

ECONOMIC AND COMMUNITY DEVELOPMENT AGREEMENT

This Agreement is dated for reference March 29, 2017

BETWEEN:

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

("British Columbia")

AND:

Lheidli T'enneh First Nation, on behalf of itself and its Members, as represented by the Chief and Council

("Lheidli T'enneh")

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

WHEREAS:

- A. The Parties wish to develop an effective long-term working relationship that includes sharing mineral tax revenues from the Project;
- B. The Parties, in the spirit of the New Relationship vision and the Transformative Change Accord, share commitments to strengthen their government-to-government relationship and to close the socio-economic gaps between aboriginal and non-aboriginal peoples; and
- C. The Agreement sets out the process through which the Parties will consult on ongoing operational decisions related to the Project.

NOW THEREFORE the Parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.1 **Definitions.** In this Agreement:

"Aboriginal Interests" means:

- a) asserted aboriginal rights, including aboriginal title; or
- b) determined aboriginal rights, including title, which are recognized and affirmed under section 35(1) of the *Constitution Act, 1982*;

"Agreement" means this Economic and Community Development Agreement;

"BC Fiscal Year" means a period beginning on April 1 of a calendar year and ending on March 31 of the next calendar year;

"Claim" means all actions, causes of action, claims, proceedings, debts, duties, demands, interest, fines, costs, expenses and compensation which the Lheidli T'enneh or its Members ever may have had, has or may ever have against British Columbia, including any Provincial Agency;

"Consultation Process" means the process by which British Columbia will fulfill any consultation and accommodation obligations relating to Government Actions and is set out in Article 14.1;

"Effective Date" means the last date on which this Agreement is fully executed by the Parties;

"Government Actions" means all processes, decisions, authorizations, permits, licences, approvals, Crown land dispositions, agreements and other actions whatsoever entered into or otherwise taken by a Provincial Agency in relation to the Project;

"Member" means an individual who is "a member of the band" as that phrase is defined in the *Indian Act*, of the Lheidli T'enneh First Nation;

"Mine" means the Giscome Lime Quarry and Plant;

"Mine Fiscal Year" means a "fiscal year of the mine" as that phrase is defined in the *Mineral Tax Act*;

"*Mineral Tax Act*" means the *Mineral Tax Act*, R.S.B.C. 1996, c. 291, as amended from time to time, and legislation in addition to or in substitution for it which assesses a tax in favour of British Columbia similar to the tax presently assessed under the *Mineral Tax Act*;

"Net Mineral Tax Revenue" means the total amount of tax, penalty and interest paid by the Operator under the Mineral Tax Act within a BC Fiscal Year, that is attributable to the Project, less the total amount of tax, penalty and interest refunded and interest paid

to the Operator, or owed and paid to British Columbia by the Operator under the Mineral Tax Act within a BC Fiscal Year that is attributable to the Project;

"Operator" means "operator", as defined in the *Mineral Tax Act*, of the Mine;

"Overpayment" means any portion of a Payment that for whatever reason exceeds the amount the Lheidli T'enneh was entitled to receive;

"Payments" means those payments to be calculated and paid by British Columbia to the Lheidli T'enneh pursuant to Article 5, and "Payment" means any one such payment;

"Payment Statement" means the statement provided by British Columbia to the Lheidli T'enneh under 6.1;

"Proceeding" means all actions, petitions and other proceedings, including any losses, damages, expenses, costs and any other liability;

"Project" means, unless otherwise agreed in writing by the Parties, any and all activities relating to the Mine and any subsequent permit amendments and Government Actions in or related to the Project Area, including:

- a) the Giscome Lime Plant and Quarry, including its associated infrastructure, access roads, power facilities and other physical facilities located within the Project Area;
- b) any changes, modifications or expansions to the Project;
- c) all matters relating to the exploration, planning, permitting, construction, maintenance, repair, operation, closure and reclamation of the Project; and
- d) any changes, modifications or expansions to existing access roads and power lines located outside the Project Area, to the extent required in connection with the Project;

"Project Area" means, for purposes of this Agreement, the area shown on the map attached as Schedule 1;

"Provincial Agency" means British Columbia including:

- a) any minister, public official or employee of British Columbia, or person acting on behalf of or as an agent for British Columbia, and
- b) any government corporation;

"Underpayment" means an amount that the Lheidli T'enneh was entitled to receive as part of a Payment in a BC Fiscal Year, but for whatever reason did not.

