

**TLA'AMIN NATION**  
**and**  
**TLA'AMIN GROUP OF BUSINESSES**  
**ECONOMIC DEVELOPMENT AGREEMENT**



Dated for Reference: April 5, 2016

# ECONOMIC DEVELOPMENT AGREEMENT

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## ECONOMIC DEVELOPMENT AGREEMENT

~~Tla'amin Holdings Inc.~~ THIS AGREEMENT is made as of and with effect from April 5, 2016.

BETWEEN the Parties set out in Schedule 1.

### BACKGROUND:

- A. The Executive Council, on behalf of the Tla'amin Nation, is the sole shareholder of Tla'amin Holdings Inc.;
- B. Tla'amin Holdings Inc. was established to hold business interests of Tla'amin Nation;
- C. Tla'amin Businesses have been established to carry out certain business opportunities on behalf of Tla'amin Nation under the oversight of Tla'amin Holdings Inc. in accordance with the Economic Development Law;
- D. The Economic Development Law requires the Parties to enter into an Economic Development Agreement to define their respective roles and responsibilities relating to the governance and finances of Tla'amin Businesses.

NOW THEREFORE ~~Tla'amin Holdings Inc.~~ THIS AGREEMENT WITNESSES that in consideration of the covenants and agreements contained in this Agreement, the Parties covenant and agree each with the other as follows:

## PART 1 - INTERPRETATION

### Definitions and interpretation principles

- 1.1 Unless otherwise indicated, words and expressions appearing in this Agreement will be interpreted or construed as indicated in Schedule 2 and this Agreement will be interpreted in accordance with the interpretation principles set out in Schedule 2.

### Schedules

- 1.2 The following Schedules are attached to and form part of this Agreement:

- Schedule 1 – Parties;
- Schedule 2 – Definitions and Interpretation Principles;
- Schedule 3 – Responsibilities of the Executive Council;
- Schedule 4 – Responsibilities of the Holdings Board;
- Schedule 5 – Responsibilities of the Management Services Board;
- Schedule 6 – Responsibilities of the Operating Boards; and
- Schedule 7 – Responsibilities of the Chief Executive Officer.

## **PART 2 - BOARD APPOINTMENTS**

### **Composition of Holdings Board**

**2.1** Tla'amin Nation will, by Executive Council resolution, vote its shares in Tla'amin Holdings Inc. so that the Holdings Board is comprised of all of the members of the economic development committee, except for

- (a) the Hegus, and
- (b) the member of Executive Council holding the finance portfolio.

### **Holdings Board officers**

**2.2** The chair and vice-chair of the economic development committee must be appointed as the President and Vice-President, respectively, of the Holdings Board.

### **Term of Holdings Board**

**2.3** Tla'amin Nation will vote its shares in Tla'amin Holdings Inc. so that the term of office for each Holdings Board member corresponds to his or her term of office as an economic development committee member.

### **Removal of the Holdings Board**

**2.4** Tla'amin Nation will only vote its shares in Tla'amin Holdings Inc. to remove a member of the Holdings Board where the member ceases to be a member of the economic development committee.

### **Composition of Operating Boards**

**2.5** Tla'amin Holdings Inc. will vote its shares in each of the Tla'amin Businesses or applicable Tla'amin Business so that each of the Operating Boards is comprised of five individuals who are not members of the Legislative Assembly,

- (a) two Tla'amin Citizens that are not members of the Holdings Board, each of whom must
  - (i) have a British Columbia Certificate of Graduation (Dogwood Diploma) or equivalent,
  - (ii) have in good standing with the Tla'amin Nation,
  - (iii) have relevant experience, education or demonstrated interest in business, as determined by the Holdings Board, and

appointed to stated staggered terms up to a maximum of four years, and

- (b) two members of the Holdings Board that possess
  - (i) a degree from a post-secondary institution,
  - (ii) a professional designation, or
  - (iii) a minimum of five years of relevant business experience, as determined by the Holdings Board, andappointed to a term corresponding to his or her term on the Holdings Board, and
- (c) one individual that is not a member of the Holdings Board, that possesses
  - (i) a degree from a post-secondary institution,
  - (ii) a professional designation, or
  - (iii) a minimum of 5 years of relevant business experience, as determined by the Holdings Board, andappointed to a stated term up to a maximum term of four years.

#### **Term of boards of other Tla'amin Businesses**

- 2.6** (a) For certainty, the term of office for each Operating Board member is a maximum of four years or until he or she resigns or is removed in accordance with this Agreement and the constating documents of the applicable Tla'amin Business.
- (b) An individual may be appointed to two or more consecutive terms as a member of an Operating Board.

#### **Removal of boards of other Tla'amin Businesses**

- 2.7** (a) Tla'amin Holdings Inc. will only vote its shares in a Tla'amin Business to remove an Operating Board member in one or more of the following circumstances:
- (i) the board member is persistently absent from meetings of the Operating Board;
  - (ii) the board member engages in conduct which amounts to impropriety or malfeasance;
  - (iii) the board member has been found to be persistently exerting undue influence over other board members, the Chief Executive Officer, or managers or staff of the applicable Tla'amin Business;
  - (iv) the board member, in the opinion of the Holdings Board, has been found to have breached one or more Tla'amin laws or regulations;

- (v) the board member is grossly incompetent; or
  - (vi) the board member is not acting in the best interests of the Tla'amin Nation.
- (b) A dispute regarding the removal of a board member from an Operating Board under subsection (a) must be dealt with in accordance with section 9.3.

