

# Nenqay Deni Accord



For countless generations before the arrival of settlers, the ʔEsggidam, ancestors of the Tsilhqot'in, thrived in the Chilcotin as a powerful nation, guided by the wisdom of their legends and the laws.

The ʔEsggidam were healthy and strong – as individuals, families, communities and a Nation. They had a rich culture and deep spiritual connection with the lands and resources that sustained their people.

With the arrival of Europeans came a dark chapter. Tsilhqot'in history speaks of the intentional spread of smallpox eradicating entire families and villages. The Nation successfully waged war against the colonial government in 1864, and when Tsilhqot'in war Chiefs entered the camp of the colonial militia under a flag of truce to negotiate peace, they were betrayed, wrongly arrested and tried for murder. Six Chiefs were hanged.

In the decades that followed, the Tsilhqot'in faced an onslaught: the taking of their lands, the devastating impacts of the residential school system, the imposition of the *Indian Act*, and mass apprehension of their children.

On October 23, 2014, Premier Christy Clark apologized for the wrongful hanging of the six Tsilhqot'in war chiefs and confirmed the full exoneration of the chiefs to the extent of the Province's ability.

This redress marked a first step toward reconciliation with the Tsilhqot'in Nation and reinforced the importance of working together to build a better future and address the continuing challenges associated with colonization and Indian residential schools.

Despite historical wrongs and continuing challenges, the Tsilhqot'in people remain strong and resilient. Their culture and connection to their lands is powerful, alive, and grows stronger each day.

On June 26, 2014, the Supreme Court of Canada declared Aboriginal title in the caretaker area of the Xení Gwet'in, one of six Tsilhqot'in communities. The court decision was the first of its kind and the implications for the Tsilhqot'in and all British Columbians are immense.

Since the ruling, the provincial government and the Tsilhqot'in have focused on developing a solid government-to-government relationship aimed at achieving economic sustainability and improving the social well-being of the Tsilhqot'in communities. Reducing conflict on the land and closing the socio-economic gap between the Tsilhqot'in people and non-Aboriginal British Columbians is of paramount importance.

The Tsilhqot'in vision is to fully restore their Nation to the power of the ʔEsggidam. They enter reconciliation negotiations as one step on that path.

Together the Tsilhqot'in and the Government of British Columbia call upon all British Columbians to support us working as true partners to see the Tsilhqot'in people restored to their rightful place, sharing fully in the wealth and benefits of this beautiful Province.

Working in partnership, the Province and the Tsilhqot'in have created a reconciliation framework agreement to define the next phase of negotiations which will address the interests of both parties in Tsilhqot'in territory and help bring the court decision to life. The agreement defines a role for Canada in the reconciliation process and commits both parties to engaging the federal government in this important work.

This reconciliation framework agreement outlines the next steps including immediately addressing priority areas such as governance, economic development, justice, health, education, social issues, and land and resource management. Reconciliation is challenging and important; it requires discussion, consensus-building and negotiation, but it is the only option that brings the real possibility of transformation, healing and growth.

A tremendous opportunity stands before all of us, if we can overcome conflict and truly recognize and celebrate our different cultures, laws and governance, and our responsibilities to our lands and our future generations.

It is our sincere hope that this Agreement offers an opportunity for healing and for building a better Province, for the Tsilhqot'in people and all British Columbians.

**NENQAY DENI ACCORD:**

***The People's Accord***

(the "Agreement")

Dated for reference February 11, 2016

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**

as represented by the Minister of Aboriginal Relations and Reconciliation  
and the Premier of British Columbia

("British Columbia")

AND

**THE TSILHQOT'IN NATION** as represented by:

Xeni Gwet'in First Nations Government,  
Yunesit'in Government,  
Tl'etinqox Government,  
?Esdilagh First Nation,  
Tsi Deldel First Nation,  
Toosey Indian Band, and  
The Tsilhqot'in National Government ("TNG")

(the "Tsilhqot'in Parties")

(British Columbia and the Tsilhqot'in Parties are collectively referred to as the "Parties")

**WHEREAS:**

- A. On June 26, 2014, the Supreme Court of Canada rendered its unanimous judgment in *Tsilhqot'in Nation*, recognizing Aboriginal title for the first time in Canadian history, in the homeland of the Tsilhqot'in peoples;
- B. The *Tsilhqot'in Nation* judgment offers a profound opportunity for British Columbia, the Tsilhqot'in Nation, and all First Nations, to renew and strengthen a shared vision of First Nations as true partners in the economic, political and social future of this Province;

- C. On November 20, 2012, Canada issued a statement of support for the *United Nations Declaration on the Rights of Indigenous Peoples*. On November 13, 2015, the Federal Government mandated that the Minister of Indigenous and Northern Affairs support the work of reconciliation and implement the recommendations of the Truth and Reconciliation Commission, starting with implementation of the *United Nations Declaration on the Rights of Indigenous Peoples*;
- D. The Tsilhqot'in Nation is committed to advancing its right to self-determination and the other rights and interests of the Tsilhqot'in peoples under constitutional and international law;
- E. The Parties signed a Letter of Understanding on September 10, 2014, committing to strengthen their government-to-government relationship and to undertake negotiations in good faith towards a lasting reconciliation agreement between the Tsilhqot'in people and the Province of British Columbia;
- F. As directed by the Letter of Understanding, the Parties wish to embrace this historic opportunity and lead the way forward with new and innovative approaches to Crown-First Nations reconciliation;
- G. In this spirit, the Parties have developed this comprehensive framework for longer-term negotiations to reconcile the rights, interests and goals of the Tsilhqot'in Nation and British Columbia in Tsilhqot'in Territory;
- H. As the Tsilhqot'in Nation has governed itself from time immemorial, the Parties wish to reconcile their respective jurisdictions, governance, laws and responsibilities; and
- I. The Parties share the goal of establishing relationships and processes that reduce conflict, foster mutual understanding and respect, and promote outcomes that reflect consensus and consent.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

## **1.0 DEFINITIONS IN THIS AGREEMENT**

- 1.1 **"Caretaker Areas"** means the areas within Tsilhqot'in Territory in which each Tsilhqot'in Community is recognized by the Tsilhqot'in Nation as holding special rights and responsibilities under Tsilhqot'in law and governance;
- 1.2 **"Category 'A' Lands"** means areas within Tsilhqot'in Territory that are agreed by the Parties to be under the ownership, control and management of the Tsilhqot'in Nation, as set out in sections 12.15 to 12.20 of this Agreement, excluding Indian Reserves;

- 1.3 **“Category ‘B’ Lands”** means all lands in Tsilhqot’in Territory except for the Declared Title Area, Category ‘A’ Lands and Indian Reserves;
- 1.4 **“Declared Title Area”** means the area subject to the declaration of Aboriginal title granted by the Supreme Court of Canada in *Tsilhqot’in Nation v British Columbia*, 2014 SCC 44;
- 1.5 **“Effective Date”** is the date on which this Agreement has been signed by all Parties;
- 1.6 **“First Nations Woodland Licence”** means a long-term, area-based, First Nations woodland licence entered into between the Ministry of Forests, Lands and Natural Resource Operations and a First Nation or its designated representative, and confers upon the holder an exclusive right to harvest timber on a defined licence area, and also allows for management of non-timber forest resources, as set out in the *Woodland Statutes Amendment Act*;
- 1.7 **“Land Based Investment Strategy”** means the Land Based Investment Strategy program delivered through the Ministry of Forests, Lands and Natural Resource Operations that guides ongoing resource investments and short-term targeted investments in British Columbia’s natural resources sector, to realize environmental sustainability and economic prosperity;
- 1.8 **“Leadership Table”** means the elected Chiefs of the Tsilhqot’in Communities and the British Columbia Ministers assigned, from time to time, to lead implementation of this Agreement and negotiation of further agreements that will effect a comprehensive and lasting reconciliation between the Parties, and to help to resolve disputes in accordance with section 18.2 of the Agreement;
- 1.9 **“Parties”** means British Columbia and the Tsilhqot’in Parties and ‘Party’ means any one of them;
- 1.10 **“Pillars”** means the pillars of reconciliation set out in section 3.1, as described in sections 6.0 – 13.0;
- 1.11 **“Tsilhqot’in Citizens”** means individuals who are members of the Tsilhqot’in Nation;
- 1.12 **“Tsilhqot’in Communities”** means the residential communities of Xeni Gwet’in, Yunesit’in, Tl’etincox, ?Esdilagh, Tsi Deldel, and Toosey;
- 1.13 **“Tsilhqot’in Governance Agreement”** means the governance agreement negotiated by the Parties pursuant to section 6.3 of this Agreement;

