

**CARCROSS/TAGISH FIRST NATION TRANSBOUNDARY****FRAMEWORK AGREEMENT**

**BETWEEN: CARCROSS/TAGISH FIRST NATION** as represented by the Chief of the Carcross/Tagish First Nation (hereinafter referred to as the Carcross/Tagish First Nation");

**AND: HER MAJESTY THE QUEEN IN RIGHT OF CANADA** as represented by the Minister of Indian Affairs and Northern Development (hereinafter referred to as "Canada");

**AND: HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA** as represented by the Minister of Aboriginal Affairs (hereinafter referred to as "British Columbia");

being the Parties to this Framework Agreement dated this *10th* day of *November*, 1998

(hereinafter referred to as , "this Agreement").

**WHEREAS:**

1. The Carcross/Tagish First Nation asserts aboriginal rights, titles and interests with respect to its Traditional Territory in British Columbia;
2. The Carcross/Tagish First Nation wishes to retain, subject to a Transboundary Agreement, the aboriginal rights, titles and interests it asserts with respect to its Traditional Territory in British Columbia;
3. The Parties to this Agreement recognize the significant contributions of Carcross/Tagish people and the Carcross/Tagish First Nation to the history and culture of Canada and northern British Columbia;
4. The Constitution Act 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada, including rights that now exist by way of land claims agreements or that may be so acquired;
5. The Parties to this Agreement wish to achieve clarity and certainty regarding governance and jurisdiction, ownership and use of lands and resources within the Traditional Territory of the Carcross/Tagish First Nation;
6. The Carcross/Tagish First Nation, Canada and the Government of the Yukon are presently negotiating the Carcross/Tagish First Nation Final Agreement committing the Carcross/Tagish First Nation, Canada and the Council of Yukon First Nations to work together to negotiate a Transboundary Agreement with British Columbia to resolve the Carcross/Tagish First Nation's aboriginal claim within its Traditional Territory in British Columbia;
7. The Governments of Canada and British Columbia and the First Nations Summit of British Columbia have signed an agreement which established the British Columbia Treaty Commission, which Commission is to facilitate treaty negotiations between the Parties in the Province of British Columbia;
8. The Parties desire to establish a process for negotiating a Transboundary Agreement with respect

to the land claim in British Columbia of the Carcross/Tagish First Nation.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1.

1.1 In this Agreement:

"BCTC" means the British Columbia Treaty Commission;

"Carcross/Tagish First Nation" means the Carcross/Tagish First Nation listed in the schedule to the Yukon First Nations Land Claims Settlement Act S.C. 1994, c.34;

"Implementation Plan" means a plan or plans to implement the provisions of the Transboundary Agreement;

"Traditional Territory" means the geographic area identified as the traditional territory of the Carcross/Tagish First Nation in British Columbia on the map attached to the Statement of Intent approved by the BCTC:

"Transboundary Agreement" means a final agreement negotiated pursuant to this Agreement and to Chapter 25 of the Umbrella Final Agreement and entered into by the Carcross/Tagish First Nation, Canada, and British Columbia;

"Shared Traditional Territory" means the geographic area within the Traditional Territory claimed by another First Nation as well as by the Carcross/Tagish First Nation; and is referred to as "overlapping territory" in the BCTC Agreement dated September 21, 1992; and

"Umbrella Final Agreement" means the agreement entered into by the Council for Yukon Indians, Canada, and Government of Yukon on May 29, 1993.

2.

2.1 The purpose of this Agreement is to govern the conduct of transboundary negotiations among the Parties and to set forth the topics which may be included in the Transboundary Agreement, and to set forth the process and timing to complete a transboundary agreement-in-principle and a Transboundary Agreement.

3.

3.1 Except where the Parties otherwise agree, "Chapter 25 - Transboundary Agreements" of the Umbrella Final Agreement shall provide the basis for the negotiation of the Transboundary Agreement.

3.2 The Transboundary Agreement shall include provisions setting out the process for its ratification by each of the Parties.

3.3 The Chief and Council of the Carcross/Tagish First Nation have the authority to sign this Agreement.

3.4 The Minister of Indian Affairs and Northern Development has the authority to sign this Agreement on behalf of Canada.

