



FISH AND WILDLIFE HARVESTING AND PROTECTION LAW

TNL18/2016

Enacted on April 5, 2016

Corrected on April 25, 2016

A handwritten signature in black ink, appearing to read "Clint Williams", written over a horizontal line.

Hegus [SIGNATURE]

CLINT WILLIAMS

Hegus [PRINT NAME]

DEPOSITED IN THE REGISTRY
OF LAWS

ON 19 / 07 / 16
(day/mo/year)

A handwritten signature in blue ink, appearing to read "Judith King", written over a horizontal line.
Signature of Law Clerk

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PREAMBLE

WHEREAS:

- A. Since the beginning of time, Tla'amin people have lived on the lands that the Creator provided for our ancestors and all future generations of Tla'amin people;
- B. Our ancestors lived by a traditional system of governance grounded in our *Ta'ow* (teachings) and *Ee ah ju thum* (language), which were our unwritten constitution that influenced all forms of environmental stewardship matters, social and political relations. It is this system that has sustained our way of life and *Tums gijeh* (lands) and resources;
- C. Our vision of self-government and of a healthy, self-sufficient Tla'amin Nation began long ago with our ancestors and our leadership of the past. Many of those who were involved in shaping and advancing our vision have since passed on and we acknowledge their contributions and sacrifice. They put in place the foundation that we have built upon today. Those respected ones have cleared the path so that we, the Tla'amin Nation, could achieve our vision of "one heart, one mind, one Nation". It is on this basis that we accept the obligations and responsibilities inherent in governing and work to blend our traditional and modern-day governing approaches, including the development of governance laws;
- D. Through this law and other Tla'amin laws, we are continuing to exercise our inherent right of self-determination. The Tla'amin Government will govern in an accessible, accountable and transparent manner;
- E. As we have always done, we continue to occupy our lands and carry out our *Ta'ow* that require us to be stewards of our lands and resources today and always, and we are committed to the responsible, sustainable stewardship of lands, waters, air and other resources; In upholding our responsibilities, we will continue to seek the guidance of the Creator, our Ancestors and the knowledge of Tla'amin Elders as we protect and make decisions about managing our lands and resources;
- F. Our *Ta'ow* includes the principle of *Tlo metsxw otl ma tuxw* which encompasses teachings about sustainability, just taking enough to satisfy present needs and always leaving something behind for others and for future generations when we practice hunting and *Qoo yu qwom* (fishing);
- G. Our vision of self-government and of a healthy, self-sufficient Tla'amin Nation began long ago with our Ancestors and our leadership of the past. Many of those who were involved in shaping and advancing our vision have passed on and we acknowledge their contributions and sacrifice. They put in place the foundation that we have built upon today. Those respected ones have cleared the path so that we, the Tla'amin Nation, could achieve our vision;
- H. Under section 15 of the *Constitution of the Tla'amin Nation*, the Tla'amin Nation owns Tla'amin Lands and Resources, subject to such interests as it may grant in and to those lands and resources;

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- I. Under section 16 of the *Constitution of the Tla'amin Nation*, the Tla'amin Government exercises governance authority over and may make laws in respect of Tla'amin Lands and Resources, including their use, protection, granting of ownership and other forms of interest;
- J. Under Chapter 9, paragraphs 66-68 of the *Final Agreement*, the Tla'amin Nation may make laws in relation to managing various aspects of the exercise of Tla'amin fishing rights and practices;
- K. Under Chapter 10, paragraphs 32-35 of the *Final Agreement*, the Tla'amin Nation may make laws in relation to managing various aspects of the exercise of Tla'amin hunting rights and practices; and
- L. Under Chapter 11, paragraphs 27-29 of the *Final Agreement*, the Tla'amin Nation may make laws in relation to managing various aspects of the exercise of Tla'amin hunting rights and practices for Migratory Birds;

NOW THEREFORE the Tla'amin Legislature duly enacts as follows:

PART 1 - INTRODUCTORY PROVISIONS

Title

- 1. This Law may be cited as the *Fish and Wildlife Harvesting and Protection Law*.

Purpose

- 2. The purposes of this Law are:
 - (a) to establish the overall framework for the management of fishing and hunting and for the protection of Fish and Wildlife and their habitat; and
 - (b) uphold and implement our *Ta'ow*.

Definitions

- 3. In this Law:

"Aquatic Plants" includes all benthic and detached algae, brown algae, red algae, green algae, golden algae and phytoplankton, and all marine and freshwater flowering plants, ferns and mosses, growing in water or in soils that are saturated during most of the growing season;

"Commercial Fishing Licence" means a fishing licence issued under the authority of the *Fisheries Act* and the *Pacific Fishery Regulations, 1993*, as amended from time to time;

"Commercial Fishing Vessel" means any fishing vessel licensed to harvest Fish and Aquatic Plants pursuant to the terms of a Commercial Fishing Licence as prescribed in federal fishing regulations;

“Designated Migratory Bird Population” means a population of a species of Migratory Birds that has been designated by the Minister in accordance with paragraph 45 of the Migratory Birds Chapter of the *Final Agreement*;

“Designated Vessel Licence” means a permit or licence issued by the Tla’amin Nation to the owner of a Commercial Fishing Vessel or a High Capacity Fishing Vessel authorizing that fishing vessel’s use to harvest Fish and Aquatic Plants under the Tla’amin Fishing Right;

“Designation Licence” means a Tla’amin Harvest Card or temporary permit identifying:

- (a) a Tla’amin Citizen or Individual who is authorized by the Tla’amin Nation to exercise the Tla’amin Fishing Right;
- (b) a Tla’amin Citizen or Individual who is authorized by the Tla’amin Nation to exercise the Tla’amin Right to Harvest Wildlife; or
- (c) a Tla’amin Citizen who is authorized by the Tla’amin Nation to exercise the Tla’amin Right to Harvest Migratory Birds;

“Director” means the Director of Fish and Wildlife or whoever is designated by Executive Council to carry out the roles and responsibilities of that position;

“Domestic Purposes” means food, social and ceremonial purposes;

“Enforcement Officer” means a peace officer or another person authorized by the Executive Council to enforce federal law, provincial law or Tla’amin law in relation to Fish, Aquatic Plants, Wildlife, and Migratory Birds, federal protected areas, and provincial protected areas;

“Fish” means:

- (a) fish, shellfish, crustaceans and marine animals excluding cetaceans;
- (b) the parts of fish, shellfish, crustaceans and marine animals excluding cetaceans; and
- (c) the eggs, sperm, spawn, larvae, spat, juvenile stages and adult stages of fish, shellfish, crustaceans and marine animals excluding cetaceans;

“Fishing” means fishing for, catching or attempting to catch Fish by methods prescribed by the Tla’amin through regulation, and includes harvesting Aquatic Plants within the Tla’amin Fishing Area;

“Harvest” or **“Harvesting”** includes picking, collecting, Fishing, gathering and Hunting, as applicable and includes attempting to harvest;

“Harvesting Right” means Tla’amin’s right to harvest Fish, Aquatic Plants, Wildlife or Migratory Birds as set out in the *Final Agreement*;

“High Capacity Fishing Vessel” means any vessel licensed to Fish in a general commercial fisheries or a vessel that meets the criteria for licensing in a general commercial fishery under federal laws and regulations or as otherwise set out in Fisheries Operations Guidelines;

“Homalco Member” means a member on the Homalco Indian Band Registry;

“Homalco Shared Harvest Area Protocol” means the agreement entered into between the Homalco Indian Band and Tla’amin Nation to govern the shared exercise of harvesting rights in the Tla’amin Wildlife and Migratory Birds Harvest Area.

“Hunting” means shooting at, trapping (including constructing deadfall traps), attracting, searching for, chasing, pursuing, following after or on the trail of, stalking or lying in wait for wildlife or migratory birds, or attempting to do any of those things, whether or not the Wildlife or Migratory Bird is then or subsequently wounded, killed or captured,

- (a) with intention to capture the Wildlife or Migratory Bird, or
- (b) while in possession of a firearm or other harvesting implements or equipment, including traps or snares;

“Individual” means a private natural person as distinguished from a group, class, partnership, corporation or association;

“Joint Fisheries Committee” means the committee established under the Fisheries Chapter of the *Final Agreement*;

“Klahoose Shared Harvest Area Protocol” means the agreement entered into between the Klahoose First Nation and Tla’amin Nation to govern the shared exercise of harvesting rights in the Tla’amin Wildlife and Migratory Birds Harvest Area.

