

## **CHAPTER 5 - TENURE AND MANAGEMENT OF SETTLEMENT LAND**

### **5.1.0 Definitions**

In this chapter, the following definitions shall apply.

"Land Titles Office" means the Land Titles Office for the Yukon Land Registration District or its successor.

"Royalty" means any amount, paid in money or in kind, in respect of Mines and Minerals produced by a Person holding an Existing Mineral Right, but not including any payment made for a service, for the creation of special purposes funds, for the issuance of a right or interest or for the granting of an approval or authorization, any payment required regardless of the ownership of the Mines and Minerals, or any payment for incentives.

### **5.2.0 General**

- 5.2.1 Nothing in Settlement Agreements shall be construed as affecting any aboriginal claim, right, title or interest in and to Settlement Land, except to the extent that they are inconsistent with the Settlement Agreements.
- 5.2.2 Nothing in this chapter constitutes an admission by Government that an aboriginal claim, right, title or interest can co-exist with the rights described in 5.4.1.1(a) and 5.4.1.2, or with a treaty.
- 5.2.3 Each Yukon First Nation shall register in the Land Titles Office as soon as practicable its title to Fee Simple Settlement Land and its fee simple title in the Mines and Minerals in and under Category A Settlement Land.
- 5.2.4 No fee or charge shall be payable in respect of the initial registration by a Yukon First Nation of its title to Fee Simple Settlement Land and its fee simple title in the Mines and Minerals in and under Category A Settlement Land.
- 5.2.5 Nothing in this chapter shall be construed to preclude a Yukon First Nation or Yukon Indian People from acquiring or holding interests in Non-Settlement Land.
- 5.2.6 Settlement Land shall be deemed not to be lands reserved for Indians within the meaning of section 91(24) of the Constitution Act, 1867, nor a Reserve.

5.2.7 Government shall have no obligation or liability in respect of Settlement Land, or in respect of any dealings with Settlement Land by any Person, by virtue of any property interest Government may have as a result of the regime of tenure established under 5.4.1.1(a) and 5.4.1.2.

### **5.3.0 Maps and Descriptions**

5.3.1 Maps, and legal descriptions where available, of Settlement Land for each Yukon First Nation, and descriptions setting out any reservations, exceptions, restrictions, easements, rights-of-way or special conditions that the parties to a Yukon First Nation Final Agreement agree apply to a Parcel of Settlement Land shall be annexed to and form part of that Yukon First Nation Final Agreement, and shall identify the Category A, Category B, Fee Simple Settlement Land and Proposed Site Specific Settlement Land of that Yukon First Nation.

#### **Specific Provision**

5.3.1.1 The descriptions of Settlement Land for Kluane First Nation required by 5.3.1 are set out in Appendix A - Settlement Land Descriptions, attached to this Agreement.

5.3.1.2 The maps of Settlement Land referred to in 5.3.1 are set out in Appendix B - Maps, which forms a separate volume to this Agreement.

5.3.2 The boundaries of the Settlement Land of a Yukon First Nation shall be defined pursuant to Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land.

5.3.3 Plans of survey confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land shall be deposited in the Land Titles Office and any system established under 5.5.1.4 applicable to the Settlement Land dealt with in the survey.

5.3.4 Plans of survey confirmed under Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land replace for all purposes any prior map or description of a Parcel of Settlement Land dealt with by the survey.

5.3.5 The deposition of a plan of survey under 5.3.3 shall not be construed to affect any aboriginal right, title or interest of a Yukon First Nation or any person eligible to be a Yukon Indian Person it represents.

5.3.6 The designation of a Parcel of Settlement Land by the letters "C", "S" and "R" is for convenience only and has no legal effect.

#### **5.4.0 Settlement Land**

5.4.1 A Yukon First Nation shall have by virtue of this chapter:

5.4.1.1 for Category A Settlement Land,

(a) the rights, obligations and liabilities equivalent to fee simple excepting the Mines and Minerals and the Right to Work the Mines and Minerals, and

(b) fee simple title in the Mines and Minerals, and the Right to Work the Mines and Minerals;

5.4.1.2 for Category B Settlement Land the rights, obligations and liabilities equivalent to fee simple reserving therefrom the Mines and Minerals and the Right to Work the Mines and Minerals but including the Specified Substances Right; and

5.4.1.3 for Fee Simple Settlement Land, fee simple title reserving therefrom the Mines and Minerals and the Right to Work the Mines and Minerals but including the Specified Substances Right.

5.4.2 The rights and titles described in 5.4.1 of a Yukon First Nation in Settlement Land are subject to the following exceptions and reservations:

5.4.2.1 any right, title or interest less than the entire fee simple therein existing at the date the land became Settlement Land;

5.4.2.2 any licence, permit and other right issued by Government for the use of land or other resources existing at the date the land became Settlement Land;

5.4.2.3 any renewal or replacement of a right, title or interest described in 5.4.2.1 or a licence, permit or other right described in 5.4.2.2;

5.4.2.4 any new licence, permit or other right in respect of,

(a) Petroleum which may be granted as of right to a Person holding a right, title or interest described in 5.4.2.1, 5.4.2.2 or 5.4.2.3, and

- (b) Mines and Minerals which may be granted pursuant to the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4 or the Yukon Placer Mining Act, R.S.C. 1985, c. Y-3 to a Person holding a right, title or interest described in 5.4.2.1, 5.4.2.2 or 5.4.2.3;
- 5.4.2.5 any right-of-way, easement, reservation, exception, restriction, or special condition agreed to by the parties to a Yukon First Nation Final Agreement and set out therein pursuant to 5.3.1;
- 5.4.2.6 the Public Access for Wildlife Harvesting;
- 5.4.2.7 any Waterfront Right-of-Way;
- 5.4.2.8 the Flooding Right identified pursuant to 7.8.0;
- 5.4.2.9 the rights granted to Government in a Quarry identified pursuant to 18.2.0; and
- 5.4.2.10 any reservation agreed to pursuant to 5.7.4.2.

#### **5.5.0 Yukon First Nation Management Powers**

- 5.5.1 Subject to its Settlement Agreement, each Yukon First Nation, as owner of Settlement Land, may exercise the following powers of management in relation to its Settlement Land:
  - 5.5.1.1 to enact bylaws for the use of and occupation of its Settlement Land;
  - 5.5.1.2 to develop and administer land management programs related to its Settlement Land;
  - 5.5.1.3 to charge rent or other fees for the use and occupation of its Settlement Land; and
  - 5.5.1.4 to establish a system to record interests in its Settlement Land.

#### **5.6.0 Administration by Government**

- 5.6.1 For the purposes of 5.6.0, "Encumbering Right" means every licence, permit or other right, and every right, title or interest described in 5.4.2.

- 5.6.2 Subject to 6.3.6, Government shall continue to administer every Encumbering Right including granting renewals or replacements described in 5.4.2.3 and new rights described in 5.4.2.4 in the public interest and in accordance with the Legislation which would apply if Settlement Land were Crown Land.
- 5.6.3 Where Category A Settlement Land is subject to an Existing Mineral Right or to a surface lease, existing at the date the affected land became Settlement Land, held by a Mineral Right holder, Government shall account for and pay to the affected Yukon First Nation as soon as practicable from time to time:
- 5.6.3.1 any Royalty received by Government for production after the date the land became Settlement Land in respect of that Existing Mineral Right; and
  - 5.6.3.2 any non-refunded rents received by Government which were payable after the date the land became Settlement Land in respect of that Existing Mineral Right and of any surface lease, existing at the date the affected land became Settlement Land, held by a Mineral Right holder.
- 5.6.4 Where Category B Settlement Land or Fee Simple Settlement Land is subject to a surface lease, existing at the date the affected land became Settlement Land, held by a Mineral Right holder, Government shall account for and pay to the affected Yukon First Nation as soon as practicable from time to time, any non-refunded rents received by Government which were payable after the date the land became Settlement Land in respect of that existing surface lease held by the Mineral Right holder.
- 5.6.5 Subject to 5.6.3, 5.6.4 and 5.6.6, Government shall retain for its own benefit any fees, charges or other payments received in respect of any Encumbering Right.
- 5.6.6 Where Settlement Land is subject to a timber harvesting agreement existing at the date the land becomes Settlement Land, Government may agree in the Yukon First Nation Final Agreement to account for and pay to the affected Yukon First Nation any stumpage fee in respect of that timber harvesting agreement received by Government which is payable after the date the land becomes Settlement Land.
- 5.6.7 Government shall not have any fiduciary obligation to a Yukon First Nation for the exercise of any discretionary or other power in relation to the administration of any Encumbering Right.

- 5.6.8 Government shall indemnify and forever save harmless the Yukon First Nations from and against all suits and actions, causes of action, claims, demands, and damages by any Person arising from the continuing administration of the Encumbering Right by Government.
- 5.6.9 Government shall Consult with the affected Yukon First Nation before exercising any discretion to renew or replace an Encumbering Right, to issue a new Encumbering Right, or to set any Royalty, rent or fee described in 5.6.3, 5.6.4 and 5.6.6.
- 5.6.10 If Legislation is amended to authorize Government to increase the term permitted for an Encumbering Right, Government shall not increase the term of that Encumbering Right pursuant to that amendment without the prior consent of the affected Yukon First Nation.
- 5.6.11 Subject to the consent of the Minister, a Yukon First Nation and the holder of an Encumbering Right may agree that the right be cancelled and replaced by an interest provided by the Yukon First Nation.
- 5.6.12 The Minister may only refuse to consent under 5.6.11 if:
- 5.6.12.1 the holder of the Encumbering Right is in default of any obligation to Government or has outstanding unsatisfied liabilities to Government pursuant to the interest;
  - 5.6.12.2 the Encumbering Right was granted under the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4 and there is no "Certificate of Improvements" issued thereunder or equivalent certificate issued under any successor Legislation;
  - 5.6.12.3 the Encumbering Right is a claim granted under the Yukon Placer Mining Act, R.S.C. 1985, c. Y-3 and there is no plan of survey of the claim approved in accordance with that Act or equivalent approval under successor Legislation; or
  - 5.6.12.4 there is a Person claiming an interest in the Encumbering Right.

## **5.7.0 Disclosure of Government Interests in Settlement Land**

- 5.7.1 Government shall make best efforts to disclose to each Yukon First Nation, before its final land selections are signed by the negotiators for its Yukon First Nation Final Agreement, which, if any, of those lands are:

- 5.7.1.1 under the management, charge and direction of any department of Government listed in Schedule I of the Financial Administration Act, R.S.C. 1985, c. F-11, other than the Department of Indian Affairs and Northern Development, or of any entity in Schedule II or III of that Act;
- 5.7.1.2 subject to reservations made in the land records of the Northern Affairs Program, Department of Indian Affairs and Northern Development;
- 5.7.1.3 under the administration and control of the Commissioner and,
- (a) under the management, charge and direction of any department of the Yukon as defined in the Financial Administration Act, R.S.Y. 1986, c. 65,
- (b) subject to a reservation and notation made in the land records of the Lands Branch, Department of Community and Transportation Services, or
- (c) occupied by any department of the Yukon as defined in the Financial Administration Act, R.S.Y. 1986, c. 65; or
- 5.7.1.4 any other land occupied by any department of the Yukon as defined in the Financial Administration Act, R.S.Y. 1986, c. 65.
- 5.7.2 For the purpose of 5.7.1 and 5.7.4, "disclose" means to provide Territorial Resource Base Maps at a scale of 1:20,000 or 1:30,000 or Community Reference Plans indicating thereon the land described in 5.7.1 and accompanied by a list describing:
- 5.7.2.1 the department or entity having management, charge or direction of the land in 5.7.1.1;
- 5.7.2.2 the nature of the reservation in 5.7.1.2; and
- 5.7.2.3 the department having management, charge and direction of, or occupying, the land in 5.7.1.3(a) or (c), or 5.7.1.4 or the nature of the reservation in 5.7.1.3(b).
- 5.7.3 The obligation set out in 5.7.1 does not apply where the information described in 5.7.1 is publicly available in the Land Titles Office.
- 5.7.4 If Government or a Yukon First Nation becomes aware of any information described in 5.7.1 which has not been disclosed prior to that Yukon First Nation ratifying its Yukon First Nation Final Agreement and which is not publicly available in the Land Titles Office, that party shall provide the other with the information, whereupon Government shall declare

- 5.7.4.1 that:
- (a) the department or entity does not have the management, charge or direction of the land,
  - (b) the reservation is cancelled, or
  - (c) the Commissioner does not have administration and control of the land,

as the case may be, and, as of the date of the declaration, the Settlement Land shall not be subject to such management, charge or direction, reservation or administration and control and no compensation shall be payable to the Yukon First Nation; or

- 5.7.4.2 in the cases of 5.7.1.2 or 5.7.1.3(b), that, with the agreement of the affected Yukon First Nation, the land described in 5.7.1.2 or 5.7.1.3(b) remains Settlement Land subject to the reservation and, as of the date of the declaration, Government shall provide compensation as determined pursuant to 7.5.0 to the Yukon First Nation for any diminution in the value of the Settlement Land resulting from the continuation of the reservation after the date of the declaration, and the Settlement Land shall be subject to the reservation.

5.7.5 For the purposes of 5.7.1 and 5.7.4:

5.7.5.1 Government in 5.7.1.1 means Canada;

5.7.5.2 Government in 5.7.1.2 means the Government for whose benefit the reservation was made; and

5.7.5.3 Government in 5.7.1.3 means the Yukon.

## **5.8.0 Beds of Waterbodies**

5.8.1 Unless otherwise provided in the description referred to in 5.3.1, the portions of the Bed of a lake, river or other waterbody within the boundaries of a Parcel of Settlement Land shall be Settlement Land.

5.8.2 Unless otherwise provided in the description referred to in 5.3.1, the Bed of a lake, river or other waterbody which is contiguous with a boundary of a Parcel of Settlement Land shall not be Settlement Land.



## **5.9.0 Interests in Settlement Land - Less than Entire Interest in 5.4.1**

5.9.1 Upon and subsequent to the happening of any of the following events:

5.9.1.1 the registration in the Land Titles Office of any interest in a Parcel of Settlement Land, less than the entire interest set out in 5.4.1.1(a) or 5.4.1.2;

5.9.1.2 the expropriation of any interest in a Parcel of Settlement Land, less than the entire interest set out in 5.4.1.1(a) or 5.4.1.2;

5.9.1.3 the granting of any interest in a Parcel of Settlement Land less than the entire interest in 5.4.1.1(a) or 5.4.1.2 to any Person not enrolled under that Yukon First Nation Final Agreement; or

5.9.1.4 the declaration of a reservation in a Parcel by Government pursuant to 5.7.4.2,

the interest registered, expropriated or granted or the reservation declared, as the case may be, shall take priority for all purposes over:

5.9.1.5 any aboriginal claims, rights, titles and interests of the Yukon First Nation and all persons eligible to be Yukon Indian People it represents, their heirs, descendants and successors; and

5.9.1.6 the right to harvest described in 16.4.2,

in or to the Parcel referred to in 5.9.1.1, 5.9.1.2, 5.9.1.3 and 5.9.1.4, as the case may be.

5.9.2 Each Yukon First Nation and all persons who are eligible to be Yukon Indian People it represents, their heirs, descendants and successors undertake not to exercise or assert:

5.9.2.1 any aboriginal claim, right, title or interest; or

5.9.2.2 any right to harvest described in 16.4.2,

in or to any Parcel referred to in 5.9.1.1, 5.9.1.2, 5.9.1.3 and 5.9.1.4 which aboriginal claim, right, title or interest or right to harvest described in 16.4.2 is in conflict or inconsistent with the interest described in 5.9.1.1, 5.9.1.2 and 5.9.1.3, or the reservation declared in 5.9.1.4, as the case may be.

## **5.10.0 Interests in Settlement Land - Entire Interest**

5.10.1 Each Yukon First Nation and all persons eligible to be Yukon Indian People it represents, shall be deemed to have ceded, released and surrendered to Her Majesty the Queen in Right of Canada all their aboriginal claims, rights, titles and interests, in and to the Parcels described hereunder and waters therein upon the happening of any of the following events:

5.10.1.1 the registration in the Land Titles Office of the fee simple title in that Parcel of Settlement Land;

5.10.1.2 the expropriation of the fee simple title in that Parcel of Settlement Land; or

5.10.1.3 the granting of the fee simple interest in that Parcel of Settlement Land.

5.10.2 A Yukon First Nation shall be deemed to have been granted immediately before the happening of an event described in 5.10.1.1, 5.10.1.2 or 5.10.1.3 for that Parcel:

5.10.2.1 if Category A Settlement Land, fee simple title excepting the Mines and Minerals and the Right to Work the Mines and Minerals, subject to,

(a) the reservations and exceptions set out in 5.4.2, other than 5.4.2.6, and

(b) the reservations to the Crown and exceptions which apply to a grant of federally administered Crown Land under the Territorial Lands Act, R.S.C. 1985, c. T-7 other than the reservations set out in paragraphs 13(a) and (b) and 15(a) of that Act; and

5.10.2.2 if Category B Settlement Land, fee simple title reserving to the Crown therefrom the Mines and Minerals and the Right to Work the Mines and Minerals but including the Specified Substances Right, subject to,

(a) the reservations and exceptions set out in 5.4.2, and

(b) the reservations to the Crown and exceptions which apply to a grant of federally administered Crown Land under the Territorial Lands Act, R.S.C. 1985, c. T-7 other than the reservations set out in paragraphs 13(a) and (b) and 15(a) of that Act.

5.10.3 The interest in Fee Simple Settlement Land set out in 5.4.1.3 shall be deemed to be subject to the reservations to the Crown and exceptions which would apply to a grant of federally administered Crown Land under the Territorial Lands Act, R.S.C. 1985, c. T-7, other than the reservations set out in paragraphs 13(a) and (b) and 15(a) of that Act, upon the happening of either of the following events:

5.10.3.1 the expropriation of the fee simple title in a Parcel of Settlement Land;  
or

5.10.3.2 the granting by a Yukon First Nation of its fee simple title in that Parcel of Settlement Land.

### **5.11.0 Land Ceasing to be Settlement Land**

5.11.1 Except for purposes of Chapter 23 - Resource Royalty Sharing, where a Yukon First Nation becomes divested, either voluntarily or involuntarily, of all its interest in land set out in 5.4.1.1(a) in a Parcel of Category A Settlement Land, but retains some or all of its interest in the Mines and Minerals in that Parcel, that Parcel and the retained interest in the Mines and Minerals in that Parcel shall cease to be Settlement Land.

5.11.2 Where a Yukon First Nation becomes divested, either voluntarily or involuntarily, of all its interest in land set out in 5.4.1.1(a), 5.4.1.2 or 5.4.1.3 in a Parcel of Settlement Land, that Parcel shall cease to be Settlement Land.

### **5.12.0 Reacquisition**

5.12.1 Where land which is or was subject to the operation of 5.10.0 is reacquired by a Yukon First Nation in fee simple, whether including or excluding the Mines and Minerals, that Yukon First Nation may declare the land to be Settlement Land and thereafter the land shall be Settlement Land of the following category:

5.12.1.1 Category A Settlement Land when Mines and Minerals are included and the land had previously been Category A Settlement Land;

5.12.1.2 Category B Settlement Land when Mines and Minerals other than Specified Substances are not included and the land had previously been Category B Settlement Land; or

5.12.1.3 Fee Simple Settlement Land when Mines and Minerals other than Specified Substances are not included and the land had previously been Fee Simple or Category A Settlement Land,

except that the cession, release and surrender of any aboriginal claim, right, title or interest in respect of the land shall not be affected.

### **5.13.0 Deregistration**

5.13.1 A Yukon First Nation may deregister a Parcel of Category A Settlement Land which is registered in the Land Titles Office and is free and clear of any interest in land recognized in Law, other than:

5.13.1.1 the reservations and exceptions set out in 5.4.2; and

5.13.1.2 the reservations to the Crown and exceptions which apply to a grant of federally administered Crown Land under the Territorial Lands Act, R.S.C. 1985, c. T-7 other than the reservations set out in paragraphs 13(a) and (b) or 15(a) of that Act.

5.13.2 A Yukon First Nation may deregister a Parcel of Category B Settlement Land which is registered in the Land Titles Office and is free and clear of any interest in land recognized in Law other than:

5.13.2.1 the reservations and exceptions set out in 5.4.2; and

5.13.2.2 the reservations to the Crown and exceptions which apply to a grant of federally administered Crown Land under the Territorial Lands Act, R.S.C. 1985, c. T-7.

5.13.3 Deregistration pursuant to 5.13.1 and 5.13.2 shall not affect the cession, release and surrender of any aboriginal claim, right, title or interest in respect of that Parcel.

### **5.14.0 Proposed Site Specific Settlement Land**

5.14.1 Subject to 5.14.2, the provisions of 2.5.0 and 5.4.1 shall not apply to Proposed Site Specific Settlement Land, and Proposed Site Specific Settlement Land shall not be considered Settlement Land for any purpose.

5.14.2 Subject to 5.14.3, the provisions of 2.5.0 shall apply to Proposed Site Specific Settlement Land and 5.4.1 shall apply to Site Specific Settlement Land on the same date the plan of survey is confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, and the Site Specific Settlement Land shall thereupon be Settlement Land for all purposes.

5.14.3 Where there is more than one Parcel of Site Specific Settlement Land to be selected in one or more Parcels of Proposed Site Specific Settlement Land bearing the same "S" number, 5.14.2 shall not apply until the plan of the last Parcel of Site Specific Settlement Land in the last Parcel of Proposed Site Specific Settlement Land bearing the same "S" number has been confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land.

5.14.4 Any orders made under the Territorial Lands Act, R.S.C. 1985, c. T-7, the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4, the Yukon Placer Mining Act, R.S.C. 1985, c. Y-3 or the Lands Act, R.S.Y. 1986, c. 99 withdrawing Proposed Site Specific Settlement Land on the Effective Date of the Yukon First Nation's Final Agreement shall be continued until the provisions of 2.5.0 apply to that land.

### **5.15.0 Waterfront Right-of-Way**

5.15.1 Unless otherwise agreed in a Yukon First Nation Final Agreement on a case by case basis, there shall be a Waterfront Right-of-Way 30 metres in width measured landward from the Natural Boundaries within Settlement Land of all Navigable Waters which abut or are within Settlement Land.

#### **Specific Provision**

5.15.1.1 Any exception to the Waterfront Right-of-Way referred to in 5.15.1 is set out as a special condition in Appendix A - Settlement Land Descriptions, attached to this Agreement.

5.15.2 The uses allowed upon and the width of the Waterfront Right-of-Way may be varied in a Yukon First Nation Final Agreement to accommodate special circumstances.

#### **Specific Provision**

5.15.2.1 Any variation referred to in 5.15.2 is set out as a special condition in Appendix A - Settlement Land Descriptions, attached to this Agreement.

- 5.15.3 Subject to 6.1.6, any Person has a right of access without the consent of the affected Yukon First Nation to use a Waterfront Right-of-Way for travel and for non-commercial recreation including camping and sport fishing, and to use standing dead or deadfall firewood incidental to such use.
- 5.15.4 Except for hunting Migratory Game Birds if permitted by and in accordance with Law, the right of access in 5.15.3 shall not be construed to permit Harvesting Wildlife at any time on Category A or Fee Simple Settlement Land.
- 5.15.5 Any Person has a right of access to use a Waterfront Right-of-Way for commercial recreation purposes with the consent of the affected Yukon First Nation or failing consent, with an order of the Surface Rights Board setting out the terms and conditions of the access.
- 5.15.6 The Surface Rights Board shall not make an order under 5.15.5 unless the Person seeking access satisfies the Board that:
  - 5.15.6.1 such access is reasonably required; and
  - 5.15.6.2 such access is not also practicable and reasonable across Crown Land.
- 5.15.7 Subject to 5.15.8, no Person shall establish any permanent camp or structure on a Waterfront Right-of-Way without the consent of Government and the affected Yukon First Nation.
- 5.15.8 A Yukon First Nation has a right to establish a permanent camp or structure on a Waterfront Right-of-Way on its Settlement Land, provided that:
  - 5.15.8.1 the permanent camp or structure does not substantially alter the public right of access under 5.15.3; or
  - 5.15.8.2 there is a reasonable alternate public right of access for the purposes set out in 5.15.3.
- 5.15.9 Any dispute as to whether the conditions set out in 5.15.8.1 and 5.15.8.2 are met may be referred to the Surface Rights Board by Government or the affected Yukon First Nation.
- 5.15.10 For purposes of 5.15.9, the Surface Rights Board shall have all the powers of an arbitrator under 26.7.3.

#### **5.16.0 Notations for Hydro-electric and Water Storage Projects**

- 5.16.1 Government shall identify to Yukon First Nations, before final land selections are signed by the negotiators for all parties to a Yukon First Nation Final Agreement, those areas proposed for future hydro-electric and water storage projects.
- 5.16.2 When land identified pursuant to 5.16.1 forms part of Settlement Land, a notation shall be made in the description of that land pursuant to 5.3.1 that such land is proposed for hydro-electric and water storage projects.
- 5.16.3 If any Parcel of Settlement Land bearing the notation referred to in 5.16.2 is registered in the Yukon Land Titles Office, the notation shall be noted on the title by way of caveat.
- 5.16.4 Chapter 7 - Expropriation shall apply to the expropriation of any land bearing such notation or caveat.





## CHAPTER 6 - ACCESS

### **6.1.0 General**

6.1.1 Laws of General Application in respect of access to and use incidental thereto, of privately held land shall apply to Settlement Land, except as altered by a Settlement Agreement.

6.1.2 Government and a Yukon First Nation may agree in a Yukon First Nation Final Agreement or from time to time after the Effective Date of a Yukon First Nation Final Agreement to amend, revoke or reinstate a right of access provided by a Settlement Agreement to address special circumstances in respect of a specific Parcel of Settlement Land.

#### **Specific Provision**

6.1.2.1 The holder of an outfitting concession shall have a right of access to Settlement Land situated within that concession for outfitting purposes during either the first full spring hunting season or the first full fall hunting season subsequent to the Effective Date of this Agreement, whichever is the earlier.

6.1.2.2 The holder of an outfitting concession shall have a further right of access to Settlement Land situated within that concession for the purpose of removing property until the 31st day of August following the first full spring hunting season referred to in 6.1.2.1 or the 30th day of June following the first full fall hunting season referred to in 6.1.2.1, whichever is applicable.

6.1.2.3 Nothing in 6.1.2.1 and 6.1.2.2 shall be construed to prevent Kluane First Nation and the holder of an outfitting concession from entering into any agreement which provides the holder of an outfitting concession with a right of access other than as set out in 6.1.2.1 and 6.1.2.2

6.1.3 A Yukon First Nation owes the same duty of care to a Person exercising a right of access on Undeveloped Settlement Land pursuant to Settlement Agreements as the Crown owes to a Person on unoccupied Crown Land.

6.1.4 Nothing in this chapter imposes an obligation on a Yukon First Nation or Government to manage or maintain any trail or other route of access.

- 6.1.5 Any Person may enter upon Settlement Land in an emergency but when damage is caused, the Person shall report to the affected Yukon First Nation the location thereof as soon as practicable thereafter and shall be liable for significant damage to Settlement Land or to any improvement on Settlement Land as a result of the entry.
- 6.1.6 A right of access provided by 5.15.3, 6.3.1 and 6.3.2 is subject to the conditions that there shall be no:
- 6.1.6.1 significant damage to Settlement Land or to improvements on Settlement Land;
  - 6.1.6.2 mischief committed on Settlement Land;
  - 6.1.6.3 significant interference with the use and peaceful enjoyment of Settlement Land by the Yukon First Nation;
  - 6.1.6.4 fee or charge payable to the affected Yukon First Nation; or
  - 6.1.6.5 compensation for damage other than for significant damage.
- 6.1.7 A Person who fails to comply with the conditions in 6.1.6.1, 6.1.6.2, or 6.1.6.3 shall be considered a trespasser with respect to that incident of access.
- 6.1.8 Government and a Yukon First Nation may agree from time to time to designate Undeveloped Settlement Land to be Developed Settlement Land and Developed Settlement Land to be Undeveloped Settlement Land.

**Specific Provision**

- 6.1.8.1 The designation of Kluane First Nation Settlement Land as Developed Settlement Land as of the Effective Date of this Agreement is set out in Appendix A - Settlement Land Descriptions, attached to this Agreement.

- 6.1.9 Subject to Chapter 7 - Expropriation, unless the affected Yukon First Nation otherwise agrees, any route of access on Settlement Land which may be established or improved after the Effective Date of the affected Yukon First Nation's Final Agreement shall remain Settlement Land and shall not be designated by operation of law or otherwise, as a highway or public road, notwithstanding that the route is established or improved:
- 6.1.9.1 for the benefit of any Person; or

6.1.9.2 using funds or other resources provided directly or indirectly by Government for the establishment or improvement of such route.

## **6.2.0 Access to Crown Land**

6.2.1 A Yukon Indian Person has and a Yukon First Nation has a right of access without the consent of Government to enter, cross and stay on Crown Land and to use Crown Land incidental to such access for a reasonable period of time for all non-commercial purposes if:

6.2.1.1 the access is of a casual and insignificant nature; or

6.2.1.2 the access is for the purpose of Harvesting Fish and Wildlife in accordance with Chapter 16 - Fish and Wildlife.

6.2.2 A Yukon Indian Person has and a Yukon First Nation has a right of access without the consent of Government to cross and make necessary stops on Crown Land to reach adjacent Settlement Land for commercial purposes if:

6.2.2.1 the access is of a casual and insignificant nature; or

6.2.2.2 the route used is a traditional route of Yukon Indian People or of a Yukon First Nation or is generally recognized and is being used for access on a regular basis, whether year round or intermittently, and the exercise of the right of access does not result in a significant alteration in the use being made of that route.

6.2.3 A right of access in 6.2.1 or 6.2.2 does not apply to Crown Land:

6.2.3.1 which is subject to an agreement for sale or a surface licence or lease except,

(a) to the extent the surface licence or lease permits public access, or

(b) where the holder of the interest allows access; or

6.2.3.2 where access or use by the public is limited or prohibited.

6.2.4 A right of access provided by 6.2.1 or 6.2.2 shall be subject to the conditions that there shall be no:

6.2.4.1 significant damage to the land or to improvements on the land;

6.2.4.2 mischief committed on the land;

- 6.2.4.3 significant interference with the use and peaceful enjoyment of the land by other Persons;
  - 6.2.4.4 fee or charge payable to Government; or
  - 6.2.4.5 compensation for damage other than significant damage.
- 6.2.5 A Yukon Indian Person or Yukon First Nation who fails to comply with the conditions in 6.2.4.1, 6.2.4.2 or 6.2.4.3 shall forfeit the rights provided in 6.2.1 or 6.2.2, as the case may be, with respect to that incident of access.
- 6.2.6 A Yukon First Nation or any Person to whom rights have been granted by a Yukon First Nation in respect of the exploration or development of Mines and Minerals in Category A Settlement Land shall have the same rights of access to Non-Settlement Land and the use thereof incidental to such access as any other Person has for the same purpose.
- 6.2.7 Government shall not alienate Crown Land abutting any block of Settlement Land so as to deprive that block of Settlement Land of access from adjacent Crown Land or from a highway or public road.
- 6.2.8 Nothing in this chapter shall be construed so as to deprive Yukon Indian People or a Yukon First Nation of the rights or privileges of access to Crown Land available to the public.

### **6.3.0 General Access**

- 6.3.1 A Person has a right of access, without the consent of the affected Yukon First Nation, to enter, cross and make necessary stops on Undeveloped Settlement Land to reach adjacent Non-Settlement Land for commercial and non-commercial purposes if:
- 6.3.1.1 the access is of a casual and insignificant nature; or
  - 6.3.1.2 the route used is generally recognized and was being used for access on a regular basis, whether year round or intermittently, either,
    - (a) prior to public notification of the final land selection for that Yukon First Nation's Final Agreement, or
    - (b) where the land becomes Settlement Land after the Effective Date of the Yukon First Nation Final Agreement, on the date the land became Settlement Land,

on the condition that the exercise of the right of access does not result in a significant alteration being made of that route.

- 6.3.2 A Person has a right of access without the consent of the affected Yukon First Nation to enter, cross and stay on Undeveloped Settlement Land for a reasonable period of time for all non-commercial recreational purposes.
- 6.3.3 Where no right of access is provided by a Settlement Agreement, a Person has a right of access to enter, cross and make necessary stops on Undeveloped Settlement Land to reach adjacent land for commercial and non-commercial purposes with the consent of the Yukon First Nation or, failing consent, with an order of the Surface Rights Board setting out the terms and conditions of access.
- 6.3.4 The Surface Rights Board shall not make an order under 6.3.3 unless the Person seeking access satisfies the Board that:
- 6.3.4.1 such access is reasonably required; and
  - 6.3.4.2 such access is not also practicable and reasonable across Crown Land.
- 6.3.5 Subject to 6.3.6 and 5.6.0, the holder of a licence, permit or other right of access to or across Settlement Land for commercial or non-commercial purposes, which was in existence either:
- 6.3.5.1 on the Effective Date of the Yukon First Nation's Final Agreement; or
  - 6.3.5.2 where the land becomes Settlement Land after the Effective Date of a Yukon First Nation's Final Agreement, on the date the land became Settlement Land,
- shall be entitled to exercise the rights granted by the licence, permit or other right of access including those granted by a renewal or replacement thereof as if the land had not become Settlement Land.
- 6.3.6 Any change in the terms or conditions relating to access of a licence, permit or other right of access described in 6.3.5, other than a renewal or replacement thereof shall require the consent of the affected Yukon First Nation or, failing consent, an order of the Surface Rights Board setting out the terms and conditions of access.
- 6.3.7 A Yukon First Nation or any Person may refer a dispute concerning the interpretation, application or alleged violation of 6.3.1, 6.3.2 or of any condition established pursuant to 6.6.0 affecting 6.3.1 or 6.3.2 to the Surface Rights Board for resolution.

6.3.8 The parties to a Yukon First Nation Final Agreement may agree therein to limit the application of 6.3.1.2 in respect of any particular route.

6.3.9 Nothing in this chapter shall be construed to provide a right to harvest Fish and Wildlife.

#### **6.4.0 Government Access**

6.4.1 Government, its agents and contractors shall have a right of access to enter, cross and stay on Undeveloped Settlement Land and use natural resources incidental to such access to deliver, manage and maintain Government programs and projects, including but not limited to the necessary alterations of land and watercourses by earthmoving equipment for routine and emergency maintenance of transportation corridors.

6.4.2 A Person authorized by Law to provide utilities for public purposes including electricity, telecommunications and municipal services shall have a right of access to enter, cross and stay on Undeveloped Settlement Land to carry out site investigations, assessments, surveys and studies in relation to proposed services after Consultation with the affected Yukon First Nation prior to exercising such access.

6.4.3 The right of access provided in 6.4.1 and 6.4.2 shall be subject to the conditions that there shall be no:

6.4.3.1 mischief committed on the Settlement Land;

6.4.3.2 fee or charge payable to the affected Yukon First Nation; or

6.4.3.3 unnecessary interference with the use and peaceful enjoyment of its Settlement Land by the Yukon First Nation.

6.4.4 Any Person exercising a right of access pursuant to 6.4.1 and 6.4.2 shall be liable only for significant damage to Settlement Land and any improvements on Settlement Land caused by the exercise of such right of access. Significant damage does not include necessary alteration of Settlement Land or watercourses required to maintain transportation corridors referred to in 6.4.1.

6.4.5 The right of access provided in 6.4.1 and 6.4.2 may be exercised:

6.4.5.1 for a period of no more than 120 consecutive days for any single program or project without the consent of the affected Yukon First Nation except that notice, where reasonable, shall be given; and

6.4.5.2 for a period of more than 120 consecutive days with the consent of the affected Yukon First Nation or, failing consent, with an order of the Surface Rights Board setting out the terms and conditions of access.

6.4.6 The Surface Rights Board shall not make an order under 6.4.5.2 unless the Person seeking access satisfies the Board that:

6.4.6.1 such access is reasonably required; and

6.4.6.2 such access is not also practicable and reasonable across Crown Land.

6.4.7 Nothing in this chapter shall be construed to limit the lawful authority of Government to carry out inspections and enforce Law on Settlement Land.

### **6.5.0 Military Access**

6.5.1 In addition to the right of access provided by 6.4.1, the Department of National Defence has a right of access to Undeveloped Settlement Land for military manoeuvres with the consent of the affected Yukon First Nation with respect to contact persons, areas, timing, environmental protection, protection of Wildlife and habitat, land use rent, and compensation for damage caused to Settlement Land and improvements and personal property thereon, or, failing consent, with an order of the Surface Rights Board as to terms and conditions with respect to such matters.

6.5.2 Nothing in 6.5.1 shall be construed to limit the authority of the Department of National Defence to enter, cross, stay on or use Undeveloped Settlement Land in accordance with the National Defence Act, R.S.C. 1985, c. N-5.

6.5.3 Government shall give reasonable advance notice of military exercises or operations to inhabitants of any area to be affected.

### **6.6.0 Conditions of Access**

6.6.1 If a Yukon First Nation wishes to establish terms and conditions for the exercise of a right of access provided:

6.6.1.1 by 5.15.3, 6.3.1, 6.3.2, 16.11.12, 18.3.1, 18.4.1 or 18.4.2; or

6.6.1.2 by 6.4.1 or 6.4.2 where the right of access is for a period of no more than 120 consecutive days,

the Yukon First Nation and Government shall attempt to negotiate the terms and conditions.

6.6.2 Failing agreement pursuant to 6.6.1, the Yukon First Nation may refer the matter to the Surface Rights Board. The Surface Rights Board may establish terms and conditions only for the exercise of a right of access which specify seasons, times, locations, method or manner of access.

6.6.3 Unless Government and the affected Yukon First Nation otherwise agree, a condition established pursuant to 6.6.2 affecting the exercise of a right of access shall be established only to:

6.6.3.1 protect the environment;

6.6.3.2 protect Fish and Wildlife or their habitat;

6.6.3.3 reduce conflicts with traditional and cultural uses of Settlement Land by the Yukon First Nation or a Yukon Indian Person; or

6.6.3.4 protect the use and peaceful enjoyment of land used for communities and residences.

6.6.4 A condition established pursuant to 6.6.2 affecting the exercise of a right of access shall not:

6.6.4.1 restrict law enforcement or any inspection authorized by Law;

6.6.4.2 impose a fee or charge for the exercise of that right of access; or

6.6.4.3 unreasonably restrict that right of access.



## **CHAPTER 7 - EXPROPRIATION**

### **7.1.0 Objective**

7.1.1 The objective of this chapter is, in recognition of the fundamental importance of maintaining the geographic integrity of Settlement Land, to ensure that development requiring expropriation shall avoid Settlement Land where possible and practicable.

### **7.2.0 Definitions**

In this chapter, the following definitions shall apply.

"Affected Yukon First Nation" means the Yukon First Nation whose Settlement Land is being acquired or expropriated by an Authority pursuant to this chapter.

"Authority" means Government or any other entity authorized by Legislation to expropriate Land.

"Cost of Construction" for a proponent in respect of a hydro-electric or water storage project means the cost of construction of civil structures; cost of reservoir and site clearing; cost of construction of access; electrical and mechanical costs; cost of construction of transmission to grid; design, including the cost of socio-economic and environmental studies required for the project application; and, engineering and construction management costs.

"Land" includes any interest in land recognized in Law.

"Settlement Land" includes any interest in Settlement Land recognized in Law.

### **7.3.0 General**

7.3.1 This chapter applies only to the expropriation of an interest in Settlement Land recognized in Law and held by a Yukon First Nation.

### **7.4.0 Procedures for Expropriation**

7.4.1 An Authority shall negotiate with the Affected Yukon First Nation the location and extent of Settlement Land to be acquired or expropriated.

- 7.4.2 Subject to this chapter, an Authority may expropriate Settlement Land in accordance with Laws of General Application.
- 7.4.3 When agreement of the Affected Yukon First Nation pursuant to 7.4.1 is not obtained, the following procedures shall apply:
- 7.4.3.1 any expropriation of Settlement Land shall require the approval of the Governor in Council or the Commissioner in Executive Council as the case may be;
  - 7.4.3.2 notice of the intention of any Authority to seek approval under 7.4.3.1 shall be given to the Affected Yukon First Nation by the Authority; and
  - 7.4.3.3 notice of the intention shall not be given until the public hearing process under 7.6.0 or the public hearing in accordance with Legislation has been completed.

