

THIS AGREEMENT (the "Agreement") dated the 10 day of October, 2023 (the "Effective Date").

paysčepot yiyxmat kwums ta?ow:

**A COMPLIANCE AND ENFORCEMENT INFORMATION GOVERNANCE AGREEMENT
RESPECTING TLA'AMIN CULTURE AND HERITAGE STEWARDSHIP**

BETWEEN:

TLA'AMIN NATION, as represented by the Tla'amin Government

(the "Tla'amin Nation")

AND:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as
represented by the Minister of Forests

(the "Province")

WHEREAS:

- A. Tla'amin Nation, Canada and British Columbia have entered into the Tla'amin Treaty.
- B. Chapter 2, Section 68 of the Tla'amin Treaty allows for the parties to the Tla'amin Treaty to enter into agreements in relation to the collection, protection, retention, use, disclosure, and confidentiality of information in accordance with any applicable legislation, including federal and provincial access to information and privacy legislation.
- C. The Parties each have a desire to protect and conserve cultural heritage and have each enacted laws to do so. The Tla'amin Nation has enacted the *Culture and Heritage Law* under Chapter 14 of the Tla'amin Treaty, while the Province has enacted the *Heritage Conservation Act* (the "HCA").
- D. The Parties have certain information that they wish to share with one another for one or more of the following purposes: improving collaboration between the Tla'amin Nation and CEB; protecting and conserving cultural heritage within the Tla'amin Area; and promoting efficient and effective monitoring, compliance, and enforcement activities related to cultural heritage within the Tla'amin Area (the "**Purposes**").

NOW THEREFORE the Parties agree as follows:

DEFINITIONS AND INTERPRETATION

1. In this Agreement, including the recitals, unless the context otherwise requires, and in addition to any terms defined elsewhere in this Agreement:
 - (a) "**Business Day**" means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia;

- (b) **“CEB”** means the Compliance and Enforcement Branch of the Ministry of Forests;
- (c) **“DRIPA”** means the *Declaration on the Rights of Indigenous Peoples Act*, S.B.C. 2019, c. 44, as amended from time to time;
- (d) **“FOIPPA”** means the *Freedom of Information and Protection of Privacy Act*, S.B.C. 1996, c. 165, as amended from time to time;
- (e) **“Information”** means, as applicable, the Tla’amin Information or the Province Information;
- (f) **“Personal Information”** means recorded information about an identifiable individual, except business contact information, as defined in FOIPPA;
- (g) **“Purposes”** means the purposes as defined in Recital D of this Agreement;
- (h) **“Province Information”** means the reports, documentation, and other information described in Schedule A of this Agreement;
- (i) **“ta?ow”** means Tla’amin teachings about the traditions and culture of the Tla’amin people. A tradition is a Tla’amin-specific practice that has been handed down for generations within families and the Nation. Culture is the belief systems, values, spirituality, and shared understanding that inform traditional practices;
- (j) **“Term”** means the term of this Agreement set out in section 33 of this Agreement;
- (k) **“tisk”at site”** means the area set out in Schedule D of this Agreement;
- (l) **“Tla’amin Area”** means the area depicted in Appendix A of the Tla’amin Treaty and reproduced in Schedule C of this Agreement;
- (m) **“Tla’amin Information”** means the reports, documentation, stories, Indigenous knowledge, protocols, and other information described in Schedule B of this Agreement;
- (n) **“Tla’amin Section 35 Rights”** has the same definition as in the Tla’amin Treaty; and
- (o) **“Tla’amin Treaty”** means the Tla’amin Final Agreement ratified by each of the Tla’amin Nation, Canada, and British Columbia, and includes any amendments from time to time.

2. In this Agreement:

- (a) “includes” and “including” are not intended to be limiting;
- (b) unless the context otherwise requires, references to sections by number are to sections of this Agreement;

- (c) the Tla'amin Nation and the Province are referred to as "the Parties" and each of them as a "Party";
- (d) "attached" means attached to this Agreement when used in relation to a schedule;
- (e) unless otherwise specified, a reference to a statute by name means the statute of British Columbia by that name, as amended or replaced from time to time;
- (f) the headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
- (g) "person" includes an individual, partnership, corporation, or legal entity of any nature; and
- (h) unless the context otherwise requires, words expressed in the singular include the plural and vice versa.

