

ANNOTATED VERSION  
**\*\*IMPORTANT\*\***

DO NOT SEND OUT A DRAFT AGREEMENT WITH ANY FOOTNOTES OR ANNOTATIONS OR COMMENTS IN IT.

EXCEPT WHERE INDICATED IN THE FOOTNOTES, DO NOT CHANGE OR DELETE ANY WORDING OF ANY CLAUSES WITHOUT PRIOR CONSULTATION WITH JUSTICE CANADA.

INDIVIDUAL AGREEMENT  
ON  
FIRST NATION LAND MANAGEMENT

*BETWEEN*

\_\_\_\_\_ **FIRST NATION**

*AND*

**HIS MAJESTY THE KING IN RIGHT OF CANADA**

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THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**INDIVIDUAL AGREEMENT  
ON  
FIRST NATION LAND MANAGEMENT**

**BETWEEN:**

\_\_\_\_\_ **FIRST NATION**, as represented by their Chief and Council (hereinafter called the “\_\_\_\_\_ First Nation” or the “First Nation”)

**AND**

**HIS MAJESTY THE KING IN RIGHT OF CANADA**, (hereinafter called “Canada”) as represented by the Minister of Indigenous Services (hereinafter called the “Minister”)

(the “Parties”)

**WHEREAS** Canada and 13 First Nations signed the Framework Agreement on First Nation Land Management (the “Framework Agreement”) on February 12, 1996 in relation to the management by those First Nations of their lands, and other First Nations have signed the Framework Agreement after that date;

**AND WHEREAS** the *Framework Agreement on First Nation Land Management Act* (the “Act”) provides that the Framework Agreement has the force of law;

**AND WHEREAS** the First Nation has been added as a signatory to the Framework Agreement by an adhesion signed by the First Nation on \_\_\_\_\_;<sup>1</sup>

**AND WHEREAS** the First Nation and Canada wish to provide for the assumption by the First Nation of responsibility for the administration of \_\_\_\_\_ First Nation Land in accordance with the Framework Agreement and the Act;

**AND WHEREAS** clause 6.1 of the Framework Agreement requires the First Nation and the Minister to enter into an individual agreement for the purpose of providing for the specifics of the transfer of administration;

**AND WHEREAS** clause 6.1 of the Framework Agreement further requires that the individual agreement settle the actual level of operational funding to be provided to

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1. This whereas clause should be removed if the First Nation is one of the original thirteen First Nations.

the First Nation;

**NOW THEREFORE**, in consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree as follows:

## 1. INTERPRETATION

1.1 In this Agreement,

“Act” means the *Framework Agreement on First Nation Land Management Act*, as amended;

"this Agreement" means this Individual Agreement on First Nation Land Management, including the Annexes attached hereto, and any documents incorporated by reference, all as amended from time to time;

"\_\_\_\_\_ First Nation Land" means the land to which the Land Code will apply and more specifically means the reserve(s)<sup>2</sup> known as \_\_\_\_\_ (and \_\_\_\_\_) as described in the Land Description Report(s) referred to in Annex “G” and includes all the interests in and resources of the land that are within the legislative authority of Parliament, but does not include the Excluded Land;<sup>3</sup>

“Excluded Land” means land excluded from the application of the Land Code pursuant to \_\_\_\_\_<sup>4</sup> of the Framework Agreement, the description of which is set out in Land Description Report(s) referred to in Annex “G”;<sup>5</sup>

“Fiscal Year” means Canada’s fiscal year as defined in the *Financial Administration Act*, R.S.C. 1985, c. F-11, as amended;

"Framework Agreement" has the same meaning as in the Act;

“Funding Arrangement” means an agreement between Canada and the \_\_\_\_\_ First Nation, for the purpose of providing funding, during the Fiscal Year(s) identified in that agreement, for the programs and services referred to in that agreement;<sup>6</sup>

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2. If the First Nation is located in Yukon please consult HQ and DOJ to discuss “lands set aside”.