- 1.14 **“Tsilhqot’in Stewardship Agreement”** means the extension of the strategic engagement agreement between British Columbia, the Tsilhqot’in Nation and the TNG, dated for reference June 10, 2014, and any further extension of or successor to this agreement;
- 1.15 **“Tsilhqot’in Territory”** for the purpose of this Agreement is identified in the map attached as Schedule “A”;
- 1.16 **“Wildlife Panel”** means the Wildlife Panel under the *Tsilhqot’in Stewardship Agreement*; and
- 1.17 **“Working Group”** means the representatives of the Tsilhqot’in Nation and British Columbia assigned, from time to time, to implement this Agreement and support negotiation of further agreements that will effect a comprehensive and lasting reconciliation between the Parties, and to help to resolve disputes in accordance with section 18.1 of the Agreement.

## **2.0 PURPOSE**

- 2.1 The purpose of this Agreement is to establish the shared vision, principles and structures for the Parties to negotiate one or more agreements to effect a comprehensive and lasting reconciliation between the Tsilhqot’in Nation and British Columbia.
- 2.2 This Agreement is also intended to foster immediate and ongoing action by the Parties to:
- a. improve the social, cultural and economic well-being of the Tsilhqot’in Communities;
  - b. build and align the capacities of the Parties to negotiate lasting reconciliation agreements and to implement those agreements once concluded;
  - c. effect the practical transition of the Declared Title Area to Tsilhqot’in management, benefit and control, while respectfully engaging with third parties and attempting to address their interests within the Declared Title Area;
  - d. reduce conflict and encourage collaboration in respect of land and resource management decisions in Tsilhqot’in Territory;
  - e. promote economic development and investment in Tsilhqot’in Territory and the broader region that reflects the values, goals and priorities of the Parties; and

- f. promote mutual understanding between the Parties and encourage relationships based on respect, recognition and reconciliation.

### **3.0 THE PILLARS OF RECONCILIATION**

3.1 The Parties commit to work together to achieve the shared vision for each of the following “pillars of reconciliation”, as described in sections 6.0 – 13.0:

- a. Tsilhqot’in Governance;
- b. Strong Tsilhqot’in Culture and Language;
- c. Healthy Children and Families;
- d. Healthy Communities;
- e. Justice;
- f. Education and Training;
- g. Tsilhqot’in Management Role for Lands and Resources in Tsilhqot’in Territory; and
- h. Sustainable Economic Base.

3.2 The Parties will address each of the Pillars in accordance with the Guiding Principles.

### **4.0 GUIDING PRINCIPLES**

4.1 The Parties commit to immediate and sustained progress to achieve the shared vision for each of the Pillars, in accordance with the guiding principles set out in this section (“Guiding Principles”).

4.2 Collaboration: To the fullest extent possible, the Parties will avoid adversarial positions in their engagement with each other and jointly address challenges and achieve progress through respectful engagement, mutual understanding and a spirit of collaboration.

4.3 Decision-making and Mandates: The Parties will structure their teams, negotiation tables and process to ensure quick access to individuals best positioned to provide the required mandate, decision or direction.



- 4.4 Sustained Progress: The Parties commit to sustained, step-by-step progress towards each of the Pillars, and will work together to define short, mid and long-term objectives. The Parties will jointly prepare and review annual work plans to develop and refine this “road map” to achieve reconciliation and the agreed outcomes.
- 4.5 Measurable Progress: The Parties’ progress towards each goal will be objectively measurable and regularly evaluated. The Parties will agree on the targets and metrics of progress for each goal. If progress is below expectations, the Parties will jointly develop a response.
- 4.6 Dedicated Time and Expertise: The Parties will dedicate the time, expertise, staff, key decision-makers and technical support required to achieve progress towards the shared vision for each of the Pillars. This includes working together to build capacity and maximize use of training opportunities.
- 4.7 Holistic Approach: The Parties recognize that the goals of the Agreement are inter-related and must be approached holistically. In particular, the success of all other goals depends on a strong foundation of Tsilhqot’in culture and language. The Parties acknowledge that there is a strong linkage between social and economic progress and effective progress will require parallel, ongoing work on each of the Pillars.
- 4.8 Flexible and Innovative Arrangements: The Parties will consider any arrangements to achieve the goals of the Agreement, including interim agreements, comprehensive agreements, memoranda of understanding, protocols, legislation, policy changes, revenue sharing, amendments to the Tsilhqot’in Stewardship Agreement, or any combination thereof.

The Parties will use a flexible and creative approach to develop opportunities and arrangements as required to achieve the goals set out in the Agreement, even if they are different from the *status quo* or do not fit easily into existing regimes, laws, programs, policies or structures.

- 4.9 Role of Canada: The Parties acknowledge the participation and commitment of the Government of Canada is required to fully achieve the shared vision and reach final reconciliation, including the full and lasting reconciliation of Tsilhqot’in Aboriginal rights under section 35 of the *Constitution Act, 1982*. The Parties will work diligently to get meaningful participation from the Government of Canada while maintaining their shared commitment to progress towards the shared vision for each of the Pillars.

## **5.0 IMPLEMENTATION TABLES**

- 5.1 The Leadership Table and Working Group established under the Letter of Understanding will be continued to implement the Agreement and provide oversight and co-ordination

to sub-tables, for the duration of this Agreement. The Leadership Table will continue to meet regularly and not less than quarterly unless otherwise agreed by the Parties.

- 5.2 Additional sub-tables will be established as soon as possible and no later than 6 months after the Effective Date, with responsibility to guide progress under this Agreement in specific areas and report to the Working Group as follows (the “Sub-Tables”):
- a. Governance Sub-Table
  - b. Economic Development Sub-Table
  - c. Social, Cultural, Education and Justice Sub-Table
  - d. Lands and Resources Sub-Table
  - e. Declared Title Area Implementation Sub-Table
- 5.3 The Sub-Tables will be comprised of senior staff from the relevant Ministries and Tsilhqot’in Nation. Each Sub-Table will prepare its own terms of reference for approval by the Working Group, establish its process, and hold regular meetings to implement the direction of the Working Group and Leadership Table.
- 5.4 Each Sub-Table will be accountable for achieving meaningful progress in advancing the shared vision for their respective Pillar(s). Each Sub-Table will establish the metrics for assessing progress, regularly evaluate and report annually on progress, and undertake action planning for sustained progress from year to year.
- 5.5 The Working Group will report to the Leadership Table on an annual basis on or before February 1 of each year with a brief summary of the implementation of the Agreement. The summary will incorporate the annual reporting requirements identified in sections 5.4 and 12.49 and where appropriate include recommendations for improving outcomes.