PROVISION OF INFORMATION

3. During the Term, the Province may provide the Tla'amin Nation with copies of, or access to, the Province Information by way of email to the following contact(s), or by such other method as agreed to by the Parties:

Connie Graham, Referrals Manager
Email: Connie.graham@tn-bc.ca

Denise Smith, Lands and Resources Director
Email: Denise.smith@tn-bc.ca

4. During the Term, the Tla'amin Nation may provide the Province with copies of, or access to, the Tla'amin Information by way of email to the following contact(s), or by such other method as agreed to by the Parties:

Jim Norlock, Deputy Superintendent Operations - Coast Area
Email: CEB_Tlaamin_info_share@gov.bc.ca

5. Either Party may from time to time give notice to the other Party of a substitute contact which from the date such notice is given will supersede for purposes of sections 3 or 4 any previous contact specified for the Party.
6. The Parties acknowledge and agree that a Party is not obligated to provide any of the Party's Information to the other Party.
7. The Parties acknowledge and agree that a Party may choose to withhold any of the Party's Information that, in the Party's sole discretion, it determines may compromise the integrity of an active or future investigation or proceeding.

PERSONAL INFORMATION

8. The Province may, in providing the Province Information to the Tla'amin Nation, disclose the following Personal Information to the Tla'amin Nation pursuant to sections 33(2)(d) or 33(2)(x) of FOIPPA:
 - (a) contact information, other than business contact information, that is associated with archaeological sites or CEB-led inspections or investigations, including names and civic addresses.
9. The Tla'amin Nation may, in providing the Tla'amin Information to the Province, disclose the following Personal Information to the Province, and the Province may, in receiving the Tla'amin Information from the Tla'amin Nation, collect the following Personal Information pursuant to sections 26(b) or 26(c) of FOIPPA:
 - (a) contact information that is not business contact information, including names and civic addresses;
 - (b) licence plates; and
 - (c) personal identification.
10. Each Party will ensure that any Personal Information that is not disclosed by that Party under sections 8 or 9 of this Agreement is removed from the Party's Information prior to providing the Party's Information to the other Party.

LICENSE AND OWNERSHIP OF INFORMATION

11. The Province is the owner of all proprietary rights, including copyright, in the Province Information.
12. The Tla'amin Nation is the owner of all proprietary rights, including copyright, in the Tla'amin Information.
13. Subject to sections 16 and 17, the Tla'amin Nation grants to the Province a non-transferrable, non-exclusive, irrevocable, royalty-free license:
 - (a) to use and reproduce the Tla'amin Information for the Purposes;
 - (b) to distribute the Tla'amin Information for the Purposes to staff within the CEB or the Archaeology Branch of the Ministry of Forests; and
 - (c) to distribute the Tla'amin Information for the Purposes to one or more of the following parties, with prior written notification to the Tla'amin Nation:
 - (i) staff within the provincial government that are not within the CEB or the Archaeology Branch of the Ministry of Forests;
 - (ii) the RCMP;

- (iii) local governments; and
 - (iv) third parties that have been pre-approved in writing by the Tla'amin Nation.
14. Subject to section 16, the Province grants to the Tla'amin Nation a non-transferrable, non-exclusive, irrevocable, royalty-free licence:
- (a) to use and reproduce the Province Information for the Purposes; and
 - (b) to distribute the Province Information, for the Purposes, to one or more of the following parties:
 - (i) staff within the Tla'amin Nation; and
 - (ii) third parties that have been pre-approved in writing by the Province, including, but not limited to, contractors that are acting on behalf of Tla'amin Nation.
15. For greater certainty, the Parties acknowledge and agree that neither Party will modify the materials licensed under sections 13 and 14, including removing any author names or copyright statements. Despite the foregoing the Parties may make minor modifications to the materials licensed under sections 13 and 14 as necessary for formatting purposes.
16. A Party may advise, in writing, at the time of sharing the Party's Information that:
- (a) the Party's Information is considered sensitive Information; and
 - (b) there are additional restrictions, beyond those set out in sections 13 or 14, as applicable, as to how the Party receiving such sensitive Information may use, reproduce, or distribute such sensitive Information.
17. The Tla'amin Nation may advise the Province in writing at the time of sharing the Tla'amin Information that:
- (a) the Tla'amin Information contains Indigenous knowledge of the Tla'amin Nation; and
 - (b) there are any additional restrictions, beyond those set out in section 13, as to how the Province may use, reproduce or distribute such Tla'amin Information.
18. The licenses granted in sections 13 and 14 will be perpetual for that Information that the Parties agree may be retained on termination of this Agreement in accordance with section 39(c).

