

**FOREST & RANGE
REVENUE SHARING AGREEMENT (FRSA)**

The date of this Agreement is the Effective Date.

BETWEEN:

TLA'AMIN NATION, as represented by the Tla'amin Government
(“Tla'amin Nation”)

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Indigenous Relations and Reconciliation

(“British Columbia”)

WHEREAS:

- A. The Tla'amin Nation, British Columbia and Canada entered into the Tla'amin Final Agreement within the meaning of s. 35 of the *Constitution Act*;
- B. The Tla'amin Final Agreement, which came into effect on April 5, 2016, recognizes and affirms Tla'amin Nation Section 35 Rights;
- C. Before the effective date of the Tla'amin Final Agreement, the Parties entered into a Forest Consultation and Revenue Sharing Agreement (FCRSA) dated March 5, 2015 which terminated on the effective date of the Tla'amin Final Agreement;
- D. The Parties wish to continue the funding under the terminated FCRSA at the same funding level, retroactive to its termination; and
- E. The Parties have entered into this Agreement pursuant to the foregoing commitment and the Reasonable Opportunity Agreement in order to establish a consultation process to achieve stability and greater certainty for forest and range resource development within the Tla'amin Wildlife and Migratory Birds Harvest Area and enhance the well-being of Tla'amin Citizens.

NOW THEREFORE the parties agree as follows:

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

- 1.1 Final Agreement.** Words and expressions not defined in this Agreement but defined in the Tla'amin Final Agreement have the meanings ascribed to them in the Tla'amin Final Agreement.

1.2 Other Definitions. In this 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;

“**Effective Date**” means the date this Agreement is fully executed by both Parties;

“**First Fiscal Year**” means the BC Fiscal Year in which the Effective Date falls;

“**Minister**” means the Minister of Forests, Lands and Natural Resource Operations having the responsibility, from time to time, for the exercise of powers in respect of forests and range matters;

“**Parties**” means the Tla’amin Nation and British Columbia and “**Party**” means either one of them;

“**Payment Account**” means an account in the name of the Tla’amin Nation at a Canadian financial institution into which direct deposits can be made by British Columbia for the purpose of receiving monies payable to the Tla’amin Nation by British Columbia under this Agreement;

“**Revenue Sharing Contribution**” means each payment to be made by British Columbia to Tla’amin Nation under Article 3;

“**Term**” means the term of this Agreement set out in section 14.1; and

“**Tla’amin Nation Reasonable Opportunity Agreement**” means the agreement entered into by the Parties on the effective date of the Tla’amin Final Agreement to establish a process to evaluate the impact of authorized uses and dispositions of provincial Crown land on Tla’amin Nation Section 35 Rights;

1.3 Appendices. The following Appendices and Schedule are attached to and form part of this Agreement:

- Appendix A - Map of Wildlife and Migratory Birds Harvest Area
- Appendix B - Statement of Community Priorities (Format)
- Appendix C - Statement of Community Priorities Annual Report (Format)

ARTICLE 2 - PURPOSE AND OBJECTIVES

2.1 Purpose and Objectives. The purposes and objectives of this Agreement are to:

- (a) recognise the Tla’amin Nation Reasonable Opportunity Agreement as the mechanism by which the Parties will meet their respective consultation obligations in relation to potential adverse impacts of proposed forest and range resource development activities on Tla’amin Section 35 Rights within the Tla’amin Nation Wildlife and Migratory Birds Harvest Area;

- (b) provide a Revenue Sharing Contribution to support the Tla'amin Nation's capacity to participate in the consultation process under the Reasonable Opportunity Agreement, and to enhance the social, economic and cultural well-being of Tla'amin Citizens; and
- (c) assist the Parties in achieving stability and greater certainty for forest and range resource development on Crown lands within the Tla'amin Wildlife and Migratory Birds Harvest Area.

ARTICLE 3 - REVENUE SHARING CONTRIBUTIONS

- 3.1 BC Fiscal Year 2016/17 Payment.** British Columbia will make a Revenue Sharing Contribution for the period from April 5, 2016 to March 31, 2017 which will be payable as a lump sum amount with the first instalment of the annual Revenue Sharing Contribution under 3.3.
- 3.2 Revenue Sharing Contribution.** Subject to 4.2 and Articles 5 and 13, the Revenue Sharing Contribution is to be \$451,110 annually for the term of the agreement which will be paid in two equal instalments, the first to be made on or before September 30th and the second to be made on or before March 31st.
- 3.3 Timing of Payments.** Notwithstanding 3.2, the first instalment of the annual Revenue Sharing Contribution for the First Fiscal Year will be paid on or before September 30, 2017 if the Effective Date is prior to July 31st or on or before March 31, 2018 if the Effective Date is after July 31st, 2017.
- 3.4 Prorated Amounts.** For the purposes of determining the amount of the Revenue Sharing Contribution for partial BC Fiscal Years, the amount will be prorated to the month in which the Effective Date of this Agreement falls and the month in which this Agreement expires or is terminated by either Party under Article 13.