“Migratory Birds” means “migratory birds” as defined under Federal Law enacted further to international conventions and, for greater certainty, includes their eggs and inedible byproducts such as feathers and down;

“Migratory Birds Agreement” means a migratory birds agreement set out in paragraph 42 of the Migratory Birds Chapter of the *Final Agreement*.

“Protocol Letter” means:

- (a) in relation to a non-Citizen, a letter issued by the Director identifying a member from another First Nation for whom Tla’amin consents to that individual Hunting in the Tla’amin Wildlife and Migratory Birds Harvest Area or Fishing in the Tla’amin Fishing Area in accordance with any applicable laws; and
- (b) in relation to a Citizen, a letter issued by an authorized official from another First Nation identifying that Citizen as an individual to whom that First Nation consents to that individual Hunting or Fishing in that First Nation’s territory or harvesting area in accordance with applicable laws;

“Proxy” means being temporarily designated to Fish or Hunt on behalf of Tla’amin or another Citizen or Individual;

“Proxy Designation Permit” a temporary permit identifying:

- (a) a Tla’amin Citizen or Individual who is authorized by the Tla’amin Nation to exercise the Tla’amin Fishing Right on behalf of the Tla’amin Nation or a Tla’amin Citizen in accordance with paragraphs 70-73 of the Fisheries Chapter of the *Final Agreement*; or

- (b) a Tla'amin Citizen or Individual who is authorized by the Tla'amin Nation to exercise the Tla'amin Right to Harvest Wildlife on behalf of the Tla'amin Nation or a Tla'amin Citizen in accordance with paragraphs 17-20 of the Wildlife Chapter of the *Final Agreement*;

"Tla'amin Annual Fishing Plan" means a fishing plan described in the Fisheries Chapter of the *Final Agreement*;

"Tla'amin Area" means the area set out in Appendix A of the *Final Agreement*;

"Tla'amin Fish Allocation" means in respect of a right to harvest Fish and Aquatic Plants:

- (a) a defined harvest quantity or quota;
- (b) a formula defining a harvest quantity or quota; or
- (c) a defined harvest area within the Tla'amin Fishing Area;

"Tla'amin Fisheries" means the harvesting of Fish or Aquatic Plants in accordance with a Tla'amin Fishing Licence.

"Tla'amin Fishing and Hunting Right" means any one or more of

- (a) the Tla'amin Fishing Right;
- (b) the Tla'amin Right to Harvest Wildlife; and
- (c) the Tla'amin Right to Harvest Migratory Birds;

"Tla'amin Fishing Area" means:

- (a) for all species of Fish and Aquatic Plants other than herring in the area described in Part 1 of Appendix N-1 and identified for illustrative purposes in Part 2 of Appendix N-1 as the "Tla'amin Fishing Area" in the *Final Agreement*; and
- (b) for herring in the area described in Part 1 or Appendix N-2 and identified for illustrative purposes in Part 2 of Appendix N-2 as the "Tla'amin Herring Fishing Area" in the *Final Agreement*.

"Tla'amin Fishing Licence" means a Designation Licence, a Proxy Designation Permit, a Designated Vessel Licence, or any other documentation issued under this Law identifying a Tla'amin Citizen, Individual or vessel is authorized by the Tla'amin Nation to exercise the Tla'amin Fishing Right;

"Tla'amin Fishing Right" means the Tla'amin Fishing Right set out in paragraph 1 of the Fisheries Chapter of the *Final Agreement*;

"Tla'amin Harvest Card" means an identification card issued to a Tla'amin Citizen by the Director under this Law in association with a Designation License or other license, permit or right under this Law;

“Tla’amin Harvest Document” means any fishing licence, permit or document, or amendment thereto, issued by the Minister under Federal or Provincial Law in accordance with the *Final Agreement* in respect of the Tla’amin Fishing Right;

“Tla’amin Harvest Plan” means any of the Tla’amin Annual Fishing Plan, Migratory Birds Agreement, or Wildlife Harvest Agreement, as applicable in the circumstances;

“Tla’amin Harvesting Licence” means Tla’amin Fishing Licence or a Tla’amin Hunting Licence issued under this law and may include a Protocol Letter;

“Tla’amin Hunting Licence” means a Tla’amin Migratory Birds Hunting Licence or Tla’amin Wildlife Hunting Licence issued under this law identifying an Individual who is authorized by the Tla’amin Nation to exercise the Tla’amin Right to Harvest Wildlife, and which may authorize the transport of such harvest;

“Tla’amin Lands” means the lands set out in Appendix C of the *Final Agreement*;

“Tla’amin Migratory Birds Hunting Licence” means documentation issued under this Law identifying a Tla’amin Citizen who is authorized by the Tla’amin Nation to exercise the Tla’amin Right to Harvest Migratory Birds, which may authorize the transport of such harvest;

“Tla’amin Right to Harvest Migratory Birds” means the right to harvest Migratory Birds set out in paragraph 1 of the Migratory Birds Chapter of the *Final Agreement*;

“Tla’amin Right to Harvest Wildlife” means the right to harvest Wildlife set out in paragraph 1 of the Wildlife Chapter of the *Final Agreement*;

“Tla’amin Wildlife and Migratory Birds Harvest Area” means the area identified as the “Wildlife and Migratory Birds Harvest Area” in Appendix P of the *Final Agreement*, but does not include lands that are owned by Canada or lands that are administered or occupied by the Minister of National Defence, or areas temporarily being used for military training from the time that notice has been given to the Tla’amin Nation until the temporary use is completed;

“Wildlife” means:

- (a) all vertebrate and invertebrate animals, including mammals, birds, reptiles and amphibians; and
- (b) the eggs, juvenile stages and adult stages of all vertebrate and invertebrate animals, but does not include Fish or Migratory Birds;

“Wildlife Harvesting Agreement” means any agreement that addresses the Tla’amin Right to Harvest Wildlife pursuant to the Wildlife Chapter of the *Final Agreement*;

Interpretation Law

4. (1) In addition to the terms defined in this Law, terms used in this Law may be defined in the Interpretation Law.

(2) Only those defined terms that are capitalized in section 3 or in the Interpretation Law are presented capitalized in the text of the Law, and all other defined terms are presented in lower case.

Severability

5. The provisions of this Law are severable, and where any provision of this Law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion must be severed from the remainder of this Law and the decision that it is invalid must not affect the validity of the remaining portions of this Law.

Validity

6. Nothing under this Law must be rendered void or invalid by
 - (a) an error or omission in a notice, form, permit or other document given or authorized under this Law; or
 - (b) a failure of the Tla'amin Nation or a Tla'amin Official to do something within the required time.

Purpose of this Law

7. The purpose of this Law is to establish a comprehensive regime for the management of Tla'amin Fishing and Hunting Rights in a manner that implements provisions of the Final Agreement respecting Fish, Aquatic Plants, Wildlife and Migratory Birds and their habitat, including the conservation, protection and recovery of species at risk or a species for which there is a conservation concern.

Values

8. To fulfill its purpose, this Law is intended to uphold the following values:
 - (a) Fish, Aquatic Plants, Wildlife and Migratory Birds and their habitat should be managed as one, since humans, animals and plants in the Tla'amin Area are all inter- connected;
 - (b) the guiding principles and concepts of Tla'amin *Ta'ow* (teachings) and Tla'amin *Kwan oskw kwums he heow* (cultural practices) are important to the management of Fish, Aquatic Plants, Wildlife and Migratory Birds and their habitat and are an integral part of this Law;
 - (c) all Fish, Aquatic Plants, Wildlife and Migratory Birds and their habitat should be recognized as intrinsically valuable and worth more than just the benefits derived from harvesting and commercial activities;
 - (d) the biological diversity and abundance of Fish, Aquatic Plants, Wildlife and Migratory Birds in the Tla'amin Area should be restored to historical levels and thereafter maintained and utilized in a sustainable manner; and

- (e) no species native to the Tla'amin Area should be allowed to become extinct in the Tla'amin Area as a consequence of human activities.

