



Vault Binder: _____
File: _____
Term: _____ to _____

THIS AGREEMENT dated for reference the _____ day of _____, 20____.

BETWEEN:

REGIONAL DISTRICT OF EAST KOOTENAY, a Regional District pursuant to the *Local Government Act*, RSBC 1996, Chapter 323 and incorporated pursuant to the laws of the Province of British Columbia with a place of business at 19 - 24 Avenue South, Cranbrook BC V1C 3H8.

(the "RDEK")

OF THE FIRST PART

AND:

TOBACCO PLAINS BAND, as represented by the Tobacco Plains Chief and Council, and having its office at Box 76, Grasmere BC V0B 1R0.

("Tobacco Plains")

OF THE SECOND PART

WHEREAS

- A. The RDEK is empowered to undertake any work or service for a First Nation Government within the boundaries of the RDEK;
- B. Tobacco Plains is desirous of having the RDEK provide building and plumbing inspection services to the Tobacco Plains Indian Reserve (the "Reserve");
- C. Tobacco Plains Council, pursuant to Council Resolution dated the _____ day of _____ 20____, a copy of which is to be submitted to the RDEK, has approved and consented to the terms and conditions hereinafter set out.

NOW THEREFORE, in consideration of the covenants and agreements contained herein and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties hereto covenant and agree with each other as follows:

1. SERVICES PROVIDED

- 1.1 The RDEK agrees to provide building and plumbing inspection services on the Reserve by a qualified building inspector, pursuant to the terms of the relevant bylaws of Tobacco Plains, when requested to do so.

2. PAYMENT FOR SERVICES

- 2.1 Before December 31st of each year, the RDEK shall provide Tobacco Plains with an invoice for the preceding calendar year, for all expenses incurred by the RDEK on behalf of Tobacco Plains in providing building and plumbing inspection services, such expenses to include actual wages of the building inspector plus 55% for benefits, administration and vehicle costs.
- 2.2 Tobacco Plains shall pay the invoice issued pursuant to Section 2.1 of this Agreement, within 30 days of receipt.
- 2.3 If Tobacco Plains defaults in any payment required to be made to the RDEK under this Agreement for a period in excess of 30 days from the date that Tobacco Plains receives the invoice, the amount owing shall bear interest at a rate of 10% per annum, all calculated monthly on the balance from time to time owing.

3. INSURANCE AND INDEMNITY

- 3.1 Tobacco Plains covenants to obtain and keep in force during the term of this Agreement, at its sole expense, insurance satisfactory to the RDEK protecting the RDEK and Tobacco Plains (without any rights of cross-claim or subrogation against the RDEK) against claims for personal injury, death, property damage or third party or public liability claims arising out of, in connection with, or in any way related to the inspection services provided by the building inspector for Tobacco Plains pursuant to this Agreement and in an amount not less than \$5,000,000.
- 3.2 Tobacco Plains shall indemnify and save harmless the RDEK from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by whomever made, brought or prosecuted and in any manner based upon, arising out of, related to, occasioned by or attributed to the breach of any provision of this Agreement to be performed by Tobacco Plains and the officials, servants, employees, members, agents and contractors of Tobacco Plains.
- 3.3 The RDEK shall indemnify and save harmless Tobacco Plains from and against all claims, demands, losses, damages, actions, suits or proceedings by whomever made, brought or prosecuted against Tobacco Plains and in any manner based upon, arising out of, related to, occasioned by or attributed to any negligence of any employee or agent of the RDEK while in the Reserve in accordance with the provisions of this Agreement.

4. TERMINATION

- 4.1 Should Tobacco Plains fail to perform any covenant or condition required under this Agreement, the RDEK may, at its option, terminate this Agreement and all services provided. The termination of this Agreement by the RDEK shall not preclude the RDEK from bringing action against Tobacco Plains for money owed by Tobacco Plains during the terms of this Agreement and up to the date of such termination.
- 4.2 Should the RDEK fail to perform any covenant or condition required under this Agreement, Tobacco Plains may, at its option, terminate this Agreement and all services provided. The termination of this Agreement by Tobacco Plains shall not preclude Tobacco Plains from bringing action against the RDEK for money owed for services not being delivered by RDEK during the terms of this Agreement and up to the date of such termination.

5. COMMENCEMENT AND TERM OF AGREEMENT

- 5.1 This Agreement shall commence on _____ and shall continue until _____ or until it is terminated by either party giving the other party 60 days written notice of its intention to so terminate. Notice of Termination may be served by either party by letter, sent by registered mail, to the address indicated on the face page of this Agreement.

6. INTERPRETATION

- 6.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the RDEK or Tobacco Plains in the exercise of their functions under any public or private statutes, bylaws, orders or regulations, all of which may be fully and effectively exercised in relation to each other and their assets as if this Agreement had not been executed and delivered by all of the parties to this Agreement.
- 6.2 This Agreement shall not be construed so as to create any greater standard of care of liability on the part of the RDEK in respect of the supplying of building and plumbing inspection services hereunder to occupants within the Reserve, or to land or facilities within the Reserve, than that which applies to the supply of such services to other occupants, lands or facilities within the RDEK.
- 6.3 Headings are inserted in this Agreement for convenience only and shall not be construed as affecting the meaning of this Agreement.

- 6.4

No waiver of any term or condition of this Agreement or waiver of a breach of any term or condition of this Agreement by any party hereto shall be effective unless it is in writing and no waiver or breach even if in writing shall be construed as a waiver of any future breach.
- 6.5

This Agreement constitutes the entire Agreement amongst the parties and there are no terms, conditions, representations, or warranties, expressed or implied, statutory or otherwise, except for those expressly set forth herein.
- 6.6

Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural or feminine or body politic or corporate where the context of the parties hereto so require.
- 6.7

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns.
- 6.8

This Agreement shall be governed and construed in accordance with the laws of the Province of British Columbia.

The Corporate Seal of **REGIONAL DISTRICT OF**
EAST KOOTENAY was hereunto affixed in
the presence of:

Chair

Chief Administrative Officer

CS

SIGNED AND DELIVERED
in the presence of:

Witness

Witness

TOBACCO PLAINS BAND

Chief

Councillor

Councillor