#### **7.5.0 Procedures for Compensation**

- 7.5.1 An Authority shall negotiate with the Affected Yukon First Nation compensation for Settlement Land being expropriated or acquired, pursuant to this chapter.
- 7.5.2 When the agreement of the Affected Yukon First Nation pursuant to 7.5.1 is not obtained, the following provisions shall apply:
- 7.5.2.1 the Surface Rights Board shall determine any dispute over compensation upon an application by either the Authority or Affected Yukon First Nation, except where the expropriation is pursuant to the National Energy Board Act, R.S.C. 1985, c. N-7;
  - 7.5.2.2 compensation ordered by the Surface Rights Board may be,
    - (a) upon request by the Affected Yukon First Nation, and, if available and identified by the Affected Yukon First Nation, Land of the Authority within the Traditional Territory of the Affected Yukon First Nation,
    - (b) money,
    - (c) other forms of compensation, or
    - (d) any combination of above;

- 7.5.2.3 when the Affected Yukon First Nation requests Land to be all or part of the compensation, the Surface Rights Board shall,
- (a) determine whether the Authority holds Land identified by the Affected Yukon First Nation which is within its Traditional Territory and whether that Land is available,
  - (b) determine the value, in accordance with 7.5.2.7, of the Authority's Land which is available,
  - (c) order the Authority to transfer to the Affected Yukon First Nation the amount of available Land necessary to provide compensation, and
  - (d) subject to 7.5.2.4, where Land transferred to the Affected Yukon First Nation pursuant to 7.5.2.3(c) and 7.5.2.4(c) is not sufficient to provide compensation in Land as requested, order the balance of compensation to be in the form of 7.5.2.2(b), or (c), or both;
- 7.5.2.4 if the expropriating Authority is not Government and the Surface Rights Board has determined there is not sufficient available Land for the purposes of 7.5.2.3,
- (a) the Board shall so notify Government and thereafter Government shall be a party to the proceedings,
  - (b) the Board shall determine whether Government holds available Land which is contiguous to the Settlement Land and within the Affected Yukon First Nation's Traditional Territory, whether that Land is available and if so the value of that available Land in accordance with 7.5.2.7,
  - (c) the Board shall order Government to transfer to the Affected Yukon First Nation available Land up to the value, which in addition to the value of Land provided under 7.5.2.3, is necessary to provide compensation in Land as requested by the Affected Yukon First Nation under 7.5.2.3, and
  - (d) the Authority shall pay to Government the value of the Land provided under 7.5.2.4 (c) and all costs of Government associated with the transfer;
- 7.5.2.5 the Surface Rights Board shall consider the matters set out in 8.4.1 when assessing the value of expropriated Settlement Land;
- 7.5.2.6 Land is not available for the purposes of 7.5.2.3 or 7.5.2.4, if it is,

- (a) Land subject to an agreement for sale or a lease containing an option to purchase, unless both Government and the Person holding such an interest in the Land consent,
- (b) Land subject to a lease, unless both Government and the lessee consent,
- (c) a highway or highway right-of-way,
- (d) Land within 30 metres of the boundary line between the Yukon and Alaska, the Yukon and Northwest Territories, and the Yukon and British Columbia,
- (e) Land determined by the Surface Rights Board to be occupied or used by the expropriating Authority, any federal or territorial department or agency, or by a municipal government except with the consent of that expropriating Authority, department, agency or municipal government,
- (f) Land determined by the Surface Rights Board to be required for future use by the expropriating Authority, any federal or territorial department or agency, or by a municipal government except with the consent of that expropriating Authority, department, agency or municipal government,
- (g) Land which the Surface Rights Board determines would, if provided to a Yukon First Nation, unreasonably limit the expansion of Yukon communities,
- (h) Land which the Surface Rights Board determines would, if provided to a Yukon First Nation, unreasonably limit access for any Person to Navigable Water or highways, or
- (i) such other Land as the Surface Rights Board in its discretion determines is not available;

7.5.2.7 in determining the value of the Land to be provided by an Authority, the Surface Rights Board shall consider, in addition to the market value of the Land,

- (a) the value of Fish and Wildlife Harvesting and of gathering to the Affected Yukon First Nation,
- (b) any potential effect of the Land to be provided by an Authority upon other Settlement Land of the Affected Yukon First Nation,

(c) any cultural or other special value of the Land to the Affected Yukon First Nation, and

(d) such other factors as may be permitted by the Legislation establishing the Board;

7.5.2.8 Land provided or ordered as compensation under this chapter, which is within the Traditional Territory of the Affected Yukon First Nation, shall be transferred to the Affected Yukon First Nation in fee simple and shall, in accordance with 7.5.2.9, be designated as,

(a) Category A Settlement Land when Mines and Minerals are included, or

(b) Category B Settlement Land or Fee Simple Settlement Land when Mines and Minerals are not included;

7.5.2.9 prior to making an order under 7.5.2.3(c) or 7.5.2.4(c), the designation of Land under 7.5.2.8(b), and the designation of the acquired Land as Developed Settlement Land or Undeveloped Settlement Land shall be determined,

(a) by agreement between the Affected Yukon First Nation and Government, or

(b) failing agreement, by the Surface Rights Board; and

7.5.2.10 the designation of Land provided as compensation shall not affect any surrender in respect of such Land.

7.5.3 Nothing in this chapter prevents the Authority and the Affected Yukon First Nation from agreeing that Land outside of the Traditional Territory of the Affected Yukon First Nation be part of compensation for expropriation. Land outside the Affected Yukon First Nation's Traditional Territory shall not become Settlement Land, unless otherwise agreed to by Government, the Affected Yukon First Nation and the Yukon First Nation in whose Traditional Territory the Land is located.

## **7.6.0 Public Hearings**

7.6.1 Where an Affected Yukon First Nation objects to an expropriation, there shall be a public hearing in respect of the location and extent of the Land to be acquired. The procedure for the public hearing shall include the following:

7.6.1.1 notice to the Affected Yukon First Nation and the public;

- 7.6.1.2 an opportunity for the Affected Yukon First Nation and the public to be heard;
- 7.6.1.3 discretion in the holder of the hearing to award costs, including interim costs, to the Affected Yukon First Nation; and
- 7.6.1.4 the preparation and submission of a report by the hearing panel to the Minister.

7.6.2 Nothing in this chapter shall be construed to eliminate or duplicate any legislative requirement for a public hearing in respect of expropriation.

**7.7.0 Expropriation pursuant to the National Energy Board Act**

7.7.1 Where Settlement Land is expropriated pursuant to the National Energy Board Act, R.S.C. 1985, c. N-7, this chapter applies except that the powers of the Surface Rights Board shall be exercised by the board, committee, panel or other body authorized by the National Energy Board Act, R.S.C. 1985, c. N-7 to settle disputes in respect of expropriation.

7.7.2 The board, committee, panel or other body referred to under 7.7.1 shall include at least one nominee of the Affected Yukon First Nation.

**7.8.0 Expropriation for Hydro-electric and Water Storage Projects**

7.8.1 Government may identify on maps described in 5.3.1 no more than 10 sites for a hydro-electric or water storage project in the Yukon.

**Specific Provision**

7.8.1.1 Government has identified in the Traditional Territory of Champagne and Aishihik First Nations, on Map Sheets 115 G/8 and 115 H/5, in Appendix B - Maps, which forms a separate volume to this Agreement, the Aishihik Hydro-Electric Project, which includes the Gladstone Lakes Diversion Project, as a hydro-electric or water storage project site pursuant to 7.8.1.

7.8.1.2            Parcels S-35B, S-36B and S-70B are located in the Traditional Territory of Champagne and Aishihik First Nations in the Gladstone Lakes Diversion Project area identified for the Aishihik Hydro Electric Project and have been selected by Kluane First Nation as proposed Settlement Land as set out in Appendix A - Settlement Land Descriptions, attached to this Agreement.

7.8.2            Sites shall be identified pursuant to 7.8.1 in a Yukon First Nation's Traditional Territory before that Yukon First Nation's final land selection is signed by the negotiators to that Yukon First Nation's Final Agreement.

7.8.3            An Authority exercising a Flooding Right over Settlement Land identified pursuant to 7.8.1 and 7.8.2 shall pay compensation to the Affected Yukon First Nation for improvements only, provided the sum of such compensation to all Affected Yukon First Nations for that hydro-electric or water storage project shall not exceed three percent of the Cost of Construction of the project.

7.8.4            An Authority exercising a Flooding Right over Settlement Land, other than for those sites identified pursuant to 7.8.1 and 7.8.2, shall pay compensation pursuant to this chapter except that in assessing compensation for Land and improvements, the Surface Rights Board shall not consider 8.4.1.8 or 7.5.2.7(c) and the sum of such compensation to all Affected Yukon First Nations for all improvements shall not exceed three percent of the Cost of Construction of that hydro-electric or water storage project.





## **CHAPTER 8 - SURFACE RIGHTS BOARD**

### **8.1.0 General**

8.1.1 A Surface Rights Board ("the Board") shall be established pursuant to Legislation enacted no later than the effective date of Settlement Legislation.

8.1.2 The Minister shall appoint an even number of persons, no greater than 10, to the Board, one-half of which shall be nominees of the Council for Yukon Indians.

8.1.3 In addition to the persons appointed pursuant to 8.1.2, the Minister shall appoint, upon the recommendation of the Board, an additional person as a member of the Board who shall serve as chairperson.

8.1.4 The Surface Rights Board Legislation shall provide that:

8.1.4.1 applications to the Board shall be heard and decided by panels of three members of the Board;

8.1.4.2 where an application is in respect of Settlement Land, one member of the panel shall be a member nominated to the Board by the Council for Yukon Indians;

8.1.4.3 notwithstanding 8.1.4.1 and 8.1.4.2, any dispute may be heard and decided by one member of the Board, with the consent of the parties to the dispute; and

8.1.4.4 any order of a panel referred to in 8.1.4.1 or of one member referred to in 8.1.4.3 shall be considered an order of the Board.

8.1.5 To the extent an order of the Board is in conflict with:

8.1.5.1 a Decision Document that the Decision Body is empowered to implement; or

8.1.5.2 any requirement imposed pursuant to any Legislation regulating the activity for which the access is obtained, but not the access itself,

the Decision Document or the requirement shall prevail to the extent of that conflict whether the order was issued before or after the Decision Document or requirement.

- 8.1.6 Amendments to the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4 and the Yukon Placer Mining Act, R.S.C. 1985, c. Y-3 shall be made to conform with the provisions of this chapter.
- 8.1.7 An order of the Board shall be enforceable in the same manner as if it were an order of the Supreme Court of the Yukon.
- 8.1.8 A right of access to Settlement Land under an interim order shall not be exercised until the Person relying upon the interim order has paid to the affected Yukon First Nation, and to any affected interest holder designated by the Board, an entry fee, plus any interim compensation ordered by the Board.
- 8.1.9 Before any matter is referred to the Board, the parties to any proceeding pursuant to 8.2.1 shall first attempt to negotiate an agreement.

## **8.2.0 Jurisdiction of the Board**

- 8.2.1 The Board shall have jurisdiction to hear and determine:
- 8.2.1.1 any matter referred to the Board by a Settlement Agreement;
  - 8.2.1.2 on Non-Settlement Land, a dispute between a Person, other than Government, with an interest or right in the surface and a Person, other than Government, with a right of access to or interest in the Mines and Minerals therein and thereunder; and
  - 8.2.1.3 such other matters as may be set out in the Legislation establishing the Board.

## **8.3.0 Powers and Responsibilities of the Board**

- 8.3.1 In any proceeding before the Board pursuant to 8.2.1, it shall have the following powers and responsibilities:
- 8.3.1.1 to establish the terms and conditions of a right of access or use referred to the Board, whether or not compensation is included;
  - 8.3.1.2 to award compensation for the exercise of a right of access or use of the surface, and for damage resulting from access or use of the surface, and from the activities of the Person having the interest in the Mines and Minerals and to specify the time and method of payment thereof subject to exceptions, limitations and restrictions set out in a Settlement Agreement, and to determine the amount of such compensation;

- 8.3.1.3 to determine compensation for Settlement Land expropriated and to carry out the responsibilities set out in Chapter 7 - Expropriation;
  - 8.3.1.4 to determine, where required by a Settlement Agreement, whether access is reasonably required and whether that access is not also practicable and reasonable across Crown Land;
  - 8.3.1.5 to designate the route of access on Settlement Land determined least harmful to the interest of the affected Yukon First Nation while being reasonably suitable to the Person wishing access;
  - 8.3.1.6 to award costs, including interim costs;
  - 8.3.1.7 to grant an interim order in respect of any matter in 8.3.1.1, 8.3.1.2, 8.3.1.3 or 8.3.1.5 where the Board has not heard all the evidence or completed its deliberation in respect of that matter;
  - 8.3.1.8 except for a matter in respect of expropriation or acquisition of Settlement Land under Chapter 7 - Expropriation, to review periodically, any order of the Board, upon application by any party to the proceedings, where there has been a material change since the Board made the order;
  - 8.3.1.9 after a review is completed under 8.3.1.8, to affirm, amend or terminate any order of the Board;
  - 8.3.1.10 to prescribe rules and procedures to govern any negotiations required before a matter is referred to the Board; and
  - 8.3.1.11 such additional powers and responsibilities as may be set out in the Legislation establishing the Board.
- 8.3.2 An order of the Board may include:
- 8.3.2.1 the hours, days and times of the year during which access or use of the surface may be exercised;
  - 8.3.2.2 notice requirements;
  - 8.3.2.3 limitations on the location of use and the route of access;
  - 8.3.2.4 limitations on equipment;
  - 8.3.2.5 abandonment requirements and restoration work;

- 8.3.2.6 a requirement to provide security in the form of a letter of credit, guarantee or indemnity bond, insurance or any other form of security satisfactory to the Board;
- 8.3.2.7 rights of inspection or verification;
- 8.3.2.8 a requirement to pay the entry fee payable to the affected Yukon First Nation;
- 8.3.2.9 a requirement to pay to the affected Yukon First Nation the compensation determined;
- 8.3.2.10 limitations on the number of Persons and on the activities which may be carried out by Persons; and
- 8.3.2.11 such other terms and conditions as may be permitted by the Legislation establishing the Board.

#### **8.4.0 Compensation**

- 8.4.1 In determining the amount of compensation for the affected Yukon First Nation for access to, use of, or expropriation of Settlement Land, the Board shall consider:
  - 8.4.1.1 the market value of the interest in the Settlement Land;
  - 8.4.1.2 any loss of use, loss of opportunity, or interference with the use of the Settlement Land;
  - 8.4.1.3 any impact on Fish and Wildlife Harvesting within Settlement Land;
  - 8.4.1.4 any impact on Fish and Wildlife and their habitat within Settlement Land;
  - 8.4.1.5 any impact upon other Settlement Land;
  - 8.4.1.6 any damage which may be caused to the Settlement Land;
  - 8.4.1.7 any nuisance, inconvenience, and noise;
  - 8.4.1.8 any cultural or other special value of the Settlement Land to the affected Yukon First Nation;
  - 8.4.1.9 the expense associated with the implementation of any order of the Board; and

8.4.1.10 such other factors as may be permitted by the Legislation establishing the Board,

but shall not:

8.4.1.11 decrease the compensation on account of any reversionary interest remaining in the Yukon First Nation or any entry fee payable;

8.4.1.12 increase the compensation on account of any aboriginal claim, right, title or interest; or

8.4.1.13 increase the compensation by taking into account the value of Mines and Minerals on or under Category B or Fee Simple Settlement Land.

8.4.2 The Surface Rights Board Legislation shall set out the authority of the Board to establish the entry fee and shall set out the parameters for establishment of the entry fee.

8.4.3 If an interim order for access is granted before all matters have been determined, a hearing in respect of all these outstanding matters shall be commenced no later than 30 days from the date of the interim order as the case may be.

## **8.5.0 Legislation**

8.5.1 The parties to the Umbrella Final Agreement shall negotiate guidelines for drafting Surface Rights Board Legislation and these drafting guidelines shall be consistent with the provisions of this chapter.

8.5.2 Failing agreement on guidelines, Government shall Consult with the Council for Yukon Indians and with Yukon First Nations during the drafting of the Surface Rights Board Legislation.



## **CHAPTER 9 - SETTLEMENT LAND AMOUNT**

### **9.1.0 Objective**

9.1.1 The objective of this chapter is to recognize the fundamental importance of land in protecting and enhancing a Yukon First Nation's cultural identity, traditional values and life style, and in providing a foundation for a Yukon First Nation's self-government arrangements.

### **9.2.0 Yukon Settlement Land Amount**

9.2.1 Subject to the Umbrella Final Agreement, the total amount of Settlement Land for the requirements of all Yukon First Nations shall not exceed 16,000 square miles (41,439.81 square kilometres).

9.2.2 The total amount shall contain no more than 10,000 square miles (25,899.88 square kilometres) of Category A Settlement Land.

### **9.3.0 Yukon First Nations' Settlement Land Amount**

9.3.1 The amount of Settlement Land to be allocated to each Yukon First Nation has been determined in the context of the overall package of benefits in the Umbrella Final Agreement.

9.3.2 The Umbrella Final Agreement as initialled by the negotiators on March 31, 1990, contemplated that the Yukon First Nations and Government would agree to the allocation of Settlement Land amounts described in 9.2.0 for each Yukon First Nation by May 31, 1990, and in the absence of such agreement, Government, after consultation with the Council for Yukon Indians, would determine that allocation.

9.3.3 In the absence of the agreement referred to in 9.3.2, Government, after consultation with the Council for Yukon Indians, has determined the allocation of Settlement Land among the Yukon First Nations and that allocation is set out in Schedule A - Allocation of Settlement Land Amount attached to this chapter.

9.3.4 The land allocation determined under 9.3.3 for Yukon First Nations which do not have a Yukon First Nation Final Agreement may be varied by agreement in writing of all affected Yukon First Nations and Government.

9.3.5 Negotiation of final Settlement Land selections for a Yukon First Nation shall not commence until the allocation pursuant to 9.3.2 or 9.3.3 is determined.

9.3.6 A Yukon First Nation Final Agreement shall identify and describe Settlement Land for that Yukon First Nation.

#### **9.4.0 Land Negotiation Restrictions**

9.4.1 Privately owned land, land subject to an agreement for sale or land subject to a lease containing an option to purchase is not available for selection as Settlement Land, unless the Person holding such an interest in the land consents.

9.4.2 Unless otherwise agreed to in a Yukon First Nation Final Agreement, the following land is not available for selection as Settlement Land:

9.4.2.1 except as provided in 9.4.1, land under lease, subject to the leaseholder's interest;

9.4.2.2 land occupied by or transferred to any department or agency of the federal, territorial or municipal government;

9.4.2.3 land reserved in the property records of Northern Program, Department of Indian Affairs and Northern Development, except land reserved for that Department's Indian and Inuit Program, in favour of a Yukon First Nation or a Yukon Indian Person;

9.4.2.4 a highway or highway right-of-way as defined in the Highways Act, S.Y. 1991, c. 7, but in no case shall a highway right-of-way have a width greater than 100 metres; and

9.4.2.5 the border reserve constituting any land within 30 metres of the boundary line between the Yukon and Alaska, the Yukon and Northwest Territories, and the Yukon and British Columbia.

#### **9.5.0 Balanced Selection**

9.5.1 To establish a balanced allocation of land resource values, the land selected as Settlement Land shall be representative of the nature of the land, the geography and the resource potential within each Yukon First Nation's Traditional Territory, and the balance may vary among Yukon First Nations' selections in order to address their particular needs.

9.5.2 The selection of Site Specific Settlement Land shall not be restricted solely to traditional use and occupancy, but may also address other needs of Yukon First Nations.



- 9.5.3 The sizes of Site Specific Settlement Land may vary depending on the geography and needs of individual Yukon First Nations.
- 9.5.4 Except as otherwise agreed on a case by case basis, Settlement Land may only be selected by a Yukon First Nation within its Traditional Territory.
- 9.5.5 Land selections shall allow for reasonable expansion by Yukon First Nations and other Yukon communities.
- 9.5.6 Land selections on both sides of a major waterway or Major Highway should be avoided, but may be considered with each Yukon First Nation on a case by case basis to ensure final land selections provide a balanced selection and reasonable access for all users.
- 9.5.7 A Yukon First Nation may select land to address needs including, but not limited to the following:
- 9.5.7.1 hunting areas;
  - 9.5.7.2 fishing areas;
  - 9.5.7.3 trapping areas;
  - 9.5.7.4 habitat areas and protected areas;
  - 9.5.7.5 gathering areas;
  - 9.5.7.6 historical, archaeological or spiritual areas;
  - 9.5.7.7 areas of residence or occupancy;
  - 9.5.7.8 access to waterbodies and use of waterbodies;
  - 9.5.7.9 agriculture or forestry areas;
  - 9.5.7.10 areas of economic development potential; and
  - 9.5.7.11 wilderness areas.
- 9.5.8 Settlement Land may abut a right-of-way of a highway or road.
- 9.5.9 Settlement Land may abut Navigable Water and non-Navigable Water notwithstanding any Waterfront Right-of-Way that may be identified pursuant to Chapter 5 - Tenure and Management of Settlement Land.

## **9.6.0 Crown and Settlement Land Exchange**

9.6.1 A Yukon First Nation and Government may agree to exchange Crown Land for Settlement Land and may agree that Crown Land exchanged for Settlement Land will be Settlement Land provided that any such agreement shall not affect the cession, release and surrender of any aboriginal claim, right, title or interest in respect of that Crown Land.

### **Specific Provision**

9.6.1.1 Subject to 9.6.1.2, Government and Kluane First Nation may only agree to an exchange of Settlement Land for Crown Land in the WRFN Core Area pursuant to 9.6.1 with the consent of the Council of White River First Nation.

9.6.1.2 The provisions of 9.6.1.1 only come into effect when there is in effect a White River First Nation Final Agreement which provides that Government and White River First Nation may only agree to an exchange of Crown Land in the KFN Core Area pursuant to 9.6.1 of the White River First Nation Final Agreement with the consent of the Kluane First Nation Council.

**SCHEDULE A**  
**ALLOCATION OF SETTLEMENT LAND AMOUNT**

	Cat. A		Fee Simple & Cat. B		Total		Allocation under 4.3.4	
	Sq. Miles	Sq. Km*	Sq. Miles	Sq. Km*	Sq. Miles	Sq. Km*	Sq. Miles	Sq. Km*
Carcross/Tagish First Nation	400	1036.00	200	518.00	600	1553.99	2.90	7.51
Champagne and Aishihik First Nations	475	1230.24	450	1165.49	925	2395.74	12.17	31.52
Dawson First Nation	600	1553.99	400	1036.00	1000	2589.99	3.29	8.52
Kluane First Nation	250	647.50	100	259.00	350	906.50	2.63	6.81
Kwanlin Dun First Nation	250	647.50	150	388.50	400	1036.00	2.62	6.79
Liard First Nation	930	2408.69	900	2330.99	1830	4739.68	2.63	6.81
Little Salmon/Carmacks First Nation	600	1553.99	400	1036.00	1000	2589.99	3.27	8.47
First Nation of Nacho Nyak Dun	930	2408.69	900	2330.99	1830	4739.68	3.58	9.27
Ross River Dena Council	920	2382.79	900	2330.99	1820	4713.78	2.75	7.12
Selkirk First Nation	930	2408.69	900	2330.99	1830	4739.68	2.62	6.79
Ta'an Kwach'an Council	150	388.50	150	388.50	300	777.00	3.21	8.31
Teslin Tlingit Council	475	1230.24	450	1165.49	925	2395.74	12.88	33.36
Vuntut Gwitchin First Nation	2990	7744.06	-	-	2990	7744.06	2.74	7.10
White River First Nation	100	259.00	100	259.00	200	518.00	2.72	7.04
<b>TOTAL</b>	<b>10000</b>	<b>25899.88</b>	<b>6000</b>	<b>15539.93</b>	<b>16000</b>	<b>41439.81</b>	<b>60.00</b>	<b>155.40</b>

\* Conversion to square kilometres is approximate



## **CHAPTER 10 - SPECIAL MANAGEMENT AREAS**

### **10.1.0 Objective**

10.1.1 The objective of this chapter is to maintain important features of the Yukon's natural or cultural environment for the benefit of Yukon residents and all Canadians while respecting the rights of Yukon Indian People and Yukon First Nations.

### **10.2.0 Definitions**

In this chapter, the following definition shall apply.

"Special Management Area" means an area identified and established within a Traditional Territory pursuant to this chapter and may include:

- (a) national wildlife areas;
- (b) National Parks, territorial parks, or national park reserves, and extensions thereof, and national historic sites;
- (c) special Wildlife or Fish management areas;
- (d) migratory bird sanctuaries or a wildlife sanctuary;
- (e) Designated Heritage Sites;
- (f) watershed protection areas; and
- (g) such other areas as a Yukon First Nation and Government agree from time to time.

#### **Specific Provision**

"Subsistence" has the same meaning as in Chapter 16 - Fish and Wildlife.

### **10.3.0 Establishment of Special Management Areas**

10.3.1 Provisions in respect of an existing Special Management Area may be set out in a Yukon First Nation Final Agreement.

10.3.2 Special Management Areas may be established in accordance with the terms of this chapter pursuant to a Yukon First Nation Final Agreement or pursuant to Laws of General Application.

**Specific Provision**

10.3.2.1 The Pickhandle Lakes Habitat Protection Area is established as a Special Management Area and the specific provisions in respect thereof are set out in Schedule A - Pickhandle Lakes Habitat Protection Area, attached to this chapter.

10.3.2.2 The Asi Keyi Natural Environment Park is established as a Special Management Area and the specific provisions in respect thereof are set out in Schedule B - Asi Keyi Natural Environment Park, attached to this chapter.

10.3.2.3 The Tachal Region of Kluane National Park Reserve is established as a Special Management Area and the specific provisions in respect thereof are set out in Schedule C - Kluane National Park and Park Reserve, attached to this chapter.

10.3.3 Except as provided in a Yukon First Nation Final Agreement, where Government proposes to establish a Special Management Area, Government shall refer the proposal to the affected Renewable Resources Council for its review and recommendations.

10.3.4 Government may refer proposals to establish historic territorial parks, national historic sites administered by the Canadian Parks Service or to designate Heritage Sites as Designated Heritage Sites to the Heritage Resources Board established pursuant to 13.5.0 instead of the affected Renewable Resources Council for its review and recommendations.

10.3.5 A Special Management Area may not include Settlement Land without the consent of the affected Yukon First Nation.

**10.4.0 Rights and Interests of Yukon First Nations**

10.4.1 Where a Special Management Area is proposed to be established which will adversely affect rights of a Yukon First Nation under a Settlement Agreement, Government and the affected Yukon First Nation shall, at the request of either party, negotiate an agreement to:

- 10.4.1.1 establish any rights, interests and benefits of the affected Yukon First Nation in the establishment, use, planning, management and administration of the Special Management Area; and
  - 10.4.1.2 mitigate adverse effects of the establishment of the Special Management Area on the affected Yukon First Nation.
- 10.4.2 Agreements negotiated pursuant to 10.4.1:
- 10.4.2.1 shall address the rights Yukon Indian People have for Harvesting Fish and Wildlife within the Special Management Area;
  - 10.4.2.2 may address the economic and employment opportunities and benefits for the affected Yukon First Nation;
  - 10.4.2.3 may address whether, and on what terms, including provisions on management, Settlement Land may be included in the Special Management Area; and
  - 10.4.2.4 may include such other provisions as Government and the affected Yukon First Nation may agree.
- 10.4.3 Where Government and the affected Yukon First Nation do not agree on the terms of an agreement pursuant to 10.4.1, the parties may refer the outstanding issues to the dispute resolution process under 26.4.0.
- 10.4.4 Where mediation under 10.4.3 does not result in agreement, the Government may establish the Special Management Area.
- 10.4.5 Notwithstanding 6.2.3.2, access by a Yukon Indian Person to a Special Management Area established pursuant to 10.4.4 for Harvesting Fish or Wildlife pursuant to a Settlement Agreement may be limited or prohibited only for reasons of Conservation, public health or public safety.
- 10.4.6 Government and the affected Yukon First Nation may, at any time after the establishment of a Special Management Area pursuant to 10.4.4, negotiate an agreement pursuant to 10.4.1 in respect of that Special Management Area, in which case 10.4.5 shall no longer apply to that Special Management Area.
- 10.4.7 Nothing in this chapter shall be construed to derogate from any provision respecting National Parks in the Yukon First Nation Final Agreements for the Champagne and Aishihik First Nations, the Kluane First Nation, the White River First Nation or the Vuntut Gwitchin First Nation.

- 10.4.8 Any agreement concluded between Government and the affected Yukon First Nation pursuant to 10.4.1 may be amended according to the terms set out in that agreement.
- 10.4.9 Any agreement concluded between Government and the affected Yukon First Nation pursuant to 10.4.1 may be appended to and form part of that Yukon First Nation's Final Agreement if Government and the Yukon First Nation agree.

### **10.5.0 Management of Future Special Management Areas**

- 10.5.1 Unless Government otherwise agrees, Government shall be the management authority for Special Management Areas on Non-Settlement Land.
- 10.5.2 Government shall prepare, or have prepared, a management plan for each Special Management Area established pursuant to a Yukon First Nation Final Agreement after the Effective Date of that Yukon First Nation Final Agreement.
- 10.5.3 Government shall make best efforts to complete the management plan within five years of the establishment of the Special Management Area.
- 10.5.4 Government shall review each management plan at least once every 10 years.
- 10.5.5 The management plan and any proposed amendments thereto shall be referred before approval to the relevant Renewable Resources Council or to the Yukon Heritage Resources Board, as the case may be, for its review and recommendations.
- 10.5.6 The provisions of 16.8.0 shall apply in respect of the implementation of any recommendations made pursuant to 10.5.5.
- 10.5.7 Should a management advisory body other than a body referred to in 10.5.5 be established by Government for the purpose of 10.3.3, 10.3.4 or 10.5.5, Yukon First Nation representation shall be 50 percent on any such body unless Government and the affected Yukon First Nation agree otherwise. Any such management advisory body shall have the responsibilities of a Renewable Resource Council or the Heritage Resources Board set out in this chapter.



- 10.5.8 Except as provided otherwise in this chapter, or in a Yukon First Nation Final Agreement, all National Parks and extensions, national park reserves and extensions and national historic parks and sites shall be planned, established and managed pursuant to the National Parks Act, R.S.C. 1985, c. N-14, other Legislation, the Canadian Parks Service policy and park management plans in effect from time to time.
- 10.5.9 Where a Special Management Area includes a National Park or its extension or national park reserve or its extension, exploration and development of non-renewable resources shall not be permitted, except in respect of the removal of sand, stone and gravel for construction purposes within the National Park or national park reserve.
- 10.5.10 Where a Special Management Area includes Yukon First Nation Burial Sites or places of religious and ceremonial significance to a Yukon First Nation, the management plan shall be consistent with the provisions of Chapter 13 - Heritage and shall provide for the protection and preservation of the sites or places.

#### **10.6.0 Relationship to the Land Use Planning and Development Assessment Processes**

- 10.6.1 Special Management Areas established after the effective date of Settlement Legislation shall be:
- 10.6.1.1 consistent with land use plans approved in accordance with Chapter 11 - Land Use Planning; and
  - 10.6.1.2 subject to the provisions of Chapter 12 - Development Assessment.

#### **10.7.0 Fish and Wildlife Management**

- 10.7.1 Fish and Wildlife within Special Management Areas shall be managed in accordance with Chapter 16 - Fish and Wildlife.

## **SCHEDULE A**

### **PICKHANDLE LAKES HABITAT PROTECTION AREA**

#### **1.0 Objectives**

1.1 The objectives of this schedule are:

- 1.1.1 to establish the Pickhandle Lakes Habitat Protection Area;
- 1.1.2 to conserve important Fish and Wildlife and their habitats in the Pickhandle Lakes Habitat Protection Area for the benefit of all people;
- 1.1.3 to protect the full diversity of Fish and Wildlife populations and their habitats in the Pickhandle Lakes Habitat Protection Area from activities which could reduce the capability of the Pickhandle Lakes Habitat Protection Area to support Fish and Wildlife;
- 1.1.4 to increase public knowledge regarding the level of biodiversity and the importance of the Pickhandle Lakes Habitat Protection Area for waterfowl species and other Fish and Wildlife;
- 1.1.5 to recognize and protect the traditional and current use of the Pickhandle Lakes Habitat Protection Area by White River First Nation, Kluane First Nation, White River People and Kluane People;
- 1.1.6 to encourage public awareness, appreciation and enjoyment of the natural resources of the Pickhandle Lakes Habitat Protection Area; and
- 1.1.7 to provide a process to develop a management plan for the Pickhandle Lakes Habitat Protection Area.

#### **2.0 Definitions**

2.1 In this schedule, the following definitions shall apply.

"Approved Management Plan" means the management plan approved under 9.1.

"Area" means the area within the boundaries identified as "Pickhandle Lakes Habitat Protection Area" (PLHPA) in Appendix B - Maps, which forms a separate volume to this Agreement, including Crown Land, Settlement Land and privately titled land.

"Effective Date" means the earlier of the Effective Dates of either the White River First Nation Final Agreement or the Kluane First Nation Final Agreement.

"Forest Resources" has the same meaning as in Chapter 17 - Forest Resources.

"HPA" means the Pickhandle Lakes Habitat Protection Area established by the Yukon under the Wildlife Act, RSY 2002, c. 229 in respect of a portion of the Crown Land within the Area in accordance with 3.2 of this schedule

- 2.2 In this schedule, "mines and minerals" and the "right to work" the mines and minerals shall have their meanings according to Laws of General Application and not as defined in Chapter 1 - Definitions.
- 2.3 For the purposes of 1.1.5, 3.4, and 6.3.1, "Kluane First Nation" means the Kluane First Nation once its self-government agreement is brought into effect pursuant to the Yukon First Nations Self-Government Act, S.C. 1993, c. 35 and prior to that time means the Kluane First Nation Band and "Kluane People" has the same meaning as in the Kluane First Nation Final Agreement once that agreement comes into effect and prior to that time, means the members of the Kluane First Nation Band.
- 2.4 For the purposes of 1.1.5, 3.4, and 6.3.1, "White River First Nation" means the White River First Nation once its self-government agreement is brought into effect pursuant to the Yukon First Nations Self-Government Act, S.C. 1993, c. 35 and prior to that time means the White River First Nation Band and "White River People" has the same meaning as in the White River First Nation Final Agreement once that agreement comes into effect and prior to that time, means the members of the White River First Nation Band.

### **3.0 Establishment of the Pickhandle Lakes Habitat Protection Area**

- 3.1 As soon as practicable after the Effective Date, Canada shall transfer to the Commissioner of the Yukon Territory the administration and control of Crown Land within the Area, excluding the mines and minerals and the right to work the mines and minerals in, on or under the Crown Land.
- 3.2 Following the transfer referred to in 3.1 and as soon as practicable after the Effective Date, the Yukon shall designate the Crown Land within the Area excluding the mines and minerals and the right to work the mines and minerals, in, on or under the Crown Land as the Pickhandle Lakes Habitat Protection Area under the Wildlife Act, RSY 2002, c. 229.
- 3.3 For greater certainty, the HPA does not include:
- 3.3.1 the mines and minerals in, on or under the Area and the right to work the mines and minerals;
  - 3.3.2 subject to 3.5 and 3.6, the land shown as KFN R-22B, KFN S-28B and KFN S-29B on map Pickhandle HPA ("PHPA") in Appendix B - Maps, which forms a separate volume to this Agreement;
  - 3.3.3 subject to 3.7 and 3.8, the land shown as WRFN S-83B and WRFN S-84B on map Pickhandle HPA ("PHPA") in Appendix B - Maps, which forms a separate volume to this Agreement; and
  - 3.3.4 Lot 1000, Quad 115F/16, Plan 71259 CLSR, 88-37 LTO.
- 3.4 The designation as a habitat protection area shall not be removed from any part of the HPA without the agreement of the Yukon, White River First Nation and Kluane First Nation.
- 3.5 If the land described in 3.3.2 does not become Kluane First Nation Settlement Land or Kluane First Nation Proposed Site Specific Settlement Land within 5 years of the effective date of the devolution transfer agreement between Canada and the Yukon, Government may include that land in the HPA.

3.6 Any of the land described in 3.3.2 which becomes Kluane First Nation Proposed Site Specific Settlement Land and which does not become Settlement Land pursuant to 5.14.0 shall be included in the HPA on the same date the plan of survey for the Site Specific Settlement Land is confirmed in accordance with Chapter 15 of the Kluane First Nation Final Agreement unless included in the HPA earlier pursuant to 3.5.

3.7 If the land described in 3.3.3 does not become White River First Nation Settlement Land or White River First Nation Proposed Site Specific Settlement Land within 5 years of the effective date of the devolution transfer agreement between Canada and the Yukon, Government may include that land in the HPA.

3.8 Any of the land described in 3.3.3 which becomes White River First Nation Proposed Site Specific Settlement Land and which does not become Settlement Land pursuant to 5.14.0 shall be included in the HPA on the same date the plan of survey for the Site Specific Settlement Land is confirmed in accordance with Chapter 15 of the White River First Nation Final Agreement unless included in the HPA earlier pursuant to 3.7.

#### **4.0 Fish and Wildlife**

4.1 For greater certainty, White River First Nation and White River People have, in respect of that part of the HPA which is within the Traditional Territory of White River First Nation, all the rights set out in Chapter 16 - Fish and Wildlife of the White River First Nation Final Agreement.

4.2 For greater certainty, Kluane First Nation and Kluane People have, in respect of that part of the HPA which is within the Traditional Territory of Kluane First Nation, all the rights set out in Chapter 16 - Fish and Wildlife of the Kluane First Nation Final Agreement.

#### **5.0 Forest Resources**

5.1 Kluane People shall have the right to harvest Forest Resources on Crown Land in the HPA pursuant to 17.3.1.1 and 17.3.1.3 of Chapter 17 - Forest Resources of the Kluane First Nation Final Agreement.

5.2 White River People shall have the right to harvest Forest Resources on Crown Land in the HPA pursuant to 17.3.1.1 and 17.3.1.3 of Chapter 17 - Forest Resources of the White River First Nation Final Agreement.

## **6.0 Steering Committee**

6.1 A steering committee shall be established as soon as practicable after the earlier of:

6.1.1 the fifth anniversary of the Effective Date; or

6.1.2 the coming into effect of the later of the White River First Nation Final Agreement and the Kluane First Nation Final Agreement,

to recommend a management plan for the HPA.

6.2 Subject to 6.5 to 6.10, the steering committee shall be comprised of two members designated by Government, one member designated by White River First Nation and one member designated by the Kluane First Nation.

6.3 In designating members under 6.0, the designating party shall consider the following factors:

6.3.1 any prospective member's familiarity with and sensitivity to the cultures of Kluane First Nation and White River First Nation, and to the aspirations of Kluane First Nation and White River First Nation relating to the HPA; and

6.3.2 any prospective member's familiarity with natural resource issues.

6.4 Nothing in 6.3 shall be construed to mean that the factors referred to therein shall be the determining factors in designating any member.

6.5 If, at the time the steering committee is established the White River First Nation Final Agreement is not in effect, the member to be designated by the White River First Nation may be designated by the White River First Nation Band.

6.6 If the White River First Nation Band fails to designate the member within 90 days of being so requested by the Yukon, the fourth member shall be jointly designated by the Yukon and Kluane First Nation.

- 6.7 If the White River First Nation Final Agreement comes into effect after the designation of a member pursuant to 6.6 and before the management plan is recommended to Government pursuant to 7.1, the White River First Nation may designate a fifth member to the steering committee.
- 6.8 If, at the time the steering committee is established the Kluane First Nation Final Agreement is not in effect, the member to be designated by the Kluane First Nation may be designated by the Kluane First Nation Band.
- 6.9 If the Kluane First Nation Band fails to designate the member within 90 days of being so requested by the Yukon, the Yukon and White River First Nation shall jointly designate the fourth member.
- 6.10 If the Kluane First Nation Final Agreement comes into effect after the designation of a member pursuant to 6.9 and before the management plan is recommended to Government pursuant to 7.1, the Kluane First Nation may designate a fifth member to the steering committee.
- 6.11 The steering committee may make its own operating procedures and shall, to the greatest extent possible, work on a consensus basis.
- 6.12 Members of the steering committee, other than the members jointly designated pursuant to 6.6 and 6.9 shall be delegates of the parties who designated them.
- 7.0 Management Plan**
- 7.1 The steering committee shall make best efforts to recommend a management plan to Government within 18 months of the establishment of the steering committee.
- 7.2 The management plan shall be consistent with the objectives set out in 1.1.2 to 1.1.6 of this schedule and the Wildlife Act, RSY 2002, c. 229.

- 7.3 In developing a management plan for the HPA, the steering committee shall consider, and the management plan may include, recommendations respecting the prohibition of entry on the Area for the purpose of locating, prospecting or mining under the Quartz Mining Act, SY 2003, c. 14 and the Placer Mining Act, SY 2003, c. 13, withdrawal of the mines and minerals, in, on or under the Area from the disposal under the Territorial Lands (Yukon) Act, SY 2003, c. 17, and withdrawal of the Area from disposition pursuant to the Oil and Gas Act, RSY 2002, c. 162.
- 7.4 Subject to 7.5, no one may explore or stake for coal in, on or under any part of the Area where there is in force a withdrawal of the area from the disposal of any interest pursuant to the Territorial Lands (Yukon) Act, SY 2003, c. 17.
- 7.5 For greater certainty, the provisions of 7.4 or any prohibition or withdrawal created by Government as a result of the recommendations referred to in 7.3 shall not apply in respect of:
- 7.5.1 mineral claims and leases recorded or continued under the Quartz Mining Act, SY 2003, c. 14 and placer mining claims and leases to prospect recorded or continued under the Placer Mining Act, SY 2003, c. 13, in existence;
  - 7.5.2 oil and gas dispositions under the Oil and Gas Act, RSY 2002, c. 162, in existence, which for greater certainty includes federal dispositions in existence;
  - 7.5.3 rights granted or continued under section 6 of the Territorial Lands (Yukon) Act, SY 2003, c. 17, in existence; and
  - 7.5.4 any successor or replacement rights and any new leases, licences, permits or other rights which may be granted in respect of an interest described in 7.5.1, 7.5.2 or 7.5.3.
- 8.0 Public Consultation**
- 8.1 The preparation of the management plan for the HPA shall include a process for public consultation.