CONFIDENTIALITY

19. The Province must treat as confidential the Tla'amin Information and not permit its disclosure without the Tla'amin Nation's prior written consent except:

- (a) to distribute the Tla'amin Information in accordance with section 13(b) or (c) of this Agreement;
 - (b) to comply with applicable laws, including FOIPPA;
 - (c) if the Tla'amin Information is generally known to the public other than as result of a breach of this Agreement; or
 - (d) if the Tla'amin Information has been independently acquired or developed by the Province without violating any of the Province's obligations under this Agreement.
20. The Tla'amin Nation must treat as confidential the Province Information and not permit its disclosure or use without the Province's prior written consent except:
- (a) to distribute the Province Information in accordance with section 14(b) of this Agreement;
 - (b) to comply with applicable laws;
 - (c) if the Province Information is generally known to the public other than as result of a breach of this Agreement; or
 - (d) if the Province Information has been independently acquired or developed by the Tla'amin Nation without violating any of the Tla'amin Nation's obligations under this Agreement.
21. No public announcement relating to this Agreement will be made unless agreed to by the Parties.

WARRANTY AND LIMITATION OF LIABILITY

22. Each of the Parties acknowledges and agrees that:
- (a) the other Party has made no representations or warranties, expressed or implied, as to the accuracy, completeness or quality of the Information provided by it, or as the suitability of that Information for a particular purpose; and
 - (b) the other Party will have no liability relating to or resulting from the use of the Information it provided or any errors therein, or omission therefrom.
23. Neither Party is liable to the other Party in connection with any breach of this Agreement for any indirect, incidental, or consequential damages.

PRIVACY LEGISLATION

24. The Parties acknowledge that the Province will comply with FOIPPA and the *Information Management Act* (British Columbia).
25. The Parties acknowledge that the Tla'amin Information received by the Province under this Agreement may be subject to FOIPPA.

26. The Parties acknowledge that the Tla'amin Information must or may, as applicable, be excepted from disclosure under FOIPPA by the exceptions listed in Part 2 of FOIPPA, including, but not limited to the following:
- (a) disclosure could reasonably be expected to harm a law enforcement matter (section 15(1)(a) of FOIPPA);
 - (b) disclosure could reasonably be expected to harm the relations between government and an Indigenous governing entity (section 16(1)(a)(iii) of FOIPPA);
 - (c) disclosure could reasonably be expected to result in damage to, or interfere with the conservation of fossil sites, natural sites or sites that have an anthropological or heritage value (section 18(a) of FOIPPA);
 - (d) disclosure could reasonably be expected to harm the rights of an Indigenous people to maintain, control, protect or develop cultural heritage, traditional knowledge, traditional cultural expressions and manifestations of sciences, technologies, or cultures (section 18.1 of FOIPPA); or
 - (e) disclosure may be an unreasonable invasion of a third party's personal privacy (section 22 of FOIPPA).

