



3RD PARTY FUNDING AGREEMENT

THIS AGREEMENT dated the 15th Day of November 2017 at the City of Vancouver, in the Province of British Columbia,

BETWEEN: FRASER BASIN COUNCIL

(the "FBC") 1ST Floor, 470 Granville Street, Vancouver BC V6C 1V5

AND: MUSKWA-KECHIKA ADVISORY BOARD

(the "M-KAB") Box 762 Mackenzie, BC V0J2C0

GIVEN THAT:

The FBC administers the (externally controlled funds) received from the Province of British Columbia (the "Province") under the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A), and the M-KAB provides functional direction and through its Executive approves expenditures and submits approved invoices for payment to FBC for disbursement, the Parties agree as follows:

1. DUTIES:

- 1.0 The Parties must carry out and complete the Project described in the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) and may use the funding provided only for the purpose specified.

2. OBLIGATIONS:

- 2.0 The Parties will:

- 2.0.1 Carry out the Services in accordance with the terms of this Agreement during the Term stated in the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A);

- 2.0.2 Comply with the payment requirements set out in the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A), including all requirements concerning the use, application and expenditure of the payments provided under this Agreement;
- 2.0.3 Comply with all applicable laws;
- 2.0.4 Hire and retain only qualified staff;
- 2.0.5 Without limiting the provisions of subparagraph (2.0.3) of this Section carry out criminal record checks as required by the Criminal Records Review Act, in accordance with the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A);
- 2.0.6 Unless agreed otherwise, supply, at its own cost, all labour, materials and approvals necessary to carry out the Services;
- 2.0.7 Unless agreed otherwise, retain ownership to all assets acquired or intangible property created in the process of carrying out this Agreement;
- 2.0.8 Co-operate with the Province in making public announcements regarding the Services and the details of this Agreement that the Province requests;
- 2.0.9 Acknowledge the financial contribution made by the Province for the Services in any Materials, by printing on each of the Materials the following statement: *"We gratefully acknowledge the financial support of the Province of British Columbia through the Ministry of Forests, Lands, Natural Resource Operations and Rural Development"*;
- 2.0.10 Establish and maintain accounting and administrative records in form and content satisfactory of the Province, to be used as the basis for the calculation of amounts owing;
- 2.0.11 Establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the Province;
- 2.0.12 Permit the Province, for monitoring and audit purposes, at all reasonable times, upon reasonable notice, to enter any premises used by the Parties to deliver the Services or keep any documents or records pertaining to the Services, in order for the Province to inspect, audit, examine, review and

copy any findings, data, specifications, drawings, working papers, reports, surveys, spread sheets, evaluations, documents, databases and material, (both printed and electronic, including, but not limited to, hard disk or USBs'), whether complete or not, that are produced, received or otherwise acquired by the Parties as a result of this Agreement;

2.0.13 If applicable, obtain the consent of clients to allow provincial employees or designates access to client case files for the purposes of service monitoring and evaluation and research purposes, as outlined in the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A); and

2.0.14 The Parties agree that the Province does not have control, for the purpose of the *Freedom of Information and Protection of Privacy Act*, of the records held by the Parties.

3. RELATED AGREEMENTS:

3.0 2015/2016 fiscal year:

3.0.1 Muskwa-Kechika Advisory Board, Fraser Basin Council and British Columbia Ministry of Forests, Lands and Natural Resource Operations Government Transfer Shared Cost Agreement #TP16FSJ0001 dated the 1st day of September 2015 (Term: September 1, 2015 to March 31, 2016).

3.0.2 Muskwa-Kechika Advisory Board and Fraser Basin Council 3rd Party Funding Agreement dated the 1st day of September 2015 (Term: September 1, 2015 to March 31, 2016).

3.1 2016/2017 fiscal year:

3.1.1 Muskwa-Kechika Advisory Board, Fraser Basin Council and British Columbia Ministry of Forests, Lands and Natural Resource Operations Government Transfer Shared Cost Agreement #TP17FSJ0003 dated the 18th day of November 2016 (Term: November 18, 2016 to March 31, 2017).

3.1.2 Muskwa-Kechika Advisory Board and Fraser Basin Council 3rd Party Funding Agreement dated the 1st day of April 2016 (Term: April 1, 2016 to March 31, 2017).

4. TERMS:

- 4.0 It is understood and agreed that the terms and conditions set out herein are to cover the period commencing November 15, 2017 and ending March 31, 2018 (hereinafter called the "expiration date"), or until such subsequent date as shall be agreed upon between the Parties. The term period is extendable to a maximum of three (3) years to March 31, 2021 pending successful annual review by the Parties.
- 4.1 Notwithstanding any other provisions of these Terms, either party may terminate the Agreement at any time upon two (2) weeks written notice delivered to the Parties at the addresses shown on the first page of this Agreement, or at such shorter time and in such a manner as may be agreed upon by the Parties.

5. PROJECT:

- 5.0 The M-KAB operates to provide advice on the development and conservation in the Muskwa-Kechika Management Area (M-KMA), as per the *Muskwa-Kechika Management Area Act*. Appointed by the Premier of British Columbia (the "Premier"), the M-KAB's members provide their service voluntarily and without remuneration except for travel expenses while undertaking board business and attending board working group meetings. The Government of British Columbia has supported the M-KAB's operations since its inception.
- 5.1 The M-KAB has set out a plan that was prepared in consultation with government staff to add value to benefit British Columbians and the M-KMA. It ties to the Ministry of Forests, Lands, Natural Resource Operations and Rural Development core business and has links to the Ministry's service plan.
- 5.2 The FBC administers the project funds for a rate of 8% per annum, invoiced quarterly and submitted to the M-KAB Executive for approval.
- 5.3 The funding will allow the M-KAB to operate such that it can provide meaningful advice on natural resource management in the M-KMA. This advice once finalized is made public (posted on the M-KMA website) and is of interest to First Nations

and many stakeholder groups (e.g. local government, industry, recreation, wilderness tourism, trapping, guide outfitting and conservation groups).