### **Liaisons**

- 2.8** (a) The Hegus and the member of the Executive Council holding the finance portfolio will serve as liaisons between Tla'amin Nation and the Holdings Board and Operating Boards.
- (b) For certainty, a liaison referred to in subsection (a) will not be appointed as a member of the Holdings Board or an Operating Board but must be afforded every other right, courtesy, respect and consideration as a member of the applicable board of directors, other than the right to vote on a matter considered by the Holdings Board or an Operating Board.

## **PART 3 - ANNUAL PLANNING**

### **Holdings Board annual planning**

- 3.1** (a) On or before December 31 of each year, the Holdings Board will approve an annual plan for Tla'amin Holdings Limited Partnership for the next fiscal year.
- (b) The annual plan approved under subsection (a) will include
- (i) a budget for Tla'amin Holdings Limited Partnership for the next fiscal year,
  - (ii) capital contribution and financing expectations from Tla'amin Holdings Limited Partnership to each Tla'amin Business,
  - (iii) expected distributable cash from Tla'amin Holdings Limited Partnership and the other Tla'amin Businesses for the Tla'amin Nation and Tla'amin Citizens,
  - (iv) financial performance targets, and
  - (v) a communications plan.

### **Operating Boards annual planning**

- 3.2** (a) Subject to reasonable exceptions, each Tla'amin Business must, on or before October 31 of each year, provide for approval by the Holdings Board a proposed annual plan for that Tla'amin Business for the next fiscal year.

- (b) The proposed annual plan provided by a Tla'amin Business under subsection (a) must include
  - (i) a budget for that Tla'amin Business for the next fiscal year in the form and with the content required by the Holdings Board, acting reasonably,
  - (ii) a brief descriptive overview of any major project that Tla'amin Business intends to carry out during that fiscal year, or continue from the previous fiscal year, including a proposed project schedule, budget, a list of resources necessary or desirable for the project, including human, financial and capital resources, and a plan on how to acquire those resources for the project,
  - (iii) expected distributable cash available from that Tla'amin Business for Tla'amin Holdings Limited Partnership, and
  - (iv) financial performance and employment targets for that Tla'amin Business.
- (c) The Holdings Board must consider the annual plan provided by a Tla'amin Businesses under subsection (a) on or before November 30 of that year and
  - (i) approve the annual plan, with or without conditions, or
  - (ii) require the Tla'amin Business to amend and resubmit a revised proposed annual plan in the form and with the content required by the Holdings Board, acting reasonably.
- (d) If the Holdings Board requires a Tla'amin Business to amend and resubmit a revised proposed annual plan under subsection (c)(ii), that Tla'amin Business must provide the Holdings Board with a revised proposed annual plan in the form and with the content required by the Holdings Board within 15 days and, upon receipt of the revised proposed annual plan, the Holdings Board must consider the revised proposed annual plan and must approve, or amend and approve, the annual plan within 15 days, with or without conditions.
- (e) If an annual plan has not been approved by December 31 of any given year, the annual plan for that Tla'amin Business for the previous fiscal year will continue as the annual plan for the current fiscal year until a proposed annual plan is approved by the Holdings Board, with the necessary changes required and so far as applicable.

## **PART 4 - MAJOR DECISIONS**

### **Decisions of requiring Executive Council approval**

- 4.1** Notwithstanding anything to the contrary in the constating documents of Tla'amin Holdings Inc. or Tla'amin Holdings Limited Partnership, Tla'amin Holdings Inc. or

Tla'amin Holdings Limited Partnership will not take any action in respect of or within the scope of any of the following major decisions without the prior approval of Executive Council by resolution:

- (a) making any changes to its constating documents;
- (b) renaming Tla'amin Holdings Inc. or Tla'amin Holdings Limited Partnership;
- (c) making any change in the authorized or issued capital or ownership of Tla'amin Holdings Inc. or Tla'amin Holdings Limited Partnership, including the issuance, redemption or sale of partnerships units or share capital;
- (d) selling, transferring or otherwise disposing of all or any substantial part of the undertaking, property or assets of Tla'amin Holdings Limited Partnership, Tla'amin Holdings Inc. or another Tla'amin Business;
- (e) borrowing money or establishing a line of credit in an amount exceeding \$500,000 for any one loan or line of credit;
- (f) obtaining more than one loan or line of credit within a 120 day period where the aggregate amount of the loans or lines of credit exceeds \$500,000;
- (g) guaranteeing any loans or agreeing to indemnify any loss greater than \$500,000 or guaranteeing any loans or agreeing to indemnify any loss in any amount for a Tla'amin Business;
- (h) investing funds not immediately required for the operation of Tla'amin Holdings Limited Partnership or other Tla'amin Businesses in any instrument other than securities issued or guaranteed by Canada or a province or territory of Canada or fixed deposits, notes, certificates or other short-term paper of, or guaranteed by, a financial institution;
- (i) entering into any material contract or commitment that may adversely impact Tla'amin Lands or assets or engaging in any material transaction not in the ordinary and usual course of business;
- (j) making any distribution of distributable cash except in accordance with this Agreement;
- (k) commencing any proceedings to wind up, dissolve or liquidate Tla'amin Holdings Limited Partnership, Tla'amin Holdings Inc. or any Tla'amin Businesses;
- (l) making a cash distribution to Tla'amin Citizens under section 5.1;
- (m) authorizing the expenditure of an amount exceeding \$500,000 derived from the Prepaid Lease Fund within a 12-month period;