## **6.0 TSILHQOT’IN GOVERNANCE**

- 6.1 The Parties commit to work together to achieve the following shared vision for this Governance Pillar, in accordance with sections 6.2 – 6.6:
- a. British Columbia and the Tsilhqot’in Nation recognize and reconcile their respective jurisdictions, governance, laws and responsibilities;
  - b. The Tsilhqot’in Nation governs itself, its communities and Tsilhqot’in Citizens pursuant to Tsilhqot’in governance structures, laws and values;
  - c. The Tsilhqot’in Nation exercises law-making powers and provides autonomous governance and government programs for Tsilhqot’in Citizens and Tsilhqot’in Communities, including matters of Tsilhqot’in culture, heritage, identity, language and institutions; and

- d. The Tsilhqot'in Nation exercises governance and law-making powers with respect to lands and resources.
- 6.2 Without limiting the steps that the Parties may take to achieve this shared vision, the Parties have identified and commit to the specific priorities set out below.
- 6.3 The Parties will negotiate and seek to reach agreement on a Tsilhqot'in Governance Agreement that recognizes the Tsilhqot'in Nation as a government within Canada, with law-making jurisdiction.
- 6.4 British Columbia will work with the Tsilhqot'in Parties, in the manner outlined in section 6.5, to prepare for the development of provincial legislation, and will encourage Canada to develop compatible federal legislation, that recognizes the Tsilhqot'in Nation as a government within Canada and which implements the Tsilhqot'in Governance Agreement.
- 6.5 To ensure proposed provincial legislation meets the intent of agreements reached under this section, British Columbia will work with the Tsilhqot'in Parties in the development of the foundation for the legislative request and will work with the Tsilhqot'in Parties to reach agreement on an appropriate approach to consultation on the draft legislation.
- 6.6 The Parties will work to establish an intergovernmental framework to further the harmonious relationship of federal, Tsilhqot'in and provincial laws, programs and services.

## **7.0 STRONG TSILHQOT'IN CULTURE AND LANGUAGE**

- 7.1 The Parties commit to work together to achieve the following shared vision for this Pillar:
  - a. Tsilhqot'in Citizens fluent in, and proud of, their language and culture;
  - b. public awareness, appreciation and understanding of Tsilhqot'in culture, history and heritage; and
  - c. recording and preservation of Tsilhqot'in language, beliefs, oral histories including legends, and cultural knowledge for the benefit of future generations.

## **8.0 HEALTHY CHILDREN AND FAMILIES**

- 8.1 The Parties commit to work together to achieve the following shared vision for this Pillar:

- a. health indicators for Tsilhqot'in children and families on par with or exceeding standards for non-Aboriginal children and families; and
- b. adequate support for Tsilhqot'in children and families, delivered and managed by Tsilhqot'in Communities, in accordance with Tsilhqot'in laws and values as implemented through section 6 of this Agreement.

## **9.0 HEALTHY COMMUNITIES**

9.1 The Parties commit to work together to achieve the following shared vision for this Pillar:

- a. standards of living for Tsilhqot'in Communities on par with or exceeding non-Aboriginal communities, including housing, infrastructure, roads and access to clean water; and
- b. Tsilhqot'in Communities supporting their own well-being and healthy standards of living through economic self-sufficiency, to the extent practicable.

## **10.0 JUSTICE**

10.1 The Parties commit to work together to achieve the following shared vision for this Pillar:

- a. representation of Tsilhqot'in Citizens in process at each stage of the criminal justice system is equal to or below the representation of non-Aboriginal peoples, proportionally to their respective populations;
- b. Tsilhqot'in Citizens have access to appropriate education and support in relation to the criminal justice system, including innovative preventative and restorative strategies and alternatives that are consistent with Tsilhqot'in laws and values, as implemented through section 6 of this Agreement.

10.2 Without limiting the steps that the Parties may take to achieve the shared vision for this Justice Pillar:

- a. British Columbia recognizes that the Tsilhqot'in Nation has expressed a strong interest in having an effective and culturally appropriate First Nation Court established (i.e. a "*Gladue*" sentencing process) for the region, associated with the Provincial Court in Williams Lake;
- b. British Columbia and the TNG will cooperate in conducting a needs assessment addressing the criminal justice issues of concern to the Tsilhqot'in Nation and, after

considering such factors as effectiveness and efficiency, recommend potential options to address these issues;

- c. in conducting the needs assessment, the Parties will assess the feasibility of developing and maintaining a system to inform the TNG, to the extent possible, about the status of Tsilhqot'in Citizens in the criminal justice system, subject to any restrictions imposed by *the Freedom of Information and Protection of Privacy Act* or other applicable legislation;
  - d. the Parties will seek to engage Canada and other stakeholders, as required, to develop this needs assessment and potential options; and
  - e. depending upon the options identified, the Parties will explore opportunities to support and fund the preferred options, including potential funding by Canada.
- 10.3 The Parties will seek to engage Canada and examine options to improve policing in the Tsilhqot'in Communities, including a review of funding options for education and jobs-training in criminal justice, law enforcement and security-related fields for Tsilhqot'in Citizens.
- 10.4 The Parties will seek to engage Canada and explore options to respond to issues of gang violence in Tsilhqot'in Communities, including continued engagement between the RCMP and the Tsilhqot'in Parties on this issue, and consideration of preventative measures, education, employment opportunities, recreation and cultural programs targeted at youth.

## **11.0 EDUCATION AND TRAINING**

- 11.1 The Parties commit to work together to achieve the following shared vision for this Pillar:
- a. education funding and outcomes in Tsilhqot'in Communities are on par with or exceeding those in non-Aboriginal communities;
  - b. education programs are developed and delivered by the Tsilhqot'in Communities, with strong language and cultural components;
  - c. public schools provide a safe and welcoming place for Tsilhqot'in Citizens, with appropriate First Nations culture and history components, developed with the Tsilhqot'in; and
  - d. Tsilhqot'in Citizens have meaningful opportunities for post-secondary education and training.

## 12.0 TSILHQOT'IN MANAGEMENT ROLE FOR LANDS AND RESOURCES

12.1 The Parties will jointly develop an efficient and effective management framework, through this Agreement, for lands and resources in Tsilhqot'in Territory, that:

- a. fully recognizes the right of the Tsilhqot'in Nation, as set out in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44, to the ownership of lands and resources in the Declared Title Area and the right to proactively manage, enact laws, and decide the uses of the lands and resources in the Declared Title Area;
- b. recognizes the right of the Tsilhqot'in Nation to ownership of lands and resources in Category 'A' Lands and the right to proactively manage, enact laws, and decide the uses of the lands and resources in the Category 'A' Lands, in accordance with sections 12.13 to 12.24 of this Agreement;
- c. recognizes and reflects the unique Tsilhqot'in culture, values, economy and management goals and priorities for lands and resources in Tsilhqot'in Territory, including the wildlife, fish and clean water that have supported Tsilhqot'in culture and economies for countless generations and which must continue to support the Tsilhqot'in Nation and other British Columbians into the future;
- d. supports truly collaborative and efficient decision-making between the Parties about lands and resources on Category 'B' Lands in a manner that strives to achieve, to the fullest extent possible, consensus between the Parties, with a particular focus on projects, decisions and activities that may have significant impacts, as jointly defined by the Parties;
- e. integrates the knowledge and experience of Tsilhqot'in traditional knowledge and western science in the making of resource decisions;
- f. ensures that land and resource management within Tsilhqot'in Territory supports the goal of preserving, enhancing and sustaining Tsilhqot'in cultural practices and the meaningful exercise of Tsilhqot'in Aboriginal rights, while fostering the strategic social, economic and environmental objectives of the Province;
- g. seeks to co-ordinate the management of wildlife, lands and resources across the Declared Title Area, Category 'A' Lands and the Tsilhqot'in Territory;
- h. within the above framework, supports a resource economy that is focused on sustainability, benefits the Tsilhqot'in Nation and British Columbia, and is fair to the rights and interests of other stakeholders;

