

**KWADACHA NATION**  
**MACKENZIE PROJECT GRANT FUNDING AGREEMENT**  
(the “**Agreement**”)

This Agreement is dated effective March 31, 2023 (the “**Effective Date**”).

**BETWEEN:**

**HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,**  
as represented by the Minister of Indigenous Relations and Reconciliation

(the “**Province**”)

**AND:**

**KWADACHA NATION,** as represented by Chief and Council

(“**Kwadacha**”)

(Hereinafter referred to individually as a “**Party**”, and collectively as the “**Parties**”)

**WHEREAS:**

- A. Kwadacha has advised the Province of significant needs for economic growth, diversification, safe access, and job creation in order to overcome current community challenges and address health and safety for its members; and
- B. The Province wishes to support healthy communities and members, economic growth, diversification, accessibility, safe access and job creation in the Kwadacha community in a way that also benefits local businesses in forestry and construction and fosters resiliency to offset impacts from recent and anticipated curtailments in the forestry sector.

**NOW THEREFORE** in consideration of the promises and mutual covenants and agreements hereinafter set out, the Parties hereby agree as follows:

Term

- 1. The term of this Agreement commences on the Effective Date and ends on the earlier of: (i) March 31, 2031; or (ii) the date on which this Agreement is terminated in accordance with Section 21 (the “**Term**”).

Funds

- 2. The Province will pay to Kwadacha \$9,000,000 as soon as practicable after the Effective Date (the “**Funds**”).

3. Notwithstanding any other provision of this Agreement, in no event will the Province be or become obligated to pay to Kwadacha pursuant to this Agreement an amount that exceeds the Funds.

#### Use of the Funds

4. Kwadacha will use the Funds solely for the following purposes:
  - a. enhancing member, public and industry access to the Kwadacha community;
  - b. promoting and advancing new and expanded opportunities for the Kwadacha community and Kwadacha members in the forestry and construction sectors; and
  - c. addressing community accessibility and year-round access to the Kwadacha community,  
  
(the “**Project**”).
5. For greater certainty, Kwadacha may use the Funds for expenditures necessary to:
  - a. develop a strategic plan for the highest and best use of the Funds and clearly define measurable outcomes and results expected to be realized by the Project (the “**Strategic Plan**”);
  - b. upgrade and maintain critical community infrastructure essential to access the Kwadacha community, including support for land- and air-based connectivity and transportation between the community and Mackenzie and/or Prince George;
  - c. improve and grow Kwadacha capacity to deliver the Project;
  - d. acquire, maintain or repair machinery and equipment necessary for carrying out the Project;
  - e. obtain legal advice; and
  - f. cover other reasonable costs associated with the Project.
6. Kwadacha will manage the Project based on a comprehensive budget and schedule, which includes project milestones with specific estimated costs to reach each milestone (the “**Project Budget**”).
7. Without limiting Section 21 or any other right of the Province in law or in equity, including pursuant to section 37 of the *Financial Administration Act*, R.S.B.C. 1996, c.138 (“**FAA**”), the Province may, within 120 days of the end of the Term, require Kwadacha to pay to the Province any amount of the Funds which Kwadacha has used in contravention of Sections 4, 5 or 6.

8. Kwadacha must repay to the Province, within 60 days of the end of the Term, any portion of the Funds that has not been spent in connection with the Project as of the end of the Term, unless otherwise agreed in writing by the Province.
9. Kwadacha is solely responsible for engaging and reaching any agreements that may be necessary with Indigenous groups, industry, stakeholders and other third parties for the purposes of undertaking and completing the Project.

### Reporting

10. Kwadacha will prepare and provide the Province with the following reports on the Project:
  - a. the Strategic Plan, including the Project Budget, no later than June 30, 2023;
  - b. bi-annual reports describing progress on the outcomes and results identified in the Strategic Plan on September 30 and March 31 of each fiscal year during the Term, except for March 31, 2023, or until the Funds are fully expended; and
  - c. a final report describing progress on the outcomes and results identified in the Strategic Plan within six months of the full expenditure of the Funds,

(collectively, the “**Reports**”).
11. Kwadacha will not include any information in the Reports that constitutes "personal information" within the meaning of the *Freedom of Information and Protection of Privacy Act* (British Columbia).

### Audit

12. Kwadacha will establish and maintain, for a period of not less than seven years from the end of the Term, accurate books of account and records, in accordance with generally accepted accounting principles, in relation to the Project, including but not limited to: all expenditures and revenues, all contracts and agreements, invoices, receipts and other records relating to Kwadacha's use and expenditure of the Funds.
13. Kwadacha will grant the Province and its agents access, at any reasonable time and on reasonable notice to Kwadacha, to Kwadacha's premises to inspect and, at the Province's discretion, copy any of the records referenced under Section 12. Kwadacha will provide reasonable assistance to the Province to allow the Province to exercise its rights under this section.