- (n) entering into a partnership, joint venture or other similar relationship with a third party;
- (o) creating or investing in any Tla'amin Business;
- (p) waiving any right of substantial value; and
- (q) entering into any material contract or commitment or engaging in any material transaction not in the ordinary and usual course of business.

#### **Decisions requiring Holdings Board approval**

**4.2** Notwithstanding anything to the contrary in the constating documents of the applicable Tla'amin Business, a Tla'amin Business will not take any action in respect of or within the scope of any of the following decisions without the prior approval of the Holdings Board by resolution:

- (a) renaming or making any change to the constating documents or the ownership of the applicable Tla'amin Business, including the issuance, redemption or sale of partnerships units or share capital;
- (b) entering into a partnership, joint venture or other similar relationship with a third party;
- (c) selling, transferring or otherwise disposing of all or any substantial part of the undertaking, property or assets of the applicable Tla'amin Business;
- (d) waiving any right of substantial value;
- (e) awarding, entering into, amending, terminating or waiving compliance with the terms of any contracts which
  - (i) are not at a fixed or predetermined price, or
  - (ii) commit the applicable Tla'amin Business to amounts exceeding the greater of \$250,000 or a spending limit established by the Holdings Board for any one contract;
- (f) acquiring real property for any amount;
- (g) acquiring personal property for an amount exceeding \$250,000 for any one item;
- (h) borrowing money or establishing a line of credit in an amount exceeding \$250,000 for any one loan or line of credit;
- (i) obtaining more than one loan or line of credit within a 120 day period where the aggregate amount of the loans or lines of credit exceeds \$250,000;
- (j) guaranteeing any loans or agreeing to indemnify any loss greater than \$250,000;

- (k) investing funds not immediately required for the operation of the applicable Tla'amin Business in any instrument other than securities issued or guaranteed by Canada or a province or territory of Canada or fixed deposits, notes, certificates or other short-term paper of, or guaranteed by, a financial institution;
- (l) settling any claim of or against the applicable Tla'amin Business where the amount claimed is greater than \$250,000;
- (m) spending an amount exceeding \$250,000 derived from the Prepaid Lease Funds within a 12-month period, not including any amounts permitted under section 8.3 of the Economic Development Law;
- (n) making any distribution of distributable cash except in accordance with this Agreement;
- (o) commencing any proceedings to wind up, dissolve or liquidate the applicable Tla'amin Business;
- (p) entering into any material contract or commitment or engaging in any material transaction not in the ordinary and usual course of business; and
- (q) adopting any policy or procedure of the nature contemplated in section 7.3(b) or 7.3(c) except in accordance with section 7.3.

## **PART 5 - DISTRIBUTIONS**

### **Distributions from Tla'amin Holdings Limited Partnership**

- 5.1** (a) If at the end of a fiscal year, Tla'amin Holdings Inc. determines that Tla'amin Holdings Limited Partnership has distributable cash, Tla'amin Holdings Inc. will
- (i) distribute to or for the benefit of the Tla'amin Nation as much or all of the Tla'amin Nation's share of that distributable cash, and upon the terms or conditions as the Executive Council may direct, in accordance with this section,
  - (ii) distribute to or for the benefit of Tla'amin Citizens as much or all of the Tla'amin Nation's share of that distributable cash, and upon the terms or conditions as the Executive Council may direct, in accordance with this section, and
  - (iii) reinvest in Tla'amin Holdings Limited Partnership any distributable cash not distributed under paragraph (i) or (ii).
- (b) No later than 60 days following the end of each fiscal year, Tla'amin Holdings Inc. will notify Executive Council of the amount of any distributable cash for that fiscal year.

- (c) No later than 30 days following the receipt of the notice under subsection (b), Executive Council will notify Tla'amin Holdings Inc. of the anticipated amount, time and terms and conditions of any distribution under subsection (a)(i) or (a)(ii).
- (d) No later than 30 days following the receipt of the notice under subsection (c), Tla'amin Holdings Inc. may notify the Executive Council of any concern it has regarding the effect of the anticipated distribution on Tla'amin Holdings Limited Partnership.
- (e) No later than 150 days following the end of each fiscal year, the Executive Council may issue a direction for a distribution under subsection (a)(i) or (a)(ii).
- (f) A direction under subsection (e) may direct Tla'amin Holdings Inc. to
  - (i) distribute an amount that is equal to or less than the anticipated amount,
  - (ii) advance the distribution at a later time than the anticipated time, or
  - (iii) make the distribution on terms or conditions that differ from the anticipated terms and conditions
 set out in the notice under subsection (c).
- (g) Despite subsections (a) to (f), Tla'amin Holdings Inc. will not be required to make any distribution of distributable cash until at least 30 days after it receives a direction under subsection (e).