ARTICLE 4 - DELIVERY OF PAYMENTS

- 4.1 Payment Account.** The Tla'amin Nation will:
 - (a) establish and, throughout the Term, maintain a Payment Account; and
 - (b) provide to British Columbia sufficient address and account information respecting the Payment Account to enable British Columbia to make direct deposit payments to the Payment Account.
- 4.2 Requirement to Make Payment.** British Columbia may withhold a Revenue Sharing Contribution it would otherwise be required to make until the Tla'amin Nation has met the requirements under 4.1.

ARTICLE 5 - CONDITIONS OF PAYMENT

- 5.1 Reporting and compliance requirements.** For each BC Fiscal Year following the First Fiscal Year of the Term, the requirement to make a Revenue Sharing Contribution is subject to:
- (a) the Tla'amin Nation having published all of the necessary statements and reports before the applicable dates under Article 8;
 - (b) the Tla'amin Nation being in all other respects in compliance with the terms of this Agreement; and
 - (c) Revenue Sharing Contributions not having been suspended under Article 13.
- 5.2. Appropriation.** Notwithstanding any other provisions of this Agreement, the payment of money by British Columbia to the Tla'amin Nation under this Agreement 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 BC Fiscal Year or part thereof when any such payment may be required, to make that payment; and
 - (b) Treasury Board not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in 5.2(a).

ARTICLE 6 - CONSULTATION

- 6.1 Consultation Obligations.** British Columbia will address potential adverse impacts of proposed forest and range resource development activities and decision making on the Tla'amin Nation's reasonable opportunity to harvest Wildlife and Migratory Birds and to gather Plants within Tla'amin Nation Wildlife and Migratory Birds Harvest Area in accordance with the process set out in the Tla'amin Nation Reasonable Opportunity Agreement.
- 6.2 Other Consultation Agreements.** Notwithstanding 6.1, the Parties acknowledge and agree that this Agreement:
- (a) supersedes the terminated FCRSA; and
 - (b) has been entered into pursuant to, and addresses the objectives of, the Tla'amin Nation Reasonable Opportunity Agreement as they relate to forest and range resource development activities and decision making.

ARTICLE 7 - ACKNOWLEDGEMENTS

- 7.1 Compliance with Consultation Process.** The Tla'amin Nation agrees that if the consultation process set out in the Tla'amin Nation Reasonable Opportunity Agreement is followed, British Columbia has adequately consulted the Tla'amin Nation with respect to potential adverse impacts of proposed forest and range

resource development activities and decision making on Tla'amin Nation Section 35 Rights within the Tla'amin Nation Wildlife and Migratory Birds Harvest Area.

- 7.2 Revenue Sharing Contributions.** The Tla'amin Nation agrees that the Revenue Sharing Contributions made under this Agreement constitute an accommodation for any potential adverse impacts of proposed forest and range resource development activities and decision making on Tla'amin Nation Section 35 Rights within the Tla'amin Nation Wildlife and Migratory Birds Harvest Area.

ARTICLE 8 - COMMUNITY PRIORITIES, ANNUAL REPORTS and RECORDS

- 8.1 Statement of Community Priorities.** The Tla'amin Nation will within 60 days of the Effective Date, based on the Revenue Sharing Contribution, prepare a statement of community priorities for the Term substantially in the form set out in Appendix D that outlines activities it intends to fund to help achieve the socio-economic objectives referred to in 2.1(b).
- 8.2. Annual Report.** Within 90 days of the end of each BC Fiscal Year, the Tla'amin Nation will prepare an annual report, substantially in the form set out in Appendix E, identifying all expenditures made from the Payment Account since the date of the last such report or, in the case of the first such report, since the Effective Date of this Agreement, and confirming that, aside from reasonable administrative expenses, all such expenditures were made in furtherance of the purposes and objectives referred to in 2.1.
- 8.3. Publication.** The statement of community priorities and annual report referred to in 8.1 and 8.2 will be published by the Tla'amin Nation in a manner that can reasonably be expected to bring the information to the attention of its communities and the public within 90 days of the end of each BC Fiscal Year.
- 8.4. Delivery of Report.** The annual report referred to in 8.2 will be provided to British Columbia within 120 days of the end of each BC Fiscal Year.
- 8.5 Audit.** British Columbia may, at its sole discretion and at the sole expense of the Tla'amin Nation require an audit of the expenditures made from the Payment Account to determine that all such expenditures were made in furtherance of the purposes and objectives referred to in 2.1.
- 8.6. Continuing Obligations.** Notwithstanding the termination or expiry of this Agreement, the provisions of Article 8 will continue to apply for 120 days after First Nation receives the final Revenue Sharing Contribution from British Columbia.

