

COMPREHENSIVE FISHERIES AGREEMENT

BETWEEN: Her Majesty the Queen in Right of Canada as represented by the Minister of Fisheries and Oceans (hereinafter called "DFO")

AND: Musgamagw Territorial Marine Management Society, a society incorporated under the *Society Act* of British Columbia, (hereinafter called "MTMMS") for and on behalf of the Tsawataineuk First Nation, Kwicksutaineuk-Ah-Kwaw-Ah-Mish Band and Gwawaenuk Tribe

Signed on: Aug. 14, 2009
Duration: April 1, 2009 to March 31, 2010

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COMPREHENSIVE FISHERIES AGREEMENT

This Comprehensive Fisheries Agreement made

BETWEEN: Her Majesty the Queen in Right of Canada as represented by the Minister of Fisheries and Oceans (hereinafter called "DFO")

OF THE FIRST PART

AND: Musgamagw Territorial Marine Management Society, a society incorporated under the Society Act of British Columbia, (hereinafter called "MTMMS") for and on behalf of the Tsawataineuk First Nation, Kwicksutaineuk-Ah-Kwaw-Ah-Mish Band and Gwawaenuk Tribe

OF THE SECOND PART

WHEREAS existing Aboriginal and treaty rights are recognized and affirmed in section 35(1) of the Constitution Act, 1982;

AND WHEREAS the Parties are both interested in the conservation, protection and management of fisheries resources in the area described in Schedule A attached hereto, hereinafter called the "Area";

AND WHEREAS in entering into this Agreement, the Parties are not seeking to determine the existence, nature or scope of Aboriginal or treaty rights but rather are seeking to provide for the orderly management of the fisheries and the involvement of MTMMS in the management, protection and enhancement of fisheries resources and fish habitat in the Area;

AND WHEREAS the Parties confirm their commitment to a relationship built on mutual respect and understanding;

NOW THEREFORE the Parties agree as follows:

Purpose

- 1. The purpose of this Agreement is to provide for the orderly management, protection and enhancement of fisheries resources and fish habitat in the Area.

Definition

- 2. In this Agreement:

'Aboriginal Affairs Advisor' means a DFO manager having responsibilities that are focused on Aboriginal issues;

'AFS' means the Aboriginal Fisheries Strategy administered by DFO;

'Agreement' means this Agreement, including the Schedules and Appendices attached to it;

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'C&P' means the Conservation and Protection sector of DFO;

'Capital Acquisition' is a tangible asset that is purchased, constructed, developed or otherwise acquired by MTMMS with AFS funding, at a price of FIVE HUNDRED DOLLARS (\$500.00) or more before taxes, having a useful life extending beyond one Fiscal Year and is intended to be used for the purpose of carrying out projects agreed to by the Parties;

'Commercial Groundfish Licence' means a licence issued under the Pacific Fishery Regulations, 1993, or the Aboriginal Communal Fishing Licence Regulations, that authorizes fishing for groundfish for commercial purposes as referred to in Schedule B-1;

'Communal Commercial Licence' means any communal fishing licence referred to in Schedule C-1;

'Communal Licence' means any communal fishing licence referred to in Schedule B-1;

'Contribution' means a Contribution referred to in subsection 5(c);

'Dual Fishing' means fishing for and retaining fish under the authority of a licence issued under the *Pacific Fishery Regulations, 1993* (a "Commercial Groundfish Licence") and under this licence on the same fishing trip, as referred to in Schedule B-1;

'Eligible Costs' means costs described in Appendix 1 to Schedule F-1 and approved by DFO that are incurred by and are paid or payable by MTMMS during the Fiscal Year in carrying out the Project, but does not include any Goods and Services Tax (GST) or Harmonized Sales Tax (HST) paid in relation to those costs for which MTMMS may claim reimbursement or exemption;

'Final Report' means a report provided by MTMMS in accordance with subsections 10(a) and 10(b) of Schedule F-1;

'First Nation' means one of the First Nations;

'First Nations' means the following bands:

1. Tsawataineuk First Nation,
2. Kwicksutaineuk-Ah-Kwaw-Ah-Mish Band, and
3. Gwawaenuk Tribe

'Fiscal Year' means the twelve-month period beginning with April 1 of a year and ending with March 31 of the next year;

'Fishery Enforcement Officer' means a person designated as a fishery officer or fishery guardian under section 5 of the *Fisheries Act*, R.S.C. 1985, c. F-14 and may include a fishery officer, Aboriginal fisheries officer, RCMP officer, conservation officer and an Aboriginal Fisheries Guardian;

'FSC Fishery' means the food, social and ceremonial fishery described in Schedule B-1;

'Interim Report' means a report provided by MTMMS in accordance with subsections 8(a) and 8(b) of Schedule F-1;

'Minister' means the Minister of Fisheries and Oceans;

'Month' means a calendar month or part of a calendar month;

'Project' means the activities conducted by MTMMS as described in Schedule G-1;

'RDG' means the Regional Director General of DFO;

'Schedule' means a Schedule to this Agreement and any attached Appendices; and

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'Vessel' means a vessel no longer than 30 feet or a vessel equipped with commercial fishing gear referred to in Schedule C-1; and

'Vessel Designation Certificate means a certificate issued by MTMMS that specifies the vessel name, vessel registration number, fishing times, fishing areas, fishing gear, the maximum amount of groundfish by species permitted to be landed, the name of MTMMS that issued the certificate and an unique identification number, as referred to in Schedule B-1. Vessel Designation Certificates are non-transferable.

Interpretation

3. This Agreement:
- (i) does not, and is not intended to, define or extinguish any Aboriginal or treaty rights and is not evidence of the nature or extent of any Aboriginal or treaty rights;
 - (ii) is made without prejudice to the positions taken by either Party with respect to Aboriginal or treaty rights;
 - (iii) is not a land claims agreement or treaty within the meaning of section 35 of the *Constitution Act, 1982*; and
 - (iv) does not affect any Aboriginal or treaty rights of any other Aboriginal group.

Schedules

- 4(a) The following Schedules form part of this Agreement:
- Schedule A Area (where the fisheries and Project take place)
 - Schedule B-1 Food, Social and Ceremonial Fishery
 - Schedule C-1 Communal Commercial Fisheries Access
 - Schedule F-1 Contribution
 - Schedule G-1 Project Summary
- 4(b) This Agreement may be amended to add a schedule not originally included or, in the case of a multi-year Agreement, to add a new schedule for the subsequent year. This Schedule will bear the same letter as the schedule to which it relates and will be numbered in chronological order (e.g. "Schedule B-2"). A reference to Schedule B, C, D, E, F or G means Schedule B-1, C-1, D-1, E-1, F-1 or G-1 and any schedules that have been added to this Agreement and bear the same letter.

Cooperative Management, Allocation Transfer Program, and Funding

- 5(a) The Parties agree to comply with the provisions of this Agreement, including provisions pertaining to the Contribution described in Schedule F-1, and will work together in good faith to implement this Agreement and to share information pertinent to the management of the fisheries.
- 5(b) In accordance to section 40 of the *Financial Administration Act*, R.S.C. 1985, c. F-11, payment under this Agreement is subject to there being an appropriation for the Fiscal Year in which any commitment under this Agreement would come due for payment, and payments will be terminated or reduced in the event funds are not available in the fiscal year in which payment is to be made.
- 5(c) Subject to subsections 5(b), and 5(d) to 5(f), DFO will, in Fiscal Year 2009-2010, provide a Contribution in the amount of up to ONE HUNDRED AND EIGHTY-FIVE

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THOUSAND DOLLARS (\$185,000.00) to MTMMS to help finance the Project. A Contribution may consist of money and other forms of assistance.

- 5(d) DFO will not provide the Contribution referred to in subsection 5(c) for a Fiscal Year until after DFO and MTMMS agree upon the portion of the Contribution that will consist of money and the nature and value of the other forms of Contribution to be provided in the Fiscal Year, and the Project to which the Contribution will be applied.
- 5(e) Expenditures to be reimbursed by the financial Contribution referred to in subsection 5(c) must be incurred in the Fiscal Year in which that financial Contribution is provided.
- 5(f) Where the Parties agree, any amount of money that DFO provides under this Agreement, to help finance the Project activities, will decrease if economic opportunities under the Allocation Transfer Program are provided.

Debts Owing the Crown

- 6. MTMMS must declare if any amounts are owing to the federal government under legislation or other contribution agreements. Such amounts owing to the government may be set off against payments due under this Agreement.

Confidentiality

- 7. Subject to subsection 13(b), DFO will respect the confidentiality of any information provided to, or shared with, DFO in confidence.

Technical Standards

- 8. Any activities carried out by or on behalf of MTMMS and any members of MTMMS under this Agreement will be carried out in accordance with standards established jointly by the Parties.

No Employee Relationship, Agency Relationship or Assignment

- 9(a) Nothing in this Agreement, nor any acts of MTMMS or a First Nation or of DFO, will constitute or be deemed to constitute DFO as the employer of any member of MTMMS or a First Nation carrying out activities as described in this Agreement.
- 9(b) Nothing in this Agreement, nor any acts of MTMMS or the First Nation or of DFO, will constitute or be deemed to constitute MTMMS or a First Nation as an agent of DFO or DFO as an agent of MTMMS or a First Nation.
- 9(c) Neither Party will at any time hold itself out as acting as an agent of the other Party.
- 9(d) MTMMS will not assign this Agreement or any part of it.
- 9(e) MTMMS will have no claim on Her Majesty the Queen in Right of Canada related to any loan, capital lease or long-term obligation it enters into in relation to this Agreement.

