



**HUL'QUMI'NUM TREATY GROUP
TRANSITION TO STAGE 5 AND TREATY REVITALIZATION AGREEMENT
("Agreement")**

BETWEEN:

THE HUL'QUMI'NUM TREATY GROUP

Representing the Cowichan Tribes, Penelakut Tribe, Halalt First Nation, Lyackson First Nation and Ts'uubaa-asatx First Nation (a.k.a. Lake Cowichan First Nation)
(hereinafter "HTG")

AND:

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

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
as represented by the Minister of Indigenous Relations and Reconciliation
(hereinafter "British Columbia")

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

Canada



WHEREAS:

- A. The Parties are engaged in treaty negotiations under the British Columbia treaty process (the "Process"), have made substantial progress, and wish to shift from Stage 4 to Stage 5 of the Process without signing an Agreement-in-Principle.
- B. The British Columbia Treaty Commission, per the letter attached as "Schedule A", has confirmed its support for the Parties to enter into the final stage of treaty negotiations, including through the provision of negotiation support funding to HTG at a level consistent with Stage 5 negotiations, and to facilitate, where appropriate, dialogue between HTG and its neighbouring Indigenous communities.
- C. Canada and British Columbia each have set out principles that form a foundation for partnering and supporting Indigenous Peoples through a Nation-to-Nation and Government-to-Government relationship.
- D. Canada and British Columbia have committed to working with First Nations to transform the treaty process, consistent with concepts of non-extinguishment of rights, rights recognition and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples in a manner consistent with the Canadian constitution.
- E. The Parties acknowledge that key elements of the current draft HTG Agreement-in-Principle do not reflect the ongoing transformation of the Process.
- F. The Parties intend to take a renewed approach incorporating the ongoing transformation to treaty negotiations in Stage 5 of the Process without signing an Agreement-in-Principle.
- G. The Parties wish to respect established case law including but not limited to the *Tsilhqot'in Nation v. British Columbia, 2014 SCC 44* decision in the negotiation of any treaty (or land claim agreement).

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) Commence Stage 5 negotiations without signing a Stage 4 Agreement-in-Principle, as confirmed by the attached "Schedule A" letter from the British Columbia Treaty Commission;

- b) Establish a new approach to HTG treaty negotiations with a focus on those core elements that are required to be included in any treaty (or land claim agreement) with HTG; and
- c) Be informed and guided by the foundational documents referred to in clause 4 of this Agreement.

2. SCOPE OF NEGOTIATIONS

The Parties commit to negotiate in good faith and seek mandates necessary to conclude Stage 5 negotiation within 4 years of the execution of this Agreement. Among other things, negotiations by the Parties will focus on the essential elements of any treaty (or land claim agreement) with HTG and will address:

- a) The recognition of HTG Member Nations Rights and Title, including a non-extinguishment of rights and rights recognition approach to negotiations;
- b) Predictable, stable and reliable processes for renewal, amendment and evolution of rights, jurisdictions and intergovernmental relations;
- c) Establishment of Nation-to-Nation and Government-to-Government relationships;
- d) Recognition of the HTG Member Nations role in the stewardship and natural resource decisions in areas where HTG Member Nations will exercise treaty rights;
- e) Recognition and establishment of the HTG Member Nations government including its composition and structure;
- f) Natural and marine resources;
- g) New fiscal relationship, including consideration of Canada's Self-Government Fiscal Policy; and
- h) HTG Member Nations interest in foreshore, marine resources and adjacent marine areas ownership and jurisdiction.

3. TRANSITION TO STAGE 5 NEGOTIATIONS

- a) The Parties are continuing to negotiate a treaty under the British Columbia treaty process.
- b) The Parties will use elements of the draft Agreement-in-Principle and clause 4 to inform their negotiations in Stage 5.
- c) The Parties have agreed and confirmed with the British Columbia Treaty Commission that they will transition into Stage 5 of treaty negotiations upon signing this Agreement.
- d) The Parties will seek approval to conclude a legally binding core treaty.

4. PRINCIPLES TO GUIDE NEGOTIATIONS

The Parties agree to co-develop on a non-binding basis a core treaty and that among other things the negotiations will be informed and guided by the following foundational documents:

- a) The United Nations Declaration on the Rights of Indigenous Peoples;
- b) Canada's 10 Principles respecting Canada's Relationship with Indigenous Peoples;
- c) British Columbia's Draft 10 Principles that Guide British Columbia's Relationship with Indigenous Peoples;
- d) Principals' Accord on Transforming Treaty Negotiations in British Columbia;
- e) Truth and Reconciliation Commission Calls to Action;
- f) The Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia; and
- g) Established case law, including but not limited to, the *Tsilhqot'in Nation v. British Columbia* Supreme Court of Canada decision.

5. CONSULTATIONS WITH NEIGHBOURING FIRST NATIONS

- a) The Parties acknowledge Canada and British Columbia will fulfill their consultation obligations as required by law with neighbouring Indigenous groups whose rights may be adversely impacted by a treaty with HTG. The Parties commit to work collaboratively on what information needs to be shared for consultation purposes.
- b) HTG acknowledges its commitments with respect to Recommendation 8 of the Report of the British Columbia Claims Task Force (June 28, 1991) and will engage and consult with neighbouring First Nations and will make best efforts to address shared territory and overlap issues.

6. OTHER

- a) Any disputes regarding the interpretation or implementation of this Agreement will be resolved only by the Parties and will not be referred to any other third party for settlement, unless the Parties otherwise agree.
- b) All negotiations conducted pursuant to this Agreement, and all related documents, are confidential unless the Parties otherwise agree in writing, or are required by law to be disclosed, including under the *Freedom of Information and Protection of Privacy Act*, and are without prejudice to the legal positions of the Parties and will not be tendered or relied upon in any court proceeding or in any other forum, or be construed as an admission of fact or liability.

- c) This Agreement is not intended to constitute a treaty or land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- d) 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 Aboriginal rights or title of the Hul'qumi'num Mustimuhw (members of Cowichan Tribes, Penelakut Tribe, Halalt First Nation, Lyackson First Nation, and Ts'uubaa-asatx First Nation (a.k.a. Lake Cowichan First Nation)) that are recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- e) This Agreement is not legally binding and does not create any contractual or financial obligations for any Party.
- f) This Agreement may be amended with the written consent of the Parties.

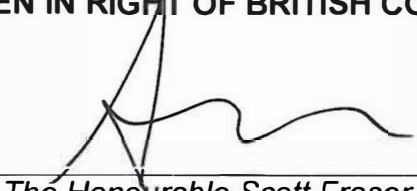
7. EFFECTIVE DATE AND SIGNATURES

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: August 26, 2019
 The Honourable Carolyn Bennett, Minister of
 Crown-Indigenous Relations

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


By:  Date: September 11, 2019
 The Honourable Scott Fraser, Minister of
 Indigenous Relations and Reconciliation

SIGNED ON BEHALF OF THE HUL'QUMI'NUM
TREATY GROUP:

By:  Date: Aug. 26/19
Chief William Seymour, Cowichan Tribes

By:  Date: Aug 26, 2019
Chief Jeann Brown, Penelakut Tribe

By:  Date: August 26, 2019
Chief James Thomas, Halait First Nation

By:  Date: August- 26, 2019
Chief Pahalicktun Richard Thomas, Lyackson
First Nation

By:  Date: Aug 26/19
Chief Georgina Livingstone, Ts'uubaa-asatx
First Nation (a.k.a. Lake Cowichan First
Nation)

By:  Date: August 26, 2019
Robert Morales, Chief Negotiator