SECURITY OF INFORMATION

27. Each Party will make reasonable arrangements to maintain the security of the other Party's Information in its custody, by protecting it against such risks as unauthorized access, collection, use, disclosure, or disposal.
28. Each Party will advise the other Party immediately of any circumstances, incidents, or events which to its knowledge have jeopardized or may in future jeopardize:
- (a) the privacy of individuals; or
 - (b) the security of any computer system in its custody that is used to access the other Party's Information.
29. Each Party will investigate all reported cases of:
- (a) unauthorized access to or modification of the other Party's Information in its custody;
 - (b) unauthorized use of the other Party's Information in its custody;
 - (c) unauthorized disclosure of the other Party's Information in its custody; and
 - (d) breaches of privacy or security with respect to the other Party's Information in its custody or with respect to any computer system in its custody that is used to access the other Party's Information.
30. Each Party will report to the other Party the results of any such investigation and the steps taken to address any remaining issues or concerns about the security of the other Party's Information or the privacy of individuals to whom the other Party's Information relates.

REPRESENTATIONS AND WARRANTIES

31. The Tla'amin Nation represents and warrants to the Province, with the intent and understanding that the Province will rely on them in entering into this Agreement, that it has the legal power, capacity, and authority to enter into and carry out its obligations under this Agreement.
32. The Province represents and warrants to the Tla'amin Nation, with the intent and understanding that the Tla'amin Nation will rely on them in entering into this Agreement, that it has the legal power, capacity, and authority to enter into and carry out its obligations under this Agreement.

TERM, TERMINATION AND SURVIVAL

33. The Term of this Agreement will commence on the Effective Date and, unless terminated in accordance with another provision of this Agreement, will remain in effect for a period of two years.
34. Either Party may terminate this Agreement for any reason at any time by providing 30 days' notice in writing to the other Party of its decision to terminate this Agreement.
35. The Parties will meet to review this Agreement no later than 6 months before the end of the Term of the Agreement.
36. The Parties will continue to work together to explore opportunities to modify this Agreement, which may arise due to the continuing implementation of DRIPA or the Tla'amin Treaty, or due to any changes to applicable legislation or policies.
37. All of the provisions of this Agreement in favor of a Party and all of the rights and remedies of a Party, either at law or in equity, survive any expiration or sooner termination of this Agreement.

DESTRUCTION OF INFORMATION

38. On termination of this Agreement, each Party will, within 45 days of such termination, delete or destroy all copies of the other Party's Information, and each Party will confirm such deletion or destruction in writing to the other Party if requested to do so.
39. Notwithstanding section 38, a Party may retain:
 - (a) any of the other Party's Information contained in back-up computer records for the period as such records are normally archived (provided that the Party will not access or use such archival or back-up copies for any other purpose);
 - (b) such copies of the other Party's Information as required by applicable law (including laws in relation to document retention, destruction, or both), or for the purposes of determining its legal obligations under this Agreement; and
 - (c) such copies of the other Party's Information as agreed to by the Parties in writing.

DISPUTE RESOLUTION

40. Unless the Parties otherwise agree in writing, in the event of any dispute between the Parties arising out of or in connection with this Agreement:
- (a) the duly appointed representatives of the Parties will meet as soon as is practicable to attempt to resolve the dispute;
 - (b) if the dispute cannot be resolved by the Parties under paragraph (a), the Parties will refer the issue to more senior representatives of the Parties who will attempt to resolve the dispute;
 - (c) if the dispute cannot be resolved by the Parties under paragraphs (a) and (b), the Parties will then attempt to resolve the dispute through mediation; and
 - (d) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally determined by arbitration under the *Arbitration Act* and:
 - (i) the arbitration will be administered by the Vancouver International Arbitration Centre and will be conducted in accordance with its Rules of Arbitration;
 - (ii) there will be a single arbitrator; and
 - (iii) British Columbia law is the applicable law.
41. Unless the Parties otherwise agree in writing, a mediation or arbitration under section 40 will be held in Tla'amin, British Columbia.
42. Unless the Parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the Parties must share equally the costs of a mediation or arbitration under section 40 other than those costs relating to the production of expert evidence or representation by counsel.

NOT A TREATY OR LAND CLAIMS AGREEMENT

43. This Agreement:
- (a) is not a part of the Tla'amin Treaty;
 - (b) is not a treaty or land claims agreement within the meaning of sections 25 or 35 of the *Constitution Act, 1982 (Canada)*; and
 - (c) does not affirm, recognize, abrogate, or derogate from any Tla'amin Section 35 Rights.

