



TOURISM PROTOCOL AGREEMENT

BETWEEN: **Dzawada'enuxw First Nation**
General Delivery, Kingcome Inlet, BC, V0N 2B0

AND: **(Company)**
(Company's Address)

(Company) seeks the permission of the Dzawada'enuxw First Nation ("Dzawada'enuxw") to operate eco/adventure and as well as related activities and services aboard their sailing/motor vessel(s), **(Name of boat or boats)** and any other transportation vehicles, including but not limited to: helicopters, off-road vehicles, and kayaks. All tours conducted within the Dzawada'enuxw Traditional Territory will be subject to the following protocol agreement. These activities would be conducted in the areas depicted on the map in Schedule B.

The purpose of this protocol agreement ("Agreement") is to set out the understandings and mutually acceptable terms and conditions necessary to secure this permission and will serve as a permit to provide some certainty for (Company)'s operations.

Background

- A. The Dzawada'enuxw hold Aboriginal Rights and Title within their Traditional Territory (hereinafter called "Territory"), part of which encompasses the operating area proposed for use by (Company). The Dzawada'enuxw' Aboriginal rights and title are recognized and affirmed by Section 35 of the Constitution Act of 1983.
- B. The Dzawada'enuxw recognize themselves as a government actively managing and stewarding the lands, waters and resources in their territory and associated land and marine

areas as shown in Schedule A (“Dzawadā'enuxw Traditional Territory and Land and Marine Use Area”).

- C. The historic and current occupation, use and stewardship by the Dzawadā'enuxw of the lands, waters and resources in their territory and associated land and marine areas is integral to the protection, maintenance and advancement of Dzawadā'enuxw culture, society and economy.
- D. The Dzawadā'enuxw are working to create a viable economy based on the development of human resources, new technologies, infrastructure, products and markets, and the sustainable use of the lands, waters and natural resources in Dzawadā'enuxw Territory in accordance with Dzawadā'enuxw laws, customs and aspirations.
- E. The Dzawadā'enuxw are working to implement land and marine use plans, which provide direction and guidance for the planning, management and use of land and marine resources within Dzawadā'enuxw Territory.
- F. As a level of government, the Dzawadā'enuxw requires a signed agreement with any party wishing to conduct business or research within the Dzawadā'enuxw Territory, and/or seeking an authorization in the Dzawadā'enuxw Territory
- G. (Company) is a commercial organization (i.e. Corporation) registered in British Columbia, which is promoting experiential/educational eco/adventure tours on the South and Central Coast of BC including in the Dzawadā'enuxw Territory.
- H. (Company) seeks to, or may have acquired from the governments of British Columbia and Canada certain permissions and privileges relating to these activities including the use of foreshore and upland areas, and the harvest of fish and wildlife in areas that lie within the Dzawadā'enuxw Territory. The legitimacy of such permissions and privileges requires permission and accommodation of Dzawadā'enuxw Aboriginal Rights and Title, and be in accordance with Dzawadā'enuxw laws, customs and traditions.

1. Principles

1. (Company) and Dzawadā'enuxw will implement this Agreement in accordance with the following principles:
 - a) Trust, mutual respect and cooperation; and
 - b) Open dialogue and communication about each other's interests and issues
 - c) Conservation of the land and marine resources and the cultural heritage of the Dzawadā'enuxw.

