

**Interdepartmental Letter of Agreement  
related to the**

**COOPERATION IN THE AREA OF SURVEYS AND**

**THE SPECIFICATIONS FOR DESCRIPTIONS OF LAND FOR  
TRANSACTIONS ON RESERVE LANDS**

***1.0 DEFINITIONS***

**“Administrative Plan”** refers to a survey plan which is approved pursuant to Section 31 of the CLSA. As a general rule, Administrative Plans will be used for all new internal subdivisions or other surveys related to internal interests in Reserve Lands.

**“Agreement”** refers to this Interdepartmental Letter of Agreement.

**“CLSA”** refers to the *Canada Lands Surveys Act [R.S.C. 1985, c. L-6]*.

**“CLSR”** refers to the Canada Lands Surveys Records in Ottawa

**“Exclusive Use”** refers to an interest in land of an exclusive nature such as a Band allotment, or lease and sub-leases.

**“Exclusive Use Parcel”** is a closed polygon of land, with a unique descriptor, used or intended to be used to describe the extent and location of an Exclusive Use interest in the land. Generally, these parcels are shown on a Plan of Survey.

**“Non-exclusive Use”** refers to an interest in land for a limited purpose such as an access right-of-way or permit for a specific use. A Non-exclusive Use interest does not sever or subdivide the Exclusive Use Parcel on which it is situated.

**“Non-exclusive Use Parcel”** is a closed polygon of land used to describe a Non-exclusive Use interest in land such as a right-of-way, easement, permit, or any other limited interest. A Non-exclusive Use Parcel does not sever or subdivide the Exclusive Use Parcel on which it is situated. Generally these parcels are shown on an Explanatory Plan.

**“Official Plan”** refers to a survey plan which is confirmed pursuant to Section 29 of the CLSA. As a general rule, Official Plans will be used for the survey of jurisdictional boundaries of Reserve Lands or parcels which will create a jurisdictional boundary once a land transaction has been completed.

**“Registry”** includes the Indian Lands Registry System, the First Nations Lands Registry System and the Self-Government Lands Registry System as applicable.

**“Reserve Lands”** refers to surrendered lands or a reserve, as those expressions are defined in the *Indian Act [R.S.C. 1985, c. I-5]*, other than reserve lands described in

regulations made under section 4.1 of the *First Nations Commercial and Industrial Development Act* [S.C. 2005, c.53] .

**“Textual Description”** refers to a word description of land prepared under the guidelines of the Indian Lands Registry Manual or the First Nations Land Registry System (FNLRS) User Guide. Textual Descriptions are prepared without survey instructions, are not based upon a field survey, and are not recorded in the CLSR. Textual Descriptions are suitable only for the description of limited and short term interests.

## **2.0 PURPOSE AND SCOPE**

2.1 This Agreement was prepared in collaboration between the Department of Aboriginal Affairs and Northern Development (hereinafter "AANDC") through the Lands and Economic Development Sector, and the Department of Natural Resources (hereinafter "NRCan") through the Surveyor General Branch (SGB) (hereinafter collectively the "Participants") to:

- a. Establish a framework for cooperation between the Participants in the area of land surveys and land management for Reserve Lands, and;
- b. Identify appropriate methods of describing lands when land descriptions are required for executing and/or registering land transactions in the Registry. This Agreement prescribes which survey plan products to use for specific types of land transactions involving Reserve Lands. It also sets out the basic principles on which the standards for the products and methods of describing land are based.

2.2 This Agreement applies to Reserve Lands and any other lands held and administered by AANDC for the use and benefit of First Nations.

2.3 This Agreement also applies to land descriptions of provincial lands which will be considered for additions to Reserve Lands.

2.4 The *Indian Act* and the *Canada Lands Surveys Act* set out the responsibilities for surveys on reserve lands. The Minister of Natural Resources conducts surveys of reserve lands on the request of the Minister of Aboriginal Affairs and Northern Development or in any case in which he/she deems it to be expedient.

2.5 The requirements for land descriptions for Reserve Lands, as detailed in this Agreement, are the minimum required to provide a definition of the extent of interests to be registered. The Participants, surveyors and land managers, when advising clients, should carefully consider whether the minimum requirements outlined in this Agreement will provide adequate protection to the Crown, the parties to the proposed transaction and to any third parties that the transaction may affect.

2.6 Given advances in land management tools, land administrators expect and rely upon accurate parcel mapping for their research and decision making. Whereas survey plans are reflected on the parcel mapping and textual descriptions are not, survey plans are recommended for all land descriptions.