- i. reconciles Tsilhqot'in rights, culture, values, economy, management goals and priorities for lands and resources with the culture, values, economic aspirations, goals and priorities of all British Columbians; and
  - j. fully respects the duty British Columbia has to consult and, if appropriate, seek to accommodate other First Nations.
- 12.2 Without limiting the steps that the Parties may take to achieve this shared vision, the Parties have identified and commit to the specific priorities set out below. The Parties may also consider and may jointly implement responses to the critical issues respecting land and resource management in Tsilhqot'in Territory that arise while the initiatives set out in this section are in progress.
- 12.3 The Parties will promptly take the appropriate steps to amend the Tsilhqot'in Stewardship Agreement, pursuant to the procedures set out in section 8 of the Tsilhqot'in Stewardship Agreement, to provide:
- a. that, as a guiding principle, in a manner that is also consistent with sections 12.3 (b) and (c) of this Agreement, the Parties will strive to reach consensus for decisions made under the Tsilhqot'in Stewardship Agreement, utilizing the Engagement Processes and maintaining the focus under the Tsilhqot'in Stewardship Agreement on working together to make efficient and effective decisions;
  - b. where consensus cannot be reached under the Tsilhqot'in Stewardship Agreement, British Columbia or the Tsilhqot'in Parties may request the support of the Working Group, prior to the decision and within agreed timelines, to attempt to resolve the conflict; and
  - c. where a decision is rendered under the Tsilhqot'in Stewardship Agreement that does not reflect a consensus outcome, British Columbia or the Tsilhqot'in Parties may request a review and written report, led by the Responsible Officials, detailing the areas of disagreement, options for addressing these areas and recommendations to achieve consensus in future decisions.
- 12.4 For each of the initiatives set out below, British Columbia will assist the Tsilhqot'in Parties, upon request and to the extent that it is able, with appropriate technical support and the best available data required to support these processes and planning.

### ***Strategic Planning***

- 12.5 The Parties will engage in collaborative strategic planning for Category 'B' Lands ("Strategic Planning"). The Parties will make all reasonable efforts to establish, by consensus, a shared strategic management framework that supports their Strategic

Planning for the lands and resources on Category 'B' Lands in accordance with the shared vision set out in section 12.1.

- 12.6 In carrying out Strategic Planning, the Parties will jointly identify geographic, issue and/or sector based priorities to begin the process. The Parties will then explore opportunities for collaboration and mutual technical learning to assist with Tsilhqot'in strategic planning, while respecting the autonomy of the Tsilhqot'in Parties in carrying out their own planning initiatives in the Tsilhqot'in Communities.
- 12.7 The Parties acknowledge that Strategic Planning may occur incrementally, but the Parties commit to make progress towards achieving a strategic management framework over Category 'B' Lands in a timely manner.
- 12.8 British Columbia will work with the Tsilhqot'in Nation in carrying out Strategic Planning for Category 'B' Lands, to:
- a. document Tsilhqot'in values, objectives and vision for land and resource management;
  - b. seek to address access management issues and cumulative effects assessment and management;
  - c. inform decision-making about land and resource management;
  - d. provide operational guidance on how resource management and development activities should be carried out on Category 'B' Lands;
  - e. support a sustainable economy that benefits the Tsilhqot'in Nation and British Columbia; and
  - f. support, where possible, strategic-level agreement between the Parties concerning land and resource management.
- 12.9 The Parties agree it is important to be inclusive and, to meet the goal of reflecting the interests of Tsilhqot'in Citizens and other British Columbians, they will seek to engage others as required to build the envisioned strategic management framework.

***Update of the South Chilcotin Stewardship Plan***

- 12.10 Consistent with the joint commitment to the South Chilcotin Stewardship Plan as a living document, the Parties will undertake an immediate review and make every reasonable effort to update this strategic plan by May 1, 2016 by consensus, to fully reflect the



shared vision set out in section 12.1 of this Agreement. This review will include strategies and options to:

- a. provide long-term maintenance of sensitive areas including winter moose habitat and wildlife corridors through such measures as the Government Actions Regulation, ATV restrictions and Visual Quality Objectives;
- b. maximize the retention of green timber;
- c. ensure effective access management;
- d. implement a comprehensive approach to recovery of moose populations; and
- e. review the opportunity for a Tsilhqot'in forest tenure in the area.

12.11 Where existing permit conditions or operational plans are inconsistent with the updated South Chilcotin Stewardship Plan, the Parties will strongly encourage permit holders to conduct their permitted activities in a manner consistent with the updated plan.

12.12 In order to allow the South Chilcotin Stewardship Planning process to be completed:

- a. British Columbia Timber Sales will defer advertising additional timber sales in the South Chilcotin until May 1, 2016;
- b. the Parties will strongly encourage forest licensees to limit submission of new cutting permit applications during the review period, so that the South Chilcotin Stewardship Planning process may be completed before licensees submit applications for new cutting permits; and
- c. statutory decision-makers will be made aware of the South Chilcotin Stewardship Planning process and values at risk and consider these in processing of new cutting permits or timber sales in the South Chilcotin.

### ***Category 'A' Lands***

12.13 British Columbia recognizes the important spiritual and cultural relationship between the Tsilhqot'in and the land, both within the Declared Title Area and throughout Tsilhqot'in Territory.

12.14 The Tsilhqot'in Nation asserts Aboriginal title to the entire Tsilhqot'in Territory. British Columbia holds a different view on the extent and location of Aboriginal title. Despite these different perspectives, the Parties are committed to establishing Tsilhqot'in

ownership, management and control over additional areas of Tsilhqot'in Territory, through timely negotiations, without recourse to further litigation and conflict.

- 12.15 As a priority, the Parties will jointly establish a process for the Tsilhqot'in Parties to select additional areas in Tsilhqot'in Territory, for each Tsilhqot'in Community, that will be recognized as under the ownership, control and management of the Tsilhqot'in Nation (Category 'A' Lands).
- 12.16 British Columbia acknowledges that the quantum and nature of Category 'A' Lands for each Tsilhqot'in Community will be guided by the principles recognized in *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44 and not confined to specific sites of settlement or intensive use. The Parties will utilize a collaborative and interest-based approach to the negotiation of Category 'A' Lands, and will not be limited to or rely strictly on a strength of claim or evidentiary approach.
- 12.17 For greater certainty, each Tsilhqot'in Community will have the option of establishing its Category 'A' Lands within its Caretaker Area of Tsilhqot'in Territory through negotiations with British Columbia.
- 12.18 The legal status of lands within Category 'A' Lands [for example, fee simple, s.91(24), etc.] will be determined by the Parties through further negotiations.
- 12.19 The Parties acknowledge that British Columbia has the duty to consult and, if appropriate, accommodate other First Nations in the establishment of Category 'A' Lands.
- 12.20 The Parties will make every reasonable effort to select and legally establish the Category 'A' Lands by February 1, 2020.
- 12.21 The Parties will make every reasonable effort, on an expedited basis, to mutually identify areas for each Tsilhqot'in Community that have high potential to eventually become Category 'A' Lands (herein "Provisional Category 'A' Lands").
- 12.22 The Parties will develop a collaborative structure for the efficient and practical management of lands and resources on Provisional Category 'A' Lands that requires, to the fullest extent possible, approval and authorization by both British Columbia and the Tsilhqot'in Nation for any activities or development that require provincial authorization ("Collaborative Decision-Making").
- 12.23 The Parties intend to engage in Collaborative Decision-Making on Provisional Category 'A' Lands until such time as Category 'A' Lands are conclusively identified and legally established.

12.24 The Parties will make best efforts to identify Provisional Category 'A' Lands for each Tsilhqot'in Community, and jointly design and implement Collaborative Decision-Making for Provisional Category 'A' Lands, by February 1, 2018 or as soon as possible thereafter.

***Fish and Wildlife Panel***

12.25 The Tsilhqot'in Nation and British Columbia have a shared goal of sustainable provincial fisheries and wildlife populations ("Fish and Wildlife") and recognize there are many other parties who share this goal.