## **9.0 Approval of Management Plan**

- 9.1 The Minister shall accept, vary or set aside the recommended management plan within 90 days of the receipt of it from the steering committee.
- 9.2 Subject to 9.3 and 9.4, the decision of the Minister as to the provisions to be included in the Approved Management Plan shall be forwarded to the White River Renewable Resources Council, the Dän Keyi Renewable Resources Council, White River First Nation and Kluane First Nation.
- 9.3 If, at the time of the Minister's decision the White River First Nation Final Agreement is not in effect, the decision shall be forwarded to Kluane First Nation, the Dän Keyi Renewable Resources Council and the White River First Nation Band.
- 9.4 If, at the time of the Minister's decision the Kluane First Nation Final Agreement is not in effect, the decision shall be forwarded to the Kluane First Nation Band, the White River Renewable Resources Council and White River First Nation.

## **10.0 Implementation of the Approved Management Plan**

- 10.1 The Yukon shall manage the HPA in accordance with the Approved Management Plan and the Wildlife Act, RSY 2002, c. 229.
- 10.2 Prior to the implementation of the Approved Management Plan, Government shall manage the HPA in accordance with the Wildlife Act, RSY 2002, c. 229, and to the extent practicable in a manner consistent with the objectives set out in 1.1.2 to 1.1.6 of this schedule.
- 10.3 If the land described in 3.3.3 becomes White River First Nation Settlement Land, White River First Nation shall manage the Settlement Land in a manner consistent with the objectives set out in 1.1.2 to 1.1.5 of this schedule and any uses of such Settlement Land authorized by White River First Nation shall be compatible with the uses which may be made of the HPA.
- 10.4 If the land described in 3.3.2 becomes Kluane First Nation Settlement Land, Kluane First Nation shall manage the Settlement Land in a manner consistent with the objectives set out in 1.1.2 to 1.1.5 of this schedule and any uses of such Settlement Land Parcels authorized by Kluane First Nation shall be compatible with the uses which may be made of the HPA.

- 10.5 Government shall manage the mines and minerals in, on or under the Area and the right to work the mines and minerals in accordance with Laws of General Application.
- 10.6 In managing the mines and minerals in, on or under the Area and the right to work the mines and minerals in accordance with Laws of General Application, Government shall take into account the objectives set out in 1.1.2 to 1.1.6 of this schedule.
- 10.7 Any dispute between Government and White River First Nation respecting the management or use of the White River First Nation Settlement Land referred to in 10.3 may be referred by Government or White River First Nation to the dispute resolution process under 26.4.0.
- 10.8 Any dispute between Government and Kluane First Nation respecting the management or use of the Kluane First Nation Settlement Land referred to in 10.4 may be referred by Government or Kluane First Nation to the dispute resolution process under 26.4.0.
- 11.0 Review and Amendments of the Approved Management Plan**
- 11.1 If, within five years of the initial approval of the Approved Management Plan, Government, the White River Renewable Resources Council, White River First Nation, the Dän Keyi Renewable Resources Council or Kluane First Nation is of the view that a review of the Approved Management Plan is required, Government, the White River Renewable Resources Council and the Dän Keyi Renewable Resources Council shall jointly undertake such review.
- 11.2 Unless they otherwise agree, Government, the White River Renewable Resources Council and the Dän Keyi Renewable Resources Council shall review the Approved Management Plan at least every ten years following the earlier of:
- 11.2.1 any initial review of the Approved Management Plan pursuant to 11.1; and
- 11.2.2 five years from the initial approval of the Approved Management Plan.
- 11.3 Reviews of the Approved Management Plan shall include a process for public consultation.

11.4 The provisions of 9.0 shall apply in respect of any recommendations made pursuant to 11.1 or 11.2.

11.5 Until such time as the White River First Nation Final Agreement comes into effect, the rights and responsibilities of the White River Renewable Resources Council and White River First Nation under 11.0 may be assumed by the White River First Nation Band.

11.5.1 If the White River First Nation Band fails to participate in any review under 11.1 or 11.2 within 90 days of being so requested by Government, the review may proceed without the participation of the White River First Nation Band.

11.6 Until such time as the Kluane First Nation Final Agreement comes into effect, the rights and responsibilities of the Dän Keyi Renewable Resources Council and the Kluane First Nation under 11.0 may be assumed by the Kluane First Nation Band.

11.6.1 If the Kluane First Nation Band fails to participate in any review under 11.1 or 11.2 within 90 days of being so requested by Government, the review may proceed without the participation of the Kluane First Nation Band.

## **12.0 Development Assessment and Land Use Planning**

12.1 In carrying out their functions under Chapter 12 - Development Assessment, the Yukon Development Assessment Board and a Designated Office shall consider the Approved Management Plan.

12.2 In developing a land use plan which includes all or part of the HPA, a Regional Land Use Planning Commission shall consider the Approved Management Plan.

## **SCHEDULE B**

### **ASI KEYI NATURAL ENVIRONMENT PARK**

#### **1.0 Objectives**

1.1 The objectives of this schedule are:

- 1.1.1 to establish the Asi Keyi Natural Environment Park;
- 1.1.2 to protect, for all time, a natural area of territorial significance, which includes a portion of the Kluane Wildlife Sanctuary, containing physical and biological features of international significance as well as sites of archaeological, historical and cultural value;
- 1.1.3 to recognize and protect the traditional and current use of the area by Kluane First Nation, White River First Nation, Kluane People and White River People in the development and management of the Park;
- 1.1.4 to provide economic opportunities to Kluane First Nation and White River First Nation in the manner set out in this schedule;
- 1.1.5 to protect the full diversity of Fish and Wildlife and their habitats in the Park from activities that could reduce the capability of the Park to support Fish and Wildlife;
- 1.1.6 to encourage public awareness, appreciation and enjoyment of the natural, historical and cultural resources of the Park in a manner that will ensure it is protected for the benefit of future generations; and
- 1.1.7 to provide a process to develop a management plan for the Park.

#### **2.0 Definitions**

2.1 In this schedule, the following definitions shall apply.

"Approved Management Plan" means the management plan approved under 11.0.

"Area" means the area within the boundaries identified as "Asi Keyi Natural Environment Area" (AKNEA) in Appendix B - Maps, which forms a separate volume to this Agreement, including Crown Land, Settlement Land and privately titled land.

"First Effective Date" means the earlier of the Effective Dates of either the White River First Nation Final Agreement or the Kluane First Nation Final Agreement.

"First Nation Firm" means a White River Firm or a Kluane Firm, or both, as the context requires.

"Forest Resources" has the same meaning as in Chapter 17 - Forest Resources.

"Park" means the Asi Keyi Natural Environment Park established by the Yukon under the Parks and Land Certainty Act, RSY 2002, c. 165 in respect of a portion of the Crown Land within the Area in accordance with 3.2 of this schedule.

"Second Effective Date" means the later of the Effective Dates of either the White River First Nation Final Agreement or the Kluane First Nation Final Agreement.

2.2 In this schedule, "mines and minerals" and the "right to work" the mines and minerals shall have their meanings according to Laws of General Application and not as defined in Chapter 1 - Definitions.

2.3 For the purposes of 1.1.3, 3.7, 7.1, 7.2, 9.0 and 12.3 "Kluane First Nation" means the Kluane First Nation once its self-government agreement is brought into effect pursuant to the Yukon First Nations Self-Government Act, S.C. 1993, c. 35 and prior to that time means the Kluane First Nation Band and "Kluane People" has the same meaning as in the Kluane First Nation Final Agreement once that agreement comes into effect and prior to that time, means the members of the Kluane First Nation Band.

2.4 For the purposes of 1.1.3, 3.7, 7.1, 7.2, 9.0 and 12.3 "White River First Nation" means the White River First Nation once its self-government agreement is brought into effect pursuant to the Yukon First Nations Self-Government Act, S.C. 1993, c. 35 and prior to that time means the White River First Nation Band and "White River People" has the same meaning as in the White River First Nation Final Agreement once that agreement comes into effect and prior to that time, means the members of the White River First Nation Band.

### **3.0 Establishment of the Asi Keyi Natural Environment Park**

3.1 As soon as practicable after the First Effective Date, Canada shall transfer to the Commissioner of the Yukon Territory the administration and control of Crown Land within the Area, excluding the mines and minerals and the right to work the mines and minerals in, on or under the Crown Land.

3.2 Following the transfer referred to in 3.1, and as soon as practicable after the earlier of the Second Effective Date or the second anniversary of the First Effective Date, the Yukon shall designate the Crown Land within the Area excluding the mines and minerals and the right to work the mines and minerals, in, on or under the Crown Land as the Asi Keyi Natural Environment Park under the Parks and Land Certainty Act, RSY 2002, c. 165.

3.2.1 The Yukon shall manage the Area in accordance with Laws of General Application and, to the extent practicable, in a manner consistent with the objectives set out in 1.1.2, 1.1.3, 1.1.5, and 1.1.6 for the period between the First Effective Date and the designation of the Park pursuant to 3.2.

3.3 Government shall, no later than the First Effective Date:

3.3.1 prohibit entry on the Area for the purpose of locating, prospecting or mining under the Quartz Mining Act, SY 2003, c. 14 and the Placer Mining Act, SY 2003, c. 13; and

3.3.2 withdraw the mines and minerals, in, on or under the Area from disposal under the Territorial Lands (Yukon) Act, SY 2003, c. 17.

3.4 The Yukon shall, no later than the First Effective Date, withdraw the Area from disposition under the Oil and Gas Act, RSY 2002, c. 162.

- 3.5 No one may explore for or stake for coal in, on or under the Area.
- 3.6 For greater certainty, the Park does not include:
- 3.6.1 the mines and minerals in, on or under the Area and the right to work the mines and minerals;
  - 3.6.2 subject to 3.8 the land shown as KFN R-7B and KFN R-8B on map Asi Keyi Natural Environment Area ("AKNEA") in Appendix B - Maps, which forms a separate volume to this Agreement; and
  - 3.6.3 subject to 3.9 and 3.10, the land shown as WRFN R-19B, WRFN S-85B and WRFN S-150B on map Asi Keyi Natural Environment Area ("AKNEA") in Appendix B - Maps, which forms a separate volume to this Agreement.
- 3.7 The designation as a natural environment park shall not be removed from any lands in the Park without the agreement of the Yukon, Kluane First Nation and White River First Nation.
- 3.8 If the land described in 3.6.2 does not become Kluane First Nation Settlement Land within 5 years of the effective date of the devolution transfer agreement between Canada and the Yukon, Government may include that land in the Park.
- 3.9 If the land described in 3.6.3 does not become White River First Nation Settlement Land or Proposed Site Specific Settlement Land within 5 years of the effective date of the devolution transfer agreement between Canada and the Yukon, Government may include that land in the Park.
- 3.10 Any of the land described in 3.6.3 which becomes White River First Nation Proposed Site Specific Settlement Land and which does not become Settlement Land pursuant to 5.14.0 shall be included in the Park on the same date the plan of survey for the Site Specific Settlement Land is confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land of the White River First Nation Final Agreement unless included in the Park earlier pursuant to 3.9.

#### **4.0 Fish and Wildlife**

- 4.1 The public harvesting of Wildlife shall be prohibited in the Park.
- 4.2 For greater certainty, Kluane First Nation and Kluane People have, in respect of that part of the Park which is within the Traditional Territory of Kluane First Nation, all the rights set out in Chapter 16 - Fish and Wildlife of the Kluane First Nation Final Agreement.
- 4.3 For greater certainty, White River First Nation and White River People have, in respect of that part of the Park which is within the Traditional Territory of White River First Nation, all the rights set out in Chapter 16 - Fish and Wildlife of the White River First Nation Final Agreement.

#### **5.0 Forest Resources**

- 5.1 Kluane People shall have the right to harvest Forest Resources on Crown Land in the Park pursuant to 17.3.1.1 and 17.3.1.3 of Chapter 17 - Forest Resources of the Kluane First Nation Final Agreement.
- 5.2 White River People shall have the right to harvest Forest Resources on Crown Land in the Park pursuant to 17.3.1.1 and 17.3.1.3 of Chapter 17 - Forest Resources of the White River First Nation Final Agreement.

#### **6.0 Economic Opportunities**

- 6.1 In evaluating any competitive proposal, bid or tender for work associated with the establishment of the Park, construction of Park facilities and the operation and maintenance of the Park, Government shall include among the factors for consideration:
  - (a) employment of Kluane People and Kluane First Nation ownership or equity investment in the firm submitting the proposal, bid or tender, and in any subcontractor to that firm; and
  - (b) employment of White River People and White River First Nation ownership or equity investment in the firm submitting the proposal, bid or tender, and in any subcontractor to that firm.



6.2 Nothing in 6.1 shall be construed to mean that the criteria of employment of Kluane People or White River People, or Kluane First Nation or White River First Nation ownership or equity investment shall be the determining criteria in the award of any contract.

6.3 For the purposes of 6.4, "First Nation" when used alone or in conjunction with Firm means:

Kluane First Nation in relation to licences or permits which apply to areas of the Park entirely within the Traditional Territory of Kluane First Nation;

White River First Nation in relation to licences or permits which apply to areas of the Park entirely within the Traditional Territory of White River First Nation; and

White River First Nation and Kluane First Nation, jointly, in relation to licences or permits which apply to areas of the Park within both of their Traditional Territories.

6.4 If a licencing or permitting regime in respect of a sector of the commercial wilderness adventure travel industry applicable to the Park is established and Government places a limit upon the number of such licences or permits to be issued in respect of the Park, the First Nation shall have a right of first refusal to acquire a portion of those licences or permits as follows:

6.4.1 in the first year that Government places the limit, Government shall offer to the First Nation in respect of the Park:

6.4.1.1. 25 percent of the licences or permits to be issued, less the number of licences or permits required to allow existing operations which are held by First Nation Firms to operate at their then existing level in the Park;  
or

6.4.1.2 the number of licences or permits that remain after the then existing operations in the Park have been issued the licences or permits that are required to allow them to operate at their then existing level in the Park,

whichever is less; and

6.4.2 in the second year, and each year thereafter, Government shall offer to the First Nation any new licences or permits issued from time to time in the Park until the First Nation Firms have been issued 25 percent of the licences or permits issued from time to time.

6.5 In calculating the number of licences or permits required to be offered to Kluane First Nation pursuant to 2.1, Part II - Allocation of Licences, Permits and Concessions, Schedule A of Chapter 22 - Economic Development Measures of the Kluane First Nation Final Agreement, that number of licences or permits issued solely to Kluane First Nation in the Park as well as that number of licences or permits issued to both Kluane First Nation and White River First Nation jointly in the Park in respect of a sector of the commercial wilderness adventure travel industry shall be included in the total number of licences or permits to be issued in the Traditional Territory of Kluane First Nation in respect of that sector.

6.6 In calculating the number of licences or permits required to be offered to White River First Nation pursuant to 2.1, Part II - Allocation of Licences, Permits and Concessions, Schedule A of Chapter 22 - Economic Development Measures of the White River First Nation Final Agreement, that number of licences or permits issued solely to White River First Nation in the Park as well as that number of licences or permits issued to both Kluane First Nation and White River First Nation jointly in the Park in respect of a sector of the commercial wilderness adventure travel industry shall be included in the total number of licences or permits to be issued in the Traditional Territory of White River First Nation in respect of that sector.

6.7 The number of licences or permits offered to Kluane First Nation and White River First Nation pursuant to this schedule shall not be included in the calculation of the number of licences or permits required to be offered to Kluane First Nation or White River First Nation pursuant to 2.1, Part II - Allocation of Licences, Permits and Concessions, Schedule A of Chapter 22 - Economic Development Measures.

6.8 The conditions set out at 4.0 of Part II - Allocation of Licences, Permits and Concessions, Schedule A of Chapter 22 - Economic Development Measures shall apply, with the following exceptions:

6.8.1 4.13 shall not apply to the licences or permits referred to in 6.4 and the issuance of such licences or permits; and

6.8.2 4.7 shall not apply to the licences or permits referred to in 6.4 that are offered to both Kluane First Nation and White River First Nation jointly.

6.9 To exercise the right to acquire licences or permits referred to in 6.4 that are offered to both Kluane First Nation and White River First Nation jointly, White River First Nation and Kluane First Nation shall jointly apply in writing to Government.

6.10 If Kluane First Nation and White River First Nation do not apply to Government under 6.9 for licences or permits referred to in 6.4 that are offered to both Kluane First Nation and White River First Nation jointly, Government shall not issue such licences or permits to any other Person.

6.11 Nothing in 6.4 shall be construed to prevent Kluane First Nation and White River First Nation from acquiring additional licences or permits in respect of a sector of the commercial wilderness adventure travel industry applicable to the Park in accordance with Laws of General Application.

## **7.0 Heritage**

7.1 Applicable First Nation languages shall be included, where practicable, in any interpretive displays and signs regarding the history and culture of Kluane First Nation or White River First Nation that may be erected in, or related to, the Park.

7.2 When considering the naming or renaming of places or features in the Park, the responsible agency shall Consult with Kluane First Nation and White River First Nation.

7.3 The management and control of Heritage Resources within that part of the Park which is within the Traditional Territory of Kluane First Nation shall be in accordance with Chapter 13 - Heritage of the Kluane First Nation Final Agreement.

7.4 The management and control of Heritage Resources within that part of the Park which is within the Traditional Territory of White River First Nation shall be in accordance with Chapter 13 - Heritage of the White River First Nation Final Agreement.

7.5 In developing the management plan, the steering committee shall take into account the cultural and heritage significance of the heritage routes and sites within the Park identified in Schedule A - Heritage Routes and Sites, attached to Chapter 13 - Heritage of the White River First Nation Final Agreement and the Kluane First Nation Final Agreement.

## **8.0 Steering Committee**

8.1 A steering committee shall be established as soon as practicable after the earlier of the Second Effective Date or the fifth anniversary of the First Effective Date to recommend a management plan for the Park.

8.2 Subject to 8.6 to 8.8 the steering committee shall be comprised of four members of which one shall be designated by Government, one shall be designated by White River First Nation and one shall be designated by Kluane First Nation. The fourth member shall be designated by Government but agreed to by Government, White River First Nation and Kluane First Nation, from a list prepared by Government of not less than three candidates, provided that if Government, White River First Nation and Kluane First Nation are unable to agree on the fourth member, Government shall designate the fourth member from the list.

8.3 Prior to any designations being made to the steering committee, Government, Kluane First Nation and White River First Nation shall make reasonable efforts to reach consensus as to the individuals which each designates to the steering committee.

8.4 In attempting to reach consensus under 8.3, Government, Kluane First Nation and White River First Nation shall consider:

8.4.1 any prospective member's familiarity with and sensitivity to the cultures of Kluane First Nation and White River First Nation, and to the aspirations of Kluane First Nation and White River First Nation relating to the Park;

8.4.2 any prospective member's familiarity with the issues relating to renewable resources, park planning and park management;

8.4.3 the compatibility of proposed members; and

- 8.4.4 any other matters to which Government, Kluane First Nation and White River First Nation agree.
- 8.5 If, after having made the reasonable efforts required by 8.3, Government, Kluane First Nation and White River First Nation are unable to reach consensus, any party may give written notice to the others setting out the names of the individuals whom it intends to designate to the steering committee and 14 days thereafter may so designate those individuals.
- 8.6 Until such time as the White River Final Agreement comes into effect, the rights and responsibilities of the White River First Nation under 8.0 may be assumed by the White River First Nation Band.
- 8.6.1 If the White River First Nation Band fails to participate in the designation of members under 8.0 within 90 days of being so requested by Government, the steering committee members shall be comprised of three members of which one shall be designated by Government and one shall be designated by Kluane First Nation. The third member shall be designated by Government but agreed to by Government and Kluane First Nation, from a list prepared by Government of not less than three candidates, provided that if Government and Kluane First Nation are unable to agree on the third member, Government shall designate the third member from such list.
- 8.6.2 If the White River First Nation Final Agreement comes into effect after the designation of members pursuant to 8.6.1 and before the management plan is recommended to Government pursuant to 9.1, the White River First Nation may designate a fourth member to the steering committee.
- 8.7 Until such time as the Kluane First Nation Final Agreement comes into effect, the rights and responsibilities of the Kluane First Nation under 8.0 may be assumed by the Kluane First Nation Band.

8.7.1 If the Kluane First Nation Band fails to participate in the designation of members under 8.0 within 90 days of being so requested by Government, the steering committee members shall be comprised of three members of which one shall be designated by Government and one shall be designated by White River First Nation. The third member shall be designated by Government but agreed to by Government and White River First Nation, from a list prepared by Government of not less than three candidates, provided that if Government and White River First Nation are unable to agree on the third member, Government shall designate the third member from such list.

8.7.2 If the Kluane First Nation Final Agreement comes into effect after the designation of members pursuant to 8.7.1 and before the management plan is recommended to Government pursuant to 9.1, the Kluane First Nation may designate a fourth member to the steering committee.

8.8 Members of the steering committee, other than the fourth member referred to in 8.2 and the third members referred to in 8.6.1 and 8.7.1, shall be delegates of the parties who designated them.

## **9.0 Management Plan**

9.1 The steering committee shall make best efforts to recommend a management plan to Government, Kluane First Nation and White River First Nation within 24 months of the establishment of the steering committee.

9.2 The management plan for the Park shall be consistent with the objectives in 1.1.2 to 1.1.6.

9.3 The management plan shall address all matters pertaining to the development, use and management of the Park, including:

9.3.1 management and protection of Fish and Wildlife and their habitats in the Park including the imposition of harvest limitations if necessary;

9.3.2 management and protection of other renewable resources in the Park;

9.3.3 management and protection of Heritage Resources in the Park;

- 9.3.4 recreational activities to be permitted within the Park;
- 9.3.5 access to and use of the Park for commercial purposes;
- 9.3.6 traditional knowledge, customs and culture of Kluane People and White River People in connection with the Park and its natural and cultural resources;
- 9.3.7 the role and views of Kluane First Nation and White River First Nation elders in the development of the management plan;
- 9.3.8 the interest of Kluane First Nation or White River First Nation in the interpretation of place names and Heritage Resources in the Park directly related to the culture of Kluane First Nation or White River First Nation;
- 9.3.9 measures to enhance public awareness and appreciation of the Park;
- 9.3.10 identification of specific economic opportunities for Kluane People and White River People in the Park:
  - 9.3.10.1 any implementation of economic opportunities identified under 9.3.10 and included in the Approved Management Plan shall be suspended
    - for Kluane People, until the later of the
      - (a) resolution of the overlap between Kluane First Nation and White River First Nation in accordance with Schedule C - Resolution of Overlapping Claims with White River First Nation, of Chapter 2; and
      - (b) the coming into effect of the Kluane First Nation Final Agreement, and
    - for White River People, until the later of the
      - (c) resolution of the overlap between Kluane First Nation and White River First Nation in accordance with Schedule C - Resolution of Overlapping Claims with White River First Nation, of Chapter 2; and

(d) the coming into effect of the White River First Nation Final Agreement,

9.3.11 permitting or other methods of regulating use of the Park; and

9.3.12 such other matters as the bodies that have designated members to the steering committee may jointly request the steering committee to consider.

9.4 In preparing the management plan, the steering committee shall recognize that oral history is a relevant and valid form of research.

## **10.0 Public Consultation**

10.1 In preparing the management plan, the steering committee shall provide for a public consultation process which recognizes the territorial significance of the Park.

## **11.0 Approval of the Management Plan**

11.1 Within 90 days of receipt of the recommended management plan from the steering committee, the Minister, Kluane First Nation and White River First Nation shall jointly review the provisions set out therein and shall make reasonable efforts to reach a consensus as to the provisions to be included in the Approved Management Plan.

11.2 If the Minister, Kluane First Nation and White River First Nation are unable to reach a consensus under 11.1, any one of them may refer the matter to the dispute resolution process under 26.4.0.

11.3 If the matter referred to the dispute resolution process under 11.2 is not resolved, the Minister may accept, vary or set aside the recommended management plan and the decision of the Minister as to the provisions to be included in the Approved Management Plan shall be forwarded to Kluane First Nation and White River First Nation.



11.4 Until such time as the White River Final Agreement comes into effect, the rights and responsibilities of the White River First Nation under 11.0 may be assumed by the White River First Nation Band.

11.4.1 If the White River First Nation Band fails to participate in the review under 11.1 within 90 days of being so requested by Government, the review may proceed without the participation of the White River First Nation Band.

11.5 Until such time as the Kluane First Nation Final Agreement comes into effect, the rights and responsibilities of the Kluane First Nation under 11.0 may be assumed by the Kluane First Nation Band.

11.5.1 If the Kluane First Nation Band fails to participate in the review under 11.1 within 90 days of being so requested by Government, the review may proceed without the participation of the Kluane First Nation Band.

## **12.0 Implementation of the Management Plan**

12.1 Upon establishment of the Area as a Park pursuant to 3.2, and prior to the implementation of the Approved Management Plan, Government shall manage the Park, in accordance with the Parks and Land Certainty Act, RSY 2002, c. 165 and the Wildlife Act, RSY 2002, c. 229 and to the extent practicable, in a manner consistent with the objectives set out in 1.1.2 to 1.1.6.

12.2 Government shall manage the Park in accordance with the Parks and Land Certainty Act, RSY 2002, c. 165 and the Wildlife Act, RSY 2002, c. 229 and the Approved Management Plan.

12.3 Government, Kluane First Nation and White River First Nation shall consider mechanisms and may enter into agreements to facilitate co-operative implementation and monitoring of the Approved Management Plan.

12.4 If the land described in 3.6.3 becomes White River First Nation Settlement Land, White River First Nation shall manage the Settlement Land in a manner consistent with the objectives set out in 1.1.2 to 1.1.5 of this schedule and any uses of such Settlement Land authorized by White River First Nation shall be compatible with the uses which may be made of the Park.

12.5 If the land described in 3.6.2 becomes Kluane First Nation Settlement Land, Kluane First Nation shall manage the Settlement Land in a manner consistent with the objectives set out in 1.1.2 to 1.1.5 of this schedule and any uses of such Settlement Land authorized by Kluane First Nation shall be compatible with the uses which may be made of the Park.

12.6 Any dispute between Government and White River First Nation respecting the management or use of the White River First Nation Settlement Land referred to in 12.4 may be referred by Government or White River First Nation to the dispute resolution process under 26.4.0.

12.7 Any dispute between Government and Kluane First Nation respecting the management or use of Kluane First Nation Settlement Land referred to in 12.5 may be referred by Government or Kluane First Nation to the dispute resolution process under 26.4.0.

### **13.0 Review and Amendment of the Management Plan**

13.1 If, within five years of the initial approval of the Approved Management Plan, Government, White River First Nation or Kluane First Nation is of the view that a review of the Approved Management Plan is required, Government, White River First Nation and Kluane First Nation shall jointly undertake such review.

13.2 Unless they otherwise agree, Government, White River First Nation and Kluane First Nation shall review the Approved Management Plan at least every ten years following the earlier of:

13.2.1 any initial review of the Approved Management Plan pursuant to 13.1; and

13.2.2 five years from the initial approval of the Approved Management Plan under 11.0.

13.3 Reviews of the Approved Management Plan shall include a process for public consultation.

13.4 Government, Kluane First Nation and White River First Nation shall make reasonable efforts to reach consensus as to any action to be taken as a result of the reviews referred to in 13.1 and 13.2, including amendments to the Approved Management Plan.

13.5 If Government, Kluane First Nation and White River First Nation are unable to reach consensus pursuant to 13.4, Government shall determine any action to be taken resulting from the reviews referred to in 13.1 and 13.2, including amendments to the Approved Management Plan, and shall advise Kluane First Nation and White River First Nation of its decision.

13.6 Until such time as the White River First Nation Final Agreement comes into effect, the rights and responsibilities of the White River First Nation under 13.0 may be assumed by the White River First Nation Band.

13.6.1 If the White River First Nation Band fails to participate in any review under 13.1 or 13.2 within 90 days of being so requested by Government, the review may proceed without the participation of the White River First Nation Band.

13.7 Until such time as the Kluane First Nation Final Agreement comes into effect, the rights and responsibilities of the Kluane First Nation under 13.0 may be assumed by the Kluane First Nation Band.

13.7.1 If the Kluane First Nation Band fails to participate in any review under 13.1 or 13.2 within 90 days of being so requested by Government, the review may proceed without the participation of the Kluane First Nation Band.

#### **14.0 Development Assessment and Land Use Planning**

14.1 In carrying out their functions under Chapter 12 - Development Assessment, the Yukon Development Assessment Board and a Designated Office shall consider the Approved Management Plan.

14.2 In developing a land use plan which includes all or part of the Park, a Regional Land Use Planning Commission shall consider the Approved Management Plan.

## **SCHEDULE C**

### **KLUANE NATIONAL PARK and PARK RESERVE**

#### **1.0 Objectives**

1.1 The objectives of this schedule are as follows:

- 1.1.1 to recognize Kluane First Nation history and culture, and the rights provided for in this schedule, in the planning, management, administration and operation of the Tachal Region;
- 1.1.2 to recognize and protect the traditional and current use of the Tachal Region by Kluane People in the development and management of the Tachal Region;
- 1.1.3 to protect for all time a representative natural area of Canadian significance in the North Coastal Mountains Natural Region;
- 1.1.4 to encourage public understanding, appreciation and enjoyment of the Tachal Region in a manner which leaves it unimpaired for future generations;
- 1.1.5 to provide economic and employment opportunities to Kluane People in the development, operation and management of the Tachal Region;
- 1.1.6 to recognize that oral history is a valid and relevant form of research for establishing the historical significance of Heritage Sites and Moveable Heritage Resources in the Tachal Region directly related to the history of Kluane People;
- 1.1.7 to recognize the interest of Kluane People in the interpretation of aboriginal place names and Heritage Resources in the Tachal Region directly related to the culture of Kluane People; and
- 1.1.8 to integrate traditional and scientific knowledge in the management of the natural and cultural resources of the Tachal Region.

## 2.0 Definitions

In this schedule, the following definitions shall apply.

"Board" means the Kluane National Park Management Board established pursuant to Schedule A - Kluane National Park of Chapter 10 of the Champagne and Aishihik First Nations Final Agreement.

"Champagne and Aishihik First Nations Final Agreement" means the agreement among Champagne and Aishihik First Nations, Canada and the Yukon which came into effect February 14, 1995.

"Conservation" means the management of the cultural and natural resources of the Park and Park Reserve to ensure the protection of the Fish and Wildlife and their habitat and the natural evolution of the ecosystem as a priority while recognizing the traditional and continuing use of the Tachal Region's resources by Kluane People.

"Edible Fish or Wildlife Product" has the same meaning as in Chapter 16 - Fish and Wildlife.

"Elder" means a Kluane Person defined as an elder in the Kluane First Nation Constitution.

"Furbearer" has the same meaning as in Chapter 16 - Fish and Wildlife.

"Harvest" and "Harvesting" means gathering, hunting, trapping or fishing in accordance with this schedule.

"Kluane First Nation Burial Site" means a place outside a recognized cemetery where the remains of a cultural ancestor of the Kluane People have been interred, cremated or otherwise placed.

"Management Plan" means the Kluane National Park and Park Reserve Management Plan in effect on the Effective Date of this Agreement and any other management plan applicable from time to time in the Tachal Region and prepared in accordance with the Canada National Parks Act, S.C. 2000 c. 32.

"No Harvesting Zone" means an area designated pursuant to this schedule, in which Harvesting of some or all the Species and of Fish, Wildlife or Plants is prohibited during part or all of the year.

"Non-Edible By-Product" has the same meaning as in Chapter 16 - Fish and Wildlife.

"Park" means the Kluane National Park, described in Part 11 of Schedule 1 of the Canada National Parks Act, S.C. 2000 c. 32.

"Park Reserve" means the Kluane National Park Reserve of Canada described in Schedule 2 of the Canada National Parks Act, S.C. 2000 c. 32.

"Plants" means all flora in a wild state but does not include Trees.

"Sport Fishing" means angling as defined under the Canada National Parks Act, S.C. 2000 c. 32, but does not include angling for Subsistence by Kluane People.

"Subsistence" means:

- (a) the use of Edible Fish or Wildlife Products, or edible Plant products and mushrooms, by a Kluane Person for sustenance and for food for traditional ceremonial purposes including potlatches; and
- (b) the use by a Kluane Person of Non-Edible By-Products of harvests of Fish or Wildlife under (a) for such domestic purposes as clothing, shelter or medicine, and for domestic, spiritual and cultural purposes; but
- (c) except for traditional production of handicrafts and implements by a Kluane Person, does not include commercial uses of:
  - (i) Edible Fish or Wildlife Products;
  - (ii) Non-Edible By-Products; or
  - (iii) Edible Plant products and mushrooms.

"Tachal Region" means that area of land depicted as the Tachal Region on Map Sheet "Tachal Region Boundary (TRB)", in Appendix B - Maps, which forms a separate volume to this Agreement, excluding therefrom land which is from time to time Settlement Land.

"Tree" has the same meaning as in Chapter 17 - Forest Resources.

### **3.0 Park Establishment**

3.1 On the coming into effect of a White River First Nation Final Agreement, the Tachal Region shall be included within the boundary of the Park and the Kluane National Park Reserve shall cease to exist by virtue of this Agreement.

3.2 If the Tachal Region is part of the Park Reserve at the time proposed for the confirmation of the survey of any one of Parcels S-49B1, S-73A1 and S-83A1, the Minister shall cause the boundary of the Park Reserve to be amended to exclude that Parcel from the Park Reserve on the same day as the confirmation of the plan of survey of the Parcel.

3.3 If the Tachal Region is part of the Park at the time proposed for the confirmation of the survey of any one of Parcels S-49B1, S-73A1 and S-83A1, the boundary of the Park is amended by virtue of this Agreement to exclude that Parcel from the Park on the same day as the confirmation of the plan of survey of the Parcel.

3.4 After confirmation of the plans of survey of Site Specific Settlement Land Parcels S-49B1 and S-73A1, and after the completion of the Shakwak project in the vicinity of the Tachal Region, the Minister shall cause the boundary of the Park Reserve or Park to be amended as soon as practicable to extend the Park Reserve or Park to the reconstructed Alaska Highway from Congdon Creek to Slims River, excluding any privately owned or leased lands, and the land thereby added to the Park Reserve or Park shall be included within the Tachal Region.

3.5 No Settlement Land may be expropriated for the purpose of adding to the Park.

3.6 Except as provided in 3.0 of this Schedule, no part of the Tachal Region shall be excluded from the Park Reserve or Park without the consent of Kluane First Nation.

#### **4.0 Harvesting Rights of Kluane People**

- 4.1 Subject to 4.21, Kluane People shall have the right to Harvest for Subsistence within the Tachal Region, all species of Fish and Wildlife for themselves and their families in all seasons of the year and in any numbers, subject only to limitations prescribed pursuant to this schedule, and the right shall become exclusive to Kluane People on the coming into effect of a White River First Nation Final Agreement.
- 4.1.1 Kluane People shall have the right to harvest edible Plant products and mushrooms for Subsistence within the Tachal Region for themselves and their families in all seasons of the year and in any number, subject only to limitations prescribed pursuant to this schedule.
- 4.2 Except as otherwise provided in this schedule, Harvesting and management of Fish and Wildlife in the Tachal Region shall be in accordance with the Canada National Parks Act, S.C. 2000 c. 32.
- 4.3 Kluane People shall have the right to employ traditional and current methods of and equipment for Harvesting for Subsistence pursuant to 4.1, whether limited to an allowable harvest or not, subject to limitations implemented following a recommendation from the Board pursuant to 6.5.3, in addition to any other limitations provided for in this schedule.
- 4.4 Nothing in this schedule shall be construed to grant Kluane People any right to buy, sell, or offer for sale any Migratory Game Bird, Migratory Game Bird's egg or parts thereof not authorized for sale by Legislation.
- 4.5 Kluane People shall have the right to give, trade, barter or sell among themselves and other Yukon Indian People all Edible Fish or Wildlife Products, and edible Plant products and mushrooms Harvested by them for Subsistence pursuant to 4.1, whether limited to an allowable harvest or not, in order to maintain traditional sharing among Kluane People and other Yukon Indian People, for domestic purposes but not for commercial purposes.
- 4.6 Subject to Laws of General Application, unless otherwise agreed to by the parties to this Agreement, Kluane People shall have the right to give, trade, barter, or sell to any person any Non-Edible By-Product of Fish and Wildlife that is obtained from Harvesting Furbearers or incidental to Harvesting for Subsistence pursuant to 4.1, whether limited to an allowable harvest or not.



- 4.7 The right to Harvest for Subsistence pursuant to 4.1, whether limited to an allowable harvest or not, includes the right to possess and transport the parts and products of Fish, Wildlife, edible Plant products and mushrooms in the Yukon.
- 4.8 The exercise of rights under this schedule is subject to limitations provided for elsewhere in this schedule and to limitations provided for in Legislation enacted for purposes of Conservation, public health or public safety.
- 4.8.1 Any limitation provided for in Legislation pursuant to 4.8 must be consistent with this schedule, and must be reasonably required to achieve those purposes and may only limit those rights to the extent necessary to achieve those purposes.
- 4.8.2 Government shall Consult with Kluane First Nation before imposing a limitation pursuant to 4.8.
- 4.9 Nothing in this schedule shall be construed as an admission by Government that the Migratory Birds Convention Act, R.S.C. 1994, c. 22 does not satisfy the terms of 4.8.
- 4.10 For the purposes of application of 4.8 to Harvesting rights of Kluane People for migratory birds in the Tachal Region, "Conservation" includes considerations related to conservation of Migratory Game Birds indigenous to the Yukon while those Migratory Game Birds are in other jurisdictions.
- 4.11 Where in accordance with this schedule, an allowable harvest in the Tachal Region is established for a species of Freshwater Fish or Wildlife, the following provisions shall apply:
- 4.11.1 Kluane First Nation shall decide whether to allocate any part, or all, of that allowable harvest to Kluane People and shall notify the Park superintendent in writing of its decision;
- 4.11.2 where Kluane First Nation decides to allocate part, or all, of that allowable harvest, the notice pursuant to 4.11.1 shall specify the allocation of Freshwater Fish or the number and species of Wildlife to be harvested; and

- 4.11.3 the right of a Kluane Person to Harvest Freshwater Fish or Wildlife for which an allowable harvest has been established is contingent upon that person being allocated that part of the allowable harvest by Kluane First Nation.
- 4.12 Kluane First Nation may manage, administer, allocate or otherwise regulate the exercise of rights under 4.0 of Kluane People in the Tachal Region, where not inconsistent with the regulation of those rights by Government in accordance with 4.8 and the other provisions of this schedule.
- 4.13 Kluane First Nation shall establish and maintain a register of harvest information relating to Harvesting in the Tachal Region which contains a record of the allocation of Harvesting rights among Kluane People and a record of what is harvested, and such other harvest information as is prescribed by the Board.
- 4.13.1 The register of harvest information shall be made available to the Park superintendent on a regular and timely basis in a manner prescribed by the Board.
- 4.14 Upon the request of a Park warden, or other persons with lawful authority, Kluane People exercising their Harvesting rights in the Tachal Region shall show proof of enrollment under this Agreement.
- 4.15 The Minister, after Consultation with the Board, may require Kluane People to obtain a permit or licence for Harvesting within the Tachal Region but no fee or charge shall be imposed by Government for such permit or licence.
- 4.15.1 Upon the request of Kluane First Nation, the Minister, after Consultation with the Board, may allow Kluane First Nation to issue the permits or licences referred to in 4.15.
- 4.16 The Minister shall offer to Kluane First Nation any Fish or Wildlife harvested within the Tachal Region for Park Reserve or Park management purposes, unless such Fish or Wildlife is required for scientific, Park Reserve or Park management purposes or as evidence in a court of law.
- 4.17 Subject to 4.18, Kluane People shall have the right to establish, expand and maintain cabins, camps, caches and trails in the Tachal Region that are necessary for, and which are to be used solely in relation to, exercising the Harvesting rights provided for in this schedule, provided that the location of such cabins, camps, caches and trails conforms with the Management Plan.

- 4.18 A Kluane Person proposing to establish or expand a cabin in the Tachal Region shall make a request to the Board.
- 4.18.1 The Board shall consider the request and determine:
- 4.18.1.1 whether the location of the proposed cabin conforms with the Management Plan; and
- 4.18.1.2 whether the cabin is necessary for the exercise of Harvesting rights provided for in this schedule.
- 4.18.2 Following consideration of the request, the Board shall make a recommendation to the Minister.
- 4.18.3 The provisions of 6.6 to 6.14.2 apply to a recommendation of the Board made pursuant to 4.18.2.
- 4.18.4 Subject to limitations prescribed pursuant to 4.8, the Board and the Minister shall approve the request referred to in 4.18, where the cabin conforms to the Management Plan and is necessary for the exercise of Harvesting rights provided for in this schedule.
- 4.19 Kluane People shall have the right, during all seasons of the year to harvest Trees in the Tachal Region for purposes incidental to the exercise of the Harvesting rights provided for in this schedule.
- 4.20 Kluane People shall not be charged a user fee or similar charge for entry into or use of the Park or Park Reserve for non-commercial purposes or for exercise of Harvesting rights under 4.0.
- 4.21 Employees, contractors, and others employed in the Tachal Region who are Kluane People shall not exercise their Harvesting rights under 4.0 or 5.0 while on duty in the course of employment or while in the course of carrying on business in the Tachal Region.
- 4.22 Nothing in this schedule is intended to confer rights of ownership in any Fish or Wildlife.
- 4.23 Except as otherwise provided in Laws of General Application, no Person shall waste Edible Fish or Wildlife Products.

