

**FRAMEWORK FOR A GOVERNMENT-TO-GOVERNMENT AGREEMENT
(this "Agreement")**

BETWEEN:

KASKA

as represented by the Chief on behalf of Ross River Dena Council; the Chief on behalf of Liard First Nation; and the Chairperson, on behalf of Kaska Dena Council, its members and for the purposes of this Agreement, the Daylu Dena Council, Dease River First Nation and Kwadacha First Nation

(the "Kaska")

AND

GOVERNMENT OF YUKON

as represented by the Premier of the Yukon

(the "Yukon")

Yukon and Kaska are collectively the Parties (the "Parties") to this Agreement.

WHEREAS:

The Kaska are an Aboriginal people of Canada who assert Kaska Aboriginal Rights and Title in and to the area shown on the map they have provided, which is attached as Schedule A (the "Schedule A Area"). The Parties agree the area that is the subject of negotiations is the geographical area that falls within the Yukon Territory.

The Constitution of Canada recognizes and affirms the existing Aboriginal rights of the Aboriginal peoples of Canada, and the courts have stated that Aboriginal rights include Aboriginal title.

Despite holding differing views about sovereignty, jurisdiction, title and ownership, the Parties seek a collaborative relationship with respect to land and resource management and use:

The position of the Kaska is that Kaska territory including the lands, waters and resources, are subject to Kaska rights, sovereignty, ownership, jurisdiction and title, and are managed in accordance with Kaska laws, policies, customs and traditions. The Kaska maintain that Yukon's land and resource laws are inconsistent with their constitutionally protected rights in and to the Kaska territory, and are therefore of no force and effect.

The position of Yukon is that the lands and resources of Yukon are Crown lands, water and resources subject to certain private rights and interests, and subject to the sovereignty of Her Majesty the Queen and the legislative jurisdiction of the Parliament of Canada and the Yukon Legislature.

While the Kaska and Yukon do not agree on the specifics or extent of their respective rights, titles, responsibilities or interests, they are committed to reconciling and clarifying their relationship on a government-to-government basis and to building effective and respectful partnerships to achieve their respective objectives based on mutual recognition and shared responsibilities.

THEREFORE the Parties agree as follows:

DEFINITIONS:

“Kaska Aboriginal Rights and Title” means Aboriginal rights, including title, as recognized and protected by the Constitution of Canada. The nature, scope, and specific geographic extent of those rights and title are disputed by the Parties.¹

“Prior Agreements” means the government-to-government agreements between Kaska and Yukon as follows:

- a. the Bi-Lateral Agreement dated May 9, 2003 which expired May 9, 2005; and
- b. the Forestry Agreement-in-Principle, dated January 30, 2004 which was terminated April 24, 2008.

1 Roles of the Parties

- 1.1 The Parties have established two tables to carry out negotiations between them: a Principals’ Table and a Senior Officials’ Table.
- 1.2 The Parties are represented at the Principals’ Table by the Premier, on behalf of Yukon, and, on behalf of Kaska, by the Chiefs of Ross River Dena Council (“RRDC”) and Liard First Nation (“LFN”), the Chairperson of Kaska Dena Council (“KDC”) and the Chiefs of the Daylu Dena Council, Dease River First Nation, and Kwadacha First Nation.
- 1.3 Each Party in its discretion will designate senior officials and negotiators to carry out negotiations at the Senior Officials’ Table.

¹ As stated in May 2003, Yukon acknowledged in agreements entered into with the Kaska in January 1997 that “the Kaska have aboriginal rights, titles and interests in and to the Kaska Traditional Territory in the Yukon”. The Parties do not agree as to the interpretation of that acknowledgement.

- 1.4 The Parties may establish side-tables and working groups to advance specific issues or discussions.
- 1.5 The Parties will make best efforts to conduct discussions and negotiations under this Agreement in the Yukon.
- 1.6 The Parties acknowledge that, concurrent with discussions and negotiations under this Agreement, they are also engaged in consultation and negotiation processes to implement:
 - a. the declarations granted to RRDC by the Yukon Court of Appeal in *RRDC v. Yukon* (2012 YKCA 14) and KDC by the Supreme Court of Yukon (S.C. 13-A0173); and
 - b. Yukon's Obligations as defined in the agreement entered into between Yukon and LFN on November 5, 2015,and the Parties will make efforts to avoid duplication where subject matters under those processes and related funding arrangements overlap.
- 1.7 The Parties may invite the Government of Canada ("Canada") to engage in discussions and negotiations about matters contemplated by this Agreement and to become a party to this process, or both.
- 1.8 Subject to 9.4, the Senior Officials' Table may agree to refer matters to the Principals' Table for direction.
- 1.9 The Parties may agree to refer an issue to facilitation.