12.26 The Parties agree to empower the Wildlife Panel as the primary source of joint strategic recommendations respecting Fish and Wildlife management and harvest allocation to government statutory decision-makers, third party delivery agencies and the Tsilhqot'in Nation leadership. The work of the Wildlife Panel will provide the framework for collaborative management of Fish and Wildlife within Tsilhqot'in Territory. Within this framework the Province will work to engage and represent others with an interest in wildlife and fisheries. In recognition of this expanded role, the Parties will take steps through the Tsilhqot'in Stewardship Agreement to rename the Wildlife Panel as the "Fish and Wildlife Panel" (hereafter, the "Panel").

12.27 The Parties will promptly take the appropriate steps to amend the Tsilhqot'in Stewardship Agreement, pursuant to the procedures set out in section 8 of that agreement, to make the appropriate changes to reflect the expanded role and responsibilities outlined in this Agreement.

12.28 The Panel will establish collaborative processes to provide joint recommendations and advice to statutory decision-makers, third-party delivery agencies and the Tsilhqot'in Parties with respect to:

- a. reviewing available wildlife inventory information, identifying information gaps including the significance of those gaps, and in order of priority, providing recommendations to British Columbia and the Tsilhqot'in Parties on how these gaps may be addressed, the resources required to fulfill information needs and how available regionally-allocated provincial funding should be allocated to fish and wildlife management priorities;
- b. as a key input to provincial/Tsilhqot'in planning processes, making recommendations on habitat management and measures to facilitate effective use of habitat supply, including legal protection through legislative mechanisms including the Government Actions Regulation and *Land Act* designations;

- c. developing, by March 1, 2017, a monitoring program to track the population status and use of key provincial/Tsilhqot'in fisheries and wildlife values;
- d. leading the implementation of access management, cumulative effects assessment and the application of assessment outcomes to statutory decisions;
- e. making recommendations to the Parties respecting research requirements including wildlife population dynamics, wildlife and landscape ecology, and human dimensions in fish and wildlife management;
- f. providing recommendations to statutory decision-makers responsible for fish and wildlife harvest regulation and allocation decisions;
- g. developing species-specific recovery/management plans that will include operational guidance for all pertinent resource development activities, and guidance for Forest Stewardship Plans and operational plans and activities under those Forest Stewardship Plans. Development of a Moose Management Plan will be the priority task of the Panel (see sections 12.33 to 12.41);
- h. education and outreach; and
- i. other matters as agreed to by the Parties.

12.29 The Parties will jointly design and implement collaborative processes and structures that accord British Columbia and the Tsilhqot'in equal influence, through the Panel, in providing recommendations to direct the annual allowable harvest and allocation of species on Category 'B' Lands by November, 1, 2016.

12.30 Where British Columbia has a duty to consult and, if appropriate, accommodate other First Nations about a decision, British Columbia will discharge this duty as part of the decision-making process. The Panel will strive to resolve any conflicts between its preferred direction and the Crown's duties of consultation and accommodation to other First Nations; however, the Parties acknowledge that statutory decisions must accord with the Crown's duties of consultation owed to all First Nations.

12.31 The Parties will adopt a collaborative approach to provincial wildlife research and studies in Tsilhqot'in Territory, including the collaborative design, implementation and analysis of such research and studies and the participation, where possible, of Tsilhqot'in Citizens.

12.32 The Parties will design and implement a joint wildlife monitoring and enforcement regime by March 1, 2017 that provides a direct role for British Columbia and the Tsilhqot'in Parties.

***Immediate Commitment to Moose Recovery***

12.33 The Parties are committed to the recovery and responsible management of moose populations in Tsilhqot'in Territory.

12.34 The Panel will lead the development of a moose management plan (the "Moose Management Plan").

12.35 The Panel will continue to assemble the most current information and data on moose population trends based on survey and monitoring results, and input from the Tsilhqot'in Nation. The analysis will indicate changes in population levels, identify pressures affecting moose population viability and sustainability, and confirm the relative influence of identified causal factors that drive population trends.

12.36 The Panel will identify information gaps in the current information and data, provide recommendations on how these gaps may be addressed, and the resources required to fulfill information needs.

12.37 The Panel will prepare a summary of the analysis and causal factors underlying moose population trends. The analysis will provide a basis for exploring strategies to support recovery, including population trends, recovery thresholds and management measures to support the achievement of population targets.

12.38 The results from the evaluation and mitigation stage will be used to confirm population targets, management objectives, mitigation actions to accompany implementation, and monitoring procedures as components of a draft Moose Management Plan.

12.39 The draft Moose Management Plan will be submitted to the Ministry of Forests, Lands and Natural Resource Operations and the TNG for endorsement by Dec. 31, 2016.

12.40 The Panel will have an ongoing role in monitoring and implementation of the Moose Management Plan, including:

- a. monitoring and reporting on all hunting activity;
- b. scheduling and carrying out population surveys;
- c. undertaking mortality assessment and related technical reporting;

- d. seeking out and undertaking measures for predator control; and
- e. facilitating habitat enhancement and restoration, including measures for management of active road density.

12.41 Within thirty (30) days of the Effective Date, the Panel will meet and identify interim measures for moose recovery that will be immediately implemented.

### ***Environmental Assessment***

12.42 The Parties will explore opportunities to improve the provincial environmental assessment and the pre-assessment process, including opportunities to:

- a. enhance the role of First Nations at every stage of environmental assessment;
- b. better incorporate Aboriginal culture, values, worldviews, economies and priorities into environmental assessment and pre-assessment;
- c. more fully address Aboriginal rights, Aboriginal title and socio-economic issues in a manner that implements best practices and respects the Aboriginal perspective; and
- d. increase participation by First Nations in regulatory and environmental oversight and monitoring.

### ***Tsilhqot'in Place Names***

12.43 At the request of the Tsilhqot'in Nation, British Columbia will name, dual name or rename a set of key geographical features within the Declared Title Area and Category 'A' Lands with Tsilhqot'in place names, in accordance with existing provincial policy and procedures. Adopted place names will be identified in the BC Geographical Names database.

12.44 By February 1, 2017, the Parties will jointly develop an initial list of the key geographical features to be named, dual named, or renamed with Tsilhqot'in place names, in accordance with section 12.43.

12.45 The Tsilhqot'in Nation may propose that British Columbia name, dual name or rename other geographic features within Tsilhqot'in Territory with Tsilhqot'in place names, and British Columbia will consider those proposals in accordance with existing provincial law, policy and procedures.

12.46 At the request of the Tsilhqot'in Nation, British Columbia will record Tsilhqot'in place names and historical background submitted by the TNG, for geographical features, in

accordance with provincial law, policy and procedures. Recorded place names will be identified in the BC Geographical Names database.

- 12.47 British Columbia will implement bilingual Tsilhqot'in-English highway signage stating the distances to the respective Tsilhqot'in Communities.
- 12.48 The Parties will consider further opportunities for public displays of Tsilhqot'in culture and history, and seek additional funding opportunities together to create roadside kiosks and enhance the current signage.

### ***Annual Review and Progressive Improvement***

- 12.49 The Parties will annually review the progress of the collaborative strategic planning under section 12.5, the negotiation of Category 'A' Lands and Provisional Category 'A' Lands under sections 12.15 and 12.21, and the Panel under section 12.26, and jointly decide and implement any changes or initiatives required to advance the shared vision set out in section 12.1.
- 12.50 In accordance with section 6, the Parties are committed, in due course, to jointly design and implement collaborative processes and structures that guide additional strategic planning initiatives and statutory decisions, as prioritized and agreed by the Parties.
- 12.51 If, during the Term of this Agreement, British Columbia and another First Nation enter into a consent-based or joint decision-making initiative, through delegation, agreement or through enabling legislation, British Columbia will promptly advise the Tsilhqot'in Nation of that initiative and will review and negotiate with the Tsilhqot'in Nation in good faith on the potential provision and implementation of a similar consent-based or joint decision-making initiative. The expectation of the Parties is that every reasonable effort will be made to negotiate and implement similar consent-based or joint decision-making initiatives as appropriate to the circumstances.
- 12.52 The Parties commit to revisit the Timber Supply Review and the Annual Allowable Cut for the Williams Lake Timber Supply Area, as required to take into account new strategic planning direction, and the establishment of Category 'A' Lands.