Conflict of Interest

- 10(a) No member of the House of Commons will be admitted to any share or part of this Agreement or to any benefit to arise therefrom.
- 10(b) No individual for whom the post-employment provisions of the *Conflict of Interest and Post-Employment Code for Public Office Holders*, or the *Values and Ethics Code for the Public Service* apply, will derive any direct benefit from this Agreement unless that

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individual is in compliance with the applicable post-employment provisions. MTMMS will disclose to DFO any individual it intends to hire or remunerate who was formerly or is presently a federal public servant.

Lobbyist Registration

11. MTMMS will ensure that any person lobbying on its behalf is registered under the *Lobbyists Registration Act*, R.S.C. 1985, c. 44 (4th supp.).

Indemnification and Insurance

- 12(a) Where MTMMS enters into a loan, capital lease, contract or long-term obligation in relation to the Project or any part of the Project, MTMMS assumes all responsibility, liability and risk arising out of, or related to, either directly or indirectly, the loan, capital lease, contract or long term obligation. DFO, in reviewing any loan, capital lease, contract or long-term obligation entered into by MTMMS is not making any representations to MTMMS or any third party nor assuming any responsibility for the loan, capital lease, contract or long-term obligation and MTMMS remains entirely responsible for loans, capital leases, capital leases, contracts or long-term obligations entered into by it in relation to the Project or any part of the Project.
- 12(b) MTMMS will indemnify and save harmless Her Majesty the Queen in Right of Canada, and her Ministers, officers, employees and agents from and against all claims, demands, costs (including legal costs), losses, damages, actions, suits and proceedings, by whomsoever brought or prosecuted, caused by or related to any act or omission of MTMMS or any of the First Nations, its officers, members, employees, agents, contractors, or anyone for whom MTMMS or any one of the First Nations is responsible in law or any or all of them, in carrying out this Agreement or any part of it.
- 12(c) MTMMS will purchase, provide and maintain insurance, including third-party liability insurance, suitable to its own requirements and to the activities carried out by it, the First Nations, the members of the First Nations, or anyone for whom it or one of the First Nations is responsible for in law, under this Agreement. Each First Nation is responsible for all short and long term disability insurance and all other operating, training, salary and benefit costs for its employees.

Acts and Regulations

- 13(a) Where the Project, or any part of it requires an environmental assessment under the *Canadian Environmental Assessment Act*, S.C. 1992, c.37, DFO will fulfill its responsibilities under the *Canadian Environmental Assessment Act* before any advances, reimbursements or payments can be made under this Agreement. Should the Project, or any part of it, change after the environmental assessment is completed, MTMMS will immediately provide DFO with a detailed description of the changed Project. If this changed Project description meets with DFO's approval and the changed Project requires an environmental assessment under the *Canadian Environmental Assessment Act*, DFO will fulfill its responsibilities under the *Canadian Environmental Assessment Act* before any advances, reimbursements or payments can be made under this Agreement.
- 13(b) Any information to be provided by or to DFO or shared by or with DFO under this Agreement will be subject to the *Access to Information Act*, R.S.C. 1985, c. A-1, and the *Privacy Act*, R.S.C. 1985, c. P-21.
- 13(c) Where MTMMS carries out activities under this Agreement, MTMMS will comply with the *Fisheries Act* and regulations and will ensure that any authorizations required under subsection 35(2) of the *Fisheries Act*, and any other authorization required by law, are obtained prior to the commencement of any activities. MTMMS will also ensure that the activities are conducted in accordance with those authorizations.

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- 13(d) Nothing in this Agreement affects any applicable federal or provincial requirement with respect to the conservation and protection of fish and fish habitat or to the processing of fish.
- 13(e) Nothing in this Agreement affects any applicable federal requirement under the *Species at Risk Act*, S.C. 2002, c.29.

Amendment

14. The Parties may amend this Agreement but such amendment will have no force or effect unless made in writing and signed by both Parties.

Effect, Duration and Termination

- 15(a) This Agreement sets out the entire agreement and understanding between both Parties.
- 15(b) This Agreement will replace all other understandings and agreements between the Parties with respect to the matters addressed by this Agreement.
- 15(c) The obligations of MTMMS under subsection 12(a) and 12(b) will survive the termination of this Agreement.
- 15(d) This Agreement will come into force on execution by both Parties and, subject to subsections 15(e) to 15(g), will terminate on March 31, 2010, or on the date this Agreement is replaced by a treaty, whichever is earlier.
- 15(e) This Agreement or a Schedule to this Agreement, may be terminated by either Party on sixty (60) days notice in writing to that effect given to the other Party.
- 15(f) Notwithstanding subsection 15(e), this Agreement, or a Schedule to it, may be terminated for non-compliance with this Agreement or the Schedule immediately on notice in writing to that effect given to the other Party.
- 15(g) A First Nation may advise DFO that MTMMS no longer acts for and on behalf of the First Nation by sending a notice in writing to that effect to DFO. Where DFO receives such notice, DFO will meet with MTMMS and the First Nation giving notice. After meeting, the Parties may amend this Agreement or, notwithstanding subsection 15(e), DFO may terminate this Agreement immediately on notice in writing to that effect to MTMMS.

Issue Resolution

- 16(a) If any issue arises under this Agreement that is not readily resolved by the Parties, the immediate supervisor of the representative from the Party raising the issue will provide a written description of the issue to the immediate supervisor of the representative of the other Party. The supervisors will attempt, in a timely manner, to resolve the issue.
- 16(b) If the issue remains unresolved, DFO's local area Resource Manager, Assistant Resource Manager or other staff member responsible for implementation of this Agreement, will be provided with the written description of the issue and will meet with the Parties' field representatives to attempt to resolve the issue.
- 16(c) If the issue remains unresolved, and a Joint Technical Advisory Committee or an Implementation Committee exists, the Parties will arrange a meeting with the Committee and the local Aboriginal Affairs Advisor for the area, to attempt to resolve the issue.
- 16(d) If the issue remains unresolved, the local Aboriginal Affairs Advisor will discuss the matter with the responsible DFO managers and the DFO staff directly involved, and will arrange to meet with senior representatives of MTMMS to attempt to resolve the issue.

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- 16(e) If the issue remains unresolved, the Parties may refer the matter, with written details, to the RDG for review. Representatives of MTMMS will have an opportunity to meet directly with the RDG to discuss the issue if they wish. On completion of the review, the RDG will notify MTMMS in writing of the RDG's decision and the reason(s) for the decision.
- 16(f) At any point prior to referring the issue to the RDG, the Parties may agree to seek the services of a mediator or facilitator to assist in resolving the issue. Costs for the mediator or facilitator will be shared equally by the Parties.
- 16(g) After the fishing season, the Parties may review any issues dealt with through this issue resolution process and document any recommendations for resolving similar issues in a more effective way. The Joint Technical Advisory Committee or Implementation Committee, if one exists, may be used to assist in this final step.

Notices and Representatives

- 17(a) Except as otherwise provided in this Agreement, where any notice, request, information or other communication is required under this Agreement, it will be in writing and delivered personally, by courier, regular mail, e-mail or facsimile and will be addressed to the Party at the address or number set out below:

To DFO:

Department of Fisheries and Oceans
#200 – 401 Burrard Street
Vancouver, BC
V6C 3S4

Attention: Manager
Aboriginal Fisheries, Room 1230

Telephone: (604) 666 8385
Facsimile: (604) 666 2336

To MTMMS:

Mike Bonshor, AFS Co-ordinator
c/o Musgamagw Territorial Marine Management Society
PO Box 45082
Surrey, BC
V4A 9L1

Attention: Mike Bonshor, AFS Co-ordinator

Telephone: (604) 943-0688
Facsimile: (604) 943-0670
Email: mike@visionsfinancial.ca

- 17(b) A notice, request, direction, information or other communication will be deemed to have received the following business day if sent by courier, e-mail, facsimile or delivered in person, or five days after the posting if sent by regular mail.
- 17(c) A Party may change its representative, address or telephone or facsimile number by giving written notice of the change to the other Party.

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Ratification

- 18(a) MTMMS warrants that the representative who executes this Agreement on behalf of MTMMS has authority to bind the members of MTMMS and the members of the First Nations.
- 18(b) The representative who executes this Agreement on behalf of DFO has authority to enter into this Agreement on behalf of, and to bind, DFO.
- 18(c) Execution of this Agreement by the representative referred to in subsection 18(a) constitutes ratification of this Agreement by MTMMS and the First Nation.
- 18(d) MTMMS will inform the members of the First Nations of the contents of this Agreement and will provide each with a copy of this Agreement upon request.

IN WITNESS WHEREOF the Parties have executed this Agreement under the hands of their proper officers duly authorized on their behalf this 24th day of October, 2009.

Her Majesty the Queen in Right of Canada as represented by the Minister of Fisheries and Oceans by Director General, Aboriginal Policy and Governance Bruch


Witness


Director General
Aboriginal Policy and Governance Branch
Department of Fisheries and Oceans

MTMMS by its duly authorized representative


Witness


Mike Donohoe, AFS Co-ordinator

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SCHEDULE A

Area

(Where the fisheries and Project take place)

Statistical Area 12

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SCHEDULE B-1

Food, Social and Ceremonial Fishery

Species and Quantity

1(a) MTMMS may fish for the following species in the quantities set out in Appendix 1:

- (i) salmon;
- (ii) herring;
- (iii) groundfish;
- (iv) shellfish;
- (v) marine mammals; and
- (vi) eulachon.