3.5 The Minister of Aboriginal Affairs of British Columbia has the authority to sign this Agreement on behalf of British Columbia.

3.6 This Agreement may be amended by mutual agreement of the Parties.

3.7 The Transboundary Agreement, once in effect, shall be a land claims agreement within the meaning of section 35 of the Constitution Act, 1982.

3.8 The issue of constitutional protection as it applies to the provisions of the Transboundary Agreement shall be addressed prior to concluding an agreement-in-principle.

3.9 Unless the Parties otherwise agree in the Transboundary Agreement, the Transboundary Agreement shall not affect any aboriginal rights, titles and interests of the Carcross/Tagish First Nation and the Carcross/Tagish people in the Yukon.

3.10 Nothing in this Agreement shall be interpreted as creating, recognizing or denying any rights.

3.11 The treaty negotiations and all related documents, except a Transboundary Agreement in effect, are without prejudice to any legal positions that have been or may hereafter be taken by any of the Parties in any court proceeding, process or otherwise and shall not be construed as an admission of fact or liability in any such proceeding, process or otherwise.

3.12 For greater certainty, the Parties agree that section 3.11 does not determine the enforceability of any agreement which may flow from this Agreement, nor the admissibility of any such agreement in any proceeding to enforce that agreement.

3.13 Any Party may suspend the negotiations contemplated by this Agreement by providing written notice, which also sets out the reasons for suspension and the date that the suspension commences, to the other Parties and to the BCTC.

3.14 The Parties are committed to negotiation rather than litigation. Where a Party chooses to litigate, the other Parties retain the right to determine the appropriateness of conducting further negotiations.

3.15 Nothing in this Agreement shall affect any aboriginal claim, right, title or interest of any other First Nation.

3.16 The Carcross/Tagish First Nation will resolve claims of Shared Traditional Territory and will report periodically to the main table on the status of Shared Traditional Territory discussions.

3.17 Where the Carcross/Tagish First Nation and the other Party or Parties agree that an

interest is being affected which could undermine the treaty negotiation process, the Parties shall consider the negotiation of an interim measures agreement.

4.

4.1 The Parties intend to address topics found in the table of contents of the Umbrella Final Agreement attached as Appendix 1, during the negotiation of an agreement-in-principle. For greater certainty, the Parties agree that the inclusion of a topic in Appendix I does not commit any of the Parties to conclude an agreement on that topic.

4.1.1 By agreement of the Parties, topics may be added to or deleted from Appendix I. The Parties agree to the inclusion of the following topics to Appendix I:

4.1.2 Yukon River headwaters protection area; and

4.1.3 Chilkoot Trail National Historic Site.

4.2 The Chief Negotiators may agree that any topic, or elements of a topic, may require negotiation on a regional or provincial basis.

5.

5.1 The Parties agree to identify appropriate timeframes for the completion of an agreement-in-principle and Transboundary Agreement.

5.2 The Parties shall endeavor to complete the Transboundary Agreement within the time period stipulated pursuant to section 5.1 and from an agenda mutually established by the Parties.

5.3 The Parties have named Chief Negotiators who shall be authorized to initial a transboundary agreement-in-principle and each Party shall endeavor to ensure continuity of personnel throughout the process of negotiations.

5.4 The Parties shall establish a main negotiation table consisting of the Chief Negotiator for each Party.

5.5 The Chief Negotiator may designate another negotiator to act on his/her behalf, and may bring to the negotiation table such other technical and support staff as he/she deems necessary.

5.6 The main table shall be responsible for:

5.6.1 managing the negotiating process;

5.6.2 concluding a transboundary agreement-in-principle and the Transboundary Agreement;

5.6.3 monitoring and co-ordinating the consultation, communications and openness processes;

5.6.4 establishing working groups, side tables and other issue analysis processes as required;

5.6.5 resolving differences; and

5.6.6 such other matters as the Parties may agree.