- 5.4 The deliverables for the Term of this agreement are intended to build the framework for the M-KAB's provision of advice with respect to the measureable conditions by which industrial development in the M-KMA should abide, should it be approved by a statutory decision maker, and measurable guidance on how the wilderness quality definition should be applied, including circumstances in which specific limits to the spatial and temporal persistence of disturbances should be established.
- 5.5 Another aim for the M-KAB during this Term is to re-engage Treaty 8 representatives, who have not participated for a few years, in the Board's deliberations.
- 5.6 The Province is assisting financially as the Board activities are required to fulfill legislation for which the Ministry of Forests, Lands, Natural Resource Operations and Rural Development is responsible.

5.0 OUTCOMES:

- 5.1 Through the delivery of the Services the Parties wishes to realize the following outcomes and, without limiting the obligation of the Parties to comply with other provisions of the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) the Parties must use reasonable efforts to achieve them:
- 5.1.1 Government's efforts to protect and create jobs, sustainably manage ecosystems, rivers, lakes, watersheds, and forests, and improve wildlife management and habitat conservation will be enhanced.
- 5.2 The M-KAB acknowledges that FBC does not warrant that these outcomes will be achieved.

6.0 DELIVERABLES:

- 6.1 The Parties must liaise and cooperate with the Province regarding the Project.
- 6.2 Tasks for which the FBC may disperse the funds on behalf of the M-KAB include:

- 6.2.1 Administrative costs associated with meetings of the Advisory Board;
 - 6.2.2 Operational costs such as teleconference services, website costs, meeting room rental and other administrative expenses;
 - 6.2.3 Implementation of the M-KAB's updated Strategic Direction and Operational Business Plan, including but not limited to:
 - 6.2.3.1 Submitting a report to the Premier and making it available to British Columbians on its website;
 - 6.2.3.2 Providing advice regarding the criteria necessary to determine under what conditions resources can be developed within the M-KMA while maintaining its wilderness quality, wildlife and ecosystems in perpetuity;
 - 6.2.3.3 Developing a common and shared understanding between the M-KAB and Government regarding the M-KMA Act Preamble, Vision (created by the M-KAB) and the M-KAB's definition of Wilderness for the M-KMA;
 - 6.2.3.4 Participating in the University of Northern British Columbia (UNBC) collaborative Partnership Agreement updated between the M-KAB and UNBC; and
 - 6.2.3.5 Over the longer term developing a framework or mechanism to provide integrated, meaningful, clear and measurable advice to industry on potential resource development projects and activities within the M-KMA that ensures activities within the M-KMA are in keeping with the vision and management.
 - 6.2.4 M-KAB Member and Secretariat travel expenses to M-KAB board meetings, working group meetings, and meetings with First Nations representatives or government employees, applying the same principles on eligible travel expenses as is applied to government employees;
 - 6.2.5 M-KAB Chair's related expenses; and,
 - 6.2.6 M-KAB Secretariat support.
- 6.3 The FBC must ensure that disbursements permit the M-KAB:

- 6.3.1 To provide meaningful advice on natural resource management in the M-KMA to ensure that activities within the area are consistent with the objectives of the *Muskwa-Kechika Management Plan*. This advice once finalized is made public (posted on the M-KMA website) and is of interest to First Nations and many stakeholder groups (e.g. local government, industry, recreation, wilderness tourism, trapping, guide outfitting and conservation groups);
- 6.3.2 To review and update as necessary its business plan regarding providing advice to government and industry to support activities within the M-KMA in keeping with the vision and management goal for the area; and
- 6.3.3 To deliver components of its business plan as set out in three phases per the table below, or as revised upon mutual agreement in writing between the M-KAB Chair and the Province. Additional M-KAB activities in its business plan that are not listed below but that are in line with its overarching responsibilities may also be funded within the budget.
- 6.4 Summary of Additional M-KAB Deliverables, Timelines and Budget:

Deliverables	Activities	Budget
Phase 1: Finalize Wind Resource Use Board Advice Target Date – November 22, 2017	<ul style="list-style-type: none"> - Meetings with FLNRORD representatives to discuss how M-KAB advice documents could be used by statutory decision makers - Collate, review, update and present/submit draft Wind Resource Use Board advice 	\$30,000
Phase 2: Finalize Draft M-KMA Management Framework – principles and zonation model Target Date – February 15, 2018	<ul style="list-style-type: none"> - Submit draft framework (including zones and rationales) to FLNRORD to prepare for Phase 3. 	\$30,000

Phase 3: M-KMA Management Framework Target Date – March 15, 2018	- Meetings scheduled in March with FLNRORD, UNBC, and Board representatives to discuss M-KAB draft vision, wilderness definition and preamble of the M-KAB Act. Representatives “test” draft framework using case studies from the perspective of decision makers and consider next steps. M-KAB revise framework based on meeting outcomes.	\$28,500
2017/18 TOTAL BUDGET PROJECTION		\$88,500

- 6.5 The FBC must provide a quarterly report to the Province and to the M-KAB Executive showing income and expenditures by type for the quarter and an account balance within 30 days of the end of the quarter.
- 6.6 The FBC must also, from time to time as requested by the M-KAB Executive, or M-KAB Secretariat on behalf of the Executive, within five (5) business days provide interim financial information to meet circumstances that would require it.
- 6.7 The FBC must provide an accounting for the use of funds upon written request by the Province.
- 6.8 The FBC must, no later than 30 days after the fiscal year (April 1 through to March 31), provide an annual financial report to the Province and the M-KAB Executive, including:
- 6.8.1 An annual Project income and expenditure summary which identifies all sources and use of the Project funds over the duration of the entire Agreement;
 - 6.8.2 A statement detailing the use of the Province’s Financial Contribution provided during the Term, including an explanation of any financial variances; and
 - 6.8.3 All financial reports submitted by the FBC must be certified by a senior officer of the organization (such as a Chief Executive Officer or Chief

Financial Officer) attesting to the correctness and completeness of the financial information provided.