### **Distributions from Tla'amin Businesses**

- 5.2**
- (a) If at the end of a fiscal year a Tla'amin Business determines that the applicable Tla'amin Business has distributable cash, the Tla'amin Business will
    - (i) distribute to or for the benefit of Tla'amin Holdings Limited Partnership as much or all of Tla'amin Holdings Limited Partnership's share of that distributable cash, and upon the terms or conditions as the Holdings Board may direct, in accordance with this section, and
    - (ii) reinvest in the Tla'amin Business any distributable cash not distributed under paragraph (i).
  - (b) No later than 30 days following the end of each fiscal year, each Tla'amin Business will notify the Holdings Board of the amount of any distributable cash for that fiscal year.
  - (c) No later than 30 days following the receipt of the notice under subsection (b), the Holdings Board will notify each Tla'amin Business of the anticipated amount, time and terms and conditions of any distribution under subsection (a)(i).

- (d) No later than 30 days following the receipt of the notice under subsection (c), a Tla'amin Business may notify the Holdings Board of any concern it has regarding the effect of the anticipated distribution on the Tla'amin Business.
- (e) No later than 120 days following the end of each fiscal year, the Holdings Board may issue a direction for a distribution under subsection (a)(i).
- (f) A direction under subsection (e) may direct the Tla'amin Business to
  - (i) distribute an amount that is equal to or less than the anticipated amount,
  - (ii) advance the distribution at a later time than the anticipated time, or
  - (iii) make the distribution on terms or conditions that differ from the anticipated terms and conditionsset out in the notice under subsection (c).
- (g) Despite subsections (a) to (f), a Tla'amin Business will not be required to make any distribution of distributable cash until at least 30 days after it receives a direction under subsection (e).

## **PART 6 - REPORTING**

### **Reporting by Tla'amin Holdings Limited Partnership**

- 6.1** At least quarterly, Tla'amin Holdings Limited Partnership will report to Executive Council on its financial and operational circumstances, including its financial results compared to the annual budget.

### **Reporting by Tla'amin Businesses**

- 6.2** At least quarterly, or more frequently if requested by the Holdings Board, each Tla'amin Business will report to Tla'amin Holdings Inc., with an information copy to Executive Council, on its financial and operational circumstances, including its results compared to the annual budget, and the number of Tla'amin Citizens employed.

### **Reporting by Chief Executive Officer**

- 6.3** (a) At the request of the chair of the Holdings Board, the Chief Executive Officer will report to the Holdings Board on the financial and operational circumstances of a Tla'amin Business.
- (b) At the request of the chair of the economic development committee, the Chief Executive Officer will report to Executive Council or the Legislative Assembly on the financial and operational circumstances of a Tla'amin Business.

- (c) The Chief Executive Officer will ensure that quarterly updates are prepared for Tla'amin Citizens in the community newsletter.

#### **Audited financial statements**

- 6.4 (a) The annual financial statements of Tla'amin Holdings Limited Partnership and each Tla'amin Businesses must be prepared in accordance with generally acceptable accounting principles in Canada.
- (b) On the request of the Executive Council, the annual financial statements of a Tla'amin Business must be audited.
- (c) The annual financial statements of a Tla'amin Business audited under subsection (b) must be audited in accordance with generally accepted audit standards in Canada.

### **PART 7 - OPERATIONAL MATTERS**

#### **Management services agreement**

- 7.1 (a) Tla'amin Management Services Limited Partnership will enter into an agreement with each Tla'amin Business to provide corporate, administrative, financial, record keeping, accounting and advisory services to that Tla'amin Business.
- (b) The management services agreement will include provisions
  - (i) requiring Tla'amin Management Services Limited Partnership to carry out the responsibilities set out in Schedule 5 and any other responsibilities approved by the Holdings Board from time to time, and
  - (ii) establishing the compensation to be paid to Tla'amin Management Services Limited Partnership by each Tla'amin Business for those services.

#### **Chief Executive Officer**

- 7.2 (a) Tla'amin Management Services Limited Partnership will retain an individual to hold the office of Chief Executive Officer for Tla'amin Businesses.
- (b) Tla'amin Management Services Limited Partnership will cause the Chief Executive Officer to enter into an employment or independent contractor agreement with Tla'amin Management Services Limited Partnership.
- (c) The employment or independent contractor agreement of the Chief Executive Officer will include provisions

- (i) requiring the Chief Executive Officer to carry out the responsibilities set out in Schedule 7 and any other responsibilities approved by the management services board from time to time, and
  - (ii) establishing the Chief Executive Officer's salary, which must be a competitive salary commensurate with individuals of similar skill and experience.
- (d) In performing the duties and exercising the powers set out in Schedule 7, the Chief Executive Officer will report to the chair of the management services board.