NOTICE

44. Where in this Agreement any request or notice is required to be given or made by either of the Parties, it will be in writing and is effective if it is sent by registered mail, email, or delivered in person, addressed as follows:

(a) if to the Province:

3rd Floor, 3400 Davidson Avenue
Victoria, BC
V8Z 3P8

CEB_Tlaamin_info_share@gov.bc.ca

(b) if to the Tla'amin Nation:

4779 Klahanie Drive
Tla'amin, BC
V8A 0C4

Denise.Smith@tn-bc.ca and Connie.Graham@tn-bc.ca

45. Any written communication from either Party will be deemed to have been received by the other Party on the fifth Business Day after mailing in British Columbia, on the date of personal delivery if personally delivered, or on the date of transmission if sent by email.

46. Either Party may from time to time give notice to the other Party of a substitute address or email address which from the date such notice is given will supersede for purposes of section 44 any previous address or email address specified for the Party giving the notice.

MISCELLANEOUS

47. This Agreement may not be assigned without the express consent of the other Party.

48. No modification of this Agreement is effective unless it is in writing and signed by, or on behalf of, the Parties.

49. A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, the waiving party. Any such waiver is not a waiver of any other term or breach.

50. This Agreement and the Schedules to this Agreement (including any modification of it) constitutes the entire agreement between the Parties with respect to the provision of the Province Information and the Tla'amin Information.

51. The schedules to this Agreement (including any appendices or other documents attached to, or incorporated by reference into, those schedules) are part of this Agreement.

52. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the Province or its agencies of any statutory, prerogative, executive or legislative power or duty.

53. This Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

54. No partnership, joint venture or agency will be created or will be deemed to be created by this Agreement or any action of the Parties under this Agreement.

55. If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.
56. Each Party must perform the acts, execute, and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.
57. This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia, including the laws of Canada applicable therein.
58. Time is of the essence in this Agreement and, without limitation, will remain of the essence after any modification or extension of this Agreement, whether or not expressly restated in the document effecting the modification or extension.

EXECUTION AND DELIVERY OF AGREEMENT

59. This Agreement may be entered into by a separate copy of this Agreement being executed by, or on behalf of, each Party and that executed copy being delivered to the other Party by a method provided for herein or any other method agreed to by the Parties.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorized representatives effective on the Effective Date.