5.7 The main table shall develop workplans to manage and monitor its activities.

5.8 Priorities for negotiations shall be determined by the Parties.

5.9 The main table shall meet as necessary in accordance with the workplans.

5.10 Unless the Parties agree otherwise, main table meetings shall be held in the Carcross/Tagish First Nation's Traditional Territory in British Columbia or the Yukon.

5.11 Each Party shall be responsible for the production of meeting notes/minutes which each considers necessary for its internal management.

5.12 The main table shall produce a record of each main table meeting which shall identify participants, agenda, decisions, and action items, and shall be circulated within five working days of the main table meeting.

6.

6.1 The workplans shall be filed with the BCTC for its information.

6.2 Any Party may call on the BCTC to facilitate negotiations or assist with dispute resolution in accordance with BCTC policies.

7.

7.1 The Parties shall seek to create a common information base for use by all the Parties.

7.2 The common information base shall be assembled in a manner that promotes efficiency and affordability and that reflects the priorities agreed to by the Parties.

7.3 When information which is not available is required, the Parties shall agree on how to obtain that information.

7.4 Any revision to information which has already been shared between the Parties and which becomes available to any of the Parties, shall be shared with the other Parties.

7.5 Subject to sections 7.1 to 7.4, British Columbia and Canada shall share with the Carcross/Tagish First Nation existing land status maps and those resource inventory and technical assessment materials relating to the Traditional Territory, held by either British Columbia or Canada, which are relevant to the negotiation of the Transboundary Agreement.

7.6 Canada and British Columbia shall seek the co-operation of non-government

organizations to provide information which is held by them and which is relevant to the negotiation of the Transboundary Agreement.

7.7 The provision of information by the Parties is subject to applicable federal and provincial access to information and privacy legislation.

8.

8.1 The Parties recognize:

8.1.1 the need to provide information to the public on the negotiation process;

8.1.2 the need to obtain a balance between the development of trust among the Parties and the development of public confidence in the negotiation process through continued education, and the flow of information; and

8.1.3 the need to have an open process subject to needs for confidentiality.

8.2 The Parties shall design and participate in the delivery of a public consultation, public information and openness process that shall include the general public, organized social and economic interests, and the media, as set out in the Protocol attached as Appendix H.

8.3 The public consultation and public information process shall not be used by any Party as a means of encouraging support or developing public pressure for a particular negotiating position.

9.

9.1 Canada shall make available to the Carcross/Tagish First Nation adequate resources for the negotiations leading to a Transboundary Agreement in accordance with applicable funding policies of Canada.

10.

10.1 The Parties agree that there shall be an Implementation Plan developed by the Parties for the Carcross/Tagish First Nation Transboundary Agreement.

10.2 The Parties acknowledge the importance of commencing Implementation Plan negotiations during negotiation of the Transboundary Agreement.

10.3 The Parties shall address the timing, scope and priorities of Implementation Plan negotiations during the negotiation of a transboundary agreement-in-principle.

11.

11.1 Initialing of this Agreement by the Chief Negotiators signifies their intention to recommend it to the Parties for their approval.

Signed on behalf of the Carcross/Tagish First Nation

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Andy Carvil  
Chief

Signed on behalf of Her Majesty the Queen in Right of Canada

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The Honourable Jane Stewart  
Minister of Indian Affairs and Northern Development

Signed on behalf of Her Majesty the Queen in Right of British Columbia

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Honourable Dale Lovick  
Minister of Aboriginal Affairs

## **APPENDIX I**

### **Table of Contents of the Umbrella Final Agreement**

1. Definitions
2. General Provisions
3. Eligibility and Enrollment
4. Reserves and Land Set Aside
5. Tenure and Management of Settlement Land
6. Access
7. Expropriation
8. Surface Rights Board

9. Settlement Land Amount
10. Special Management Areas
11. Land Use Planning
12. Development Assessment
13. Heritage
14. Water Management
15. Definition of Boundaries and Measurement of Areas of Settlement Land
16. Fish and Wildlife
17. Forest Resources
18. Non-Renewable Resources
19. Financial Compensation
20. Taxation
21. Taxation of Settlement Land
22. Economic Development Measures
23. Resource Royalty Sharing
24. Yukon Indian Self-Government
25. Transboundary Agreements
26. Dispute Resolution
27. Yukon Fish and Wildlife Enhancement Trust
28. Implementation and Training for Settlement Implementation

## **APPENDIX 11**

### **Carcross/Tagish First Nation Transboundary Agreement Negotiations Protocol Regarding Consultation, Public Information and Openness**

#### **1. INTRODUCTION**

1.1 Pursuant to clause 8.2 of the Framework Agreement, the Parties have executed this Protocol in fulfillment of the requirements of that clause.