ARTICLE 9 - SECURITY DEPOSITS

- 9.1 Silviculture Deposit.** In consideration of the Tla'amin Nation entering into this Agreement, British Columbia may choose not to require a silviculture deposit pertaining to a licence entered into as a result of a direct award tenure agreement

between the Tla'amin Nation, or a legal entity controlled by the Tla'amin Nation, and British Columbia.

ARTICLE 10 – SET OFF

10.1 Set off. In addition to any other right under this Agreement, British Columbia may set off against any payment that the Tla'amin Nation is entitled to receive under this Agreement, any unfulfilled financial obligations of the Tla'amin Nation to British Columbia arising from a licence entered into as a result of a direct award tenure agreement between the Tla'amin Nation or a legal entity controlled by the Tla'amin Nation, and British Columbia.

10.2 Notice. British Columbia will notify the Tla'amin Nation of the amount of the unfulfilled financial obligation before it exercises its right of set off under section 10.1.

ARTICLE 11 - ASSISTANCE

11.1 Non-interference. The Tla'amin Nation agrees it will not support or participate in any acts that frustrate, delay, stop or otherwise physically impede or interfere with provincially authorized forest or range activities.

11.2 Cooperation and Support. The Tla'amin Nation will promptly and fully cooperate with and provide its support to British Columbia in seeking to resolve any action that might be taken by a member of the Tla'amin Nation that is inconsistent with this Agreement.

ARTICLE 12 - DISPUTE RESOLUTION

12.1 Dispute Resolution Process. If a dispute arises between British Columbia and the Tla'amin Nation regarding the interpretation of a provision of this Agreement:

- (a) the duly appointed representatives of the Parties will meet as soon as practicable to attempt to resolve the dispute;
- (b) if the Parties' representatives are unable to resolve the dispute, the issue will be referred to more senior representatives of British Columbia and the Tla'amin Nation; and
- (c) if the dispute cannot be resolved by the Parties directly under 12.1(a) or (b), the Parties may agree to other appropriate approaches to assist in reaching resolution of the issue.

ARTICLE 13 - SUSPENSION AND TERMINATION

13.1 Suspension of Revenue Sharing Contributions. In addition to any other right or remedy British Columbia may have under this Agreement or at law, British Columbia may, on 15 days' notice to the Tla'amin Nation, with reasons, suspend

further Revenue Sharing Contributions under this Agreement where the Tla'amin Nation:

- (a) is in material breach of its obligations under Articles 6, 8 or 11 or the Reasonable Opportunity Agreement;
- (b) challenges or supports a challenge to forest and range resource development activities and decision making by way of legal proceedings or otherwise, on the basis that:
 - (i) contrary to 7.2, a Revenue Sharing Contribution provided for under this Agreement does not constitute an accommodation for adverse impacts of such decisions or activities on Tla'amin Section 35 Rights; or
 - (ii) contrary to 7.1, British Columbia has not adequately consulted with the Tla'amin Nation regarding the potential adverse impacts of such decisions or activities on Tla'amin Section 35 Rights; or
- (c) has outstanding unfulfilled financial obligations to British Columbia arising from a licence issued further to an agreement between the Tla'amin Nation and British Columbia.

13.2 Termination following Suspension. The Parties will meet and attempt to resolve the reason for the suspension within 60 days of the Tla'amin Nation's receipt of notice under 13.1, failing which British Columbia may terminate this Agreement at any time on 15 days' notice to the Tla'amin Nation. For greater certainty, 13.3 does not apply to termination under this section.

13.3 Termination by Either Party. This Agreement may be terminated by either Party on 60 days' notice to the other Party, or on a date mutually agreed on by the Parties, provided that, prior to the end of the notice period, the Parties will meet and attempt to resolve any issue that may have given rise to the termination notice. In the event the Parties have not met within the notice period, the notice period will not be extended and this Agreement will terminate unless otherwise agreed by the Parties.