1.2 Interpretation. For purposes of this Agreement:

- a) "including" means "including, but not limited to" and "includes" means "includes, but not limited to";
- b) the recitals and headings are inserted for convenience of reference only, do not form a part of this Agreement and are not intended to define, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
- c) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*;
- d) in the calculation of time under this Agreement, all references to "days" are to calendar days;
- e) any reference to a corporate entity includes any predecessor or successor to such entity;
- f) any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacements of that statute and its regulations; and
- g) there will be no presumption that doubtful expressions, terms or provisions in this Agreement are to be resolved in favour of any Party.

1.3 **Schedules.** The following are the Schedules to and form part of this Agreement:

- Schedule "1" – Map of Project Area

ARTICLE 2 - PURPOSE

2.1 **Purpose.** The purpose of this Agreement is to:

- a) set out the basis by which British Columbia will make Payments to the Lheidli T'enneh to enable the Lheidli T'enneh to pursue activities that will enhance the social, economic and cultural well-being of its Members; and
- b) confirm the Consultation Process that the Parties will rely on to meet their respective legal consultation obligations in relation to the Project.

ARTICLE 3 – TERM AND TERMINATION

3.1 **Term.** Subject to 3.2 and 3.3, this Agreement will commence on the Effective Date and will continue for as long as mineral tax, interest and penalties payable

by an Operator in respect of the Project are subject to payment or reassessment under applicable legislation.

3.2 Termination by the Lheidli T'enneh. The Lheidli T'enneh may, on ninety (90) days prior notice to British Columbia, terminate this Agreement if British Columbia:

- a) is not in compliance with its obligations under this Agreement, or any representation or warranty under 4.2;
- b) fails to make a Payment to Lheidli T'enneh under 7.1, provided that the failure to pay is not the a result of the suspension of a Payment under 12.1 which is subject to dispute resolution under 12.2 or has been remedied under 12.3; or
- b) fails to make a Payment under 7.1 as a result of the lack of appropriation under 8.1.

3.3 Termination by British Columbia. British Columbia may terminate this Agreement:

- a) on ninety (90) days prior notice if Lheidli T'enneh:
 - (i) is not in compliance with its obligations under this Agreement, or any representation or warranty under 4.1 made by it is untrue or incorrect, or
 - (ii) commences any Proceeding against British Columbia, or activates any Proceeding in abeyance, in relation to this Agreement or the Project; or
- b) at any time without further notice if Lheidli T'enneh:
 - (i) does not remedy the cause for suspension of Payments within the time required under 12.1,
 - (ii) gives notice of dispute under 12.2 and the dispute is not resolved within the time limits provided for in 17.4 or 17.5, as the case may be, or
 - (iii) does not withdraw its notice of rejection of a Payment under 13.2 within ninety (90) days of its issuance.

3.4 Rescinding of Notice. During the ninety (90) day notice period under 3.2 or 3.3(a), representatives of the Parties will meet to discuss the circumstances which gave rise to the notice and to determine whether there is a basis for rescinding the notice.

3.5 For greater certainty. If the Parties are unable to resolve the issue under 3.4,

this Agreement will terminate and, for greater certainty the Lheidli T'enneh will not, unless otherwise agreed to by the Parties, be required to provide British Columbia with a release under 13.1.

3.6 Prorated Payments. Where this Agreement terminates other than at the end of a BC Fiscal Year:

- a) no Payment will be made for any portion of the BC Fiscal Year beyond the date of the termination of this Agreement; and
- b) if the Lheidli T'enneh provides a form of release satisfactory to British Columbia in relation to Government Actions taken prior to the date of termination, British Columbia will make a prorated Payment for the portion of the BC Fiscal Year to which the releases apply.

3.7 Survival of Obligations. The following provisions will survive the termination of this Agreement and continue in force and effect:

- a) the requirement for the Lheidli T'enneh to utilize Payments to meet the Purpose of this Agreement as described in 2.1 and Article 10;
- b) any release provided by Lheidli T'enneh under 13.1 or 3.6;
- c) the releases and acknowledgments provided by the Lheidli T'enneh under 15.1; and
- d) the confidentiality requirements under Article 16.

ARTICLE 4 – REPRESENTATIONS AND WARRANTIES

4.1 Lheidli T'enneh Representations and Warranties. The Lheidli T'enneh represents and warrants to British Columbia, with the intent and understanding that they will be relied on by British Columbia in entering into this Agreement, that:

- a) its band council is a duly constituted band council under the *Indian Act*;
- b) it has the legal power, capacity and authority to enter into this Agreement on its own behalf and on behalf of its Members;
- c) it has taken all necessary actions and obtained all necessary approvals to enter into this Agreement for and on behalf of its Members;
- d) it has obtained or had the opportunity to obtain financial, legal, tax and other professional advice with respect to this Agreement; and

- e) this Agreement is a valid and binding obligation of the Lheidli T'enneh and its Members.