## **No Harvesting Zones**

- 4.24 Except as provided in 4.25 and 4.26, Kluane People may not exercise any right to Harvest on the east face of Sheep Mountain, or on the south side of Slims River within the Tachal Region, depicted as No Harvesting Zones One and Two (NHZ1 and NHZ2), respectively, on Map Sheet "Tachal Region Boundary (TRB)", in Appendix B - Maps, which forms a separate volume to this Agreement.
- 4.25 Kluane First Nation and the Minister may agree to a pre-defined Harvest in a No Harvesting Zone following consideration of a recommendation from the Board.
- 4.26 The Board may recommend that there be a pre-defined Harvest by identified Kluane People selected from a list provided by Kluane First Nation to the Board. If the Board recommends that there be a pre-defined Harvest the Board shall also recommend the terms and conditions of the pre-defined Harvest.

## **5.0 Trapping in the Tachal Region**

- 5.1 Kluane People shall have the right to Harvest Furbearers within the Tachal Region in accordance with this schedule for the purpose of selling the pelts and the right shall become exclusive to Kluane People on the coming into effect of a White River First Nation Final Agreement.
- 5.2 The Board shall recommend to the Minister an area within the Tachal Region within which trapping by Kluane People shall be permitted in accordance with this schedule.
- 5.3 The provisions of 6.6 to 6.14 apply to a recommendation of the Board made pursuant to 5.2.
- 5.4 Kluane First Nation shall be responsible for allocating trapping opportunities in the area where trapping is permitted within the Tachal Region to Kluane People, and for the alignment, realignment and grouping of individual traplines within that area.
- 5.5 The Board may make recommendations to Kluane First Nation on the allocation of trapping opportunities and on the alignment, realignment and grouping of individual traplines within the area where trapping is permitted within the Tachal Region.

- 5.6 Kluane First Nation shall maintain a register of allocation of trapping opportunities, and shall provide a copy of that register to the Park superintendent.
- 5.7 The Board may make recommendations to the Minister on the management of Furbearers and on seasons, quotas and other matters related to trapping in the Tachal Region.
- 5.8 Subject to this schedule, Kluane People shall comply with Laws of General Application when participating in commercial Harvesting in the Tachal Region.
- 5.8.1 Kluane People shall have the right to use leg-hold drowning sets for Furbearer Harvesting unless the Minister, upon recommendation of the Board, determines that such sets are inhumane.

## **6.0 The Kluane National Park Management Board**

- 6.1 The authority of the Board shall be extended to include the Tachal Region.
- 6.2 The membership of the Board shall be increased from four to six and Kluane First Nation shall have the right to nominate two members to the Board. The Park superintendent or a person designated by the Park superintendent shall be a non-voting member of the Board.
- 6.3 Only Board members nominated by Kluane First Nation and Canada may participate in deliberations of the Board respecting the matters set out in 6.5.1 to 6.5.5.
- 6.4 Members of the Board nominated by Kluane First Nation shall not participate in deliberations of the Board respecting the matters set out in 6.3.1 to 6.3.4 and 6.3.10 of Schedule A - Kluane National Park of the Champagne and Aishihik First Nations Final Agreement.
- 6.5 The Board may make recommendations to the Minister on all matters pertaining to the development and management of the Tachal Region, including:
- 6.5.1 routes, methods and modes of access for Harvesting within the Tachal Region;

- 6.5.2 harvest limits, including allowable harvests, and seasons for Harvesting in the Tachal Region;
  - 6.5.3 locations and methods of Harvesting within the Tachal Region;
  - 6.5.4 the management of Heritage Resources within the Tachal Region;
  - 6.5.5 designating or modifying a No Harvesting Zone in the Tachal Region, other than the No Harvest Zone on the south side of Slims River described in 4.24;
  - 6.5.6 modifying the No Harvesting Zone on the south side of Slims River described in 4.24;
  - 6.5.7 revisions to the Management Plan;
  - 6.5.8 matters related to the development or management of the Park Reserve and Park forwarded to the Board by the Minister;
  - 6.5.9 proposed Park Reserve and Park boundary adjustments;
  - 6.5.10 co-ordinating the management of Fish and Wildlife populations which cross the boundary of the Park Reserve and Park with the Fish and Wildlife Management Board, affected Renewable Resources Councils and other responsible agencies;
  - 6.5.11 existing and proposed Legislation relating to the Park Reserve and Park; and
  - 6.5.12 means to integrate traditional and scientific knowledge in the management of the natural and cultural resources of the Park Reserve and Park.
- 6.6 Unless the Minister directs otherwise, all recommendations of the Board shall be kept confidential until the process in 6.7 to 6.14 has been completed or the time for the process has expired.

- 6.7 The Minister, within 60 days of the receipt of a recommendation of the Board, may accept, vary, set aside or replace the recommendation. Any proposed variation, replacement or setting aside shall be sent back to the Board by the Minister with written reasons. The Minister may consider information and matters of public interest not considered by the Board.
- 6.8 The Minister may extend the time provided in 6.7 by 30 days.
- 6.9 Nothing in 6.7 shall be construed as limiting the application of 4.8.
- 6.10 The Board shall, within 30 days of the receipt of a variation, replacement or setting aside by the Minister pursuant to 6.7, make a final recommendation and forward it to the Minister with written reasons.
- 6.11 The Minister may extend the time provided under 6.10.
- 6.12 The Minister may, within 45 days of receipt of a final recommendation, accept or vary it, or set it aside and replace it.
- 6.13 The Minister shall provide the Board with notice of the Minister's final decision under 6.12.
- 6.14 Government shall, as soon as practicable, implement:
- 6.14.1 all recommendations of the Board that are accepted by the Minister under 6.7;
  - 6.14.2 all decisions of the Minister under 6.12; and
  - 6.14.3 subject to 6.14.1 and 6.14.2, all recommendations of the Board pursuant to 6.5.1 to 6.5.4 after the expiry of the time provided in the process set out in 6.7 to 6.13.
- 6.15 Where the Board does not carry out one of its responsibilities, the Minister, after giving notice to the Board, may carry out that responsibility.
- 6.16 The Board shall make reasonable provisions for public involvement in the development of its recommendations.

6.17 The operation of 6.1, 6.2, 6.3 and 6.4 is suspended until amendments to Schedule A - Kluane Nation Park, of Chapter 10 of the Champagne and Aishihik First Nations Final Agreement which make reciprocal provisions come into effect, and the parties to this Agreement shall cooperate with a view to having those amendments come into effect on or as soon as practicable after the Effective Date of this Agreement.

## **7.0 Tachal Region Planning and Management**

7.1 Subject to the terms of this schedule, the Tachal Region shall be planned and managed according to the Canada National Parks Act, S.C. 2000 c. 32.

7.2 Any management plan or policy applicable in the Tachal Region shall:

7.2.1 recognize the rights under this schedule of Kluane People to Harvest for Subsistence;

7.2.2 provide for the protection of Fish and Wildlife habitat;

7.2.3 minimize interference to natural processes so that ecosystems and their associated plant and animal species will continue to evolve naturally;

7.2.4 be applied in a manner that allows the continuation of natural Fish and Wildlife population levels;

7.2.5 place particular emphasis on control, timing and location of visitor activities and Harvesting by Kluane People in order to ensure visitor safety and avoid conflicts; and

7.2.6 recognize the long association of Kluane First Nation with the area comprising the Tachal Region and Kluane First Nation past and present use of it.

7.3 Government shall ensure that information it issues regarding the Tachal Region shall recognize the long association of Kluane First Nation with the area comprising the Tachal Region and Kluane First Nation past and present use of it.



7.4 Sport Fishing may be permitted according to the Canada National Parks Act, S.C. 2000 c. 32, while recognizing that the right of Kluane People to Harvest Fish in the Tachal Region for Subsistence is a higher priority than Sport Fishing.

7.5 Government shall make best efforts to coordinate the management of Fish and Wildlife in the Tachal Region with agencies responsible for the management of Fish and Wildlife outside the Park and Park Reserve.

## **8.0 Heritage Resources**

8.1 Except as provided in 8.2 and 8.3, the ownership and management of Moveable Heritage Resources and Documentary Heritage Resources found in the Tachal Region shall be determined in accordance with Chapter 13 - Heritage.

8.2 Subject to 8.3, the Minister and Kluane First Nation shall jointly own any Moveable Heritage Resource, Documentary Heritage Resource or other Heritage Resource, other than land, found in the Tachal Region and which is directly related to the culture and history of Kluane First Nation or Kluane People.

8.3 The provisions of 8.2 do not apply to a Heritage Resource which is the private property of any Person.

8.4 In accordance with Government procedures on access to and duplication of records, and subject to access to information, protection of privacy and copyright Legislation and to any agreements respecting records or the information contained in them, Government shall provide Kluane First Nation with a listing of all Heritage Sites directly related to the culture and heritage of Kluane First Nation and the Kluane People, including information on their location and character, that are located within the Tachal Region and which have been documented at the Effective Date of this Agreement.

8.5 In accordance with Government procedures on access to and duplication of records, and subject to access to information, protection of privacy and copyright Legislation and to any agreements respecting records or the information contained in them, Government, within existing budgets, shall facilitate the preparation of an inventory of Moveable Heritage Resources and Heritage Sites within the Tachal Region which relate to Kluane First Nation.

- 8.6 Government agrees that the Southern Tutchone language shall be included in any interpretive displays and signage that may be erected in the Tachal Region related to the history and culture of Kluane First Nation.
- 8.7 When considering the naming or renaming of places or features located within the Tachal Region, the responsible agency shall Consult with Kluane First Nation.
- 8.8 There shall be no access by visitors to Kluane First Nation Burial Sites in the Tachal Region without the express written consent of Kluane First Nation.
- 8.9 The Grizzly Creek and Big Horn Heritage Sites identified on Map Sheet "Tachal Region Boundary (TRB)", in Appendix B - Maps, which forms a separate volume to this Agreement, are recognized as having cultural and heritage significance to Kluane First Nation.
- 8.10 In the development of the Management Plan the Minister shall take into account the cultural and heritage significance of the Grizzly Creek and Big Horn Heritage Sites.
- 8.11 In carrying out their functions under Chapter 12 - Development Assessment, the Yukon Development Assessment Board and Designated Offices shall consider any significant adverse effect on the Grizzly Creek and Big Horn Heritage Sites.
- 9.0 Economic Opportunities**
- 9.1 After Consultation with Kluane First Nation, Canada shall establish hiring procedures and policies with the objective that the ratio of Kluane People employed in public service positions in the Tachal Region is at least equal to the ratio of the Yukon Indian People to the total population within the KFN Core Area.
- 9.2 After Consultation with Kluane First Nation, and within one year of the Effective Date of this Agreement, or such other period as Canada and Kluane First Nation may agree, the Minister shall prepare an impacts and benefits plan which shall:
- 9.2.1 identify potential business and employment opportunities that Kluane People may access associated with the development and operation of the Park Reserve and Park;

- 9.2.2 identify strategies for Kluane People to take advantage of the economic opportunities identified in 9.2.1; and
- 9.2.3 identify potential negative impacts of the development and long term operation of the Park Reserve and Park on Kluane People and strategies for mitigating those negative impacts.
- 9.3 The Minister shall not issue any new licences to operate a business in the Tachal Region until the impact and benefits plan referred to in 9.2 has been completed, other than renewals or replacements of existing licences.
- 9.4 Subject to any commercial horse riding operation existing in the Kluane National Park Reserve on the Effective Date of this Agreement, Kluane First Nation shall have the exclusive opportunity to provide commercial horse riding operations that may be permitted within the Tachal Region.
- 9.4.1 The opportunity referred to in 9.4 shall include the opportunity to establish and use staging areas within the Tachal Region provided such uses conform to the Management Plan.
- 9.5 The Minister shall provide Kluane First Nation with a right of first refusal to accept any contract offered by the Minister for the use by Parks Canada Agency of pack animals in the Tachal Region, which right of first refusal shall be offered in the following manner:
- 9.5.1 the Minister shall provide notice to Kluane First Nation specifying the terms and conditions of the contract;
- 9.5.2 where Kluane First Nation does not tender acceptance within 30 days, the Minister may offer the contract publicly on the same terms and conditions specified in the notice given under 9.5.1; and
- 9.5.3 if the contract offered publicly is not accepted, the Minister may re-offer the contract on new terms and conditions in accordance with the procedure set out in 9.5.
- 9.6 The Minister shall provide Kluane First Nation with a right of first refusal to accept any contract offered by the Minister for the construction of trails or the construction or maintenance of roads in the Tachal Region, which right of first refusal shall be offered in the following manner:

- 9.6.1 the Minister shall provide notice to Kluane First Nation specifying the terms and conditions of the contract;
- 9.6.2 where Kluane First Nation does not tender acceptance within 30 days, the Minister may offer the contract publicly on the same terms and conditions specified in the notice given under 9.6.1; and
- 9.6.3 if the contract offered publicly is not accepted, the Minister may re-offer the contract on new terms and conditions in accordance with the procedure set out in 9.6.
- 9.7 The parties acknowledge that it is not the current intention of the Minister to contract out the management or administration of the Tachal Region. The Minister shall provide Kluane First Nation with a right of first refusal to accept any contract offered by the Minister for the management or administration of the Tachal Region, which right of first refusal shall be offered in the following manner:
- 9.7.1 the Minister shall provide notice to Kluane First Nation specifying the terms and conditions of the contract;
- 9.7.2 where Kluane First Nation does not tender acceptance within 30 days, the Minister may offer the contract publicly on the same terms and conditions specified in the notice given under 9.7.1; and
- 9.7.3 if the contract offered publicly is not accepted, the Minister may re-offer the contract on new terms and conditions in accordance with the procedure set out in 9.7.
- 9.8 Subject to any commercial dog sledding operation existing in the Kluane National Park Reserve on the Effective Date of this Agreement, Kluane First Nation shall have the exclusive opportunity to provide commercial dog sledding operations that may be permitted within the Tachal Region.
- 9.9 Public information programs which primarily relate to Yukon First Nation history or culture and which are part of the Tachal Region's interpretive program, may include the sale by Kluane People of traditional handicrafts.

9.10 Kluane First Nation shall have the right of first refusal to any new licence or permit issued by the Minister for the commercial operation of private sector motor-assisted public ground transportation or tours and motor-assisted boat tours to destinations within the Tachal Region permitted by the Management Plan which right of first refusal shall be offered in the following manner:

9.10.1 the Minister shall provide notice to Kluane First Nation specifying the terms and conditions of the licence or permit;

9.10.2 where Kluane First Nation does not tender acceptance within 30 days, the Minister may offer the licence or permit publicly on the same terms and conditions specified in the notice given under 9.10.1; and

9.10.3 if the licence or permit offered publicly is not accepted, the Minister may re-offer the licence or permit on new terms and conditions in accordance with the procedure set out in 9.10.

9.11 Kluane First Nation shall have the right of first refusal to acquire any new licence or permit issued by the Minister to develop and operate any retail outlets which may be permitted in Park Reserve or Park facilities located in the KFN Core Area which right of first refusal shall be offered in the following manner:

9.11.1 the Minister shall provide notice to Kluane First Nation specifying the terms and conditions of the licence or permit;

9.11.2 where Kluane First Nation does not tender acceptance within 30 days, the Minister may offer the licence or permit publicly on the same terms and conditions specified in the notice given under 9.11.1; and

9.11.3 if the licence or permit offered publicly is not accepted, the Minister may re-offer the licence or permit on new terms and conditions in accordance with the procedure set out in 9.11.

9.12 If the Minister establishes a limit for commercial guiding or outfitting opportunities in the Tachal Region, which for greater certainty includes commercial rafting, Kluane First Nation shall have a right of first refusal to acquire new licences or permits as follows:

9.12.1 in the first year that the Minister establishes a limit, the Minister shall offer to Kluane First Nation in respect of the Tachal Region:

- 9.12.1.1 25 percent of the licences or permits to be issued by the Minister, less the number of licences required to allow existing operations which are held by a Kluane Firm to operate at their then existing level in the Tachal Region; or
- 9.12.1.2 the number of licences or permits that remain after the then existing operations have been issued the licences or permits that are required to allow them to operate at their then existing level in the Tachal Region, whichever is less, and
- 9.12.2 in the second year, and in each year thereafter, the Minister shall offer to Kluane First Nation any new licences or permits issued by the Minister from time to time until Kluane First Nation and Kluane Firms together have been issued 25 percent of the licences or permits issued from time to time.
- 9.13 The Minister may include criteria for special aboriginal or local knowledge when establishing specifications for public service employment positions in Tachal Region and when establishing contract specifications for goods and services to be provided in the Tachal Region.

## **10.0 Conditions**

- 10.1 The Minister shall Consult with the Board in deciding whether there should be a limit, or a change to an existing limit, on the number of licences or permits for commercial guiding or outfitting opportunities in the Tachal Region, and on any terms and conditions or changes to the terms and conditions that should apply to those licences or permits.
- 10.2 Kluane First Nation may enter into joint ventures or other arrangements with other Persons to use a licence or permit allocated to Kluane First Nation pursuant to 9.0.
- 10.3 Kluane First Nation shall apply to the Minister within one year of the offer of a licence or permit under any of 9.12, failing which the right of first refusal for that licence or permit shall lapse.
- 10.4 A licence or permit in respect of which a right of first refusal has lapsed under 10.3 shall not be considered a licence or permit offered to Kluane First Nation under 9.12.

- 10.5 When Kluane First Nation applies for a licence or permit in accordance with 10.3 and satisfies the requirements that otherwise apply to obtaining such a licence or permit, the Minister shall issue that licence or permit to Kluane First Nation.
- 10.6 A renewal or assignment of a licence or permit shall not be considered a new licence or permit for the purpose of the calculation of the number of licences or permits required to be offered to Kluane First Nation pursuant to 9.12.
- 10.7 Nothing in 9.12 shall be construed to obligate the Minister to replace any licence or permit obtained by Kluane First Nation pursuant to the provisions of 9.11 or 9.12 where Kluane First Nation has sold or assigned that licence.
- 10.8 Nothing in 9.12 shall be construed to prevent Kluane First Nation or a Kluane Firm from acquiring additional licences or permits in the Tachal Region through the normal regulatory process.
- 10.9 Nothing in 9.1 or 9.13 shall be construed to mean that a criterion resulting from 9.1 or included in 9.13 shall be the determining criterion in filling any employment positions or awarding any contract.
- 10.10 Failure to provide timely written notice pursuant to 9.0 shall not affect the public contract process or the contracts resulting therefrom.
- 10.11 Any Party to this Agreement may refer any dispute respecting the application of 9.0 to the dispute resolution process under 26.4.0.
- 10.12 Where mediation under 26.4.0 does not result in agreement, the Minister may decide the issue.





## **CHAPTER 11 - LAND USE PLANNING**

### **11.1.0 Objectives**

11.1.1 The objectives of this chapter are as follows:

- 11.1.1.1 to encourage the development of a common Yukon land use planning process outside community boundaries;
- 11.1.1.2 to minimize actual or potential land use conflicts both within Settlement Land and Non-Settlement Land and between Settlement Land and Non-Settlement Land;
- 11.1.1.3 to recognize and promote the cultural values of Yukon Indian People;
- 11.1.1.4 to utilize the knowledge and experience of Yukon Indian People in order to achieve effective land use planning;
- 11.1.1.5 to recognize Yukon First Nations' responsibilities pursuant to Settlement Agreements for the use and management of Settlement Land; and
- 11.1.1.6 to ensure that social, cultural, economic and environmental policies are applied to the management, protection and use of land, water and resources in an integrated and coordinated manner so as to ensure Sustainable Development.

### **11.2.0 Land Use Planning Process**

11.2.1 Any regional land use planning process in the Yukon shall:

- 11.2.1.1 subject to 11.2.2, apply to both Settlement and Non-Settlement Land throughout the Yukon;
- 11.2.1.2 be linked to all other land and water planning and management processes established by Government and Yukon First Nations minimizing where practicable any overlap or redundancy between the land use planning process and those other processes;
- 11.2.1.3 provide for monitoring of compliance with approved regional land use plans;
- 11.2.1.4 provide for periodic review of regional land use plans;

- 11.2.1.5 provide for procedures to amend regional land use plans;
- 11.2.1.6 provide for non-conforming uses and variance from approved regional land use plans in accordance with 12.17.0;
- 11.2.1.7 establish time limits for the carrying out of each stage of the process;
- 11.2.1.8 provide for public participation in the development of land use plans;
- 11.2.1.9 allow for the development of sub-regional and district land use plans;
- 11.2.1.10 provide for planning regions which, to the extent practicable, shall conform to the boundaries of Traditional Territories;
- 11.2.1.11 provide, to the extent practicable, for decisions of the Yukon Land Use Planning Council and the Regional Land Use Planning Commissions to be made by consensus; and
- 11.2.1.12 apply to the process of establishing or extending National Parks and national historic parks and commemorating new national historic sites.

11.2.2 This chapter shall not apply to:

- 11.2.2.1 national park reserves established or national historic sites commemorated prior to Settlement Legislation, National Parks or national historic parks once established, or national historic sites once commemorated;
- 11.2.2.2 subdivision planning or local area planning outside of a Community Boundary; or
- 11.2.2.3 subject to 11.2.3, land within a Community Boundary.

11.2.3 In the event a Community Boundary is altered so as to include within a Community Boundary any land subject to an approved regional land use plan, the regional land use plan shall continue to apply to such land until such time as a community plan is approved for such land.

### **11.3.0 Yukon Land Use Planning Council**

11.3.1 The Land Use Planning Policy Advisory Committee established by the "Agreement on Land Use Planning in Yukon", dated October 22, 1987, shall be terminated as of the effective date of Settlement Legislation and replaced by the Yukon Land Use Planning Council on the same date.

- 11.3.2 The Yukon Land Use Planning Council shall be made up of one nominee of the Council for Yukon Indians and two nominees of Government. The Minister shall appoint the nominees.
- 11.3.3 The Yukon Land Use Planning Council shall make recommendations to Government and each affected Yukon First Nation on the following:
- 11.3.3.1 land use planning, including policies, goals and priorities, in the Yukon;
  - 11.3.3.2 the identification of planning regions and priorities for the preparation of regional land use plans;
  - 11.3.3.3 the general terms of reference, including timeframes, for each Regional Land Use Planning Commission;
  - 11.3.3.4 the boundary of each planning region; and
  - 11.3.3.5 such other matters as Government and each affected Yukon First Nation may agree.
- 11.3.4 The Yukon Land Use Planning Council may establish a secretariat to assist the Yukon Land Use Planning Council and Regional Land Use Planning Commissions in carrying out their functions under this chapter.
- 11.3.5 The Yukon Land Use Planning Council shall convene an annual meeting with the chairpersons of all Regional Land Use Planning Commissions to discuss land use planning in the Yukon.

#### **11.4.0 Regional Land Use Planning Commissions**

- 11.4.1 Government and any affected Yukon First Nation may agree to establish a Regional Land Use Planning Commission to develop a regional land use plan.
- 11.4.2 Settlement Agreements shall provide for regionally based Regional Land Use Planning Commissions with one third representation by nominees of Yukon First Nations, one third representation by nominees of Government, and one third representation based on the demographic ratio of Yukon Indian People to the total population in a planning region.

### **Specific Provision**

- 11.4.2.1 Any Regional Land Use Planning Commission established for a planning region which includes any part of the Traditional Territory of Kluane First Nation shall be composed of one-third nominees of Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in the planning region, one-third nominees of Government and one-third nominees appointed in accordance with 11.4.2.2.
- 11.4.2.2 Government, Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in the planning region shall agree on who may nominate each of the last one-third of the nominees to the Regional Land Use Planning Commission referred to in 11.4.2.1 based upon the demographic ratio of Yukon Indian People in the planning region to the total population in the planning region.
- 11.4.2.3 Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in the planning region shall determine the proposed Yukon First Nation nominees to the Regional Land Use Planning Commission, prior to entering the process in 11.4.2.5 and 11.4.2.6.
- 11.4.2.4 Failing agreement under 11.4.2.2 or determination under 11.4.2.3, Government, Kluane First Nation or any Yukon First Nation whose Traditional Territory is included in the planning region may refer the matter to the dispute resolution process under 26.3.0.
- 11.4.2.5 Prior to any appointments being made to a Regional Land Use Planning Commission, Government, Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in a planning region, shall make reasonable attempts to reach a consensus as to the individuals which each nominates to the Regional Land Use Planning Commission.
- 11.4.2.6 In attempting to reach consensus under 11.4.2.5, Government, Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in a planning region shall consider:

- (a) any prospective nominee's familiarity with and sensitivity to the culture and aspirations of Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in a planning region;
- (b) any prospective nominee's familiarity with land use planning issues;
- (c) the compatibility of proposed nominees; and
- (d) any other matters to which Government, Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in the planning region, agree.

11.4.2.7 If, after having made the reasonable attempts required by 11.4.2.5, Government, Kluane First Nation and the other Yukon First Nations whose Traditional Territories are included in the planning region, are unable to reach a consensus, either may give written notice to the others setting out the names of the individuals which it intends to nominate to the Regional Land Use Planning Commission and 14 days thereafter may so nominate those individuals.

11.4.3 The majority of nominees of Yukon First Nations and the majority of nominees of Government on a Regional Land Use Planning Commission shall be Yukon residents with a long term familiarity with the region or regions being planned.

11.4.4 Each Regional Land Use Planning Commission shall prepare and recommend to Government and the affected Yukon First Nation a regional land use plan within a timeframe established by Government and each affected Yukon First Nation.

11.4.5 In developing a regional land use plan, a Regional Land Use Planning Commission:

11.4.5.1 within its approved budget, may engage and contract technical or special experts for assistance and may establish a secretariat to assist it in carrying out its functions under this chapter;

- 11.4.5.2 may provide precise terms of reference and detailed instructions necessary for identifying regional land use planning issues, for conducting data collection, for performing analyses, for the production of maps and other materials, and for preparing the draft and final land use plan documents;
- 11.4.5.3 shall ensure adequate opportunity for public participation;
- 11.4.5.4 shall recommend measures to minimize actual and potential land use conflicts throughout the planning region;
- 11.4.5.5 shall use the knowledge and traditional experience of Yukon Indian People, and the knowledge and experience of other residents of the planning region;
- 11.4.5.6 shall take into account oral forms of communication and traditional land management practices of Yukon Indian People;
- 11.4.5.7 shall promote the well-being of Yukon Indian People, other residents of the planning region, the communities, and the Yukon as a whole, while having regard to the interests of other Canadians;
- 11.4.5.8 shall take into account that the management of land, water and resources, including Fish, Wildlife and their habitats, is to be integrated;
- 11.4.5.9 shall promote Sustainable Development; and
- 11.4.5.10 may monitor the implementation of the approved regional land use plan, in order to monitor compliance with the plan and to assess the need for amendment of the plan.

## **11.5.0 Regional Land Use Plans**

- 11.5.1 Regional land use plans shall include recommendations for the use of land, water and other renewable and non-renewable resources in the planning region in a manner determined by the Regional Land Use Planning Commission.

## **11.6.0 Approval Process for Land Use Plans**

- 11.6.1 A Regional Land Use Planning Commission shall forward its recommended regional land use plan to Government and each affected Yukon First Nation.

- 11.6.2 Government, after Consultation with any affected Yukon First Nation and any affected Yukon community, shall approve, reject or propose modifications to that part of the recommended regional land use plan applying on Non-Settlement Land.
- 11.6.3 If Government rejects or proposes modifications to the recommended plan, it shall forward either the proposed modifications with written reasons, or written reasons for rejecting the recommended plan to the Regional Land Use Planning Commission, and thereupon:
- 11.6.3.1 the Regional Land Use Planning Commission shall reconsider the plan and make a final recommendation for a regional land use plan to Government, with written reasons; and
  - 11.6.3.2 Government shall then approve, reject or modify that part of the plan recommended under 11.6.3.1 applying on Non-Settlement Land, after Consultation with any affected Yukon First Nation and any affected Yukon community.
- 11.6.4 Each affected Yukon First Nation, after Consultation with Government, shall approve, reject or propose modifications to that part of the recommended regional land use plan applying to the Settlement Land of that Yukon First Nation.
- 11.6.5 If an affected Yukon First Nation rejects or proposes modifications to the recommended plan, it shall forward either the proposed modifications with written reasons or written reasons for rejecting the recommended plan to the Regional Land Use Planning Commission, and thereupon:
- 11.6.5.1 the Regional Land Use Planning Commission shall reconsider the plan and make a final recommendation for a regional land use plan to that affected Yukon First Nation, with written reasons; and
  - 11.6.5.2 the affected Yukon First Nation shall then approve, reject or modify the plan recommended under 11.6.5.1, after Consultation with Government.

## **11.7.0 Implementation**

- 11.7.1 Subject to 12.17.0, Government shall exercise any discretion it has in granting an interest in, or authorizing the use of, land, water or other resources in conformity with the part of a regional land use plan approved by Government under 11.6.2 or 11.6.3.

- 11.7.2 Subject to 12.17.0, a Yukon First Nation shall exercise any discretion it has in granting an interest in, or authorizing the use of, land, water or other resources in conformity with the part of a regional land use plan approved by that Yukon First Nation under 11.6.4 or 11.6.5.
- 11.7.3 Nothing in 11.7.1 shall be construed to require Government to enact or amend Legislation to implement a land use plan or to grant an interest in, or authorize the use of, land, water or other resources.
- 11.7.4 Nothing in 11.7.2 shall be construed to require a Yukon First Nation to enact or amend laws passed pursuant to self-government Legislation to implement a land use plan or to grant an interest in, or authorize the use of, land, water or other resources.

#### **11.8.0 Sub-Regional and District Land Use Plans**

- 11.8.1 Sub-regional and district land use plans developed in a region which has an approved regional land use plan shall conform to the approved regional land use plan.
- 11.8.2 The provisions of an approved regional land use plan shall prevail over any existing sub-regional or district land use plan to the extent of any inconsistency.
- 11.8.3 Subject to 11.8.4 and 11.8.5, a Yukon First Nation may develop a sub-regional or district land use plan for Settlement Land and Government may develop a sub-regional or district land use plan for Non-Settlement Land.
- 11.8.4 If Government and a Yukon First Nation agree to develop a sub-regional or district land use plan jointly, the plan shall be developed in accordance with the provisions of this chapter.
- 11.8.5 If Government and a Yukon First Nation do not agree to develop a sub-regional or district land use plan jointly, only 11.8.1 and 11.8.2 of this chapter shall apply to the development of the plan.

#### **11.9.0 Funding**

- 11.9.1 Each Regional Land Use Planning Commission, after Consultation with each affected Yukon First Nation, shall prepare a budget for the preparation of the regional land use plan and for carrying out its functions under this chapter and shall submit that budget to the Yukon Land Use Planning Council.



- 11.9.2 The Yukon Land Use Planning Council shall, on an annual basis, review all budgets submitted under 11.9.1 and, after Consultation with each affected Regional Land Use Planning Commission, propose a budget to Government for the development of regional land use plans in the Yukon and for its own administrative expenses.
- 11.9.3 Government shall review the budget submitted under 11.9.2 and shall pay those expenses which it approves.
- 11.9.4 If Government initiates the development of a sub-regional or district land use plan by a planning body, the planning body established to prepare that plan shall prepare a budget for the preparation of the plan which shall be subject to review by Government, and Government shall pay those expenses which it approves.

### **Specific Provision**

#### **11.10.0 Planning For Road Construction in the Traditional Territory of Kluane First Nation**

11.10.1 In 11.10.0, the following definitions shall apply:

"Cultus Bay Road" means that road shown approximately by a solid line designated as Cultus Bay Road on Map Sheets 115 G/1 and 115 G/2, in Appendix B - Maps, which forms a separate volume to this Agreement.

"Planning" includes the carrying out of any studies relating to:

- the siting, routing or construction of a road; and
- any environmental or socio-economic impacts of a road, including impacts on Fish and Wildlife and their habitat, Heritage Resources and any other renewable or non-renewable resource.

11.10.2 Government shall Consult with Kluane First Nation respecting Planning of the Cultus Bay Road in the Traditional Territory of Kluane First Nation.

11.10.3 In 11.10.4 the following definitions apply:

"Casino Road" means that road shown approximately by a dashed line designated as Casino Road on Map Sheets 115 G/6, 115 G/10, 115 G/11, 115 G/14, 115 G/15, 115 J/2 and 115 J/3, in Appendix B - Maps, which forms a separate volume to this Agreement.

"Construct" means the building, maintaining or upgrading of a road.

- 11.10.4 Government shall not Construct the Casino Road in the Traditional Territory of Kluane First Nation for a period of 10 years from the Effective Date of this Agreement or until a regional, subregional or district land use plan is prepared in accordance with this chapter, whichever is the earlier.

## **CHAPTER 12 - DEVELOPMENT ASSESSMENT**

### **12.1.0 Objective**

- 12.1.1 The objective of this chapter is to provide for a development assessment process that:
- 12.1.1.1 recognizes and enhances, to the extent practicable, the traditional economy of Yukon Indian People and their special relationship with the wilderness Environment;
  - 12.1.1.2 provides for guaranteed participation by Yukon Indian People and utilizes the knowledge and experience of Yukon Indian People in the development assessment process;
  - 12.1.1.3 protects and promotes the well-being of Yukon Indian People and of their communities and of other Yukon residents and the interests of other Canadians;
  - 12.1.1.4 protects and maintains environmental quality and ensures that Projects are undertaken consistent with the principle of Sustainable Development;
  - 12.1.1.5 protects and maintains Heritage Resources;
  - 12.1.1.6 provides for a comprehensive and timely review of the environmental and socio-economic effects of any Project before the approval of the Project;
  - 12.1.1.7 avoids duplication in the review process for Projects and, to the greatest extent practicable, provides certainty to all affected parties and Project proponents with respect to procedures, information requirements, time requirements and costs; and
  - 12.1.1.8 requires Project proponents to consider the environmental and socio-economic effects of Projects and Project alternatives and to incorporate appropriate mitigative measures in the design of Projects.

### **12.2.0 Definitions**

In this chapter, the following definitions shall apply.

"Designated Office" means a community or regional office of Government, an office of a Yukon First Nation or another office identified pursuant to the Development Assessment Legislation in accordance with Yukon First Nation Final Agreements and for the purposes set out in 12.6.0.

"Development Assessment Legislation" means Legislation enacted to implement the development assessment process set out in this chapter.

"Environment" means the components of the Earth and includes:

- (a) air, land and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms; and
- (d) the interacting natural systems that include components referred to in (a) , (b) and (c).

"Existing Project" means an enterprise or activity or class of enterprises or activities which has been undertaken or completed in the Yukon which is not exempt from screening and review.

"Independent Regulatory Agency" means an agency established by Government that is identified in the Development Assessment Legislation which issues a licence, permit or other authorization, the terms and conditions of which are not subject to variation by Government.

"Plan" means a plan, program, policy or a proposal that is not a Project.

"Project" means an enterprise or activity or class of enterprises or activities to be undertaken in the Yukon which is not exempt from screening and review.

"YDAB" means the Yukon Development Assessment Board established pursuant to Development Assessment Legislation.

### **12.3.0 Development Assessment Legislation**

12.3.1 Government shall implement a development assessment process consistent with this chapter by Legislation.

12.3.2 The parties to the Umbrella Final Agreement shall negotiate guidelines for drafting Development Assessment Legislation and these drafting guidelines shall be consistent with the provisions of this chapter.

- 12.3.3 Failing agreement on guidelines, Government shall Consult with the Council for Yukon Indians and with Yukon First Nations during the drafting of the Development Assessment Legislation.
- 12.3.4 Government shall recommend to Parliament or the Legislative Assembly, as the case may be, the Development Assessment Legislation consistent with this chapter as soon as practicable and in any event no later than two years after the effective date of Settlement Legislation.
- 12.3.5 Canada shall recommend to Parliament necessary amendments to existing Legislation including, but not limited to, the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4, Yukon Placer Mining Act, R.S.C. 1985, c. Y-3, Territorial Lands Act, R.S.C. 1985, c. T-7 and Northern Inland Waters Act, R.S.C. 1985, c. N-25, to ensure its conformity with the Development Assessment Legislation.
- 12.3.6 Prior to the enactment of Development Assessment Legislation, the parties to the Umbrella Final Agreement shall make best efforts to develop and incorporate in the implementation plan provided for in 12.19.1, interim measures for assessing a Project which shall be consistent with the spirit of this chapter and within the existing framework of Law and regulatory agencies.

#### **12.4.0 Scope**

- 12.4.1 Subject to this chapter, the following matters are subject to the development assessment process:
- 12.4.1.1 Projects and significant changes to Existing Projects; and
  - 12.4.1.2 in accordance with 12.8.0,
    - (a) a proposed enterprise or activity located outside the Yukon with significant adverse environmental or socio-economic effects in the Yukon,
    - (b) temporary shutdown, abandonment or decommissioning of an Existing Project,
    - (c) Plans,
    - (d) Existing Projects,
    - (e) development assessment research, or

- (f) studies of environmental or socio-economic effects that are cumulative regionally or over time.

12.4.2 YDAB and each Designated Office shall consider the following matters when carrying out their functions:

- 12.4.2.1 the need to protect the special relationship between Yukon Indian People and the Yukon wilderness Environment;
- 12.4.2.2 the need to protect the cultures, traditions, health and lifestyles of Yukon Indian People and of other residents of the Yukon;
- 12.4.2.3 the need to protect the rights of Yukon Indian People pursuant to the provisions of Settlement Agreements;
- 12.4.2.4 the interests of Yukon residents and Canadians outside the Yukon;
- 12.4.2.5 alternatives to the Project or alternative ways of carrying out the Project that avoid or minimize significant adverse environmental or socio-economic effects;
- 12.4.2.6 measures for mitigation of and compensation for significant adverse environmental and socio-economic effects;
- 12.4.2.7 any significant adverse effect on Heritage Resources;
- 12.4.2.8 the need for a timely review of the Project;
- 12.4.2.9 the need to avoid duplication and, to the greatest extent practicable, provide certainty to all affected parties and Project proponents with respect to procedures, information requirements, time requirements, and costs; and
- 12.4.2.10 any other matters provided for in the Development Assessment Legislation.

### **12.5.0 Entry Point**

- 12.5.1 Development Assessment Legislation shall provide criteria for classification of Projects and Existing Projects for determining their entry point to the development assessment process and further criteria for identifying exemptions from the process.
- 12.5.2 The entry point shall be either a Designated Office or YDAB.

## **12.6.0 Designated Office**

- 12.6.1 In accordance with the Development Assessment Legislation, a Designated Office:
- 12.6.1.1 shall screen and may review Projects;
  - 12.6.1.2 shall establish information requirements for Project proponents;
  - 12.6.1.3 shall ensure that interested parties have the opportunity to participate in the assessment process;
  - 12.6.1.4 shall make written recommendations to a Decision Body that a Project that has not been referred to YDAB be allowed to proceed, be allowed to proceed subject to any terms and conditions, or not be allowed to proceed;
  - 12.6.1.5 may refer a Project to YDAB;
  - 12.6.1.6 may determine the type of screening or review of a Project by that Designated Office;
  - 12.6.1.7 may establish procedures pursuant to which a screening or review shall be conducted by that Designated Office;
  - 12.6.1.8 may make written recommendations to a Decision Body that a Project audit or monitoring of effects be undertaken; and
  - 12.6.1.9 may exercise any other powers and shall carry out any other duties provided for in the Development Assessment Legislation.
- 12.6.2 A Designated Office shall maintain a public registry in accordance with the Development Assessment Legislation.
- 12.6.3 Subject to 12.13.4.2, upon receipt of a recommendation from a Designated Office, a Decision Body shall, in a Decision Document, accept, vary, or reject the recommendations of that Designated Office.

## **12.7.0 Yukon Development Assessment Board**

- 12.7.1 A Yukon Development Assessment Board shall be established pursuant to the Development Assessment Legislation.
- 12.7.2 YDAB shall be composed of an Executive Committee and an additional number of members determined in the Development Assessment Legislation.

- 12.7.3 The Executive Committee shall be composed of one member nominated by the Council for Yukon Indians, one member nominated by Government, and the chairperson of YDAB.
- 12.7.4 The Minister shall, after Consultation with the other members of the Executive Committee, appoint the chairperson of YDAB.
- 12.7.5 The Minister shall appoint the additional number of persons to YDAB, so that in total, excluding the chairperson, one half the members of YDAB are nominees of the Council for Yukon Indians and one half the members of YDAB are nominees of Government.

