

**Tahltan Central Government & Province of British Columbia**  
**Terms of Reference<sup>1</sup>**  
**Klappan Decision-Making and Management Board**

**Context**

The Klappan area has deep and unique social, cultural, heritage, environmental and spiritual values for the Tahltan people and is an important place for British Columbians for recreational, environmental and economic values. Over the last two decades, the Tahltan Central Government (the “Tahltan”) and the Province of British Columbia (the “Province”) have implemented various initiatives and agreements to resolve tensions on the land base and bring certainty to how this unique area of the Province can be managed for future generations.

From 2013 through 2015, the Tahltan and the Province worked together to complete the Klappan Strategic Initiative. This initiative required the Tahltan and the Province to develop a technical report and options around long-term land use planning in the Klappan area. That work has been completed through a process of joint decision making and the result is set out in Appendix I – The Klappan Plan.

The Klappan Plan proposes land use zones in the Klappan area that set out the boundaries and use of those zones. To provide a decision-making structure that will allow the zoning proposed in the Klappan Plan to be implemented, the Tahltan and the Province agree to establish the Klappan Decision-Making and Management Board (the “Board”).

**Purpose and Responsibilities of the Board**

The Board is being established because the Tahltan and the Province are committed to developing an innovative decision making and management model in the Klappan area that respects and acknowledges the existence of Tahltan Title and Rights, advances reconciliation between Tahltan and the Crown, advances and builds upon previous collaborative work including the implementation of the Klappan Plan. In addition, the Parties intend to see the Board operate in a way that is efficient and effective.

The Tahltan and the Province recognize that developing an innovative decision making and management model in the Klappan area is one of many steps in advancing reconciliation efforts. The Tahltan and the Province reached a Shared Decision Making Agreement in 2013, and agreed through a Memorandum of Agreement (2014) to further develop decision-making processes and structures. The Tahltan and the Province are developing new processes for decision making in the Klappan Area in accordance with

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<sup>1</sup> These Terms of Reference are not intended to be interpreted in a manner that would affect or fetter the discretion of any decision-making authority.

these TOR. Parallel work is also underway to scope and seek to negotiate a reconciliation agreement between the Tahltan and the Province - the work of the Board will inform those negotiations.

The Board has the following responsibilities:

### **1. Decision Making Process Development and Land and Resource Measures**

Within six (6) months of establishment, the Board will develop consensus<sup>2</sup> recommendations for Tahltan leadership and Provincial decision makers on the following:

- Land and resource designations, legal objectives, and policy measures that would bring effect to the zones set out in the Klappan Plan;
- Processes for decision-making for each of the zones set out in the Klappan Plan, including a pilot for the Sacred Headwaters Zone A which is addressed below;
- A pilot decision-making and joint-management model for the Sacred Headwaters Zone A of the Klappan Plan that achieves the goal of ensuring that conflict between Tahltan and BC is avoided in the zone by maintaining alignment between the Parties. It is expected this model will advance an approach to deep collaboration that is unique, innovative and specific to the Tahltan – Province relationship;
- An analysis of issues to be addressed regarding the Coal Licence Purchase Agreement area;
- Community, public and stakeholder engagement practices and processes to meaningfully support recommendations to be made by the Board.

### **2. Wildlife and Public Access in the Klappan Area**

Within twelve (12) months of establishment, the Board will develop specific recommendations for implementation of priority measures regarding the zones and values in the Klappan Plan. The Parties have specifically identified the need for the implementation of recommendations that will address matters related to wildlife management and public access as key priorities. The Province and Tahltan have agreed to a set of immediate measures set out in Appendix II that will be delivered through the Three Nations Wildlife working group or bi-laterally depending on the specific measure.

Short, medium and long term measures related to wildlife and public access in the Klappan area and the broader Tahltan territory will be discussed in the parallel reconciliation agreement negotiations.

### **3. Interim Decision-Making**

While recommendations noted in paragraphs 1 and 2 are being developed and finalized, the Board will review recommendations on any proposed land and resource decisions in the Klappan Area made in accordance with the Shared Decision Making Agreement or other regulatory processes, prior to those

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<sup>2</sup> In the unlikely event the Parties are unable to reach consensus, reasonable efforts will be made to resolve the issues through the spirit and intent of this TOR, its Guiding Principles and the Dispute and Conflict Prevention section.

recommendations being provided to decision-makers. The Board will consider whether they meet the intent of the Klappan Plan, are consistent with the on-going collaborative work between the Parties regarding the Klappan, and any other applicable legal requirements.

The Board will seek to make consensus recommendations to Tahltan and Provincial decision makers on meeting the intent of the Klappan Plan. In seeking to develop consensus recommendations the Board shall:

- Prioritize the overarching goal that recommendations will effectively address the respective interests of both the Tahltan and British Columbians;
- Make good faith efforts to avoid conflict between the Tahltan, the Province, and where applicable, stakeholders, in the Klappan area;
- Consider and seek to ensure that recommendations are informed by the Klappan Plan and the work being done under paragraphs 1 and 2 above;
- Seek regular and early input from senior officials to ensure that the development of recommendations has the highest possibility of resulting in aligned decisions from Tahltan and Provincial decision-makers;
- Where consensus recommendations are not possible, ensure that decision-makers are provided with a representation of Tahltan and Provincial perspectives to inform their respective decision-making processes;
- Meaningfully consider and address Tahltan community engagement led by Tahltan regarding any potential recommendations; and
- Consider any consultation and engagement with potentially affected First Nations, the Nisga'a Nation, stakeholders, and British Columbians regarding any potential recommendations.

