

**AMENDING AGREEMENT TO  
INCREMENTAL TREATY AGREEMENT BETWEEN LAKE BABINE NATION AND  
THE PROVINCE OF BRITISH COLUMBIA**

This Amending Agreement is dated for reference the 13 day of Nov., 2018.

BETWEEN:

**Her Majesty the Queen in right of the Province of British Columbia**, represented by  
the Minister of Indigenous Relations and Reconciliation  
(the "**Province**")

AND:

**Lake Babine Nation**, on behalf of itself and its Members, as represented by its Chief  
and Council

(the "**Lake Babine Nation**")

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

WHEREAS:

- A. Lake Babine Nation and the Province entered into an Incremental Treaty Agreement dated March 26, 2014 (the "**Incremental Treaty Agreement**"); and
- B. The Parties wish to amend certain provisions of the Incremental Treaty Agreement in respect of the Lands referenced in that agreement; and
- C. The Parties acknowledge that this Amending Agreement does not reflect a comprehensive review of the Incremental Treaty Agreement and that they may consider further amendments.

NOW THEREFORE the Parties agree as follows:

## **PART 1 – INTERPRETATION**

### **1.1 Definitions**

In this Agreement:

**“Amending Agreement”** means this Amending Agreement between Lake Babine Nation and the Province.

### **1.2 Other Words and Expressions**

Words and expressions not defined in this Amending Agreement but defined in the Incremental Treaty Agreement have the meanings ascribed to them in the Incremental Treaty Agreement.

## **PART 2 – AMENDMENTS**

**2.1 The Parties agree to delete the following subarticle** from the Incremental Treaty Agreement:

5.18(b) The obligation of the Province to transfer and the obligation of the Lake Babine Nation to accept transfer of any Parcel of the Lands under this Agreement are subject to completion of the following condition precedent, on or before the applicable Closing Date: the Lake Babine Nation and the current lessee of the Fort Babine Lodge Parcel (Lease #633198 and Lease #633570) having reached a mutual agreement regarding reimbursement of the costs of the current lessee's capital improvements to the Fort Babine Lodge Parcel.

**2.2 The parties agree to delete the following article** from the Incremental Treaty Agreement:

**5.22 Fort Babine Lodge parcel and Leases #633198 and #633570.** Further to section 5.18(b) and, for greater certainty, the Minister is not able to authorize the disposition of the Fort Babine Lodge Parcel to a Designated Entity until Leases #633198 and #633570 are cancelled.

**2.3 The parties agree to insert the following article** into the Incremental Treaty Agreement:

**5.22 Fort Babine Lodge parcel and Leases #633198 and #633570.** For greater certainty, the Minister is not able to authorize the disposition of the Fort Babine Lodge Parcel to a Designated Entity until Leases #633198 and #633570 are cancelled or otherwise terminated.

**2.4 The parties agree to delete the following article** from the Incremental Treaty Agreement:

**5.1 Transfers of the Lands.** Subject to the Permitted Encumbrances and the provisions of this Agreement, including the satisfaction or waiver of the conditions precedent set out in sections 5.16, 5.17, and 5.18, the Province will transfer to the applicable Designated Entities on the applicable Closing Dates, the Lands, as follows:

- (a) Fort Babine Lodge, Michell Pierre, Donald's Landing "b", and the McKendrick Island Parcels will be transferred as soon as practicable after the ITA Date;
- (b) Donald's Landing "a," Smithers Landing and the Tachet Parcels will be transferred as soon as practicable after the ITA Date and upon written request from Lake Babine Nation, subject to:
  - (i) the Province being provided with a conceptual business development plan from Lake Babine Nation respecting the intended use of the land and timeframe applicable to the development;
  - (ii) the Parcels in section 5.1(a) having been successfully transferred to Lake Babine Nation and are currently held in good standing; and
  - (iii) negotiation and agreement on survey costs associated with these three parcels,

and if this has not occurred by the AIP date, as soon as practicable after the AIP date or as agreed by the Parties; and

- (c) Augier Lake, John Dennis Landing, Pendelton Bay, Pinkut Lake North, Pinkut Lake West, and Topley Landing Parcels will be transferred as soon as practicable after the AIP Date or as agreed by the Parties.