### **12.8.0 YDAB Powers and Responsibilities**

- 12.8.1 In accordance with the Development Assessment Legislation, YDAB:
- 12.8.1.1 shall establish rules for its procedures;
  - 12.8.1.2 shall in accordance with 12.9.0 and 12.10.0 ensure that a mandatory screening or review of a Project and a screening or review of a Project referred to it pursuant to this chapter are conducted and that written recommendations are made to a Decision Body concerning any significant adverse environmental or socio-economic effects of the Project;
  - 12.8.1.3 may make written recommendations to a Decision Body that Project audits or effects monitoring be undertaken;
  - 12.8.1.4 shall upon request by Government, or with the consent of Government, upon request from a Yukon First Nation,
    - (a) conduct a review,
    - (b) review a temporary shut down, abandonment, decommissioning or significant change,
    - (c) conduct an audit, or
    - (d) monitor effects,of a Project or an Existing Project, as the case may be;



- 12.8.1.5 may review Plans which may have significant adverse environmental or socio-economic effects in the Yukon, upon request of Government or, with the consent of Government, upon request by a Yukon First Nation;
  - 12.8.1.6 shall notify Designated Offices and other relevant review bodies and agencies of a Project and of any decision to conduct a review of the Project;
  - 12.8.1.7 may in accordance with 12.9.0 and 12.10.0 hold joint reviews with other bodies;
  - 12.8.1.8 may upon request by Government or, with the consent of Government, upon request by a Yukon First Nation, undertake studies of environmental or socio-economic effects that are cumulative regionally or over time, or undertake development assessment research;
  - 12.8.1.9 may upon request by Government or, with the consent of Government, upon request by a Yukon First Nation, review an enterprise or activity located outside of the Yukon which has significant adverse environmental or socio-economic effects on the Yukon;
  - 12.8.1.10 may agree to review upon request by a Yukon First Nation and at the expense of that Yukon First Nation, any activity set out in 12.8.1.5, 12.8.1.8, and 12.8.1.9, without the consent of Government; and
  - 12.8.1.11 may exercise any other powers and shall carry out any other duties set out in the Development Assessment Legislation.
- 12.8.2 YDAB shall establish structures and procedures to carry out its administrative functions.
- 12.8.3 YDAB shall maintain a public registry in accordance with the Development Assessment Legislation.

## **12.9.0 Executive Committee Powers**

- 12.9.1 In accordance with the Development Assessment Legislation, the Executive Committee:
  - 12.9.1.1 shall, before exercising any of its functions relating to the screening or review of a Project, satisfy itself that the Project proponent has,
    - (a) Consulted with affected communities,

- (b) taken into consideration the matters identified in 12.4.2, and
    - (c) adhered to the procedural rules established by YDAB;
  - 12.9.1.2 subject to 12.9.2, shall determine that a Project will be reviewed by a panel of YDAB or shall recommend to a Decision Body in writing with reasons that a Project not be reviewed by a panel;
  - 12.9.1.3 shall, where it has recommended that a Project not be reviewed by a panel, make written recommendations to the Decision Body that the Project be allowed to proceed, be allowed to proceed subject to any terms and conditions, or not be allowed to proceed;
  - 12.9.1.4 shall, where a review of a Project is to be conducted by a panel, determine whether the significant adverse environmental or socio-economic effects of the Project will be,
    - (a) primarily on Settlement Land,
    - (b) primarily on Non-Settlement Land, or
    - (c) on both Settlement Land and Non-Settlement Land but not primarily on either Settlement Land or Non-Settlement Land;
  - 12.9.1.5 where a review of a Project is to be conducted by a panel, establish terms of reference for the panel, and appoint a chairperson for the panel;
  - 12.9.1.6 shall issue an annual report; and
  - 12.9.1.7 may exercise any other power and shall carry out any other duty set out in the Development Assessment Legislation.
- 12.9.2 Subject to 12.9.4, the Executive Committee shall establish a panel to conduct a public review of a Project if:
- 12.9.2.1 it determines that the Project may have significant adverse environmental or socio-economic effects in the Yukon or outside the Yukon;
  - 12.9.2.2 it determines that the Project causes or is likely to cause significant public concern in the Yukon;
  - 12.9.2.3 it determines that the Project involves technology which is controversial in the Yukon or for which the effects are unknown; or

- 12.9.2.4 it determines that the Project, while not generating significant adverse environmental or socio-economic effects by itself, may contribute significantly to cumulative adverse environmental or socio-economic effects in the Yukon.
- 12.9.3 Subject to 12.9.4, the Executive Committee shall establish a panel to conduct:
- 12.9.3.1 a public review of a Project, subject to 12.9.3.2, where a Decision Body rejects the Executive Committee's recommendation that the Project not be publicly reviewed by a panel; or
- 12.9.3.2 a public review or other form of review as Government or a Yukon First Nation may require, where Government or a Yukon First Nation requests a review pursuant to 12.8.0.
- 12.9.4 The Development Assessment Legislation shall provide for the avoidance of duplication of any public review by a federal environmental assessment panel and YDAB, or by the Inuvialuit Environmental Impact Review Board and YDAB, either by requiring a public review only by one of those bodies or a public review by a joint body.
- 12.9.5 Where it is proposed by Government in accordance with 12.9.4 that a Project be reviewed publicly by a federal environmental assessment panel instead of by YDAB, consent of the affected Yukon First Nation shall be required before the federal environmental assessment panel is established.
- 12.9.6 If the consent pursuant to 12.9.5 is not provided within 30 days of a request from the Minister responsible for the federal environmental assessment panel, that Minister may require the Project be reviewed publicly by the federal environmental assessment panel instead of YDAB provided that:
- 12.9.6.1 that Minister shall appoint members to a panel in accordance with that Minister's practice and at least one quarter of the panel members shall be appointed from a list of nominees given to that Minister by the Council for Yukon Indians and at least one quarter from a list of nominees given to that Minister by the Yukon. Members of YDAB are eligible to be appointed to the panel; and
- 12.9.6.2 the recommendations made by the panel to that Minister shall be deemed to be written recommendations of YDAB within the meaning of 12.12.0. Such recommendations shall be referred to the Decision Body, to be dealt with in accordance with 12.12.0, 12.13.0 and 12.14.0 as if they were recommendations of YDAB, except that 12.12.1.2 does not apply.

### **12.10.0 Panels of YDAB**

- 12.10.1 Where the Executive Committee determines that the primary significant adverse environmental or socio-economic effects of a Project are on Settlement Land, two thirds of the members of a panel shall be members nominated to YDAB by the Council for Yukon Indians and one third of the members of the panel shall be members nominated to YDAB by Government.
- 12.10.2 Where the Executive Committee determines that the primary significant adverse environmental or socio-economic effects of a Project are on Non-Settlement Land, two thirds of the members of a panel shall be members nominated to YDAB by Government and one third of the members of the panel shall be members nominated to YDAB by the Council for Yukon Indians.
- 12.10.3 Where the Executive Committee determines that the significant adverse environmental or socio-economic effects of a Project are on both Settlement Land and Non-Settlement Land but not primarily on either Settlement Land or Non-Settlement Land, apart from the chairperson, one half of the members of the panel shall be members nominated to YDAB by the Council for Yukon Indians and one half of the members of the panel shall be members nominated to YDAB by Government.
- 12.10.4 For the purposes of 12.10.0, "Settlement Land" may, if so provided in a Transboundary Agreement, include land in the Yukon held by that transboundary claimant group pursuant to its Transboundary Agreement.

### **12.11.0 Panel Powers**

- 12.11.1 In accordance with the Development Assessment Legislation, a panel established pursuant to 12.10.0 to review a Project:
- 12.11.1.1 shall determine the information required from the Project proponent, the manner in which the review shall be conducted, a review schedule, and Yukon First Nation, public and local, territorial and federal government involvement in the review and such other matters as the panel considers appropriate;
  - 12.11.1.2 shall make written recommendations to a Decision Body that a Project be allowed to proceed subject to terms and conditions or not be allowed to proceed;
  - 12.11.1.3 may make written recommendations to a Decision Body that Project audits or effects monitoring be undertaken; and

12.11.1.4 may exercise any power and shall carry out any other responsibility set out in the Development Assessment Legislation.

12.11.2 Written recommendations and reports of a panel shall be deemed to be written recommendations and reports of YDAB.

### **12.12.0 YDAB Recommendations**

12.12.1 Upon receipt of written recommendations and reports from YDAB a Decision Body shall:

12.12.1.1 accept the recommendations in their entirety in writing in a Decision Document;

12.12.1.2 refer the recommendations back to YDAB for further consideration; or

12.12.1.3 subject to 12.13.4.2, subsequent to the reconsideration by YDAB, accept the recommendations, vary the recommendations, or reject the recommendations in writing in a Decision Document.

12.12.2 Where a Decision Body rejects or varies the recommendations of YDAB, the Decision Body shall provide written reasons to YDAB which shall be available to the public.

### **12.13.0 Determination of the Decision Body**

12.13.1 Where a Project is located wholly or partially on Settlement Land, a Decision Document is required from:

12.13.1.1 a Yukon First Nation, where the Yukon First Nation is empowered by Yukon First Nation self-government Legislation or Settlement Agreements to require its approval or other authorization, other than for access to Settlement Land as provided in Settlement Agreements; or

12.13.1.2 a Yukon First Nation, where the Project does not require a Decision Document from Government; and

12.13.1.3 Government, where the Project involves the Right to Work Mines and Minerals on Category B or Fee Simple Settlement Land, or where the Project requires an approval or other authorization from Government.

12.13.2 Where a Project is located wholly or partially on Non-Settlement Land, a Decision Document is required from Government.

- 12.13.3 Government and the Yukon First Nation shall Consult with each other before issuing a Decision Document for a Project where Decision Documents for the Project are required from both Decision Bodies.
- 12.13.4 Where a Decision Document is required from both Decision Bodies and the Project involves the Right to Work Mines and Minerals on Category B or Fee Simple Settlement Land:
- 12.13.4.1 the Decision Bodies shall endeavour to make the terms and conditions of their Decision Document conform;
  - 12.13.4.2 notwithstanding 12.6.3 and 12.12.1.3, the Decision Bodies may only reject or vary the terms and conditions contained in the recommendations of YDAB or a Designated Office on the grounds that, to accomplish the objectives of this chapter, any of the terms and conditions are,
    - (a) insufficient to achieve an acceptable level of environmental and socio-economic impacts in the Yukon,
    - (b) more onerous than necessary to achieve an acceptable level of environmental and socio-economic impact in the Yukon, or
    - (c) so onerous as to undermine the economic viability of a Project; and
  - 12.13.4.3 where the terms and conditions of the Decision Documents conflict, Government and the Yukon First Nation shall, subject to 12.14.8, exercise any discretion in granting an interest in, or authorizing the use of land, water, or other resources, in conformity with the terms and conditions of the Decision Document issued by Government.

#### **12.14.0 Implementation of Decision Document**

- 12.14.1 Government shall:
- 12.14.1.1 subject to 12.14.8, exercise any discretion in granting an interest in, or authorizing the use of land, water, or other resources in conformity with the terms and conditions of a Decision Document issued by Government; and
  - 12.14.1.2 not issue any approval, authorization or, subject to Development Assessment Legislation under 12.19.2.14, provide financial assistance to a proponent with respect to a Project prior to issuing a Decision Document.

- 12.14.2 Nothing in 12.13.4.3 or 12.14.1.1 shall be construed to require Government to enact or amend Legislation to implement a Decision Document issued by Government or to require Government to grant an interest in or authorize the use of land, water or other resources.
- 12.14.3 A Yukon First Nation shall:
- 12.14.3.1 subject to 12.13.4.3 and 12.14.8, exercise any discretion in granting an interest in, or authorizing the use of, land, water, or other resources in conformity with the terms and conditions of a Decision Document issued by the Yukon First Nation; and
  - 12.14.3.2 not issue any approval, authorization or, subject to Development Assessment Legislation under 12.19.2.14, provide financial assistance to a proponent with respect to a Project prior to issuing a Decision Document.
- 12.14.4 Nothing in 12.13.4.3 or 12.14.3.1 shall be construed to require a Yukon First Nation to enact or amend laws passed pursuant to self-government Legislation to implement a Decision Document issued by the Yukon First Nation or as requiring the Yukon First Nation to grant an interest in or authorize the use of land, water or other resources.
- 12.14.5 Where the Project proponent requires a licence, permit, or other authorization from the National Energy Board or other Independent Regulatory Agency identified in the Development Assessment Legislation under 12.19.2.13, the Decision Body shall send the Decision Document to the National Energy Board or other Independent Regulatory Agency.
- 12.14.6 An Independent Regulatory Agency other than the National Energy Board, in issuing a licence, permit or other authorization for a Project shall endeavour to make the terms and conditions of such authorization conform, to the extent practicable, with the terms and conditions of a Decision Document issued by Government for the Project.
- 12.14.7 The National Energy Board, in issuing a licence, permit or other authorization for a Project, shall take into consideration the terms and conditions of a Decision Document issued by Government for the Project.
- 12.14.8 Where there is a conflict between the terms and conditions of a Decision Document for a Project and the terms and conditions of a licence, permit, or other authorization for the Project issued by the National Energy Board or other Independent Regulatory Agency, the terms and conditions of the licence, permit, or other authorization for the Project issued by the National Energy Board or other Independent Regulatory Agency, as the case may be, shall prevail to the extent of the conflict.

12.14.9 Where the terms and conditions of a licence, permit or other authorization for a Project issued by the National Energy Board or other Independent Regulatory Agency vary from those in a Decision Document issued by Government, that agency shall provide written reasons for such variance to the Decision Body.

#### **12.15.0 Monitoring and Enforcement**

12.15.1 Nothing in this chapter shall be construed to affect Government's responsibility for the compliance monitoring of Projects.

12.15.2 YDAB may make recommendations under 12.9.1.3 to a Decision Body that Project audits or effects monitoring be undertaken.

12.15.3 Upon request by YDAB, a Decision Body shall provide to YDAB information obtained through effects monitoring undertaken after the acceptance by the Decision Body of a recommendation made pursuant to 12.15.2.

12.15.4 YDAB may issue reports, including recommendations to a Decision Body, based on the review of the results of effects monitoring studies.

12.15.5 The Development Assessment Legislation may provide for the enforcement of Decision Documents.

12.15.6 YDAB may recommend to a Decision Body that YDAB or any other body hold a public hearing if YDAB determines that the terms and conditions of a Decision Document issued by that Decision Body may have been violated.

12.15.7 If the recommendation of YDAB pursuant to 12.15.6 is accepted by the Decision Body, then YDAB or the other body shall hold a public hearing.

12.15.8 After a body holds a public hearing under 12.15.7, the body may make recommendations to the Decision Body in respect of the disposition of the matter.

#### **12.16.0 Transboundary Impacts**

12.16.1 Government shall make best efforts to negotiate with other relevant jurisdictions, in Consultation with affected Yukon First Nations, agreements or cooperative arrangements that provide for development assessments equivalent to the screening and review requirements in the Yukon for enterprises or activities located outside the Yukon that may have significant adverse environmental or socio-economic effects on the Yukon.



- 12.16.2 The representation of transboundary claimant groups on the YDAB shall be as established in Transboundary Agreements and, in any case, the proportion of Government nominees on a panel shall be as provided in this chapter.
- 12.16.3 Prior to the enactment of Settlement Legislation, the parties to the Umbrella Final Agreement shall make best efforts to resolve any conflict and avoid any duplication in North Yukon between the development assessment process provided pursuant to this chapter and the environmental impact screening and review process provided pursuant to the Inuvialuit Final Agreement.

### **12.17.0 Relationship to Land Use Planning**

- 12.17.1 Where YDAB or a Designated Office receives a Project application in a region where a regional land use plan is in effect, YDAB or the Designated Office, as the case may be, shall request that the Regional Land Use Planning Commission for the planning region determine whether or not the Project is in conformity with the approved regional land use plan.
- 12.17.2 Where a Regional Land Use Planning Commission is preparing a regional land use plan, YDAB or a Designated Office, as the case may be, shall provide the Regional Land Use Planning Commission with the information it has on any Project in the planning region for which a review is pending and shall invite the Regional Land Use Planning Commission to make representations to the panel or the Designated Office.
- 12.17.3 Where a panel is reviewing a Project and a Regional Land Use Planning Commission has determined pursuant to 12.17.1 that the Project does not conform with an approved regional land use plan, the panel shall consider the regional land use plan in its review, invite the relevant Regional Land Use Planning Commission to make representations to the panel and make recommendations to the Decision Body that conform so far as possible to the approved regional plan.
- 12.17.4 Where a Decision Document states that a non-conforming Project may proceed, the Project proponent may proceed with the Project if permitted by and in accordance with Law.
- 12.17.5 The Development Assessment Legislation shall set out the relationship between the issuance of a Decision Document for a Project that has not been assessed by YDAB and the grant of a variance from a regional land use plan or the amendment of the land use plan.

## **12.18.0 Funding**

- 12.18.1 Each Designated Office, after Consultation with the affected Yukon First Nation, shall prepare a budget respecting its responsibilities under the Development Assessment Legislation and this chapter and shall submit that budget to YDAB or to Government, whichever is designated by Government from time to time.
- 12.18.2 YDAB shall, on an annual basis, review all budgets submitted to it under 12.18.1 and shall prepare an annual budget for its responsibilities and for those of each Designated Office under the Development Assessment Legislation and this chapter for review and approval by Government. The approved expenses of YDAB and the Designated Offices shall be a charge on Government.

## **12.19.0 Implementation**

- 12.19.1 Government, in Consultation with the Yukon First Nations, shall prepare a detailed plan:
- 12.19.1.1 providing for the planning and implementation of the Development Assessment Legislation which addresses the involvement of Yukon First Nations; and
  - 12.19.1.2 providing for the application of the Development Assessment Legislation until Yukon First Nation Final Agreements have been negotiated.
- 12.19.2 Development Assessment Legislation may provide the following:
- 12.19.2.1 criteria for classification of Projects for the determination of the entry point to the development assessment process;
  - 12.19.2.2 classification of Projects for which screening and review by YDAB is mandatory;
  - 12.19.2.3 criteria to determine the significance of adverse environmental or socio-economic effects;
  - 12.19.2.4 the type of Plan which YDAB may review without a request by Government or Yukon First Nations;
  - 12.19.2.5 criteria for the classes of enterprises or activities which are exempt from screening and review;

- 12.19.2.6 the role of YDAB, Yukon First Nations, Government, Project proponents or other participants in the provision of participant funding in reviews of Projects;
  - 12.19.2.7 the ability of the Minister to identify a Designated Office for a type of Project;
  - 12.19.2.8 the manner in which a Designated Office conducts a review;
  - 12.19.2.9 time limits for activities or functions of YDAB, Designated Offices, the Minister and Yukon First Nations;
  - 12.19.2.10 procedural requirements for Project proponents and other participants;
  - 12.19.2.11 public participation in the review of Projects;
  - 12.19.2.12 the process for joint reviews by YDAB and other bodies;
  - 12.19.2.13 a listing of Independent Regulatory Agencies;
  - 12.19.2.14 conditions respecting the provision of financial assistance to a proponent prior to assessment of a Project; and
  - 12.19.2.15 any other matter required to implement the development assessment process.
- 12.19.3 A comprehensive review of the development assessment process by the parties to the Umbrella Final Agreement shall be completed five years after the enactment of Development Assessment Legislation.
- 12.19.4 Nothing in this chapter shall be construed to prevent Government, in Consultation with Yukon First Nations, from acting to improve or enhance socio-economic or environmental procedures in the Yukon in the absence of any approved detailed design of the development assessment process.
- 12.19.5 Nothing in this chapter shall be construed to affect any existing development assessment process in the Yukon prior to the Development Assessment Legislation coming into effect.



## **CHAPTER 13 - HERITAGE**

### **13.1.0 Objectives**

13.1.1 The objectives of this chapter are as follows:

- 13.1.1.1 to promote public awareness, appreciation and understanding of all aspects of culture and heritage in the Yukon and, in particular, to respect and foster the culture and heritage of Yukon Indian People;
- 13.1.1.2 to promote the recording and preservation of traditional languages, beliefs, oral histories including legends, and cultural knowledge of Yukon Indian People for the benefit of future generations;
- 13.1.1.3 to involve equitably Yukon First Nations and Government, in the manner set out in this chapter, in the management of the Heritage Resources of the Yukon, consistent with a respect for Yukon Indian values and culture;
- 13.1.1.4 to promote the use of generally accepted standards of Heritage Resources management, in order to ensure the protection and conservation of Heritage Resources;
- 13.1.1.5 to manage Heritage Resources owned by, or in the custody of, Yukon First Nations and related to the culture and history of Yukon Indian People in a manner consistent with the values of Yukon Indian People, and, where appropriate, to adopt the standards of international, national and territorial Heritage Resources collections and programs;
- 13.1.1.6 to manage Heritage Resources owned by, or in the custody of, Government and related to the culture and history of Yukon Indian People, with respect for Yukon Indian values and culture and the maintenance of the integrity of national and territorial Heritage Resources collections and programs;
- 13.1.1.7 to facilitate reasonable public access, except where the nature of the Heritage Resource or other special circumstances warrant otherwise;
- 13.1.1.8 to identify and mitigate the impact of development upon Heritage Resources through integrated resource management including land use planning and development assessment processes;
- 13.1.1.9 to facilitate research into, and the management of, Heritage Resources of special interest to Yukon First Nations;

- 13.1.1.10 to incorporate, where practicable, the related traditional knowledge of a Yukon First Nation in Government research reports and displays which concern Heritage Resources of that Yukon First Nation;
- 13.1.1.11 to recognize that oral history is a valid and relevant form of research for establishing the historical significance of Heritage Sites and Moveable Heritage Resources directly related to the history of Yukon Indian People; and
- 13.1.1.12 to recognize the interest of Yukon Indian People in the interpretation of aboriginal Place Names and Heritage Resources directly related to the culture of Yukon Indian People.

### **13.2.0 Definitions**

In this chapter, the following definitions shall apply.

"Non-Public Records" means all Documentary Heritage Resources other than Public Records.

"Place Names" includes Yukon Indian place names.

"Public Records" means records held by any department or agency or public office of any level of Government, and records which were formerly held by any such department, agency or public office.

### **13.3.0 Ownership and Management**

- 13.3.1 Each Yukon First Nation shall own and manage Moveable Heritage Resources and non-Moveable Heritage Resources and Non-Public Records, other than records which are the private property of any Person, found on its Settlement Land and on those Beds of waterbodies owned by that Yukon First Nation.
- 13.3.2 Subject to 13.3.5 to 13.3.7, each Yukon First Nation shall own and manage ethnographic Moveable Heritage Resources and Documentary Heritage Resources that are not Public Records and that are not the private property of any Person, that are found in its respective Traditional Territory and that are directly related to the culture and history of Yukon Indian People.

- 13.3.2.1 If more than one Yukon First Nation asserts ownership of a Heritage Resource pursuant to 13.3.2, they shall attempt to resolve the matter among themselves, and, failing resolution, any one of them may refer the matter to the Yukon Heritage Resources Board which shall determine ownership of the Heritage Resource in dispute.
- 13.3.3 Subject to 13.3.5 to 13.3.7, Moveable Heritage Resources and Documentary Heritage Resources which are not ethnographic resources directly related to the culture and history of Yukon Indian People and which are found on Non-Settlement Land shall be owned by Government.
- 13.3.4 Public Records, wherever they are found, shall be owned and managed by the Government by which they were created or held.
- 13.3.5 In the event that a Moveable Heritage Resource found on Non-Settlement Land in a Traditional Territory cannot be readily identified as an ethnographic object directly related to the culture and history of Yukon Indian People, that object shall be held in custody by Government until the nature of the object has been determined.
- 13.3.6 If the object in 13.3.5 is determined by the Yukon Heritage Resources Board to be:
- 13.3.6.1 an ethnographic object directly related to the culture and history of Yukon Indian People, it shall be owned and managed by the Yukon First Nation in whose Traditional Territory it was found; or
  - 13.3.6.2 an ethnographic object not directly related to the culture and history of Yukon Indian People, or to be a palaeontological or an archaeological object, it shall be owned and managed by Government.
- 13.3.7 Where the Board is unable to reach a majority decision under 13.3.6, the issue of whether the ethnographic object is directly related to the culture and history of the Yukon Indian People shall be referred to the dispute resolution process under 26.3.0.
- 13.3.8 Agreements may be entered into by Government and Yukon First Nations with respect to the ownership, custody or management of Heritage Resources.

### **Specific Provision**

- 13.3.8.1 The parties have an agreement respecting ownership of Heritage Resources in 8.2 of Schedule C - Kluane National Park and Park Reserve - attached to Chapter 10 - Special Management Areas.
- 13.3.8.2 If Kluane First Nation and White River First Nation assert ownership of a Heritage Resource which may be subject to 13.3.1 and 13.3.2, they shall attempt to resolve the matter between themselves, and, failing resolution, they may agree to refer the matter to the Yukon Heritage Resources Board which shall determine ownership of the Heritage Resource in dispute.
- 13.3.8.3 Until such time as the White River First Nation Final Agreement comes into effect, the rights and responsibilities of White River First Nation under 13.3.8.2 may be assumed by the White River First Nation Band.

### **13.4.0 General**

- 13.4.1 As the Heritage Resources of Yukon Indian People are underdeveloped relative to non-Indian Heritage Resources, priority in the allocation of Government program resources available from time to time for Yukon Heritage Resources development and management shall, where practicable, be given to the development and management of Heritage Resources of Yukon Indian People, until an equitable distribution of program resources is achieved.
- 13.4.2 Once an equitable distribution of program resources is achieved, Heritage Resources of Yukon Indian People shall continue to be allocated an equitable portion of Government program resources allocated from time to time for Yukon Heritage Resources development and management.
- 13.4.3 Government, where practicable, shall assist Yukon First Nations to develop programs, staff and facilities to enable the repatriation of Moveable and Documentary Heritage Resources relating to the culture and history of Yukon Indian People which have been removed from the Yukon, or are retained at present in the Yukon, where this is consistent with the maintenance of the integrity of national or territorial collections.
- 13.4.4 A Yukon First Nation or a Yukon Indian Person who is an owner of a Heritage Resource may transfer the ownership or custody of the Heritage Resource to another Yukon First Nation or to another aboriginal person.



13.4.5 Government shall Consult Yukon First Nations in the formulation of Legislation and related Government policies on Heritage Resources in the Yukon.

13.4.6 Yukon First Nation Final Agreements may include provisions in respect of territorial heritage parks or sites, heritage rivers, heritage routes, heritage buildings, special management areas for Heritage Resources, for other sites or areas of unique cultural or heritage significance, or for other such heritage matters.

**Specific Provision**

13.4.6.1 The heritage routes and sites in the Traditional Territory of Kluane First Nation identified in Schedule A - Heritage Routes and Sites, attached to this chapter, are recognized as having cultural and heritage significance to Kluane First Nation.

13.4.6.2 In developing a land use plan which includes all or part of the Traditional Territory of Kluane First Nation, a Regional Land Use Planning Commission shall take into account the cultural and heritage significance of the heritage routes and sites identified in Schedule A - Heritage Routes and Sites, attached to this chapter.

13.4.6.3 In carrying out their functions under Chapter 12 - Development Assessment, the Yukon Development Assessment Board and Designated Offices shall consider any significant adverse effect on the heritage routes and sites identified in Schedule A - Heritage Routes and Sites, attached to this chapter.

13.4.6.4 Nothing in 13.4.6.1 to 13.4.6.3 shall be construed as an obligation or commitment by Government or Kluane First Nation to maintain the identified heritage routes or sites or to guarantee that the heritage routes or sites will continue to exist in their current state.

13.4.6.5 Government shall Consult with Kluane First Nation before establishing or designating, as the case may be, territorial heritage parks or sites, heritage rivers, heritage routes, heritage buildings and special management areas for Heritage Resources directly related to the culture and heritage of Kluane People.

13.4.7 Any granting of access to the public, third parties or Government to Settlement Land shall not divest the Yukon First Nation of the ownership or management of Heritage Resources on Settlement Land.

13.4.8 In accordance with Government procedures on access to and duplication of records, and subject to access to information, protection of privacy and copyright Legislation and to any agreements respecting records or the information contained in them, Government, within existing budgets, shall facilitate the preparation of an inventory of Moveable Heritage Resources and Heritage Sites which relate to Yukon First Nations.

### **13.5.0 Yukon Heritage Resources Board**

13.5.1 A Yukon Heritage Resources Board, comprised of 10 members and composed of equal numbers of appointees nominated by the Council for Yukon Indians, and of appointees nominated by Government, shall be established to make recommendations respecting the management of Moveable Heritage Resources and Heritage Sites to the Minister and to Yukon First Nations.

13.5.2 The Board shall operate in the public interest.

13.5.3 The Board may make recommendations to the Minister and to Yukon First Nations on:

13.5.3.1 the management of non-documentary Heritage Resources;

13.5.3.2 means by which the traditional knowledge of Yukon Indian Elders may be considered in the management of Moveable Heritage Resources and Heritage Sites in the Yukon;

13.5.3.3 means by which the traditional languages of Yukon First Nations can be recorded and preserved;

13.5.3.4 the review, approval, amendment or repeal of regulations pursuant to heritage Legislation pertaining to Moveable Heritage Resources and Heritage Sites in the Yukon;

13.5.3.5 the development and revision of a strategic plan for the preservation and management of Moveable Heritage Resources and Heritage Sites in the Yukon;

13.5.3.6 the development, revision and updating of a manual including definitions of ethnographic, archaeological, palaeontological and historic resources, to facilitate the management and interpretation of these resources by Government and Yukon First Nations, such manual to be developed by Yukon First Nations and Government;

- 13.5.3.7 the development, revision and updating of the inventory of Yukon Indian Heritage Resources provided for in 13.4.8;
  - 13.5.3.8 means by which public awareness and appreciation of Moveable Heritage Resources and Heritage Sites may be fostered;
  - 13.5.3.9 designation of Heritage Sites as Designated Heritage Sites; and
  - 13.5.3.10 any other matter related to Heritage Resources of the Yukon.
- 13.5.4 In modifying or rejecting recommendations of the Board, Government or Yukon First Nations shall provide the Board with one opportunity to resubmit recommendations for the approval of Government or Yukon First Nations.

### **13.6.0 National Parks and National Historic Sites**

- 13.6.1 The management of Heritage Resources in National Parks, in Kluane National Park Reserve and in national historic sites administered by the Canadian Parks Service shall be as set out in the relevant Yukon First Nation Final Agreement.

### **13.7.0 Research**

- 13.7.1 Research or interpretative reports produced by Government or its agents regarding Yukon Heritage Resources shall be made available to the affected Yukon First Nation.
- 13.7.2 Where feasible, research reports in 13.7.1 or portions thereof, shall be made available to the public, recognizing that some reports may be restricted due to the sensitive nature of the information contained therein.

### **13.8.0 Heritage Sites**

- 13.8.1 Ownership and management of Heritage Sites in a Yukon First Nation's Traditional Territory shall be addressed in that Yukon First Nation Final Agreement.

### **Specific Provision**

- 13.8.1.1 The ownership of land in the Traditional Territory of Kluane First Nation is not affected by reason of that land being a Heritage Site or a Designated Heritage Site.
- 13.8.1.2 Government shall inform Kluane First Nation when land within the Traditional Territory of Kluane First Nation is identified by Government as a proposed Designated Heritage Site or as a Heritage Site directly related to the culture and heritage of Kluane People.
- 13.8.1.3 When requested by Kluane First Nation, Government shall consider protection within existing Legislation, for a period of time, of a Heritage Site on Non-Settlement Land within the Traditional Territory of Kluane First Nation which is directly related to the culture and heritage of Kluane People, pending a decision by the Minister whether to designate the Heritage Site as a Designated Heritage Site.
- 13.8.1.4 Government shall Consult with Kluane First Nation regarding the terms and conditions of the temporary protection which might apply to the Heritage Site pursuant to 13.8.1.3.
- 13.8.1.5 Management plans for Designated Heritage Sites directly related to the culture and heritage of Kluane People may provide for the use of Southern Tutchone in interpretive displays and signage after Government Consults with Kluane First Nation as to the appropriateness of that usage.
- 13.8.1.6 Government and Kluane First Nation may negotiate arrangements for the ownership, management and protection of a Heritage Site on Non-Settlement Land within the Traditional Territory of Kluane First Nation which is directly related to the culture and heritage of Kluane People.

- 13.8.2 Government and the affected Yukon First Nation shall consider the land use activities of other resource users in the management of interpretive and research activities at Heritage Sites.
- 13.8.3 Government and the affected Yukon First Nation shall institute a permit system for research at any site which may contain Moveable Heritage Resources.

### **Specific Provision**

13.8.3.1 Government and Kluane First Nation shall Consult each other during the development and drafting of the permit system referred to in 13.8.3.

13.8.3.2 Without limiting any authority which Government or Kluane First Nation may otherwise have to establish a permit system, the system may include provisions in respect of:

- (a) notification of an application for a permit and of any permit issued;
- (b) requirements that research be conducted in a manner which maximizes the preservation of Moveable Heritage Resources;
- (c) involvement of Kluane People in research at sites which contain Moveable Heritage Resources directly related to the culture and history of Yukon Indian People;
- (d) the sharing of information between Government and Kluane First Nation relating to the nature and scope of research for which a permit application has been made; and
- (e) requirements for the provision to Government and Kluane First Nation by a permittee of non-technical summaries of the results of research conducted pursuant to a permit.

13.8.3.3 Government shall Consult with Kluane First Nation before issuing a permit for research at a Heritage Site which is directly related to the culture and heritage of Kluane People in the Traditional Territory of Kluane First Nation.

13.8.4 Access to Designated Heritage Sites shall be controlled in accordance with the terms of site management plans which have been reviewed by the Board, and approved and implemented by Government or the affected Yukon First Nation.

13.8.5 Government and the affected Yukon First Nation, when controlling access to Designated Heritage Sites, shall consider:

13.8.5.1 the interests of permitted researchers;

- 13.8.5.2 the interest of the general public; and
- 13.8.5.3 the requirements of special events and traditional activities.
- 13.8.6 Except as otherwise provided in this chapter, the protection of Heritage Resources in or discovered on Non-Settlement Land, either by accident or otherwise, during construction or excavation shall be provided for in Laws of General Application.
- 13.8.7 Procedures to deal with the accidental discovery of Heritage Resources on Settlement Land shall be provided in each Yukon First Nation's Final Agreement.

**Specific Provision**

- 13.8.7.1 A Person who accidentally discovers a Heritage Resource on Kluane First Nation Settlement Land shall take such steps as are reasonable in all the circumstances to safeguard the Heritage Resource and shall report as soon as practicable that discovery to Kluane First Nation.
- 13.8.7.2 A Person described in 13.8.7.1 who is not exercising a right of access or a right to use Kluane First Nation Settlement Land provided for in this Agreement may only continue to disturb a Heritage Site or Moveable Heritage Resource with the consent of Kluane First Nation.
- 13.8.7.3 A Person described in 13.8.7.1 who is exercising a right of access or a right to use Kluane First Nation Settlement Land provided for in this Agreement shall not further disturb a Heritage Site or a Moveable Heritage Resource unless permitted by Laws of General Application, and that Person obtains:
- (a) the consent of Kluane First Nation; or
  - (b) failing consent, an order of the Surface Rights Board setting out the terms and conditions of further disturbing the Heritage Site or Moveable Heritage Resource.
- 13.8.7.4 Kluane First Nation shall report to Government, as soon as practicable, the discovery on Kluane First Nation Settlement Land of any Documentary Heritage Resource reported to it under 13.8.7.1.

13.8.7.5 Government and Kluane First Nation shall attempt to agree whether a Documentary Heritage Resource described in 13.8.7.4 is a Public Record or a Non-Public Record and, failing agreement, either may refer the matter to the dispute resolution process under 26.3.0.

13.8.7.6 If a Documentary Heritage Resource is a Non-Public Record, Kluane First Nation shall make reasonable efforts to determine if it is privately owned.

### **13.9.0 Yukon First Nation Burial Sites**

13.9.1 Government and Yukon First Nations shall each establish procedures to manage and protect Yukon First Nation Burial Sites which shall:

13.9.1.1 restrict access to Yukon First Nation Burial Sites to preserve the dignity of the Yukon First Nation Burial Sites;

13.9.1.2 where the Yukon First Nation Burial Site is on Non-Settlement Land, require the joint approval of Government and the Yukon First Nation in whose Traditional Territory the Yukon First Nation Burial Site is located for any management plans for the Yukon First Nation Burial Site; and

13.9.1.3 provide that, subject to 13.9.2, where a Yukon First Nation Burial Site is discovered, the Yukon First Nation in whose Traditional Territory the Yukon First Nation Burial Site is located shall be informed, and the Yukon First Nation Burial Site shall not be further disturbed.

13.9.2 Where a Person discovers a Yukon First Nation Burial Site in the course of carrying on an activity authorized by Government or a Yukon First Nation, as the case may be, that Person may carry on the activity with the agreement of the Yukon First Nation in whose Traditional Territory the Yukon First Nation Burial Site is located.

13.9.3 In the absence of agreement under 13.9.2, the Person may refer the dispute to arbitration under 26.7.0 for a determination of the terms and conditions upon which the Yukon First Nation Burial Site may be further disturbed.

13.9.4 Any exhumation, examination, and reburial of human remains from a Yukon First Nation Burial Site ordered by an arbitrator under 13.9.3 shall be done by, or under the supervision of, that Yukon First Nation.

- 13.9.5 Except as provided in 13.9.2 to 13.9.4, any exhumation, scientific examination and reburial of remains from Yukon First Nation Burial Sites shall be at the discretion of the affected Yukon First Nation.
- 13.9.6 The management of burial sites of a transboundary claimant group in the Yukon shall be addressed in that Transboundary Agreement.

#### **Specific Provision**

- 13.9.7 For greater certainty, where Kluane First Nation provides the mining recorder with precise information, by map coordinates or otherwise, locating a Kluane First Nation cemetery or burial ground in the Traditional Territory of Kluane First Nation, the reference to a cemetery or burial ground in section 17(2) of the Placer Mining Act, SY 2003, c. 13 and the reference to cemetery in section 14(1) of the Quartz Mining Act, SY 2003, c. 14, shall apply to the Kluane First Nation cemetery or burial ground.

#### **13.10.0 Documentary Heritage Resources**

- 13.10.1 Public Records shall be managed in accordance with Laws of General Application.
- 13.10.2 In accordance with Government policies and procedures on access to and duplication of records, and subject to access to information, protection of privacy and copyright Legislation and to agreements respecting the records, Government shall make available to a Yukon First Nation, for copying, Documentary Heritage Resources in Government custody relating to that Yukon First Nation.
- 13.10.3 Yukon First Nations shall be Consulted in the formulation of any Legislation and related Government policy on Documentary Heritage Resources in the Yukon relating to Yukon Indian People.
- 13.10.4 Government shall, where practicable, Consult and cooperate with the affected Yukon First Nations on the management of Documentary Heritage Resources in the Yukon relating to Yukon Indian People.
- 13.10.5 Government shall Consult and cooperate with Yukon First Nations in the preparation of displays and inventories of Documentary Heritage Resources in the Yukon relating to the Yukon Indian People.



- 13.10.6 Provisions for Consultation and cooperation between Government and Yukon First Nations on the management of Documentary Heritage Resources by Yukon First Nations may be included in a Yukon First Nation Final Agreement.
- 13.10.7 Government and Yukon First Nations may work cooperatively with Yukon Indian Elders on the interpretation of Documentary Heritage Resources relating to Yukon Indian People.
- 13.10.8 Yukon First Nations shall own all Documentary Heritage Resources found on Settlement Land other than Public Records or records which are the private property of any Person.

#### **13.11.0 Place Names**

- 13.11.1 There shall be a Yukon Geographical Place Names Board consisting of six people and composed of equal numbers of appointees nominated by the Council for Yukon Indians and appointees nominated by Government.
- 13.11.2 When considering the naming or renaming of places or features located within the Traditional Territory of a Yukon First Nation, or when acting with a federal agency where joint jurisdiction over the naming of the place or feature exists, the Yukon Geographical Place Names Board shall Consult with that Yukon First Nation.
- 13.11.3 A Yukon First Nation may name or rename places or geographical features on Settlement Land and such place names shall be deemed to be approved by the Yukon Geographical Place Names Board.
- 13.11.4 Traditional aboriginal place names shall be included, to the extent practicable and in accordance with map production specifications of Canada, on revised maps of the National Topographic Series.

#### **13.12.0 Economic Opportunities**

- 13.12.1 Economic opportunities, including training, employment and contract opportunities for Yukon Indian People at Designated Heritage Sites and other facilities related to Heritage Resources, shall be considered in Yukon First Nation Final Agreements.

### **Specific Provision**

- 13.12.1.1 Government shall provide written notice to Kluane First Nation of any public tender for contracts associated with the management of a Designated Heritage Site directly related to the history or culture of Kluane People within the Traditional Territory of Kluane First Nation.
- 13.12.1.2 Government shall include Kluane First Nation in any invitational tender for contracts associated with the management of a Designated Heritage Site directly related to the history or culture of Kluane People within the Traditional Territory of Kluane First Nation.
- 13.12.1.3 Kluane First Nation shall have the first opportunity to accept any contract offered by Government other than by public or invitational tender associated with the management of a Designated Heritage Site directly related to the history or culture of Kluane People within the Traditional Territory of Kluane First Nation upon the same terms and conditions as would be offered to others.
- 13.12.1.4 Any failure to provide written notice pursuant to 13.12.1.1 shall not affect the public tender process or the contract awards resulting therefrom.
- 13.12.1.5 Any failure to include Kluane First Nation in any invitational tender for contracts pursuant to 13.12.1.2 shall not affect the invitational tender process, or the contract awards resulting therefrom.
- 13.12.1.6 Any failure to provide a first opportunity pursuant to 13.12.1.3 shall not affect any contract entered into associated with the management of a Designated Heritage Site directly related to the history or culture of Kluane People within the Traditional Territory of Kluane First Nation.
- 13.12.1.7 Government shall include in any contract opportunities associated with a Designated Heritage Site directly related to the history or culture of Kluane People in the Traditional Territory of Kluane First Nation:
- (a) a criterion for employment of Kluane People; and
  - (b) a criterion for special knowledge or experience of Kluane People related to the Designated Heritage Site.