3. If there is no Excluded Land, omit “but does not include the Excluded Land”.

4. Insert either clause 4.1.4 or clause 4.1.6 or both if land is excluded under both sections.

5. Do not include this definition if there is no Excluded Land.

6. The definition of “Funding Agreement” may need to be amended to adapt it to regional circumstances and/or changes in government funding policies.

“*Indian Act*” means the *Indian Act*, R.S.C. 1985, c. I-5, as amended;

“Land Code” means the \_\_\_\_\_ First Nation Land Code, developed in accordance with clause 5 of the Framework Agreement;

“Minister” means the Minister of Indigenous Services and his or her representatives;

“Operational Funding” means the resources to be provided by Canada to the \_\_\_\_\_ First Nation pursuant to clause 30.1 of the Framework Agreement to manage First Nation lands and make, administer and enforce its laws under a land code, and includes financial resources, as described in clause 27 of the Framework Agreement, to establish and maintain environmental assessment and environmental protection regimes;

“Operational Funding Formula” means the method approved by Canada for allocating to First Nations such Operational Funding as may have been appropriated by Parliament for that purpose.

- 1.2 Unless the context otherwise requires, words and expressions defined in the Framework Agreement, the Act or the *Indian Act* have the same meanings when used in this Agreement.
- 1.3 This Agreement is to be interpreted in a manner that is consistent with the Framework Agreement and the Act.
- 1.4 In the event of any inconsistency or conflict between the wording in any Article set out in the main body of this Agreement and the wording in any Annex attached hereto, the wording set out in the Article shall prevail.

## **2. INFORMATION PROVIDED BY CANADA**

- 2.1 The Minister has, to the best of the Minister’s knowledge, provided the First Nation with the information required by clause 6.3 of the Framework Agreement, namely:
  - (a) a list, attached as Annex “C”, and copies, or access to copies, of all the interests and licences granted by Canada in or in relation to the \_\_\_\_\_ First Nation Land that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register;<sup>7</sup>
  - (b) a list, attached as Annex “D”, and copies of all existing information in Canada’s possession, respecting any actual or potential environmental problems with the \_\_\_\_\_ First Nation Land; and

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7. Please see the footnote (#2) above and consult DOJ and HQ respecting “lands set aside” in Yukon.

- (c) a list, attached as Annex "E", and copies of any other information in Canada's possession that materially affects the interests and licences mentioned in clause 2.1(a).

2.2 The First Nation has, in writing, acknowledged receipt of all the information provided to it by the Minister.

### **3. TRANSFER OF LAND ADMINISTRATION**

3.1 The Parties acknowledge that, as of the date the Land Code comes into force, the First Nation shall have the power to manage the \_\_\_\_\_ First Nation Land in accordance with clause 12 of the Framework Agreement.

3.2 As provided in section 8 of the Act, all of the rights and obligations of Canada as grantor in respect of the interests and licences in or in relation to \_\_\_\_\_ First Nation Land that exist on the coming into force of the Land Code shall be transferred to the First Nation on the coming into force of the Land Code.

3.3 As of the date the Land Code comes into force, the First Nation shall be responsible for, among other responsibilities identified in this Agreement and the Framework Agreement, the following:

- (a) the collection of all rents and other amounts owing, payable or accruing pursuant to any instrument granting an interest or a licence in or in relation to \_\_\_\_\_ First Nation Land; and
- (b) the exercise of any power and authorities, and performance of any covenants, terms and conditions, under the instruments referred to in paragraph (a) which, but for the transfer, would have been Canada's responsibility.

3.4 The Parties acknowledge that the transfer of administration referred to in this Agreement is subject to clauses 3.1 and 3.2 of the Framework Agreement, which addresses the applicability of the *Indian Oil and Gas Act*.

### **4. ACCEPTANCE OF TRANSFER OF LAND ADMINISTRATION**

4.1 The First Nation hereby accepts the transfer of land administration described in Article 3 of this Agreement, including, without limitation, the transfer of all the rights and obligations of Canada as grantor of the interests and licences referred to in clause 3.2 of this Agreement.