2 Object and Purpose of Agreement and Subject Matters for Negotiation

- 2.1 The objects and purposes of this Agreement are to establish government-to-government negotiations between the Parties to:
 - a. define their relationship,
 - b. facilitate economic development and capacity building,
 - c. establish collaborative land and resource management, and
 - d. address the social and cultural impacts from land and resource development.
- 2.1.1 In relation to these objects and purposes, and where the Parties agree, they will consider and where appropriate conclude and give effect to agreements and arrangements to address a number of matters:

- a. consultation, engagement and decision-making processes related to land and resource dispositions and authorizations in the Schedule A Area;
- b. economic partnership models for the management, development, and beneficial enjoyment of lands and resources, including resource revenue-sharing;
- c. resource planning;
- d. processes for the disposition of land and authorizations for resource development;
- e. environmental screening, review, and monitoring;
- f. infrastructure, including energy, roads, and other linear developments;
- g. remediation or restoration of developments, including access roads, mines, and related matters; and
- h. processes for the development and enhancement of Kaska capacity.

2.1.2 Discussions and negotiations between the Parties will take into account:

- a. dispute resolution models;
- b. environmental effects and impacts to fish, wildlife, and water;
- c. social and cultural impacts;
- d. cumulative and collateral effects;
- e. Kaska traditional knowledge, culture, and practices;
- f. protection of cultural heritage;
- g. internal Kaska processes; and
- h. the existing legal framework.

2.2 The Parties intend to achieve early outcomes through progressive implementation as discussions and negotiations proceed pursuant to this Agreement.

2.3 The Parties will address impacts, including potential impacts, on Kaska Aboriginal Rights and Title in relation to the subject matters listed in 2.1 and, where appropriate, negotiate arrangements for accommodation and other aspects of reconciliation.

2.4 The Parties intend to address the following subject matters relating to lands and resources under this Agreement:

- a. forestry;
- b. oil and Gas;
- c. mining;
- d. infrastructure;
- e. energy; and
- f. land dispositions.

- 2.5 The foregoing is not meant to be restrictive and a Party may bring forward additional subject matters for negotiation.
- 2.6 Inclusion of any subject matter in this Agreement does not bind the Parties to reach an agreement on that matter.
- 2.7 The Parties will review the principles, objectives, terms and conditions of the Prior Agreements and consider how those provisions will inform their negotiations under this Agreement, including the principle of Kaska consent in respect of dispositions and authorizations of resource development on lands and resources in the Schedule A Area.

Social, Economic and Cultural Impacts

- 2.8 The Parties agree that the social and cultural impacts of land and resource development are important and may negotiate arrangements relating to community health and well-being planning or initiatives in respect of such developments. Where these matters engage federal jurisdiction and responsibilities, the Parties will make best efforts to engage Canada in their discussions and negotiations.
- 2.9 The Parties will discuss and where they agree undertake studies or reports about the social, economic and cultural impacts of land and resource developments in the Schedule A Area.

Economic Development and Capacity Building

- 2.10 In order to increase Kaska capacity and participation in land and resource management and development opportunities, the Parties will discuss and where they agree, will conclude arrangements for economic and capacity development initiatives including:
 - a. capacity to participate in regulatory and consultation processes;
 - b. environmental monitoring training programs, including Ranger and Guardian programs;
 - c. education and skills development initiatives;
 - d. employment, procurement, and business development opportunities; and
 - e. initiatives promoting relationship building and partnerships with industry.
- 2.11 Nothing in this Agreement precludes either Party from engaging Canada or other third parties in collaborations on economic and capacity development initiatives.