### **Policies and procedures**

- 7.3**
- (a) Each Operating Board may develop, adopt by resolution and implement written operational policies and procedures that may be necessary or desirable for the better and more efficient operation of the applicable Tla'amin Business.
  - (b) Each Tla'amin Business will develop policies and procedures for financial management that meet the standard set by the ~~Finance and Administration~~ Administration and Finance Law.
  - (c) Each Tla'amin Business is subject to the Conflict of Interest Law and Tla'amin Entities Conflict of Interest Regulation.
  - (d) Each Tla'amin Business will only consider an individual that is in good standing for employment and contracting opportunities, in accordance with Tla'amin laws and policies.
  - (e) Tla'amin Holdings Limited Partnership will develop a policy or procedure for donation requests from the Tla'amin Nation, Tla'amin Citizens and Tla'amin Nation Institutions, in accordance with Tla'amin laws and policies.
  - (f) Without limiting subsection (a) but subject to subsection (d), each Tla'amin Business will, within six months of signing this Agreement, develop, adopt by resolution and implement the following written operational policies and procedures:
    - (i) a human resources and personnel policy providing for the preferential hiring of Tla'amin Citizens, subject to demonstrable levels of skill and experience necessary for the position;
    - (ii) a contracting and procurement policy;
    - (iii) terms of reference for the Operating Board, individual members of the Operating Board and the chairperson of the Operating Board;
    - (iv) Operating Board governance guidelines;

- (v) code of conduct guidelines;
  - (vi) director travel and expense guidelines;
  - (vii) terms of reference for board committees;
  - (viii) annual performance evaluations for boards, management and staff.
- (g) Each Tla'amin Business will, within three months of receiving from the Holdings Board a written request to do so, develop, adopt by resolution and implement any written policy or procedure required by the Holdings Board.
- (h) Prior to adopting a policy or procedure under subsection (a), a Tla'amin Business will first obtain the written consent of the Holdings Board to the policy or procedure substantially in the form to be adopted by the Tla'amin Business.

**Professional advisors**

- 7.4 Subject to available resources, Operating Boards may engage consultants, technical experts and other persons the Operating Board reasonably require to fulfill its responsibilities under this Agreement.

**PART 8 - NEW TLA'AMIN BUSINESSES**

**Addition as a party**

- 8.1 (a) Each Tla'amin Business established in accordance with the Economic Development Act after the date of this Agreement will enter into this Agreement and the management services agreement, thereby agreeing to be bound by all of the terms contained in this Agreement and the management services agreement as if that Tla'amin Business was an original party to that agreement and, in those circumstances, this Agreement and the management services agreement are deemed to be amended by adding that Tla'amin Business as a party to that agreement.
- (b) Upon any Tla'amin Business entering into this Agreement in accordance with subsection (a), the table in Schedule 1 is deemed to be amended by adding an additional row with
- (i) the name of the new Tla'amin Business in Column 1 of that new row, and
  - (ii) the registration or incorporation number of the new Tla'amin Business in Column 2 of that new row.

## **PART 9 - DISPUTE RESOLUTION**

### **Resolution by parties**

**9.1** Each Party will endeavour to resolve informally and as between those involved any disputes in respect of the interpretation, construction, compliance with or breach of this Agreement or its termination. If a dispute arises and any Party gives notice to the Chair of the Holdings Board of the dispute, then that dispute will be referred to a committee comprised of the Hegus, the Chair of the Holdings Board and one representative of each Party to the dispute which will meet within 15 days of the date of that notice to discuss and attempt to resolve the dispute. If the committee resolves the dispute, the committee will confirm the resolution of the dispute in writing within that 15-day period.

### **Review and Appeal Panel**

**9.2** If the dispute has not been resolved within the 30 days contemplated in section 9.1 and any Party gives notice to the Chair of the Holdings Board to that effect, the matter in dispute may be referred by that Party to the Review and Appeal Panel in accordance with the Review and Appeal Law.

### **Disputes regarding removal of board member**

- 9.3**
- (a) Despite sections 9.1 and 9.2, if a dispute contemplated under section 2.7 arises regarding the removal of a board member from an Operating Board and the individual who has been removed from the Operating Board gives notice to the Chair of the Holdings Board of that dispute, that dispute must be referred by that individual to the Review and Appeal Panel in accordance with the Review and Appeal Law.
  - (b) For certainty, a dispute contemplated under section 2.7 regarding the removal of a board member from an Operating Board will not be referred to a committee under section 9.1.

### **Review and Appeal Panel jurisdiction**

- 9.4** The Parties agree
- (a) to submit to the jurisdiction of the Review and Appeal Panel, and
  - (b) to accept as binding a final decision made by the Review and Appeal Panel.

## **PART 10 - NOTICES**

### **Notices**

**10.1** A notice, demand, request, statement or other communication required or permitted to be given under this Agreement must be written and is deemed to be validly given:

- (a) if delivered by hand to an officer or agent of a Party at its address given below; or
- (b) if delivered by facsimile transmission to a Party at its facsimile number given below; or
- (c) if during the times the post office is normally operating, it is mailed in British Columbia prepaid and registered to a party addressed as follows:

To Tla'amin Nation:

[Address of Tla'amin Nation]

To Tla'amin Holdings Limited Partnership or any Tla'amin Business:

at the registered office of Tla'amin Holdings Limited Partnership or that Tla'amin Business,

or to such other address as each Party may from time to time advise the others in writing, and a notice is deemed to have been received seven days after mailing, or if delivered, when delivered, provided that if the notice is mailed and there occurs between the time of mailing and the actual or deemed receipt of the notice, a mail strike, slow down or other labour dispute which might affect delivery of the notice, then the notice is effective only when actually delivered.

