

**GWA'SALA-'NAKWAXDA'XW NATIONS
TRANSITION TO STAGE 5 AND TREATY REVITALIZATION AGREEMENT**

(the "Agreement")

BETWEEN:

GWA'SALA-'NAKWAXDA'XW NATIONS
(hereinafter "Gwa'sala-'Nakwaxda'xw")

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")

AND:

HER MAJESTY THE QUEEN
IN RIGHT OF CANADA,
as represented by the Minister of Crown-Indigenous Relations
("Canada")

(each a "Party" and collectively the "Parties")

PREAMBLE

Whereas:

- (a) Gwa'sala-'Nakwaxda'xw state that their ancestors were placed in their traditional territories by the Creator, *U'mas Gigame*, and they have used, occupied and governed their traditional territories from the beginning;
- (b) Gwa'sala-'Nakwaxda'xw were moved from their Homelands to one Reserve at Tsulquate on Vancouver Island, their homes and bighouses were burned down and much of their sacred items, *kikasu*, such as heritage items and regalia, were wrongfully taken or burned, and past governments have not supported a return to their traditional territories;
- (c) Despite their removal from their Homelands, Gwa'sala-'Nakwaxda'xw have continued to maintain their connection to their Homelands which are centred on the mountains, inlets, lands and waters in Smith and Seymour Inlets on the mainland;
- (d) Gwa'sala-'Nakwaxda'xw state that they have traditional laws and teachings, 'our way' or *NusΘns sax*, that have been passed on for generations by respected ancestors and Elders and that they have a responsibility to follow their laws and tradition of *mayaxala* and to take care of the lands, waters, and resources in their traditional territories;
- (e) Gwa'sala-'Nakwaxda'xw have existing Aboriginal Rights and Title, including the inherent right to self-government, which the Gwa'sala-'Nakwaxda'xw state includes a right to continue their system of hereditary Chiefs and the *Pesa* (potlatch), ("Gwa'sala-'Nakwaxda'xw Section 35 Rights");
- (f) The Parties are engaged in negotiations under the British Columbia Treaty Process (the "Process") with a view of achieving predictability with respect to the exercise of Gwa'sala-'Nakwaxda'xw Section 35 Rights;
- (g) On July 14, 2017, Canada announced its *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* ("Canada's Principles") that are intended to form the foundation for how the federal government will partner with Indigenous Peoples in a new and enduring relationship;
- (h) On May 22, 2018 British Columbia announced its *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples* ("British Columbia's Draft Principles");
- (i) The Parties agree that the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") forms part of the foundation for a new and enduring relationship between Indigenous Peoples and the Crown;
- (j) The Parties agree on the Calls to Action of the Truth and Reconciliation Commission form part of the foundation for a new and enduring relationship between Indigenous Peoples and the Crown;
- (k) The Process is transforming. The transformation includes incorporation of the Principles, non-extinguishment of rights, rights recognition, and the implementation of the UNDRIP;

- (l) The Parties acknowledge that key elements of the current draft Gwa'sala-'Nakwaxda'xw Agreement-in-Principle ("AIP") do not reflect the ongoing transformation of the Process; and
- (m) The Parties intend to take a renewed approach incorporating the ongoing transformation to treaty negotiations in Stage 5 of the Process without signing an AIP.

NOW THEREFORE the Parties wish to set out their mutual understanding as follows:

1. PURPOSE:

The purpose of this Agreement is to signify the Parties' commitment to:

- (a) Renew Gwa'sala-'Nakwaxda'xw Treaty negotiations that are informed and guided by the Foundation Documents as set out in section 3;
- (b) Commence Stage 5 negotiations without signing a Stage 4 AIP, as confirmed by the British Columbia Treaty Commission ("BCTC");
- (c) Work collaboratively to seek to complete a Gwa'sala-'Nakwaxda'xw Treaty acceptable to all Parties;
- (d) Establish a new approach to Gwa'sala-'Nakwaxda'xw Treaty negotiations with a focus on key elements that are required to be included in a Gwa'sala-'Nakwaxda'xw Treaty; and
- (e) Proceed in a manner consistent with the *Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia*, endorsed by the Principals on May 24, 2016.

2. EFFECT:

The Parties have agreed and confirmed with the BCTC that they will transition into Stage 5 of treaty negotiations under the Process upon the signing of this Agreement by all Parties.