2. Operating Permissions

- 2.1 Subject to Section 3, Section 4, Section 5, Section 6 and Section 7, Dzawadā'enuxw provides the following permissions and privileges to (Company):
- a) The ability of (Company) and its employees to enter and access the Dzawadā'enuxw Territory, without interference, and as required so that (Company) may carry out the identified activities;
 - b) The above access and use will be subject to Dzawadā'enuxw First Nation governance and informed by collective concerns in traditional use.
 - c) The above access will be restricted to the (Company) sailing/motor vessel(s) **(Name of boat or boats)**, and/or other approved vehicles.
- 2.2 (Company) agrees to submit a map of the site-specific areas they wish to conduct their tours to the DFN. The DFN will review the maps, and confirm the areas where (Company) is allowed to travel, and where they are not allowed to travel. The company cannot go anywhere within the Dzawadā'enuxw territory without explicit permission from the DFN.
- 2.3 (Company) recognizes that if it seeks to, or have acquired from the governments of British Columbia and Canada certain permissions and privileges relating to these activities in the form of land use tenure or foreshore rights, then that tenure will either be transferred to the Dzawadā'enuxw or applied for in the name of the Dzawadā'enuxw. The Dzawadā'enuxw will through the terms of this agreement sub-lease the tenure to (Company) for a specified period subject to additional terms and conditions as agreed upon by the parties. If for reasons legal or otherwise, this arrangement is not possible then (Company) agrees to not exercise its tenure rights or obligations within the Dzawadā'enuxw territory without a Protocol Agreement. In this case the parties agree to work towards “sunsetting” (Company)’s tenure rights and obligations, and at the end of the tenure term the tenure will be transferred to the Dzawadā'enuxw or applied for in the name of the Dzawadā'enuxw.

3. Information Sharing

- 3.1. (Company) will share with Dzawadā'enuxw any and all information, observations, data and reports gathered by (Company) from their activities in the Dzawadā'enuxw Traditional Territory and Land and Marine Use Area, including, but not limited to, wildlife and cultural information and observations, information and observations relating to other operators and activities, and other information the parties may mutually agree is relevant.
- 3.2. Subject to Section 12, the Dzawadā'enuxw will keep (Company) informed about activities or initiatives, including those planned by people from other tourism businesses, that are relevant to or may impact the activities carried out by (Company).

3.3. Annual meetings will be held with representatives from (Company) and Dzawada'enuxw to review and discuss the previous season's tourism activities and the contents of this agreement and determine whether (Company)'s tourism operation proceed using the same goals and objectives as the previous year or whether new plans and agreements must be developed.

4. Benefit Sharing and Economic Relationship

- 4.1. (Company) will give priority to involving the Dzawadā'enuxw in any employment and service contract opportunities related to (Company)'s activities, subject to the principles of availability, competency, quality and competitiveness. (Company) agrees to hire local tour operators to conduct tours up the Kingcome valley.
- 4.2. (Company) will support the Dzawadā'enuxw First Nation's interests in developing local capacity by training members of the community where possible.
- 4.3. (Company) agrees to pay the Dzawadā'enuxw a \$20.00 fee per guest day, to a maximum of \$50.00 per guest day, for activities occurring in the Dzawadā'enuxw Territory ("commercial use fees"). (Company) agrees to pay ninety (90) percent of the projected commercial use fees before their operating season with the balance and any adjustments applied to the proceeding year. Payments will be made on June 1, annually or at the signing of this agreement. All commercial use fees collected from tourism operators will be used to support the Dzawadā'enuxw Guardian Program and other related environmental or cultural stewardship activities.
- 4.4. (Company) agrees to contribute its knowledge of tourism and hospitality and business development, and support the Dzawadā'enuxw Nation in the development of locally owned tourism and hospitality businesses.
- 4.5. (Company) and Dzawadā'enuxw will support one another in lobbying government and private sector for funds to develop infrastructure in the area that supports the community of Kingcome and local tourism (e.g. river ferry service, cultural development, trails, cabins etc.), as well as business development funds and assistance in tourism marketing and management.

5. Activities

- 5.1. (Company)'s activities will be restricted to ecotourism, and related tourism activities only (i.e. wildlife viewing, kayaking, camping and hiking, or other uses as appropriate), and any other activities proposed by (Company) (i.e. research or resource use excluding tourism) will be subject to an additional agreement.
- 5.2. The Dzawadā'enuxw does not permit any harvesting of natural resources from our territory. This includes, but is not limited to, fishing on a subsistence basis for the use and consumption of clients and staff while operating within the territory.