3 Financial Matters

- 3.1 On the effective date of this Agreement, Yukon will provide funding to assist Kaska to establish and implement internal administrative processes and structures to coordinate Kaska participation in consultation and engagement processes related to land and resource dispositions and authorizations in the Schedule A Area. The Parties intend to establish an efficient and responsive mechanism for consultation and engagement in a timely manner. Funding will be provided as follows:
 - a. \$375,000 on the effective date of this Agreement, and
 - b. \$750,000 for the 2016-2017 fiscal year.
- 3.2 Yukon will provide funding to Kaska to participate in discussions and negotiations under this Agreement, as follows:
 - a. \$375,000 on the effective date of this Agreement, and
 - b. \$750,000 for the 2016-2017 fiscal year.
- 3.3 Funding under paragraphs 3.1, 3.2, and 3.5 will be provided through a Transfer Payment Agreement ("TPA").
- 3.4 Upon execution of this Agreement, Yukon will provide funding to LFN in the amount of \$500,000 for community wellness and capacity development.
- 3.5 Yukon will provide funding to Kaska to address the social and cultural impacts of land and resource development and to undertake studies or other initiatives relating to community health and well-being as follows:
 - a. \$100,000 on the effective date of this Agreement, and
 - b. \$400,000 for the 2016-2017 fiscal year.
- 3.6 The Parties recognize that as discussions and negotiations progress, further funding may be required and may be negotiated between the Parties.
- 3.7 Additional funding may be agreed to by the Parties to implement initiatives or arrangements pursuant to discussions and negotiations under this Agreement.
- 3.8 Yukon will provide funding pursuant to this Agreement subject to appropriations of funds by the Legislature and in accordance with the terms of the *Financial Administration Act*.
- 3.9 In the event this Agreement is terminated by either Party under paragraph 10.1 or 10.2, any funding provided to Kaska under paragraphs 3.1, 3.2, and 3.5 not expended on the date of termination will be repayable at Yukon's discretion.

- 3.10 For greater certainty, funding provided by Yukon under this Agreement may be taken into account when considering funding for Kaska participation in other consultation and accommodation processes.
- 3.11 Funding provided by Yukon under this Agreement or any subsequent agreement(s) that may be reached by the Parties in support of the objects and purpose of this Agreement may not be used for litigation purposes or for activities to support litigation.

4 Interim Measures Related to the Forest Sector

- 4.1 In preparation for substantive negotiations related to the forest sector, on the effective date of this Agreement, Yukon will provide funding to Kaska, through a TPA, in the amount of \$300,000 over two years for:
 - a. continued engagement and participation in the process to conclude a Forest Resources Management Plan for the southeast Yukon, and
 - b. engagement and participation in:
 - i. Timber Harvest Plan development,
 - ii. licences and permits, and
 - iii. policy development, regulatory, and legislative amendment and review.
- 4.2 Additional funding may be agreed to by the Parties for Kaska's continued engagement and participation under paragraph 4.1.

5 Transboundary Negotiations

- 5.1 The Parties agree that the negotiation of KDC's comprehensive claim respecting Kaska Aboriginal Rights and Title in the Yukon ("KDC's Transboundary Claim") will require, at a minimum, the participation of Canada, Yukon and KDC.
- 5.2 Yukon agrees to meet, on a tripartite basis, with Canada and KDC to discuss:
 - a. readiness and conditions precedent for negotiation of KDC's Transboundary Claim,
 - b. other parties who may be required to participate in negotiation of KDC's Transboundary Claim, or aspects thereof,
 - c. proposed timeframes to commence negotiation of KDC's Transboundary Claim, and
 - d. other relevant matters.

6 Other Consultation Obligations

- 6.1 The Parties acknowledge that certain areas of the Schedule A Area are subject to claims by other Aboriginal groups and the Parties agree that when this issue arises, it will be addressed in negotiations under this Agreement. The Kaska acknowledge that Yukon may be obligated to notify and consult with other First Nations or other governments about matters potentially affecting their interests, which are under discussion and negotiation under this Agreement. Yukon agrees to notify the Kaska in advance of its intention to do so and of the particular matter involved.

7 Confidentiality

- 7.1 The discussions and negotiations under this Agreement are subject to the terms of the confidentiality agreement (the "Confidentiality Agreement") that forms part of this Agreement and is attached as Schedule B.
- 7.2 The Parties agree that, once executed, the text of this Agreement and any subsequent agreement(s) negotiated pursuant to this Agreement, are not subject to the provisions of the Confidentiality Agreement.

8 Non-Derogation

- 8.1 This Agreement does not create, recognize, affirm, define, deny, limit, interpret, abrogate, derogate or amend any Kaska Aboriginal Rights or Title.
- 8.2 The discussions and negotiations under this Agreement are not intended to limit any position a Party may take or has taken with respect to legal or administrative proceedings, or in any discussions, negotiations, or processes about their constitutionally protected rights and are without prejudice to any legal position that has been or may be taken by a Party in any legal or administrative proceedings, or in any discussions, negotiations or processes. Further, nothing in this Agreement shall be construed as an admission of fact or liability in any such legal or administrative proceedings, discussions, negotiations, or processes.