- 6.9 The FBC must ensure that the M-KAB makes all reasonable efforts to respond to ad-hoc requests by the Province for information on Project progress, and that the M-KAB advises the Province immediately of any substantial events that could impact the Project timeline.
- 6.10 Following completion of the Project the FBC must, no later than 30 days after the end of the Term, ensure that M-KAB provides a Project performance report with Project highlights, description of outcomes with respect to results set out in the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) quantitative and qualitative description of the accomplishments / success of the Project; challenges faced and solutions found, information on results (negative or positive) that were not anticipated, and lessons learned.
- 7.0 **INDEMNIFICATION:**
- 7.1 The M-KAB will indemnify, hold and save harmless the FBC from and against all claims, losses, damages, costs, actions and other proceedings, made, sustained, brought or prosecuted in a manner, based upon, occasioned by action by statutory authorities, or attributable to any injury, including death, property damage, infringement or damage arising from any act or omission of the Consultant, its employees, officers, volunteers, servants or agents, subcontractors, or persons from whom the M-KAB has assumed responsibility in the performance or purported performance of this agreement.
- 8.0 **INDEPENDENT RELATIONSHIP:**
- 8.1 No partnership, joint venture, agency or other legal entity will be created by or will be deemed to be created by this Agreement or by any actions of the Parties pursuant to this Agreement.
- 8.2 The M-KAB will be an independent and neither the M-KAB nor its servants, agents or employees will be the servant, employee, or agent of FBC.
- 8.3 The Province (under the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) may, from time to time, give instructions to the M-

KAB in relation to the carrying out of the Services, and the M-KAB will comply with those instructions but will not be subject to the control of the Province regarding the manner in which those instructions are carried out except as specified in this Agreement.

9.0 REPRESENTATIONS AND WARRANTIES:

9.1 The parties hereto agree that for all purposes of this Agreement the FBC shall be represented by the Executive Director.

9.2 The M-KAB represents and warrants to FBC, that:

9.2.1 All information, statements, documents and reports furnished or submitted by the M-KAB in connection with the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) and this Agreement are true and correct;

9.2.2 M-KAB has no knowledge of any fact that materially adversely affects, or so far as it can foresee, might materially adversely affect, M-KABs properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement; and

9.2.3 M-KAB is not in breach of, or in default under, any law of Canada or of the Province of British Columbia applicable to or binding on it.

9.3 All statements contained in any certificate, application, proposal or other document delivered by or on behalf of FBC to the Province under this Agreement or in connection with any of the transactions contemplated by it are deemed to be representations and warranties by M-KAB under this Agreement.

9.4 All representations, warranties, covenants and agreements made in this Agreement and all certificates, applications or other documents delivered by or on behalf of M-KAB are material, have been relied on by FBC, and continue in effect during the continuation of this Agreement.

10.0 NOTICES:

10.1 Any notices or other communications required or permitted hereunder shall be sufficiently given if delivered, sent by prepaid regular mail, or by facsimile, to the addresses of the parties on the first page of this Agreement, or to such other

addressees as shall have been specified by notice in writing by either party to the other.

- 10.2 Any such notice or communication shall be deemed to have been given if mailed in Canada on the fourth business day after the date of mailing, and if delivered or sent by facsimile, on the day the delivery or facsimile was made.

11.0 CONFLICT OF INTEREST:

- 11.1 The Parties will not, during the Term, perform a service for or provide advice to any person, or entity where the performance of such service or the provision of the advice may, in the reasonable opinion of the Province, give rise to a conflict of interest between the obligations of the Parties to the Province under the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) and the obligations of the Parties to such other person or entity.

12.0 CONFIDENTIALITY:

- 12.1 The Parties will treat as confidential all information and material supplied to or obtained, or any third party, as a result of this Agreement and will not, without the prior written consent of the Province, except as required by applicable law, permit its disclosure except to the extent that such disclosure is necessary to enable the Parties to fulfill its obligations under this Agreement.

13.0 DEFAULT:

- 13.1 Any of the following events will constitute an Event of Default;
- 13.1.1 The Parties fail to comply with any provision of the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) or this Agreement;
- 13.1.2 Any representation or warranty made by the Parties in accepting this Agreement is untrue or incorrect;
- 13.1.3 Any information, statement, certificate, report or other document furnished or submitted by or on behalf of the FBC pursuant to or as a result of this Agreement is untrue or incorrect;
- 13.1.4 The Parties cease to operate;
- 13.1.5 A change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or

operations of the Parties which, in the opinion of the Province, materially adversely affects the ability of the Parties to fulfill their obligations under the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) or this Agreement;

- 13.1.6 An order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Parties;
- 13.1.7 The Parties becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- 13.1.8 A bankruptcy petition is filed or presented against, or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by, the Parties;
- 13.1.9 A receiver or receiver-manager of any property of the Parties is appointed; or
- 13.1.10 The Parties permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof.

14.0 DISPUTE RESOLUTION:

- 14.1 In the event of any dispute between the Parties arising out of or in connection with the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A) or this Agreement the following dispute resolution process will apply unless the Parties otherwise agree in writing:
 - 14.1.1 The Parties must initially attempt to resolve the dispute through collaborative negotiation;
 - 14.1.2 If the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the Parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society; and
 - 14.1.3 If the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Commercial Arbitration Act*.