2.7 This Agreement is a transitional document to coordinate land description and Registry requirements with the new "National Standards for the Survey of Canada Lands" and the companion document "Getting a Survey Done" on Canada Lands. The format and requirements for surveys outlined in the National Standards are intended to align with provincial land management practices which typically surround Reserve Lands. This alignment of survey practices is intended to streamline and simplify survey requirements for the industry and land administrators.

### **3.0 INTERDEPARTMENTAL COOPERATION**

3.1 It is understood that the ability of each Participant to undertake forms of cooperation under this Agreement is subject to the availability of funds and resources (including facilities and personnel). The form of cooperation shall be negotiated, agreed upon and ratified at the appropriate management level, within the scope of their respective mandates, responsibilities and capacities. Nothing in this Agreement prevents the Participants from entering into tripartite agreements.

3.2 Services requested by AANDC and provided by NRCan that are considered to be over and above those related to mandated NRCan activities noted in Section 3.4 will be funded on an incremental cost recovery basis as per Treasury Board policies. The terms of financing will be established and approved by the Participants as part of an Interdepartmental Letter of Agreement ("ILOA"), prior to the commencement of any cooperative activity. No cost incurred by one Participant shall be assumed by the other Participant unless otherwise agreed to in writing under an ILOA. All costs or estimated costs will be detailed in the ILOA.

### **3.3 Mandated Activities/Responsibilities of AANDC**

AANDC employees support the registration of legal interests (First Nations and non-First Nations) in the three lands registries administered by AANDC, and ensure registration is carried out in accordance with the *Indian Act* by:

- a. ensuring that surveys of First Nation lands match the information about interests in land recorded in the land registries managed by AANDC;
- b. setting criteria for survey project funding, with NRCan and individual First Nations;
- c. allocating survey funds to regions and tracking funded surveying projects/activities;
- d. reviewing legal land descriptions to ensure that they meet registry requirements and are compatible with previously registered interests;
- e. reviewing land description reports prepared under the *First Nations Land Management Act* defining the extent of reserve lands; providing advisory and research services to departmental officials and external parties resulting from interpretations of land descriptions and titles found in historical records;
- f. providing ministerial approval for official survey plans undertaken pursuant to s.29 of the *Canada Lands Survey Act* focusing on external reserve boundaries.

### ***3.4 Mandated Activities of NRCan***

For existing Canada Lands, the mandated responsibilities managed and funded by NRCan include:

- a. setting survey standards for Canada Lands;
- b. providing specific survey instructions;
- c. confirmation and approval processes, examination of plans and survey returns deemed necessary by SGB;
- d. field inspections deemed necessary by SGB;
- e. boundary monitoring deemed necessary by SGB;
- f. custody and maintenance of survey records;
- g. providing public access to survey records, and;
- h. providing advice on the Canada Lands Surveys System including processes and applications for accessing records.

### ***3.5 Cost Recovery Activities of NRCan***

Survey and mapping products and services requested by AANDC shall be funded by AANDC through an ILOA. These items include but are not limited to:

- a. researching and providing advice on boundary and survey issues and survey requirements;
- b. preparing work specifications and support materials for proposed surveys to support a request for specific survey instruction;
- c. project and contract management of surveys;
- d. conduct field surveys for boundary investigations and surveys by SGB staff;
- e. research, review and / or preparation of land descriptions by SGB staff;
- f. preparation of expert reports or custom mapping products including photo map overlays, and;
- g. training for AANDC staff and for First Nations.

## ***4.0 DESCRIPTIONS TO SUPPORT REGISTRATION OF LAND TRANSACTION DOCUMENTS***

4.1 AANDC is responsible for managing land transaction records for Reserve Lands in the Indian Lands Registry System (ILRS). New transaction documents will not be accepted into the ILRS unless the extent of lands affected by the document contains an adequate land description. This agreement sets out what is considered adequate for this purpose.

4.2 To describe the location and extent of lands subject to a land transaction that will be registered in the Registry, only the following land description products shall be used:

- a. Official Plan prepared under Section 29 of the *CLSA*, or
- b. Administrative Plan prepared under Section 31 of the *CLSA*, or
- c. Surveys prepared under provincial jurisdiction and recorded in a provincial lands registry with a copy recorded in the *CLSR*, or
- d. Textual Description.

4.3 The minimum land description requirement for any new interests to be recorded in the Registry is identified in Chart A, Section 10.0 of this Agreement.

4.4 A survey plan that was authorized by Specific Survey Instructions issued prior to the signing of this Agreement may be used for the transaction that was intended in the original request for instructions. Older survey plans may be used provided the survey is technically equivalent to a survey plan required by this Agreement.

