

**X First Nation
Interim Agreement on Forest & Range Opportunities
(the "Agreement")**

**Between:
The X First Nation**

As represented by
Chief and Council
(the "X First Nation")

And

**Her Majesty the Queen in Right of the Province of British Columbia
As represented by the Minister of Forests
("British Columbia")**

(collectively the "Parties")

Whereas:

- A. British Columbia and First Nations Leadership Council, representing the Assembly of First Nations-BC Region, First Nations Summit, and Union of BC Indian Chiefs ("Leadership Council") has entered into a New Relationship in which they are committed to reconciliation of Aboriginal and Crown titles and jurisdiction, and have agreed to implement a government-to-government relationship based on respect, recognition and accommodation of Aboriginal title and rights;**
- B. This Agreement is in the spirit and vision of the "New Relationship";**
- C. Work is underway regarding the implementation of the New Relationship and that this Agreement may need to be amended in the future to reflect the outcomes of that work;**
- D. The X First Nation has a relationship to the land that is important to its culture and the maintenance of its community, governance and economy.**
- E. The X First Nation has Aboriginal Interests within its Traditional Territory.**

- F. The Parties wish to enter into an interim measures agreement in relation to forest and/or range resource development within the Traditional Territory.**
- G. References in this Agreement to Crown Lands are without prejudice to the X First Nation's Aboriginal title and/or rights claims over those lands.**
- H. British Columbia intends to consult and to seek an Interim Accommodation with the X First Nation on forest and/or range resource development activities proposed within the X First Nation Traditional Territory that may lead to the infringement of the X First Nation's Aboriginal Interests.**
- I. The X First Nation intends to participate in any consultation with British Columbia or a Licensee, in relation to forest and/or range resource development activities proposed within the X First Nation's Traditional Territory, that may lead to an infringement of the X First Nation's Aboriginal Interests.**
- J. British Columbia and the X First Nation wish to resolve issues relating to forest and/or range resource development where possible through negotiation as opposed to litigation.**

Therefore the Parties agree as follows:

1.0 Definitions

For the purposes of this Agreement, the following definitions apply:

- 1.1 "Operational Decision" means a decision that is made by a person with respect to the statutory approval of an Operational Plan that has potential effect in the X First Nation's Traditional Territory.**
- 1.2 "Operational Plan" means a Forest Development Plan, Forest Stewardship Plan, Woodlot Licence Plan, a Range Use Plan, Range Stewardship Plan, or Site Plan that has a potential effect in the X First Nation's Traditional Territory.**
- 1.3 "Aboriginal Interests" means aboriginal rights and/or aboriginal title.**
- 1.4 "Administrative Decision" means one or more of the following decisions made by a person under forestry legislation.**

- The decision setting or varying Allowable Annual Cut (AAC) for a Timber Supply Area or a Forest Tenure
- The issuance, consolidation, subdivision, amendment or boundary adjustment of a Forest Tenure or a Range Tenure;
- The adjustment of Animal Unit Months in a Range Tenure;
- The replacement or extension adjustment of a Forest and/or Range Tenure;
- The disposition of volumes of timber arising from undercut decisions on a Forest Tenure;
- Timber Sale Licence and Timber Licence conversion to other forms of Forest Tenure and Timber Licence term extensions;
- The reallocation of harvesting rights as a result of the implementation of the *Forestry Revitalization Act.*];
- The issuance of a Special Use Permit;
- The decision regarding a Tree Farm Licence Management Plan, Community Forest Management Plan and/or Woodlot Licence Management Plan;
- The deletion of provincial forest;
- The transfer of AAC between Timber Supply Areas

1.5 “Forest Tenure” means an agreement granting rights to harvest Crown timber as defined in the *Forest Act*.

1.6 “Range Tenure” means an agreement granting rights over Crown range as defined in the *Range Act*.

1.7 “Traditional Territory” means the X First Nation’s asserted Traditional Territory as shown on bold black on the map attached in Appendix A.

1.8 “Licensee” means a holder of a Forest Tenure or a Range Tenure.

1.9 “Interim Accommodation” means the accommodation provided in this Agreement, of the potential infringements of the economic component of the X First Nation’s Aboriginal Interests arising from or as a result of forest and range development, prior to the full reconciliation of these Interests. The revenue component reflects the present budget limitations of the Minister of Forests. It is acknowledged that other accommodations, including economic accommodations, may be jointly developed by the Parties during the term of this Agreement.

2.0 Purpose and Objectives

The purposes and objectives of this Agreement are to:

- 2.1 Create viable economic opportunities and to assist in the improvement of social conditions of the X First Nation through economic diversification.**
- 2.2 Provide interim payment and other economic benefits to the X First Nation through a forest tenure opportunity and/or economic benefits related to forestry received by British Columbia from forest resource development.**
- 2.3 Address consultation and provide Interim Accommodation, as set out in this Agreement.**
- 2.4 Provide a period of stability to forest and/or range resource development on Crown lands within the Traditional Territory of the X First Nation during the term of this Agreement, while longer term interests are addressed through other agreements or processes.**

3.0 Economic Benefits to the X First Nation

During the term of this Agreement, British Columbia will provide one or more of the following economic benefits to the X First Nation:

3.1 Forest Tenure

After the execution of this Agreement, the Minister will invite the X First Nation, or such legal entity as the X First Nation has appointed as its representative to hold the licence to apply under the *Forest Act* for a _____ (the "Licence") on a non-competitive basis for up to ___ cubic meters annually in the _____ Timber Supply Area(s).