For clarity, the quantities of the above species described in Appendix 1 represent the quantities of those species which may be harvested from the Area by MTMMS and member First Nations, the member First Nations of DMT Fisheries Society, the member First Nations of A-Tlegay Fisheries Society, the Gwa'sala-Nakwaxda'wx First Nation, and the Kwakiutl First Nation

1(b) Any quantity of each species of fish set out in subsection 1(a) and Appendix 1 and the Communal Licence includes any fish of that species taken as by-catch where fishing is directed against any other species of fish.

Fishing Plan

- 2(a) DFO agrees to manage the various fisheries, based on the principle of Aboriginal fisheries having highest priority of access after conservation, with the goal of providing MTMMS with a reasonable opportunity to catch the fish set out in subsection 1(a) and Appendix 1 in accordance with this Schedule.
- 2(b) The quantity, gear, dates and times, and area provisions for fishing under the Communal Licence may occur are as set out in Appendix 1.
- 2(c) The RDG may, by order, vary the waters in which, or the dates and times on which, a designated person may fish.
- 2(d) DFO may, for the purposes of conservation and protection of fish, amend the conditions of the Communal Licence.
- 2(e) No variations or amendments described in subsections 2(c) and 2(d) will be implemented unless DFO has first consulted with MTMMS, except where circumstances require immediate action, in which case DFO will meet with MTMMS at the first available opportunity, to discuss the reasons for the action taken.
- 2(f) Where DFO and MTMMS have entered into a consultation protocol, the Parties agree to follow the procedures outlined in the protocol.

Disposition of Fish

- 3(a) MTMMS agrees that the fish referred to in subsection 1(a) are for food, social and ceremonial purposes and may not be sold, traded or bartered.
- 3(b) For greater certainty, subsection 3(a) does not preclude the traditional exchange or distribution of fish or fish products within and between Aboriginal people and Aboriginal communities.

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Licensing

- 4(a) For management purposes, DFO will issue to MTMMS a Communal Licence to catch the species and quantity of fish that will reflect the provisions outlined in this Schedule. The Communal Licence may be issued as one or more licences relating to a particular species, area or period of time.
- 4(b) During the term of this Agreement, MTMMS agrees to manage fishing by the First Nations and their members to fishing as set out in this Schedule and the rest of this Agreement. In the event that MTMMS identifies an increase in the food, social and ceremonial needs of the First Nations and their members, during the fishing season, the Parties will review the quantities specified in the Communal Licence issued to MTMMS and, if agreed by the Parties, DFO will amend the Communal Licence. The quantities of fish reflected in the Communal Licence are subject to consultation each year, at which time the needs of the First Nations and their members and conservation requirements will be reviewed by the Parties.
- 4(c) Notwithstanding subsection 4(b), nothing in this Schedule or the Communal Licence will prevent the First Nations and their members from fishing under the authority of any other licence issued under the Fisheries Act and regulations.

Designation to Fish

- 5(a) MTMMS will designate all persons who may fish in the FSC Fishery by issuing each designated person a designation document. Each document will be personal and non-transferable and will bear a unique number and the name of the person designated.
- 5(b) If MTMMS chooses to designate additional persons to fish in the FSC Fishery, it will issue such persons a designation document. Each document will be personal and non-transferable and will bear a unique number and the name of the person designated. MTMMS will notify DFO of any additional people designated to fish prior to commencement of the time the additionally designated people can commence fishing.
- 5(c) No person other than a designated person may participate in the FSC Fishery.
- 5(d) MTMMS will designate vessels that may be used to fish in the FSC Fishery by issuing designation documents to each vessel. Each document will be non-transferable and will bear a unique document number, the name of the vessel designated and the vessel registration number. MTMMS will provide such information to DFO before the vessel is used in the FSC Fishery. No vessel other than a designated vessel will be used in the FSC Fishery.

Withdrawal of Designation and Amendments

- 6(a) MTMMS may withdraw or amend the designation of a person who was designated to fish in the FSC Fishery and will notify DFO in writing that the person is no longer designated, or how the person's designation has been amended. Once the notification in writing is provided to DFO, the persons named are not designated to fish in the FSC Fishery or the person's designation is amended as indicated in the notification.
- 6(b) MTMMS may amend the information referred to in subsection 5(c) and will provide any amendments to DFO before any newly designated vessels fish in the FSC Fishery.

Management Responsibility of MTMMS

- 7(a) A person participating in the FSC Fishery will carry documentation establishing membership in MTMMS, or a designation document, at all times while engaging in fishing or any activity referred to in this Schedule, including the harvesting, transporting

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and landing of fish, and will present the documentation to a Fishery Enforcement Officer upon request.

- 7(b) MTMMS will notify each person designated to participate in the FSC Fishery of the provisions of this Schedule, the conditions of the Communal Licence and any amendments to the Communal Licence, including the provision that the fish harvested are not for sale, trade or barter.
- 7(c) MTMMS will provide a copy of this Agreement, the Communal Licence and any amendments to the Communal Licence to any fisheries management or enforcement staff it has.
- 7(d) Before the fishing described in this Schedule commences, MTMMS will provide to DFO:
- (i) a list of the names of the members of the First Nations of MTMMS who have documentation establishing membership with a First Nation, but who nevertheless are not designated to fish; and
 - (ii) a list of the names of all additional persons designated to fish pursuant to subsection 5 (b), together with their designation document number.

Activity Monitoring

8. DFO may, in its discretion, verify the catch monitoring and reporting processes of MTMMS, including on-site inspections.

Costs

9. MTMMS is responsible for all costs associated with fishing and monitoring activities referred to in this Schedule.

Other Species

10. Nothing in this Schedule precludes the Parties from entering into negotiations on harvesting fish species other than those referred to in this Schedule.

Coming into Force

11. This Schedule will come into force as of April 1, 2009, and, subject to section 15 of the Agreement, will terminate on March 31, 2010.

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Appendix I to Schedule B-1

General Conditions of Communal Licences

April 1, 2009

SCD-09-CL 023 JOHNSTONE STRAITS FIRST NATIONS

**ABORIGINAL COMMUNAL FISHING LICENCE
FOR THE JOHNSTONE STRAIT FIRST NATIONS**

MULTI-SPECIES

This licence is issued under authority of the Fisheries Act and section 4 of the Aboriginal Communal Fishing Licences Regulations.

This licence is not intended to define an aboriginal right to fish or its scope; however, for the fishing season, it is intended to provide a mechanism, for reasons of proper management and control of the fisheries and conservation and protection of fish, for requiring compliance with the provisions of this licence.

This licence is issued to the the Johnstone Strait First Nations for and on behalf of the members they represent, and subject to the Fisheries Act and regulations thereunder, confers the authority to fish under the following conditions:

Definitions:

"Commercial Fishing Gear" means power assisted gear commonly used in the commercial fishery including, hydraulic gurdies, powered drums, blocks or live rollers.

"Commercial Fishing Vessel" means a vessel that is registered according to the Pacific Fishery Regulations, 1993 and is used to fish for a species of fish is authorized by a commercial fishing licence (including a "communal commercial fishing licence" issued under the Aboriginal Communal Fishing Licences Regulations). This does not include vessels without commercial fishing licences fishing for food, social and ceremonial ("FSC") purposes.

"DFO" means the Fisheries and Oceans, Canada (formerly Department of Fisheries and Oceans).
"Fish" means those species of fish listed in Parts I & II of Schedule I of the Pacific Fishery Regulations, 1993, including herring spawn.

"Fishery" means fishing under the authority of this licence.

"Groundfish" means those species of fish listed in Part I of Schedule I of the Pacific Fishery Regulations, 1993, but does not include herring and salmon.

"Hatchery coho" – means a coho usually marked by the absence of the adipose fin, or sometimes the ventral (pelvic), or pectoral fin, and having a healed scar in place of that absent fin.

"Johnstone Strait First Nations" means the following Indian Bands:

- (a) Indian Bands represented by the DMT Fisheries Society:

Da'naxda'xw/Awaetlala
Mamalilikulla-Qwe-Qwa-Sot-Em
Tlatasikwala

- (b) Indian Bands represented by the A-Tlegay Fisheries Society:

Tlowitsis
Kwiakah
Wei Wai Kum
We Wai Kai
K'omoks

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(c) The independent Indian Bands:

Kwakiutl
 Gwa'sala-Nakwaxda'wx
 Gwawaneuk
 Kwicksutaineuk-Ak-kwaw-Ah-Mish
 Tsawataineuk
 Namgis

"Management Area" means a management area as defined in the Pacific Fishery Management Area Regulations.

"PSP" means Paralytic Shellfish Poisoning.

"Schedule" means one of Schedules A, B, C, D, E, or F to this licence.

"Shellfish" means those species of fish listed in Part II of Schedule I of the Pacific Fishery Regulations, 1993.

"Subarea" means a Subarea as defined in the Pacific Fishery Management Area Regulations, 2007.

"Vessel Master" means the Captain or Skipper, or any person having charge of the vessel.

"Wild coho" means those coho with an adipose fin

Area, Species, Quantity, Dates, Times, Gear and Gear Identification

Subject to amendments to the conditions of this licence and subject to close times as may be varied by the Regional Director-General, Pacific Region, DFO in accordance with the Fishery (General) Regulations, a species of fish set out in a Schedule to this licence may be harvested under this licence,

- (a) in the maximum specified quantities,
- (b) during the specified dates and times,
- (c) with the specified gear, identified or marked in accordance with the specified method,
- (d) at the specified locations, and
- (e) in accordance with the other conditions,

set out in that Schedule.