4.2 **British Columbia Representations and Warranties.** British Columbia represents and warrants to the Lheidli T'enneh, with the intent and understanding that they will be relied on by the Lheidli T'enneh in entering into this Agreement, that it has the authority to enter into this Agreement and to carry out its obligations in accordance with this Agreement, and that this Agreement is a valid and binding obligation of British Columbia.

ARTICLE 5 –PAYMENT

5.1 **Payment.** Commencing with the first BC Fiscal Year that there is positive Net Mineral Tax Revenue and thereafter on an annual basis and in accordance with Article 7, British Columbia will pay to the Lheidli T'enneh 37.5% of the Net Mineral Tax Revenue plus any Underpayment or less any Overpayment.

ARTICLE 6 –PAYMENT STATEMENTS AND MISCELLANEOUS PAYMENT PROVISIONS

6.1 **Payment Statements.** Subject to 16.4, within one hundred and fifty days (150) days after the end of each BC Fiscal Year, British Columbia will provide the Lheidli T'enneh with a Payment Statement containing the following information:

- a) with respect to each Mine Fiscal Year where Net Mineral Tax Revenue was received by British Columbia or paid or refunded to an Operator in that BC Fiscal Year:
 - i. the Net Mineral Tax Revenue; and
- b) the amount of any Overpayment or Underpayment; and
- c) the amount of the Payment.

6.2 **No Further Operator Payments.** If the Operator is no longer responsible for making payments under the *Mineral Tax Act* such that there will be no subsequent Payments to the Lheidli T'enneh, British Columbia will notify the Lheidli T'enneh at such time as it becomes aware of:

- a) any Underpayment and will pay the Underpayment within one hundred and eighty days (180) of the end of the BC Fiscal Year during which British Columbia confirms the Underpayment; and

- b) any Overpayment that remains outstanding and may deduct the Overpayment from any amounts that may be payable to the Lheidli T'enneh under any other mineral tax revenue-sharing agreement with the Province.
- 6.3 **Fluctuations in Revenues.** The Lheidli T'enneh acknowledges that revenues under the *Mineral Tax Act* may fluctuate and that the Payments may vary over time.
- 6.4 **Payment Clarification.** Upon receipt, the Lheidli T'enneh may request clarification of the information contained in a Payment Statement and British Columbia will discuss or meet with the Lheidli T'enneh regarding the Payment Statement before issuing the Payment.
- 6.5 **Disagreement on Amount.** Where the Lheidli T'enneh disagrees with the amount of a Payment it may notify British Columbia and, upon receipt by British Columbia, the Parties' representatives will meet as soon as practical to discuss the matter, after which British Columbia will review the matter and take any remedial actions that it considers may be required.
- 6.6 **Changes to *Mineral Tax Act*.** If, during the term of this Agreement, British Columbia makes any changes to the *Mineral Tax Act* that will have the effect of reducing the Payments, British Columbia will notify the Lheidli T'enneh and the Parties may negotiate alternative mine revenue sharing opportunities.
- 6.7 **Holdback.** In the event that a post closure reclamation tax holdback is introduced for quarry mines, the Parties will meet to discuss this change and any amendments to the calculation in 5.1 that may be required.

ARTICLE 7 – TIMING OF PAYMENTS

- 7.1 **Timing of Payments.** Subject to a suspension of Payments under 12.1 or 13.3, if the Payment for a BC Fiscal Year is a positive amount, British Columbia will, within one hundred and eighty (180) days after the end of the BC Fiscal Year for which the Payment is calculated, pay that amount to the Lheidli T'enneh.

ARTICLE 8 – CONDITIONS TO PAYMENTS

- 8.1 **Appropriation.** Notwithstanding any other provision of this Agreement, British Columbia's obligation to make the Payments is subject to:
 - a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable British Columbia in any Fiscal Year when such payment is required, to make such payment; and

- b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation necessary in order to make such payment.

8.2 **Reliance on Operator Information.** The Lheidli T'enneh acknowledges that British Columbia is entitled to rely on information provided by the Operator and that, while British Columbia will use reasonable efforts to ensure the accuracy of the information, the determination of the Net Mineral Tax Revenue are based on approximations and are therefore subject to imprecision.