- 3.1.1 For greater certainty, the maximum volume that may be available under the Licence referred to in Section 3.1 will be up to ___ cubic meters over ___ years.**
- 3.1.2 The Parties will strive to ensure that the assigned operating area for the Licence in the X Timber Supply Area has a representative timber profile and logging**

chance relative to other licensees and BC Timber Sales, taking into account the quality of timber, access and commercial viability. Prior to the X First Nation making an application for the Licence, the Parties will work together to identify the location of an operating area for the Licence, which to the extent that it is operationally feasible will be within the Traditional Territory; and

3.1.3 A Licence entered into as a result of an invitation under section 3.1 will be for a term of ____ years.

3.1.4 If the Licence remains in effect beyond the term of this Agreement, the Licence will continue to be considered by the Parties to be Interim Accommodation until the Licence expires or is terminated.

3.1.5 The Minister may invite the X First Nation to apply for a subsequent Licence under the *Forest Act* for a term that would commence after the expiry of this Agreement.

3.2 Range Tenure

If Crown range vacancy is available for disposition to X First Nation, then subject to the *Range Act*, the _____ District Manager will direct award a Range Permit, within X First Nation Traditional Territory to the X First Nation for up to ____ Animal Unit Months (AUMs).

3.3 Interim Payment

3.3.1 During the term of this Agreement, British Columbia will make an interim payment to the X First Nation of approximately \$____ annually.

3.3.2 The funding commitment set out in section 3.3.1 is subject to the availability of annual appropriations for that purpose by British Columbia.

3.3.3 For the purposes of determining amounts for partial years, one-fourth (i.e. $\frac{1}{4}$) of the annual amount will be used for each fiscal quarter or part thereof that the Agreement is in effect. Payments will be made quarterly.

3.3.4 Upon signing of this Agreement, the X First Nation will be paid the full revenues for the quarter in which the

Agreement is signed (e.g. if this Agreement is signed at the end of the quarter, the FN would receive payment for that entire quarter), with subsequent payments being made at the end of each quarter.

3.3.5 British Columbia will not seek to direct or influence the expenditure of the funds provided to the First Nation.

4.0 Consultation and Accommodation Regarding Operational and Administrative Decisions and Plans

- 4.1 The X First Nation is entitled to full consultation with respect to all potential infringements of their Aboriginal Interests arising from any Operational or Administrative Decisions or Plans affecting the X First Nation's Aboriginal Interests, regardless of benefits provided under this Agreement.
- 4.2 During the term of this Agreement, and subject to the terms and the intent of this Agreement being met and adherence by British Columbia, the X First Nation agrees that British Columbia will have provided Interim Accommodation with respect to the economic component of potential infringements of the X First Nation's Aboriginal Interests as an interim measure.
- 4.3 The interim payment set out in this Agreement reflects an amount that British Columbia, through the Minister of Forests is able to pay as an interim measure, which the X First Nation has agreed to accept.
- 4.4 The Parties agree to develop consultation processes to address both Operational and Administrative decisions or Plans which may affect the X First Nation's Aboriginal Interests within their Traditional Territory.
- 4.5 Where X First Nation is a member of a larger Tribal Nation, this Agreement does not limit the obligation of British Columbia to fulfil its consultation obligations with the Tribal Nation.

5.0 Dispute Resolution

- 5.1 If a dispute arises between British Columbia and the X First Nation regarding the interpretation of a provision of this Agreement, the Parties or their duly appointed representatives will meet as soon as is practicable to attempt to resolve the dispute.

- 5.2** If the Parties are unable to resolve differences at the appropriate level, the interpretation issue will be raised to more senior levels of British Columbia and the X First Nation.
- 5.3** If the interpretation dispute cannot be resolved by the Parties directly, they may appoint an independent and mutually agreeable mediator to resolve that dispute within 60 days, or such period as agreed upon, or the Parties may choose other appropriate approaches to assist in reaching resolution of the interpretation issue.

6.0 Term and Termination

- 6.1** The term of this Agreement is ___ years.
- 6.2** This Agreement will take effect on the date on which the last Party has executed it.
- 6.3** This Agreement will terminate on the occurrence of the earliest of any of the following events: 90 days notice; or mutual agreement of the parties.
- 6.4** Neither Party shall terminate this Agreement on the grounds that the other Party has challenged an Administrative or Operational Decision by way of legal proceedings.
- 6.5** Notwithstanding section 6.4, British Columbia may terminate the Agreement when there is a challenge on the basis that the Economic Benefits set out in section 3 are not adequate or sufficient Interim Accommodation.
- 6.6** Prior to termination under section 6.5, the Parties agree to meet and endeavour to resolve the dispute.