9 General Provisions

- 9.1 This Agreement shall be governed by and construed in accordance with the laws of Yukon.

- 9.2 This Agreement may be executed in counterparts, each of which will be considered an original, and all of which will constitute one and the same document.
- 9.3 Any amendments to this Agreement will be made in writing and executed by both Parties.
- 9.4 Any disagreement about the interpretation or implementation of this Agreement will be referred to the Principals' Table for further discussion.
- 9.5 Any written communication, report, or notice required pursuant to this Agreement may be given by personal delivery to the undersigned, or by email or by fax or by prepaid mail to the addresses set out below. A notice will be considered to be received if delivered personally on the date of delivery; if delivered by email or fax, two business days after transmission; or if delivered by mail, four business days after mailing.

If to Kaska: Allen Edzerza
 2788 Sumas Mt Road
 Abbotsford, British Columbia
 V3G 2J2
 Fax: (604) 209-7701
 Email: allenedzerza@me.com

If to Yukon: Stephen J. Mills
 Assistant Deputy Minister/Chief Negotiator
 Aboriginal Relations, Executive Council Office
 Government of Yukon
 PO Box 2703
 Whitehorse, Yukon
 Y1A 2C6
 Fax: (867) 667-3599
 Email: stephen.mills@gov.yk.ca

10 Term of this Agreement

- 10.1 Unless the Parties otherwise agree, this Agreement will terminate on March 31, 2017. Either Party will have the discretion to terminate this Agreement prior to that date by providing 90 days' notice in writing, with reasons for termination, to the other Party.

- 10.2 Notwithstanding paragraph 10.1, if either Party commences, continues or activates litigation involving the other Party with respect to matters under discussion and negotiation under this Agreement, the other Party will have the right to terminate this Agreement with immediate effect.

11 Authority to Sign the Framework Agreement

- 11.1 Yukon represents and warrants that it has legal capacity, power and authority to enter into, perform, and execute this Agreement, and that the person signing this Agreement on behalf of Yukon has been properly authorized and empowered to enter into and execute this Agreement.
- 11.2 RRDC and LFN represents and warrants that each has the legal capacity, power and authority to enter into, perform, and execute this Agreement and that the person signing this Agreement on behalf of RRDC or LFN, as the case may be, has been properly authorized and empowered to enter into and execute this Agreement.
- 11.3 KDC represents and warrants that it has the legal capacity, power and authority to enter into, perform and execute this Agreement on its own behalf and on behalf of its members, and on behalf of the Daylu Dena Council, Dease River First Nation, and Kwadacha First Nation. The person signing this Agreement on behalf of KDC has been properly authorized and empowered to enter into and execute this Agreement on behalf of KDC.
- 11.4 KDC represents and warrants that it has obtained authorization in writing to represent Kaska Aboriginal Rights and Title and other interests of Daylu Dena Council, Dease River First Nation, and Kwadacha First Nation for the purposes of this Agreement. Upon request, KDC will provide copies of that authorization. Yukon may require other forms of authorization for subsequent agreements.

12 Effective Date

- 12.1 The Agreement will have full force and effect upon signing by the Parties and if signed on different days, upon the date the last signature is affixed.

IN WITNESS WHEREOF the Parties have executed this Agreement by their duly authorized representatives.

KASKA

as represented by:

The Chief on behalf of Ross River Dena Council

In the presence of

Derrick G. Redies
Signature (witness 19 years of age or older)

Derrick G. Redies
Print Name (witness)

The Chief on behalf of Liard First Nation

In the presence of

Louis Roy Dick
Signature (witness 19 years of age or older)

Louis Roy Dick
Print Name (witness)

The Chairperson of Kaska Dena Council
on behalf of the Kaska Dena Council, its
members, and on behalf and representing the
Daylu Dena Council, Dease River First Nation,
and Kwadacha First Nation

In the presence of

Brian Ladue
Signature (witness 19 years of age or older)

Brian Ladue
Print Name (witness)

Jack Caesar
Signature

Jack Caesar
Print Name

Jan. 8, 2016
Date

Daniel Morris
Signature

Daniel Morris
Print Name

JAN 8 2016
Date

George Miller
Signature

George Miller
Print Name

Jan. 8, 2016
Date

SCHEDULE A – MAP OF SCHEDULE A AREA

Map of Kaska traditional territory as provided by Kaska to Yukon on October 31, 2015.