Subject to closures and other conditions of this licence, the authority to fish each species set out in a Schedule will expire on the date specified in that Schedule or earlier if DFO, after consultation with the Johnstone Straits First Nation, has determined that the maximum harvest level for that species has been reached.

This licence is for a maximum quantity for the term of this licence for management purposes only, and is without prejudice to maximum harvest levels in future years. Should the First Nation reach their maximum specified quantities of fish and seek more, DFO will meet with the Johnstone Straits First Nation to discuss the species and quantity of fish they seek. DFO will review and consider any relevant information provided and advise the First Nation(s) of its decision as soon as practical.

Use of Fish:

Fish caught under this licence are for food, social and ceremonial purposes. Without prejudice to future agreements or regulations, sale, trade or barter of fish caught under this licence is not permitted. This does not preclude the traditional exchange or distribution of fish or fish products within and between Aboriginal people and Aboriginal communities.

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Designation of Individuals:

All members of the Johnstone Strait First Nations who are issued a designation certificate from one of the Johnstone Strait First Nations are designated to fish under the authority of this licence. The chair or a designated representative of the DMT Fisheries Society, the chair or a designated representative of the A-Tlegay Fisheries Society, the Chief or a designated representative of the Gwa'sala-Nakwaxda'wx First Nation, the Chief or a designated representative of the Kwakiutl First Nation, the Chief or a designated representative of the Gwawaneuk First Nation, the Chief or a designated representative of the Kwicksutaineuk-Ak-kwaw-Ah-Mish First Nation or Chief or a designated representative of the T̓sawataineuk First Nation (collectively referred to as the designated representative of Johnstone Straits First Nations) may specifically designate any additional individuals who may fish under the authority of this licence and will issue designation certificates to such individuals.

Prior to the Fishery, the First Nation will provide the C&P Field Supervisor, DFO Conservation and Protection, in Port Hardy (phone: 250-949-6422 and fax: 250-949-6755) or Campbell River (phone: 250-850-5701 and fax: 250-286-5854) with a list of the additional individuals designated.

Designation certificates are personal and non-transferable. Designation certificates must contain details of this licence including the name of the designated individual, the species that may be caught, harvesting times, maximum quantities, fishing gear, fishing areas and reporting requirements. Designation certificates (or a Johnstone Straits First Nations status card for shellfish) must be carried at all times while participating in the Fishery and while transporting fish harvested in the Fishery and be presented to any Fishery Officer or Fishery Guardian upon request.

With respect to the shellfish Fishery described in Schedule D, all members of the Johnstone Straits First Nations are designated to fish under the authority of this licence. A designation certificate or a status card establishing membership in the Johnstone Straits First Nations must be carried at all times while participating in the shellfish Fishery and while transporting shellfish harvested in the Fishery and be presented to any Fishery Officer or Fishery Guardian upon request.

The First Nation may designate persons to transport Fish harvested under the authority of this licence. Transport is defined as taking fish from the point of offload to a place outside the First Nations asserted traditional territory. The First Nation will issue each person so designated with a transport permit that will contain:

- (a) The name of the person(s) transporting the Fish,
- (b) The quantity and species of Fish to be transported,
- (c) The date of transport of the Fish (departure and arrival),
- (d) The destination of the Fish,
- (e) The vehicle and vehicle licence plate number or the vessel name and the Vessel Registration Number (VRN) or Ministry of Transportation number, and
- (f) The names of the individuals receiving the Fish, and the amounts thereof.

Before transporting under this licence commences, the First Nation will provide the C&P Supervisor, DFO Conservation and Protection, in Port Hardy (phone: 250-949-6422 and fax: 250-949-6755) or Campbell River (phone: 250-850-5701 and fax: 250-286-5854) with a list of the additional individuals designated.

Transport permits must be carried at all times by designated persons transporting Fish harvested in the Fishery. Transport permits must be presented to any Fishery Officer or Fishery Guardian on request. Transport permits are personal and non-transferable.

Designation of Vessels:

If a person designated to fish intends to use a vessel equipped with Commercial Fishing Gear to participate in the Fishery, the Chief Councillor of the Band Council or his or her authorized representative must designate the vessel equipped with Commercial Fishing Gear in writing and notify Conservation and Protection (C&P), DFO at least 24 hours prior to the vessel being used in the Fishery. The C&P Field Supervisor, DFO may be contacted in Port Hardy at 250-949-6422 and

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fax: 250-949-6755 (or Campbell River at phone number 250-850-5701 and fax number: 250-286-5854.) Vessel designation certificates must set out the fishing times, areas, and gear authorized by this licence.

The vessel designation certificate must be carried on the vessel at all times while the vessel is being used in the Fishery or while transporting fish harvested in the Fishery. Proof of vessel designation must be presented to any Fishery Officer or Fishery Guardian on request.

Where a Commercial Fishing Vessel is used to harvest Fish under the authority of this licence, Fish must be landed prior to the Commercial Fishing Vessel participating in a commercial fishery opening for the same species

Monitoring and Harvest Reporting:

Catch monitoring will be conducted by the Johnstone Straits First Nations. The First Nation will keep a record of all harvests under this licence and will provide such information to the DFO personnel identified below:

Salmon: Where, during a week, fishing is carried out under this licence, a designated representative of the Johnstone Straits First Nation will provide Aleta Rushton, of the Port Hardy Field Office, (phone: 250-949-6788, fax: 250-949-6755, or E-mail aleta.rushton@dfo-mpo.gc.ca), with the number of salmon harvested by species under this licence,

Between April 01, 2009 and June 30, 2009, at the end of each month
Between July 01, 2009 and October 31, 2009 inclusive, by the Wednesday after each week fished
Between November 01, 2009 and March 31, 2010, at the end of each month

Herring: A designated representative of the Johnstone Straits First Nations will provide the number of tons of herring, trimmings and pounds of discards harvested and pounds of spawn on boughs to Aleta Rushton, of the Port Hardy Field Office, (phone: 250-949-6788, fax: 250-, or E-mail aleta.rushton@dfo-mpo.gc.ca), on a monthly basis from February to May.

Groundfish: A designated representative of the Johnstone Straits Firth Nations will report the number of pounds of halibut, sablefish and other groundfish harvested will be reported to Aleta Rushton, of the Port Hardy Field Office, (phone: 250-949-6788, fax: 250-, or E-mail aleta.rushton@dfo-mpo.gc.ca), on a quarterly basis (every 3 months) commencing April 1, 2009. (For better management purposes, it is requested that the other groundfish be recorded under the following categories: lingcod, flatfish, yellow-eye rockfish (red snapper), and "other" rockfish).

Shellfish: A designated representative of the Johnstone Straits First Nations will provide the number of pounds of shellfish by species to Aleta Rushton, of the Port Hardy Field Office, (phone: 250-949-6788, fax: 250-, or E-mail aleta.rushton@dfo-mpo.gc.ca), on a quarterly basis (every 3 months) commencing April 1, 2009.

It is requested that all catch information be provided electronically

If a vessel is used for fishing under this licence, the Johnstone Straits First Nation will provide information respecting the species, location and quantity of fish harvested by the vessel to the appropriate Resource Manager (listed above), on the landing of fish harvested under this licence from that vessel.

Other Provisions:

This licence is subject to any in-season conservation closures as well as the following area finfish closures:

Parsons Bay (12-20) June 15 through September 30;
Salmon River mouth closure (Subareas 13-32 and 13-33); and

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Village Bay (portion of Subarea 13-12).

Pursuant to subsection 22(6) of the Fishery (General) Regulations, compliance with the Fisheries Act and the regulations made under the Act is a condition of this licence.

SALMON

Species' Maximum Harvest Level:

The Fishery is limited to a maximum harvest (in pieces) of:

Sockeye Salmon (<i>Oncorhynchus nerka</i>)	80,000
Chum Salmon (<i>Oncorhynchus keta</i>)	35,000
Chinook Salmon (<i>Oncorhynchus tshawytscha</i>)	2,000
Pink Salmon (<i>Oncorhynchus gorbuscha</i>)	2,500
Coho Salmon (<i>Oncorhynchus kisutch</i>)	1,000

Retention of wild coho salmon (*Oncorhynchus kisutch*), is permitted in the following Management Areas: 11-1, 11-2, 12-3 to 12-13, 12-15 to 12-19, 12-21 to 12-48 and 13-20-13-21.

In all other Management Areas, retention of incidentally caught wild coho salmon (*Oncorhynchus kisutch*), that are mortally injured or dead, is permitted. All live hatchery coho may be retained while all live wild coho those with an adipose fin shall be released.

Gear and Gear Identification:

The following gear is permitted to be used:

- (a) hook, line and multi lure;
- (b) gill-net, which must have attached a floating buoy legibly marked with the designated individuals name and name of the First Nation that designated the individual; and
- (c) seine gear on a vessel that has commercial fishing gear on condition that the vessel is equipped with a functioning revival tank, and brailing and sorting techniques are employed in areas where non retention of salmon species (including Steelhead - *Oncorhynchus mykiss*) is required.

Dates and Times:

Fishing is authorized by this licence

from 0001 hours April 01, 2009 to 2359 hours March 31, 2010.

Area:

Fishing is permitted in:

in the waters of Queen Charlotte Strait, Johnstone Strait and the northwestern areas of Georgia Strait including the waters from the southern tip of Hornby Island to the northern tip of Cortes Island and the waters of Queen Charlotte Sound Northeast of Cape Sutil (Management Areas 11-1, 11-2, 12, 13, and 14-7 to 14-15, inclusive).