8.3 **Disclaimer.** British Columbia makes no representation or warranty as to the accuracy of the information provided by the Operator and no Proceeding lies against it in relation to any Claim that the information provided by the Operator or the determination of the Net Mineral Tax Revenue were inaccurate.

ARTICLE 9 – BANKING AND REPORTING OF PAYMENTS

9.1 **Payments.** Unless otherwise agreed to by the Parties, British Columbia will not be required to make any Payment to Lheidli T'enneh until the Lheidli T'enneh has established a bank account under 9.2(a).

9.2 **Bank Account.** The Lheidli T'enneh will:

- a) establish and maintain in their name a bank account at a Canadian financial institution for the purpose of receiving Payments;
- b) provide British Columbia with the information under 9.2(a) to enable British Columbia to directly deposit the Payments;
- c) notify British Columbia of any change under 9.2(a), which will be evidenced by band council resolution which British Columbia will be entitled to rely on; and
- d) maintain the bank account under 9.2(a) until twelve (12) months after the receipt of the last Payment.

9.3 **Financial Records.** The Lheidli T'enneh will maintain financial records with respect to the Payments in accordance with Generally Accepted Accounting Principles and Public Sector Accounting Standards.

9.4 **Financial Statements.** The Lheidli T'enneh will, if requested by British Columbia, provide British Columbia with a financial statement(s) with respect to the expenditure of all Payments.

ARTICLE 10 –PAYMENT OBJECTIVES

- 10.1 **Payment Objectives.** The Lheidli T'enneh will use the Payments for activities that will enhance the social, economic and cultural well-being of its Members, including activities related to education, culture, housing, infrastructure, health, economic development and governance capacity.
- 10.2 **Carryover of Payments.** The Lheidli T'enneh may use all or a portion of any Payments received in any given year to pursue activities in that year or may hold such Payments for activities in subsequent years.
- 10.3 **Post-Term Use of Payments.** The Lheidli T'enneh will use any Payments held or received after the term of this Agreement for the activities under 10.1.

ARTICLE 11 – COMMUNITY PRIORITIES FOR PAYMENTS

- 11.1 **Annual Report.** Upon the request of British Columbia, within one hundred and eighty (180) days after the end of each BC Fiscal Year following the end of the first BC Fiscal Year of the Agreement in which a Payment was made, the Lheidli T'enneh will prepare and provide British Columbia with an annual report containing the following information:
 - a) expenditures made in the previous BC Fiscal Year that were funded from the Payments; and
 - b) the manner in which those expenditures contribute to the achievement of the community priorities under 10.1.
- 11.2 **Publication of Annual Report.** The Lheidli T'enneh will publish the annual report under 11.1, within the period set out therein, in a manner that can reasonably be expected to bring the information to the attention of its Members.
- 11.3 **Final Annual Report.** Notwithstanding the termination or expiry of this Agreement, the Lheidli T'enneh will continue to comply with Articles 10 and 11 until twelve (12) months after the Lheidli T'enneh receives its last Payment.

ARTICLE 12 – SUSPENSION OF PAYMENTS

- 12.1 **Suspension of Payments.** British Columbia may, on notice to the Lheidli T'enneh, suspend the Payments if the Lheidli T'enneh:
- a) does not use its Payments in accordance with 10.1 ;
 - b) notifies British Columbia that it is not prepared to accept the Payment under 13.2;
 - c) breaches any representation or warranty made by Lheidli T'enneh under this Agreement.
- 12.2 **Resolution of Suspension.** The Lheidli T'enneh may, within thirty (30) days of receipt of notice of suspension, dispute the suspension of Payments on notice to British Columbia under 17.2.
- 12.3 **Reinstatement of Payments.** British Columbia will make any Payments it would otherwise have been required to make within sixty (60) days of the day the cause for the suspension is remedied.