13.12.1.8 Nothing in 13.12.1.7 shall be construed to mean that a criterion for employment of Kluane People or for special knowledge or experience of Kluane People shall be the determining criterion in awarding any contract.

**13.13.0 Southern Tutchone Language**

13.13.1 The Yukon and Kluane First Nation, in consultation with such organizations as they consider appropriate, shall develop measures intended to achieve the objective set out in 13.1.1.2 in respect of the Southern Tutchone language.

13.13.2 The measures referred to in 13.13.1 may include:

- (a) language plans;
- (b) methods for the implementation of language plans and any other measures developed;
- (c) provisions for the review and amendment of language plans and any other measures developed; and
- (d) identification of resources to implement language plans or other measures developed.

13.13.3 The Yukon and Kluane First Nation shall use regional or territory-wide forums existing from time to time to develop the measures referred to in 13.13.2 to the extent practicable, and to the extent that it is not practicable, shall develop the measures in local forums in the Traditional Territory of Kluane First Nation.

13.13.4 Subject to appropriation of funds by the Legislative Assembly for those purposes, the Yukon shall implement the language plans and other measures to which it has agreed.

13.13.5 Subject to availability of funds for those purposes, Kluane First Nation shall implement the language plans and other measures to which it has agreed.

**13.14.0 Interment**

13.14.1 The Yukon shall not charge a fee for the interment of the remains of Kluane People in the cemetery at Lot 4, Parcel E, Group 852, LTO Plan 21270, CLSR 42392.

## **SCHEDULE A**

### **HERITAGE ROUTES AND SITES**

#### **Schedule A - Heritage Routes**

The following major routes, which are identified by number on Map Sheet “Heritage Routes of Kluane First Nation” in Appendix B - Maps, which forms a separate volume to this Agreement, are recognized as having significance to Kluane People and Kluane First Nation:

1. Beginning at Gladstone Creek up to Gladstone Lakes, to Rockslide Creek, down Raft Creek back to Talbot Arm, cross Talbot Arm, follow the shore south until reaching Stranton Point then turn inland west to Little Arm, past two small unnamed lakes and Coon Creek, cross Little Arm just past the mouth of Kluane River, follow along Heritage Trail No. 2 and turn North West just past Little Creek, continue until the south end of Tincup Lake. 13.4.6 shall not apply to any portion of this Route which will be within the travelled portion of the Casino Road once constructed. 13.4.6 shall not apply to any portion of this Route which is within the 30 metre right-of-way for Gladstone Road.
2. Beginning on the West side of A’ay, follow down A’ay to Sheep Creek, up to Congdon Creek to west of Right On Mountain, down Dickson Creek to the Duke River, at Grizzly Creek turn north to Cache Lake, down Copper Joe Creek to the community of Burwash Landing, follow the lake to the mouth of the Kluane River, cross Kluane River north east to the head of Talbot Arm, go east up Talbot Creek to the boundary of Kluane First Nation Traditional Territory. 13.4.6 shall not apply to any portion of this Route which will be within the travelled portion of the Casino Road once constructed.
3. Beginning where Coon Creek meets Kluane Lake, up and over Coon Creek, passing along Brooks Valley through Whiskey Creek, through Kluane Plateau up Onion Creek to the boundary of Kluane First Nation Traditional Territory.
4. Beginning on Dwarf Birch Creek to Ptarmigan Heart, to Red Tail Lake follow the valley to the north end of Tin Cup Lake, then down Tin Cup Creek to the confluence of the Kluane River, west along Kluane River to the confluence of the Donjek River following the east side of the Donjek River and cross over to Wolf Lake to Longs Creek.

5. At the mouth of the Kluane River moving west up the Duke River, at Ptarmigan Creek around Table Mountain to the east side of the Duke River, crossing at Grizzly Creek, follow the creek over the pass to the head waters of Big Horn Creek to the Donjek, east side Donjek north and crossing at Wolverine Creek, up Wolverine Creek to Tee Pee Lake continuing northwest to Harris Creek at R-8, north to east side of Generc up over a pass to Moose Creek, down to the White River along eastside to the edge of Kluane Traditional Territory.
6. Beginning at the mouth of the Kluane River up Duke Meadow to the Duke River, cross the Duke River over to the Burwash Uplands, down Wade Creek to the Donjek River along the east side of the Donjek, north to Kluane River and follow the river back to the mouth of the Kluane River. 13.4.6 shall not apply to any portion of this Route which will be within the travelled portion of the Casino Road once constructed.
7. Beginning at the north end of Tin Cup Lake along the west side to Salmon Patch at the Kluane River, go south along the Kluane River and proceed west through R-20B to Swede Johnson Creek, go north through a valley along an un-named creek to the confluence of the Donjek and an un-named creek.
8. Beginning at the head of Talbot Arm, north west to Serpenthed Lake and on west side of Serpenthed Lake proceed north west to Ptarmigan Heart, go south to Talbot Creek and then west back to the head of Talbot Arm.
9. Beginning at the head waters of Congdon Creek proceed north west to the mouth of the Kluane River, crossing the Duke River then the highway at Burwash Creek, and continue North west until reaching the Donjek River.
10. Beginning at the north west end of Teepee Lake, head up and over Sergeants Pass down to the Koidern River, northwest to Pickhandle Lake to Koidern River to Mint Creek and head south to White River through Moose Creek to Rabbit Creek.
11. Beginning at Cultus Bay up to Printers Creek, over the Pass down Swanson Creek to Gladstone Creek where it meets up with Heritage Trail No. 1.
12. Beginning at Wolverine Creek up and over Lynx Creek, down Edith Creek across the Koidern River continue northeast up and over Hazel Creek to connect to Heritage Trail No. 5.

13. Beginning at the confluence of St. Clair Creek follow the creek down stream to Harris Creek where it joins up with Heritage Trail No. 5.
14. Beginning at Koidern River follow the Highway south east until Hardluck Creek, up and over Hardluck Creek past Mystery Lake and turn Northwest down a unnamed creek until reaching the Donjek River.
15. Beginning at the Alaska Highway then up Burwash Creek up Tatamagouche Creek, down to Wade Creek, back up Maple Creek down Quill Creek and join back up with Heritage Trail No. 9. 13.4.6 shall not apply to any portion of this Route which is within the 30 metre right of way for each of the Tatamagouche Creek Road, the Burwash Creek Road and the Maple Creek Road.
16. Beginning at Bighorn Lake where Heritage Trail No. 5 is located, go north up the Donjek River to the Kluane Glacier.





## **CHAPTER 14 - WATER MANAGEMENT**

### **14.1.0 Objective**

- 14.1.1 The objective of this chapter is to maintain the Water of the Yukon in a natural condition while providing for its sustainable use.

### **14.2.0 Definitions**

In this chapter, the following definitions shall apply.

"Board" means the Water Board established for the Yukon pursuant to Laws of General Application.

"Domestic Use" has the same meaning as in the Northern Inland Waters Act, R.S.C. 1985, c. N-25.

"Licence" means a licence issued pursuant to the Northern Inland Waters Act, R.S.C. 1985, c. N-25.

"Traditional Use" means the Use of Water, without substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, by a Yukon Indian Person for trapping and non-commercial Harvesting, including transportation relating to such trapping and Harvesting or for traditional heritage, cultural and spiritual purposes.

"Use" includes the deposit of Waste into Water.

"Waste" has the same meaning as in the Northern Inland Waters Act, R.S.C. 1985, c. N-25.

"Water" has the same meaning as "waters" in the Northern Inland Waters Act, R.S.C. 1985, c. N-25.

### **14.3.0 General**

- 14.3.1 The property in Water in the Yukon shall be determined by Laws of General Application.
- 14.3.2 Nothing in this chapter shall derogate from the ability of any Person to use Water for a Domestic Use in accordance with Laws of General Application.

#### **14.4.0 Water Board**

- 14.4.1 The Council for Yukon Indians shall nominate one-third of the members of the Board.
- 14.4.2 The Minister, in Consultation with the Board, shall appoint a chairperson and vice-chairperson from among the Board's members.

#### **14.5.0 Water Rights of Yukon First Nations**

- 14.5.1 Subject to Laws of General Application, a Yukon Indian Person shall have the right to use Water for a Traditional Use in the Yukon.
- 14.5.2 Notwithstanding Laws of General Application and 14.5.5, no Licence, fee or charge shall be required for a Traditional Use in the Yukon.
- 14.5.3 Nothing in 14.5.1 shall be construed to grant a priority of Use or a right to compensation.
- 14.5.4 Notwithstanding 14.3.1, and subject to the provisions of the Umbrella Final Agreement, a Yukon First Nation shall have the exclusive right to use Water which is on or flowing through its Settlement Land when such Water is on or flowing through its Settlement Land.
- 14.5.5 A Yukon First Nation's Use of Water under 14.5.4 is subject to Laws of General Application, provided that the Board shall not:
  - 14.5.5.1 refuse to issue a Licence for a Use by the Yukon First Nation; or
  - 14.5.5.2 impose terms and conditions in a Licence that are inconsistent with any terms and conditions of a Yukon First Nation assignment pursuant to 14.5.7,  
  
unless the Board is satisfied that such Water Use will:
    - 14.5.5.3 substantially alter the quantity, quality or rate of flow, including seasonal rate of flow, of Water; or
    - 14.5.5.4 result in a deposit of Waste prohibited by the Northern Inland Waters Act, R.S.C. 1985, c. N-25.
- 14.5.6 Unless otherwise authorized by Law, a Yukon First Nation's Use of Water under 14.5.1 to 14.5.4 shall be subject to:
  - 14.5.6.1 public navigation and passage on Water;

- 14.5.6.2 the Use of Water for emergency purposes;
  - 14.5.6.3 any hunting, trapping or fishing by the public; and
  - 14.5.6.4 any right of access set out in a Settlement Agreement.
- 14.5.7 A Yukon First Nation may assign in whole or in part a right to use Water set out in 14.5.4 and an assignee's Use of Water shall be subject to 14.5.5 and 14.5.6.
- 14.5.8 Nothing in this chapter shall be construed to derogate from a Yukon First Nation's or a Yukon Indian Person's Use of Water on Non-Settlement Land in accordance with Law.

#### **14.6.0 Government's Management Powers**

- 14.6.1 Notwithstanding a Yukon First Nation's ownership of certain Beds of waterbodies, Government has the right to protect and manage Water and Beds of waterbodies, and to use Water incidental to that right, throughout the Yukon for:
- 14.6.1.1 management, protection and research in respect of Fish and Wildlife and their habitats;
  - 14.6.1.2 protection and management of navigation and transportation, establishment of navigation aids and devices, and dredging of the Beds of Navigable Waters;
  - 14.6.1.3 protection of Water supplies from contamination and degradation;
  - 14.6.1.4 emergency purposes, including fighting fires and flood and icing control;
  - 14.6.1.5 research and sampling of Water quality and quantity; and
  - 14.6.1.6 other such Government public purposes.

#### **14.7.0 Water Rights of Other Parties on Settlement Land**

- 14.7.1 Subject to 14.12.0, any Person who has a right or interest in Settlement Land, except an interest in land granted by the Yukon First Nation, has the right to use Water incidental to the exercise of that right or interest in Settlement Land, if permitted by and in accordance with Laws of General Application.

- 14.7.2 Where the Board licenses a Water Use to a Person referred to in 14.7.1, the term of that Licence shall not extend beyond the term of the right or interest in Settlement Land.
- 14.7.3 A Person holding a Licence pursuant to the Northern Inland Waters Act, R.S.C. 1985, c. N-25 or a licence pursuant to the Dominion Water Power Act, R.S.C. 1985, c. W-4 for Water on or flowing through Settlement Land when such Water is on or flowing through Settlement Land, which licence was in existence on the date the land became Settlement Land, shall retain the rights thereunder as if the land had not become Settlement Land.
- 14.7.4 Where the term of a licence described in 14.7.3 is five years or more, the licensee shall have the right to apply to the Board for a renewal or replacement of the licence. The Board shall require that written notice of the application be given, in a form satisfactory to the Board, to the affected Yukon First Nation, and shall provide the affected Yukon First Nation an opportunity to be heard concerning terms and conditions to be attached to the renewal or replacement for the protection of the interest of the Yukon First Nation.
- 14.7.5 Unless a Person has a right of access without the consent of the affected Yukon First Nation, a Person requiring the use of Settlement Land other than the Parcel covered by that Person's interest under 14.7.1 in order to exercise a right to use Water under 14.7.1 and 14.7.3 has a right of access to use that Settlement Land with the consent of the affected Yukon First Nation or, failing consent, an order of the Surface Rights Board setting out terms and conditions of access.
- 14.7.6 The Surface Rights Board shall not make an order under 14.7.5 unless the Person seeking access satisfies the Surface Rights Board that:
- 14.7.6.1 such access is reasonably required; and
  - 14.7.6.2 such access is not also practicable and reasonable across Crown Land.
- 14.7.7 Nothing in this chapter shall be construed to limit the Board's ability to refuse to issue a Licence to a Person referred to in 14.7.0.
- 14.7.8 After three years from the Effective Date of a Yukon First Nation Final Agreement and only in respect to the term following the expiry of that three year period, a Person holding a Licence described in 14.7.3 shall be liable to pay compensation under the provisions of this chapter to the Yukon First Nation in respect of the exercise of such Licence, and shall be subject to the provisions of 14.11.0 and 14.12.0.

## **14.8.0 Protection of Quantity, Quality and Rate of Flow of Water**

- 14.8.1 Subject to the rights of Water users authorized in accordance with this chapter and Laws of General Application, a Yukon First Nation has the right to have Water which is on or flowing through or adjacent to its Settlement Land remain substantially unaltered as to quantity, quality and rate of flow, including seasonal rate of flow.
- 14.8.2 A Yukon First Nation shall not use Water which is on or flowing through or adjacent to its Settlement Land so as to substantially alter the quantity, quality or rate of flow, including seasonal rate of flow, except to the extent that such Water Use is authorized in accordance with 14.5.5 and is in conformity with the terms and conditions of any Water Licence granted to the Yukon First Nation.
- 14.8.3 The Board shall not grant a Licence that interferes with the rights provided in favour of a Yukon First Nation in 14.8.1 unless:
- 14.8.3.1 notice, in a form prescribed by the Board, of receipt of an application has been given to the affected Yukon First Nation; and
  - 14.8.3.2 the Board is satisfied that,
    - (a) there is no alternative which could reasonably satisfy the requirements of the applicant, and
    - (b) there are no reasonable measures whereby the applicant could avoid the interference.
- 14.8.4 In deciding whether to grant a Licence that interferes with the rights provided in favour of a Yukon First Nation in 14.8.1, the Board shall consider:
- 14.8.4.1 the effect of the Water Use on Fish, Wildlife and their habitats;
  - 14.8.4.2 the effect of the Water Use on the Yukon First Nation or on a Yukon Indian Person enrolled pursuant to that Yukon First Nation Final Agreement; and
  - 14.8.4.3 means of mitigating the interference.
- 14.8.5 If the Board grants a Licence that interferes with the rights provided in favour of a Yukon First Nation in 14.8.1, the Board shall order the licensee to pay compensation for loss or damage to the affected Yukon First Nation in accordance with 14.12.0.

- 14.8.6 A Yukon First Nation may apply to the Board to obtain an order for compensation from any Person not licensed by the Board and using Water in a manner not contrary to Laws of General Application, and the Board may order that compensation be paid where such Use substantially alters the quality, quantity or rate of flow, including seasonal rate of flow, of Water which is on or flowing through or is adjacent to its Settlement Land.
- 14.8.7 In deciding whether to issue a Licence, and in setting the terms and conditions of any Licence issued, the decision of the Board shall not conflict with a Decision Document that a Decision Body is empowered to implement.
- 14.8.8 A Yukon First Nation has a cause of action against any Person in respect of any Use of Water in violation of the terms and conditions of a Licence to use Water or contrary to Laws of General Application, which violation or contrary Use substantially alters the quality, quantity or rate of flow, including seasonal rate of flow, of Water which is on or flowing through or is adjacent to its Settlement Land, with such remedies as if the Yukon First Nation had riparian rights.
- 14.8.9 A Yukon First Nation shall have standing at all times in a court of competent jurisdiction in the Yukon to seek a declaration as to whether any Person substantially altering the quantity, quality or rate of flow, including seasonal rate of flow, of Water in that Yukon First Nation's Traditional Territory has lawful authority to do so.
- 14.8.10 In any civil court proceeding pursuant to 14.8.8 or 14.8.9, if the Yukon First Nation proves that the defendant who is in violation of a Water Licence is substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, at the place in the body of Water where the defendant's Use of Water is taking place, then the onus shall rest on the defendant to prove that such Use of Water is not substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, at any place downstream where the Yukon First Nation has the exclusive right to Use Water pursuant to 14.5.4 and the Yukon First Nation alleges there is a substantial alteration to the quality, quantity or rate of flow, including seasonal rate of flow of the Water.

14.8.11 In any civil court proceeding brought by a Person using Water in accordance with Laws of General Application against a Yukon First Nation on grounds that the Yukon First Nation is using Water contrary to this chapter or Laws of General Application, if the Person proves that the Yukon First Nation in violation of a Water Licence is substantially altering the quality, quantity or rate of flow, including seasonal rate of flow, at the place in the body of Water where the Yukon First Nation's Use of Water is taking place, then the onus shall rest on the Yukon First Nation to prove that such Use of Water is not substantially altering the quality, quantity or the rate of flow, including seasonal rate of flow, at any place downstream where the Person is using Water and that Person alleges there is a substantial alteration of the quality, quantity or rate of flow, including seasonal rate of flow of the Water.

#### **14.9.0 Protection of Yukon First Nation Traditional Uses on Non-Settlement Land**

14.9.1 Before granting a Licence in any drainage basin in the Yukon that causes substantial alteration in the quality, quantity or rate of flow, including seasonal rate of flow, of Water so as to adversely affect a Traditional Use by a Yukon Indian Person in that Yukon Indian Person's Traditional Territory, the Board shall:

14.9.1.1 give notice, in a form prescribed by the Board, of receipt of an application to the affected Yukon First Nation; and

14.9.1.2 upon request of the affected Yukon First Nation, consider whether,

(a) there is an alternative which could reasonably satisfy the requirements of the applicant while avoiding any adverse effect on the Traditional Use, and

(b) there are reasonable measures whereby the applicant could avoid the adverse effect.

14.9.2 A licensee who substantially alters the quality, quantity or rate of flow, including seasonal rate of flow, of Water in violation of a Licence or contrary to Law in a manner which causes loss or damage arising from an interference with a Traditional Use by a Yukon Indian Person within that Yukon Indian Person's Traditional Territory shall be liable to pay compensation pursuant to 14.12.0 for such loss or damage thereby caused to that Yukon Indian Person.

#### **14.10.0 Interjurisdictional Agreements**

- 14.10.1 Government shall make best efforts to negotiate Water management agreements with other jurisdictions which share drainage basins with the Yukon.
- 14.10.2 Government shall Consult with affected Yukon First Nations with respect to the formulation of Government positions on the management of Water in a shared drainage basin within those Yukon First Nations' Traditional Territories in negotiating an agreement pursuant to 14.10.1.

#### **14.11.0 Water Use Disputes**

- 14.11.1 A Yukon First Nation may apply to the Board to determine whether:
  - 14.11.1.1 there is an alternative that will reasonably satisfy the requirements of a licensee without interfering with the right of the Yukon First Nation to have Water which is on or flowing through or adjacent to its Settlement Land remain substantially unaltered as to quantity, quality or rate of flow, including seasonal rate of flow;
  - 14.11.1.2 measures can be taken to avoid interference with Water rights referred to in 14.11.1.1 and Uses of Water of the Yukon First Nation;
  - 14.11.1.3 the Water licensee is in compliance with the terms and conditions of a Licence;
  - 14.11.1.4 the terms and conditions of a Licence need to be reviewed due to unforeseen impacts on the Yukon First Nation; or
  - 14.11.1.5 the Yukon First Nation is entitled to compensation under the provisions of this chapter.
- 14.11.2 In addition to any other powers available to the Board, on application being made to the Board under 14.11.1, the Board may make an order amending, suspending or cancelling the Licence, or deciding that the Yukon First Nation is entitled to compensation by the licensee, or a combination of the foregoing.
- 14.11.3 Where an application under 14.11.1 is being considered by the Board and prior to the Board's decision thereon, the Board may make an interim order restraining the Water licensee from exercising such rights with respect to Water as are specified in the interim order and containing such terms and conditions as the Board may determine including the payment of interim compensation.



- 14.11.4 The Board may require a Water licensee to provide evidence of financial responsibility in a form satisfactory to the Board, including cash deposit, letter of credit, performance bond or other form of financial instrument conditioned on due performance by the Water licensee of the provisions of the Licence, including provisions, terms and conditions and orders of the Board relating to abandonment, reclamation and restoration of the environment.
- 14.11.5 A Yukon Indian Person may apply to the Board to determine whether he is entitled to compensation pursuant to 14.9.2.
- 14.11.6 Where the Board pursuant to 14.11.5 determines that a Yukon Indian Person is entitled to compensation, the Board may exercise the powers set out in 14.11.2, 14.11.3 and 14.11.4.

#### **14.12.0 Compensation**

- 14.12.1 Compensation to be paid to a Yukon First Nation or a Yukon Indian Person pursuant to this chapter shall only be for provable loss or damage to the Yukon First Nation or Yukon Indian Person.
- 14.12.2 The amount and terms of compensation set out in 14.12.1 shall be determined by the Board.
- 14.12.3 When determining the amount and terms of compensation to be paid to a Yukon First Nation pursuant to this chapter, the Board shall consider:
  - 14.12.3.1 the effect of the Water Use on the Yukon First Nation's Use of Water on or adjacent to its Settlement Land;
  - 14.12.3.2 the effect of the Water Use on the Yukon First Nation's Settlement Land, taking into account any cultural or special value of the land to the Yukon First Nation;
  - 14.12.3.3 the nuisance, inconvenience and noise caused by the Water Use to the Yukon First Nation on Settlement Land;
  - 14.12.3.4 the increment of the Water alteration caused by the Water Use;
  - 14.12.3.5 the cost of mitigation and restoration of the Settlement Land;
  - 14.12.3.6 the duration of any of the above; and
  - 14.12.3.7 any other factors set out in the Northern Inland Waters Act, R.S.C. 1985, c. N-25.

- 14.12.4 In a determination, pursuant to 14.12.3, of compensation payable to a Yukon First Nation, the loss or damage suffered by the Yukon First Nation for activity contrary to 14.8.1 shall include the loss or damage suffered by a Yukon Indian Person enrolled under that Yukon First Nation Final Agreement, but shall not include loss or damage compensable pursuant to 14.9.2.
- 14.12.5 In determining loss or damage suffered by a Yukon Indian Person under 14.12.4, the Board shall consider:
- 14.12.5.1 the effect of the Water Use on the Yukon Indian Person's Use of Water on or adjacent to the affected Yukon First Nation's Settlement Land;
  - 14.12.5.2 the effect of the Water Use on Fish and Wildlife Harvesting by the Yukon Indian Person enrolled under that Yukon First Nation Final Agreement;
  - 14.12.5.3 the increment of the Water alteration caused by the Water Use;
  - 14.12.5.4 the duration of any of the above; and
  - 14.12.5.5 any other factors set out in the Northern Inland Waters Act, R.S.C. 1985, c. N-25.
- 14.12.6 When determining the amount and terms of compensation to be paid to a Yukon Indian Person pursuant to 14.9.2, the Board shall consider:
- 14.12.6.1 subject to 14.12.6.2, the effect of the unlawful Use of Water on the Yukon Indian Person's Traditional Use of Water in that Yukon Indian Person's Traditional Territory;
  - 14.12.6.2 the effect of the unlawful Use of Water on a Yukon Indian Person's Traditional Use in relation to traditional heritage, culture and spiritual purposes, but only on or adjacent to the Settlement Land of the Yukon First Nation under whose Yukon First Nation Final Agreement that Yukon Indian Person is enrolled;
  - 14.12.6.3 the incremental effect of the unlawful Use of Water on the Yukon Indian Person's Traditional Use;
  - 14.12.6.4 the cost to the Yukon Indian Person of mitigation of damage caused to Settlement Land and restoration of Settlement Land for the Traditional Use;
  - 14.12.6.5 the duration of any of the above; and
  - 14.12.6.6 any other factors set out in the Northern Inland Waters Act, R.S.C. 1985, c. N-25.

- 14.12.7 The Board may order periodic or lump sum compensation or both.
- 14.12.8 The Board may, on application, review and amend a compensation order from time to time to take into account changing circumstances.
- 14.12.9 The Board may award costs including interim costs and such costs may exceed costs which a court could award in a legal proceeding.
- 14.12.10 An order of the Board for compensation or for costs pursuant to 14.12.0 shall be enforceable as if it were an order of the Supreme Court of the Yukon.



## **CHAPTER 15 - DEFINITION OF BOUNDARIES AND MEASUREMENT OF AREAS OF SETTLEMENT LAND**

### **15.1.0 Definitions**

In this chapter, the following definitions shall apply.

"Artificial Boundary" means a boundary formed by a straight line or curve of prescribed radius joining points established on the ground by Monuments.

"Monument" means any device authorized by the Surveyor General to mark a boundary in a legal survey executed under some statutory authority.

"Offset Natural Boundary" means a sinuous boundary parallel to the sinuosities of a Natural Boundary at a prescribed perpendicular distance from the Natural Boundary.

"Ordinary High Water Mark" of a body of water means the limit or edge of its bed and in the case of non-tidal waters it may be called "the bank" or "the limit of the bank".

"Rural Settlement Land" means the lands identified by the notation "R" on maps appended to each Yukon First Nation Final Agreement.

"Settlement Land Committee" means a committee described in 15.3.0.

"Special Management Area" means a Special Management Area as defined in 10.2.0.

"Surveyor General" means the Surveyor General of Canada Land appointed in the manner authorized by Law or a person authorized by the Minister of Energy, Mines and Resources to carry out any or all of the duties of the Surveyor General.

"UTM Grid" means the Universal Transverse Mercator projection system grid lines shown on map sheets of the National Topographic Series published by the Surveys, Mapping and Remote Sensing Sector of the Department of Energy, Mines and Resources. For greater certainty, the UTM Grid datum shall be the reference datum existing at the time of compilation of each particular map sheet.

## **15.2.0 Administration of Surveys of Settlement Land**

- 15.2.1 The boundaries of Settlement Land shall be surveyed in accordance with the instructions of the Surveyor General and dealt with by an official plan confirmed pursuant to the Canada Lands Surveys Act, R.S.C. 1985, c. L-6.
- 15.2.2 The boundaries of Special Management Areas may be shown on an administrative or explanatory plan authorized and approved by the Surveyor General pursuant to the Canada Lands Surveys Act, R.S.C. 1985, c. L-6, without a full survey of the boundaries.
- 15.2.3 Standards of accuracy, techniques and specifications for the survey of Settlement Land shall be in accordance with the Manual of Instructions for the Survey of Canada Lands and other general or specific instructions issued by the Surveyor General from time to time.
- 15.2.4 The Surveyor General shall have the discretion to adjust boundaries of Settlement Land in order to reduce survey costs, subject to agreement of the Settlement Land Committee.
- 15.2.5 The Surveyor General has statutory responsibility for and control over all legal surveys arising out of Settlement Agreements.
- 15.2.6 Canada may establish, as necessary, either prior to or in conjunction with Settlement Legislation, control survey monuments along unsurveyed Major Highways and in the vicinity of Settlement Land in order to expedite the efficient survey of Settlement Land. The method of establishment of and specifications for density and accuracy of control survey monuments shall be decided by the Surveys, Mapping and Remote Sensing Sector, Department of Energy, Mines and Resources.
- 15.2.7 Subject to 15.6.7, Canada shall pay the full cost of surveying all Settlement Land pursuant to 15.2.1, and pay the full cost of describing and depicting Special Management Areas as necessary.
- 15.2.8 The cost of subsequent surveys of Settlement Land shall be the responsibility of the Yukon First Nation.
- 15.2.9 Final decisions and ultimate responsibility concerning survey of Settlement Land rests with Canada and such decisions shall be taken in Consultation with the Yukon and the Council for Yukon Indians.
- 15.2.10 Surveys of Settlement Land shall be effected as soon as resources will allow.

### **15.3.0 Settlement Land Committees**

- 15.3.1 There shall be established with each Yukon First Nation, no later than one month after the signing of its Yukon First Nation Final Agreement, a Settlement Land Committee, comprised of one representative appointed by the Surveyor General to be chairperson, no more than two representatives appointed by Government and no more than two representatives appointed by the Yukon First Nation.
- 15.3.2 Subject to 15.3.1, where interests in Parcels of Settlement Land are currently under the administration and control of Canada, the Minister of Indian Affairs and Northern Development shall appoint a Government representative.
- 15.3.3 Subject to 15.3.1, where interests in Parcels of Settlement Land are currently under the administration and control of the Yukon, the Yukon shall appoint a Government representative.
- 15.3.4 Each Settlement Land Committee shall, in accordance with the principles described in 15.3.5, be responsible for:
- 15.3.4.1 the identification and selection of Site Specific Settlement Land out of Proposed Site Specific Settlement Land;
  - 15.3.4.2 determining priorities for the survey of all Settlement Land; and
  - 15.3.4.3 indication to the Surveyor General of portions of boundaries, if any, of those Special Management Areas which should be considered for definition by survey in order to better serve the mutual interests of the Yukon First Nation and the public.
- 15.3.5 In determining priorities for the identification and selection of Site Specific Settlement Land and for the survey of all Settlement Land, the Settlement Land Committee shall have regard to the following principles:
- 15.3.5.1 the priorities of the Yukon First Nation;
  - 15.3.5.2 efficiency and economy; and
  - 15.3.5.3 the necessity to clarify boundaries because of imminent public or private development on adjacent lands.

- 15.3.6 To the extent practicable, between the Effective Date of each Yukon First Nation Final Agreement and the date of confirmation of a plan of survey of any particular Parcel of Settlement Land or Site Specific Settlement Land, Yukon Indian People shall not be precluded from the interim use and enjoyment of that Parcel by reason only that a plan of survey of that Parcel has not been confirmed.
- 15.3.7 During the period described in 15.3.6:
- 15.3.7.1 each Settlement Land Committee shall receive requests relating to the use and enjoyment of Proposed Site Specific Settlement Land by Yukon Indian People;
  - 15.3.7.2 each Settlement Land Committee shall determine whether it is practicable to give effect to such requests and shall recommend to Canada or the Yukon, as the case may be, that it take such steps as the Committee considers appropriate; and
  - 15.3.7.3 Government undertakes to take such steps as it considers practicable to give effect to the recommendations of the Settlement Land Committee.
- 15.3.8 Where a Settlement Land Committee does not reach agreement under 15.3.4.1 or 15.3.4.2, Government, the affected Yukon First Nation or the Committee may refer the matter to the dispute resolution process under 26.3.0.
- 15.3.9 Where the dispute arises under 15.3.4.1, the arbitrator shall select either the final position proposed by Government or the final position proposed by the affected Yukon First Nation.

#### **15.4.0 Selection of Boundaries of Settlement Land**

- 15.4.1 Boundaries of Settlement Land or Special Management Areas shall be:
- 15.4.1.1 Artificial Boundaries;
  - 15.4.1.2 Natural Boundaries, including but not limited to the Ordinary High Water Mark of Water, and well-defined heights of land; or
  - 15.4.1.3 a combination of 15.4.1.1 and 15.4.1.2.
- 15.4.2 Where Natural Boundaries are used, the following provisions shall apply:



15.4.2.1 except as agreed to by the parties to a Yukon First Nation Final Agreement, Natural Boundaries of Settlement Land along Navigable Water and non-Navigable Water shall be located on the Ordinary High Water Mark;

**Specific Provision**

(a) Any exception to 15.4.2.1 for Settlement Land of Kluane First Nation is set out in Appendix A - Settlement Land Descriptions, attached to this Agreement.

15.4.2.2 Natural Boundaries, except Natural Boundaries of bodies of water as set out in 15.4.3, shall move with the various natural processes of erosion and accretion, and where an offset Natural Boundary is prescribed, it is also deemed to move and vary according to this natural movement of the Natural Boundary; and

15.4.2.3 where a Natural Boundary of Settlement Land involves a height of land which, in the opinion of the Surveyor General, is not well defined and where there is a requirement to establish all or part of that boundary by field survey, the Surveyor General shall have the authority to replace the sinuosities of the height of land by a series of monumented Artificial Boundaries closely approximating its mean position.

15.4.3 Where alteration of a natural river or lake is proposed for hydro-electric or other development purposes and such alteration affects a boundary or boundaries, any resurveys required for the proper redefinition of Settlement Land shall be undertaken at the cost of the proponent of the development.

15.4.4 At the time of field survey of boundaries of Settlement Land, recognition shall be given to the map features and grid lines as shown on maps comprising an Appendix to each Yukon First Nation's Final Agreement.

15.4.4.1 Notwithstanding any subsequently discovered inaccuracies in the plotting of features or improvements from which the location of Proposed Site Specific Settlement Land was determined, for the purposes of 5.14.0, the actual location of the Proposed Site Specific Settlement Land shall be determined by its actual proximity or relationship to this feature or improvement.

15.4.5 Each Settlement Land Committee shall indicate and identify any critical features intended to be enclosed in Settlement Land.

**15.5.0 Monumentation of Boundaries of Settlement Land**

- 15.5.1 The boundaries of Settlement Land shall be defined by Monuments placed in accordance with applicable regulations and instructions of the Surveyor General and in particular at the following locations:
  - 15.5.1.1 all points of deflection of Artificial Boundaries and at intervals to be specified by the Surveyor General;
  - 15.5.1.2 all terminal points where an Artificial Boundary intersects an Artificial Boundary or Natural Boundary and, in the case of intersection with a Natural Boundary of a body of water, the Monuments shall be set back from the Natural Boundary on the Artificial Boundary at a reasonable and safe distance from the said Natural Boundary; and
  - 15.5.1.3 all intersections of Artificial Boundaries with the prescribed limits of a surveyed or unsurveyed Major Highway, a Road or other right-of-way, established on each side of the Major Highway, Road or right-of-way.

**15.6.0 Measurement of Areas of Settlement Land**

- 15.6.1 The Surveyor General shall have the discretion to adjust the boundaries agreed to in each Yukon First Nation's Final Agreement in order to achieve the total land area agreed upon in such Yukon First Nation Final Agreement in accordance with 15.6.2.
- 15.6.2 The calculation of the total area of Settlement Land for each Yukon First Nation shall commence with Settlement Land within a Community Boundary and proceed in increasing Parcel size to the Site Specific Settlement Land and Rural Settlement Land. Any adjustment of boundaries of Settlement Land required shall be to the boundary or to those boundaries as agreed upon in the Yukon First Nation Final Agreement.

**Specific Provision**

- 15.6.2.1 The boundaries that may be adjusted pursuant to 15.6.2 for the Settlement Land of Kluane First Nation are set out in Appendix A - Settlement Land Descriptions, attached to this Agreement.

- 15.6.3 The areas of surveyed Settlement Land shall be calculated using plane surveying methods.

- 15.6.4 The areas of larger Special Management Areas shall be computed using UTM Grid lines or lines between coordinate points as boundaries. The areas shall be computed on the map projection plane for the area and shall be transformed by calculation to the mean ground elevation for each parcel. The maps utilized shall be the most accurate maps available in the opinion of the Surveyor General.
- 15.6.5 The area of larger Parcels of Rural Settlement Land having numerous Natural Boundaries shall be determined by ground survey techniques or by utilizing the most accurate maps or aerial photographs available, or by any combination of the foregoing which, in the opinion of the Surveyor General, will give satisfactory accuracy. The areas calculated by plane survey or graphical methods or a combination of the two shall be calculated at mean ground elevation for the Parcel concerned.
- 15.6.6 Prior to the confirmation of an official plan by the Surveyor General or the approval of an administrative or explanatory plan, written approval from the Yukon First Nation shall be obtained by the Settlement Land Committee to ensure that the Yukon First Nation is satisfied that the Parcel as surveyed conforms either to the area originally selected or as modified by the Surveyor General pursuant to 15.2.4 and 15.6.1. The plan and a copy of the surveyor's report shall be reviewed by the Settlement Land Committee for conformance with the original land selection before recommending it to the Yukon First Nation.
- 15.6.7 If the Yukon First Nation rejects the recommendation by the Settlement Land Committee, the disagreement shall be referred to the dispute resolution process under 26.3.0, and the Surveyor General or his representative shall have standing as a party to the dispute. The resulting decision may direct that the costs of a resurvey be borne by one or more of the parties to the dispute.
- 15.6.8 After resolution of any disagreement pursuant to 15.6.7, the plan shall be returned directly to the Surveyor General for confirmation.
- 15.6.9 The determination and delineation of a Yukon First Nation's total land area pursuant to 15.6.0 shall be final and shall be governed by the Artificial and Natural Boundaries thereby established, notwithstanding:
- 15.6.9.1 any discrepancy subsequently discovered between computed areas and areas enclosed by those boundaries; or
  - 15.6.9.2 any changes to the areas of Settlement Land caused by the gradual and imperceptible movements of Natural Boundaries.

## **15.7.0 Employment and Economic Opportunities**

15.7.1 Where employment in surveying of Settlement Land is generated as a direct consequence of a Yukon First Nation Final Agreement, the parties to the Yukon First Nation Final Agreement shall negotiate as part of that Yukon First Nation Final Agreement, the participation of Yukon Indian People who have appropriate qualifications or experience, in such employment, and the determination of such qualifications and experience.

### **Specific Provision**

15.7.1.1 In evaluating any competitive proposal, bid or tender for the survey of Kluane First Nation Settlement Land, Government shall include among the factors for consideration, employment of Kluane People, and Kluane First Nation and Kluane People ownership or equity investment in the firm submitting the proposal, bid or tender, and in any subcontractor to that firm.

15.7.1.2 Kluane First Nation and Government shall ensure that qualifications and experience requirements for employment of Kluane People in the surveying of Kluane First Nation Settlement Land shall be established at levels appropriate to the nature of the tasks being performed in that employment, and shall take into account the local knowledge of Kluane People.

15.7.1.3 Qualified Kluane People shall have first priority for employment in the surveying of Kluane First Nation Settlement Land on the same terms and conditions that such employment is offered to any other person with the appropriate qualifications and experience.

15.7.1.4 Nothing in 15.7.1.1 shall be construed to mean that the criteria for employment of Kluane People or Kluane First Nation and Kluane People ownership or equity investment shall be the determining criteria in the award of any contract.

15.7.2 Where economic opportunities and benefits are associated with the survey of Settlement Land, Yukon First Nations shall have access to these opportunities and benefits. Any contract issued for the survey of Settlement Land shall contain the condition that Yukon Indian People and Yukon First Nation businesses with the necessary qualifications and experience shall be given first consideration in providing technical and support services associated with the contract. A list of Yukon First Nation businesses and Yukon Indian People interested in providing such services to potential contractors for such surveys of a Yukon First Nation's Settlement Land shall be included with all requests for proposals, and documentary proof the Yukon First Nation's businesses and Yukon Indian People were given first consideration shall form part of a contractor's proposal.

## **SCHEDULE A - MAJOR HIGHWAYS**

Yukon Highway # 1	Alaska Highway
Yukon Highway # 2	Klondike Highway
Yukon Highway # 3	Haines Road
Yukon Highway # 4	Campbell Highway
Yukon Highway # 5	Dempster Highway
Yukon Highway # 6	Canol Road
Yukon Highway # 7	Atlin Road
Yukon Highway # 8	Tagish Road
Yukon Highway # 9	Top of the World Highway (Dawson - Boundary Road)
Yukon Highway # 10	Nahanni Range Road
Yukon Highway # 11	Silver Trail
Yukon Highway # 37	Cassiar Road

## CHAPTER 16 — FISH AND WILDLIFE

### **16.1.0 Objectives**

16.1.1 The objectives of this chapter are as follows:

- 16.1.1.1 to ensure Conservation in the management of all Fish and Wildlife resources and their habitats;
- 16.1.1.2 to preserve and enhance the renewable resources economy;
- 16.1.1.3 to preserve and enhance the culture, identity and values of Yukon Indian People;
- 16.1.1.4 to ensure the equal participation of Yukon Indian People with other Yukon residents in Fish and Wildlife management processes and decisions;
- 16.1.1.5 to guarantee the rights of Yukon Indian People to harvest and the rights of Yukon First Nations to manage renewable resources on Settlement Land;
- 16.1.1.6 to integrate the management of all renewable resources;
- 16.1.1.7 to integrate the relevant knowledge and experience both of Yukon Indian People and of the scientific communities in order to achieve Conservation;
- 16.1.1.8 to develop responsibilities for renewable resource management at the community level;
- 16.1.1.9 to honour the Harvesting and Fish and Wildlife management customs of Yukon Indian People and to provide for the Yukon Indian People's ongoing needs for Fish and Wildlife;
- 16.1.1.10 to deal fairly with all Yukon residents who use Fish and Wildlife resources in the Yukon; and
- 16.1.1.11 to enhance and promote the full participation of Yukon Indian People in renewable resources management.