Other Provisions:

This licence is subject to the following area finfish closures:

Parsons Bay (12-20) June 15 through September 30;
Salmon River mouth closure (Subareas 13-32 and 13-33); and
Village Bay (portion of Subarea 13-12).

A Commercial Fishing Vessel shall not be used to fish under authority of this licence for salmon:

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- (a) six (6) hours prior to that vessel being used to fish for salmon under the authority of a commercial licence;
- (b) while that vessel is being used to fish for salmon under the authority of a commercial licence; or
- (c) twelve (12) hours after that vessel has been used to fish for salmon under the authority of a commercial licence

Vessels participating in the Fishery must be available for inspection prior to engaging in a commercial fishery.

Where a vessel is used to harvest fish under the authority of this licence, such fish must be landed prior to the vessel participating in a commercial fishery opening for the same species.

All salmon harvested by a vessel under authority of this licence must be landed at one of the following designated landing sites:

- (a) Port Hardy Processors Wharf.
- (b) Government Wharf in Alert Bay.
- (c) Nimpkish Wharf at the Nimpkish Breakwater in Alert Bay.
- (d) Quathiaski Cove Government Wharf.
- (e) Discovery Marina in Campbell River.
- (f) New breakwater wharf in Alert Bay.
- (g) Comox Harbour.
- (h) Deep Bay.
- (i) Gilford Government Wharf.
- (j) Kingcome Wharf.
- (k) Hopetown Wharf.
- (l) Port McNeil Government Wharf.
- (m) Other areas where an Aboriginal Fishery Guardian is available to monitor the landing.

No salmon harvested under the authority of this licence may be off-loaded to any vessel (unless monitored by an Aboriginal Fishery Guardian or Fishery Officer) or to any packer. Any other landings of salmon by a vessel, taken under this licence must be authorized in writing by a designated representative of the Johnstone Strait First Nations, who shall notify DFO of the authorization.

HERRING

Species' Maximum Harvest Level:

The Fishery is limited to a maximum harvest of:

Whole Herring	11 tons
Herring spawn on kelp or boughs	8 tons

Gear and Gear Identification:

The following gear is permitted to be used:

nets, rakes, jigs and handpicking

Dates and Times:

Fishing for herring is authorized by this licence

from 0001 hours April 01, 2009 to 2359 hours March 31, 2010.

Area:

Fishing is permitted in the following area:

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the waters of Queen Charlotte Strait, Johnstone Strait and the northwestern areas of Georgia Strait including the waters from the southern tip of Hornby Island to the northern tip of Cortes Island and the waters of Queen Charlotte Sound Northeast of Cape Sutil (Management Areas 11-1, 11-2, 12, 13, and 14-7 to 14-15, inclusive).

Other Provisions:

Vessels participating in the Fishery must be available for inspection prior to engaging in a commercial fishery.

Where a vessel is used to harvest fish under the authority of this licence, such fish must be landed prior to the vessel participating in a commercial fishery opening for the same species.

This licence is subject to the following area finfish closures:

Parsons Bay (12-20) June 15 through September 30;
Salmon River mouth closure (Subareas 13-32 and 13-33); and
Village Bay (portion of Subarea 13-12).

If the Johnstone Straits First Nation proposes to harvest trimmings and discards from a J-Licence operation, Aleta Rushton, of the Port Hardy Field Office, (phone: 250-949-6788, fax: 250-949-6788, or E-mail aleta.rushton@dfm-mpo.gc.ca), a designated representative of the Johnstone Straits First Nations must notify DFO of the proposed time and location, at least 24 hours prior to harvest. A designated representative of the Johnstone Straits First Nation, must monitor this harvest such that the quantity of trimmings and discards is documented and reported in accordance with this licence.

GROUND FISH

Species' Maximum Harvest Level:

The Fishery is limited to a maximum harvest of:

Groundfish except Pacific Halibut and Sablefish	18,000 pounds
Pacific Halibut	26,000 pounds
Sablefish	5,000 pounds

Gear and Gear Identification:

The following gear is permitted to be used:

- (a) Hook and line
- (b) Traps, which must have attached a floating buoy legibly marked with the name of the designated individual and the Johnstone Straits First Nation that designated the individual; and
- (c) Longlines, which must have attached a floating buoy at each end and the buoys must legibly display the name of the designated individual and the Johnstone Straits First Nation that designated the individual.

Dates and Times:

Fishing is authorized by this licence

from 0001 hours April 01, 2009 to 2359 hours March 31, 2010.

Area:

Fishing is permitted in the following area:

the waters of Queen Charlotte Strait, Johnstone Strait and the northwestern areas of Georgia Strait including the waters from the southern tip of Hornby Island to the northern tip of Cortes Island and the waters of Queen Charlotte Sound Northeast of Cape Sutil (Management Areas 11-1, 11-2, 12, 13, and 14-7 to 14-15, inclusive).

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Other Provisions:

This licence is subject to the following area finfish closures:

Parsons Bay (12-20) June 15 through September 30;
Salmon River mouth closure (Subareas 13-32 and 13-33); and
Village Bay (portion of Subarea 13-12).

The minimum size limit for lingcod is 60 cm.

First Nations are requested not to harvest lingcod during spawning and guarding times from the beginning of October until the beginning of May.

Dual Fishing:

1. The Johnstone Strait First Nations may engage in dual fishing only if the following conditions are met:
 - a) A designated representative of the Johnstone Strait First Nations designates the Commercial Fishing Vessel and the person who may fish, in accordance with the *Aboriginal Communal Fishing Licences Regulations*, to catch and retain groundfish under the authority of this licence.
 - b) A designated representative of the Johnstone Strait First Nations issues a dual fishing designation certificate to the Commercial Fishing Vessel prior to the vessel participating in a commercial groundfish fishing trip. The dual fishing designation certificate must include:
 - i. the name of the vessel;
 - ii. the start and end date of the groundfish fishing trip;
 - iii. the amount of groundfish by species the vessel may land under the authority of this licence during the fishing trip;
 - iv. the licence number of this licence;
 - v. the name of the Johnstone Strait First Nation that issued the dual fishing designation certificate, and
 - vi. the unique identification number of the dual fishing designation certificate.
2. While dual fishing under this licence:
 - a) Subject to subsection 2(b), all Fish taken when fishing under the authority of this licence and a Commercial Groundfish Licence must be landed at the same time and must be validated by the dockside service provider;
 - b) The First Nation may request that Fish taken under the authority of this licence be landed at a different time and location from the Fish caught under the authority of the Commercial Groundfish Licence if a Fishery Guardian, a fisheries representative designated by the Johnstone Strait First Nations or a designated groundfish dockside observer monitors the landing of groundfish and the verification of weight, pieces and species of groundfish caught and retained;
 - c) The designated groundfish dockside observer, Fishery Guardian or fisheries representative designated by the Johnstone Strait First Nations, as the case may be, must record landed catch information by weight, species and piece count, the halibut tag numbers, the name of the vessel, the vessel master and the dual fishing designation certificate unique identification number to the Johnstone Strait First Nations and to the Department within seven days of validation;
 - d) Fishing under the authority of this licence must occur in the area where this licence authorizes fishing.

SHELLFISH**Species' Maximum Harvest Level:**

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The Fishery is limited to those species listed in Part II of schedule I of the Pacific Fishery Regulations, 1993, including cockles and pacific oysters with the exception of abalone, which is closed for conservation.

The Fishery has a daily limit maximum, per harvester of:

100 pounds of any species of Manila, Littleneck or Butter clams combined.

If there is a requirement to harvest more than 100 pounds in a day by a harvester, a designated representative of the Johnstone Straits First Nation or his/her designate may issue a designation certificate authorizing the harvest.

Gear and Gear Identification:

The following gear may be used:

- a) Handpicking, rake, shovel and diving; and
- b) Traps, on condition that:
 - (i) They have attached a floating buoy legibly marked with the name of the designated individual and the Johnstone Strait First Nation that designated the individual.
 - (ii) Crab traps have a section in the top or sidewall that has been secured by a length of untreated cotton twine (Rot Cord) no greater than #120. On deterioration this must produce a rectangular opening with a minimum size of 7cm X 20cm, or an opening with a minimum size of 11cm X 11cm.

Dates and Times:

Fishing is authorized by this licence

from 0001 hours April 01, 2009 to 2359 hours March 31, 2010.

Area:

Fishing is permitted in the following area:

the waters of Queen Charlotte Strait, Johnstone Strait and the northwestern areas of Georgia Strait including the waters from the southern tip of Hornby Island to the northern tip of Cortes Island and the waters of Queen Charlotte Sound Northeast of Cape Sutil (Management Areas 11-1, 11-2, 12, 13, and 14-7 to 14-15, inclusive)

Other Provisions:

A Commercial Fishing Vessel shall not be used to fish under authority of this licence for a species of fish:

- (a) Six (6) hours prior to that vessel being used to fish for the same species under the authority of a commercial licence;
- (b) while that vessel is being used to fish for the same species under the authority of a commercial licence; or
- (c) twelve (12) hours after that vessel has been used to fish for the same species under the authority of a commercial licence

The minimum size limit for Dungeness Crab is 165 mm and the minimum size limit for Red Rock Crab 115 mm, both measured in a straight line across the widest part of the carapace, or shell.