7.0 Renewal of the Agreement

- 7.1** Prior to this Agreement terminating in accordance with Section 6.3, if the terms and conditions of this Agreement are being met, British Columbia and the X First Nation will seek the necessary authorities and approvals to renew this Agreement.
- 7.2** Any subsequent forestry agreement between British Columbia and the X First Nation may provide for an opportunity to acquire a licence, other forest tenures, and/or other economic benefits, as well as other terms and conditions that are agreed to by the Parties.

8.0 Amendment of Agreement

- 8.1 Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.**
- 8.2 Either Party may request the participation of the other Party to review the effectiveness of this Agreement annually and consider amendments to this Agreement.**
- 8.3 The Parties agree that new approaches for consultation and accommodation, including benefit and revenue sharing, will be developed as a priority under the New Relationship by British Columbia and the Leadership Council. The X First Nation may choose to opt into such approaches as they become available, through amendment of this Agreement or other mutually agreeable methods.**

9.0 Entire Agreement

- 9.1 This Agreement and any amendment to it constitute the entire Agreement between the Parties with respect to the subject matter of this Agreement.**

10.0 Notice

- 10.1 Any notice or other communication that is required to be given or that a Party wishes to give to the other Party with respect to this Agreement, will be in writing and will be effective if delivered, sent by registered mail, or transmitted by facsimile to the address of the other Party as in this section of the Agreement.**
- 10.2 Any notice or other communications will be deemed to have been given on the date it is actually received, if received before 4:00 p.m. If received after 4:00 p.m., it will be deemed to have been received on the next business day.**
- 10.3 The address of either Party may be changed by notice in the manner set out in this section of the Agreement.**

British Columbia

Deputy Minister
Ministry of Forests

P.O. Box 9525 STN PROV GOVT
Victoria B.C. V8W 9C3
Telephone (250) 387-3656[needs update]
Facsimile (250) 953-3687

X First Nation

Contact Name
X First Nation
Address
Telephone:
Facsimile:

11.0 Miscellaneous

- 11.1 This Agreement shall be interpreted in a manner consistent with provincial, federal and constitutional law.**
- 11.2 This Agreement is not a treaty or a lands claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* and does not define or amend aboriginal rights, or limit any priorities afforded to aboriginal rights, including aboriginal title.**
- 11.3 This Agreement does not address or prejudice conflicting interests or competing claims between First Nations.**
- 11.4 This Agreement will not limit the positions that a Party may take in future negotiations or court actions.**
- 11.5 Nothing in this Agreement, including the recitals, defines or confirms the specific nature, scope, location or geographic extent of Aboriginal Interests of the X First Nation.**
- 11.6 Nothing in this Agreement shall be interpreted to authorize any infringement that may occur following the termination of this Agreement, even if that infringement is caused by a decision that was made during the term of this Agreement.**
- 11.7 This Agreement does not address or affect any claims by the X First Nation regarding infringement of its Aboriginal Interests arising from past Operational or Administrative Decisions made previous to the signing of this Agreement,**
- 11.8 This Agreement and any decisions and or Licenses issued during the term of this Agreement do not change or affect the**

positions either Party has, or may have, regarding jurisdiction and authorities.

- 11.9 Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute and its regulations.**
- 11.10 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.**
- 11.11 The applicable laws of British Columbia and Canada shall govern this Agreement.**
- 11.12 British Columbia encourages licensees to enter into mutually-beneficial arrangements with the X First Nation.**
- 11.13 This Agreement is not intended to limit any obligation of forest licensees or other third parties to the X First Nation.**
- 11.14 This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.**
- 11.15 This Agreement does not exclude the X First Nation from accessing forestry economic opportunities and benefits, which may be available, other than those expressly set out in this Agreement.**

12.0 Giving Effect to the New Relationship

- 12.1 Notwithstanding this agreement, the Parties may negotiate interim agreements in relation to forestry, range and related planning that give effect to the New Relationship, which may include, but are not limited to the following components:**
- (a) a process for shared decision making about the land and resources;**
 - (b) new mechanisms for land and resource protection;**

- (c) a process for the X First Nation's land use planning at all spatial scales and for reconciliation of Crown and the X First Nation's plans;
- (d) dispute resolution processes which are mutually determined for resolving conflicts rather than adversarial approaches to resolving conflicts;
- (e) financial capacity for the X First Nation and resourcing for British Columbia to develop and implement new frameworks for shared land and resource decision making and other components listed above; and
- (f) on a priority basis, interim protection for landscapes, watersheds and/or sites identified by the X First Nation to be reserved from resource development pending the outcome of negotiation of agreements referred to in a-e above.

Signed on behalf of:

X First Nation

Date: _____

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Witness of X First Nation signatures

Signed on behalf of:

Government of British Columbia Date: _____

Rich Coleman
Minister of Forests

Witness of Minister signature

APPENDIX A
Map of X First Nation Traditional Territory