ARTICLE 13 – ANNUAL RELEASE

- 13.1 **Annual Release.** On the acceptance of a Payment under 7.1, the Lheidli T'enneh, on its own behalf, and on behalf of its Members, will be deemed to have released and forever discharged British Columbia and all Provincial Agencies from all Claims, in relation to:
- a) any legal obligations to consult and accommodate the Lheidli T'enneh with respect to Government Actions relating to the Project for the BC Fiscal Year to which that Payment applies; and
 - b) any demands or claims for capacity funding, revenue generation, revenue sharing and economic benefits, third party studies or payments of any kind with respect to the Project for that BC Fiscal Year.
- 13.2 **Rejection of a Payment.** Within one hundred and fifty (150) days after the end of a BC Fiscal Year, the Lheidli T'enneh may notify British Columbia, with reasons, if it is not prepared to accept a Payment under the terms set out in 13.1.
- 13.3 **Effect of Rejection of Payments.** On notice under 13.2:
- a) British Columbia may suspend the Payments to the Lheidli T'enneh under 12.1;
 - b) British Columbia may terminate this Agreement under 3.3; and

- c) the Lheidli T'enneh will be deemed to have fully released and discharged British Columbia from its obligations to make any Payments, including any suspended Payments.

ARTICLE 14 – CONSULTATION PROCESS

- 14.1 **Consultation.** Provincial Agencies will consult with the Lheidli T'enneh in regard to Government Actions proposed after the Effective Date in accordance with existing Provincial consultation policies and procedures.
- 14.2 **Mutual Obligations.** The Parties acknowledge that they each have obligations with respect to consultation in regard to Government Actions.

ARTICLE 15 – LEGAL CERTAINTY

- 15.1 **Releases and Acknowledgements by the Lheidli T'enneh.** The Lheidli T'enneh, on its own behalf, and on behalf of its Members:
 - (a) with respect to the Project and any Government Action relating to the Project before the Effective Date:
 - (i) agrees that British Columbia, including each Provincial Agency, has and will be deemed to have fulfilled any legal obligations to consult the Lheidli T'enneh; and
 - (ii) releases and forever discharges British Columbia, including each Provincial Agency, from all Claims in relation to any legal obligations to consult and accommodate the Lheidli T'enneh or any demands or claims for capacity funding, revenue generation, revenue sharing and economic benefits, third party studies or payments of any kind; and
 - b) agrees that the Payments under 7.1 constitute a component of any accommodation that may be required for any potential adverse impact of the Project on the Lheidli T'enneh's Aboriginal Interests.
- 15.2 **Further Assurances by the Lheidli T'enneh.** The Lheidli T'enneh, on its own behalf, and on behalf of its Members, agrees:
 - d) without restricting the generality of sections 13.1 and 15.1, not to bring or continue any action or other proceeding, in its own name or by representative action, against British Columbia which is inconsistent with sections 13.1 and 15.1; and

- b) not to challenge or impede the right of British Columbia or the Operator, or any of their respective employees, contractors, agents, representatives or invitees, to gain access to the Project and to carry out any activities associated with the development and operations of the Project.
- 15.3 **Assistance.** The Lheidli T'enneh will at British Columbia's request, cooperate with British Columbia and provide its support to British Columbia in seeking to resolve any action that might be taken by any Lheidli T'enneh Member that is inconsistent with this Agreement.

ARTICLE 16 - CONFIDENTIALITY

- 16.1 **Confidentiality of Provincial Information.** Subject to 16.2 and 16.3, the Lheidli T'enneh will keep confidential any information that British Columbia marks as "confidential", including Payment Statements and any information that relates to tax payments under the *Mineral Tax Act*, and will not disclose such information to any other person unless compelled to do otherwise by law.
- 16.2 **Disclosure to Lheidli T'enneh Advisors.** The Lheidli T'enneh may disclose confidential information to its advisors, including legal, financial, tax and other professional advisors, provided that those advisors agree in writing to keep the information confidential.
- 16.3 **Disclosure to Lheidli T'enneh Members.** The Lheidli T'enneh may disclose the amount of a Payment to its Members each year.
- 16.4 **Confidentiality under *Mineral Tax Act*.** Notwithstanding 16.1, British Columbia's obligation to provide a Payment Statement and other information is subject to the confidentiality provisions under the *Mineral Tax Act*.
- 16.5 The Lheidli T'enneh acknowledges that British Columbia has informed it of the confidentiality requirements of the *Mineral Tax Act*.

ARTICLE 17 – DISPUTE RESOLUTION

- 17.1 **Dispute.** For the purposes of this Agreement, "dispute":
- a) includes any disagreement relating to the implementation or interpretation of this Agreement; and
 - b) does not include any disagreement relating to:
 - i) any Government Action;

- ii) termination of this Agreement under 3.2 or 3.3;
 - iii) the amount of a Payment under 7.1; or
 - iv) consultation under 14.1.
- 17.2 Either Party may give the other Party notice of dispute within thirty (30) days of the matter which is in dispute arising. The notice of dispute will include a summary of the particulars of the dispute.
- 17.3 Within thirty (30) days of receipt of notice, the Parties will meet and will attempt to resolve the dispute in a co-operative, effective and timely manner through unassisted collaborative negotiation.
- 17.4 If the dispute is not resolved within thirty (30) days of meeting under 17.3, either Party may terminate this Agreement at any time without further notice.
- 17.5 The Parties may agree to vary any timeline under 17.2 to 17.4 and may choose other appropriate approaches to assist in reaching resolution of the dispute.