Always check for both PSP and Sanitary Contamination Closures if you plan on consuming any shellfish. Information on sanitary contamination (human and animal waste) closures, and

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in-season closures due to Paralytic Shellfish Poisoning (red tide) is available at the Campbell River DFO office at phone: (250) 850-5701 or the Port Hardy DFO office at phone: (250) 949-6755 or call 1-866-431-3474 toll free or on the Internet at: <http://www.pac.dfo-mpo.gc.ca/fm-ep/contamination/index-eng.htm>.

MARINE MAMMALS

Species' Maximum Harvest Level:

The Fishery is limited to a maximum harvest of:

Harbour seals (*Phoca vindina*) 15

Gear and Gear Identification:

The following gear is permitted to be used:

Seals may be harvested by use of:

- (a) a rifle and bullets that are not full metal-jacketed and that produce a muzzle velocity of not less than 1,800 feet per second and a muzzle energy of not less than 1,100 foot pounds; and
- (b) a shotgun of not less than 20 gauge and rifled slugs.

Dates and Times:

Fishing is authorized by this licence

from 0001 hours April 01, 2009 to 2359 hours March 31, 2010.

Area:

Fishing is permitted in the following area:

the waters of Queen Charlotte Strait, Johnstone Strait and the northwestern areas of Georgia Strait including the waters from the southern tip of Hornby Island to the northern tip of Cortes Island and the waters of Queen Charlotte Sound Northeast of Cape Sutil (Management Areas 11-1, 11-2, 12, 13, and 14-7 to 14-15, inclusive).

Other Provisions:

Seals harvested under the authority of this licence ARE NOT TO BE CONSUMED by humans due to possible health risks.

Seals harvested under this license are to be used for ceremonial purposes only.

A designated representative of the Johnstone Straits First Nations will notify and provide DFO Conservation and Protection Field Supervisor, at the Port Hardy office (phone: 250-949-6422, fax: 250-949-6755) or at the Campbell River office (phone: 250-850-5701, fax: 250-286-5854) with harvest times and information including total harvest by species and number at the end of each month during the term of this licence.

Eulachon

Gear and Gear Identification:

The following gear is permitted to be used:

- (a) Dipnet;

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- (b) Weir;
- (c) Trap net;
- (d) Hook and line;
- (e) Beach seine; and
- (f) Trawl.

Any gear left unattended must be clearly marked with the name of the designated fisher and First Nation.

Dates and Times:

Subject to closures for conservation purposes, harvesting of eulachon is authorized by this licence from 00:01 hours April 1, 2009 to 23:59 hours March 31, 2010.

Harvesting Areas:

Harvesting is permitted in the following areas:

the waters of Queen Charlotte Strait, Johnstone Strait and the northwestern areas of Georgia Strait including the waters from the southern tip of Hornby Island to the northern tip of Cortes Island and the waters of Queen Charlotte Sound Northeast of Cape Sutil (Management Areas 11-1, 11-2, 12, 13, and 14-7 to 14-15, inclusive)

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SCHEDULE C-1

Communal Commercial Fisheries Access

Licensing

1. DFO will issue to MTMMS Communal Commercial Licences for 2009-2010 that include the conditions respecting species, gear type and vessel description set out in Appendix 1.

Proof of Designation to Fish under a Communal Commercial Licence

- 2(a) No person other than a designated person may fish under a Communal Commercial Licence.
- 2(b) A person fishing under a Communal Commercial Licence will carry a communal commercial designation document at all times while engaged in fishing or any other activity referred to in this Schedule, including the harvesting, transporting and landing of fish, and will show the communal commercial designation document, and proof of identity, to a Fishery Enforcement Officer, upon request.

Management Responsibility of MTMMS

- 3(a) MTMMS will designate persons to fish under each Communal Commercial Licence by issuing, before fishing under the Licence commences, a communal commercial designation document to each person designated. Each document will bear the Communal Commercial Licence number, the names of the persons designated to fish under the Licence, and the name and registration number of the Vessel.
- 3(b) MTMMS may amend the list of names of persons designated to fish under each Communal Commercial Licence, and the names and registration numbers of the Vessels referred to in subsection 3(a).
- 3(c) MTMMS will notify each person designated to fish under the authority of a Communal Commercial Licence of the provisions of this Schedule and the Communal Commercial Licence. MTMMS will notify each person designated of any amendments to this Schedule or the Communal Commercial Licence.

Costs

4. MTMMS is responsible for all costs associated with the fishing activities referred to in this Schedule.

MTMMS Contribution to Fisheries Management

- 5(a) MTMMS has prepared and submitted a business plan to DFO for the Communal Commercial Licence(s) issued under the ATP as set out in Appendix 1 to Schedule C-1.
- 5(b) MTMMS agrees to pay to DFO, or third parties as the case may be, for every year in which a Communal Commercial Licence is issued, the management fees which are associated with a commercial fishing licence containing the same conditions as the Communal Commercial Licence respecting species, gear type and, where applicable, quota.

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General

6. Any sale of fish harvested under a Communal Commercial Licence will be subject to all federal and provincial laws related to sale, including, but not limited to, laws respecting health and safety, inspection, processing, packaging, storage, export, quality control and labelling.

Coming into Force

7. This Schedule will come into force as of April 1, 2009, and, subject to section 15 of the Agreement, will terminate on March 31, 2010.

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Appendix 1 to Schedule C-1

Communal Commercial Licence(s) and/or Quotas

1. The communal commercial fishing licence(s) referred to in section 1 of this Schedule, for which commercial fishing capacity was retired under the Licence Retirement Program in 1993/94, are:

- | | | |
|-----|---|-----------------|
| (a) | Species of fish: | salmon (FAG 87) |
| | Gear type: | gillnet |
| | Maximum Vessel length: | 12.50 metres |
| | Area: | C |
| | Contribution for Use: | \$0 |
| | Contribution for Project Activities: | \$0 |
| | Containing the usual conditions of a salmon "A" commercial fishing licence. | |
| (b) | Species of fish: | salmon (FAG 04) |
| | Gear type: | gillnet |
| | Maximum Vessel length: | 11.53 metres |
| | Area: | D |
| | Contribution for Use: | \$0 |
| | Contribution for Project Activities: | \$0 |
| | Containing the usual conditions of a salmon "A" commercial fishing licence. | |
| (c) | Species of fish: | salmon (FAG 06) |
| | Gear type: | gillnet |
| | Maximum Vessel length: | 10.67 metres |
| | Area: | D |
| | Contribution for Use: | \$0 |
| | Contribution for Project Activities: | \$0 |
| | Containing the usual conditions of a salmon "A" commercial fishing licence. | |
| (d) | Species of fish: | salmon (FAG 09) |
| | Gear type: | gillnet |
| | Maximum Vessel length: | 10.54 metres |
| | Area: | D |
| | Contribution for Use: | \$0 |
| | Contribution for Project Activities: | \$0 |
| | Containing the usual conditions of a salmon "A" commercial fishing licence. | |

2(b) In accordance with subsection 22(6) of the Fishery (General) Regulations, compliance with the *Fisheries Act* and regulations will be a condition of the Communal Commercial Licence.

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SCHEDULE F-1

Contribution

Financial Contribution

1. DFO will contribute to MTMMS up to ONE HUNDRED AND EIGHTY-FIVE THOUSAND DOLLARS (\$185,000.00) during the Fiscal Year 2009-2010 to be used exclusively for paying Eligible Costs. Any interest earned by MTMMS on the Contribution or any part of it will also be used exclusively for paying Eligible Costs.

Requirements Prior to Advances

- 2(a) MTMMS will provide to DFO, as soon as possible after this Agreement comes into force a cash flow projection of Eligible Costs to be paid during Fiscal Year 2009-2010 commencing on the day following the date this Agreement comes into force.
- 2(b) If the total funding level is changed, a revised cash-flow projection is required showing the Eligible Costs MTMMS expects to incur during the remainder of the Fiscal Year.

Method of Payment**Reimbursement**

- 3(a) Where this Agreement comes into force after April 1, 2009, MTMMS may prepare and provide to DFO a claim for reimbursement of Eligible Costs paid or payable during the period from April 1, 2009, to the date this Agreement comes into effect, which claim will include a report on the progress of MTMMS in carrying out projects during that period, itemized by project category in the form set out in the Contribution Progress Report.
- 3(b) Subject to subsections 11(a) and 11(d), where pursuant to subsection 3(a), MTMMS submits a claim for reimbursement, DFO will reimburse MTMMS for Eligible Costs paid or payable by MTMMS during the period covered by the claim.

Advances

- 4(a) Following receipt of the cash flow projection referred to in subsection 2(a) or 8(b) and subject to subsections 11(a) and 11(d), DFO shall provide MTMMS, at the beginning of each quarter of a fiscal year, upon request, with an advance equal to the Eligible Costs for this quarter based on MTMMS's cash flow projection.
- 4(b) Where a Contribution Progress Report referred to in subsection 8(a) or section 9 indicates that the total of the reimbursement, advances and payments paid to MTMMS pursuant to this Agreement exceed Eligible Costs paid or payable by MTMMS during the period covered by the Contribution Progress Report, DFO shall deduct the Balance from any advance or advances, or payment or payments to be made by DFO to MTMMS pursuant to subsection 4(a) or section 6.

Supplementary Payments

5. Following receipt of a supplementary report referred to in section 9, DFO may, in its discretion, increase the amount to be paid during the period covered by the revised cash flow projection contained in the supplementary report by:

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- (i) adjusting the amounts of the advances to be provided, pursuant to subsection 4(a) during the period; or
- (ii) paying an additional payment to MTMMS.