14.2 Unless the Parties otherwise agree in writing, an arbitration or mediation under the aforementioned dispute resolution process will be held in Victoria, British Columbia.

14.3 Unless the Parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the Parties must share equally the costs of a mediation or arbitration under the aforementioned dispute resolution process other than those costs relating to the production of expert evidence or representation by counsel.

15.0 INSURANCE:

15.1 During the Term of this Agreement, the Parties will provide, maintain and pay for insurance as specified in Schedule A, which may be amended from time to time at the sole discretion of the Province.

15.2 Without limiting the provisions of subparagraph (2.0.3) of Section 2, the Parties will comply with the Workers' Compensation Legislation for the Province of British Columbia.

15.3 The Parties must indemnify and save harmless the Province, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, cost and expenses that the Province may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Parties or of any agent, employee, officer, director or sub-contractor of the Parties pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Province.

16.0 ASSIGNMENT AND SUB-CONTRACTING:

16.1 The Parties will not, without the prior, written consent of the Province:

16.1.1 Assign, either directly or indirectly, this Agreement or any right of the Parties under this Agreement; or

16.1.2 Sub-contract any obligation of the Parties under this Agreement.

16.2 No sub-contract entered into by the Parties will relieve the Parties from any of its obligations, including Section 6, of the *Government Transfer Shared Cost Agreement #TP18FSJ0001* (Schedule A), or impose upon the Province any obligation or liability arising from any such sub-contract.

17.0 ACCEPTANCE:

IN WITNESS WHEREOF each of the Parties has executed this Agreement on the date first above written.

Fraser Basin Council Society

Per: 

Date: 15/11/2017

David Marshall
Executive Director
Fraser Basin Council Society

Muskwa-Kechika Advisory Board

Per: 

Date: 15/11/2017

Stephanie Killam
Chair
Muskwa-Kechika Advisory Board

**SCHEDULE A - GOVERNMENT TRANSFER-SHARED COST
ARRANGEMENT TP18FSJ0001 (19 pages)**



Natural Resource Ministries

**GOVERNMENT TRANSFER –
SHARED COST ARRANGEMENT**

Agreement #: TP18FSJ0001

Project Title: MUSKWA-KECHIKA ADVISORY BOARD

THIS AGREEMENT dated for reference the 15th day of November, 2017.

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA, represented by the Minister of FORESTS, LANDS,
NATURAL RESOURCE OPERATIONS AND RURAL DEVELOPMENT
REGIONAL OPERATIONS, NORTHEAST REGION**

(the "Province")

AND

Fraser Basin Council Society

(the "Recipient")

The parties to this Agreement (the "Parties") agree as follows:

SECTION 1 - DEFINITIONS

1. Where used in this Agreement

- (a) "Business Day" means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia;
- (b) "Financial Contribution" means the total aggregate value stipulated in Schedule B;
- (c) "Material" means all findings, data, reports, documents, records and material, (both printed and electronic, including but not limited to, hard disk or diskettes), whether complete or otherwise, that have been produced, received, compiled or acquired by, or provided by or on behalf of the Province to, the Recipient as a direct result of this Agreement, but does not include:
 - i. Client case files or Personal Information as defined in the Freedom of Information and Protection of Privacy Act; or
 - ii. Property owned by the Recipient.
- (d) "Project" means the project described in Schedule A;
- (e) "Refund" means any refund or remission of federal or provincial tax or duty available with respect to any items that the Province has paid for or agreed to pay for under this Agreement.
- (f) "Services" means the services described in Schedule A;
- (g) "Term" means the duration of the Agreement stipulated in Schedule A.

SECTION 2 - APPOINTMENT

The Recipient must carry out and complete the Project described in Schedule A and may use the Province's funding only for the purpose (specified in Schedule A) of defraying Eligible Costs incurred by the Recipient in carrying out and completing the Project.

SECTION 3 – PAYMENT OF FINANCIAL CONTRIBUTION

Subject to the provisions of this Agreement, the Province will pay the Recipient in the amount, and at the times set out in Schedule B.

The Province has no obligation to make the Financial Contribution unless the Recipient has complied with the criteria set out in Schedule A.

Notwithstanding any other provision of this Agreement the payment of the Financial Contribution by the Province to the Recipient pursuant to this Agreement is subject to:

- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act* ("FAA"), to enable the Province, in any fiscal year when any payment of money by the Province to the Recipient falls due pursuant to this Agreement, to make that payment; and
- (b) Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.

The Recipient must:

- (a) apply for, and use reasonable efforts to obtain, any available Refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on the Recipient as a result of this Agreement that the Province has paid or reimbursed to the Recipient or agreed to pay or reimburse to the Recipient under this Agreement; and
- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to the Province, or deduct that amount from the next request for payment under this Agreement.

The previous paragraph continues in force indefinitely, even after this Agreement expires or is terminated.

The Recipient is responsible for any Provincial Sales Tax (PST) and Goods and Services Tax (GST) and any other charges for which the Province has not expressly agreed to accept responsibility under the terms of this Agreement.

The Recipient must declare any amounts owing to the government under legislation or an agreement. Amounts due to the Recipient under this Agreement may be set-off against amounts owing to the government.

SECTION 4 - REPRESENTATIONS AND WARRANTIES

The Recipient represents and warrants to the Province, with the intent that the Province rely on it in entering into this Agreement, that

- (a) all information, statements, documents and reports furnished or submitted by the Recipient to the Province in connection with this Agreement are true and correct;
- (b) the Recipient has no knowledge of any fact that materially adversely affects, or so far as it can foresee, might materially adversely affect, the Recipient's properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement; and
- (c) the Recipient is not in breach of, or in default under, any law of Canada or of the Province of British Columbia applicable to or binding on it.