PART 2 - EXERCISE OF RIGHTS

- 9. (1) The Tla'amin Nation and Tla'amin Citizens have the right to harvest Wildlife for Domestic Purposes within the Wildlife and Migratory Birds Harvest Area set out in Appendix P in the *Final Agreement* throughout the year in accordance with the *Final Agreement* and this Law, unless otherwise regulated by this Law or other Tla'amin Laws.
- (2) The Tla'amin Nation and Tla'amin Citizens have the right to harvest Fish and Aquatic Plants for Domestic Purposes within the Tla'amin Fishing Area in accordance with the *Final Agreement*, this Law and other Tla'amin Laws.

PART 3– COMPLIANCE, LICENSING, AND PROTOCOLS

Division 1 – Compliance and Licensing Requirements

Compliance

- 10. (1) A person may only:
 - (a) exercise a Tla'amin Fishing and Hunting Right, including under a protocol;
 - (b) trade or barter anything harvested under a Tla'amin Fishing and Hunting Right;
 - (c) exchange regalia or traditional or artistic objects made from materials harvested under the Tla'amin Fishing and Hunting Right;
 - (d) transport any:
 - (i) Fish or Aquatic Plants;
 - (ii) Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife; or
 - (iii) Migratory Birds and their inedible by products, including down, harvested under the Tla'amin Right to Harvest Migratory Birds;
- in accordance with the applicable provisions set out in:
- (e) the *Final Agreement*;
 - (f) this Law and the regulations;
 - (g) the applicable Tla'amin Harvest Plan;
 - (h) any conditions or restrictions contained in a Tla'amin Harvesting Licence held by that person issued in accordance with this Law; and

(i) any order made, or a direction given, by the Executive Council or the Director.

(2) Any Tla'amin Citizen harvesting under the Tla'amin Fishing and Hunting Right shall comply with any conservation measures established by the Executive Council or the Minister.

Tla'amin Fishing Licence required

11. (1) An Individual may only exercise the Tla'amin Fishing Right if the Individual is in possession of a valid Tla'amin Fishing Licence, issued in the name of that Individual.

(2) A Citizen or Individual fishing under a Tla'amin Fishing License may only fish using a Commercial Fishing Vessel or a High Capacity Fishing Vessel if the Citizen is in possession of a Designated Vessel Licence.

(3) Fish harvested by a Citizen or Individual fishing under a Tla'amin Fishing License cannot be sold.

(4) The Tla'amin Fishing Right shall only be exercised within the Tla'amin Fishing Area unless exercising the Tla'amin Fishing Right outside the Tla'amin Fishing Area is permitted by the Tla'amin Fishing Licence or a valid Protocol Letter.

(5) The Director shall only issue a Tla'amin Fishing Licence in accordance with a Tla'amin Harvest Document.

(6) All Tla'amin Fishing Licences are non-transferable and are only valid for the Citizen or Individual to whom they are issued.

(7) For the purposes of paragraph 20 of the Fisheries Chapter in the *Final Agreement*, all Citizens are eligible to receive a Designation Licence to exercise the Tla'amin Fishing Right.

(8) A Tla'amin Citizen may only transport Fish or Aquatic Plants harvested under the Tla'amin Fishing Right outside of British Columbia if the Tla'amin Citizen is in possession of valid authorization issued under this Law in the name of that Tla'amin Citizen permitting that Tla'amin Citizen to transport, outside of British Columbia, Fish or Aquatic Plants harvested under the Tla'amin Fishing Right.

(9) An Individual who is not a Tla'amin Citizen may only transport Fish or Aquatic Plants harvested under the Tla'amin Fishing Right if the Individual is in possession of valid authorization issued under this Law in the name of that Individual permitting that Individual to transport fish or aquatic plants harvested under the Tla'amin Fishing Right.

Tla'amin Hunting Licence required

12. (1) An Individual of the prescribed age or older may only exercise the Tla'amin Right to Harvest Wildlife if the Individual is in possession of valid Tla'amin Hunting Licence issued in the name of that Individual.

(2) An Individual who is under the prescribed age may only exercise the Tla'amin Right to Harvest Wildlife if that Individual:

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- (a) is in possession of a valid Tla'amin Wildlife Hunting Licence issued in the name of that Individual; and
- (b) is accompanied by another Individual who is of the prescribed age or older and is in possession of:
 - (i) a valid Tla'amin Wildlife Hunting Licence issued in the name of that Individual;
 - (ii) a valid firearms possession and acquisition licence; or
 - (iii) valid documentation to hunt issued in the name of that Individual under federal law or provincial law.

(3) A Tla'amin Citizen may only exercise the Tla'amin Right to Harvest Migratory Birds if the Tla'amin Citizen is in possession of valid Tla'amin Migratory Birds Hunting Licence issued in the name of that Tla'amin Citizen.

(4) A Tla'amin Citizen who is under the prescribed age may only exercise the Tla'amin Right to Harvest Migratory Birds if that Tla'amin Citizen:

- (a) is in possession of valid Tla'amin Migratory Birds Hunting Licence issued in the name of that Tla'amin Citizen; and
- (b) is accompanied by another Tla'amin Citizen who is of the prescribed age or older and is in possession of
 - (i) valid Tla'amin Migratory Birds Hunting Licence issued in the name of that Tla'amin Citizen; or
 - (ii) valid documentation to hunt issued in the name of that Tla'amin Citizen under federal law or provincial law.

Reporting Required

13. (1) Any Tla'amin Citizen who exercises a Tla'amin Fishing and Hunting Right must report on their harvesting activities and harvests in accordance with Tla'amin Laws, Regulations, policies, Tla'amin Harvest Documents or Fisheries Operational Guidelines.

(2) Subject to receiving reporting data, the Director will ensure that the Tla'amin Nation provides biological samples, catch data and other information related to Fish and Aquatic Plants harvested under the Tla'amin Fishing Right as required by Tla'amin Harvest Documents or Federal or Provincial Law.

No Public Access for Hunting on Ahgykson (Harwood Island)

14. No Person who is not a Tla'amin Citizen shall Hunt Wildlife or Migratory Birds on Ahgykson (Harwood Island) without an access permit issued by the Director.

Division 2 – Hunting and Fishing Under Protocol

Hunting Under Protocol with Klahoose and Homalco

15. (1) Tla'amin Citizens may only exercise the Tla'amin Right to Harvest Wildlife in the areas set out and mapped out as Area A, Area B and Area C of Appendix P of the *Final Agreement* if:
- (a) there is a Protocol Agreement in place between Tla'amin and with Homalco First Nation for Area A, Klahoose First Nation for Area B and both Homalco and Klahoose First Nations for Area C;
 - (b) the Tla'amin Citizen has a valid Protocol Letter approved by the Director and issued by an authorized official from that other First Nation in accordance with the Protocol Agreement for Hunting in the Area under the Protocol; and
 - (c) the Tla'amin Citizen signs any documents required by Tla'amin Regulations or policies for Hunting under the Protocol Agreement.
- (2) The Director will provide to British Columbia and Canada a copy of all Protocol Agreements and amendments to Protocol Agreements between Tla'amin and Klahoose or Homalco relating to the exercise of Tla'amin Right to Harvest Wildlife in Areas A, B or C set out in Appendix P of the *Final Agreement*.
- (3) The Director is authorized to grant Protocol Letters to members of the Homalco First Nation or the Klahoose First Nation to Hunt or Fish within the Tla'amin Area provided that:
- (a) there is a Protocol Agreement in place between Tla'amin and the relevant First Nation;
 - (b) any Hunting would be consistent with conservation measures for the wildlife species implemented under paragraphs 42-45 of the *Final Agreement* or species allocations under paragraphs 46-48 of the Wildlife Chapter of the *Final Agreement*;
 - (c) the applicant has not violated the terms of Protocol Letters or Laws in the past, unless issues involved any past violations have been remedied and that applicant is specifically approved by the Executive Council to receive a Protocol Letter;
 - (d) the applicant agrees in writing to report to the Director what they have harvested and where and they actually carry out the reporting after their harvest;
 - (e) the applicant pays any administration fee required under Tla'amin Law or Regulation;
 - (f) the Protocol Letter contains any details required by Tla'amin Regulations or policies; and
 - (g) the Director requires the Individual to sign a release and confirmation document with the form and content set out in Tla'amin Regulations or policies.
- (4) Despite subsection (1) above, the Director may issue a Protocol Letter for a member of the Homalco First Nation or the Klahoose First Nation for species mentioned in subsection (3)(b) if the Executive Council have passed a Resolution:

- (a) Confirming that they believe there are sufficient numbers of the species for Tla'amin Citizens to harvest while still allowing for opportunities by members of Klahoose or Homalco First Nations; and
 - (b) Authorizing the Director to issue the Protocol Letters for the species subject to any conditions set by the Executive Council in the resolution.
- (5) The Director may, in his or her sole discretion, in accordance with the *Final Agreement* and applicable laws, issue a Protocol Letter to members from First Nations other than Klahoose or Homalco, provided that:
- (a) the Individual provides proof that they are a registered member of a First Nation;
 - (b) any Hunting would be consistent with conservation measures for the wildlife species implemented under paragraphs 42-45 of the *Final Agreement* or species allocations under paragraphs 46-48 of the Wildlife Chapter of the *Final Agreement*;
 - (c) the applicant has not violated the terms of Protocol Letters or Laws in the past, unless issues involved any past violations have been remedied and that applicant is specifically approved by the Executive Council to receive a Protocol Letter;
 - (d) the applicant agrees in writing to report what they have harvested and where and they actually carry out the reporting after their harvest;
 - (e) the applicant pays any fees administration required under Tla'amin law or regulation;
 - (f) the Protocol Letter contains any details required by Tla'amin Regulations or policies; and
 - (g) the Director requires the Individual to sign a release and confirmation document with the form and content set out in Tla'amin regulations or policies.
- (6) In deciding whether not to issue a Protocol Letter to a member from another First Nation, the Director may take into account whether or not that other First Nation has issued Protocol Letters to Tla'amin Citizens.

Hunting and Fishing under Protocols with Any First Nations

- 16.** Tla'amin Citizens may only exercise Harvesting Rights in areas outside the Tla'amin Area if:
- (a) the Tla'amin Citizen has a valid Protocol Letter from the First Nation in whose territory they wish to harvest approved by the Director and issued by an authorized official from that other First Nation; and
 - (b) the Tla'amin Citizen signs any documents required by Tla'amin Regulations or policies for Hunting or Fishing under a Protocol Agreement, which may include a waiver confirming their understanding that the exercise of the Harvesting Rights are not guaranteed and that the Citizen may be subject to monitoring or enforcement by federal or provincial enforcement officers.

Division 3 – Licensing

Right to licence

17. (1) Except in circumstances, if any, set out in this Law, prescribed by Regulation, or resulting from enforcement decisions or actions, and subject to this *Final Agreement* and this Law, every Tla'amin Citizen is entitled to be:
- (a) designated to exercise the Tla'amin Fishing Right under section this Law; and
 - (b) issued a Tla'amin Harvesting Licence, including a Tla'amin Harvest Card, in his or her name.
- (2) A member of another First Nation is not automatically entitled to be issued a Protocol Letter.
- (3) Despite subsection (2), a member of a First Nation may be issued a Protocol Letter.
- (4) An Individual who is not a Tla'amin Citizen, is not automatically entitled to be issued Tla'amin Harvesting Licence.
- (5) Despite subsection (4), an Individual who is not a Tla'amin Citizen may be issued a Tla'amin Harvesting Licence in accordance with the *Final Agreement* and this Law.

Form of licence, designation or documentation

18. (1) In accordance with paragraph 73 of the *Final Agreement*, the Director will issue a licence or documentation to any individual or vessel designated under this Law.
- (2) In accordance with paragraph 74 of the *Final Agreement*, any license or documentation issued under subsection (1) will:
- (a) be in the English language, which version is authoritative and, at the discretion of the Tla'amin Nation, in the Tla'amin language;
 - (b) in the case of an individual, include the name and address of the individual;
 - (c) in the case of a vessel, include the name and address of the operator;
 - (d) meet any requirements set out in the Tla'amin Fisheries Operational Guidelines or Tla'amin Harvest Documents; and
 - (e) meet any requirements set out in this Law or any regulations.

Designated Vessel Licence

19. (1) The Director may grant a Vessel Designation Licence in accordance with the *Final Agreement* and any applicable laws, regulations and agreements.
- (2) Subject to Tla'amin Law and Regulations and any provisions of the Tla'amin Fisheries Operational Guidelines or Tla'amin Harvest Documents which may set out vessels that are not required to be designated, the Director shall issue a Vessel Designation Licence to a Citizen or Individual upon receipt of an application verifying that the vessel will be used to

harvest Fish or Aquatic Plants under the Tla'amin Fishing Right, provided that the vessel meets all Transport Canada requirements.

(3) No owner or operator shall use a vessel to harvest Fish and Aquatic Plants under the Tla'amin Fishing Right unless:

- (a) the vessel has a valid and subsisting Vessel Designation Licence issued by the Director; or
- (b) the vessel is exempted from designation.

(4) The owner or operator of any vessel with a Vessel Designation Licence shall ensure that:

- (a) the Vessel Designation Licence is kept on the vessel whenever the vessel is used in relation to the Tla'amin Fishing Right;
- (b) the vessel flies a Tla'amin flag or displays other visible markings as required by the terms of the regulations or the Vessel Designation Licence; and
- (c) the vessel meets all Transport Canada requirements.

Designation of Citizens and Non-Members

20. (1) Where a Tla'amin Fish Allocation for a species of Fish or Aquatic Plants has been established under the Final Agreement, the Tla'amin Nation may designate Tla'amin Citizens and other Individuals to harvest that species of Fish or Aquatic Plants under the Tla'amin Fishing Right by issuing a Designation Licence.

(2) Where a Tla'amin Fish Allocation for a species of Fish or Aquatic Plants has not been established the Tla'amin Nation may designate an individual to harvest the species on behalf of a Tla'amin Citizen by issuing a Proxy Designation Permit or other authorization to the Individual if:

- (a) the Tla'amin Citizen is unable to harvest the species due to health reasons;
- (b) the individual is a family member of the Tla'amin Citizen; and
- (c) the individual is identified in the written notice to the Minister as contemplated in paragraph 72 of the *Final Agreement*.

(3) For the purposes of paragraph 73 of the Fisheries Chapter of the *Final Agreement*, the Director may not issue a Designated Vessel Licence to a non-Citizen to fish for an un-allocated species using a vessel that is a Commercial Fishing Vessel.

(4) The Tla'amin Nation will identify, by written notice to the Minister, the individuals who are family members of Tla'amin Citizens, but who are not Tla'amin Citizens themselves, who have been designated in accordance with paragraph 72 of the *Final Agreement* and in accordance with this Law.

Issuance of licence

21. (1) An Individual may apply to the Director for a Tla'amin Harvesting Licence by submitting to the Director:
- (a) an application in the form and with the content prescribed by regulation; and
 - (b) the prescribed application fee, if any, and any prescribed supporting documentation.
- (2) If an applicant under this section applies for more than one type of Tla'amin Harvesting Licence or authorization, the Director may issue the licence as combined licence or as separate licences and authorizations, as directed by regulations, or, if no regulations, as the Director considers appropriate in the circumstances.
- (3) The Klahoose or Homalco First Nations or a Klahoose or Homalco member may apply for a Protocol Letter by submitting to the Director:
- (a) an application in the form and with the content prescribed by Regulation; and
 - (b) the prescribed application fee, if any, and any prescribed supporting documentation.
- (4) On receipt of an application under this Part, and if satisfied that the relevant requirements of this Law and the Regulations have been met, the Director may issue to the applicant the licence or authorization for which the applicant has applied.
- (5) The Director may attach conditions to any licence or authorization issued in accordance with this Part.

Harvesting Under Federal or Provincial Law

22. Nothing in this Law prevents Tla'amin Citizens from applying for provincial fishing or hunting licences to Fish or Hunt anywhere in B.C. or federal Fishing licences to Fish anywhere in Canada.

Licence requirements

23. Licences, Tla'amin Harvest Cards, protocols and other authorizations issued by the Director must be written in English and, at the discretion of the Director, may also be in *Tla'amin Ee ah ju thum*, the Tla'amin language, and include:
- (a) the name and address of the person to whom the licence is issued; and
 - (b) all other prescribed information.