3. FOUNDATION DOCUMENTS:

The Gwa'sala-'Nakwaxda'xw Stage 5 treaty negotiations will be informed and guided by, but not limited to, the following Foundation Documents:

- (a) *The Report of the British Columbia Claims Task Force*, June 28, 1991;
- (b) Canada's Principles;
- (c) British Columbia's Draft Principles;
- (d) *The UNDRIP*;
- (e) The draft AIP;
- (f) *The Principals Accord on Transforming Treaty Negotiations in British Columbia*, dated December 1, 2018;
- (g) *British Columbia's Proposed Approach to Treaty Transformation Rolling Draft* discussion paper will inform British Columbia's approach, dated November 14, 2018;
- (h) *Recognition and Reconciliation of Rights Policy for Treaty Negotiations in British Columbia*, dated September 4, 2019 ("Recognition and Reconciliation Policy"); and
- (i) Other documents as agreed to by the Parties.

4. TREATY TERMS AND LAND AND CASH NEGOTIATIONS

- (a) The Parties have reached a substantive agreement on issues required to conclude an AIP, including:
 - (i) Agreement or a common understanding on much of the wording in chapters that will form the Gwa'sala-'Nakwaxda'xw Treaty;
 - (ii) The broad parameters of land and cash which could be proposed by Canada and British Columbia; and
 - (iii) Core interests of Gwa'sala-'Nakwaxda'xw, Canada and British Columbia.
- (b) The Parties recognize that they may be required to seek revised mandates in order to table a formal land and cash scenario, and that this will require continued and ongoing collaborative work to build an agreed upon proposal which will inform those mandates;
- (c) The Parties are of the view that rather than expending time and resources to conclude an AIP, negotiations can be more efficiently and effectively advanced through the development of a comprehensive final Gwa'sala-'Nakwaxda'xw Treaty package and therefore the scope of AIP negotiations set out in the Framework Agreement to Negotiate a Treaty between BC, Canada and Gwa'sala-'Nakwaxda'xw dated March 31, 2000 are amended through this Agreement; and
- (d) The Parties agree that once they have reached an agreement by a Chief Negotiators Letter of Understanding on the land and cash scenario, British Columbia will initiate the application of protection measures in accordance with British Columbia's policies and mandates for Stage 5.

5. SCOPE OF NEGOTIATIONS:

Among other things, negotiations by the Parties will seek to address the matters listed below:

- (a) Acknowledgments and ceremonies to promote reconciliation involving all Parties to recognize the historic wrongs including the removal of Gwa'sala-'Nakwaxda'xw from their Homelands, and to begin to develop concrete steps to move forward;
- (b) Resources, tools, programs, jurisdictional and other supports for Gwa'sala-'Nakwaxda'xw to rebuild potential infrastructure and their connection to their Homelands;
- (c) Restoration of Gwa'sala-'Nakwaxda'xw place names;
- (d) Restoration of Gwa'sala-'Nakwaxda'xw traditional family names;
- (e) Mechanisms and support for Gwa'sala-'Nakwaxda'xw to repatriate, reclaim or re-create heritage items and regalia and their *kikasu*;
- (f) Agreement on common treaty objectives as set out in the Recognition and Reconciliation Policy.
- (g) Non-extinguishment of Gwa'sala-'Nakwaxda'xw Section 35 Rights and recognition of Gwa'sala-'Nakwaxda'xw Section 35 Rights, including the inherent right to self-government;
- (h) Predictable, stable and reliable processes for renewal, amendment and evolution of rights, jurisdictions and intergovernmental relations;

- (i) Recognition of the Gwa'sala-'Nakwaxda'xw role in the stewardship and natural resource decisions in areas where Gwa'sala-'Nakwaxda'xw will exercise treaty rights;
- (j) Recognition and establishment of the Gwa'sala-'Nakwaxda'xw government, including its composition and structure;
- (k) Application of laws;
- (l) Recognition of areas of Gwa'sala-'Nakwaxda'xw jurisdiction and authority;
- (m) Lands and co-management and land protection;
- (n) Capital transfer;
- (o) New fiscal relationship, including consideration of Canada's Self-Government Fiscal Policy;
- (p) Revenue sharing;
- (q) Fisheries and aquaculture – including food, social and ceremonial and commercial fisheries, the Gwa'sala-'Nakwaxda'xw's interest in priority fishery areas and matters related to Wyclees / Wadzulis.
- (r) Gwa'sala-'Nakwaxda'xw interests in continuation of section 87 tax exemption;
- (s) Long term (replaceable) forest tenures;
- (t) Incremental treaty agreements, tenures or other land options;
- (u) Content and composition of side agreements related to matters that are:
 - a. not core or essential to the Gwa'sala-'Nakwaxda'xw Treaty;
 - b. which may be evergreen or time limited; and/or
 - c. which may be adaptable to changes in circumstances; and
- (v) Other matters as agreed to by the Parties.