4.5 If specific circumstances warrant it or in cases where it is not clear which product should be used, the Manager of the Regional Office, Surveyor General Branch (SGB) of NRCan and the AANDC Regional Lands Manager, will jointly identify the product to use.

4.6 General plan suitability criteria for the Registry:

- a. When an entire interest in land is being returned to a First Nation, the original land description used to create that interest in the transaction document, is acceptable for use in the transaction document returning the interest to the First Nation, if approved by SGB (see Section 6.3);
- b. All Exclusive Use Parcels created by a plan, including roads to be set aside for band purposes, will be identified by a distinct lot number consistent with the records of the Registry. Non-exclusive Use Parcels, such as those that will be subject to a permit, access right of way, or easement shall not be identified with a distinct lot number;
- c. If the parcels created by a plan are not compatible with current registered interests, any request for registration using the plan will be rejected until the underlying interests are dealt with and the plan will not be publicized in the Registry abstracts until the plan is modified or until the individual interests are dealt with.
- d. A description used in a transaction document currently in the Registry, may continue to be used on subsequent transactions of that parcel as long as there are no changes to the parcel.

4.7 Existing Exclusive Use Parcels which are shown on a recorded survey plan prepared from a field survey, or which are described by reference to Township Sections, may be subdivided without surveying the entire parcel. A remainder parcel is created when an Exclusive Use Parcel has a smaller parcel subdivided and removed from the original or parent parcel. Subject to Section 4.8, a remainder parcel may be permitted by the Registry as long as the remainder parcel can be described by reference to two or more survey plans (For example Lot 1 on Plan X, except Lot 2 on Plan Y).

4.8 Remainder parcels described in Section 4.7 must be dealt with by a new survey, either as part of a fully surveyed Plan of Survey or on a separate Compiled Plan of Survey, and assigned a distinct parcel designator, in the following cases:

- a. Where the parent parcel being subdivided is not shown on a recorded plan of survey which is based upon a field survey;
- b. Where the subdivision of a parcel creates two disjointed or unconnected remainder parcels, and these remainder parcels define an interest recorded in the Registry;

- c. Where, due to the complexity of the parcel description or the potential for conflict or conflicting claims, the Registry has placed a note on the Parcel Abstract for the parcel being subdivided indicating that “Any further subdivision of the parcel will required the entire parcel to be surveyed leaving no remainder parcels.”
- d. Where the remainder parcel is created by the survey of a road or other right-of-way intended as an Exclusive Use Parcel, which severs a portion of the parent parcel.

4.9 Surveyors are encouraged to deal with remainder parcels as part of their survey whenever practical to do so. Persons requesting a survey still have the option of having the remainder parcel included in the survey and assigned a distinct parcel designator if they wish. Such a request should be indicated in the request for survey instructions.

4.10 Transactions recorded in the First Nations Land Registry or a registry created by Self-Government Land Registry will contain an adequate land description as specified in regulations specific to those registries. In the absence of an agreement specifying survey requirements for transactions filed in these registries, Chart A in Section 10.0 will be applied.

## ***5.0 DESCRIPTIONS TO SUPPORT FIRST NATIONS LAND MANAGEMENT ACT IMPLEMENTATION***

5.1 In accordance with the *First Nations Land Management Act [S.C. 1999 c.24]*, The Surveyor General of Canada Lands has the mandate to approve a land description of Reserve Lands or First Nation lands that will be subject to a First Nation Land Code under the Act. The Surveyor General has the sole authority to determine if a land description is adequate for this purpose.

5.2 Land descriptions will be prepared by SGB in accordance with guidelines prepared for this purpose. In general, land descriptions will reference survey documents recorded in the Canada Lands Surveys Records or other public land registries.

## ***6.0 DESCRIPTIONS TO SUPPORT AN ADDITION TO RESERVE***

6.1 Land descriptions for a proposed Addition to Reserve will be prepared by SGB at the request of AANDC. SGB will review existing survey records and advise AANDC on the suitability of these documents or the need for additional survey work. In general, the description of proposed Addition to Reserve lands will be based upon Plans recorded in the CLSR.

6.2 Plans depicting surveys carried out under provincial legislation and approved by provincial authorities, that define boundaries of land that may subsequently become reserve lands, may be used in a land description for a proposed Addition to Reserve after a copy of the provincial plan is recorded in the CLSR. The Manager of the Regional Office, SGB must be consulted to decide if the existing provincial plan is satisfactory and suitable for recording in the CLSR.