Obligation to produce licence and documentation

24. (1) An Enforcement Officer who believes on reasonable grounds that a Person is or has been Harvesting or is likely to begin Harvesting pursuant to a Tla'amin Fishing and Hunting Right, under a Tla'amin Harvesting Licence or a Protocol Letter, may request that person to produce for inspection by the Enforcement Officer valid documentation issued under this Law authorizing the harvesting by that Person.

(2) If asked for identification by the Person to whom the request is made, the Enforcement Officer must show appropriate identification confirming his or her credentials as an Enforcement Officer.

(3) At the request of an Enforcement Officer made in accordance with subsection (1) but subject to subsection (2), the Person to whom the request is made must produce to the Enforcement Officer for his or her inspection valid documentation issued under this Law to and in the name of that Person authorizing the harvesting by that person.

Division 4 - New Division

Aboriginal Communal Licences for shellfish (Z2ACL licences)

25. In relation to Aboriginal Communal Licences for shellfish harvesting by Tla'amin Citizens, the Director is authorized to:

- (a) provide names of eligible Tla'amin Citizens to the Department of Fisheries and Oceans;
- (b) carry out any authorities or activities that are within Tla'amin's jurisdiction in relation to Tla'amin's management of the Aboriginal Commercial Licences and harvests under them; and
- (c) carry out enforcement measures including those set out in section PART 1050.

PART 4 - SALE AND TRANSPORT

Transport and export Fish or Aquatic Plants

26. (1) The ability of a Person to transport Fish or Aquatic Plants harvested in the Tla'amin Fishing Area will be prescribed in the Tla'amin Annual Fishing Plan.

(2) Transport of Fish or Aquatic Plants is subject to any applicable restrictions in any of the following:

- (a) the *Final Agreement*; and
- (b) the regulations.

Sale, Transport and Export of Wildlife

27. (1) A Tla'amin Citizen may only sell Wildlife or Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife if:

- (a) permitted by and in accordance with federal law or provincial law; and
- (b) that Tla'amin Citizen has first been issued documentation to do so by the Director.

(2) The Director may issue documentation to a Tla'amin Citizen to sell Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife in the prescribed manner and form.

(3) The Tla'amin Nation and every Tla'amin Citizen may transport or export Wildlife, including meat and furs harvested under the Tla'amin Right to Harvest Wildlife but such transport or export must be in accordance with federal law and provincial law.

Sale, Transport and Export of Migratory Birds

28. (1) A Tla'amin Citizen may only sell Migratory Birds, harvested under the Tla'amin Right to Harvest Migratory Birds if:

- (a) permitted by and in accordance with federal law or provincial law; and
- (b) that Tla'amin Citizen has first been issued documentation to do so by the Director.

(2) An Individual may transport Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds within Canada, but such transport must be in accordance with federal law and provincial law and the Individual will have in their possession a record showing

- (a) the date and place of receipt; and
- (b) the name and address of the Tla'amin Citizen who harvested the Migratory Birds or from whom the Migratory Birds were acquired.

(3) The Tla'amin Nation and every Tla'amin Citizen may export Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds within Canada, but such export must be in accordance with federal law and provincial law.

PART 5 – TRADE AND BARTER

Trade and barter of Fish or Aquatic Plants

29. (1) The Tla'amin Nation and every Tla'amin Citizen may trade or barter Fish or Aquatic Plants harvested under the Tla'amin Fishing Right if the trade or barter is between:

- (a) a Tla'amin Citizen and another Tla'amin Citizen;
- (b) a Tla'amin Citizen and the Tla'amin Nation; or
- (c) either:
 - (i) the Tla'amin Nation; or
 - (ii) a Tla'amin Citizen

and an Aboriginal People.

(2) A Tla'amin Citizen may only trade or barter the Fish or Aquatic Plants referred to in subsection (1) as permitted under paragraph (a), (b) or (c).

(3) A Tla'amin Citizen or individual shall only transport, for the purpose of trade or barter, Fish or Aquatic Plants harvested under the Tla'amin Fishing Right if the Fish or Aquatic Plants harvested are authorized under the *Final Agreement* or this Law or prescribed as being Fish or Aquatic Plants that are available for trade or barter.

Sale, Trade and barter of Wildlife

30. (1) In accordance with paragraph 24 of the *Final Agreement*, Tla'amin Citizens may, in accordance with Federal and Provincial Law, sell Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife.

(2) In accordance with paragraph 25 of the *Final Agreement*, the Tla'amin Nation has the right to Trade and Barter Wildlife and Wildlife parts, including meat and furs, harvested under the Tla'amin Right to Harvest Wildlife:

(a) among themselves; or

(b) with other aboriginal people of Canada.

(3) The right to Trade and Barter under paragraph 5.4 of the *Final Agreement* is held by the Tla'amin Nation and cannot be alienated.

(4) Tla'amin Citizens may exercise the right to Trade and Barter under paragraph 5.4 of the *Final Agreement* except as otherwise provided under this Law, a regulation, or an enforcement measure.

Sale, Trade and barter of Wildlife and Migratory Birds

31. (1) Tla'amin Citizens may sell Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds where the sale of Migratory Birds is permitted under and in accordance with:

(a) Federal and Provincial Law; and

(b) Tla'amin Law.

(2) Despite subsection (1), the Tla'amin Nation and Tla'amin Citizens may sell inedible byproducts, including down, of Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds in accordance with this Law and any regulations.

(3) In accordance with paragraph 19 of the *Final Agreement*, the Tla'amin Nation has the right to Trade and Barter Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds:

(a) among themselves; or

(b) with other aboriginal people of Canada.

(4) The right to Trade and Barter Migratory Birds is held by the Tla'amin Nation and cannot be alienated.

(5) Tla'amin Citizens may exercise the right to Trade and Barter under paragraph 19 of the *Final Agreement* except as otherwise provided by this Law or a regulation.

PART 6 – TRANSPORT OF FISH AND WILDLIFE THAT HAVE BEEN HARVESTED

32. An Individual who, for the purpose of trade or barter, transports any Wildlife or Migratory birds:

- (a) must first ensure that the Wildlife or Migratory Birds are prescribed as being wildlife or migratory birds that are available for trade or barter; and
- (b) may only transport the Wildlife or Migratory Birds if they are so prescribed.

PART 7 – ADMINISTRATION AND MANAGEMENT

Director's authority

33. (1) The Director will administer and enforce this Law and the regulations.

(2) The Director may delegate in writing, with or without conditions, any power, authority or responsibility under this Law to another public officer.

(3) The Director must not delegate the power to delegate under section (2).

(4) Despite the delegation of any duties or powers under section (2), the Director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

Director's responsibilities

34. (1) The Director is responsible for:

(a) managing Tla'amin Fisheries, including, for certainty, fishing under

- (i) the Tla'amin Fishing Right;
- (ii) a Tla'amin Fish Allocation issued in accordance with the *Final Agreement*; and
- (iii) any other Tla'amin fishing authorization issued in accordance with the *Final Agreement*;

(b) managing Tla'amin Fishing and Hunting Rights;

(c) exercising the Director's authority, and

(d) carrying out the Director's responsibilities in a manner consistent with

- (i) the *Final Agreement*;
- (ii) this Law;

- (iii) the regulations;
- (iv) any applicable Tla'amin Harvesting Plan;
- (v) the Homalco Shared Harvest Protocol;
- (vi) the Klahoose Shared Harvest Protocol;
- (vii) any other shared harvest protocol as between Tla'amin Nation and another First
- (viii) policies or orders passed by the Executive Council.

Director's administrative duties and powers

35. The Director:

- (a) may issue
 - (i) Tla'amin Harvesting Licences; and
 - (ii) any other Tla'amin authorization issued in accordance with the *Final Agreement* and this Law;
- (b) must direct the annual accounting of Fish harvesting required by the *Final Agreement*;
- (c) may propose enhancement initiatives and stewardship activities, including seeking recommendations of the Joint Fisheries Committee or the Tla'amin Wildlife Council and the approval of the Executive Council and the Minister concerning those enhancement initiatives and stewardship activities;
- (d) must carry out enhancement initiatives and stewardship activities approved by the Executive Council and the Minister;
- (e) must direct studies or other activities approved by the Executive;
- (f) must oversee the process of the development and implementation of any Tla'amin Harvesting Plan; and
- (g) may establish a hunter training program for Tla'amin Citizens.