All statements contained in any certificate, application, proposal or other document delivered by or on behalf of the Recipient to the Province under this Agreement or in connection with any of the transactions contemplated by it are deemed to be representations and warranties by the Recipient under this Agreement.

All representations, warranties, covenants and agreements made in this Agreement and all certificates, applications or other documents delivered by or on behalf of the Recipient are material, have been relied on by the Province, and continue in effect during the continuation of this Agreement.

SECTION 5 - INDEPENDENT RELATIONSHIP

No partnership, joint venture, agency or other legal entity will be created by or will be deemed to be created by this Agreement or by any actions of the Parties pursuant to this Agreement.

The Recipient will be an independent and neither the Recipient nor its servants, agents or employees will be the servant, employee, or agent of the Province.

The Recipient will not, in any manner whatsoever, commit or purport to commit the Province to the payment of money to any person, firm, or corporation.

The Province may, from time to time, give instructions to the Recipient in relation to the carrying out of the Services, and the Recipient will comply with those instructions but will not be subject to the control of the Province regarding the manner in which those instructions are carried out except as specified in this Agreement.

SECTION 6 – RECIPIENT’S OBLIGATIONS

The Recipient will:

- (a) carry out the Services in accordance with the terms of this Agreement during the Term stated in Schedule A;
- (b) comply with the payment requirements set out in Schedule B, including all requirements concerning the use, application and expenditure of the payments provided under this Agreement;
- (c) comply with all applicable laws;
- (d) hire and retain only qualified staff;
- (e) without limiting the provisions of subparagraph (c) of this Section carry out criminal record checks as required by the Criminal Records Review Act, in accordance with Schedule C;
- (f) unless agreed otherwise, supply, at its own cost, all labour, materials and approvals necessary to carry out the Services;
- (g) unless agreed otherwise, retain ownership to all assets acquired or intangible property created in the process of carrying out this Agreement;

- (h) co-operate with the Province in making public announcements regarding the Services and the details of this Agreement that the Province requests; and
- (i) acknowledge the financial contribution made by the Province to the Recipient for the Services in any Materials, by printing on each of the Materials the following statement:

"We gratefully acknowledge the financial support of the Province of British Columbia through the Ministry of Forests, Lands, Natural Resource Operations and Rural Development"

SECTION 7 - RECORDS

The Recipient will:

- (a) establish and maintain accounting and administrative records in form and content satisfactory of the Province, to be used as the basis for the calculation of amounts owing;
- (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the Province;
- (c) permit the Province, for monitoring and audit purposes, at all reasonable times, upon reasonable notice, to enter any premises used by the Recipient to deliver the Services or keep any documents or records pertaining to the Services, in order for the Province to inspect, audit, examine, review and copy any findings, data, specifications, drawings, working papers, reports, surveys, spread sheets, evaluations, documents, databases and material, (both printed and electronic, including, but not limited to, hard disk or USBs'), whether complete or not, that are produced, received or otherwise acquired by the Recipient as a result of this Agreement.
- (d) if applicable, obtain the consent of clients to allow provincial employees or designates access to client case files for the purposes of service monitoring and evaluation and research purposes, as outlined in Schedule E.

The Parties agree that the Province does not have control, for the purpose of the *Freedom of Information and Protection of Privacy Act*, of the records held by the Recipient.

SECTION 8 - NON EXPENDED FINANCIAL CONTRIBUTION

At the sole option of the Province, any portion of the Financial Contribution provided to the Recipient under this Agreement and not expended at the end of the Term shall be:

- (a) returned by the Recipient to the Minister of Finance; or
- (b) retained by the Recipient as supplemental funding provided for under an amendment to this Agreement; or

- (c) deducted by the Province from any future funding requests submitted by the Recipient and approved by the Province.
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SECTION 9 - CONFLICT OF INTEREST

The Recipient will not, during the Term, perform a service for or provide advice to any person, or entity where the performance of such service or the provision of the advice may, in the reasonable opinion of the Province, give rise to a conflict of interest between the obligations of the Recipient to the Province under this Agreement and the obligations of the Recipient to such other person or entity.

SECTION 10 - CONFIDENTIALITY

The Recipient will treat as confidential all information and material supplied to or obtained by the Recipient, or any third party, as a result of this Agreement and will not, without the prior written consent of the Province, except as required by applicable law, permit its disclosure except to the extent that such disclosure is necessary to enable the Recipient to fulfill its obligations under this Agreement.

SECTION 11 - DEFAULT

Any of the following events will constitute an Event of Default:

- (a) the Recipient fails to comply with any provision of this Agreement;
- (b) any representation or warranty made by the Recipient in accepting this Agreement is untrue or incorrect;
- (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Recipient pursuant to or as a result of this Agreement is untrue or incorrect;
- (d) the Recipient ceases, in the opinion of the Province, to operate;
- (e) a change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or operations of the Recipient which, in the opinion of the Province, materially adversely affects the ability of the Recipient to fulfill its obligations under this Agreement;
- (f) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Recipient;
- (g) the Recipient becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (h) a bankruptcy petition is filed or presented against, or a proposal under *the Bankruptcy and Insolvency Act* (Canada) is made by, the Recipient;
- (i) a receiver or receiver-manager of any property of the Recipient is appointed; or

- (i) the Recipient permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof.

