment effectiveness evaluation) ▪ Recreation (site and trail maintenance) ▪ Monitoring (water quality/quantity; terrestrial biological and physical; aquatic biological and physical; carbon sequestering) ▪ Forest Investment Account – Resource Inventories (terrestrial ecosystem mapping, terrain stability mapping, karst, TEM/VRI, predictive ecosystem mapping, TRIM, fish and fish habitat, recreation and visual resource, wildlife and wildlife habitat, airborne and satellite remote sensing data, etc) 	<ul style="list-style-type: none"> ▪ Forest Investment Account – Aquatic (in-stream structures and treatments, restoration of fish passage, treatment effectiveness evaluation, inspection and maintenance) ▪ Forest Investment Account – Riparian (treatments, treatment effectiveness evaluation, inspection and maintenance) 			

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 of British Columbia, a summary document will be prepared of Mackenzie District, Fort Nelson District and Skeena-Stikine 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 Mackenzie District, Fort Nelson District and Skeena-Stikine District.
- 1.1 For the purposes of the summary document in section 1.0 of this Appendix, the stumpage payments from Kwadacha Band's Forest License (#N/A) will not be included in the calculations of forest revenue.
- 1.2 The amount of the forest revenue attributed to the Kaska Dena Council's Traditional Territory will be calculated by determining the percent of Kaska Dena Council's Traditional Territory that falls within the Timber Harvesting Land Base in Mackenzie District, Fort Nelson District and Skeena-Stikine District, 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 3 percent of the forest revenue attributed to the Kwadacha Band as described in section 1.2 of this Appendix.
- 1.4 Where the calculation in section 1.3 of this Appendix is less than \$35,000, Kwadacha Band will receive a maximum of \$35,000 to provide capacity to participate in the consultation process in accordance with section 4.0 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 of British Columbia, a summary document will be prepared of Kwadacha Band's Forest License (#N/A) forest revenue, defined as the total of stumpage payments received by the Crown for the previous BC Fiscal Year.
- 2.1 The Direct Award Forest Tenure Revenue Sharing Component will be calculated by multiplying 35 percent of the forest revenue as described in section 2.0 of this Appendix.

- 2.2 For each BC 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 new methods to calculate the Revenue Sharing Contribution will be phased in over the next 4 years.
- 3.1 For each BC Fiscal Year that this Agreement is in effect, a portion of the Revenue Sharing Contribution is calculated by determining the total of the Traditional Territory Forest Revenue Sharing Component and the Direct Award Tenure Forest Revenue Sharing Component for that BC Fiscal Year ("the sum") and applying the following percentages to that sum:
- 3.1.1 2010/11 BC Fiscal Year: 10 percent;
 - 3.1.2 2011/12 BC Fiscal Year: 50 percent; and
 - 3.1.3 2012/13 BC Fiscal Year: 80 percent.
- 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 Kwadacha Band in any given full year under the *KASKA DENA Forest and Range Agreement* which expired on 06/27/2010 ("the Annual Amount") and applying the following percentages to that Annual Amount:
- 3.2.1 2010/11 BC Fiscal Year: 69 percent;
 - 3.2.2 2011/12 BC Fiscal Year: 59 percent; and
 - 3.2.3 2012/13 BC Fiscal Year: 55 percent.
- 3.3 The Parties agree that if this Agreement is renewed in accordance with section 12.0 of this Agreement, or this Agreement expires in the 2013/2014 BC Fiscal Year, the Revenue Sharing Contribution will be the sum of:
- 3.3.1 the Traditional Territory Forest Revenue Sharing Component and the Direct Award Tenure Forest Revenue Sharing Component calculated in this Appendix; and
 - 3.3.2 50 percent of the value of the Annual Amount identified in section 3.2 of this Appendix.

APPENDIX D

**Band Council Resolution Appointing
the
Recipient Entity for this Agreement (“Designate”)**

Not Applicable

APPENDIX E

Kwadacha First Nation Statement of Community Priorities

Socio-economic Priority	Annual Amount			Specific Outcomes	Measurement Criteria
	2010/2011	2011/2012	2012/2013		
	\$	\$	\$		
	\$	\$	\$		
	\$	\$	\$		
	\$	\$	\$		

APPENDIX F

Kwadacha First Nation Statement of Community Priorities

Annual Report

Socio-economic Priority	2010/2011 Planned Expenditures	2010/2011 Actual Expenditures	Outcomes Achieved	Variance Explanation
	\$	\$		
	\$	\$		
	\$	\$		
	\$	\$		