## 16.2.0 Definitions

In this chapter, the following definitions shall apply.

"Basic Needs Level" means the number of harvestable animals of a species negotiated in a Yukon First Nation Final Agreement as a harvest allocation to a Yukon First Nation in its Traditional Territory in accordance with 16.9.0.

"Board" means the Fish and Wildlife Management Board established pursuant to 16.7.0.

"Category 1 Trapline" means a trapline so designated pursuant to 16.11.0.

"Category 2 Trapline" means a trapline not designated as a Category 1 Trapline.

"Council" means a Renewable Resources Council established pursuant to 16.6.0.

"Edible Fish or Wildlife Product" means the flesh or organs of Fish or Wildlife that are used for food by people or domestic animals.

"Furbearer" means any of the following species native to the Yukon: Castor including beaver; Alopex including white fox or arctic fox; Lutra including otter; Lynx including lynx; Martes including martens and fishers; Mustela including weasel and mink; Ondatra including muskrat; Vulpes including red, cross, black and silver fox; Gulo including wolverine; Canis including wolves and coyotes; Marmota including marmots; Tamiasciurus including red squirrel; and Spermophilus including ground squirrels.

"Non-Consumptive Use" means a Use of Fish and Wildlife that does not involve Harvesting.

"Non-Edible By-Product" means the fur, hide, skin, antlers, horns, skeleton or other portions of Fish or Wildlife not used for food but used for other purposes including but not limited to clothing, medicine, domestic or personal decoration, or art.

"Sub-Committee" means the Salmon Sub-Committee established pursuant to 16.7.17.

"Subsistence" means:

- (a) the use of Edible Fish or Wildlife Products by a Yukon Indian Person for sustenance and for food for traditional ceremonial purposes including potlatches; and



- (b) the use by a Yukon Indian Person of Non-Edible By-Products of harvests under (a) for such domestic purposes as clothing, shelter or medicine, and for domestic, spiritual and cultural purposes; but
- (c) except for traditional production of handicrafts and implements by a Yukon Indian Person, does not include commercial uses of Edible Fish or Wildlife Products or Non-Edible By-Products.

### **Specific Provision**

"Tachal Region" has the same meaning as in Schedule C - Kluane National Park and Park Reserve attached to Chapter 10 - Special Management Areas, of this Agreement.

"Total Allowable Catch" means the total number of Salmon of a particular species and in a particular drainage basin which return to Canadian waters and which, in the manner established by this chapter, are deemed not to be required for Conservation.

"Total Allowable Harvest" means the total number of animals of a Freshwater Fish or Wildlife species which, in the manner established by this chapter, are deemed not to be required for Conservation.

"Use" includes both Harvesting and non-consumptive activities.

### **16.3.0 General**

- 16.3.1 This chapter sets out powers and responsibilities of Government and Yukon First Nations for the management of Fish and Wildlife and their habitats, while, subject to 16.5.1.1, 16.5.1.2 and 16.5.1.3, respecting the Minister's ultimate jurisdiction, consistent with this chapter, for the management of Fish and Wildlife and their habitats.
- 16.3.2 The management and Harvesting of Fish, Wildlife and their habitats shall be governed by the principle of Conservation.
- 16.3.3 The exercise of rights under this chapter is subject to limitations provided for elsewhere in Settlement Agreements and to limitations provided in Legislation enacted for purposes of Conservation, public health or public safety.

- 16.3.3.1 Any limitation provided for in Legislation pursuant to 16.3.3 must be consistent with this chapter, reasonably required to achieve those purposes and may only limit those rights to the extent necessary to achieve those purposes.
- 16.3.3.2 Government shall Consult with the affected Yukon First Nation before imposing a limitation pursuant to 16.3.3.
- 16.3.4 Nothing in this or any other chapter is intended to confer rights of ownership in any Fish or Wildlife.
- 16.3.5 Canada shall make reasonable efforts to ensure that when issues involving Fish and Wildlife management arise in international negotiations, the interests of affected Yukon First Nations are represented.
- 16.3.6 Except as provided in this chapter and in Yukon First Nation Final Agreements, nothing shall prevent Yukon residents and others from Harvesting Fish and Wildlife in accordance with Legislation.
- 16.3.7 Government shall make best efforts to amend the Game Export Act, R.S.C. 1985, c. G-1 to enable the transport of Wildlife products for traditional non-commercial purposes across borders with Alaska, British Columbia and the Northwest Territories.
- 16.3.8 No tax, duty or such other fees or royalties shall be imposed by Government in respect of the export of Wildlife products under 16.3.7.
- 16.3.9 Nothing in the Umbrella Final Agreement shall be construed as an admission by Government that the Migratory Birds Convention Act, R.S.C. 1985, c. M—7 does not satisfy the terms of 16.3.3.
- 16.3.10 For the purposes of application of 16.3.3 to Harvesting rights of Yukon Indian People for migratory birds, Conservation includes considerations related to conservation of Migratory Game Birds indigenous to the Yukon while those Migratory Game Birds are in other jurisdictions.
- 16.3.11 Notwithstanding anything in this chapter, where there is a conflict between this chapter and the 1987 Canada-USA Agreement on the Conservation of the Porcupine Caribou Herd, the 1985 Porcupine Caribou Management Agreement, or the Treaty between the Government of Canada and the Government of the United States of America concerning Pacific Salmon, those agreements and the Treaty shall prevail to the extent of the conflict. Any amendments to those agreements or the Treaty shall not be construed to diminish or adversely affect the rights of Yukon First Nations or Yukon Indian People under this chapter and Yukon First Nation Final Agreements.

- 16.3.12 Nothing in this chapter shall be construed to grant Yukon Indian People any right to buy, sell, or offer for sale any Migratory Game Bird, Migratory Game Bird's egg or parts thereof not authorized for sale by Legislation.
- 16.3.13 Nothing in this chapter shall be construed to prevent any person from killing Fish and Wildlife for survival in an emergency. Any such kill shall be reported according to requirements established by the Board and shall be without prejudice to any Basic Needs Level or adjusted Basic Needs Level that may be in force from time to time.
- 16.3.14 Subject to 10.4.0, and except as provided in the Inuvialuit Final Agreement and in the specific provisions for National Parks in the Yukon First Nation Final Agreements for the Vuntut Gwitchin First Nation, the Champagne and Aishihik First Nations, the Kluane First Nation and the White River First Nation, Harvesting and management of Fish and Wildlife within National Parks shall be in accordance with the National Parks Act, R.S.C. 1985, c. N-14.
- 16.3.14.1 The responsible agencies, the Board and the Councils shall make best efforts to coordinate the management of Fish and Wildlife populations which cross a boundary of a National Park.
- 16.3.15 It is intended that there not be any duplication in the public management of Fish and Wildlife.
- 16.3.16 Except as otherwise provided in Laws of General Application, no Person shall waste Edible Fish or Wildlife Products.
- 16.3.17 In the management of Fish and Wildlife and the harvest allocation of Fish and Wildlife, Non-Consumptive Uses of the resources shall be taken into account.

#### **16.4.0 Yukon Indian People**

- 16.4.1 Subject to a Yukon First Nation Final Agreement, nothing in this chapter affects any right, entitlement or qualification of Yukon Indian People to harvest Fish and Wildlife outside the Yukon. In addition, nothing in this chapter shall preclude negotiations between a Yukon First Nation and Canada, the Government of British Columbia or the Government of the Northwest Territories for rights to harvest Fish and Wildlife within the Yukon First Nation's traditional territory in British Columbia or the Northwest Territories.

- 16.4.2 Yukon Indian People shall have the right to harvest for Subsistence within their Traditional Territory, and with the consent of another Yukon First Nation in that Yukon First Nation's Traditional Territory, all species of Fish and Wildlife for themselves and their families at all seasons of the year and in any numbers on Settlement Land and on Crown Land to which they have a right of access pursuant to 6.2.0, subject only to limitations prescribed pursuant to Settlement Agreements.
- 16.4.3 Yukon Indian People shall have the right to employ within their Traditional Territories traditional and current methods of and equipment for Harvesting pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon, subject to limitations prescribed pursuant to Settlement Agreements.
- 16.4.4 Yukon Indian People shall have the right to give, trade, barter or sell among themselves and with beneficiaries of adjacent Transboundary Agreements in Canada all Edible Fish or Wildlife Products harvested by them pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon, in order to maintain traditional sharing among Yukon Indian People and with beneficiaries of adjacent Transboundary Agreements for domestic purposes but not for commercial purposes.
- 16.4.4.1 Subject to Schedule A - Determination of Basic Needs Allocation for the Drainage Basin of the Yukon River, attached to this chapter, at the request of the Council for Yukon Indians, Government shall enter into negotiations with the Yukon First Nations with a view to amending 16.4.4 and other relevant provisions of the Umbrella Final Agreement as they apply to the commercial trade, barter and sale of Salmon, provided Government has enacted regulations under the Fisheries Act, R.S.C. 1985, c. F-14, or entered into an agreement with an aboriginal people of British Columbia, which regulations or agreement provide for the trade, barter or sale of Salmon, other than in a test fishery, with fewer restrictions than are set out in 16.4.4.
- 16.4.5 Subject to Laws of General Application, unless otherwise specified in a Yukon First Nation Final Agreement, or as may be agreed to by the parties to the Umbrella Final Agreement, Yukon Indian People shall have the right to give, trade, barter or sell to any person any Non-Edible By-Product of Fish and Wildlife that is obtained from the Harvesting of Furbearers or incidental to Harvesting pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon.

- 16.4.6 The right to harvest pursuant to 16.4.2, or limited pursuant to a Basic Needs Level allocation or pursuant to a basic needs allocation of Salmon includes the right to possess and transport Fish and Wildlife parts and products in the Yukon and in other areas where provided for in Transboundary Agreements.
- 16.4.7 A Yukon First Nation shall provide to a Yukon Indian Person proof that the Yukon Indian Person is enrolled in that Yukon First Nation's Final Agreement, has been given consent under 16.4.2 or has been allocated a Harvesting opportunity pursuant to a Basic Needs Level allocation for Wildlife or a basic needs allocation of Salmon, as the case may be.
- 16.4.8 Subject to 16.4.9, a Yukon Indian Person may be required to show proof of any of the matters listed in 16.4.7.
- 16.4.9 A Yukon Indian Person who is 55 years of age or older at the Effective Date of the Yukon First Nation Final Agreement under which that Yukon Indian Person is enrolled shall not be required to show proof of enrollment under 16.4.7 but shall be required to identify himself or herself where necessary.
- 16.4.10 Government shall not impose any fee or tax on Yukon Indian People in respect of any permit or license to harvest Fish or Wildlife pursuant to 16.4.2, 16.9.0 or 16.10.1.
- 16.4.11 Subject to Yukon First Nation Final Agreements, Yukon Indian People shall comply with Laws of General Application when participating in resident or commercial harvesting.
  - 16.4.11.1 Yukon Indian People shall have the right to use leg-hold drowning sets for Furbearer Harvesting unless the Minister, upon recommendation of the Board, determines that such sets are inhumane.

**Specific Provision**

**Limitations on Kluane First Nation**

- 16.4.12 Kluane First Nation shall not consent to any Harvesting by any Yukon Indian People other than White River People on Kluane First Nation Settlement Land Parcels R-7B and R-8B in that part of Asi Keyi Natural Environment Park which is within the Traditional Territory of Kluane First Nation.

**Harvesting Rights on Settlement Land that is not Within a Traditional Territory of any Yukon First Nation**

- 16.4.13 Subject to 16.4.14, Kluane People shall have a right to harvest for Subsistence on Parcel R-25B shown on Map Sheets 115 J/2 and 115 J/3, in Appendix B - Maps, which forms a separate volume to this Agreement, as if that Parcel was in the Traditional Territory of Kluane First Nation.
- 16.4.14 If Parcel R-25B becomes part of a Traditional Territory of a Yukon First Nation other than Kluane First Nation, the right to harvest for Subsistence set out in 16.4.13 shall not operate in respect of any part of Parcel R-25B where there is in effect from time to time a Total Allowable Harvest, unless Kluane First Nation and the Yukon First Nation in whose Traditional Territory the Parcel is located, otherwise agree and jointly notify Government in writing of their agreement.
- 16.4.15 Subject to 16.4.17, all provisions of Settlement Agreements which apply to 16.4.2 rights also apply to 16.4.13 rights.
- 16.4.16 Subject to 16.4.17, Kluane First Nation has the powers and responsibilities set out in 16.5.1.1 in respect of Parcel R-25B.
- 16.4.17 For as long as Parcel R-25B is not located in the Traditional Territory of Kluane First Nation, Kluane First Nation shall not consent to any Harvesting by any Yukon Indian People on Parcel R-25B.

**16.5.0 Yukon First Nations**

16.5.1 Each Yukon First Nation shall have the following powers and responsibilities. Subject to the terms of each Yukon First Nation's Final Agreement, each Yukon First Nation:

- 16.5.1.1 may manage, administer, allocate or otherwise regulate the exercise of the rights of Yukon Indian People under 16.4.0 within the geographical jurisdiction of the Council established for that Yukon First Nation's Traditional Territory by,
- (a) Yukon Indian People enrolled pursuant to that Yukon First Nation Final Agreement,

- (b) other Yukon Indian People who are exercising rights pursuant to 16.4.2, and
- (c) except as otherwise provided in a Transboundary Agreement, members of a transboundary claimant group who are Harvesting pursuant to that Transboundary Agreement in that Yukon First Nation's Traditional Territory,

where not inconsistent with the regulation of those rights by Government in accordance with 16.3.3 and other provisions of this chapter;

- 16.5.1.2 shall have the final allocation authority for that Yukon First Nation's Category 1 Traplines;
- 16.5.1.3 may align, realign or group Category 1 Traplines where such alignments, realignments or groupings do not affect Category 2 Traplines;
- 16.5.1.4 shall work with the Board and the Council to establish methods to administer Basic Needs Level harvests, including the issuance of permits, licences or tags and the setting of fees;
- 16.5.1.5 may identify and propose from time to time an adjusted Basic Needs Level for the Yukon First Nation for consideration by the Board;
- 16.5.1.6 may distribute to Yukon Indian People, or other Yukon residents, any portion of that Yukon First Nation's Basic Needs Level allocation, subject to 16.5.1.7;
- 16.5.1.7 shall not charge a fee to persons other than Yukon Indian People for Harvesting any of that Yukon First Nation's Basic Needs Level allocation;
- 16.5.1.8 may manage local populations of Fish and Wildlife within Settlement Land, to the extent coordination with other Fish and Wildlife management programs is not considered necessary by the Board;
- 16.5.1.9 may participate in management of Fish and Wildlife within the Yukon in the manner set out in this chapter;
- 16.5.1.10 may make recommendations to the Council on applications for Fish and Wildlife survey and research permits for Government surveys and research within that Yukon First Nation's Settlement Land;

- 16.5.1.11 shall screen and may approve applications for Fish and Wildlife surveys and research permits for private surveys and research within that Yukon First Nation's Settlement Land;
- 16.5.1.12 at the request of the Board, the Sub-Committee or the Council, shall provide harvest information either to the Council, the Sub-Committee or the Board or to an officer with lawful authority, as the case may be, including provision of data necessary for verification and in-season management;
- 16.5.1.13 subject to Chapter 5 - Tenure and Management of Settlement Land and 16.12.0, may charge a fee or obtain a benefit for granting access to its Category A Settlement Land to a Yukon resident or for services other than guiding provided to that Yukon resident in connection with Harvesting Fish and Wildlife on its Category A Settlement Land;
- 16.5.1.14 subject to Chapter 5 - Tenure and Management of Settlement Land and 16.12.0, may charge a fee or obtain a benefit for granting access to its Settlement Land to a Yukon big game outfitter operating within its big game outfitting area or for services provided to a Yukon big game outfitter in connection with Harvesting of Fish and Wildlife on its Settlement Land; and
- 16.5.1.15 may delegate or contract the performance of its responsibilities in whole or part to another Yukon First Nation, the Council, Board or Government, provided that the delegate consents.
- 16.5.2 Nothing in 16.5.1 shall be construed to limit the exercise, consistent with this chapter, of any power of a Yukon First Nation pursuant to that Yukon First Nation's self-government agreement.
- 16.5.3 A Yukon First Nation shall have standing as an interested party to participate in public proceedings of any agency, board or commission on matters that affect the management and Conservation of Fish, Wildlife and their habitat in its Traditional Territory.
- 16.5.4 Government shall Consult with a Yukon First Nation prior to taking action on Fish or Wildlife matters which may affect the Yukon First Nation's management responsibilities or the exercise of Harvesting rights under a Settlement Agreement of Yukon Indian People enrolled under that Yukon First Nation Final Agreement.



## **16.6.0 Renewable Resources Councils**

- 16.6.1 In each Yukon First Nation's Traditional Territory, a Renewable Resources Council shall be established as a primary instrument for local renewable resources management in that Traditional Territory as set out in a Settlement Agreement.

### **Specific Provision**

- 16.6.1.1 The Renewable Resources Council for the Traditional Territory of Kluane First Nation shall be named the Dän Keyi ("Our People's Country") Renewable Resources Council.

### **Composition of Councils**

- 16.6.2 Subject to Transboundary Agreements and Yukon First Nation Final Agreements, each Council shall be comprised of six members consisting of three nominees of the Yukon First Nation and three nominees of the Minister.

### **Specific Provision**

- 16.6.2.1 The Minister and Kluane First Nation may each nominate one additional member as an alternate member to the Council.
- 16.6.2.2 Subject to 16.6.2.3, an alternate member may participate in the work of the Council.
- 16.6.2.3 An alternate member shall only receive remuneration and travel expenses and may only vote in the absence of a member nominated by the party which nominated the alternate.

- 16.6.3 Each Council shall determine its own procedures for selecting its chairperson from its membership. The Minister shall appoint the chairperson selected by the Council.

- 16.6.3.1 In the event that a Council fails to select a chairperson within 30 days of the position being vacant, the Minister shall appoint a chairperson from the membership of the Council after Consultation with the Council.

16.6.4 Unless otherwise provided in a Yukon First Nation Final Agreement, Council members shall be resident within that Traditional Territory.

**Specific Provision**

- 16.6.4.1 For the purposes of 16.6.4, a resident is a person who has long term familiarity with the Traditional Territory of Kluane First Nation and its renewable resources and who lives year round in the Traditional Territory of Kluane First Nation.
- 16.6.4.2 For the purpose of 16.6.4.1, a temporary absence from the Traditional Territory of Kluane First Nation, including an absence for the purpose of study or training, does not constitute an interruption of residency.
- 16.6.4.3 Prior to any appointments being made to the Council, the Minister and Kluane First Nation shall make reasonable attempts to reach a consensus as to the individuals which each party nominates to the Council.
- 16.6.4.4 In attempting to reach consensus under 16.6.4.3, the Minister and Kluane First Nation shall consider:
  - (a) any prospective nominee's familiarity with and sensitivity to the culture and aspirations of Kluane First Nation;
  - (b) any prospective nominee's familiarity with renewable resource issues and, in particular, with the Harvesting of renewable resources;
  - (c) any information available as to a prospective nominee's intention to remain resident in the Traditional Territory of Kluane First Nation; and
  - (d) any other matters to which the Minister and Kluane First Nation agree.
- 16.6.4.5 In the event that, after having made the reasonable attempts required by 16.6.4.3, the Minister and Kluane First Nation are unable to reach a consensus, either party may give written notice to the other party setting out the names of the individuals which it intends to nominate to the Council and 14 days thereafter may so nominate those individuals.

16.6.5 Unless otherwise provided in a Yukon First Nation Final Agreement, appointments to a Council shall be for a five year term, except for the initial appointments. One third of the initial appointments shall be made for three years, one third for four years, and one third for five years. Thereafter, the appointments shall be for five years. All appointments to the Council shall be during good behaviour.

**Specific Provision**

16.6.5.1 Subject to 16.6.5.2 appointments to the Council shall be for a three year term except for the initial appointments. For the initial appointments, one Kluane First Nation nominee and one Minister's nominee shall be appointed for one year, one Kluane First Nation nominee and one Minister's nominee shall be appointed for two years, and one Kluane First Nation nominee and one Minister's nominee shall be appointed for three years.

16.6.5.2 All appointments of the alternate members shall be for a three year term.

16.6.6 Each Council shall make provisions for public involvement in the development of its decisions and its recommendations.

16.6.7 Each Council shall prepare an annual budget, subject to review and approval by Government. The budget shall be in accordance with Government guidelines and may include:

16.6.7.1 remuneration and travel expenses for attendance of Council members at Council meetings;

16.6.7.2 the costs of public hearings and meetings;

16.6.7.3 a budget for research review, public information and other activities; and

16.6.7.4 other items as the Council and Government agree on; and

the approved budget of the Council shall be a charge on Government.

16.6.8 The first annual budget for a Council and a multi-year financial forecast of its operation shall be set out in the implementation plan for that Yukon First Nation Final Agreement.

## **Powers and Responsibilities of Councils**

- 16.6.9 Each Council, acting in the public interest and consistent with this chapter, may make recommendations to the Minister, the affected Yukon First Nation, the Board and the Sub-Committee on any matter related to Conservation of Fish and Wildlife.
- 16.6.10 Subject to Yukon First Nation Final Agreements, and without restricting 16.6.9, each Council:
- 16.6.10.1 may make recommendations to the Minister on the need for and the content and timing of Freshwater Fish and Wildlife management plans, including Harvesting plans, Total Allowable Harvests and the allocation of the remaining Total Allowable Harvest, for species other than the species referred to in 16.7.12.2;
  - 16.6.10.2 may make recommendations to the Board regarding local management concerns for the species referred to in 16.7.12.2;
  - 16.6.10.3 may make recommendations to the Salmon Sub-Committee on allocation of commercial and other uses of Salmon and on other matters designated in 16.7.17.12;
  - 16.6.10.4 may identify and recommend to the Board harvest requirements, including harvest requirements within the adjusted Basic Needs Level, within guidelines established in Yukon First Nation Final Agreements;
  - 16.6.10.5 may make recommendations to the Sub-Committee on the need for and the content and timing of Salmon management plans;
  - 16.6.10.6 may establish bylaws under the Wildlife Act, R.S.Y. 1986, c. 178, in accordance with 16.11.0, for the management of Furbearers;
  - 16.6.10.7 may make recommendations to the Minister and affected Yukon First Nation on the management of Furbearers;
  - 16.6.10.8 may make recommendations to the Minister and affected Yukon First Nation, in accordance with 16.11.0, on the use of traplines and the reassignment of all new, vacant and under-utilized traplines;
  - 16.6.10.9 may make recommendations to the Minister on priorities and policies related to enforcement of Legislation and on alternatives to penal sanctions with respect to Fish and Wildlife;

- 16.6.10.10 may review and make recommendations to the Minister on allocation of and terms and conditions for commercial uses of Wildlife and Fish other than Salmon;
- 16.6.10.11 may review and make recommendations to the Minister on applications for research permits granted by Government for Fish and Wildlife management-related research activities within the relevant Traditional Territory; and
- 16.6.10.12 may make recommendations to the affected Yukon First Nation regarding the Yukon First Nation's management of Fish and Wildlife on its Settlement Land pursuant to 16.5.1.8.

**Specific Provision**

- 16.6.10.13 shall seek the consent of Kluane First Nation before recommending the approval of proposed game farming or game ranching activities in the Traditional Territory of Kluane First Nation, where, in the Council's opinion, the proposed game farming or game ranching would have an adverse effect on the harvesting rights of Kluane People under this Agreement;
- 16.6.10.14 may upon the request of either Government or Kluane First Nation, make recommendations to the Minister regarding management options necessary for Conservation of the sheep population in the Ruby Range Area in the event that such sheep population experiences repeated low reproduction levels or other adverse conditions which may impact the long term viability of the sheep population in the Ruby Range Area.
- 16.6.10.15 In 16.6.10.14, "Ruby Range" means that area in the Traditional Territory of Kluane First Nation delineated as "Ruby Range Area" on Map Sheet 115 G, in Appendix B - Maps, which forms a separate volume to this Agreement.

- 16.6.11 Each Council shall be granted status as an interested party to participate in public proceedings of any agency, board or commission on matters that affect the management and Conservation of Fish and Wildlife and their habitats within the relevant Traditional Territory for which that Council was established.

- 16.6.12 With the consent of the Minister and the affected Yukon First Nations, a Council may merge with other Councils to establish a regional Council with the same powers and responsibilities as a Council.
- 16.6.13 The Minister shall recommend to the Yukon Legislative Assembly an amendment to the Wildlife Act, R.S.Y. 1986, c. 178 to enable the Council to establish bylaws under the Wildlife Act, R.S.Y. 1986, c. 178 pursuant to 16.6.10.6.
- 16.6.14 Where the Minister proposes to implement a Total Allowable Harvest which would require the implementation of Basic Needs Level provisions for a species or population in a Traditional Territory in accordance with this chapter, the affected Council may make recommendations to the Minister on alternative measures that could be considered in the place of implementing the Basic Needs Level provisions.
- 16.6.15 Government shall provide Councils with the results of research under 16.6.10.11.
- 16.6.16 Where a Council does not carry out one of its responsibilities, the Minister, after giving notice to the Council, may undertake to fulfill that responsibility directly or delegate that responsibility to the Board.
- 16.6.17 Upon request by the Council, the Minister and the affected Yukon First Nation shall make available to the Council information in their possession reasonably required for the Council to carry out its functions under this chapter.

## **16.7.0 Fish and Wildlife Management Board**

- 16.7.1 A Fish and Wildlife Management Board shall be established as the primary instrument of Fish and Wildlife management in the Yukon.

### **Composition of the Board**

- 16.7.2 The Board shall be comprised of six nominees of Yukon First Nations and six nominees of Government.
- 16.7.3 The Board shall determine its own procedures for selecting its chairperson from its membership. The Minister shall appoint the chairperson selected by the Board.
- 16.7.3.1 In the event that the Board fails to select a chairperson within 60 days of the position being vacant, the Minister shall appoint a chairperson from the membership of the Board after Consultation with the Board.

- 16.7.4 The majority of representatives of Government and the majority of representatives of Yukon First Nations shall be Yukon residents.
- 16.7.5 Appointments to the Board shall be for a five year term, except for the initial appointments. One third of the initial appointments shall be made for three years, one third for four years, and one third for five years. Thereafter, the appointments shall be for five years. All appointments to the Board shall be during good behaviour.
- 16.7.6 The Board shall make provisions for public involvement in the development of its decisions and its recommendations.
- 16.7.7 The Board may establish an executive secretariat to provide administrative support to the Board.
- 16.7.7.1 The administrator of the secretariat shall be the executive secretary, who shall report to the Board and shall provide administrative and other support to the Board and maintain liaison with the Renewable Resources Councils.
- 16.7.7.2 The Director of Fish and Wildlife for the Yukon shall serve as an advisor to the Board and shall ensure that technical support is provided to the Board.
- 16.7.8 The Board shall be accountable to Government for its expenditures.
- 16.7.9 The Board shall prepare an annual budget, subject to review and approval by Government. Such budget shall be in accordance with Government guidelines and may include:
- 16.7.9.1 remuneration and travel expenses for attendance of Board members at Board and Sub-Committee meetings;
- 16.7.9.2 the costs of public hearings and meetings;
- 16.7.9.3 a budget for research review, public information and other activities;
- 16.7.9.4 the costs of staff and of the operation and maintenance of the office; and
- 16.7.9.5 other items as the Board and Government agree upon; and
- the approved budget of the Board and the Sub-Committee shall be a charge on Government.

- 16.7.10 The first annual budget for the Board and Sub-Committee and a multi-year financial forecast of the Board's and the Sub-Committee's operation shall be set out in the implementation plan for the Umbrella Final Agreement.

### **Powers and Responsibilities of the Board**

- 16.7.11 The Board, acting in the public interest and consistent with this chapter and taking into consideration all relevant factors including recommendations of the Councils, may make recommendations to the Minister, to Yukon First Nations and to the Councils, on all matters related to Fish and Wildlife management, Legislation, research, policies, and programs.
- 16.7.12 Without restricting 16.7.11, the Board:
- 16.7.12.1 may recommend to the Minister policies for the management of Fish and Wildlife and their habitats;
  - 16.7.12.2 may make recommendations to the Minister on the need for and the content and timing of all Yukon Fish and Wildlife management plans for species included in international agreements, threatened species or populations, species or populations declared by the Minister as being of a territorial, national or international interest, and Transplanted Populations and Exotic Species;
  - 16.7.12.3 may review and make recommendations to the Minister and to Yukon First Nations on management plans recommended by the Councils, specifically the population goals and the management options contained within those plans;
  - 16.7.12.4 may, where required by species or population management plans, recommend to the Minister a Total Allowable Harvest for a species listed in 16.7.12.2 in accordance with 16.9.0;
  - 16.7.12.5 may review and recommend to the Minister adjustments to Basic Needs Levels in accordance with 16.9.8;
  - 16.7.12.6 may make recommendations to the Minister on the need for, and on positions on, interjurisdictional agreements that affect the Conservation and Use of Fish and Wildlife resources in the Yukon;
  - 16.7.12.7 after Consultation with the affected Councils, may recommend to the Minister restrictions on methods and practices of harvest for reasons of Conservation, public health, public safety and, in exceptional circumstances, for protection of the renewable resources economy associated with the Use of Fish or Wildlife resources;



- 16.7.12.8 may, at the request of the Council, assist a Council in the performance of its duties;
  - 16.7.12.9 may, subject to approval of the Minister and the Council, delegate the performance of its responsibilities to a Council; and
  - 16.7.12.10 may, in Consultation with the Councils and subject to Yukon First Nation Final Agreements, identify new opportunities and recommend to the Minister management measures for commercial Uses of Fish and Wildlife.
- 16.7.13 The Board shall have standing as an interested party to participate in the public proceedings of any agency, board or commission dealing with matters that affect the management and Conservation of Fish and Wildlife and their habitat in the Yukon.
- 16.7.14 The Board shall communicate to the Councils its recommendations and decisions approved in accordance with 16.8.0 within a reasonable time.
- 16.7.15 The Board shall meet not less than annually with the chairpersons of the Councils.
- 16.7.16 Before the amendment or introduction of Legislation for Fish and Wildlife in the Yukon, the Minister shall Consult with the Board on the matters to be addressed in that Legislation.

#### **Salmon Sub-Committee**

- 16.7.17 A Sub-Committee of the Board shall be established as the main instrument of Salmon management in the Yukon.
- 16.7.17.1 The Board shall assign from its membership one appointee of Yukon First Nations and one appointee of Government to the Sub-Committee.
  - 16.7.17.2 The Minister shall nominate two additional members to the Sub-Committee.
  - 16.7.17.3 For the Yukon River drainage basin, the affected Yukon First Nation shall nominate two members to the Sub-Committee who shall sit on the Sub-Committee when it deals with matters affecting Salmon in the Yukon River drainage basin only.

- 16.7.17.4 For the Alsek River drainage basin, the affected Yukon First Nation shall nominate two members to the Sub-Committee who shall sit on the Sub-Committee when it deals with matters affecting Salmon in the Alsek River drainage basin only.
- 16.7.17.5 For the Porcupine River drainage basin, the affected Yukon First Nation shall nominate two members to the Sub-Committee who shall sit on the Sub-Committee when it deals with matters affecting Salmon in the Porcupine River drainage basin only.
- 16.7.17.6 When the Sub-Committee is dealing with matters affecting more than one of the drainage basins identified in 16.7.17.3 to 16.7.17.5, the members appointed to represent those basins may sit on the Sub-Committee, provided that the total number of votes to be exercised by those members shall not exceed two.
- 16.7.17.7 Appointments to the Sub-Committee by the Board shall be for the term held by that appointee on the Board.
- 16.7.17.8 The additional appointments to the Sub-Committee by the Minister and by Yukon First Nations shall be for five years. All appointments to the Sub-Committee shall be during good behaviour.
- 16.7.17.9 The Board shall appoint a chairperson from the membership of the Sub-Committee. In the event the Board fails to select a chairperson within 60 days of the position being vacant, the Minister shall appoint a chairperson from the membership of the Sub-Committee after Consultation with the Sub-Committee.
- 16.7.17.10 The Department of Fisheries and Oceans shall provide technical and administrative support to the Sub-Committee as required to determine appropriate plans for Salmon management, and a senior official of the department in the Yukon shall serve the Sub-Committee as Executive Secretary.
- 16.7.17.11 The Sub-Committee, acting in the public interest and consistent with this chapter and taking into account all relevant factors including recommendations of the Councils, may make recommendations to the Minister and to Yukon First Nations on all matters related to Salmon, their habitats and management, including Legislation, research, policies and programs.
- 16.7.17.12 Without restricting 16.7.17.11, the Sub-Committee:
- (a) may recommend to the Minister policies for the management of Salmon and their habitats;

- (b) may make recommendations to the Minister on the need for, and on the content and timing of Salmon Harvesting and management plans in accordance with the terms of this chapter;
  - (c) may make recommendations to the Minister on the need for, and on a position on, interjurisdictional agreements affecting the Use of Yukon Salmon resources;
  - (d) may seek, from a Council or the public, input on specific aspects of a Salmon management plan;
  - (e) subject to Yukon First Nation Final Agreements, may make recommendations to the Minister on new opportunities and proposed management measures for commercial Uses of Salmon;
  - (f) after Consultation with affected Yukon First Nations, shall make recommendations to the Minister on allocation, in amount and by area, of Salmon to users, in accordance with this chapter; and
  - (g) may make recommendations on management measures required to best ensure that the basic needs allocation of a Yukon First Nation is met, recognizing that resources available for fisheries management may be limited.
- 16.7.17.13 Representatives from the Sub-Committee shall form the majority of the Canadian representatives to any Yukon River panel established pursuant to the Treaty between the Government of Canada and the Government of the United States of America concerning Pacific Salmon.
- 16.7.17.14 The Sub-Committee shall be granted standing as an interested party to participate in the public proceedings of any agency, board or commission dealing with matters that affect the management and Conservation of Salmon or their habitat in the Yukon.
- 16.7.17.15 The Sub-Committee shall communicate its recommendations and decisions to the Board, and to the Minister in accordance with the provisions of 16.8.0.
- 16.7.18 Where the Board or the Sub-Committee does not carry out a responsibility, the Minister, after giving notice to the Board or the Sub-Committee as appropriate, may carry out that responsibility.

- 16.7.19 The Minister shall Consult with and obtain a recommendation of the Board before declaring a species or population to be of territorial, national or international interest under 16.7.12.2.
- 16.7.20 Upon request by the Board or the Sub-Committee, the Minister and the affected Yukon First Nation shall make available to the Board or the Sub-Committee information in their possession reasonably required for the Board or the Sub-Committee to carry out its functions under this chapter.

## **16.8.0 Role of Ministers and Yukon First Nations**

### **Implementation of Council, Board and Sub-Committee Decisions**

- 16.8.1 The provisions of 16.8.2 to 16.8.8 apply to decisions and recommendations of the Councils, the Board and the Sub-Committee made to the Minister pursuant only to 10.5.5, 16.3.13, 16.5.1.8, 16.6.10, 16.6.14, 16.7.12, 16.7.17.12, 16.7.19, 16.8.12, 16.9.2, 16.9.8, 16.10.1, 16.10.12, 16.11.10, 17.4.1.2, 17.4.1.3, 17.4.1.5 and 17.4.1.6 and to those recommendations and decisions of the Board, the Councils or the Sub-Committee which may be referred to 16.8.0 in a Yukon First Nation Final Agreement.
- 16.8.1.1 In 16.8.2 to 16.8.7, Board means the Board, Councils and Sub-Committee.
- 16.8.2 Unless the Minister directs otherwise, the Board shall forward its recommendations and decisions pursuant to 16.8.1 to the Minister, accompanied by draft regulations where appropriate.
- 16.8.3 Unless the Minister directs otherwise, all recommendations and decisions of the Board shall be kept confidential until the process in 16.8.4 to 16.8.6 has been completed or the time for the process has expired.
- 16.8.4 The Minister, within 60 days of the receipt of a recommendation or decision under 16.8.2, may accept, vary, set aside or replace the recommendation or decision. Any proposed variation, replacement or setting aside shall be sent back to the Board by the Minister with written reasons. The Minister may consider information and matters of public interest not considered by the Board.
- 16.8.4.1 The Minister may extend the time provided in 16.8.4 by 30 days.
- 16.8.4.2 Nothing in 16.8.4 shall be construed as limiting the application of 16.3.3.

16.8.5 The Board, within 30 days of the receipt of a variation, replacement or setting aside by the Minister pursuant to 16.8.4, shall make a final recommendation or decision and forward it to the Minister with written reasons.

16.8.5.1 The Minister may extend the time provided under 16.8.5.

16.8.6 The Minister, within 45 days of receipt of a final recommendation or decision, may accept or vary it, or set it aside and replace it.

16.8.6.1 In the event that the Minister proposes to vary or to set aside and replace a recommendation of the Board with respect to the determination of a Total Allowable Harvest, the Minister shall make reasonable efforts to reach a consensus with the affected Yukon First Nation on the variation or setting aside and replacement of the recommendation.

16.8.6.2 In the event that the Minister and the affected Yukon First Nation are unable to reach a consensus under 16.8.6.1, the Minister may proceed to vary or set aside and replace the recommendation of the Board with respect to the determination of the Total Allowable Harvest, provided that the Minister is satisfied that the variation or replacement is consistent with the principle of Conservation.

16.8.6.3 The process for seeking consensus with the affected Yukon First Nation shall give due consideration to timing of any statutory or regulatory changes required and to the timing of Harvesting activities.

16.8.6.4 The Minister may extend the time provided in 16.8.6 in order to carry out the requirements of 16.8.6.1 and 16.8.6.2.

16.8.6.5 The Minister shall provide the Board with notice of the Minister's final decision under 16.8.6.

16.8.7 Government shall, as soon as practicable, implement:

16.8.7.1 all recommendations and decisions of the Board that are accepted by the Minister under 16.8.4;

16.8.7.2 all decisions of the Minister under 16.8.6; and

16.8.7.3 subject to 16.8.7.1 and 16.8.7.2, all recommendations or decisions of the Board after the expiry of the time provided in the process set out in 16.8.4 and 16.8.6.

- 16.8.8 The Minister may refer any matter described in 16.8.1 to the dispute resolution process under 26.4.0 once the procedure set out in 16.8.1 to 16.8.4 has been completed.

### **Judicial Review of Decisions**

- 16.8.9 All final decisions of the Board, Sub-Committee and Council pursuant to 16.6.10.6 and 16.10.14 shall be final and binding and not subject to appeal or review in any court provided however that an application for judicial review by a Yukon First Nation, Government or any affected Person, shall lie to the Supreme Court of the Yukon upon the grounds that the Board, Sub-Committee or Council:
- 16.8.9.1 failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
  - 16.8.9.2 erred in law in making its decision, whether or not the error appears on the face of the record; or
  - 16.8.9.3 based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
- 16.8.10 An application for judicial review shall be made within 60 days of the decision.

### **Emergency Action by the Minister**

- 16.8.11 Where it appears to the Minister that there is an emergency which affects the well-being of Fish and Wildlife or their habitat, and where time does not permit Consultation with the Board, Sub-Committee or affected Council, the Minister may take such action as is necessary before Consulting with the Board, Sub-Committee or the affected Council.
- 16.8.12 Where emergency action has been taken pursuant to 16.8.11, the Minister shall within seven days inform the Board, Sub-Committee or Council and solicit their continuing advice. The Board, Sub-Committee or Council may recommend to the Minister that the emergency action be terminated pending their consideration of the issue.
- 16.8.13 Notwithstanding 16.3.2, Government may allow a catch of Salmon greater than the Total Allowable Catch in exceptional circumstances.

## **Referral of Matters by the Minister**

16.8.14 The Minister may request that a Council, the Board or the Sub-Committee exercise a Council, Board or Sub-Committee power or responsibility under a Settlement Agreement, as appropriate, and the Council, the Board or the Sub-Committee shall comply with the request within such reasonable time as the Minister requires.

### **16.9.0 Fish and Wildlife Harvests**

16.9.1 Each Yukon First Nation Final Agreement shall set out the manner in which the Total Allowable Harvest shall be shared between Yukon Indian People and other harvesters.

16.9.1.1 When opportunities to harvest Freshwater Fish or Wildlife are limited for Conservation, public health or public safety, the Total Allowable Harvest shall be allocated to give priority to the Subsistence needs of Yukon Indian People while providing for the reasonable needs of other harvesters.

16.9.1.2 The priority in 16.9.1.1 is subject to provisions set out in Yukon First Nation Final Agreements pursuant to 16.9.1 or 16.9.10 and to provisions negotiated subsequently pursuant to 16.9.13.

#### **Specific Provision**

16.9.1.3 Subject to 16.9.1.6, 16.9.1.12 and 16.9.1.13, if one or more than one Total Allowable Harvest is established for moose in all or part of the Traditional Territory of Kluane First Nation, the Total Allowable Harvest or Harvests shall be shared as follows:

(a) Government shall allocate to Kluane First Nation either:

(i) the number of moose calculated pursuant to 16.9.1.4 and 16.9.1.5; or

(ii) the number of moose required to satisfy the Subsistence needs of Kluane People,

whichever is less; and

(b) Government may allocate to Other Harvesters all or part of the Total Allowable Harvest or Harvests not allocated to Kluane First Nation under 16.9.1.3(a).