## **13.0 SUSTAINABLE ECONOMIC BASE**

### ***Economic Action Plan***

- 13.1 The Parties have a common interest in improving Tsilhqot'in participation in the economy and establishing a secure climate for economic and resource development. The Economic Sub-Table will produce an Economic Action Plan by April 1, 2017.

- 13.2 The Economic Development Sub-Table will identify opportunities to support economic development for the Tsilhqot'in Communities and seek ways to support a positive contribution to the economies of the region and British Columbia.
- 13.3 As part of Strategic Planning and economic development planning, the Parties will explore identification of specific areas of land suitable for the promotion of appropriate development, including forestry, alternative energy, tourism and eco-tourism, responsible mining development, ranching, agriculture and food systems, and other economic initiatives.
- 13.4 Every effort will be made to advance economic opportunities deemed actionable by the Economic Development Sub-Table, as they are identified.
- 13.5 The Economic Development Sub-Table will promote the voluntary engagement of third parties, as required, to advance specific economic opportunities.
- 13.6 The Parties will take all reasonable steps to enhance participation by Tsilhqot'in Citizens and Tsilhqot'in businesses in government procurement contracts and opportunities.

#### ***River West Mill***

- 13.7 The Parties recognize the potential value of restarting the River West Forest Products Mill as a key driver of employment and other direct and indirect economic benefits for the Tsilhqot'in Communities and British Columbia.
- 13.8 British Columbia will support the Tsilhqot'in Nation's efforts to increase involvement of Tsilhqot'in Parties in the forest industry and to bring River West Mill back into operation, taking into account all relevant considerations, by:
  - a. facilitating the engagement of the forest industry, BC Timber Sales, the Ministry of Jobs, Tourism and Skills Training, and BC Hydro;
  - b. seeking ways to fulfill expired offers of uplift volumes;
  - c. exploring additional opportunities to provide economically viable volume and tenure; and
  - d. exploring innovative ways to bring marginal fibre into production in a way that benefits the Tsilhqot'in Communities.

#### ***Resource Revenue Sharing***

- 13.9 The Parties will negotiate enduring, innovative agreements to share benefits from resource development on Category 'B' Lands by March 31, 2017.



- 13.10 The Parties will continue the interim financial arrangements established under section 6(c) of the *Letter of Understanding* until the Parties have negotiated more enduring agreements under section 13.9.

### ***Targeted Rural and Economic Development***

- 13.11 The Parties recognize that large-scale timber harvesting in response to the mountain pine beetle epidemic has, to date, resulted in very little long-term benefit to the Tsilhqot'in Communities. For decades to come, the level of timber harvesting is expected to be significantly reduced.
- 13.12 The Parties recognize the ability of Tsilhqot'in Nation, Tsilhqot'in Communities and Tsilhqot'in Citizens to develop strong economies, and capitalize on emerging economic opportunities depends, in part, on regional collaboration, tailored economic approaches, access to investment capital, and business development support.
- 13.13 The Parties will work together to take advantage of, leverage, and enhance benefits from existing and emerging rural and economic development programs and initiatives. This includes exploring the possibility of establishing specific access to economic development capital through establishment of a legacy fund and other means.

### ***Alternative Energy & Infrastructure Plan***

- 13.14 The Tsilhqot'in Parties have identified a number of energy related aspirations, including development of clean energy, upgrades to the Highway 20 distribution line and electrification of Xeni Gwet'in. Some of these items have already been the subject of extensive study and work involving the Tsilhqot'in Nation and BC Hydro. BC Hydro and the Tsilhqot'in Nation are meeting directly to review the energy-related studies that have already been done in the area to understand the Tsilhqot'in Nation's current proposals, which differ in some cases from what was proposed and studied earlier.
- 13.15 Once the new proposals are understood, British Columbia, supported by BC Hydro, is committed to working collaboratively with the Tsilhqot'in Nation to identify and assess opportunities and determine their technical and financial viability taking into account such factors as BC Hydro's rate plan, and the challenges identified in previous studies.
- 13.16 The Parties will undertake a review of existing studies and proposals for clean energy development and initiate new reviews based on pre-feasibility and feasibility studies including, but not limited to, solar, bio-energy, hydro, wind and geothermal. Clean energy proposals will be evaluated based on the opportunities available under BC Hydro's Standing Offer Program or any other applicable programs. In addition, BC Hydro remains open to considering innovative opportunities, where such opportunities are supported by a positive financial business case, that provides net benefit to ratepayers

and that advances the shared vision of this Agreement. This review will also include proposals for electrification of Xení Gwet'in and upgrades to the Highway 20 distribution line.

- 13.17 The Parties will complete their review on a priority basis and prepare a report outlining short-term opportunities (e.g. projects that can move beyond the feasibility stage) by April 1, 2017, or as soon as practicable depending on the nature of the proposals that are presented by the Tsilhqot'in Nation. As part of this report, British Columbia will examine, and clearly communicate, any options at its disposal to support short and long-term opportunities.
- 13.18 The Parties acknowledge that upgrades to the electrical infrastructure described in Section 13 are required to create additional economic opportunities for the Tsilhqot'in Nation, and fully achieve the economic vision described in this Agreement.

#### ***Land Based Investment Commitments***

- 13.19 The Parties will jointly review the Land Based Investment Strategy to ensure provincial funds that are allocated to the Tsilhqot'in Territory are commensurate with the reforestation and stand tending requirements to support the Type IV silviculture strategy. The Parties will jointly establish priority of works to occur and, where possible, maximize Tsilhqot'in Nation participation in carrying out these works.

#### ***Acquisitions Fund***

- 13.20 The Parties will explore options to establish a fund to enable the acquisition by the Tsilhqot'in Nation of key private properties, licenses, tenures or other interests that come available for sale in Tsilhqot'in Territory, if such a purchase supports the collaborative vision and goals of this Agreement.

#### ***First Nations Woodland Licenses***

- 13.21 British Columbia will process the applications by the Tsilhqot'in Communities for First Nations Woodland Licenses on a priority basis. The target date for completion of Tsilhqot'in woodland licenses or bridging replaceable licenses will be September 30, 2016.
- 13.22 British Columbia will, at the request of any Tsilhqot'in Party, discuss alternative or interim tenures (e.g. replaceable volume-based forest licenses) and support their timely implementation, including making volume available, where such tenures support the vision of this Agreement.

#### **14.0 ACTION PLAN FOR SOCIAL, CULTURAL, EDUCATION & JUSTICE PILLARS**

- 14.1 The Parties will establish the necessary processes and structures to enable collaborative action between their respective leadership, organizations, ministries and staff, and assure that measurable progress is made to strengthen the socio-cultural well-being of Tsilhqot'in Citizens, families, communities and organizations, beginning with a focus on the strategic priorities identified in the shared vision for the following Socio-Cultural Pillars:
- a. Strong Tsilhqot'in Culture and Language;
  - b. Healthy Children and Families;
  - c. Healthy Communities;
  - d. Justice; and
  - e. Education and Training.
- 14.2 The Parties acknowledge the dedication and effort of such social service agencies as Denisiqi Services Society, Punky Lake Wilderness Camp Society and Nenqayni Treatment Centre, while also acknowledging that substantial progress and change is required to achieve the shared vision set out for the Socio-Cultural Pillars.
- 14.3 The Social, Cultural, Education and Justice Sub-Table will produce a Social and Cultural Action Plan by February 28, 2017.
- 14.4 The following principles will guide the Parties in developing the Social and Cultural Action Plan and achieving the shared vision for these Pillars:
- a. the Parties recognize that progress may be made towards the shared vision for these Pillars if British Columbia prioritizes existing resources and programs in a focused manner for the Tsilhqot'in Communities;
  - b. however, the Parties acknowledge that the Tsilhqot'in Communities face considerable socio-economic gaps relative to non-Aboriginal communities, as well as substantial barriers to addressing these gaps;
  - c. accordingly, the Parties recognize that resources are required, particularly in the initial stages, for the Parties to successfully develop and implement the Social and Cultural Action Plan;
  - d. the Parties are committed to the goal of developing self-sustaining Tsilhqot'in Communities with the expectation that the Tsilhqot'in Parties will eventually be in a position to contribute financially to social and cultural programs and initiatives for the Tsilhqot'in Communities;

- e. at the same time, the Parties recognize that sustained focus and commitment from the Parties will be required to close the socio-economic gaps facing the Tsilhqot'in Communities; and
- f. accordingly, the financial contribution of the Tsilhqot'in Parties to these efforts will commence only when, and to the extent that the Parties agree, it does not compromise sustained progress towards achieving the shared vision set out for the Pillars, and an agreed level of progress has been achieved towards closing the socio-economic gaps with non-Aboriginal communities.