## **PART 11 - GENERAL**

### **Amendment**

- 11.1** Except for the addition of new Tla'amin Businesses as Parties in accordance with section 8.1, this Agreement may only be amended with the written agreement of each and every Party.

### **Binding agreement**

- 11.2** This Agreement enures to the benefit of and is binding upon the Parties and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

### **Time**

- 11.3** Time is of the essence in this Agreement.

### **Counterparts**

- 11.4** This Agreement, or any amendment to it, may be executed in multiple counterparts, each of which is deemed an original agreement, and all of which constitutes one agreement. All counterparts and adopting instruments must be construed together and constitute one and the same agreement.

## **Waivers**

**11.5** No consent or waiver, express or implied, by any Party to or of any breach or default by another Party in the performance by the other Party of its obligations under this Agreement are deemed or construed to be a consent or waiver to or of any other breach or default in the performance by that Party. Failure on the part of any Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long that failure continues, does not constitute a waiver of that Party of its rights under this Agreement.

## **Further documents**

**11.6** Each of the Parties will, with reasonable dispatch, upon receipt of a written and reasonable request to that effect, sign any ancillary documents or instruments, cause meetings to be held, resolutions passed and bylaws enacted, exercise their voting rights and other powers and do and perform, and cause to be done or performed, any other act as may be required to ensure the full performance of and give full effect to this Agreement.

## **Entire agreement**

**11.7** This Agreement constitutes the entire agreement between the Parties pertaining to the transactions contemplated in this Agreement and supersedes all prior agreements, undertakings, negotiations and discussions, whether oral or written, of the Parties and there are no warranties, representations, covenants, obligations or agreements between the Parties except as set out in this Agreement.

## **Force majeure**

- 11.8**
- (a) No default – Except for the obligation to make the payments required in this Agreement, a Party is not considered in default of its duties or liable for any damages or delay if that default, damages or delay is the result of force majeure.
  - (b) Duty – Should a cause of delay occur, the Party unable to perform its obligations under this Agreement must, whenever possible, take the necessary steps to put an end to that a cause of delay or, if unable to do so, to lessen their impact on the other Parties.
  - (c) Rights of other Parties – The Party to whom the duty or obligation is owed in respect of which a cause of delay has occurred may, in those circumstances, for as long as the force majeure prohibits the other Party from performing its duties under this Agreement, take temporary steps to mitigate the damages it may sustain on the understanding that no claim may result from that actions in favour of the other Party.

**Assignment**

**11.9** Except with the written consent of each of the other Parties, which consent may be arbitrarily withheld, no Party may assign any of its benefits, obligations or liabilities under or in respect of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as of and with effect from the day and year first above written.

**SCHEDULE 1 – PARTIES**

<b>Column 1 - Party</b>	<b>Column 2 - Registration No.</b>
Tla'amin Holdings Inc.	
Tla'amin Holdings Limited Partnership	
Tla'amin Capital Asset Inc.	
Tla'amin Capital Assets Limited Partnership	
Tla'amin Timber Products Inc.	
Tla'amin Management Services Limited Partnership	
Tla'amin Management Services Inc.	
Thichum Forest Products Limited Partnership	
593035 B.C. Ltd.	
Tees'Kwat Land Holdings Ltd	

## SCHEDULE 2 – DEFINITIONS

### Definitions

1.1 The following words and expressions have the following meanings:

“Agreement” means this Agreement including all of its Schedules;

“annual plan” means, as applicable,

(a) the plan approved by the Holdings Board under section 3.1(a), or

(b) the plan approved by the Holdings Board under section 3.2(c) or 3.2(d);

“board of directors” means, in relation to a Tla’amin Business, the board of directors, management committee or other decision making body, as the context requires, for that Tla’amin Business;

“business day” means a day that is not a holiday under Tla’amin law or British Columbia law;

“Business Corporations Act (British Columbia)” means the Business Corporations Act, S.B.C. 2002, c.57;

“business mandate” means the nature of business the Tla’amin Business is mandated to engage in under section 23 of the Economic Development Law;

“Chief Executive Officer” means the individual retained to hold the office of Chief Executive Officer of Tla’amin Business under section 7.2;

“constating documents” means, in respect of Tla’amin Holdings Limited Partnership, Tla’amin Holdings Inc. or a Tla’amin Business, its articles of incorporation, partnership agreement or other similar document, as amended from time to time in accordance with its terms, this Agreement and any applicable law;

“Constitution” means the constitution of Tla’amin Nation, adopted in accordance with the Tla’amin Treaty;

“distributable cash” means cash available from the operations of the Tla’amin Holdings Limited Partnership or a Tla’amin Business, as applicable, at the end of its fiscal year less

(a) the amount necessary to make current assets equal current liabilities of that partnership,

(b) the amount necessary to cover any planned capital and operating expenditures for the next fiscal year which will not be funded from ongoing operations, as set out in its annual plan, and

(c) a reserve equal to 25% of the balance, after deducting the amounts in subsections (a) and (b);

“Economic Development Law” means the Tla’amin law enacted by the Legislative Assembly with that name;

“economic development committee” means the standing committee on economic development established under section 9 of the Economic Development Law;