- 5.4. (Company) will inform the Dzawadā'enuḵw of the number of user days and the intended activities, dates and areas of operation at the beginning of each season. The DFN will provide permission up to a specific amount of user days.
- 5.5. (Company) and its representatives assume the responsibility to minimize the impact of their activities in the Dzawadā'enuḵw territory and to educate and inform their guests, employees and representatives about minimum impact travel in the territory.
- 5.6. Resource specific understandings, commitments and plans will be appended to this general protocol as separate schedules. These could include: operating areas and/or time restrictions, guest limits, minimum impact guidelines, and other operating guidelines and/or best practices.
- 5.7. (Company) agrees to inform the Dzawadā'enuḵw of any proposed activities or plans, which may impact the provisions of this agreement.
- 5.8. (Company) will ensure it has full liability insurance coverage in respect of all aspects of its operations and activities.
- 5.9. (Company) will have an up to date Emergency Response Plan for its operations in the Dzawadā'enuḵw Territory.
- 5.10. Cultural protocols
 - a) (Company) agrees to not share any cultural information about the Dzawadā'enuḵw First Nation, unless shared by a Dzawadā'enuḵw owned company or Dzawadā'enuḵw guide.
 - b) If (Company) finds themselves in a culturally sensitive site, they will leave it immediately and inform the Dzawadā'enuḵw First Nation where they were.
 - c) All marked and unmarked Dzawadā'enuḵw culturally sensitive sites within the Dzawadā'enuḵw territory are considered off limits by commercial operators.
 - d) The Dzawadā'enuḵw proprietary agreement will be signed and submitted by all visitors before entering Dzawadā'enuḵw territory for commercial tours.
 - e) Signing of Dzawadā'enuḵw proprietary agreement forbids the commercial use of any photography, video, sound or intellectual property collected within Dzawadā'enuḵw territory.

- f) No items can be removed from where they lay by any operators, guides or visitors from Dzawadą'enuxw territories.

6. Management, Compliance and Enforcement

- 6.1. (Company) will make all necessary inquiries and take all reasonable steps to ensure its operations and activities under this Agreement are in strict compliance with relevant legislation and regulatory standards, including but not limited to, environment, licensing and employment.
- 6.2. (Company) will be subject to spot checks by certified Dzawadą'enuxw watchmen. Please refer to section 9.1 for consequences of breach of protocol.
- 6.3. (Company) agrees to take decolonization workshops every year with its staff.

7. Planning

1. The Dzawadā'enuxw agrees to consult with (Company), where required, regarding the development of tourism plans that will help guide tourism activities and development in the Dzawadā'enuxw Territory, including the development of government-to-government agreements with the Province of BC and its Crown Corporations relating to tourism planning, development, management, enforcement and tenure allocation.
2. The parties agree that the Dzawadā'enuxw will retain paramount authority for any final decisions that may result from any planning recommendations in 7.1.

8. Future Permissions and Privileges

- 8.1. The parties agree that the long term rights, and right of use, of tourism resources in the Dzawadā'enuxw Territory belong to the Dzawadā'enuxw First Nation, and that the signing of this agreement does not, in any way, provide any future right, permission or privilege to (Company), or the obligation of the Dzawadā'enuxw First Nation to provide any future rights, permissions and privileges beyond the scope and time frame of this agreement.

9. Events of Default

- 9.1. Any breach of this Protocol Agreement by (Company) may, at Dzawadā'enuxw's discretion, constitute a default under this Protocol Agreement and will immediately invalidate any Dzawadā'enuxw consent or permission, unless within thirty (30) days written notice from Dzawadā'enuxw such default is cured or, if such default is not capable of being cured within such thirty (30) day period, and on Dzawadā'enuxw' consent, (Company) has commenced and thereafter diligently continues to take steps to cure such default.

10. Termination of Operation

- 10.1. This Protocol Agreement will be null and void if for any reason (Company) ceases operations in Dzawadā'enuxw Territory. The permissions and privileges associated with this agreement cannot be sold or transferred to any other party unless agreed to by the Dzawadā'enuxw.