14.5 The Tsilhqot'in Parties will:

- a. identify and confirm community-defined strategic priorities and targets for strengthening the social and cultural well-being of its Tsilhqot'in Citizens, families, communities and organizations and achieving the outcomes for each of the identified Pillars; and
- b. establish structures and processes within the Tsilhqot'in Nation for governing, administering, planning, and implementing activities to progress Tsilhqot'in social and cultural priorities.

14.6 The Parties will:

- a. engage the active participation of key partners to assist the Parties in their understanding of and approaches to addressing the complex issues related to social and cultural well-being;
- b. identify shared priorities to advance Tsilhqot'in Citizens social and cultural well-being and related joint accountabilities;
- c. identify and address barriers and gaps in policy and the social service delivery models that are inhibiting progress towards Tsilhqot'in Nation priorities for each Pillar;
- d. as a priority, work to engage Canada, and develop an action plan to significantly improve housing in the Tsilhqot'in Communities;
- e. develop and resource joint strategic plans to align with and advance progress on Tsilhqot'in Nation priorities;
- f. enter into research and data-sharing arrangements, in compliance with the *Freedom of Information and Protection of Privacy Act*, to assist Tsilhqot'in decision making, planning and governance of social and cultural well-being;

- g. work together to develop and maintain a system to notify, inform and update the Tsilhqot'in Nation, to the extent possible, about the status of Tsilhqot'in children and youth in the provincial child and family system, subject to any restrictions imposed by the *Freedom of Information and Protection of Privacy Act* or other applicable legislation; and
- h. identify opportunities to structure provincial and Tsilhqot'in investments in ways that will leverage financial contributions to advance Tsilhqot'in priorities; and seek to achieve administrative and service delivery efficiencies where possible.

14.7 British Columbia will:

- a. through provincial strategic leadership, focus provincial resources to advance implementation of shared strategic priorities and achieve measureable progress on short, medium and long-term goals; and
- b. review and, if necessary, refine and advance new policies and approaches to ensure that they facilitate and are compatible with advancing the shared vision for each Pillar.

**15.0 DECLARED TITLE AREA**

- 15.1 The Parties will promptly establish the Declared Title Area Implementation Sub-Table in accordance with section 5.2, to address practical issues in the Declared Title Area, with the mandate to foster a stable transition to full management, benefit and control of the Declared Title Area by the Tsilhqot'in Nation while respectfully engaging third parties and attempting to address their interests within the Declared Title Area.

**16.0 PAST BREACHES OF CROWN'S DUTIES IN DECLARED TITLE AREA**

- 16.1 The Parties will make every reasonable effort, by May 1, 2016, to negotiate appropriate remedies for the breach of British Columbia's duties to the Tsilhqot'in Nation identified by the Supreme Court of British Columbia in *Tsilhqot'in Nation v British Columbia*, 2007 BCSC 1700 and affirmed by the Supreme Court of Canada in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44.

**17.0 FIRST NATIONS CONSULTATION**

- 17.1 The Parties enter this Agreement as a high-level framework to foster and support future negotiations between the Parties. The Parties do not intend, by taking this first step of signing the Agreement and establishing a high-level framework for discussions, to affect or impact in any way the asserted or established rights of other First Nations under section 35 of the *Constitution Act, 1982*.

- 17.2 The Parties agree that this Agreement will be implemented in a manner consistent with the established rights of other First Nations under section 35 of the *Constitution Act 1982*, as well as British Columbia's ongoing duty to consult with First Nations and seek to accommodate potential adverse impacts on asserted Aboriginal rights and title claims, as appropriate, in accordance with the common law and the provisions of applicable First Nations' treaties and engagement agreements.
- 17.3 The Parties recognize and acknowledge that other First Nations assert rights and interests under section 35 of the *Constitution Act, 1982* in the area subject to this Agreement, and are committed to engaging with other First Nations in an open and positive manner to attempt to resolve differences, reconcile interests and find mutually agreeable solutions.

## **18.0 DISPUTE RESOLUTION**

- 18.1 If a dispute arises relating to the interpretation or implementation of this Agreement (a "Dispute"), British Columbia or the Tsilhqot'in Parties may bring the Dispute to the attention of the Working Group by written notice. The Working Group will discuss and attempt to resolve the Dispute, with direction from the Parties' respective principals, where required.
- 18.2 If the Working Group cannot resolve the Dispute, the Leadership Table will be convened to discuss and attempt to resolve the Dispute or provide further direction to the Working Group.
- 18.3 Additionally, the Parties will utilize any dispute resolution mechanisms agreed to by the Parties in relation to a specific Dispute, including facilitated discussions or mediation.
- 18.4 For clarity, nothing in this section prevents or limits the ability of any Party to seek relief in court relating to a Dispute after exhausting the dispute resolution processes set out in sections 18.1 and 18.2 or if a Party still considers the Dispute unresolved more than 60 days after the Dispute was brought to the attention of the Working Group under section 18.1.
- 18.5 Notwithstanding section 18.4, any Party may bring judicial proceedings relating to a Dispute at any time:
- a. to prevent the loss of a right to commence proceedings due to the expiration of a limitation period; or
  - b. to obtain interlocutory or other interim relief.

## **19.0 IMPLEMENTATION FUNDING**

- 19.1 To implement this Agreement, British Columbia will provide the Tsilhqot'in National Government with:
- a. \$4,200,000 within thirty (30) days of the Effective Date;
  - b. \$3,000,000 on or before March 1, 2017;
  - c. \$3,000,000 on or before March 1, 2018; and
  - d. amounts agreed to pursuant to section 19.5, the first due March 1, 2019 and the second, and final amount, due March 1, 2020.
- 19.2 Annual payments described in section 19.1(b), (c) and (d) will be released by British Columbia following receipt of an annual report in each fiscal year that provides a high level summary of expenditures and achievements from the previous year's implementation funding. The form and manner of that report will be agreed to by the Parties.
- 19.3 The TNG will ensure that the annual report referred to in section 19.2 of this Agreement is submitted to British Columbia at least thirty (30) days prior to the next scheduled payment.
- 19.4 The TNG will ensure that the reports referred to in section 19.2 of this Agreement are posted in a manner making them reasonably available to Tsilhqot'in Citizens and the public. If, due to technical limitations, the Tsilhqot'in National Government is unable to make the reports available in this manner, British Columbia may assist in the public dissemination of the reports.
- 19.5 The Parties agree that stable, predictable funding is desirable to implement the Agreement and commit to a rolling model of funding for years four (4) and five (5) of the Agreement. Specifically, British Columbia will identify funding for those years, two (2) years before the money is due.
- 19.6 The Parties agree that this Agreement is of benefit to all Parties and that as a principle, the Parties agree to discuss and pursue supplemental funding sources that may contribute to the implementation of this Agreement.
- 19.7 The Parties agree that they will work together to engage the Government of Canada, with one of the goals being federal allocation of secure funding for the Tsilhqot'in Nation, to support the negotiations necessary for the implementation of this Agreement.