“economic development plan” means the plan and any updates to that plan approved by the Legislative Assembly in accordance with section 18 of the Economic Development Law;

“employment or independent contractor agreement” means the agreement entered into by the management services limited partnership and the Chief Executive Officer in accordance with section 7.2;

“Executive Council” means the executive branch of the Tla’amin Nation government, as referred to in the Constitution;

“~~Finance and Administration~~ Administration and Finance Law” means the Tla’amin law enacted by the Legislative Assembly with that name;

“fiscal year” means a one-year period commencing on January 1 of one calendar year and ending on December 31 of the same calendar year;

“force majeure” means any event beyond the control of a Party which could not have been reasonably foreseen and against which it could not have protected itself such as, without limiting the generality of the foregoing, natural catastrophes, epidemics, fires, accidents, acts of war (whether declared or not), insurrections, riots, acts of terrorism, wildcat strikes, partial or total work stoppages or slowdowns, lock-outs, changes in market conditions, power or communications breakdowns, interventions by civil or military authorities, compliance with all orders of all governmental authorities, courts or tribunals or public authorities;

“Hegus” means the head of government of the Tla’amin Nation government, as referred to in the Constitution;

“Holdings Board” means the board of directors of Tla’amin Holdings Inc.;

“holiday” has the meaning given to that term in the Interpretation Law;

“in good standing” means not currently indebted to the Tla’amin Nation, or if indebted to the Tla’amin Nation, a written agreement to a plan for repayment has been entered into and there has been no defaults on that agreement or any other similar agreement for repayment within the previous two years;

“indebtedness to the Nation” includes housing arrears, payments from guaranteed mortgages, payments arising from fraudulent post-secondary income assistance, other claims for financial support or reimbursement and any substantiated damage to the Tla’amin Nation as evidenced and determined by the Executive Council;

“Interpretation Law” means the Tla’amin law enacted by the Legislative Assembly with that name;

“Legislative Assembly” means the legislative branch of the Tla’amin Nation government, as referred to in the Constitution;

“management services board” means the board of directors of the management services general partner;

“management services general partner” means the general partner of the management services limited partnership;

“management services limited partnership” means the limited partnership with the name “Tla’amin Management Services Limited Partnership” registered under the Partnership Act (British Columbia);

“management services agreement” means the agreement entered into in accordance with section 7.1;

“non-citizen” means any individual who is not a Tla’amin Citizen;

“Operating Board” means the board of directors of a Tla’amin Business but, for certainty, does not include the board of directors of Tla’amin Holdings Inc.;

“Parties” means the Tla’amin Nation, Tla’amin Holdings Limited Partnership, Tla’amin Holdings Inc. and each of the Tla’amin Businesses set out in Schedule 1 and “Party” means any one of them;

“Partnership Act (British Columbia)” means the British Columbia Partnership Act, R.S.B.C. 1996, c.348;

“Prepaid Lease Fund” means the fund required to be established under section 46 of the Economic Development Law;

“Review and Appeal Law” means the Tla’amin law enacted by the Legislative Assembly with that name;

“Review and Appeal Panel” means the body with that name established under the Review and Appeal Law

“Tla’amin Business” means any corporation, partnership, including a limited partnership or limited liability partnership but not a general partnership, or joint venture that is more than 50% owned by the Tla’amin Nation, Tla’amin Holdings Inc. or any Tla’amin Business, other than Tla’amin Holdings Limited Partnership or Tla’amin Holdings Inc., and that is listed in Schedule 1 to the Economic Development Act;

“Tla’amin Citizen” means an individual who is on the citizenship register maintained in accordance with the Tla’amin law;

“Tla’amin Holdings Inc.” means the corporation with the name “Tla’amin Holdings Inc.” incorporated under the Business Corporations Act (British Columbia);

“Tla’amin Holdings Limited Partnership” means the limited partnership with the name

“Tla’amin Holdings Limited Partnership” registered under the Partnership Act (British Columbia);

“Tla’amin laws” means a law or regulation duly enacted by the Legislative Assembly or Executive Council;

“Tla’amin Treaty” means the Tla’amin Final Agreement Between Canada, British Columbia and the Tla’amin Nation which came into effect on April 5, 2016.

### **SCHEDULE 3 – RESPONSIBILITIES OF THE EXECUTIVE COUNCIL**

- 1.1 Executive Council has the following responsibilities in relation to Tla'amin Nation economic development:
- (a) appointing Holdings Board members;
  - (b) where necessary, removing a Holdings Board member;
  - (c) approving amendments to the constating documents of Tla'amin Holdings Limited Partnership or Tla'amin Holdings Inc.;
  - (d) approving major decisions of Tla'amin Holdings Limited Partnership or Tla'amin Holdings Inc., including expenditures in excess of \$250500,000;
  - (e) approving distributions of distributable cash from Tla'amin Holdings Limited Partnership to Tla'amin Nation or Tla'amin Citizens;
  - (f) approving any new business opportunities to be implemented and owned or operated by an existing or new Tla'amin Business; and
  - (g) any other responsibilities set out in this Agreement, the constating documents of Tla'amin Holdings Limited Partnership or Tla'amin Holdings Inc. or any applicable law.