### Public Statements

14. Neither Party will make any public statements or communications about the Funds or otherwise in connection with this Agreement or the Project without the other Party's prior written approval, which may be withheld by either Party at its discretion.
15. The Party requesting the other Party's consent to make a public statement pursuant to Section 14 will ensure that the other Party:

- a. is provided with all relevant materials in advance of any approval referenced in Section 14;
  - b. is given a reasonable opportunity to review such materials; and
  - c. gives its prior approval regarding the content and timing of all such public communications.
16. Notwithstanding Sections 14 and 15, Kwadacha will acknowledge the Funds in statements made to the public and third party beneficiaries with the following statement:

*“We gratefully acknowledge the financial support of the Province of British Columbia through the Ministry of Indigenous Relations and Reconciliation.”*

#### Representations or Warranties

17. Kwadacha represents and warrants to the Province, with the intent and understanding that the Province will rely on them in entering into this Agreement, that:
- a. it has the legal power, capacity and authority to enter into this Agreement;
  - b. this Agreement is a valid and binding obligation upon it; and
  - c. the Reports will be true and accurate on the date of delivery.
18. The Province represents and warrants to Kwadacha, with the intent and understanding that Kwadacha will rely on them in entering into this Agreement, that it has the authority to enter into this Agreement and that this Agreement is a valid and binding obligation upon the Province.
19. Kwadacha acknowledges and agrees that the Province has not provided any representation or warranty of any kind concerning the Project, excluding Section 18 above.

#### Default

20. Any of the following will constitute an event of default under this Agreement (an “**Event of Default**”):
- a. the Province fails to comply with Section 2;
  - b. Kwadacha fails to comply with Sections 4, 5, or 6; and
  - c. any representation or warranty made by a Party in this Agreement is untrue or inaccurate at the time it was made.
21. If an Event of Default occurs the non-defaulting Party may, at its discretion and without limitation:

- a. terminate this Agreement by written notice if the Event of Default cannot be cured;
- b. take the following steps if the Event of Default can be cured:
  - i. request by written notice to the defaulting Party that the Event of Default be cured within a time period specified in the notice;
  - ii. the defaulting Party may provide the other Party written notice of any such cure before the end of the time period specified in the notice and include reasonable detail of how the Event of Default has been cured; and
  - iii. if the defaulting Party fails to cure the Event of Default within the time period specified in the notice to the other Party's satisfaction, that Party may terminate the Agreement with written notice to the defaulting Party; and
- c. pursue any remedy or take any action available to it at law or in equity.

#### Indemnity

22. Kwadacha will indemnify and save harmless the Province and its employees and agents from and against any and all losses, claims, damages, actions, causes of action, costs and expenses, arising out of, resulting from, or in connection with any claim by a third party, that the Province or any of its employees or agents may sustain, incur, suffer or be put to at any time during or following the Term where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of (a) any breach or failure by Kwadacha to perform or fulfil any covenant, condition, or obligation of Kwadacha contained in this Agreement; or (b) any act or omission by Kwadacha or by any of Kwadacha's agents, employees, officers, directors or subcontractors in connection with this Agreement.

#### Dispute Resolution

23. In the event of any dispute between the Parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the Parties otherwise agree in writing:
- a. the Parties must initially attempt to resolve the dispute through collaborative negotiation; and
  - b. if the dispute is not resolved through collaborative negotiation within 15 business days of the dispute arising, the Parties may then attempt to resolve the dispute through mediation or by arbitration.
24. Unless the Parties otherwise agree in writing, the Parties must share equally the costs of a mediation under Section 23(b) other than those costs relating to the production of expert evidence or representation by counsel.

## Aboriginal and Treaty Rights Matters

25. This Agreement:

- a. does not constitute a treaty or land claim agreement within the meaning of Sections 25 and 35 of the *Constitution Act, 1982*;
- b. does not define, limit, amend, abrogate or derogate from any of Kwadacha's Aboriginal rights, including Aboriginal title, recognized and affirmed under section 35 of the *Constitution Act, 1982* ("**Kwadacha's Rights**"); and
- c. does not constitute an admission, prejudice or restrict the position that any Party may advance in any processes, legal actions, proceedings or negotiations in respect of the nature, scope and content of Kwadacha's Rights.

26. For clarity, the Funds do not constitute a contribution to any advance settlement payment by the Province in respect of any of Kwadacha's Rights.

27. Nothing in this Agreement, nor the provision of any funds under this Agreement, will be construed as:

- a. an admission by the Province that any decision of the Province or its agents or officials has or will result in an infringement of any of Kwadacha's Rights;
- b. an admission by the Province that it has an obligation to provide financial, economic, or other accommodation or compensation for any infringement of any of Kwadacha's Rights or as part of the obligation of the Province to consult and, as appropriate, accommodate.