**2.5 The parties agree to insert the following article to the Incremental Treaty Agreement:**

**5.1 Transfers of the Lands.** Subject to the Permitted Encumbrances and the provisions of this Agreement, including the satisfaction or waiver of the conditions precedent set out in sections 5.16, 5.17 and 5.18, the Province will transfer to the applicable Designated Entities on the applicable Closing Dates, the Lands, as follows:

- (a) Four of the parcels identified in Schedule 1 Part 2 will each be transferred as soon as practicable after the ITA Date, upon written request from Lake Babine Nation that it is prepared to proceed with each such transfer;
- (b) Three of the parcels identified in Schedule 1 Part 2 will each be transferred as soon as practicable after the ITA Date and upon written request for each such parcel from Lake Babine Nation, subject to:
  - (i) the parcels in section 5.1(a) having been successfully transferred to one or more of the Designated Entities and continuing to be held by one or more of the Designated Entities in fee simple; and
  - (ii) negotiation and agreement on survey costs associated with these three parcels, notwithstanding the provisions of article 5.14(a) in the Incremental Treaty Agreement;

and if this has not occurred by the AIP date, as soon as practicable after the AIP date or as agreed by the Parties; and

- (c) Six of the parcels identified in Schedule 1 Part 2 will each be transferred as soon as practicable after the AIP Date or as agreed by the Parties and in any event upon written request from Lake Babine Nation that it is prepared to proceed with each such transfer.

**2.6 The parties agree to add the following article to the Incremental Treaty Agreement:**

**5.23 Satisfaction of Conditions Precedent.** The Province will not be required to satisfy or waive the conditions precedent under paragraph 5.16, 5.17, and 5.18, until such time as the Lake Babine Nation has notified the Province in

writing that it is prepared to proceed with the transfer of the Lands under this Agreement.

**2.7 The parties agree to add the following article to the Incremental Treaty Agreement:**

5.24 Transfer of each of the parcels identified as Donald's Landing "a," Smithers Landing and the Tachet Parcels is subject to the Province being provided with a conceptual business development plan from Lake Babine Nation respecting the intended use of that parcel and timeframe applicable to its development.

**2.8 The parties agree to delete the following article from the Incremental Treaty Agreement:**

**5.2 Pre-closing Deliveries by the Lake Babine Nation.** Ninety (90) calendar days prior to the applicable Closing Date, the Lake Babine Nation will deliver to the Province a direction identifying the applicable Designated Entity that will take registered title to the applicable Parcels.

**2.9 The parties agree to insert the following article to the Incremental Treaty Agreement:**

**5.2 Pre-closing Deliveries by the Lake Babine Nation.** Within sixty (60) calendar days of written notice to proceed with transfer, the Lake Babine Nation will deliver to the Province a direction identifying the applicable Designated Entity that will take registered title to the applicable Parcels except with respect to the notice to proceed for Fort Babine Lodge, for which Lake Babine Nation will deliver to the Province a direction as described above within one hundred and twenty (120) calendar days of the execution of the Amending Agreement.

**2.10 The parties agree to add the following schedule to the Incremental Treaty Agreement:**

Schedule "6" – Consent of Lake Babine Nation in relation to Property Transfer Tax Matters

## **PART 3 – REPRESENTATIONS AND WARRANTIES**

### **3.1 Lake Babine Nation Representations and Warranties**

Lake Babine Nation hereby represents and warrants to the Province that (a) it has the legal power, capacity and authority to enter into and carry out its obligations under this Amending Agreement on behalf of its Members; and (b) all representations and warranties of the Lake Babine Nation contained in clause 4.1 of the Incremental Treaty Agreement are true and correct in all material respects on and as of the date hereof after giving effect to this Amending Agreement, except to the extent that any such representation and warranty specifically relates to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date after giving effect to this Amending Agreement.