13.4 Effect of Termination. Where this Agreement is terminated under Article 13, the Revenue Sharing Contribution for the BC Fiscal Year in which termination becomes effective will be prorated to the termination date.

ARTICLE 14 - TERM

14.1 Term. The term of this Agreement will be 3 years commencing on the Effective Date unless it is extended under 14.2 or terminated under Article 13.

14.2 Extension of Term. At least two months before the third anniversary of the Effective Date, the Parties will evaluate the effectiveness of this Agreement and decide whether to extend the Term.

14.3 Terms of Extension. Where the Parties agree to extend the Term they will negotiate and attempt to reach agreement on the terms of the extension.

ARTICLE 15 – REPRESENTATIONS and WARRANTIES

15.1 Legal Authority. The Tla'amin Nation 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) it enters into this Agreement for, and on behalf of itself and Tla'amin Citizens and that as represented by its Chief and Council; and
- b) it has the legal power, capacity and authority to enter into and to carry out its obligations under this Agreement.

ARTICLE 16 - NOTICES

16.1 Delivery of 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 a Party, if delivered personally, on the date of delivery, or, if delivered by mail, email or facsimile copier, when received by the Parties at the addresses as follows:

if to British Columbia:

Deputy Minister
Ministry of Indigenous Relations and Reconciliation
P.O. Box 9100 STN PROV GOVT
Victoria B.C. V8W 9B1
Telephone: (250) 356-1394
Fax: (250) 387-6594
Email:

and if to the Tla'amin Nation:

Hegus Clint Williams
Tla'amin Nation Government
4779 Klahanie Road
Powell River, B.C. V8A 0C4
Telephone: (604) 483-9646
Fax: (604) 483-9769
Email:

16.2 Change of Address. Either Party may, from time to time, give notice to the other Party of a change of address or facsimile number and after the giving of such notice, the address or facsimile number specified in the notice will, for purposes of

16.1, supersede any previous address or facsimile number for the Party giving such notice.

ARTICLE 17 – INTERPRETATION

17.1 Interpretation. For purposes of this Agreement:

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

17.2 No Implied Waiver. Any waiver of any term or breach of this Agreement is effective only if it is in writing and signed by the waiving Party and is not a waiver of any other term or breach.

17.3 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.

17.4 Not a Treaty. This Agreement does not:

- (a) constitute a treaty or a lands claims agreement within the meaning of sections 25 or 35 of the *Constitution Act, 1982* (Canada); or
- (b) except as expressly contemplated herein, affirm, recognize, abrogate or derogate from any Tla’amin Nation Section 35 Rights.

ARTICLE 18 – ENTIRE AGREEMENT

18.1 Entire Agreement. This Agreement and any amendment to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement.

18.2 Validity of 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.

ARTICLE 19 - GENERAL

19.1 No Admissions. Nothing in this Agreement 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 Tla'amin Section 35 Rights;
- (b) an admission or acknowledgement of any obligation to provide any financial, economic or other compensation, including those in this Agreement, as part of British Columbia's obligation to consult and, as appropriate, accommodate; or
- (c) in any way limiting the position the Parties may take in any proceedings or in any discussions or negotiations between the Parties, except as expressly contemplated in this Agreement.

19.2 Third Parties. This Agreement is not intended to limit any obligation of forest or range licensees or other third parties to the Tla'amin Nation.

19.3 Further Acts and Assurances. Each Party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.

19.4 Assignment. The Tla'amin Nation must not assign, either directly or indirectly, this Agreement or any right of First Nation under this Agreement without the prior written consent of British Columbia.

19.5 Amendment in Writing. No amendment to this Agreement is effective unless it is agreed to in writing and signed by the Parties.

19.6 Governing law. This Agreement will be governed by and construed in accordance with the laws of British Columbia.

19.7 Execution in Counterpart. This Agreement may be entered into by a separate copy of this Agreement being executed by each Party and that executed copy being delivered to the other Party by a method provided for in Article 16 or any other method agreed to by the Parties.