4.2 As of the date the Land Code comes into force, and in accordance with the Framework Agreement:

- (a) the land management provisions of the *Indian Act*, as listed in clause 21 of the Framework Agreement cease to apply and Canada retains no powers and obligations in relation to \_\_\_\_\_ First Nation Land under these provisions; and
- (b) the First Nation shall commence administering \_\_\_\_\_ First Nation Land pursuant to its Land Code.

## **5. OPERATIONAL FUNDING**

- 5.1 In accordance with clause 30.1 of the Framework Agreement, and subject to appropriation by Parliament and the approval of the Treasury Board of Canada, Canada shall provide Operational Funding to the \_\_\_\_\_ First Nation as indicated in Annex "A" in accordance with the Operational Funding Formula as amended from time to time.
- 5.2 The Operational Funding referred to in clause 5.1 will be incorporated by the Parties into the \_\_\_\_\_ First Nation's Funding Arrangement in effect in the year in which the payment is to be made. For greater certainty, payment of Operational Funding will be subject to the terms and conditions of the Funding Arrangement into which it is incorporated.

## **6. TRANSFER OF MONEYS<sup>8</sup>**

- 6.1 Following the date that the Land Code comes into force, Canada shall transfer the revenue and capital moneys referred to in clause 12.8 of the Framework Agreement to the First Nation in accordance with the provisions set out in Annex "B".
- 6.2 Revenue and capital moneys transferred pursuant to clause 6.1 shall be deposited in the First Nation's account at such financial institution as the First Nation may direct by notice in writing.

## **7. NOTICE TO THIRD PARTIES OF TRANSFER OF ADMINISTRATION**

- 7.1 Immediately following approval of the Land Code and this Agreement by the members of the First Nation, the First Nation shall give written notice (the "Notice of Transfer of Administration"), by registered mail, to each holder of

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8. In the past, certain moneys held by His Majesty for the use and benefit of some individuals or First Nations were held by the Department(s) as security relating to ministerial loan guarantees. While this is no longer Departmental practice, if Departmental officials identify Indian Moneys so held for the First Nation entering into this Individual Agreement, then the following clause could be added:

6.3 For greater certainty, the transfer of the revenue and capital moneys does not release the First Nation from its commitment to reimburse Canada for any amount paid as a result of a default under any loan entered into by the First Nation or any of its members and guaranteed by Canada in accordance with the terms and conditions relating to ministerial loan guarantees.

an interest or a licence in or in relation to \_\_\_\_\_ First Nation Land that is listed or referred to in Annex "C".

7.2 The Notice of Transfer of Administration shall state that:

- (a) the administration of \_\_\_\_\_ First Nation Land and Canada's rights in \_\_\_\_\_ First Nation Land, other than title, will be transferred to the First Nation effective the date the Land Code comes into force;
- (b) the holder of the interest or licence shall pay to the First Nation, all amounts owing, payable or due under the interest or licence on or after that date; and
- (c) as of that date, the First Nation shall be responsible for the exercise of the powers and authorities, and the performance of any covenants, terms and conditions, under that instrument which, but for the transfer of administration, would have been Canada's responsibility.

7.3 The \_\_\_\_\_ First Nation shall deliver to Canada a copy of every Notice of Transfer of Administration and a copy of every acknowledgement of receipt of the Notice of Transfer of Administration received by the First Nation within 30 days of the issuance or receipt of the same.

7.4 The Notice obligations set out in this Article do not apply in respect of a holder of an interest or licence who is a member of the First Nation.

## **8. INTERIM ENVIRONMENTAL ASSESSMENT PROCESS**

8.1 As of the date the Land Code comes into force, the environmental assessment process set out in Annex "F" shall apply to projects on \_\_\_\_\_ First Nation Land until the First Nation's environmental assessment process is developed.