Necessary actions after consulting Executive Council

- 36. (1)** The Director may, by order after consultation with the Executive Council, and subject to federal and provincial law and the Tla'amin Harvest Document, take any action that is reasonably necessary for the purpose of carrying out the Director's responsibilities including:
- (a) opening or closing any areas, locations or times or seasons for harvesting all or any species of Fish, Aquatic Plants, Wildlife or Migratory Birds harvested under a Tla'amin Fishing and Hunting Right;

- (b) increasing or decreasing size or weight restrictions or gender restrictions for any species of Fish, Aquatic Plants, Wildlife or Migratory Birds harvested under a Tla'amin Fishing Right;
- (c) permitting, prohibiting or limiting use of specific gear or methods;
- (d) permitting or prohibiting the harvesting of Fish, Aquatic Plants, Wildlife or Migratory Birds harvested under a Tla'amin Fishing and Hunting Right;
- (e) cooperating with federal and provincial officials to fulfill the Tla'amin obligations under the *Final Agreement* in accordance with any agreements reached between the Tla'amin and British Columbia or Canada; and
- (f) enforcing, or overseeing the enforcement of, the provisions of this Law and the *Final Agreement* in relation to harvesting under a Tla'amin Fishing and Hunting Right.

(2) The Director may make any order that is reasonably necessary prohibiting any Person from harvesting, transporting, or engaging in trade or barter of anything harvested under a Tla'amin Fishing and Hunting Right until the Person satisfies the Director that the Person has the right to do so.

Appointment and authority of enforcement officers

37. (1) For the purposes of this Law, the Executive Council or Director may designate in writing Individuals, or Individuals in a class of Individuals, as Enforcement Officers.

(2) The Director may assign responsibilities to Enforcement Officers, including:

- (a) ensuring that any Person who is harvesting under a Tla'amin Fishing and Hunting Right in the Tla'amin Area is properly documented and authorized to carry out that activity;
- (b) ensuring that any harvesting under a Tla'amin Fishing and Hunting Right that takes place in the Tla'amin Area is in compliance with this Law and regulations, the applicable Tla'amin Harvest Plan, the *Final Agreement*, and Tla'amin Harvesting Licences;
- (c) enforcing this Law and all applicable regulations, the applicable Tla'amin Harvest Plan, the *Final Agreement* and Tla'amin Harvesting Licences;
- (d) the monitoring of harvesting activities, including the verification of what is harvested under a Tla'amin Harvesting Licence;
- (e) the examination and measurement of fishing or hunting gear, the recording of scientific data and observations and the taking of samples;
- (f) the monitoring of the landing of Fish and the verification of the species and the size or weight of Fish caught and retained; and
- (g) conducting biological examination and sampling of what is harvested under a Tla'amin Fishing and Hunting Right.

(3) The Director must provide each Enforcement Officer with a document in the form approved by the Director:

- (a) certifying the Enforcement Officer's designation; and
- (b) if the Enforcement Officer's powers are limited, specifying the powers that the Enforcement Officer may exercise.

(4) On entering any place as permitted under this Law, the regulations, or any other Tla'amin Law, an Enforcement Officer, on request, must show the certificate of designation to the Person in charge of the place.

PART 8 – HARVESTING OPPORTUNITIES

Harvesting on Private Lands

38. (1) In accordance with paragraph 12 of the Wildlife Chapter of the *Final Agreement*, the Tla'amin Right to Harvest Wildlife may be exercised on lands that are owned in fee simple, other than Tla'amin Lands, within the Wildlife and Migratory Birds Harvest Area but that harvesting is subject to Federal and Provincial Law in respect of access to fee simple lands.

Regulations respecting harvesting opportunities

39. (1) In addition to the authority provided under PartPART 11, the Executive Council may by regulation:

- (a) provide for the distribution among Tla'amin Citizens of harvesting opportunities under the Tla'amin Fishing and Hunting Right and under the *Final Agreement*;
- (b) provide for the allocation of tags or opportunities and set criteria and rules to exercise the Tla'amin Fishing and Hunting Right in relation to Tla'amin elk allocation;
- (c) require individuals exercising the Tla'amin Fishing and Hunting Right to share a portion of their harvest with the Tla'amin Nation or with Tla'amin elders; and
- (d) specify particular Individuals or classes of Individuals that may harvest Fish and Aquatic Plants.

(2) In a regulation under this section, the Executive Council must take into account:

- (a) the collective interests of the Tla'amin Nation;
- (b) what may be available for harvest by the Tla'amin Nation under a Tla'amin Fishing and Hunting Right;
- (c) the estimated requirements for what is harvested under a Tla'amin Fishing and Hunting Right for both
 - (i) Tla'amin Citizens who are ordinarily resident on Tla'amin Lands; and
 - (ii) Tla'amin Citizens who are not ordinarily resident on Tla'amin Lands;

- (d) available information about the annual harvest of what is harvested under a Tla'amin Harvesting Right by every Tla'amin Citizen;
- (e) whether there should be measures or restrictions to ensure that anyone exercising a Tla'amin Fishing and Hunting Right is in good standing with the Tla'amin Nation; and
- (f) any other matter the Executive Council considers to be relevant.

Advisory committee

40. (1) The Executive Council may appoint a committee of persons responsible for providing advice and recommendations to the Executive Council regarding harvesting under a Tla'amin Fishing and Hunting Right.

(2) A committee appointed under subsection (1) must include the Director and at least one member of the Executive Council and may include other persons who are not members of the Executive Council.

Director's responsibilities respecting harvesting opportunities

41. The Director must manage the methods, timing and locations of harvesting under a Tla'amin Fishing and Hunting Right:

(a) in accordance with:

- (i) the *Final Agreement*;
- (ii) all Tla'amin Laws;
- (iii) any approved Tla'amin Harvest Plan;
- (iv) any applicable Tla'amin Harvest Document;

(b) in a way that, to the extent practicable:

- (i) provides fair and reasonable opportunities for Tla'amin Citizens to harvest Fish and Aquatic Plants at locations within the Tla'amin Fishing Area and the Tla'amin Herring Fishing Area;
- (ii) provides fair and reasonable opportunities for Tla'amin Citizens to harvest Wildlife and Migratory Birds at locations within the Tla'amin Wildlife and Migratory Birds Harvest Area; and

(c) respects the distribution of harvesting opportunities provided for in regulations or by the Executive Council under this Law.

Agreements with other governments

42. (1) The Executive Council, or the Director under the direction of the Executive Council may enter into discussions or develop agreements with other governments to implement any aspect of this Law.

(2) Any agreements with other governments in relation to this Law must be ratified by the Executive Council to take effect.

Agreements with First Nations

43. (1) The Executive Council, or an individual designated by Resolution, may negotiate agreements that are necessary or advisable with First Nations or other aboriginal people in relation to:

- (a) protocols with other First Nations;
- (b) the harvesting, conservation and management of Fish, Wildlife, and Migratory Birds;
- (c) a Tla'amin Allocation of a designated Wildlife species or of a Designated Migratory Bird Population; or
- (d) any related matter.

(2) An agreement negotiated under subsection (1) must be ratified by the Tla'amin Legislature for it to be a valid and binding agreement on the Tla'amin Nation.

Request for species designation

44. The Executive Council may request a review by the minister of the Tla'amin Fish Allocation of a designated species identified by the Executive Council in making the request.

PART 9 – JOINT MANAGEMENT

Representation on Joint Fisheries Committee

45. (1) The Executive Council must, by resolution, appoint one Individual to act as the Tla'amin Nation representative on the Joint Fisheries Committee.

(2) The Executive Council may assign additional Individuals to participate in meetings of the Joint Fisheries Committee in order to support or assist the Tla'amin representative to the Joint Fisheries Committee.

(3) The Executive Council may, by resolution, appoint an alternate Tla'amin Citizen to represent the Tla'amin Nation on the Joint Fisheries Committee if the Tla'amin Nation representative appointed under subsection (1) is unable to attend a meeting of the Joint Fisheries Committee.

(4) Any Tla'amin Nation representative to the Joint Fisheries Committee must represent the Tla'amin Nation in accordance with the direction of the Executive Council.