Signed on behalf of:

TLA'AMIN NATION

Hegus Clint Williams



Date

March 5, 2018

Councillor

Councillor

Witness of Tla'amin Nation signatures

Signed on behalf of:

Government of British Columbia

Honourable Scott Fraser
Minister of Indigenous Relations and
Reconciliation

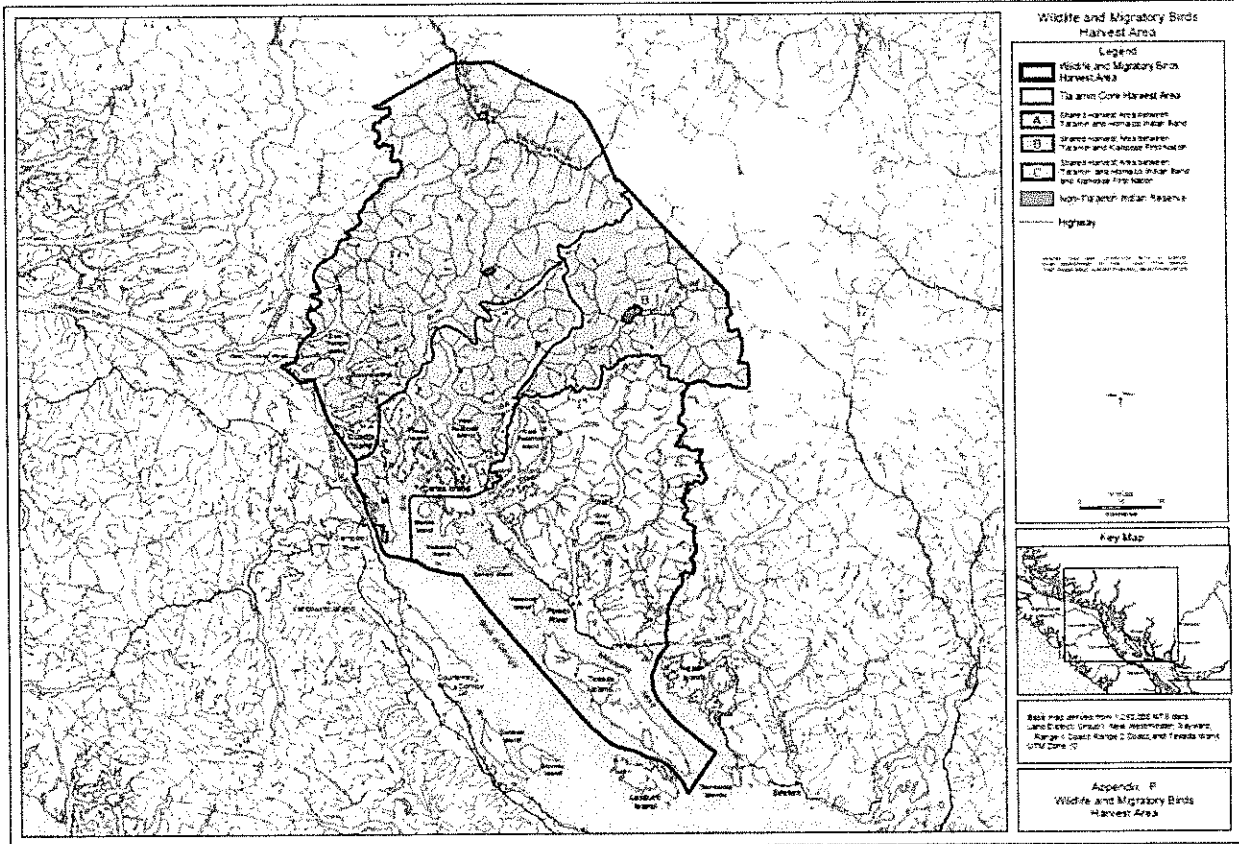
Witness of Minister signature

Date

March 5, 2018

APPENDIX A

Map of Tla'amin Nation Wildlife and Migratory Birds Harvest Area



APPENDIX B

Tla'amin Nation Statement of Community Priorities

(Example only)

Socio-economic Priority	Annual Amount			Specific Outcomes	Measurement Criteria
	2016/2017	2017/2018	2018/2019		

2016/2017 Revenue Sharing Contribution \$451,110

2017/2018 Revenue Sharing Contribution \$451,110

2018/2019 Revenue Sharing Contribution \$451,110

APPENDIX C

Tla'amin Nation Statement of Community Priorities

Annual Report

(Example only)

Socio-economic Priority	2016/2017 Planned Expenditures	2016/2017 Actual Expenditures	Outcomes Achieved	Variance Explanation

Confirmation

In accordance with section 8.2 of the Agreement, the Tla'amin Nation confirms that aside from reasonable administrative expenses, all actual expenditures were made for the purpose of furthering the purposes and objectives set out in section 2.1 of the Agreement.

Signed this _____

(Signature)

(Name) On behalf of Tla'amin Nation