6.3 Where former reserve lands are being returned to Canada for proposed Addition to Reserve, the land description used to remove the lands from the reserve may be used, if approved by SGB.

## ***7.0 SURVEY PLAN TYPES***

The National Standards for the Survey of Canada Lands sets out standards for survey products referenced in this Agreement. The following are only general descriptions of the various survey plan products.

**“Plan of Survey of...”** is a plan prepared from a full field survey with official survey monuments placed to reference all corners of the parcels or boundary.

**“Compiled Plan of...”** is a plan prepared or compiled entirely from information found on plans and field notes recorded in the CLSR or provincial registry. A Compiled Plan may be used to create a new parcel where all the corners of the new parcel have been previously defined by surveys; it may be used to describe a Remainder Parcel (see Section 4.7); or it may be used to consolidate existing surveyed parcels.

**“Explanatory Plan of...”** is graphical description of a parcel, prepared without a full field survey of the boundaries. Parcel boundaries are defined by, or in relation to, existing boundaries or monuments shown on plans and field notes recorded in the CLSR. Explanatory Plans are suitable for short-term Exclusive Use Parcels or for Non-Exclusive Use Parcels, or for a Band Vote for Designation.

**“Plan of Building Unit(s)...”** is a plan prepared to show separate units within a constructed building.

**“Plan of Air Space Parcel(s)...”** is a plan prepared to show parcels with an upper and lower vertical limit and may be used for exclusive use interests and non-exclusive use interests.

## ***8.0 REQUESTING SURVEY INSTRUCTIONS***

8.1 Surveyors submitting a request for Survey Instructions to SGB, will include:

- a. Authorization to enter onto Reserve Lands to conduct the survey;
- b. Information on the nature and term of the land transaction for which the survey is intended;
- c. A sketch of the proposed parcels to be created, and;
- d. Any other information pertinent to the survey, such as unsurveyed registered interests which appear on the Registry eRIP mapping, or un-documented encumbrances identified by the First Nation or evident on site, which may affect the proposed survey.

8.2 It remains the surveyor’s responsibility to be aware of all registered interests affecting the survey and to ensure he or she has the authorization from registered interest holders to carry out the survey. Where the surveyor does not feel comfortable researching the status of lands being surveyed, or where questions or

issues arise, the surveyor should request a land status review by AANDC or the First Nation having land management responsibilities over the lands being surveyed.

8.3 SGB will, upon receipt of a complete request, issue Survey Instructions for a survey under this agreement. SGB will strive to issue Instructions within 2 business days.

## **9.0 PLAN APPROVAL AND PROCESS**

9.1 Any survey plans used to create new parcels, including easements, rights-of-way and permit areas, within Reserve Lands must be approved by the First Nation Council prior to being submitted to SGB for recording. This approval is for the creation of the new parcels shown on the plan; that the plan is suitable for the intended transaction, and; that the plan meets with any planning or land use requirements of the First Nation. The approval can be in any format as long as it clearly documents the name(s) and title(s) of the person(s) approving the survey on behalf of the First Nation Council. It is the surveyor who will be responsible for obtaining approval prior to submitting it with his or her survey returns to SGB. AANDC regional personnel may assist First Nations in confirming survey plans are satisfactory.

9.2 AANDC retains the right to approve a survey plan on behalf of a First Nation Council under Section 9.1 for Reserve Lands managed under the Indian Act. If approval required by Section 9.1 is not obtainable after 30 days, the surveyor may submit the survey plan to SGB along with a request that AANDC seek approval or approve the survey on behalf of the First Nation Council. The surveyor must include evidence of his or her attempts to obtain approval of the plan and any documented concerns from the First Nation Council. AANDC will review such requests and the circumstances around the request before considering whether or not to seek or issue such approval.

9.3 Pursuant to Section 29 of the *CLSA*, an Official Plan of Survey will not be confirmed unless it is considered satisfactory to the Minister of AANDC or by the authorities given in the legislation for Self Governing First Nations. For AANDC Official Plans shall be approved by the Regional Manager of AANDC prior to recording by SGB.

- a) SGB will notify the appropriate Regional AANDC office when a plan is ready for review and will provide a scanned copy of the plan if requested.
- b) The Regional AANDC office will review the plan to ensure it complies with registered interests and the extents of the reserve agree with AANDC records.
- c) The Regional Manager of AANDC will signify that the plan is satisfactory to the Minister of AANDC by email approval to SGB or through the online MyCLSS application once available.
- d) AANDC will strive to provide approval within 10 business days of notification.

9.4 Administrative Plans do not require AANDC approval and will not be sent to AANDC for review and comment prior to being recorded in the CLSR.