## **9. AMENDMENTS**

9.1 This Agreement may be amended by agreement of the Parties.

9.2 Any amendment to this Agreement shall be in writing and executed by the duly authorized representatives of the Parties.

## **10. NOTICES BETWEEN THE PARTIES**

10.1 Any notice or other official communication under this Agreement between the Parties shall be in writing addressed to the Party for whom it is intended.

10.2 The notice referred to in clause 10.1 shall be effective using any one of the

following methods and shall be deemed to have been given as at the date specified for each method:

- (a) by personal delivery, on the date upon which notice is delivered;
- (b) by registered mail or courier, the date upon which receipt of the notice is acknowledged by the other party; or
- (c) by facsimile or electronic mail, the date upon which the notice is transmitted and receipt of such transmission by the other party can be confirmed or deemed.

10.3 The addresses of the Parties for the purpose of any notice or other official communication are:

Canada:

Director, \_\_\_\_\_  
\_\_\_\_\_ Sector  
Indigenous Services Canada  
\_\_\_\_\_ Region

[insert address of regional office]

[insert fax number for regional office]

\_\_\_\_\_ First Nation

[Insert title of recipient]

[insert address of First Nation]

[insert fax number for First Nation]

## **11. DISPUTE RESOLUTION**

11.1 For greater certainty, any dispute arising from the implementation, application or administration of this Agreement may be resolved in accordance with the Dispute Resolution provisions set out in Part IX of the Framework Agreement.

## **12. DATE OF COMING INTO FORCE<sup>9</sup>**

12.1 The Parties acknowledge that the members of the First Nation have voted to approve the Land Code and this Agreement in accordance with the Framework Agreement.

12.2 This Agreement shall be effective as of the date on which the last of the Parties signs this Agreement.

12.3 The Parties acknowledge that the signing of this Agreement alone does not bring the Land Code into force, and that the First Nation is not an operational First Nation under First Nation Land Management until the Land Code comes into force in accordance with the provisions of the Land Code and the Framework Agreement.

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9. This clause assumes that the First Nation and the Minister will sign the Individual Agreement after a successful vote.

**IN WITNESS WHEREOF**, the duly authorized representatives of the First Nation have signed this Agreement on behalf of the First Nation on \_\_\_\_\_, 20\_\_, and the Minister of Indigenous Services has signed this Agreement on behalf of His Majesty the King in right of Canada, on \_\_\_\_\_, 20\_\_.

His Majesty the King in right of Canada, [Name of First Nation]  
represented by the Minister of Indigenous  
Services

\_\_\_\_\_  
[Name of Chief]

\_\_\_\_\_  
Minister of Indigenous Services

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

## ANNEX "A"

### FUNDING PROVIDED BY CANADA<sup>10</sup>

- (a) The amount of Operational Funding by Fiscal Year is shown in the table below. The amount shall be prorated based on the number of months from the date the Land Code comes into force to the end of the Fiscal Year, and the First Nation shall be paid the prorated amount for that year. Transitional Funding will be provided for the year the Land Code comes into force and for the subsequent Fiscal Year, as shown in the table below.
- (b) Operational Funding will increase 1% annually over the term of the Memorandum of Understanding which ends March 31, 2023.
- (c) Subject to appropriation by Parliament and the approval of the Treasury Board of Canada, Operational Funding for Fiscal Years after March 31, 2023, will be calculated and provided in accordance with the Operational Funding Formula as amended from time to time.

OPERATIONAL FUNDING	
[Insert] Fiscal Year	<b>[\$Insert funding level]</b> (This amount shall be prorated in accordance with paragraph (a) above) and <b>\$ 75,000.00</b> - One time Transitional Funding per 1 <sup>st</sup> Fiscal Year
[Insert] Fiscal Year	<b>[\$Insert funding level]</b> <b>\$75,000.00</b> – One time Transitional Funding per 2 <sup>nd</sup> Fiscal Year
[Insert] Fiscal Year	<b>[\$Insert funding level]</b>
Subsequent Fiscal Year(s)	Subject to paragraph (c) above, Operational Funding will be calculated and paid each Fiscal Year based on the Operational Funding Formula as amended from time to time.