6. Negotiation Priorities

The Parties agree that upon the signing of this Agreement, they will seek to negotiate the following priority issues in good faith:

- (a) Development of a Homeland plan through the establishment of a Homelands Return Technical Working Group, to explore options for transportation, infrastructure, cultural resources, tools, programs, economic development and other supports for Gwa'sala-'Nakwaxda'xw to rebuild their connection to their Homelands;
- (b) Protection and collaborative management with respect to key lands and waters in the Homelands;
- (c) Collaborative land and cash scenario by:
 - a. using the previous Land and Cash scenario from 2014 as the base for continued discussion;
 - b. adding parcels to the base to build an agreed upon Lands scenario with an understanding that:
 - i. consultation and stakeholder engagement must take place before a formal scenario may be put forward: and
 - ii. where Provincial designations exist on a desirable land parcel the Parties will explore interests on those parcels to determine the extent or degree of compatibility between the nature of the Gwa'sala-'Nakwaxda'xw interest, activity and the uses contemplated or allowed under the designation with a view to reconciling those interests;
 - iii. discussing the cash component using the Land and Cash scenario from 2014 as the base and the Lands scenario in 6(b) to arrive at a mutually agreeable endpoint.
- (d) Fisheries and aquaculture – including food, social and ceremonial and commercial fisheries, management of fisheries, the Gwa'sala-'Nakwaxda'xw's interest in priority fishery areas and matters related to Wyclees / Wadzulis.
- (e) Forestry tenure negotiations;
- (f) Incremental Treaty Agreement, tenures or other land options; and
- (g) Addressing shared territory issues.
- (h) Other matters as agreed to by the Parties.

7. CONSULTATIONS WITH NEIGHBOURING INDIGENOUS GROUPS:

- (a) The Parties acknowledge Canada and British Columbia will fulfill their consultation obligations with neighbouring Indigenous groups whose rights may be adversely impacted by an eventual treaty with Gwa'sala-'Nakwaxda'xw; and
- (b) Gwa'sala-'Nakwaxda'xw acknowledges its commitments with respect to Recommendation 8 of the *Report of the British Columbia Claims Task Force (June 28, 1991)*, and will engage with its neighbours based on that commitment.

8. OTHER MATTERS:

The Parties also agree that:

- (a) Negotiations under this Agreement will take place within the Process although the Parties agree that Gwa'sala-'Nakwaxda'xw may wish to pursue agreements on fisheries or marine matters alongside the Treaty;
- (b) This Agreement does not constitute a treaty or a land claims agreement within the meaning of Sections 25 and 35 of the *Constitution Act, 1982*;
- (c) This Agreement does not establish, create, amend, define, affirm, recognize, deny, abrogate or derogate from any legally enforceable rights, including but not limited to any Gwa'sala-'Nakwaxda'xw Section 35 Rights, which are recognized and affirmed by Section 35 of the *Constitution Act, 1982*;
- (d) The Parties will each require further mandates to realize the objectives of this Agreement;
- (e) This Agreement is not legally binding and does not create any contractual or financial obligations for any Party;
- (f) All negotiations conducted pursuant to this Agreement, and all related documents, are confidential unless the Parties otherwise agree in writing, and are without prejudice to the positions of the Parties in any proceedings before a court or other forum and shall not be construed as admissions of fact or liability; and
- (g) If a Party chooses to withdraw from this Agreement, the remaining Parties will discuss whether they wish to continue negotiating under this Agreement or terminate this Agreement.


EFFECTIVE DATE AND SIGNATURES

This Agreement will come into effect on the date of the last signature.

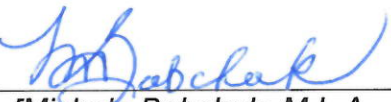
SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA:

By:  Date: July 9, 2022
[The Honourable Marc Miller, Minister of Crown-Indigenous Relations]

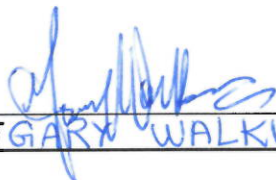
SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA:


By:  Date: July 5, 2022
[The Honourable Murray Rankin, Minister of Indigenous Relations and Reconciliation]

SIGNED ON BEHALF OF A WITNESS TO THE PROCEEDINGS

By:  Date: July 9, 2022
[Michele Babchuk, M.L.A., North Island]

SIGNED ON BEHALF OF GWA'SALA:


By:  Date: July 9, 2022
[GARY WALKUS, 'SIWIDI']


By:  Date: July 9, 2022
[PADDY WALKUS, 'MAXWA']

By:  Date: July 9, 2022
[WILLIE WALKUS, GIKSISTALI SAMI WAKAS]

SIGNED ON BEHALF OF 'NAKWAXDA'XW

By:  Date: July 9, 2022
[MARY JOHNSON, 'HEMIDI']

By:  Date: July 9, 2022
[MICHAEL GEORGE, 'PUDLIDAGAME']
Albert Chaire

By:  Date: July 9, 2022
[DARRYL COON, 'HITLAMAS']