19.8 British Columbia's obligation to pay money under this Agreement is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year during which payment is due.

## **20.0 OTHER AGREEMENTS**

20.1 Other written agreements between British Columbia and the Tsilhqot'in Parties, including the Tsilhqot'in Stewardship Agreement, continue in accordance with their provisions but from time to time may be amended, in writing, by British Columbia and the Tsilhqot'in Parties to those other agreements, to address progress under this Agreement.

## **21.0 TERM AND TERMINATION**

21.1 This Agreement remains in effect for five (5) years from the Effective Date or until it is terminated pursuant to section 21.4 below (the "Term").

21.2 This Agreement is without prejudice to the right of the Tsilhqot'in Parties to commence or engage in litigation, including litigation asserting Aboriginal rights under section 35 of the *Constitution Act, 1982*, in response to a conflict arising from provincial or federal government actions or authorizations that cannot otherwise be resolved by the Parties.

21.3 In the spirit of this Agreement:

- a. the Tsilhqot'in Parties each agree and covenant that none of the Tsilhqot'in Parties will initiate or advance any litigation involving British Columbia seeking a declaration of Aboriginal title during the Term of the Agreement, other than in response to a conflict arising from government actions or authorizations that the Parties cannot otherwise resolve to the satisfaction of the Tsilhqot'in Parties. Where such an unresolved conflict arises, the Parties acknowledge that the Tsilhqot'in Parties may seek a declaration of Aboriginal title to the area that is reasonably required to respond effectively to the government action or authorization at issue.
- b. Nothing in section 21.3(a) constitutes an admission by British Columbia that the seeking of a declaration of Aboriginal title in response to an unresolved conflict is an appropriate remedy.
- c. Should the Tsilhqot'in Parties pursue a declaration of Aboriginal title pursuant to section 21.3(a), nothing in this Agreement will prevent British Columbia from raising any defence it may choose to any petition or action or other litigation in which such a declaration of Aboriginal title is sought.



- 21.4 If any Tsilhqot'in Party commences litigation that is contrary to section 21.3, British Columbia may terminate this Agreement upon the expiry of ninety (90) days' advance written notice to all Tsilhqot'in Parties.
- 21.5 British Columbia will withdraw any termination notice previously given if, prior to the expiry of the 90 day notice period in section 21.4:
- a. a notice of discontinuance of the entire proceeding as against all named parties is filed in court in respect of any litigation commenced contrary to section 21.3; or
  - b. British Columbia and all Tsilhqot'in Parties enter into an abeyance agreement, placing all litigation, court proceedings or court actions commenced contrary to section 21.3 into abeyance as against all named parties.
- 21.6 For greater certainty, section 21.3 does not limit the rights of the Tsilhqot'in Parties or Tsilhqot'in Citizens to defend any action or proceeding, civil or criminal, in which any Tsilhqot'in Party or Tsilhqot'in Citizen is named, joined or added as a defendant or a respondent, and in which their rights under section 35 of the *Constitution Act, 1982*, are placed in question.
- 21.7 The Parties acknowledge that this Agreement is a transition step to support the negotiation of more enduring arrangements between the Parties. The Parties will make every reasonable effort to negotiate a comprehensive and lasting reconciliation agreement, or agreements, before the expiry of this Agreement.
- 21.8 The Parties are jointly committed to achieving the shared vision for the Pillars set out in section 3, pursuant to the Guiding Principles set out in section 4. Prior to the expiry of this Agreement, the Parties will negotiate in good faith and attempt to reach agreement to renew, replace or supersede this Agreement, as required to advance and achieve the commitments set out in this Agreement, and in particular sections 3 and 4.
- 21.9 The Tsilhqot'in Parties will not authorize or support claims brought by Tsilhqot'in Citizens that contravene section 21.3(a).
- 21.10 British Columbia agrees and covenants that it will not count or rely on the period of time while this Agreement is in effect in support of a defence based on laches, acquiescence, limitation periods or any other statutory or equitable bar to court proceedings that may be brought by the Tsilhqot'in Parties, or any of them, seeking a declaration of Aboriginal rights, including Aboriginal title.

## **22.0 GENERAL PROVISIONS**

- 22.1 This Agreement may be amended by agreement of the Parties, in writing.

- 22.2 Nothing in this Agreement precludes the Tsilhqot'in Parties from:
- a. negotiating or implementing benefit-sharing or other agreements with proponents, third parties, or governments;
  - b. accessing any economic benefits or opportunities that might be available to the Tsilhqot'in Parties;
  - c. obtaining funding under the Tsilhqot'in Stewardship Agreement; or
  - d. participating in government programs for which the Tsilhqot'in Parties may be eligible.
- 22.3 Subject to section 21.10 this Agreement will not limit any position that British Columbia or the Tsilhqot'in Parties may take in future negotiations or legal proceedings.
- 22.4 While the Parties recognize and affirm the declaration of Aboriginal title granted by the Supreme Court of Canada in *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44, this Agreement does not otherwise create, amend, define, affirm, recognize, abrogate or derogate from any Aboriginal rights or Aboriginal title of the Tsilhqot'in Nation.
- 22.5 This Agreement is not a treaty or a lands claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 22.6 This Agreement does not:
- a. fetter or limit, and shall not be deemed to fetter or limit, the decision-making authority of any Party or their authorized representatives; or
  - b. constitute any admission of fact or liability.
- 22.7 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.
- 22.8 If any part of this Agreement is void or unenforceable at law, the Parties agree to negotiate and attempt to reach agreement, to the extent reasonably possible and as their respective interests may require, on a replacement for the severed part with a view to achieving the intent of the Parties as expressed in this Agreement.
- 22.9 All headings in this Agreement are for convenience only and do not form a part of this Agreement and are not intended to interpret, or explain the scope, extent or intent of this Agreement or any of its provisions.

22.10 In this Agreement, words in the singular include the plural, and words in the plural include the singular unless the context or any specific definition otherwise requires.

22.11 The use of the word “including” is to be read as not limiting the generality of the preceding term or phrase.

22.12 The following Schedules are attached to and form part of this Agreement: *Schedule A – Map of the Tsilhqot’in Territory*.

22.13 This Agreement may be executed in counterparts and by facsimile by the Parties.

### **23.0 REPRESENTATIONS AND WARRANTIES**

23.1 Tsilhqot’in Nation representations: Each of the Tsilhqot’in Parties represents and warrants to British Columbia, with the intent and understanding that British Columbia will rely on them in entering into this Agreement that:

- a. it has the legal power, capacity and authority to enter into this Agreement on its own behalf and on behalf of its Citizens; and
- b. this Agreement is a valid and binding obligation upon it.

23.2 British Columbia representations: British Columbia represents and warrants to the Tsilhqot’in Parties, with the intent and understanding that the Tsilhqot’in Parties 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 British Columbia.

IN WITNESS WHEREOF the Parties hereby execute this Agreement as of the date first written above.

On behalf of the Tsilhqot’in Nation and the Tsilhqot’in Parties:

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Nits’il?in (Chief) Joe Alphonse  
Tribal Chairman – Tsilhqot’in National Government  
Tl’etinqox Government

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Nits’il?in Roger William  
Vice Chairman – Tsilhqot’in National Government  
Xeni Gwet’in First Nations Government

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Nits'il?in Francis Laceese  
Toosey Indian Band

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Nits'il?in Ervin Charleyboy  
Tsi Deldel First Nation

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Nits'il?in Bernie Mack  
?Esdilagh First Nation

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Nits'il?in Russell Myers Ross  
Yunesit'in First Nations Government

**On behalf of the Province of British Columbia:**

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Hon. Christy Clark, Premier

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Hon. John Rustad  
Minister of Aboriginal Relations and Reconciliation

# Schedule A - Map of the Tsilhqot'in Territory