### **3.2 Province Representations and Warranties**

The Province hereby represents and warrants to the Lake Babine Nation that (a) it has the legal power, capacity and authority to enter into this Amending Agreement; and (b) all representations and warranties of the Province contained in clause 4.2 of the Incremental Treaty Agreement are true and correct in all material respects on and as of the date hereof after giving effect to this Amending Agreement, except to the extent that any such representation and warranty specifically relates to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date after giving effect to this Amending Agreement.

## **PART 4 – CONDITIONS PRECEDENT**

### **4.1 Band Council Resolution**

Prior to the execution of this Amending Agreement, Lake Babine Nation will deliver to the Province a resolution by elected Council authorizing Lake Babine Nation representatives named in the resolution to execute this Amending Agreement on their behalf.

## **PART 5 – MISCELLANEOUS**

### **5.1 Entire Agreement**

The terms and conditions of the Incremental Treaty Agreement shall remain in full force and effect and will be deemed to be subject to and incorporate all of the provisions of this Amending Agreement. This Amending Agreement together with the Incremental Treaty Agreement is the entire agreement between the Parties in respect of the subject matter of this Amending Agreement and, except as set out in this Amending Agreement and the Incremental Treaty Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Amending Agreement.

**5.2** This Amending Agreement may be further amended only by written agreement of all parties.

### **5.3 Governing Law**

This Amending Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

### **5.4 Enurement**

This Amending Agreement extends to, is binding upon and enures to the benefit of the Parties, their respective successors and permitted assigns.

### **5.5 Headings**

The headings are for convenience only, do not form part of this Amending Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Amending Agreement or any of its provisions.

### **5.6 Further Assurances**

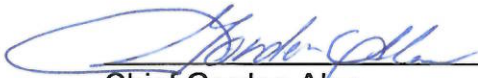
Each Party will execute and deliver such further agreements and other documents and do such further acts and things as the other party reasonably request to evidence, carry out or give full force and effect to the intent of this Amending Agreement.

**5.7 Execution in Counterparts**

This Amending Agreement may be executed in counterparts and may be delivered by facsimile or electronically transmitted. Each signature is deemed to be an original signature and all such counterparts together will constitute one and the same document.

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

**Signed on behalf of Lake Babine  
Nation by**

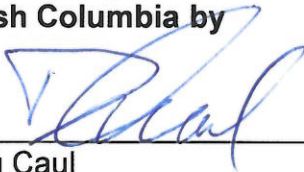


Chief Gordon Alec  
Lake Babine Nation



Witness Betty Patrick

**Signed on behalf of Her Majesty the  
Queen In Right of the Province of  
British Columbia by**



Doug Caul  
Deputy Minister  
Ministry of Indigenous Relations and  
Reconciliation



Witness



**Schedule "6" - Consent of Lake Babine Nation**  
**in relation to Property Transfer Tax Matters**

TO WHOM IT MAY CONCERN:

1. Article 5.14 of the Incremental Treaty Agreement (the Agreement) between the Province of British Columbia and Lake Babine Nation, executed March 26, 2014, provides that the Province is responsible for property transfer tax payable under the *Property Transfer Tax Act* (RSBC 1996), c. 378 in relation to the transfer of land under the Agreement (the "Property Transfer Tax").
2. In the event that:
  - a. an exemption from Property Transfer Tax is not enacted prior to the date on which payment of that tax is due, or
  - b. the Province pays the Property Transfer Tax,

then Lake Babine Nation hereby

- c. authorizes the Ministry of Finance and the Ministry of Aboriginal Relations and Reconciliation to deal directly with one another in regard to all matters relating to the Property Transfer Tax, and
- d. agrees that if there is any refund payable in respect of the Property Transfer Tax paid by the Province, then the amount of that refund may be retained by the Province.

Executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of the duly authorized signatory for Lake Babine Nation

\_\_\_\_\_  
Name and Title (please print)