11. Notice

- 11.1. All notices, demands and payments required or permitted to be given hereunder shall be in writing and may be delivered personally, sent by facsimile transmission or may be forwarded by first class prepaid registered mail to the addresses set forth below:

<p>If to (Company):</p> <p>(Company) (Company's Address)</p>	<p>If to Dzawadā'enuxw:</p> <p>Dzawadā'enuxw First Nation General Delivery, Kingcome Inlet, BC V0N2B0 Attention: Ec-Development Council Portfolio</p>
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12. Confidentiality

12.1. The parties agree that certain information concerning the commercial aspects of (Company)'s operations (i.e. business or financial information) is proprietary and confidential (the "Confidential Information"). Dzawadā'enuxw agrees not to disclose any of the Confidential Information to third parties or to any persons except to employees to whom disclosure is necessary in order to carry out the provisions of this agreement. (Company) and the Dzawadā'enuxw will jointly determine what aspects of (Company)'s operations are confidential.

13. Representations

13.1. At no time will (Company) act as an agent of the Dzawadā'enuxw nor will the Dzawadā'enuxw or Dzawadā'enuxw representatives act as an agent for (Company). Thus, neither party will use the other on any proposals or agreements without their consent.

14. Indemnity

14.1. (Company) will indemnify and hold the Dzawadā'enuxw, the Dzawadā'enuxw First Nation, the Dzawadā'enuxw Development Corporation, their officers, employees, guides, watchmen, agents and representatives (collectively "its staff") harmless against all manner of claims, actions, suits, damages, losses and costs resulting from (Company)'s operations in the Dzawadā'enuxw territory including, without limitation, negligence on the part of (Membership companies), Dzawadā'enuxw Development Corporation, Dzawadā'enuxw First Nation or their staff.

15. Modification

15.1. This Agreement may not be modified or amended except in writing signed by the parties hereto or by their administrators, successors and permitted assigns.

16. Severability

16.1. If any part of this Agreement is found to be void, invalid, illegal or unenforceable, such part will be severed from this Agreement and the balance of the Agreement shall remain in force and effect.

17. Dispute Resolution

17.1. (Company) and Dzawadā'enuxw are committed to resolving disputes that may arise in the implementation of this Agreement and may utilize a dispute resolution mechanism as agreed to by the Parties including mediation.

18. Term of Agreement

18.1. The Term of this Agreement is for one (1) year commencing on April 01, 202 and expiring on March 31, 202.

19. Miscellaneous

19.1. This Agreement:

- a) Does not address or affect any claims by the Dzawadā'enuxw arising from past, present or future interference with their Aboriginal Rights and Title;
- b) Is not intended to derogate, abrogate or address any infringements of, the Aboriginal Rights or Title of the Dzawadā'enuxw;
- c) Is not intended to replace the obligations of the Crown to respect, secure and conduct good faith consultation and accommodation respecting the Aboriginal Rights and Title of the Dzawadā'enuxw;
- d) Is considered without prejudice to a Dzawadā'enuxw position on, or Dzawadā'enuxw support for any further activity in the Dzawadā'enuxw Territory, nor does it constitute support for the activity or positions of (Company);
- e) Constitutes the entire agreement between the Parties and supersedes all previous understandings or agreements, written or oral;
- f) Will be implemented in accordance with Dzawadā'enuxw legal traditions and customs; and,
- g) Will be governed and construed in accordance with British Columbia law and applicable Canadian law and will be treated in all respects as a British Columbia contract.