## **10.0 CHART A - GUIDELINE FOR MINIMUM LAND DESCRIPTION REQUIREMENTS**

Land Transaction Purpose	Minimum Description Requirement <sup>note 1, 2</sup>
<b>I ADDITIONS TO RESERVE</b>	Provincial Plan recorded in CLSR
<b>II BAND VOTE FOR DESIGNATION</b>	Explanatory Plan ( <i>Administrative Plan</i> )
<b>III DISPOSITION OF RESERVE <sup>note 3</sup></b>	
<b>a) Surrender of Parcel</b>	Plan of Survey ( <i>Official Plan</i> )
<b>b) Highway / Right of Way Transfer <sup>note 4</sup></b>	Plan of Survey ( <i>Official Plan</i> )
<b>IV EXCLUSIVE USE</b>	
<b>a) Allotment of land <sup>note 5</sup></b>	Plan of Survey ( <i>Administrative Plan</i> )
<b>b) Lease of land for longer than 10 years <sup>note 6</sup></b>	Plan of Survey ( <i>Administrative Plan</i> )
<b>c) Lease of building unit for longer than 10 years</b>	Plan of Building Unit(s) ( <i>Administrative Plan</i> )
<b>d) Lease of land for 10 years or less <sup>note 7</sup></b>	Explanatory Plan ( <i>Administrative Plan</i> )
<b>e) Lease of building unit for 10 years or less</b>	Textual Description
<b>f) Interest in Airspace</b>	Plan of Airspace Parcel(s) ( <i>Administrative Plan</i> )
<b>V NON-EXCLUSIVE USE</b>	
<b>a) Permit or License <sup>note 7</sup></b>	Explanatory Plan ( <i>Administrative Plan</i> )
<b>b) Utility Permit over unencumbered lands</b>	Textual Description
<b>c) Utility Permit over encumbered lands</b>	Explanatory Plan ( <i>Administrative Plan</i> )
<b>d) Access Agreement (Access Right of Way) over Allotted or Leased lands</b>	Textual Description
<b>e) Agricultural Permits</b>	Land Use Area Plan ( <i>Administrative Plan</i> )

**Notes:**

1. A Compiled Plan prepared under Section 2.7 of the National Standards is equivalent to a Plan of Survey prepared under Sections 2.3, 2.4, or 2.5 of the National Standards.
2. A parcel shown on a Plan of Survey may be used in place of an Explanatory Plan.
3. Surveys under this section, for parcels to be removed from Reserve Lands, will create a jurisdictional boundary once the lands are removed and therefore require an Official Plan under Section 29 of the CLSA.
4. This Plan is intended for Section 35 Indian Act transfers or equivalent.
5. This includes Section 20 Indian Act allotments, Section 24, 49 and 50 Indian Act transfers, Section 18(2) Welfare of the First Nation interests, and equivalent.
6. "Lease" includes a head-lease or a sub-lease. The terms of the lease include any renewal or extension provisions contained in the lease.
7. A lease, permit, or license for 10 years or less may be described by textual description if the Registry feels it is in the best interests of the First Nation, given the circumstances, to do so. Generally an Explanatory Plan is required. Land Administrators should be aware that textually described parcels do not appear on the SGB parcel mapping or eRIP.

## **11.0 AMENDMENT**

11.1 This Interdepartmental Letter of Agreement may be amended at any time by the mutual written agreement of the Participants.

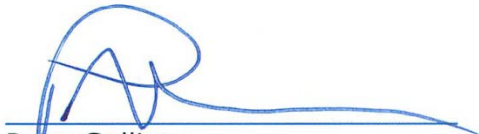
## **12.0 EFFECTIVE DATE, REVIEW, AND DURATION OF AGREEMENT**

12.1 This Interdepartmental Letter of Agreement becomes effective on January 5<sup>th</sup>, 2015.

12.2 The Participants agree to review this Agreement every four years from the implementation date.

12.3 This Agreement ends ten years from the implementation date or upon 90 days written notice by either Participant to the other Participant.

Accepted on behalf of NRCan by:

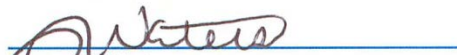


Peter Sullivan

Surveyor General and International  
Boundary Commissioner  
Surveyor General Branch  
Earth Sciences Sector  
Natural Resources Canada

Date: DECEMBER 05 / 2014

Accepted on behalf of AANDC by:



Susan Waters

Director General  
Lands and Environment Management Branch  
Lands and Economic Development Sector  
Aboriginal Affairs and Northern Development Canada

Date: December 14, 2014