Final Payment

6. Subject to subsection 11(c) of this Agreement, following receipt and approval of the Final Report referred to in section 10, DFO will pay to MTMMS the amount, if any, by which MTMMS's total Eligible Costs as reported in the Final Report exceed all payments, advances and reimbursements made by DFO under this Agreement.

Reports

7. Reports will be submitted pursuant to subsections 3(a), 8(a) and sections 9, 10 and 11. All payments, other than the initial advance, where such has been requested, will be subject to receipt and approval of progress/supplementary/final reports.

Interim Reports

- 8(a) As required under subsections 3(a) and 4(a), MTMMS will complete and submit to DFO a report on the progress of MTMMS in carrying out projects during that period, itemized by category in the form set out in the Contribution Progress Report.
- 8(b) MTMMS may, in conjunction with an interim report referred to in subsection 8(a), submit a revised cash flow projection showing Eligible Costs MTMMS expects to incur during the remainder of the applicable Fiscal Year referred to in section 1.

Supplementary Reports

9. MTMMS may, at any time prior to the submission of the Final Report referred to in section 10, submit a supplementary report consisting of a report on the progress of MTMMS in carrying out the projects to the date of the report, itemized by project category in the format as set out in the Contribution Progress Report.

Final Report

- 10(a) Within one-hundred and twenty (120) days following the end of each of the Fiscal Years referred to in section 1 of this Schedule, MTMMS will complete and submit a final report to DFO containing
- (i) a report on the progress of MTMMS in carrying out the projects, itemized by category in the format as set out in the Contribution Progress Report, and
 - (ii) a summary of results.
 - (iii) but in the event that, during the Fiscal Year,
- MTMMS incurs Eligible Costs in an amount equal to or exceeding the maximum amount payable in the Fiscal Year as identified in subsection 11(b);
- (i) the Project is completed;
 - (ii) this Agreement is terminated; or
 - (iii) MTMMS abandons the Project.

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MTMMS will complete and submit the final report within one-hundred and twenty (120) days of that event.

- 10(b) Notwithstanding anything in this Schedule, no payments will be made by DFO to MTMMS following review by DFO of the Final Report except the final payment referred to in section 6.

Holdback and Overpayments

- 11(a) A five percent holdback will apply. In no event will the total amount of the reimbursement (if applicable), the advances and payments made by DFO pursuant to subsections 3(b), 4(a), and section 5 respectively, exceed ninety-five percent of the amount referred to in section 1 of this schedule.
- 11(b) In no event will the total of all reimbursements, advances and payments made by DFO pursuant to this Agreement exceed ONE HUNDRED AND EIGHTY-FIVE THOUSAND DOLLARS (\$185,000.00) during Fiscal Year 2009-2010.
- 11(c) All payments made pursuant to this Agreement are subject to DFO approving MTMMS's projected costs and actual expenditures as set out in the cash flow projections referred to in subsections 2(a), 2(b) and 8(b) and the reports submitted pursuant to subsections 3(a) and 8(a) and sections 9 and 10.
- 11(d) Where MTMMS provides a report referred to in subsections 3(a) or 8(a) or sections 9 or 10 but the report does not, in DFO's opinion, contain the information required for the report, DFO may, in its discretion, withhold any payment to be made by DFO to MTMMS pending receipt by DFO from MTMMS of the information required.
- 11(e) Where MTMMS fails to provide:
- (i) a report referred to in subsections 3(a) or 8(a) or sections 9 or 10;
 - (ii) the cash flow projection referred to in subsections 2(a) or 8(b); or,
 - (iii) the Contribution Progress Report.
- in a form acceptable to DFO, or by the date the report or information is due, DFO may, in its discretion, withhold any payment to be made by DFO to MTMMS pending receipt by DFO from MTMMS of the relevant document or information in a form acceptable to DFO.
- 11(f) (i) Within fifteen (15) days following the completion of the Project, termination of this Schedule or the Agreement, or abandonment of the project by MTMMS, whichever first occurs, MTMMS will repay to DFO any amount of the contribution not used to pay Eligible Costs.
- (ii) MTMMS will refund to DFO, forthwith upon written request by DFO, any funds advanced to MTMMS for which unsatisfactory evidence has been furnished by MTMMS that the funds have been spent in accordance with this Schedule.
- (iii) Any amount that MTMMS is under obligation to refund under (i) and (ii) will be a debt owing to Her Majesty the Queen in Right of Canada.
- 11(g) DFO may, in its discretion, require MTMMS to provide a Contribution Progress Report at any time.

Audit

12. MTMMS shall, on demand, permit DFO, or any person that DFO may from time to time designate, to audit, take copies and extracts from and examine the books, accounts,

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records, supporting documentation, reports and any other documents referred to in subsection 13(a)(i) as DFO deems fit and shall provide all necessary assistance for the audits and examinations. Any discrepancies identified by an audit or otherwise shall be promptly adjusted between the Parties.

General Provisions

- 13(a) MTMMS shall:
- (i) keep books, accounts, records and supporting documentation with respect to all financial transactions related to the Contribution in accordance with Canadian generally accepted accounting principles;
 - (ii) preserve the books, accounts, records and supporting documentation mentioned in subsection (i) together with reports and any other documents related to the Activity for a period of two years following termination of this Agreement;
 - (iii) on request, provide to DFO any of the documentation mentioned in subsection (i) for audit, copying or extracting by any person that DFO may designate and MTMMS will provide all necessary assistance for such activities.
- 13(b) MTMMS will maintain an inventory of Capital Acquisitions. A Capital Acquisition will remain listed on the inventory until:
- (i) DFO authorizes the disposition of the Capital Acquisition;
 - (ii) replacement is required due to wear;
 - (iii) the Capital Acquisition is no longer of use to carry out projects associated with the AFS; or
 - (iv) no further agreements between DFO and MTMMS under the AFS are anticipated.
- 13(c) MTMMS agrees that, at the end of the Project, or upon termination of this Agreement, if earlier, Capital Acquisitions will be:
- (i) maintained and stored if a subsequent agreement between the DFO and MTMMS under the AFS is anticipated; or
 - (ii) disposed of in a manner agreed to by the Parties.
- 13(d) Within thirty (30) days following the end of the Fiscal Year referred to in section 1 of this Agreement, MTMMS shall repay to DFO any amount of the Contribution and interest earned thereon not disbursed for Eligible Costs.
- 13(e) Should MTMMS fail to immediately pay any debt to DFO in full, interest on the outstanding debt shall accrue in accordance with the federal government's Interest and Administrative Charges Regulations until the full amount payable has been received by DFO.
- 13(f) In no event will DFO make a reimbursement pursuant to subsection 3(b) or adjust the amounts of advances or pay an additional payment pursuant to section 5 following receipt of the Final Report referred to in section 10.

Stacking and Other Financial Assistance

- 14(a) MTMMS states that it has neither requested nor received any other financial assistance for the purposes of the Project for the fiscal year, MTMMS must provide details and amounts of additional assistance in subsection 14(b).

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14(b) MTMMS has requested, received, or will receive, the following financial assistance, in addition to that provided for in this Agreement:

\$ _____ from other federal departments _____
 \$ _____ from the government of the province of _____
 \$ _____ from _____ (regional or municipal government)
 \$ _____ from _____ (Crown corporation)
 \$ _____ from _____ (private sector organisation)

\$ _____ (the total amount should be entered here)

14(c) MTMMS agrees to inform DFO promptly in writing of any additional financial assistance received, after the date on which this Agreement is signed, for the Project other than the financial assistance referred to in section 1 or subsection 14(b).

14(d) If MTMMS is to receive, or receives, financial assistance from another funding source for the same item(s) that DFO contributes to for the Project, then DFO shall have the right to:

- (i) reduce the Contribution by the amount of assistance for the same item(s); or
- (ii) require payment of an amount equal to the assistance for the same item(s) if the Contribution has already been paid, and upon receipt of notice to repay under this section MTMMS agrees to repay the amount as a debt to DFO.

14(e) DFO supports partnering arrangements under which MTMMS seek financial assistance from other funding sources. For greater certainty, subsection 14(d) does not apply where financial assistance from another funding source is for a different item(s) than items funded by DFO for the Project.

Coming into Force

15. This Schedule will come into force as of April 1, 2009, and, subject to section 15 of the Agreement, will terminate on March 31, 2010.

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Appendix 1 to Schedule F-1

Description of Eligible Costs

Eligible Costs for Re-Imbursement

The Eligible Costs for reimbursement may include reasonable and properly itemized costs for:

- (i) office lease or rent
- (ii) administrative expenses (e.g. phone, fax, internet, other utilities, bank fees, office supplies and materials)
- (iii) costs incurred in carrying out an audit associated with the Agreement
- (iv) human resource costs, including salaries and benefits (in-house)
- (v) contracted and professional service costs other than travel or litigation costs
- (vi) travel and related expenses for contracted professional service providers or other non-employees
- (vii) insurance expenses related to activities under the Agreement
- (viii) travel and related expenses for employees
- (ix) purchase of equipment, supplies and materials
- (x) lease or rental of equipment, supplies and materials
- (xi) repair and maintenance of equipment, facilities, vessels and vehicles related to the Agreement
- (xii) meeting expenses (e.g., hall, rent, supplies, hospitality)
- (xiii) consultation costs
- (xiv) GST or HST paid that is not eligible for reimbursement or exemption
- (xv) training fees and expenses, including materials
- (xvi) legal fees related to the agreement (excluding litigation costs)
- (xvii) outreach materials (e.g. printing costs, web sites)
- (xviii) bank interest fees if incurred where DFO is at fault
- (xix) purchase or lease of equipment and equipment upgrades, vessels and vessel upgrades, commercial licenses, vehicles and/or gear in support of the Agreement activities
- (xx) operating expenses for equipment, vessels and vehicles for non-commercial enterprises
- (xxi) purchase, lease, rent or construction of facilities (e.g. storage and mobile accommodation but excluding rolling stock, wharfage and administrative buildings) in support of Agreement activities
- (xxii) construction of new vessels and/or gear.