## **2. OBJECTIVES**

2.1 The objectives of this Protocol are:

- i) to provide public access throughout the treaty process while recognizing the need to conduct effective transboundary agreement negotiations;
- ii) to provide accurate information to the public; and
- iii) to consult with interested parties throughout the process.

2.2 The Parties agree to meet these objectives through:

- i) consultation with interested parties;
- ii) public information;
- iii) access to negotiation sessions; and
- iv) access to documents, as set out in this Protocol.

## **3.0 CONSULTATION**

3.1 Canada and British Columbia are generally responsible for consulting with the non-aboriginal public that may be affected by the outcome of transboundary agreement negotiations.

3.2 Each Party retains the right to engage in its own consultation processes.

## **4.0 PUBLIC INFORMATION**

4.1 The Parties agree to co-operate in conducting a program of public information.

## **5.0 ACCESS TO NEGOTIATIONS**

5.1 While the Parties agree that transboundary negotiation sessions should be as open as possible, they also recognize that negotiation sessions may, at times, need to be closed to observers.

5.2 The Parties agree that public access shall generally focus on main table meetings devoted to a general exchange of information on issues, interests and policies or the discussion of matters of a procedural nature. Such access may be achieved by opening these sessions to the general public, representation from interest groups by invitation, broadcast by local television or radio or any combination of the above.

5.3 The Parties shall determine whether other sessions are to be open to the public by considering whether attendance at the sessions by individuals other than the negotiating

team members would:

- i) increase the effectiveness of the session;
- ii) interfere with the effectiveness of the process; or
- iii) reasonably be expected to prejudice the Positions or strategies of the Parties.

5.4 The Chief Negotiators shall agree three weeks prior to a negotiating session, where possible, whether that session will be open, either in whole or in part, in accordance with clauses 5.1, 5.2 and 5.3.

## **6.0 ACCESS TO DOCUMENTS**

6.1 The Parties agree that at a minimum, the following documents shall be made available to the public in their final form:

- i) main table meeting agendas;
- ii) records of decisions from main table meetings;
- iii) periodic reports reviewing the progress of negotiations prepared by the Parties;
- iv) all reports filed with the British Columbia Treaty Commission; and
- v) discussion papers and statements defining principles and objectives tabled by a Party at a main table meeting unless the Party which tables them identifies them as documents which are not to be released to the public pursuant to the provisions of clause 6.3.

6.2 Prior to initialing, the Parties shall also make available to the public, agreements which generally have been agreed to by the Chief Negotiators including:

- 6.2.1 this Agreement;
- i) sub-Agreements;
  - ii) the Agreement-in-Principle; and
  - iii) the Final Agreement.

6.3 The Parties agree that documents not outlined in clauses 6.1 and 6.2 shall also be available to the public unless the Party producing the document has identified the document and the responses to the document as confidential.

6.3.1 In deciding whether a document should be identified as confidential, a Chief Negotiator will consider whether:

- i) making the document public would prejudice the position or strategy of that Party; or
- ii) the document is at a stage in the drafting process where it does not accurately reflect the intention and interests of the Party or Parties producing the document; or
- iii) making the document public would disclose information which was provided in confidence to any one of the Parties.

6.3.2 To identify a document as confidential, the Party producing the document shall mark the document as "confidential" or "in confidence" or shall otherwise express in writing its intention not to have the document made public.

6.4 Nothing in clauses 6.1, 6.2 and 6.3 is intended to diminish the ability of a Party to consult with its respective advisory committees.

6.5 This Protocol is subject to the laws of Canada and British Columbia regarding access to records of information and the protection of privacy.