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10. This Annex is referred to in clause 5 of the Individual Agreement. The authority for funding is Clause 30 of the *Framework Agreement*.

Please populate chart accordingly

Please refer to Core Contribution Category Chart Sheet found in Shared Drive

## ANNEX "B"

### DETAILS FOR THE TRANSFER OF MONEYS<sup>11</sup>

1. As of the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, Canada is holding \$\_\_\_\_\_ of revenue moneys and \$\_\_\_\_\_ of capital moneys for the use and benefit of the First Nation or its members. This amount is included for information purposes only and is subject to change.
2. **Initial Transfer.** Within thirty (30) days of the Land Code coming into force, Canada shall transfer to the First Nation all revenue and capital moneys collected, received or held by Canada for the use and benefit of the First Nation or its members.
3. **Subsequent Transfers.** Following an initial transfer of moneys, Canada shall, on a semi-annual basis, transfer to the First Nation all revenue and capital moneys that are subsequently collected or received by Canada for the use and benefit of the First Nation or its members. The first such subsequent transfer shall be made in the month of April or October, whichever month comes first after the month of the initial transfer.

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11. The authority for this Annex is clause 12.8 of the *Framework Agreement*. This Annex is referred to in clause 6 of the Individual Agreement. Clause 6.1 of the Individual Agreement and this Annex are designed for a situation where the First Nation has included all of its reserves in the Land Code. Clause 6.1 and this Annex do not deal with the situation where the First Nation has excluded a portion of the reserve(s) or where the First Nation has more than one reserve and has not included one or more of those reserves among the lands that are subject to the Land Code. Clause 6.1 and this Annex will need to be revised to deal with those special situations.

## ANNEX "C"

### LIST OF INTERESTS AND LICENCES GRANTED BY CANADA<sup>12</sup>

All interests and licences granted by Canada in or in relation to the \_\_\_\_\_  
First Nation Land that are recorded in the Reserve Land Register and the Surrendered and  
Designated Lands Register are listed in the attached reports.<sup>13</sup>

OR

All interests and licences granted by Canada in or in relation to the \_\_\_\_\_  
First Nation Land that are recorded in the Reserve Land Register and the Surrendered and  
Designated Lands Register are listed in reports that are available for review at the  
\_\_\_\_\_ First Nation Land Management Office located at **[enter location of  
FN office]**:

Reserve General Abstract Reports for:  
Enter name and Number of reserve(s)

Lawful Possessors Reports for:  
Enter name and Number of reserve(s)

Lease or Permits Reports for:  
Enter name and Number of reserve(s)

The above reports identify all interests or licences granted by Canada that are registered in  
the Indian Lands Registry System (ILRS).<sup>14</sup> The following is a list of interests granted by  
Canada that have not been registered or are pending registration in the ILRS. Copies of  
these interests shall be provided to the First Nation.<sup>15</sup>

[List interests]

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12. As per clause 6.3(a) of the *Framework Agreement*, Canada must provide to the First Nation, as soon as practicable, "a list of all the interests and licences, in relation to the proposed First Nation land, that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register under the *Indian Act*; or, with respect to Lands Set Aside, the property records of the Northern Affairs organization, Department of Indian Affairs and Northern Development." This Annex is referred to in clause 2 of the Individual Agreement.

13. Use this clause if you are attaching the ILRS reports to the IA.

14. Use this clause if you are not attaching the ILRS reports to the IA. Please note that not all reserves contain lawful possessors, leases, or permits. Therefore, these reports are limited to reserves where these interests are present.

15. Add this clause if there are interests that have not been registered in the ILRS. The words "granted by Canada" are included so that FNs do not assume that this refers to un-regularized interests.