ARTICLE 18 - NOTICES

- 18.1 **Notices.** Any notice, document, statement or report contemplated under this Agreement must be in writing and will be deemed validly given to and received by addressee Party, if delivered personally, on the date of delivery, or, if delivered by mail, e-mail or facsimile copier, when received by the Parties at the addresses as follows:

if to British Columbia:

Ministry of Aboriginal Relations and Reconciliation
2957 Jutland Road
Victoria, BC V8T 5J9
Attention: Assistant Deputy Minister, Negotiation and Regional
Operations Division

Fax: (250) 387-6594

if to Lheidli T'enneh:

Lheidli T'enneh First Nation
1041 Whenun Road
Prince George, BC V2K 5X8
Attention: Chief and Council

Fax: (250) 963-6954

with a copy to:

DLA Piper (Canada) LLP
2800 – 666 Burrard Street
Vancouver, BC V6C 2Z7
Attention: Brian Hiebert

Fax: (604) 605-3558

- 18.2 **Change of Address.** Any Party may, from time to time, give notice to the other Parties of any change of address or facsimile number and after giving such notice, the address or facsimile number specified in the notice will, for purposes of this Agreement, supersede any previous address or facsimile number for the Party giving such notice.

ARTICLE 19 - GENERAL

- 19.1 **Entire Agreement.** This Agreement is the entire agreement between the Parties relating to British Columbia's obligation to consult, accommodate and justify any infringement with respect to any potential adverse impact on the Lheidli T'enneh's Aboriginal Interests resulting from the Project and, except as set out in this Agreement, British Columbia has not made any representation, warranty, collateral agreement or agreed to any condition, right or obligation affecting this Agreement.
- 19.2 **Validity of Agreement.** The Parties will not challenge the validity of any provision of this Agreement. If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of it to any person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.
- 19.3 Notwithstanding 19.2, if any part of Article 15 (Legal Certainty) is declared or held invalid, in addition to any other remedy it may have, British Columbia has the right to terminate this Agreement on ninety (90) days' notice to the Lheidli T'enneh.
- 19.4 **No Implied Waiver.** Any waiver of a term or breach of this Agreement is effective only if it is in writing and signed by the waiving Party and is not be a waiver of any other term or breach.
- 19.5 **No Admissions.** Nothing in this Agreement, in the negotiation of this Agreement, in any prior document leading to this Agreement, or in the Consultation Process will be construed as:

- (a) an admission of the validity of, or any fact or liability in relation to, any Claims relating to alleged past or future infringements of the Lheidli T'enneh's Aboriginal Interests;
- b) an acknowledgement of any obligation to provide any financial, economic or other compensation, including those provided in this Agreement, as part of British Columbia's obligation to consult and, as appropriate, accommodate in relation to the Project; or
- c) as in any way limiting the position the Parties may take in any negotiations or in any Proceeding.

19.6 **Not a Treaty.** This Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982* (Canada); or
- b) affirm, recognize, abrogate or derogate from any First Nation's Aboriginal Interests.

19.7 **No Fettering.** Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by British Columbia or its agencies of any statutory, prerogative, executive or legislative power or duty.

19.8 **Amendment.** No amendment of this Agreement is effective unless it is agreed to in writing and signed by the Parties.

19.9 **Assignment.** Lheidli T'enneh must not assign, either directly or indirectly, this Agreement or any right of Lheidli T'enneh under this Agreement without the prior written consent of British Columbia.

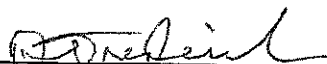
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19.10 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of British Columbia.


19.11 **Execution in Counterpart.** This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile transmission.

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

Signed on behalf of the Lheidli T'enneh by



Chief Dominic Frederick



Witness
Brian Hickent

Signed on behalf of Her Majesty the Queen In Right of the Province of British Columbia by as represented by the Minister of Aboriginal Relations and Reconciliation



Honourable Minister John Rustad



Witness
(Edmond Lem)

Schedule 1: Project Area