Fish harvest plans

46. (1) Each year, before the date specified in the Tla'amin Nation Fisheries operational guidelines, the Director must prepare for approval and adoption by the Executive Council recommendations with respect to those matters contemplated in paragraph 83 of Chapter 9 Fisheries of the *Final Agreement* to be made on behalf of the Tla'amin Nation to be included

in the Tla'amin Annual Fishing Plan for harvesting carried out by designated Individuals under the Tla'amin Fishing Right.

(2) By the prescribed date, the Director must forward the recommendations on behalf of the Tla'amin Nation to be included in all proposed Tla'amin Harvest Plans, adopted by the Executive Council, to the Tla'amin Nation.

Delivery of Tla'amin Harvest Plans

47. By the prescribed date, the Director must forward the recommendations on behalf of the Tla'amin Nation to be included in all proposed Tla'amin Harvest Plans, adopted by the Executive Council, to the Tla'amin Nation.

PART 10– OFFENCES, PENALTIES, SUSPENSIONS AND REVOCATIONS

Notices, Suspension, Revocation and Appeal

48. (1) If the Director reasonably believes that the holder of a Tla'amin Harvesting Licence or Protocol Letter has contravened or repeatedly contravened any of sections PART 310PART 315, PART 316PART 31919, PART 427PART 428, the Director must deliver in accordance with Tla'amin law and subsection (2), a notice to the holder of the Director's intention to suspend the licence or protocol for the period specified in the notice or, in the case of a repeated contraventions, to revoke the licence or protocol.

(2) A notice under subsection (1) must

(a) set out the reasons for the intended suspension, and

(b) state that the holder of the Tla'amin Harvesting Licence is entitled to make representations as to why the Tla'amin Harvesting Licence should not be suspended and may do so by giving the Director a response within 15 days after the earlier of

(i) the date the holder was personally served with the notice; and

(ii) 5 days after the date the notice was sent by registered mail.

(3) After providing an opportunity for the holder of the Tla'amin Harvesting Licence referred to in this section to be heard as contemplated in subsection (2), the Director, for any cause he or she considers sufficient, acting reasonably, may:

(a) suspend the holder's Tla'amin Harvesting Licence or, in the case of a repeated contraventions, revoke, the holder's Tla'amin Harvesting Licence;

(b) may suspend or revoke all or part of a person's authorization to harvest fish, wildlife, or aquatic plants or any species of them.

49. (1) The Director shall issue suspensions in accordance with this Law and any related regulation or policy but shall be guided by a staged approach, starting with written warnings or fines or short term suspensions for first-time minor contraventions.

(4) Despite section 48(2) and subsection (1), in the case of serious or repeated contraventions, risks to conservation or human health, or urgent situations, the Director may immediately suspend a holder's Tla'amin Harvesting License pending further hearings and investigations.

(5) On notice of a suspension or revocation under subsection 48(1), the holder of a Tla'amin Harvesting Licence must within 5 working days deliver their Tla'amin Harvesting Licence to the Director.

(6) An individual who has had their Tla'amin Harvesting License suspended or revoked may submit a written appeal of the suspension or revocation to the Executive Council in accordance with Tla'amin laws, regulations and policies.

(7) An individual who submits an appeal under subsection (6) is still required to deliver their Tla'amin Harvesting Licence to the Director under (5) and is prohibited from harvesting pending the appeal.

(8) Upon receiving a request for an appeal under subsection (6), the Executive Council shall carry out a review in accordance with Tla'amin laws, regulations and policies and shall make a decision as soon as possible which may include:

- (a) confirmation or over-turning the decision of the Director under section 48(3), or;
- (b) varying or adding, removing or altering terms or conditions set by the Director under section 48(3).

(9) A decision by the Executive Council under subsection (8) shall be final and there shall be no further appeals or reviews available to that individual regarding that decision.

(10) Following any decision to suspend or revoke a Tla'amin Harvesting Licence by the Director or the Executive Council, the Director shall, as soon as possible:

- (a) notify the Department of Fisheries and Ocean in accordance with any protocol between the Tla'amin Nation and the Department of Fisheries and Oceans; and
- (b) make a notation or require a notation to be made in the Tla'amin Harvesters' Registry.

(11) Promptly after the expiry of the period of suspension of the Tla'amin Harvesting Licence suspended under this section, the Director must return the Tla'amin Harvesting Licence to its holder or issue a replacement Tla'amin Harvesting Licence to its holder.

(12) The Director must not issue or re-issue any Tla'amin Harvesting Licence under this Law to a person who has had their Tla'amin Harvesting Licence suspended or revoked under this Law during the period of the suspension or revocation.

Director may suspend or revoke a person's ACL and notify DFO

50. (1) In addition to any suspension or revocation set out sections 48 or 49, if the Director reasonably believes that the holder of a Tla'amin Harvesting Licence or Protocol Letter has

contravened or repeatedly contravened any of sections PART 310PART 315, PART 316PART 31919, PART 427, in relation to the harvest of shellfish and the individual holds a licence to harvest shellfish under an Aboriginal Communal Licence or ACL,

- (a) the Director must carry out the notice and suspension or revocation process as set out in section 48 to the extent which Tla'amin has jurisdiction over the Aboriginal Communal Licence, and
- (b) the Director may also notify the Department of Fisheries and Oceans and request that the Tla'amin Citizen's name be removed from the list of Tla'amin Citizens eligible to hold an Aboriginal Communal Licence through the Tla'amin Nation.

(2) The review and appeal provisions set out in section 49 apply to decisions made by the Director under subsection (1).

Prohibition against harvesting during licence suspension or revocation

51. A person whose Tla'amin Harvesting Licence has been suspended or revoked must not exercise the applicable harvesting rights associated with the suspended or revoked Tla'amin Harvesting Licence during the period of

- (a) the suspension; or
- (b) revocation and while the revocation remains in effect.

Non-Compliance with Protocol Letters

52. (1) If the Director believes that the holder of a Homalco Protocol Letter, or a Klahoose Protocol Letter has contravened or repeatedly contravened section 11, the Director must deliver notice to either the Homalco Indian Band or Klahoose First Nation in order to trigger the dispute resolution provisions provided in the Homalco Shared Harvest Area Protocol and the Klahoose Shared Harvest Area Protocol.

(2) If the Director believes that the holder of a Protocol Letter has contravened or repeatedly contravened section PART 311, PART 313 or PART 315PART 315, the Director must deliver notice to the First Nation to which the holder of the Protocol Letter is a member.

Offences and penalties

53. (1) A person contravenes this Law if the person does any of the following:

- (a) obstructs an Enforcement Officer in the discharge or performance of a duty or the exercise of a power or authority under this Law;
- (b) fails or refuses to comply with
 - (i) an order made by the Director under section 36;
 - (ii) a condition of licence issued under this Law; or
 - (iii) any regulation passed under this law;

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- (c) fails to comply with any of sections 10 to 15, 24, 26, 27, or 29 to 33;
 - (d) fails to report the person's harvest of Fish, Wildlife or Migratory Birds as required by law or prescribed by regulation;
 - (e) disposes of
 - (i) Fish and parts of Fish;
 - (ii) Wildlife and parts of Wildlife; or
 - (iii) Migratory Birds, or parts of Migratory Birds;in a manner that is not permitted by law or regulation;
 - (f) harvests for food, social and ceremonial purposes and sells or attempts to sell all or part of the harvest;
 - (g) digs or harvests shellfish for or on behalf of another person (except as authorized by a Proxy Designation Licence or a Protocol);
 - (h) digs or harvests shellfish and then stores them, hides them or sets them aside for use in a commercial fishery on a later date; or
 - (i) Harvests under the Tla'amin Harvesting Right outside the Tla'amin Area without a valid and subsisting Protocol Letter.
- (2) The Director or an Enforcement Officer may issue one or more of the following to a person under subsection (1):
- (a) a written warning;
 - (b) a fine as prescribed by regulation;
 - (c) a compliance notice pursuant to the *Ticketing and Enforcement Law*;
 - (d) an order that the person stop harvesting immediately;
 - (e) a suspension order or revocation order pursuant to sections 48 and 49;
 - (f) a notice to the Department of Fisheries and Oceans under sections 49(10) or 50;
 - (g) an order requiring the person to clean up or restore an area within the Tla'amin Area as prescribed in the regulations;
 - (h) a formal request to the Tla'amin Director of Finance or other Tla'amin official to withhold community benefits or dividends for the individual in question;
 - (i) an order requiring the person to carry out community service; or
 - (j) a fine or ticket under the *Ticketing and Enforcement Law*,

(3) an Enforcement Officer may, in accordance with all applicable federal, provincial and Tla'amin Law, seize:

- (a) the harvested Fish, Wildlife or Migratory Birds;
- (b) fishing gear;
- (c) hunting gear;
- (d) fishing vessels;
- (e) vehicles

at the site of a harvest or attempted harvest or in the possession of a person under subsection (1);

Offences created by regulation

54. (1) The Executive Council may, by regulation,

- (a) provide for the issuance of compliance notices or tickets or both for any contraventions of this Law or regulations under this Law; and
- (b) designate any offence under this Law or a regulation under this Law.