## Confidentiality

28. The Parties will treat as confidential all information and material supplied to or obtained by the Parties, or any third party, as a result of this Agreement and will not, without the prior written consent of the other Parties, except as required by applicable law, permit its disclosure except to the extent that such disclosure is necessary to fulfill this Agreement.

## Notices

29. Any notice, document, statement, report or demand pursuant to this Agreement must be in writing and may be delivered by courier, by personal delivery or by electronic transmission (including by facsimile or email) from either Party as follows:

- a. if to the Province:

Negotiations and Regional Operations Division  
Ministry of Indigenous Relations and Reconciliation  
PO Box 9100 Stn Prov Govt  
Victoria, British Columbia V8W 9B1  
Email: cory.waters@gov.bc.ca  
Attention: Cory Waters - Chief Negotiator, North Area

- b. and if to Kwadacha:

Dennis Sterritt  
497 3rd Ave  
Prince George, BC V2L 3C1  
E-mail: dsterritt@kwadacha.com  
Attention: Executive Director

Any such communication will be conclusively deemed validly given to and received by the intended recipient on the day on which it was so delivered or transmitted unless received after 5:00 pm (local time in the place of receipt) in which case it will be deemed to be given on the next business day.

30. Either Party may, from time to time, give written notice to the other party of any change of address, e-mail or facsimile number of the party giving such notice and after the giving of such notice, the address, email or facsimile number therein specified will, for purposes of this Agreement be conclusively deemed to be the address or facsimile number of the Party giving such notice.

#### Appropriation

31. Notwithstanding any other provision of this Agreement, the payment of money by the Province to Kwadacha pursuant to this Agreement is subject to:
- a. there being sufficient monies available in an appropriation, as defined in the FAA, to enable the Province in any fiscal year or part thereof when any such payment may be required, to make that payment; and
  - b. Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in Section 31(a).

#### Relationship

32. No partnership joint venture, agency or other legal entity will be created by, or will be deemed to be created by, this Agreement or any actions of the Parties pursuant to this Agreement.
33. Kwadacha will not be a dependent contractor or employee of the Province under this Agreement.
34. Kwadacha will not, in any manner whatsoever, commit or purport to commit the Province to the payment of money to any person, firm or corporation in connection with this Agreement

#### General

35. Sections 7 and 8 will survive for 121 days after the last day of the end of the Term.
36. Sections 22 and 28 will survive any expiration or sooner termination of this Agreement.

37. No term or condition of this Agreement, and no breach by one Party of any such term or condition, will be deemed to have been waived unless such waiver is in writing and signed by the other Party.
38. The written waiver by one Party of any breach by the other Party of any term or condition of this Agreement will not be deemed a waiver of such term or condition or of any subsequent breach by the other Party of the same or any other term or condition of this Agreement.
39. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement.
40. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.
41. The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of this Agreement.
42. Any reference to a statute in this Agreement, whether or not that statute has been defined, includes and is a reference to such statute and to the regulations made pursuant to it, with all amendments in force from time to time, and to any statutes or regulations that may be passed that have the effect of supplementing or superseding such statutes or regulations.
43. This Agreement will be interpreted and construed with such changes in number and gender as the context so requires.
44. If any provision in this Agreement is determined to be invalid, illegal or unenforceable, in whole or in part, it will be severable from this Agreement and the remaining provisions will not be affected and will continue in full force and effect to the extent permitted by law.
45. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the Province of any statutory power or duty.
46. Neither Party will, without the prior written consent of the other Party, assign, either directly or indirectly, this Agreement or any right of it has under this Agreement.
47. This Agreement will enure to the benefit of, and will be binding upon, the Province and its assigns and Kwadacha and its successors and permitted assigns.
48. Any amendments to this Agreement will be made by the agreement of the Parties in writing.
49. Nothing in this Agreement operates as a consent, permit, licence, approval or authorization by the Province or any Ministry or Branch thereof to or for any actions or activities by Kwadacha or any of its affiliates related to the Project that by statute Kwadacha is required to obtain.



50. Nothing in this Agreement shall be construed as creating a future funding obligation on the part of the Province to Kwadacha in relation to the Project.
51. This Agreement may be entered into by each party signing a separate copy of this Agreement and delivering it to the other party. When taken together, they will be treated as one and the same agreement. Delivery of a signature page by electronic means (including by facsimile or in PDF format) will be as valid and effective as delivery of an original. A party that delivers a signature page by electronic means agrees to provide an original signed counterpart if requested to do so by the other party.

**IN WITNESS WHEREOF** the Parties have executed this Agreement.

**PROVINCE OF BRITISH COLUMBIA**  
as represented by the Minister of  
Indigenous Relations and Reconciliation



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Honourable Murray Rankin  
Minister of Indigenous Relations and Reconciliation

Executed this 31 day of March, 2023

**KWADACHA**, as represented by Chief and Council



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Chief  
Kwadacha Nation

Executed this 30 day of March, 2023