TLA'AMIN NATION

Per: _____

Name: John Hackett

Title: Hagus

HIS MAJESTY KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA AS REPRESENTED BY THE MINISTER OF FORESTS

Per: _____

Name: Matt Austin

Title: Assistant Deputy Minister, Ministry of Forests

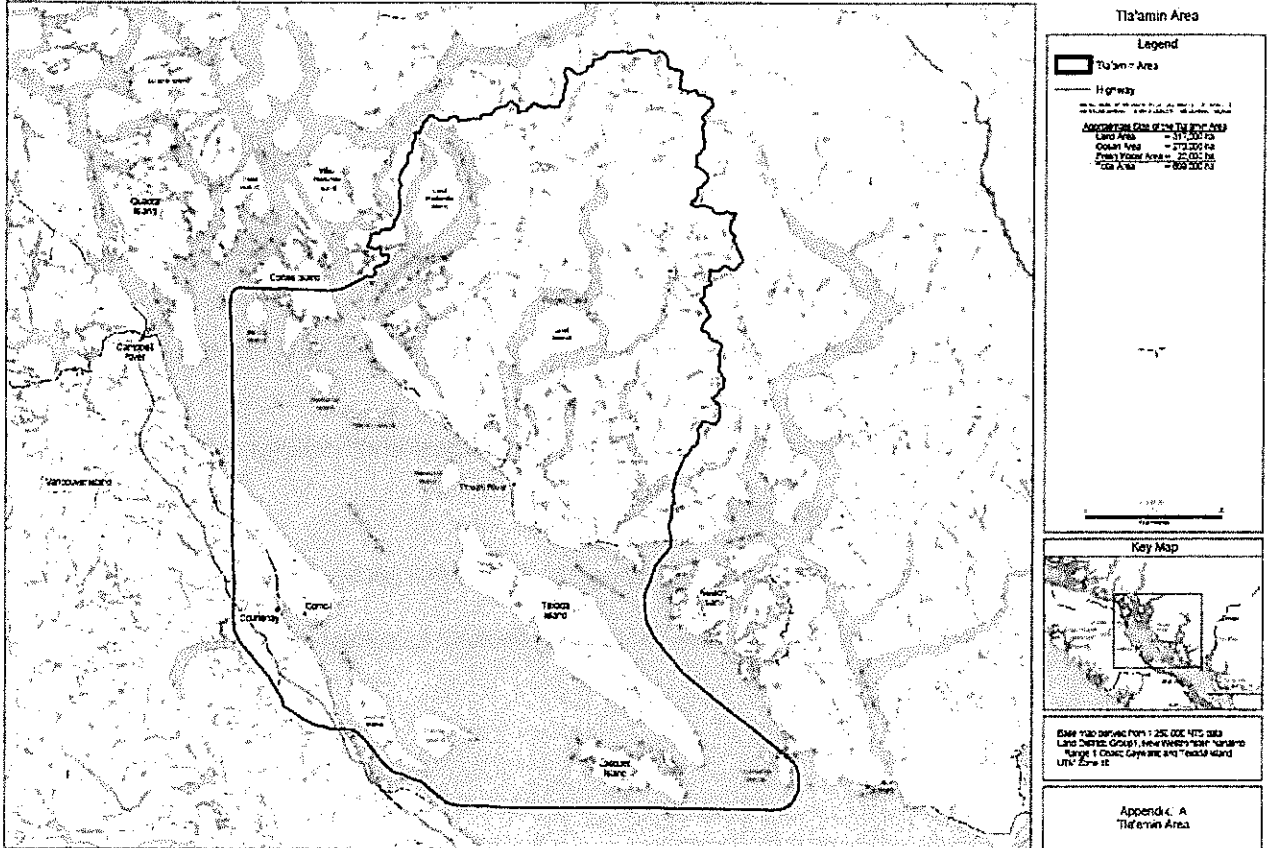
SCHEDULE A – PROVINCE INFORMATION

1. The following may be provided by the Province to the Tla'amin Nation under this Agreement (the "**Province Information**"):
 - (a) CEB reports, documentation, and other information pertaining to completed CEB-led inspections or investigations activities under the HCA that took place within the Tla'amin Area, including at the tisk^wat site;
 - (b) notification of active CEB-led inspections or investigations activities under the HCA that are taking place within the Tla'amin Area, including at the tisk^wat site;
 - (c) subject to the Province's discretion to withhold Province Information for reasons including but not limited to those set out in section 7 of this Agreement, CEB reports, documentation, and other information pertaining to active CEB-led inspections or investigations activities under the HCA that are taking place within the Tla'amin Area, including at the tisk^wat site;
 - (d) professional archaeologist reports produced or received by CEB relating to sites within the Tla'amin Area, including at the tisk^wat site; and
 - (e) information about the location of identified ancestral remains and any proposed movement of ancestral remains to a different location.

SCHEDULE B – TLA'AMIN INFORMATION

1. The following may be provided by the Tla'amin Nation to the Province under this Agreement (the "**Tla'amin Information**"):
 - (a) information about culturally sensitive areas, including registered and unregistered heritage sites;
 - (b) information about traditional use sites that may support CEB inspections or investigations;
 - (c) information about activities in the Tla'amin Area that may be non-compliant with the HCA or the Tla'amin *Culture and Heritage Law*;
 - (d) relevant ʔayʔajuθəm (ayajuthem) language to identify sites, objects, assets and locations;
 - (e) Tla'amin stories and ta'ow related to Tla'amin culture and heritage;
 - (f) Tla'amin traditional ecological knowledge;
 - (g) Tla'amin protocols and practices related to restorative justice; and
 - (h) any other information that Tla'amin deems relevant to culture and heritage.

SCHEDULE C – TLA'AMIN AREA



SCHEDULE D - tiskwat