## **SCHEDULE 4 – RESPONSIBILITIES OF THE HOLDINGS BOARD**

- 1.1 The Holdings Board has the following responsibilities relating to Tla'amin Businesses:
- (a) appointing Operating Board members;
  - (b) where necessary, removing an Operating Board member;
  - (c) approving the renaming of a Tla'amin Business;
  - (d) where necessary, approving the winding up or merging of a Tla'amin Business;
  - (e) approving amendments to the constating documents of a Tla'amin Business;
  - (f) approving an annual plan for Tla'amin Holdings Limited Partnership and each Tla'amin Business;
  - (g) approving major decisions of each Tla'amin Business, including expenditures over ~~\$100~~250,000;
  - (h) approving distributions of distributable cash from each Tla'amin Business to Tla'amin Holdings Limited Partnership;
  - (i) reporting to Executive Council on the financial and operational circumstances of Tla'amin Holdings Limited Partnership and each Tla'amin Business; and
  - (j) any other responsibilities set out in this Agreement, the constating documents of any Tla'amin Business or any applicable law.

## **SCHEDULE 5 – RESPONSIBILITIES OF THE MANAGEMENT SERVICES BOARD**

- 1.1 The management services board has the following responsibilities relating to Tla'amin Businesses:
- (a) appointing the Chief Executive Officer;
  - (b) overseeing the Chief Executive Officer;
  - (c) where necessary and only for just cause, dismissing the Chief Executive Officer; and
  - (d) any other responsibilities set out in this Agreement, the management services agreement, the constating documents of the management services limited partnership or management services general partner or any applicable law.

## **SCHEDULE 6 – RESPONSIBILITIES OF THE OPERATING BOARDS**

- 1.1 Each Operating Board has the following responsibilities relating to the applicable Tla'amin Business:
- (a) overseeing the operations of that Tla'amin Business;
  - (b) developing, adopting and implementing written operational policies and procedures that may be necessary or desirable for the better and more efficient operation of that Tla'amin Business, including the policies and procedures required under section 7.3;
  - (c) recommending a proposed annual plan for that Tla'amin Businesses to the Holdings Board for approval;
  - (d) approving expenditures of that Tla'amin Business over \$10,000 and less than ~~\$100~~250,000;
  - (e) reporting to the Holdings Board on the financial and operational circumstances of that Tla'amin Business; and
  - (f) any other responsibilities set out in this Agreement, the constating documents of that Tla'amin Business, or any applicable law.

## **SCHEDULE 7 – RESPONSIBILITIES OF THE CHIEF EXECUTIVE OFFICER**

- 1.1 The Chief Executive Officer has the following responsibilities relating to Tla'amin Businesses:
- (a) overseeing the day to day operations of a Tla'amin Business that does not have a senior manager;
  - (b) hiring the staff for a Tla'amin Business that does not have a senior manager;
  - (c) where necessary and only for just cause, dismissing staff of a Tla'amin Business that does not have a senior manager;
  - (d) preparing a proposed annual plan for each Tla'amin Business that does not have a senior manager for recommendation by the Tla'amin Business for approval by the Holdings Board;
  - (e) approving expenditures of \$10,000 or less of a Tla'amin Business that does not have a senior manager;
  - (f) keeping up-to-date, accurate financial records for each Tla'amin Business that does not have a senior manager;
  - (g) at least monthly, reporting to each Operating Board on the financial and operational circumstances of a Tla'amin Business that does not have a senior manager;
  - (h) as requested, reporting to the Holdings Board or the Executive Council on the financial and operational circumstances of a Tla'amin Business;
  - (i) delegating authority to staff of a Tla'amin Business as he or she sees fit;
  - (j) providing management, administrative, financial, record keeping, accounting and advisory services to Tla'amin Holdings Limited Partnership as requested by the Holdings Board;
  - (k) appointing a senior manager for a Tla'amin Business when it is necessary or desirable to do so and the cost for that senior manager's salary and benefits has been included and approved in the applicable annual plan; and
  - (l) any other responsibilities set out in this Agreement, the employment or independent contractor agreement, the constating documents of any Tla'amin Businesses or any applicable law.

## **SCHEDULE 8 – RESPONSIBILITIES OF SENIOR MANAGERS**

- 1.1 If a senior manager is appointed by the Chief Executive Officer, that senior manager has the following responsibilities relating to the applicable Tla'amin Business:
- (a) overseeing the day to day operations of that Tla'amin Business;
  - (b) hiring the staff for that Tla'amin Business;
  - (c) where necessary and only for just cause, dismissing staff of that Tla'amin Business;
  - (d) preparing a proposed annual plan for that Tla'amin Business for recommendation by that Tla'amin Business for approval by the Holdings Board;
  - (e) approving expenditures of \$10,000 or less of that Tla'amin Business;
  - (f) keeping up-to-date, accurate financial records for that Tla'amin Business;
  - (g) at least monthly, reporting to the Chief Executive Officer and the applicable Operating Board on the financial and operational circumstances of that Tla'amin Business;
  - (i) delegating authority to staff of that Tla'amin Business as he or she sees fit; and
  - (k) reporting as requested to the Chief Executive Officer on the performance of his or her duties and the exercise of his or her powers in relation to that Tla'amin Business.