SECTION 12 – RESULTS OF AN EVENT OF DEFAULT

Upon the occurrence of any Event of Default and at any time thereafter that the Province may, despite any other provision of this Agreement, at its option, elect to do any one or more of the following:

- (a) terminate this Agreement, in which case the payment of the amount required under the last paragraph of Section 12 of this Agreement will discharge the Province of all liability to the Recipient under this Agreement;
- (b) require the Event of Default be remedied within a time period specified by the Province;
- (c) suspend any installment of the Financial Contribution or any amount that is due to the Recipient while the Event of Default continues;
- (d) waive the Event of Default;
- (e) require repayment of any portion of the Financial Contribution not spent in accordance with this Agreement;
- (f) pursue any other remedy available at law or in equity.

The Province may also, at its option, either:

- (a) terminate this Agreement on 30 days written notice, without cause; or
- (b) terminate this Agreement immediately if the Province determines that the Recipient's failure to comply places the health or safety of any person at immediate risk;

and in either case, the payment of the amount required under the last paragraph of Section 12 of this Agreement will discharge the Province of all liability to the Recipient under this Agreement.

Where this Agreement is terminated before 100% completion of the Project, the Province will pay to the Recipient that portion of the Financial Contribution which is equal to the portion of the Project completed to the satisfaction of the Province prior to termination.

SECTION 13 – DISPUTE RESOLUTION

Dispute resolution process:

In the event of any dispute between the Parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the Parties otherwise agree in writing:

- (a) the Parties must initially attempt to resolve the dispute through collaborative negotiation;
- (b) if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the Parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society; and
- (c) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Commercial Arbitration Act*.

Location of arbitration or mediation:

Unless the Parties otherwise agree in writing, an arbitration or mediation under the aforementioned dispute resolution process will be held in Victoria, British Columbia.

Unless the Parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the Parties must share equally the costs of a mediation or arbitration under the aforementioned dispute resolution process other than those costs relating to the production of expert evidence or representation by counsel.

SECTION 14 – INSURANCE AND INDEMNITY

Insurance

During the Term of this Agreement, the Recipient will provide, maintain and pay for insurance as specified in Schedule D, which may be amended from time to time at the sole discretion of the Province.

Without limiting the provisions of subparagraph (c) of Section 6, the Recipient will comply with the Workers' Compensation Legislation for the Province of British Columbia.

The Recipient must indemnify and save harmless the Province, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, cost and expenses that the Province may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Recipient, or of any agent, employee, officer, director or sub-contractor of the Recipient pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Province.

SECTION 15 – ASSIGNMENT AND SUB-CONTRACTING

The Recipient will not, without the prior, written consent of the Province:

(a) assign, either directly or indirectly, this Agreement or any right of the Recipient under this Agreement; or

(b) sub-contract any obligation of the Recipient under this Agreement.

No sub-contract entered into by the Recipient will relieve the Recipient from any of its obligations, including Section 6, under this Agreement or impose upon the Province any obligation or liability arising from any such sub-contract.

This Agreement will be binding upon the Province and its assigns and the Recipient, the Recipient's successors and permitted assigns.

SECTION 16 - REPAYMENT OR REDUCTIONS

An amount paid by the Province to the Recipient or which is treated as such pursuant to the terms of this Agreement, and to which the Recipient is not entitled according to the terms of this Agreement is repayable to the Province and until repaid constitutes a debt due to the Province.

SECTION 17 – OTHER FUNDING

If the Recipient receives funding for or in respect of the Services from any person, firm, corporation or other government or governmental body, then the Recipient will immediately provide the Province with full and complete details thereof.

SECTION 18 - NOTICES

Where in this Agreement any notice or other communication is required to be given by any of the Parties, it will be made in writing. It will be effectively given:

- (a) by delivery, to the address of the Party set out below, on the date of delivery;
- (b) by pre-paid registered mail, to the address of the Party set out below, on the fifth business day after mailing;
- (c) by facsimile, to the facsimile number of the Party mentioned in this Agreement, on the date the facsimile is sent; or
- (d) by e-mail, to the e-mail address of the Party mentioned in this Agreement, on the date the e-mail is sent.

The contact details of the Parties are

Province: Laura Plante
1st floor, 780 Blanshard Street, Victoria, British Columbia V8W 9M1
Laura.Plante@gov.bc.ca
Phone: 250-356-9544 Fax: 250-828-4154

Recipient: David Marshall
1st Floor, 470 Granville Street, Vancouver, BC V6C 1V5
dmarshall@fraserbasin.bc.ca
Phone: 604 488-5350 Fax: 604 488-5351

The address, phone number, facsimile number, or email set out above may be changed by notice in the manner set out in this provision.

SECTION 19 - NON-WAIVER

No term or condition of this Agreement and no breach by the Recipient of any term or condition will be deemed to have been waived unless such waiver is in writing signed by the Province and the Recipient.

The written waiver by the Province of any breach by the Recipient of any term or condition of this Agreement will not be deemed to be a waiver of any other provision of any subsequent breach of the same or any other provision of this Agreement.

SECTION 20 – ENTIRE AGREEMENT

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

SECTION 21 - MISCELLANEOUS

All of the provisions of this Agreement in favour of the Province and all of the rights and remedies of the Province, either at law or in equity, will survive any expiration or sooner termination of this Agreement.

Nothing in this Agreement operates as a consent, permit, approval or authorization by the Province thereof to or for anything related to the Project that by law, the Recipient is required to obtain unless it is expressly stated herein to be such a consent, permit, approval or authorization.

SECTION 22 – EXECUTION AND DELIVERY OF AGREEMENT

This Agreement may be entered into by a separate copy of this Agreement being executed by, or on behalf of, each Party and that executed copy being delivered to the other Party by a method provided for in Section 18 or any other method agreed to by the Parties.