#### **4. Long Term Decision-Making, Planning, and Management**

Once the Parties have confirmed agreement on recommendations arrived at by the Board under paragraphs 1, 2 and 3 above, the Board will be responsible for their implementation within the scope of its responsibilities. This includes clear roles and responsibilities assigned by the Parties, overseeing effectiveness and applying a continuous improvement lens to the work.

The Board will, from time to time, develop and make recommendations to the Parties for their consideration on additional pilot projects and management planning initiatives to be undertaken.

#### **Guiding Principles**

In fulfilling its responsibilities, the Parties and the Board shall be guided by the principles that respective officials shall:

- Act in an open, good faith, honest and transparent manner in all engagement, discussions, and work;
- Apply a solutions-oriented approach that aims to achieve common outcomes to avoid conflict;

- Act in a manner consistent with the patterns of deep collaboration that the Tahltan and the Province have been applying for a number of years in the Klappan area;
- Ensure that the responsibilities of the Board set out in paragraphs 1 through 4 above are dealt with in a timely manner;
- Strengthen a trust-based relationship through deeper knowledge and understanding of Tahltan Title and Rights, and cultural, environmental, social, spiritual, and economic values in the Klappan area;
- Maintain a shared vision for the Klappan area, ensuring key values set out in the Klappan Plan are sustained for the Tahltan people and all British Columbians for both current and future generations;
- Ensure that clear direction and guidance is sought and received from the Parties that facilitates the timely, coherent and consistent functioning of the Board to allow it to succeed in meeting its responsibilities;
- Seek efficiencies in design and delivery so that recommendations are affordable to implement for both Parties; and
- Ensure that the processes followed do not adversely affect or interfere with the decision making authority of either party.

### **Membership**

The Board will be comprised of three (3) representatives from Tahltan, and three (3) representatives from BC. One representative from each Party will be a co-chair of the Board. At least one of the representatives of each Party will be a senior official who has clear direction and authority to make decisions as needed to ensure the regular and successful work of the Board.

The Board will be supported by a joint technical team that will complete any work assigned by the Board to assist it to meet its responsibilities.

### **Dispute and Conflict Prevention**

The Parties will also each appoint a senior official who is not a Board member who may be called on by the Board to assist it in addressing or resolving matters as they arise, and to help ensure challenging issues find solutions early. It is expected the Board will refer matters to the senior officials prior to elevating conflicts or challenges to their respective leadership for higher level dispute resolution.

### **Workplan**

Within sixty (60) days of the execution of this Terms of Reference, the Board will develop a work plan to guide the work set out in this Terms of Reference. The work plan will include the specific tasks, timelines and accountabilities. The work plan will be updated regularly so that the document can serve the dual purpose of a progress report.

The work plan will be updated as required by the Parties to ensure that the Board meets, and is able to report on progress, with respect to its obligations under this Terms of Reference.

**Reviews**

On an annual basis, the Parties will conduct a review of the Terms of Reference, the work plan, and progress achieved. The goal of the reviews will be to ensure that the Board is continuing to meet the goals and interests of the Parties, learning from the work that has been done, and adapting as needed to emerging needs and contexts.

The functions of the Board and its overall success in fulfilling its role and responsibilities will be considered as part of the reconciliation agreement negotiations. As such, its role, function and responsibilities may be further defined within the context of those negotiations.


**Funding**

Capacity funding is in place between the Province and the Tahltan through the Shared Decision Making Agreement (2013). If capacity dollars beyond what is available through the Shared Decision Making Agreement is necessary to implement this Terms of Reference, the Board will develop a budget and request funding through a separate mandate request to the Parties.

Other elements of the work plan and recommendations for implementation will be consistent with reasonably available budgets from both parties. If additional funds are agreed by the parties to be required, they will jointly seek new funding opportunities for those additional works.

Approved and signed on this 29 day of March, 2017.

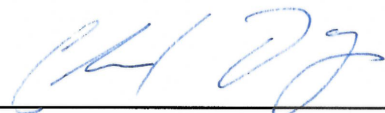
**Representatives for Tahltan**

  
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Chief Marie Quock  
Iskut Band Council

March 29, 2017  
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Date

  
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Chief Rick McLean  
Tahltan Band Council

March 29, 2017  
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Date

  
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President Chad Day  
Tahltan Central Government

March 29, 2017  
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Date

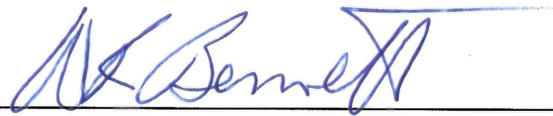
HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by



Honourable Steve Thomson  
Minister of Forests, Lands and  
Natural Resource Operations

March 27, 2017


Date



Honourable Bill Bennett  
Minister of Energy and Mines and  
Minister Responsible for Core Review

March 29, 2017

Date



Honourable Mary Polak  
Minister of Environment

March 29, 2017

Date



Honourable John Rustad  
Minister of Aboriginal Relations and Reconciliation

March 29, 2017

Date

**Appendix I: Klappan Plan**

**Appendix II: Wildlife Side Letter**