Costs other than those herein allowed are ineligible, unless specifically approved, in writing by the individual in DFO with agreement signing authority.

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SCHEDULE G-1

Project Summary

The project consists of activities carried out by MTMMS and approved by the Parties related to the following:

<u>DESCRIPTION OF ACTIVITY</u>	<u>ESTIMATED EXPENDITURE</u>
--------------------------------	------------------------------

1. Aquatic Resource Management and Stewardship

<p>(a) Capacity Development (Development of Aquatic Resource Management Structure(s) and governance –includes organization strategic planning, administration and overall program management)</p>	<p>\$35,000.00</p>
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(i) AFS Agreements and Planning \$2,500

Attend internal meetings to review and prepare CFA and AFS program priorities and list of potential project activities. Meet with DFO staff to review and prepare Schedule G for new agreement. Meet and review and prepare potential schedules as outlined in previous year's agreement.

Travel	\$2,000
Meeting room	\$ 500

Expected Results:
Successful negotiation of a completed CFA.

(ii) Marine and Resource Management \$32,500

MTMMS will establish and maintain an organizational structure to support, Marine and Watershed Resource Management that will include:

- Administrative support costs to maintain a physical financial and management system.
- Set up and maintenance of a financial management system to track and report project costs.
- Contract support for technical research and analysis, related to project activities.
- Day to day project management and accounting.
- DFO Reporting, (quarterly and annual) as required Monthly reporting to MTMMS Board of Directors and committees.
- Meetings involving the fisheries committee, monthly (as required) detailed listing to be included in final report.
- Travel related costs for above initiatives.

Meetings (meeting rooms,	
Supplies, hospitality	\$ 2,500
Travel	\$10,000
Professional Fees	\$20,000 (approx 44 days at \$450 per)

Expected Results:
MTMMS will continue to develop their organizational structure in support of their AFS agreement reporting requirements and financial management and accounting systems.

Capacity Development (Training – (Excluding Commercial

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- (b) **Fisheries Training) and Professional Development)**
 (c) **Operational Programming (Oceans and Habitat Management and Stewardship)**
 (d) **Operational Programming (Science: Stock Assessment, Research and Traditional Ecological Knowledge)** \$147,500.00

(i) Monitoring of Spawning Escapements and Research \$30,000

MTMMS staff will provide a field supervisor/coordinator, crew labor, and support costs to undertake in partnership with DFO 3 stream enumeration and assessment projects.

Embly

In partnership with DFO, MTMMS crew will assist in battery changing and downloading of information from video recorder installed on the fish-way. This is required to be done twice per week from July through October. Information is to be submitted to DFO on a weekly or bi-weekly basis.

Ahta

This project will entail the capturing of adult pink salmon in the estuary or the lower portion of the Ahta River. Fish will be captured using a beach seine net, enumerated, tagged and released. This project will work towards identifying and understanding survey life for the Ahta River and other pink systems in the Broughton Archipelago.

Sampling events will be conducted by Members of the MTMMS and DFO. Members of the MTMMS will conduct weekly, or bi-weekly stream walks to conduct dead pitch surveys. River swims will most likely be dependent on water flows. First tagging event will occur sometime in July depending on arrival timing of the fish.

Sample rate is targeted for 10 % (assuming a return of 20,000 pinks). MTMMS will look at tagging approximately 2000 fish over 4-5 tagging events (500 fish per event, maybe less to start and more in the later tagging events).

Gilford Creek/Viner River

Stream Walks/Dead Pitch:

- To be conducted by MTMMS (crew of 2).
- Initially once per week, then twice per week as fish begin dying off.
- Section to be covered is included in the stream narratives for each of those systems.

Stream Walk/Dead pitch includes:

- Filling out Stream inspection log.
- Count live, Count dead.
- Water conditions.
- Environmental data.
- Biosampling of dead fish.
- POH (post orbital hypural) length.
- Sex (male/female).
- Scales (for ageing).
- DNA samples from all pinks encountered.

Professional Fees	\$10,000 (approx 22 days at \$450 per)
Labor (crew)	\$15,000 (approx 75 days)
Travel	\$ 5,000 (boat rental)

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Expected Results:

MTMMS will complete and report on salmonid enumerations on the systems listed above, including dead pitches, biological sampling, in river swims, and data submission to DFO on a weekly or bi-weekly basis.

(ii) MTMMS Surveys and Assessment \$100,000

MTMMS will undertake the following surveys and assessments:

Eulachon habitat assessment and meristic analysis in the Kingcome River \$25,000

- The habitat and population assessment will build on data collected in previous years.
- Deliverables will include final report on activities and survey methods using standard DFO methodology.

Herring Surveys \$25,000

Research and Assessment will include:

- Conduct herring spawn surveys throughout the local area using accepted methodology.
- Continue to develop an early warning system to notify fish committee of herring spawn activity.
- Compare against existing DFO data to determine trends of abundance and assist with management.
- Deliverables will include scientific report to be submitted with the annual report detailing herring survey results.

Abalone \$15,000

- Annual habitat assessment and distribution.
- Develop detailed budget to conduct annual Abalone survey using DFO standard methods and procedures.
- Build on last year's analysis and expand the study to include new areas.
- Deliverables will include a scientific report submitted with annual report detailing abalone abundance.

Intertidal Clam \$35,000

- Annual habitat assessment and distribution
- Conduct PSP sampling.
- Field technicians to conduct clam population surveys using accepted survey methodology and building on existing information.
- This program will re-assess those beaches that were harvested and assessed during the 2008 field season and expand to include new important commercial and food fish beaches.

Professional Fees \$39,293 (approx. 90 days at \$450 per)

Labour	\$17,868
Vessel Lease	\$26,831
Travel	\$ 9,943
Equipment Rental	\$ 5,292
Supplies	\$ 773

Expected Results:

- Complete report on Kingcome River eulachon run assessment and habitat.
- Complete roe herring survey and report for local area.
- Complete annual abalone assessment survey and analysis

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- including final report on abundance.
- Continue with surveys and scientific report detailing intertidal clam abundance, species on selected beaches.

(iii) Shellfish Stock Productivity and Safe Harvesting Levels \$2,500

In conjunction with local First Nation groups, the MTMMS will support a joint shellfish sampling program.

Vessel Costs and contribution to the Area shellfish monitoring program in collaboration with the Namgis First Nation - \$2,500

Expected Results:

Continue with joint First Nations shellfish sampling program with CFIA in support of safe shellfish harvesting.

(iv) Traditional Ecological Knowledge \$15,000

Communities will build on information gathered in previous year's AFS projects. Will equally fund ongoing TEK work performed by resident community expertise.

Tsawataineuk Project	\$5,000
Kwicksutaineuk Project	\$5,000
Gwawaenuk Project	\$5,000

Expected Results:

Further consolidation of TEK/AFS project on marine resource data collection and share information with other local First Nation groups.

- (e) **Operational Programming (Fisheries Monitoring, Catch Reporting and Other Resource Management Operations)**
- Collaborative Planning, Consultation and Engagement –**
- (f) **Bilateral/Multilateral/Among Aboriginal Organizations**
- (g) **Business Planning and Feasibility Studies**
- (h) **Public and Community Outreach and Education**
- (i) **Project Monitoring and Evaluation Activities**
- (j) **Stream Enhancement and Restoration**
- (k) **Policy Analysis, Development and Input**

2. **Food Social and Ceremonial Fisheries (FSC) Management**
(FSC Elements are also being covered under other headings)

- FSC Planning and Negotiations (Allocations, Areas, Identification of Capacity Requirements, etc.)**
- (a) **of Capacity Requirements, etc.)**
- (b) **FSC Designation Procedures, Governance and Systems**

(c) **Implementation of FSC Plans**

\$2,500.00

(i) Implement Fishing Plans \$2,500

- Issue FSC licences within the community.
- Undertake catch monitoring, tracking and reporting of FSC caught fish as outlined in the Communal License.
- One seine boat will harvest sockeye for three communities, catch will be monitored, landed and the FSC catch number reported on.
- FSC will be through a coordinated fishery, monitored, landed at a mandatory landing site and catch data will be reported on

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and provided to the DFO Port Hardy Office.

- All other catch data for all other species will be reported on as outlined in Schedule B and the communal licence.

General Administration \$2,500

Expected Results:

Final report to include list of permits issued and outline tracking system. A description of the FSC fishing activity will be reported on as it occurs, catch data will be provided as outlined in Schedule B and the communal licence.

(d) Acquisition and Maintenance of Appropriate Equipment

3. Commercial Fisheries and Aquaculture Capacity

4. Aquatic Resource Management Compliance and Accountability

TOTAL

\$185,000.00

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BETWEEN:

**Her Majesty the Queen in Right of Canada as
represented by the Minister of Fisheries and
Oceans (DFO)**

AND:

**Musgamagw Territorial Marine Management
Society (MTMMS)**

COMPREHENSIVE FISHERIES AGREEMENT

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