(2) If the maximum fine prescribed under a regulation referred to in subsection (1) is less than that provided by a provision of this Law, then the regulation prevails.

Repeat contraventions

55. The maximum fine to which a person is liable on a second or subsequent contravention or conviction for the same or continuing offence is double the amount set out in section 54(2) or otherwise prescribed.

PART 11– GENERAL PROVISIONS

Power to make regulations

56. (1) The Executive Council may make regulations it considers necessary or advisable for purposes under this Law.

(2) For certainty, the powers of the Executive Council under subsection (1) include the power to make regulations

- (a) for any purpose in relation to which regulations are provided for in this Law;
- (b) prescribing any matter or thing referred to in this Law as prescribed or to be prescribed;
- (c) respecting the form and content of applications, notices and reports that are required or permitted under this Law;

- (d) defining words and expressions that are used but not defined in this Law; and
- (e) generally for the purpose of giving effect to this Law.

(3) For certainty, the powers of the Executive Council under subsection (1) also include the power to make regulations as follows:

- (a) respecting Tla'amin Harvesting Licence including regulations
 - (i) prescribing fees or security payments for applications for Tla'amin Harvesting Licences or for their issuance;
 - (ii) respecting the form and content of
 - (A) applications for Tla'amin Harvesting Licences; and
 - (B) Tla'amin Harvesting Licences;
 - (iii) requiring applicants for Tla'amin Harvesting Licences to provide, at the time of application or before issuance of them, specified information or documentation pertaining to them;
 - (iv) prescribing conditions and restrictions applicable in respect of Tla'amin Harvesting Licences;
 - (v) specifying the terms of Tla'amin Harvesting Licences;
 - (vi) respecting the suspension or revocation of Tla'amin Harvesting Licences;
 - (vii) prescribing the procedure for suspending or revoking Tla'amin Harvesting Licences, the effect of suspensions, and procedures for review or appeal of suspensions or revocations;
 - (viii) respecting the issuance of Tla'amin Fishing Licences to individuals who are not Tla'amin Citizens; and
 - (ix) respecting the amendment or correction Tla'amin Harvesting Licences;
- (b) prescribing requirements respecting the methods, timing and locations of
 - (i) harvesting in the Tla'amin Fisheries; and
 - (ii) harvesting of Wildlife and Migratory Birds;
- (c) delegating to the Director the discretion to vary the requirements prescribed under paragraph (b) to suit the circumstances of a particular case;
- (d) respecting the distribution among Tla'amin Citizens of
 - (i) Fish and Aquatic Plants harvested under the Tla'amin Fishing Right or under the *Final Agreement*;

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- (ii) Wildlife harvested under the Tla'amin Right to Harvest Wildlife; and
- (iii) Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds;
- (e) the designation of Individuals and vessels to harvest:
 - (i) Fish and Aquatic Plants under the Tla'amin Fishing Right or under the *Final Agreement*;
 - (ii) Wildlife harvested under the Tla'amin Right to Harvest Wildlife; or
 - (iii) Migratory Birds harvested under the Tla'amin Right to Harvest Migratory Birds; the designation of Individuals to harvest Fish and Aquatic Plants under a Tla'amin Harvesting Licence;
- (f) respecting the documenting of
 - (i) Individuals and vessels designated by the Tla'amin Nation to harvest Fish and Aquatic Plants under the Tla'amin Fishing Right;
 - (ii) Individuals designated by the Tla'amin Nation to harvest Wildlife under the Tla'amin Right to Harvest Wildlife; and
 - (iii) Tla'amin Citizens designated by the Tla'amin Nation to harvest Migratory Birds under the Tla'amin Right to Harvest Migratory Birds;
- (g) respecting how Wildlife, including Wildlife parts, harvested under the Tla'amin Right to Harvest Wildlife, may be
 - (i) identified as to type; and
 - (ii) transported by a person who is not a Tla'amin Citizen;
- (h) respecting
 - (i) the trade or barter of Fish, Aquatic Plants, Wildlife, and Migratory Birds; and
 - (ii) their identification and the identification of their parts;
- (i) respecting the sale of Harvested Wildlife and Migratory Birds;
- (j) respecting the registration of fishing vessels that may be used for harvesting, for the purposes of sale, in Tla'amin Fisheries including regulations
 - (i) prescribing fees for registration applications or for the registration of vessels;
 - (ii) respecting the form and content of
 - (A) registration applications; and
 - (B) registrations under this Law;

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- (iii) requiring applicants for registration to provide, at the time of application or before the registrations applied for, specified information or documentation pertaining to the registrations;
- (iv) prescribing conditions and restrictions applicable in respect of registrations;
- (v) specifying terms and conditions of registrations;
- (vi) respecting suspension of registrations;
 - (A) the procedure for suspending registrations under this Law;
 - (B) the effect of suspensions, amendment or correction of registrations;
 - (C) the identification of registered fishing vessels; and
 - (D) the change of ownership of a registered fishing vessel;
- (k) respecting procedures for seizing harvests, gear, vessels and vehicles;
- (l) specifying the type of fishing gear and identification of fishing gear that may be used for harvesting in Tla'amin Fisheries;
- (m) respecting the dumping and wasting of Fish or Wildlife;
- (n) respecting the release of incidental catch;
- (o) respecting the cleaning of fishing gear and authority to permit the cleaning of fishing gear;
- (p) respecting the powers that Enforcement Officers may exercise under this or any other Tla'amin legislation;
- (q) respecting the carrying out of inspections and examinations of harvesting activities;
- (r) respecting the alteration of aquatic habitat and activities conducted in aquatic habitat;
- (s) prescribing landing and reporting requirements for harvesting Fish and requirements related to the identification of harvested Fish;
- (t) respecting the designation of landing sites for Fish harvested under authority of this Law and permitting the Director to make those designations;
- (u) respecting the exchange of regalia or traditional or artistic objects, made from Fish and Aquatic Plants, Wildlife or Migratory Birds harvested under a Tla'amin Fishing and Hunting Right; and
- (v) the taxation of, or levies associated with, the sale of Fish harvested in the Tla'amin Fishing Area.

PART 12 – COMMENCEMENT

Commencement and coming into force

57. (1) This Law comes into force on the date of its enactment by the Tla'amin Legislature.

(2) For greater certainty, this Law is in effect as of April 5th, 2016 and the corrections dated April 25th, 2016 apply as of April 5th, 2016.

THIS LAW WAS DULY ENACTED by the Tla'amin Legislative Assembly on the 5th day of April, 2016, and is **HEREBY DULY AMENDED WITH CORRECTIONS** on the 25th day of April, 2016 on Tla'amin Lands, in the Province of British Columbia.

LEGISLATIVE HISTORY

(Note: The Legislative History is for administrative purposes only and is not part of the Law.)

Fish and Wildlife Harvesting and Protection Law [TNL 18 /2016] enacted April 5, 2016.

Amendments and Corrections

Table of Legislative Changes

Name of Law or Order	Law or Order Number	Date Amended or Corrected	Section(s) Amended
<i>Order correcting the Fish and Wildlife Harvesting and Protection Law</i>	TNO- LA 34/2016	April 25, 2016 (corrections in effect April 5, 2016)	Various clerical corrections.

Regulations enacted under this Law:

List any regulations made under the Law, in the following format:

[Name of Regulation] Regulation [TNReg __/2016].