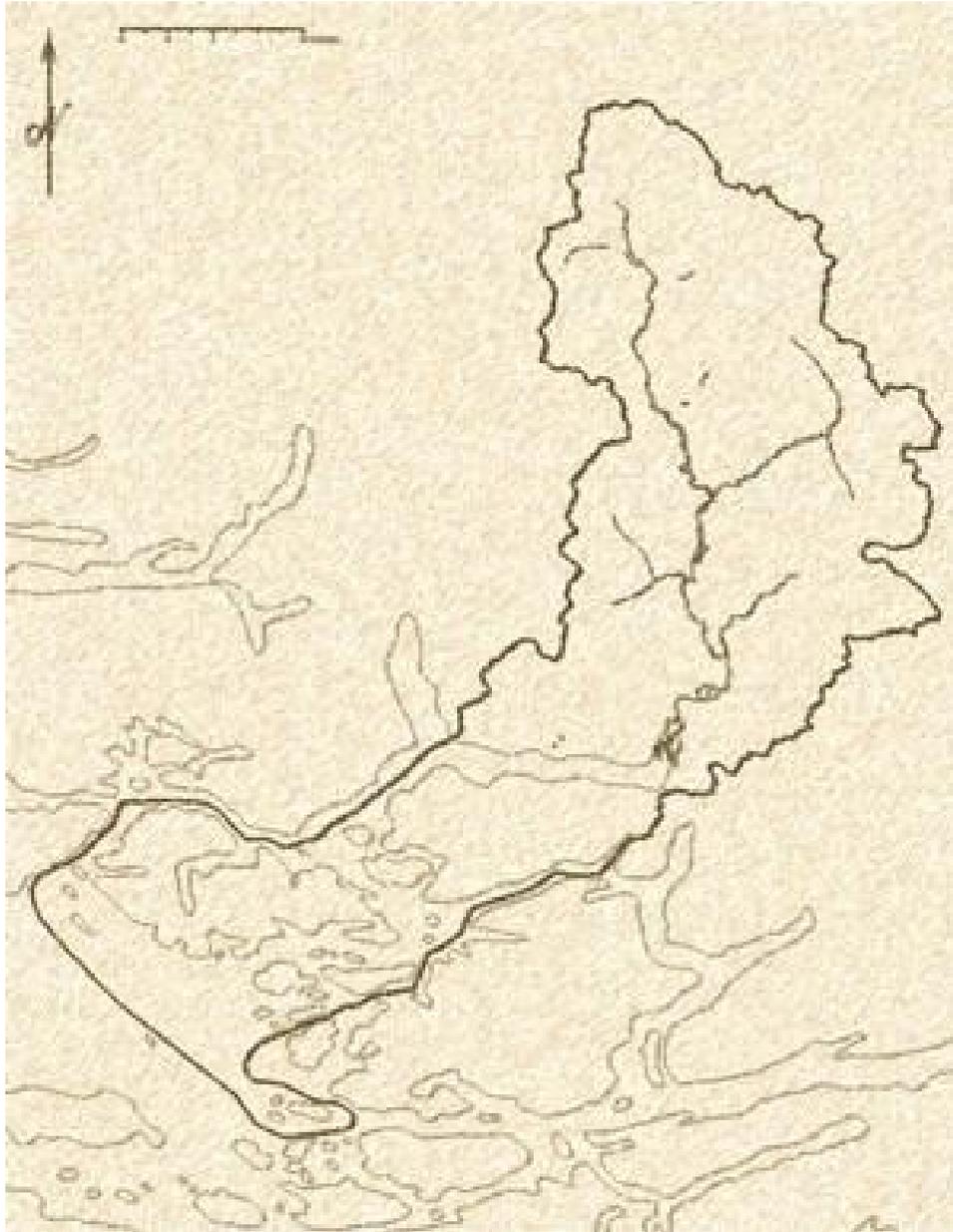
19.2. The Parties hereto represent and warrant that each has the requisite authority to make the promises, covenants and undertakings set out herein and to enter into this Letter Agreement.

IN WITNESS WHEREOF the Parties have hereunto set their hands as of the dates inscribed at a place within British Columbia:

SIGNED, SEALED, and DELIVERED by

For (Company)	For Dzawadā'enuxw First Nation
(Authorized Signatory)	(Authorized Signatory)
(Print Name)	(Print Name)
(Date)	(Date)

SCHEDULE A



**Dzawada'enuxw Territory and
Land and Marine Use Area**

Schedule B

**Proposed Activity Area
(provided by (Company))**

Schedule C
DFN Approved Areas of operation