The Parties have executed this Agreement as follows:

SIGNED AND DELIVERED on behalf of the Recipient



Signature of Recipient's Signing Authority

15/11/17
Date

DANA MARSHALL EXECUTIVE DIRECTOR
Printed Name & Title of Recipient's Signing Authority

SIGNED AND DELIVERED on behalf of the Province,



Signature of Province's Signing Authority

15/11/17
Date

Laura Plante, Executive Director, Regional Operations, North Area
Printed Name & Title of Province's Signing Authority

SCHEDULE A – SERVICES

The Project

TERM

Notwithstanding the date of execution of this Agreement, the Term of this Agreement starts on November 15, 2017 and ends on March 31, 2018.

PROJECT

The Muskwa-Kechika Advisory Board (M-KAB) operates to provide advice on the development and conservation in the Muskwa-Kechika Management Area (M-KMA), as per the *Muskwa-Kechika Management Area Act*. Appointed by the Premier of British Columbia (the "Premier"), the M-KAB's members provide their service voluntarily and without remuneration except for travel expenses while undertaking board business and attending board working group meetings. The Government of British Columbia has supported the M-KAB's operations since its inception.

The M-KAB has set out a plan that was prepared in consultation with government staff to add value to benefit British Columbians and the M-KMA. It ties to the Ministry of Forests, Lands, Natural Resource Operations & Rural Development (the "Ministry") core business and has links to the Ministry's service plan.

The Fraser Basin Council Society, (the "Recipient"), has previous third party funding agreements with terms of September 1, 2015 to March 31, 2016 and April 1, 2016 to March 31, 2017 and currently November 15, 2017 to March 31, 2017 in place with the M-KAB to financially administer funds received from the Province. The agreement dated November 15, 2017 is incorporated by reference into this Schedule A. The agreement is signed by the Chair of the M-KAB and the Executive Director of the Fraser Basin Council Society. The Recipient administers the project funds for a rate of 8% per annum, invoiced quarterly and submitted to the M-KAB Executive for approval. The M-KAB through its Executive approves expenditures and submits approved invoices for payment by the Recipient. The monies are to be spent only as, directed by the M-KAB and its Executive and approved by two members of the Executive in advance of the expenditure. The term of the agreement is extendable pending successful annual review by the Parties.

PURPOSE & EXPECTED RESULTS

The funding will allow the M-KAB to operate such that it can provide meaningful advice on natural resource management in the M-KMA. This advice once finalized is made public (posted on the M-KMA website) and is of interest to First Nations and many stakeholder groups (e.g. local government, industry, recreation, wilderness tourism, trapping, guide outfitting and conservation groups).

The deliverables for the Term of this agreement outlined below are intended to build the framework for the M-KAB's provision of advice with respect to the measureable conditions by which industrial development in the M-KMA should abide, should it be approved by a statutory decision maker, and measurable guidance on how the wilderness quality definition should be applied, including circumstances in which specific limits to the spatial and temporal persistence of disturbances should be established.

Another aim for the M-KAB during this Term is to re-engage Treaty 8 representatives, who have not participated for a few years, in the Board's deliberations.

The Province is assisting financially as the Board activities are required to fulfill legislation for which FLNRORD is responsible.

OUTCOMES

Through the delivery of the Services the Province wishes to realize the following outcomes and, without limiting the obligation of the Recipient to comply with other provisions of this Schedule A, the Recipient must use reasonable efforts to achieve them:

- government's efforts to protect and create jobs, sustainably manage ecosystems, rivers, lakes, watersheds, and forests, and improve wildlife management and habitat conservation will be enhanced.

The Parties acknowledge that the Recipient does not warrant that these outcomes will be achieved.

DELIVERABLES

1. The Recipient must administer the funds to the M-KAB as agreed upon in the third party funding agreement in place with the M-KAB.
2. The Recipient must liaise and cooperate with the M-KAB regarding the Project.
3. Tasks for which the Recipient may disperse the funds on behalf of the M-KAB include:
 - Administrative costs associated with the third party funding agreement in place with the M-KAB;
 - M-KAB operational costs such as teleconference services, website costs, meeting room rental and other administrative expenses;
 - M-KAB Member and Secretariat travel expenses to M-KAB board meetings, working group meetings, and meetings with First Nations representatives or government employees, applying the same principles on eligible travel expenses as is applied to government employees;
 - M-KAB Chair's related expenses; and,
 - M-KAB Secretariat support.
4. The Recipient must ensure that disbursements are directed to the M-KAB to:

- a. provide meaningful advice on natural resource management in the M-KMA to ensure that activities within the area are consistent with the objectives of the *Muskwa-Kechika Management Plan*. This advice once finalized is made public (posted on the M-KMA website) and is of interest to First Nations and many stakeholder groups (e.g. local government, industry, recreation, wilderness tourism, trapping, guide outfitting and conservation groups).
- b. review and update as necessary its business plan regarding providing advice to government and industry to support activities within the M-KMA in keeping with the vision and management goal for the area.
- c. deliver components of its business plan as set out in three phases per the table below, or as revised upon mutual agreement in writing between the M-KAB Chair and the Province. Additional M-KAB activities in its business plan that are not listed below but that are in line with its overarching responsibilities may also be funded within the budget.