## ANNEX “D”

### LIST OF ALL EXISTING INFORMATION IN CANADA’S POSSESSION RESPECTING ANY ACTUAL OR POTENTIAL ENVIRONMENTAL PROBLEMS WITH THE \_\_\_\_\_ FIRST NATION LANDS<sup>16</sup>

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16. As per clause 6.3(b) of the *Framework Agreement*, Canada must provide to the First Nation, as soon as practicable, “all existing information, in Canada’s possession, respecting any actual or potential environmental problems with the proposed First Nation land.” Accordingly, the title, date and author of any Environmental Site Assessment Report must be set out in this Annex, such as Phase I and Phase 2 reports. Any other information on actual or potential contamination contained in Departmental files should be provided to the First Nation, and listed in this Annex by title, date and author. This Annex is referred to in clause 2 of the Individual Agreement.

## ANNEX “E”

### LIST OF OTHER INFORMATION PROVIDED BY CANADA THAT MATERIALLY AFFECTS INTERESTS AND LICENCES<sup>17</sup>

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17. As per clause 6.3(c) of the *Framework Agreement*, Canada must provide to the First Nation, as soon as practicable, “any other information in Canada’s possession that materially affects the interests and licences mentioned in clause 6.3(a).” Accordingly, the Department(s) must identify information in Canada’s possession regarding outstanding issues that materially affects the interests and licences. This information could be compiled into an outstanding issues report (it will be compiled as part of the Community Approval Process Plan (CAPP)). The Department(s) should consult with its Regional Legal Counsel prior to assigning responsibility for any issue to Canada (only if it is an issue that requires legal advice). This Annex is referred to in clause 2 of the Individual Agreement.

## ANNEX "F"

### INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

The Framework Agreement specifies that the First Nation and the Minister will address in the Individual Agreement how to conduct environmental assessments on First Nation land on an interim basis until the First Nation's environmental assessment process is developed. This Annex describes that interim environmental assessment process.

The interim process is intended to be broadly consistent with requirements of the federal environmental assessment process but without imposing requirements that are only appropriate to federal organizations and departments.

- 1) The First Nation shall carry out an environmental assessment in circumstances where federal environmental assessment legislation would likely require Canada to carry out an environmental assessment for a project on federal lands.
- 2) When the First Nation must conduct an environmental assessment of a proposed project, the First Nation shall ensure that the environmental assessment is carried out in the early planning stages of the project, before the First Nation makes an irrevocable decision that would allow the project to proceed (i.e. approve, regulate, fund or undertake the project). The environmental assessment shall be conducted at the expense of the First Nation or proponent of the project.
- 3) The First Nation shall not approve, regulate, fund, or undertake the project unless the First Nation has determined that:
  - a. the project is unlikely to cause any significant adverse environmental effects; or
  - b. that those effects are justifiable under the circumstances,taking into consideration:
  - the results of a required environmental assessment;
  - any economically and technically feasible mitigation measures identified as necessary during the assessment; and
  - any public comments received during the assessment.
- 4) If the First Nation approves, regulates, funds, or undertakes the project, the First Nation shall conduct project monitoring, review implementation of approved mitigation measures, and follow-up programs as the First Nation considers necessary.
- 5) If a project on First Nation land is also subject to a federal or provincial

environmental assessment process, the First Nation must make its own determination in accordance with Section 3 above, but may:

- a. agree with the Province, Canada, or both on a harmonized environmental assessment process appropriate to that project, taking into account the Framework Agreement's principle that the First Nation's environmental assessment process be used where a federal environmental assessment is required; or
- b. use the environmental assessment completed by the Province, Canada, or both, in substitution for undertaking a First Nation-led environmental assessment process.

## ANNEX "G"

### DESCRIPTION OF \_\_\_\_\_ FIRST NATION LAND<sup>18</sup>

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18. This Annex is referred to in the definition of "\_\_\_\_\_ First Nation Land" in clause 1.1 of the Individual Agreement. The Description of the "\_\_\_\_\_ First Nation Land" is contained in the First Nations Land Management Land Description Report prepared by Natural Resources Canada. The final Report can be set out in this Annex or it can be incorporated by reference to the date, title and author.