Summary of Additional M-KAB Deliverables, Timelines and Budgets

Deliverables	Activities	Target Date	Budget
Phase 1: Finalize Wind Resource Use Board Advise	<ul style="list-style-type: none"> - Meetings with FLNRORD representatives to discuss how M-KAB advice documents could be used by statutory decision makers - Collate, review, update and present/submit draft Wind Resource Use Board advice 	November 22, 2017	\$30,000
Phase 2: Draft M-KMA Management Framework – principles and zonation model	<ul style="list-style-type: none"> - Submit draft framework (including zones and rationales) to FLNRORD to prepare for Phase 3 	February 15, 2018	\$30,000
Phase 3: M-KMA Management Framework	<ul style="list-style-type: none"> - Meeting scheduled in March with FLNRORD, UNBC and Board representatives to discuss M-KAB draft vision, wilderness definition and preamble of the M-KMA Act. Representatives “test” draft framework using case studies from the perspective of decision makers and consider next steps. M-KAB revise framework based on meeting outcomes. 	March 15, 2018	\$28,500
2017/18 TOTAL BUDGET PROJECTION			\$88,500

REPORTING REQUIREMENTS:

Financial Reporting:

Interim Reporting

The Recipient must provide a quarterly report to the Province and to the M-KAB Executive showing income and expenditures by type for the quarter and an account balance within 30 days of the end of the quarter.

The Recipient must also, from time to time as requested by the M-KAB Executive, or M-KAB Secretariat on behalf of the Executive, within five (5) business days provide interim financial information to meet circumstances that would require it.

The Recipient must provide an accounting for the use of funds upon written request by the Province.

Final Reporting

The Recipient must, no later than 30 days after the fiscal year (April 1 through to March 31), provide an annual financial report to the Province and the M-KAB Executive, including

- an annual Project income and expenditure summary which identifies all sources and use of the Project funds over the duration of the entire Agreement;
- a statement detailing the use of the Province's Financial Contribution provided during the Term, including an explanation of any financial variances.

Certification / Attestation

All financial reports submitted by the Recipient must be certified by a senior officer of the Recipient's organization (such as a Chief Executive Officer or Chief Financial Officer) attesting to the correctness and completeness of the financial information provided.

Ongoing Communication

The Recipient must ensure that the M-KAB makes all reasonable efforts to respond to ad-hoc requests by the Province for information on Project progress, and that the M-KAB advises the Province immediately of any substantial events that could impact the Project timeline.

Project Reporting

Following completion of the Project the Recipient must, no later than 30 days after the end of the Term, provide a Project performance report with Project highlights, description of outcomes with respect to results set out in this Schedule A, quantitative and qualitative description of the accomplishments / success of the Project; challenges faced and solutions found, information on results (negative or positive) that were not anticipated, and lessons learned.

SCHEDULE B - FINANCIAL CONTRIBUTION

PAYMENTS

1. The Province will pay the Recipient up to the total aggregate of \$88,500 for the Term of this Agreement based on the payment schedule below.
2. Payments will be made as follows:
 - (a) upon receipt and acceptance by the Province of Phase 1, a payment amount of \$30,000;
 - (b) upon receipt and acceptance by the Province of Phase 2, a payment amount of \$30,000; and
 - (c) on completion of the Project and upon receipt by the Province of Phase 3, a final payment not to exceed \$28,500.

The Recipient must submit to the Province, upon completion of the Project, a written statement of account showing

- (a) the Recipient's legal name and address;
 - (b) the date of the statement and a statement number for identification;
 - (c) the Agreement Number;
 - (d) the calculation of the Financial Contribution being claimed, with reasonable detail of the applicable part of the Project completed to statement date; and
 - (e) any other billing information reasonably requested by the Province.
3. Any future contributions by the Province under this Project are conditional upon the Recipient having complied with the terms and conditions of this Agreement.

SCHEDULE C - CRIMINAL RECORDS CHECKS

The purpose of the *B.C. Criminal Records Review Act* (the “Act”) is to help protect children from physical and sexual abuse. The legislation applies to all organizations that work with children and are operated, licensed or receive operating funds from the provincial government of British Columbia.

The Act makes a criminal record check mandatory for anyone who works with children. In the Act, “works with children” means:

Working with children directly or having or potentially having unsupervised access to children in the ordinary course of employment or in the practice of an occupation.

The Act defines “child” as an individual under 19 years of age.

In consideration of the above, the Recipient will;

1. comply with all requirements and regulations of the Act;
2. ensure all new and existing employees, volunteers, and sub-contractors comply with the Act including those who have previously completed a criminal records review check; and
3. maintain and make available to the Province, upon request, documentation showing that the criminal record check requirement, as set out in this Schedule, has been met.

Schedule D - Insurance

1. The Recipient shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurances with insurers licensed in British Columbia and in forms and amounts acceptable to the Province.
 - (a) Automobile Liability on all vehicles owned, operated or licensed in the name of the Recipient, and if used for government business, in an amount not less than \$1,000,000.
 - (b) Comprehensive/Commercial General Liability in an amount not less than \$2,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage. The Province is to be an additional insured under this policy. Such insurance shall include, but not be limited to
 - Products and completed Operations Liability;
 - Owner's and Contractor's Protective Liability;
 - Blanket Written Contractor Liability;
 - Contingent Employer's Liability;
 - Personal Injury Liability;
 - Non-Owned Automobile Liability;
 - Cross Liability;
 - Employees as Additional Insured;
 - Broad Form Property Damage; and
 - If applicable, Tenant's Legal Liability in an amount adequate to cover a loss to premises of the Province occupied by the Recipient.
2. The foregoing insurance shall be primary and not require the sharing of any loss by any insurer of the Province.
3. The Recipient shall provide the Province with evidence of all required insurance prior to the commencement of the work or services. Such evidence shall be in the form of a completed Province of British Columbia Certificate of Insurance, duly signed by the Insurance Broker and the Insured. When requested by the Province, the Recipient shall provide certified copies of required policies.
4. All required insurance shall be endorsed to provide the Province with 30 days advance written notice of cancellation or material change.
5. The Recipient hereby waives all rights of recourse against the Province with regard to damage to the Recipient's property.
6. The Recipient will comply with the *Workers' Compensation Act* legislation for the Province of British Columbia.

SCHEDULE E - PRIVACY PROTECTION

Not applicable