16.9.1.4 If the number of moose comprising the Total Allowable Harvest or Harvests established for moose in the Traditional Territory of Kluane First Nation is 10 or less, Kluane First Nation's allocation of moose shall be, subject to 16.9.1.3, 100% of the Total Allowable Harvest or Harvests.

16.9.1.5 If the number of moose comprising the Total Allowable Harvest or Harvests established for moose in the Traditional Territory of Kluane First Nation is greater than 10, Kluane First Nation's allocation of moose shall be, subject to 16.9.1.3:

(a) 10 moose; plus

(b) 75% of the remaining Total Allowable Harvest or Harvests.

16.9.1.6 If the calculation under 16.9.1.4 and 16.9.1.5 results in an allocation of moose to Kluane First Nation comprising a whole number and a fraction of  $\frac{1}{2}$  or less, that fraction shall be deducted from Kluane First Nation's allocation of moose under 16.9.1.4 and 16.9.1.5.

16.9.1.7 Unless Kluane First Nation and Government otherwise agree, if the Minister establishes, in accordance with this Agreement, one or more Total Allowable Harvests for moose which combined equal 100 or greater, Government and Kluane First Nation shall make best efforts to negotiate a Basic Needs Level for moose for Kluane First Nation in accordance with 16.9.6, and until Kluane First Nation and Government agree on a Basic Needs Level, the provisions of 16.9.1.3 to 16.9.1.14 shall continue to apply.

16.9.1.8 Subject to 16.9.1.12 and 16.9.1.13, if one or more than one Total Allowable Harvest is established for caribou in all or part of the Traditional Territory of Kluane First Nation, the Total Allowable Harvest or Harvests shall be shared as follows:

(a) Government shall allocate to Kluane First Nation either:



- (i) 75% of the Total Allowable Harvest or Harvests; or
- (ii) the number of caribou required to satisfy the Subsistence needs of the Kluane People,

whichever is less; and

- (b) Government may allocate to Other Harvesters all or part of the Total Allowable Harvest or Harvests not allocated to Kluane First Nation under 16.9.1.8(a).

16.9.1.9 Subject to 16.9.1.12, if one or more than one Total Allowable Harvest is established for sheep for all or part of the Traditional Territory of Kluane First Nation, the Total Allowable Harvest or Harvests shall be shared as follows:

- (a) Government shall allocate to Kluane First Nation either:

- (i) 55% of the Total Allowable Harvest or Harvests; or
- (ii) the number of sheep required to satisfy the Subsistence needs of Kluane People,

whichever is less; and

- (b) Government may allocate to Other Harvesters all or part of the Total Allowable Harvest or Harvests not allocated to Kluane First Nation under 16.9.1.9(a).

16.9.1.10 "Other Harvesters" in 16.9.1.3(b), 16.9.1.8(b) and 16.9.1.9(b) means any Person authorized to harvest pursuant to the Laws of General Application in an area in respect of which a Total Allowable Harvest is established.

16.9.1.11 If Government proposes, after Consultation with Kluane First Nation and the Council, that Kluane First Nation's allocation in respect of a Total Allowable Harvest or Harvests be in accordance with 16.9.1.3(a)(ii), 16.9.1.8(a)(ii) or 16.9.1.9(a)(ii), the following provisions shall apply:

- (a) Kluane First Nation shall provide to Government and the Council its assessment of the number of moose or caribou or sheep required to satisfy the Subsistence needs of the Kluane People;
- (b) if Government disagrees with Kluane First Nation's assessment under 16.9.1.11(a), Government and Kluane First Nation shall attempt to agree upon the number of moose or caribou or sheep required to satisfy the Subsistence needs of the Kluane People, failing which either Government or Kluane First Nation may refer the matter to the dispute resolution process under 26.3.0;
- (c) matters to be considered in determining the Subsistence needs of the Kluane People shall include, but are not limited to:
  - (i) the health and nutritional needs of the Kluane People;
  - (ii) recent and current harvests of the species by the Kluane People;
  - (iii) the harvest patterns of the Kluane People and changes to those patterns; and
  - (iv) current personal consumption estimates of the species by the Kluane People.

16.9.1.12 Where in accordance with this Agreement, one or more than one Total Allowable Harvest is established in the Asi Keyi Natural Environment Park or the Kluane Wildlife Sanctuary or one or more than one allowable harvest is established in the Tachal Region of the Kluane National Park for moose or caribou or sheep in the Traditional Territory of Kluane First Nation, the following provisions shall apply:

- (a) Government shall allocate to Kluane First Nation either:
  - (i) subject to any sheep hunting or sheep guiding permits issued in accordance with 6.2.1, 6.4 or 6.5 of Schedule A, Part II of Chapter 22, 100% of the Total Allowable Harvest or Harvests in the Asi Keyi Natural Environment Park or the Kluane Wildlife Sanctuary or allowable harvest or harvests in the Tachal Region of the Kluane National Park in the Traditional Territory of Kluane First Nation; or

(ii) the number of moose or caribou or sheep required to satisfy the Subsistence needs of Kluane People,

whichever is less;

(b) Kluane First Nation shall decide whether it intends to permit Kluane People to harvest any part of that Total Allowable Harvest or Harvests or that allowable harvest or harvests and shall notify the Minister in writing of its decision;

(c) if Kluane First Nation intends to permit Kluane People to harvest any part of the Total Allowable Harvest or Harvests or that allowable harvest or harvests, the notice provided pursuant to 16.9.1.12(a) shall specify the number of moose or caribou or sheep that Kluane First Nation intends to permit Kluane People to harvest (the "Intended Harvest"); and

(d) the right of a Kluane Person to harvest moose or caribou or sheep for which a Total Allowable Harvest or Harvests or an allowable harvest or harvests has been established is contingent upon that person being permitted to harvest part of that Total Allowable Harvest or Harvests or that allowable harvest or harvests by Kluane First Nation.

16.9.1.13 If one or more than one Total Allowable Harvest is established for moose or caribou in the Traditional Territory of Kluane First Nation outside of the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park for which one or more notifications of an Intended Harvest has been given under 16.9.1.12, the allocation of moose and caribou to Kluane First Nation in respect of the Total Allowable Harvest or Harvests outside of the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park shall be determined as follows:

(a) the Intended Harvest or Harvests of moose or caribou for which notification has been given under 16.9.1.12 shall be added to the Total Allowable Harvest or Harvests established outside of the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park for that species;

- (b) the number determined under 16.9.1.13(a) shall be used to calculate a preliminary allocation in respect of the Total Allowable Harvest or Harvests outside of the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park in accordance with 16.9.1.3 for moose or 16.9.1.8 for caribou;
- (c) the Intended Harvest or Harvests for moose and or caribou for which notification has been given under 16.9.1.12 shall be subtracted from the number determined under 16.9.1.13(b) for that species; and
- (d) the number determined under 16.9.1.13(c) shall be the allocation to Kluane First Nation in respect of the Total Allowable Harvest or Harvests outside the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park for that species.

16.9.1.14 Unless otherwise agreed by Government and Kluane First Nation, when there is in effect more than one Total Allowable Harvest for moose or caribou or sheep in the Traditional Territory of Kluane First Nation outside of the Asi Keyi Natural Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park the allocation to Kluane First Nation of moose or caribou pursuant to 16.9.1.3(a), 16.9.1.8 and 16.9.1.13(d) or of sheep pursuant to 16.9.1.9 shall be apportioned among all the Total Allowable Harvests established for that species outside of the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park in the same ratio as each Total Allowable Harvest for moose or caribou or sheep outside of the Asi Keyi Natural Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park bears to the sum of all Total Allowable Harvests for that species outside of the Asi Keyi Natural Environment Park, the Kluane Wildlife Sanctuary and the Tachal Region of the Kluane National Park.

16.9.2 The Board, pursuant to 16.7.12.4, and the Council, pursuant to 16.6.10.1, may establish, modify or remove Total Allowable Harvests for Freshwater Fish or Wildlife populations from time to time in the Yukon but shall only do so if:

- 16.9.2.1 required for Conservation, public health or public safety;
- 16.9.2.2 required due to the inability of various Fish and Wildlife species and populations to meet sustainable yield requirements as determined by scientific research and surveys and the special knowledge of Yukon Indian People; or
- 16.9.2.3 required to achieve the goals and objectives identified by species and population management plans; and

only to the extent reasonably necessary to achieve those ends.

16.9.3 Where, in any year:

- 16.9.3.1 the maximum harvest allocation for a species of Wildlife negotiated for a Yukon First Nation pursuant to 16.9.1 or 16.9.13 is greater than that Yukon First Nation's Basic Needs Level or its needs, as the case may be; and
- 16.9.3.2 the maximum harvest allocation to another Yukon First Nation pursuant to its Yukon First Nation Final Agreement is less than that Yukon First Nation's Basic Needs Level or its needs, as the case may be, for that species of Wildlife,

Government, upon the request of the Yukon First Nation described in 16.9.3.1, shall allocate some or all of the maximum harvest allocation as determined by that Yukon First Nation which is surplus to the Basic Needs Level or needs of that Yukon First Nation to the Yukon First Nation described in 16.9.3.2 in the Traditional Territory of the Yukon First Nation described in 16.9.3.1 up to the Basic Needs Level or needs, as the case may be, of the Yukon First Nation described in 16.9.3.2.

16.9.4 The Board, pursuant to 16.7.12.4, or the Council, pursuant to 16.6.10.1, shall recommend to the Minister the allocation of that portion of the Total Allowable Harvest which is not allocated to a Yukon First Nation to satisfy its Basic Needs Level or adjusted Basic Needs Level.

### **Basic Needs Levels**

16.9.5 Each Yukon First Nation Final Agreement shall set out Basic Needs Levels or special Harvesting opportunities for key Freshwater Fish and Wildlife species.

### **Specific Provision**

16.9.5.1 Special Harvesting opportunities for Kluane First Nation are set out in 16.9.1.3 to 16.9.1.14 and 16.9.10.1 of this Agreement.

- 16.9.6 When determining a Basic Needs Level or special Harvesting opportunities for each Yukon First Nation, Government and Yukon First Nations may consider the following:
- 16.9.6.1 recent and current harvests of the species or population by Yukon Indian People enrolled under that Yukon First Nation Final Agreement;
  - 16.9.6.2 recent and current harvests within the Yukon First Nation's Traditional Territory by other harvesters;
  - 16.9.6.3 current personal consumption estimates of the species or population by Yukon Indian People enrolled under that Yukon First Nation Final Agreement for food;
  - 16.9.6.4 the ability of the species or population to satisfy the Harvesting needs of Yukon Indian People enrolled under that Yukon First Nation Final Agreement as well as other users; and
  - 16.9.6.5 such other factors as the parties may agree.
- 16.9.7 Government and a Yukon First Nation may agree to conduct a study to define more clearly the factors listed in 16.9.6.

### **Adjusted Basic Needs Levels**

- 16.9.8 Once a Basic Needs Level has been set pursuant to a Yukon First Nation Final Agreement, the Board may, upon the recommendation of a Council or a Yukon First Nation, review and recommend to the Minister the adjustment of the Basic Needs Level. In reaching its decision about adjusting the Basic Needs Level, the Board shall, in addition to the factors listed in 16.9.6, take into consideration the following factors:
- 16.9.8.1 human population change within the Traditional Territory;
  - 16.9.8.2 changing patterns of consumption;
  - 16.9.8.3 the cultural and nutritional importance of Fish and Wildlife to Yukon Indian People;

- 16.9.8.4 the use and Harvesting of Fish and Wildlife for personal use by Yukon residents; and
- 16.9.8.5 the commercial consumptive and Non-Consumptive Use of Fish and Wildlife.
- 16.9.9 In any year the adjusted Basic Needs Level may vary upward or downward, but shall not fall below the Basic Needs Level established pursuant to a Yukon First Nation Final Agreement, unless the affected Yukon First Nation consents.
- 16.9.10 Yukon First Nation Final Agreements may provide for special Harvesting rights for Yukon Indian People for Freshwater Fish. The purpose of the special Harvesting rights shall be to maintain the priority for Yukon Indian People's food fish needs over other uses.

### **Specific Provision**

16.9.10.1 The special Harvesting rights for Freshwater Fish for food of Kluane People are as follows:

(a) Government shall take into account the special importance to Kluane First Nation of the following bodies of water in the Traditional Territory of Kluane First Nation:

1. Kluane Lake
2. Kluane River
3. Tincup Lake
4. Tincup Creek
5. Tepee Lake
6. Andrew-Atlin Lake
7. Dogpack Lake
8. Red Tail Lake
9. Swede Johnson Creek

in the allocation of Freshwater Fish between Kluane People and other users; and

(b) Government shall ensure that the food Freshwater Fish needs of the Kluane People receive primary consideration in the allocation of Freshwater Fish resources.

- 16.9.11 The special Harvesting rights for Freshwater Fish pursuant to 16.9.10 may include the designation of certain lakes as being primarily for food fishing by Yukon Indian People, or such other measures as the parties to a Yukon First Nation's Final Agreement may agree, in absence of any Basic Needs Level.
- 16.9.12 Where no special Harvesting rights for Freshwater Fish are negotiated pursuant to 16.9.10, Government shall ensure that the food Freshwater Fish needs of Yukon Indian People receive primary consideration in the allocation of Freshwater Fish resources.
- 16.9.13 Following a Yukon First Nation Final Agreement, a Yukon First Nation and Government may negotiate a Basic Needs Level for a species other than those species where Basic Needs Levels have already been negotiated.
- 16.9.14 Where a Basic Needs Level is established pursuant to 16.9.10 or 16.9.13, the provisions of 16.9.0 shall apply to the determination and allocation of the Total Allowable Harvest to Yukon First Nations and to other harvesters.
- 16.9.15 The Basic Needs Level established for a Yukon First Nation shall be without prejudice to the Basic Needs Level of any other Yukon First Nation.
- 16.9.16 In the event that the Total Allowable Harvest is less than a Basic Needs Level or an adjusted Basic Needs Level, Government, the Yukon First Nation, the Board and the affected Council shall endeavour to rehabilitate the population.

### **Edible Fish or Wildlife Product Usage**

- 16.9.17 Where the primary reason for Harvesting Wildlife is for purposes other than food, Government and Yukon First Nations shall explore methods of acquiring any edible meat which is a by-product of the harvest to assist in satisfying the needs of Yukon Indian People for food.

## **16.10.0 Allocation of Salmon Harvest**

### **Total Allowable Catch**

- 16.10.1 The Sub-Committee, pursuant to 16.7.17.12(b), may recommend to the Minister the establishment, modification or removal of the Total Allowable Catch for Salmon from time to time in a drainage basin, but shall do so only if required:

- 16.10.1.1 for Conservation, public health or public safety;



16.10.1.2 due to the inability of various Salmon species and populations to meet sustainable yield requirements as determined by scientific research and surveys and the special knowledge of Yukon Indian People; or

16.10.1.3 to achieve the goals and objectives identified for Salmon species and populations in Salmon Harvesting and management plans; and

only to the extent reasonably necessary to achieve those ends.

16.10.2 The Sub-Committee, pursuant to 16.7.17.12(f), shall recommend to the Minister, for a drainage basin, the allocation of that portion of the Total Allowable Catch which remains after the basic needs allocations described in this chapter for Yukon First Nations have been made.

### **Basic Needs Allocation Considerations**

16.10.3 In negotiating a basic needs allocation, the affected Yukon First Nation and Government shall consider the following:

16.10.3.1 the historical uses and Harvesting patterns of Yukon Indian People and other aboriginal groups;

16.10.3.2 the Harvesting patterns of other residents of the Yukon;

16.10.3.3 changing patterns of consumption;

16.10.3.4 the statistics prepared by the Department of Fisheries and Oceans for the Indian food fishery within each drainage basin for the past five years;

16.10.3.5 the ability of Salmon stocks within a drainage basin to meet the demands of the Yukon First Nations whose Traditional Territories include that drainage basin; and

16.10.3.6 such other factors as the parties may agree.

### **Basic Needs Allocation of Salmon Fishery to Yukon First Nations**

16.10.4 The total basic needs allocation for Yukon First Nations for each species of Salmon in the drainage basin of the Yukon River, and the allocation among the Yukon First Nations of that total basic needs allocation, is set out in Schedule A - Determination of Basic Needs Allocation for the Drainage Basin of the Yukon River, attached to this chapter.

- 16.10.5 The basic needs allocation among the Yukon First Nations of Salmon set out in Schedule A - Determination of Basic Needs Allocation for the Drainage Basin of the Yukon River, attached to this chapter, may be varied by agreement in writing of all affected Yukon First Nations and Government.
- 16.10.6 The basic needs allocation for the Champagne and Aishihik First Nations of each species of Salmon in the drainage basin of the Alsek River shall be set out in the Champagne and Aishihik First Nations Final Agreement.
- 16.10.7 The basic needs allocation for the Vuntut Gwitchin First Nation of each species of Salmon in the drainage basin of the Porcupine River shall be set out in the Vuntut Gwitchin First Nation Final Agreement.
- 16.10.8 Unless the affected Yukon First Nations otherwise agree, the basic needs allocation for a drainage basin shall have priority over all other fisheries in the allocation of the Total Allowable Catch. A basic needs allocation shall not be construed as a guarantee by Government that the allocation will actually be harvested by the Yukon First Nation.
- 16.10.9 Where the Total Allowable Catch is less than what is required to satisfy the basic needs allocations of Yukon First Nations within the Yukon River drainage basin, the Total Allowable Catch shall be distributed among the affected Yukon First Nations on a pro rata basis proportional to their share of the total basic needs allocation for that drainage basin.
- 16.10.10 Subject to 16.10.11, Government may adjust a Total Allowable Catch because of variations in the anticipated run size but only after Consultation with the Sub-Committee, and any such adjustment may be made in-season.
- 16.10.11 Where Government proposes to adjust the Total Allowable Catch under 16.10.10 and time does not permit Consultation with the Sub-Committee, Government may make the adjustment but it shall, within seven days, inform the Sub-Committee of the adjustment and solicit its continuing advice.
- 16.10.12 The Sub-Committee may recommend to the Minister that any adjustment made under 16.10.11 be varied or terminated pending the Sub-Committee's consideration of the issue.
- 16.10.13 Where:
- 16.10.13.1 a Total Allowable Catch is less than the total basic needs allocation in a season for the affected Yukon First Nations, and it is subsequently determined that the spawning escapement targets for Conservation were greater than was actually required for Conservation in that season; or

- 16.10.13.2 subject to an agreement entered into pursuant to 16.10.8, Government allocates Salmon to other fisheries which results in there being insufficient Salmon available to a Yukon First Nation to harvest its basic needs allocation for a drainage basin,

Government shall, in subsequent years, allocate additional Salmon to the affected Yukon First Nations, in proportion to their share of the total basic needs allocation, from any Salmon which are not required for Conservation for that drainage basin, so that, over a six year period, the Yukon First Nations are allocated, on average, their total basic needs allocation.

- 16.10.14 Where a downstream Yukon First Nation harvests Salmon in excess of its basic needs allocation with the result that an upstream Yukon First Nation does not have available to it sufficient Salmon to meet its basic needs allocation, the Sub-Committee may, in subsequent years, reallocate a portion of the basic needs allocation of the downstream Yukon First Nation to the upstream Yukon First Nation to compensate for the over-harvesting of the downstream Yukon First Nation.

#### **Allocation of Commercial Salmon Fishery to the Yukon First Nations**

- 16.10.15 In accordance with 16.10.16, upon ratification of the Umbrella Final Agreement, Government shall issue a number of new additional Yukon commercial Salmon fishing licences to Yukon First Nations whose Traditional Territories include part of the Yukon River drainage basin.
- 16.10.16 The number of licences to be issued pursuant to 16.10.15 shall be the number equivalent to 26 percent of the Yukon commercial Salmon fishing licences in effect for the Yukon River drainage basin on the day immediately preceding the date of ratification of the Umbrella Final Agreement.
- 16.10.16.1 Following ratification of the Umbrella Final Agreement, the Yukon First Nations of the Yukon River drainage basin shall notify Government how the licences to be issued pursuant to 16.10.15 are to be allocated between them.
- 16.10.16.2 Upon receipt of notification pursuant to 16.10.16.1, Government shall issue, without fee, the licences to the affected Yukon First Nations.
- 16.10.17 The licences issued pursuant to 16.10.15 are not transferable except to another Yukon First Nation whose Traditional Territory includes part of the Yukon River drainage basin.

- 16.10.18 The allocation of commercial Salmon fishing licences in the drainage basin of the Alsek River for the Champagne and Aishihik First Nations shall be set out in the Champagne and Aishihik First Nations Final Agreement.
- 16.10.19 The allocation of commercial Salmon fishing licences in the drainage basin of the Porcupine River for the Vuntut Gwitchin First Nation shall be set out in the Vuntut Gwitchin First Nation Final Agreement.
- 16.10.20 Nothing in a Settlement Agreement prevents a Yukon Indian Person or a Yukon First Nation from acquiring a commercial Salmon or commercial sport fishing licence through the normal regulatory process, including, where applicable, the payment of licence fees, and such licences shall not be considered to be part of the allocation allocated under 16.10.15 or 16.10.16.

**16.11.0 Trapline Management and Use**

- 16.11.1 Yukon First Nation Final Agreements shall set out the manner in which Government, Councils, the Board and Yukon First Nations participate in the regulation, management and Use of Furbearers, including the manner in which local bylaws approved by the Council will be implemented.

<b>Specific Provision</b>	
16.11.1.1	The participation of Government, Councils, the Board and Kluane First Nation in the regulation, management and Use of Furbearers is set out in 16.5.1, 16.6.10, 16.7.12 and 16.11.0.

**General Guidelines for the Councils**

- 16.11.2 In establishing local criteria for the management and Use of Furbearers in accordance with 16.6.10.6 and 16.6.10.7, the Councils shall provide for:
  - 16.11.2.1 the maintenance and enhancement of the Yukon’s wild fur industry and the Conservation of the fur resource; and
  - 16.11.2.2 the maintenance of the integrity of the management system based upon individual trapline identity, including individual traplines within group trapping areas.

### **Trapline Allocation Formula**

- 16.11.3 Subject to 16.11.4, the overall allocation of traplines in each Yukon First Nation's Traditional Territory shall be approximately 70 percent held by Yukon Indian People and aboriginal people who are beneficiaries of Transboundary Agreements and approximately 30 percent held by other Yukon residents.
- 16.11.3.1 Subject to 16.11.3.2, 16.11.3.3 and 16.11.3.4, where the realization of the overall allocation in a Yukon First Nation's Traditional Territory pursuant to 16.11.3 would require that more traplines be allocated to Yukon Indian People, the acquisition of those additional traplines shall be completed within 25 years of the Effective Date of that Yukon First Nation's Final Agreement, unless the parties to the Yukon First Nation's Final Agreement otherwise agree.
- 16.11.3.2 Nothing in 16.11.3 shall be construed to require a person holding a trapline to sell or relinquish the trapline.
- 16.11.3.3 Nothing in 16.11.3 shall be construed to prevent a person holding a trapline, at the Effective Date of the Yukon First Nation Final Agreement of that Yukon First Nation in whose Traditional Territory the trapline is located, from transferring such trapline to a qualified member of the trapper's immediate family.
- 16.11.3.4 The Renewable Resources Council established for the Traditional Territory of a Yukon First Nation described in 16.11.3 shall establish additional criteria for the process by which the transition to the target set out in 16.11.3 is to be achieved, including transfers of traplines other than those pursuant to 16.11.3.3, which also may be permitted notwithstanding 16.11.3.1.
- 16.11.4 The Yukon First Nation Final Agreements for the Vuntut Gwitchin First Nation, the Champagne and Aishihik First Nations, the Teslin Tlingit Council, the Kluane First Nation, the Little Salmon/Carmacks First Nation and the Ross River Dena Council shall set out the overall allocation of traplines including their designation as Category 1 or Category 2 in those Yukon First Nations' Traditional Territories.

**Specific Provision**

16.11.4.1 The overall allocation of traplines which have more than 50 percent of their area in that portion of the Kluane Core Area which does not include the Traditional Territory of Champagne and Aishihik First Nations is 8 traplines held by Yukon Indian People and 0 traplines held by other Yukon residents.

- 16.11.5 Except as provided in 16.11.4, where, in a Yukon First Nation's Traditional Territory, the overall percentage of traplines held by Yukon Indian People and aboriginal people who are beneficiaries of Transboundary Agreements is less than 70, that Yukon First Nation's Final Agreement shall set out the process by which the Yukon First Nation or a Yukon Indian Person enrolled under that Yukon First Nation's Final Agreement may acquire additional traplines in order to raise the overall percentage to 70.
- 16.11.6 Up to 70 percent of the traplines in the Traditional Territory of a Yukon First Nation may be designated as Category 1 Traplines.
- 16.11.7 Category 1 Traplines shall be identified in a schedule to the Yukon First Nation's Final Agreement.

**Specific Provision**

16.11.7.1 Category 1 Traplines in the Traditional Territory of Kluane First Nation are identified in Schedule B - Category 1 Traplines, attached to this chapter.

- 16.11.8 A trapline shall be designated Category 1 only with the written consent of the registered holder of that trapline.
- 16.11.9 Where less than 70 percent of the traplines within a Yukon First Nation's Traditional Territory are designated as Category 1 pursuant to 16.11.7, that Yukon First Nation's Final Agreement shall set out the process by which additional traplines may be designated as Category 1 Traplines.

**Specific Provision**

16.11.9.1 The following is the process required by 16.11.9:

- (a) Kluane First Nation shall provide Government and the Council with proof of the consent required by 16.11.8 and notice that it has designated the trapline to be a Category 1 Trapline.

### **Trapline Allocation Process**

- 16.11.10 The Council shall regularly review the use of traplines and make recommendations to the Minister and Yukon First Nations on the assignment and reassignment of all new, vacant and under-utilized traplines pursuant to criteria that it establishes in accordance with 16.6.10.6 and 16.6.10.7, as follows:
- 16.11.10.1 new and vacant traplines shall be assigned with regard to criteria established by the Council and, to the extent possible, in accordance with 16.11.3;
  - 16.11.10.2 additional criteria for the allocation of Category 1 Traplines may be established by a Yukon First Nation;
  - 16.11.10.3 Category 1 Traplines may be temporarily assigned to other qualified Yukon residents, but such assignment shall not alter the Category 1 status of the trapline;
  - 16.11.10.4 upon mutual agreement between the trappers concerned, and with the approval of the Council, the Yukon First Nation and the Minister, a trade may be arranged between Category 1 and Category 2 Traplines, with consequent re-designation of the status of the traplines;
  - 16.11.10.5 the Yukon and the Council shall maintain a register of Category 1 and Category 2 Traplines, and the Yukon First Nation shall also maintain a register of Category 1 Traplines;
  - 16.11.10.6 for Category 1 Traplines, the final allocation authority shall rest with the Yukon First Nation;
  - 16.11.10.7 for Category 2 Traplines, the final allocation authority shall rest with the Minister;
  - 16.11.10.8 a Yukon First Nation, Government or any affected Person may refer any dispute arising out of 16.11.10 to the dispute resolution process under 26.4.0; and

- 16.11.10.9 a Yukon First Nation Final Agreement may set out additional provisions for trading Category 1 and Category 2 Traplines.

### **Interim Protection**

- 16.11.11 The parties to the Umbrella Final Agreement agree not to reduce the number of traplines currently held by Yukon Indian People in a Yukon First Nation's Traditional Territory until the Effective Date of the Yukon First Nation Final Agreement, provided the Yukon First Nation Final Agreement is ratified before May 29, 1994 or within 24 months of commencement of negotiation of that Yukon First Nation Final Agreement, whichever comes sooner.

### **Trapline Development**

- 16.11.12 Subject to 6.6.0 and Laws of General Application, holders, other than Yukon Indian People, of traplines on Settlement Land may construct and occupy, on Settlement Land, such cabins as are necessary for the reasonable use and enjoyment of traplines, and may cut necessary trails on their traplines.

### **Compensation**

- 16.11.13 Yukon Indian People holding traplines whose Furbearer Harvesting opportunities will be diminished due to other resource development activities shall be compensated. Government shall establish a process following the Effective Date of the Yukon First Nation's Final Agreement for compensation, including designation of the Persons responsible for compensation.
- 16.11.13.1 Nothing in 16.11.13 shall be construed to affect a Yukon Indian Person's right to compensation pursuant to Law before the process in 16.11.13 is established.

### **Government Access**

- 16.11.14 The designation of a trapline as Category 1 shall not restrict access by Government, in accordance with the provisions of the Umbrella Final Agreement, to that trapline to handle or collect animals for scientific or management reasons.



## **16.12.0 Access for Wildlife Harvesting on Settlement Land**

- 16.12.1 Any trapper whose trapline is wholly or partially on Settlement Land shall continue to exercise all rights as a trapper to his or her existing trapline without fee in accordance with Settlement Agreements and Laws of General Application and bylaws established by the Council.
- 16.12.2 Where a Category 2 Trapline lies wholly or in part on Settlement Land, the holder of the trapline shall elect either to:
- 16.12.2.1 retain that portion of the trapline on Settlement Land and exercise the rights pursuant to 16.12.1;
  - 16.12.2.2 make the trapline available for exchange for another trapline; or
  - 16.12.2.3 sell that portion of the trapline on Settlement Land to the affected Yukon First Nation.
- 16.12.3 Subject to 16.12.4 and 16.12.10, any Person has a right of access to enter and stay on Undeveloped Category B Settlement Land without the consent of the affected Yukon First Nation for the purpose of non-commercial Harvesting of Fish and Wildlife, if permitted by, and in accordance with Laws which apply to lands under the administration and control of the Commissioner.
- 16.12.4 The Minister of the Yukon responsible for Fish and Wildlife may, on his own initiative or at the request of a person or entity holding title to any Parcel which is or was Category B Settlement Land from which the Public Access for Wildlife Harvesting is reserved, release and discharge the Public Access for Wildlife Harvesting in respect of that Parcel in whole or in part on such terms and conditions as he decides.
- 16.12.5 Subject to Settlement Agreements, and notwithstanding a Yukon First Nation's ownership of the Bed of waterbodies set out in Chapter 5 — Tenure and Management of Settlement Lands, Government reserves the right to manage the fishery and to determine who may fish in those waterbodies which are adjacent to a Waterfront Right-of-Way.
- 16.12.6 Where a Yukon First Nation owns the Bed of a waterbody and there is no adjacent Waterfront Right-of-Way, that Yukon First Nation has an exclusive right to fish in that portion of the Bed of the waterbody owned by the Yukon First Nation unless otherwise agreed in Settlement Agreements.

- 16.12.7 An outfitting concession holder has the right of access to cross and to make necessary stops on Settlement Land to reach that outfitting area without the consent of the affected Yukon First Nation. The outfitting concession holder's right of access shall include the right to erect temporary camps and to graze horses incidental to such access, and to travel over the land with employees and clients and their equipment but shall not include the right to hunt thereon or to erect any permanent camp thereon.
- 16.12.8 Yukon First Nations whose final land selections may adversely affect existing outfitting concessions shall negotiate with the outfitting concession holder to determine terms and conditions that can be established to mitigate any impact on the outfitting concession.
- 16.12.9 To the extent the impact of final land selections on existing outfitting concessions cannot be resolved through negotiations between the outfitting concession holder and a Yukon First Nation, Government will compensate the outfitting concession holder for provable loss caused by the concession holder's inability to use Settlement Land within that concession area for outfitting. Provable loss shall be defined prior to the enactment of Settlement Legislation.
- 16.12.10 The rights of access provided by 16.12.3 and 16.12.7 are subject to the conditions that there shall be no:
- 16.12.10.1 significant damage to Settlement Land or to improvements on Settlement Land;
  - 16.12.10.2 mischief committed on Settlement Land;
  - 16.12.10.3 significant interference with the use and peaceful enjoyment of its Settlement Land by the Yukon First Nation;
  - 16.12.10.4 fee or charge payable to the affected Yukon First Nation other than that provided for in 16.5.1.13 and 16.5.1.14; or
  - 16.12.10.5 compensation for damage other than significant damage.
- 16.12.11 A Person who fails to comply with the conditions in 16.12.10.1, 16.12.10.2 or 16.12.10.3 shall be considered a trespasser with respect to that incident of access.

### **16.13.0 Training and Education**

- 16.13.1 The parties to the Umbrella Final Agreement shall immediately investigate the needs, opportunities and structures required to ensure the adequate development of human resources needed by Yukon First Nations and other Yukon residents in renewable resources management and related economic development opportunities. The parties to the Umbrella Final Agreement agree to design the structures necessary to develop these human resources.
- 16.13.2 The Yukon shall provide trapper training programs, designed in collaboration with Yukon First Nations and the Councils, for Yukon Indian People as required from time to time, to encourage effective involvement of trappers in the management and development of traplines. Unless the Yukon otherwise decides, these training programs shall be provided for 10 years from the enactment of Settlement Legislation.
- 16.13.3 Government and Yukon First Nations shall cooperate in providing cross-cultural orientation and education for Board, Sub-Committee and Council members.

### **16.14.0 Implementation Provisions**

- 16.14.1 Settlement Legislation shall provide:
- 16.14.1.1 that on the Effective Date of Yukon First Nation's Yukon First Nation Final Agreement subsection 19(3) of the Yukon Act, R.S.C. 1985, c.Y-2 ceases to apply in respect of both
- (a) persons eligible to be enrolled under that agreement; and
- (b) the Traditional Territory of that Yukon First Nation; and
- 16.14.1.2 for the repeal of subsection 19(3) of the Yukon Act, R.S.C. 1985, c. Y-2 on the first day on which all Yukon First Nation Final Agreements have been given effect. \*

### **16.15.0 Harvest Support Program**

- 16.15.1 The parties to the Umbrella Final Agreement agree to complete a feasibility study on the design of a Harvesting support program in the Yukon prior to Settlement Legislation.

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\* As amended. See note to 2.2.13.

## SCHEDULE A

### DETERMINATION OF BASIC NEEDS ALLOCATION FOR THE DRAINAGE BASIN OF THE YUKON RIVER

#### **1.0 Definitions**

In this schedule, the following definitions shall apply.

"Contractor" means the contractor appointed pursuant to 3.7.

"Minister" means the Minister of Fisheries and Oceans.

"Study" means the Yukon River Drainage Basin Salmon Harvest Study.

"Yukon First Nation" and "Yukon First Nations" have the same meaning as in Chapter 1 - Definitions, but do not include the Liard First Nation.

#### **2.0 General**

2.1 A basic needs allocation required by 16.10.4 shall be determined for each Yukon First Nation in accordance with 3.0 or 4.0.

2.2 Harvesting of Salmon pursuant to 16.4.2 by Yukon Indian People enrolled under the Yukon First Nation Final Agreement of a Yukon First Nation for which a basic needs allocation for Salmon has been established shall thereafter be limited to the basic needs allocation.

2.3 The provisions of 16.4.4.1 shall not apply to a Yukon First Nation until every Yukon First Nation's basic needs allocation has been established.

#### **3.0 Yukon River Drainage Basin Salmon Harvest Study**

3.1 The Council for Yukon Indians and the Minister shall jointly cause the Study to be carried out.

3.2 The purpose of the Study is to determine for each Yukon First Nation, the arithmetic average of the actual annual harvest of all species of Salmon in the drainage basin of the Yukon River by persons eligible to be enrolled as Yukon Indian People under the Final Agreement of a Yukon First Nation.

3.3 Subject to 3.4, the actual annual harvest for the study shall be determined during a five year period.

- 3.4 If, during the Study, the exercise of the right under 16.4.2 to harvest Salmon for Subsistence is actually limited pursuant to 16.3.3, the Contractor will, at the request of the Salmon Sub-Committee, eliminate from the Study the year in which the limitation occurs and the Study will be extended by one year, provided that the Study shall be completed in no more than eight years regardless of the number of years which are eliminated under this provision.
- 3.5 The Council for Yukon Indians and the Minister shall negotiate terms of reference for the Study within six months after the effective date of Settlement Legislation, failing which, either party may refer any outstanding matter to the dispute resolution process under 26.3.0.
- 3.6 The terms of reference for the Study shall include:
- 3.6.1 an initial one year period during which the Contractor is to assist the Yukon First Nations, Government and other interested parties to prepare for the Study so as to best ensure the accuracy of the Study;
  - 3.6.2 a requirement that the Contractor consider how to balance the change over time in the population of a Yukon First Nation with the factors listed in 16.10.3 in a better way than is reflected in 3.9.1;
  - 3.6.3 the other requirements of this schedule; and
  - 3.6.4 such other provisions as the parties may agree.
- 3.7 The Council for Yukon Indians and the Minister shall, within four months after completing the terms of reference, jointly appoint an independent contractor to carry out the Study, and, failing agreement, either party may refer the matter of the appointment to arbitration under 26.7.0.
- 3.8 An arbitrator acting pursuant to 3.7 shall appoint an independent contractor in accordance with the terms of reference and any bidding criteria the parties have agreed to.
- 3.9 The basic needs allocation for Salmon for a Yukon First Nation shall be determined in accordance with 3.9.1 or 3.9.2.
- 3.9.1 The basic needs allocation for Salmon for a Yukon First Nation shall be the greater of:
    - 3.9.1.1 the arithmetic average of the actual annual harvest of Salmon for the years of the Study which are not eliminated pursuant to 3.4, plus 10 percent of that number; and

- 3.9.1.2 the percentage of the Total Allowable Catch which is equal to the basic needs allocation determined under 3.9.1.1 divided by the Total Allowable Catch arithmetically averaged over the years of the Study which are not eliminated pursuant to 3.4.
- 3.9.2 If, within three months of the release of the results of the Study, a Yukon First Nation so requests, the Minister and the Yukon First Nation will negotiate with a view to agreeing to make changes to 3.9.1 to balance better the change over time in population of the Yukon First Nation with the factors listed 16.10.3, and each party will consider in negotiations the recommendations of the contractor referred to in 3.6.2 and the factors described in 16.10.3.
- 3.9.3 If, after one year following the request to negotiate, the parties have not reached agreement, either party may, within a further 30 days, refer any outstanding matter to the dispute resolution process under 26.4.0.
- 3.9.4 If no agreement is reached under 3.9.2, no reference to dispute resolution is made under 3.9.3, or no agreement is reached within four months following a reference to dispute resolution, the basic needs allocation for the Yukon First Nation shall be as set out in 3.9.1.

#### **4.0 Negotiation of a Basic Needs Allocation**

- 4.1 The Minister and a Yukon First Nation, at the request of the Yukon First Nation, may, at any time before the end of the second year of the Study, negotiate a basic needs allocation for Salmon for that Yukon First Nation in accordance with 16.10.3, and thereafter the Study shall no longer include that Yukon First Nation.

**SCHEDULE B**

**CATEGORY 1 TRAPLINES**

This schedule will be amended as trappers give consent to have their traplines designated as Category 1 traplines.





## **CHAPTER 17 - FOREST RESOURCES**

### **17.1.0 Definitions**

In this chapter, the following definitions shall apply.

#### **Specific Provision**

"Extra Forest Fire Personnel" means personnel, other than regular employees or seasonally employed crews, hired on a casual basis for forest fire management activities.

"Forest Resources Management" includes forest conservation, reforestation and silviculture.

"Forest Resources" includes all flora in a wild state.

#### **Specific Provision**

"Shakwak Project" means the road reconstruction project of the Haines Road and Alaska Highway between kilometre 1694 (Silver Creek) and kilometre 1848, Yukon, resulting from a January 11, 1977 agreement between Canada and the United States of America.

"Tree" means a single-stemmed perennial woody plant in a wild state.

### **17.2.0 General**

17.2.1 Subject to its Settlement Agreement, each Yukon First Nation shall own, manage, allocate and protect the Forest Resources on its Settlement Land.

17.2.2 The Minister shall Consult with the affected Renewable Resources Councils:

17.2.2.1 prior to establishing a new policy likely to significantly affect Forest Resources Management, allocation or forestry practices; and

17.2.2.2 prior to recommending to Parliament or the Legislative Assembly, as the case may be, Legislation concerning Forest Resources in the Yukon.

17.2.3 Nothing in this chapter applies to a National Park, a national park reserve or a national historic site administered by the Canadian Parks Service.

### **17.3.0 Forest Resources Harvesting**

17.3.1 Subject to this chapter:

17.3.1.1 Yukon Indian People shall have the right, during all seasons of the year, to harvest Forest Resources on Crown Land for purposes incidental to the exercise of their traditional pursuits of hunting, fishing, trapping and gathering;

17.3.1.2 each Yukon First Nation shall have the right, during all seasons of the year, to harvest Trees on Crown Land to a maximum of 500 cubic metres per calendar year to provide for non-commercial community purposes; and

17.3.1.3 Yukon Indian People shall have the right during all seasons of the year to harvest Forest Resources on Crown Land incidental to the practice of their traditional customs, culture and religion or for the traditional production of handicrafts and implements.

#### **Specific Provision**

17.3.1.4 For greater certainty, mushrooms are included in the Forest Resources which may be harvested pursuant to 17.3.1.1 and 17.3.1.3.

17.3.2 The rights provided by 17.3.1 are subject to Legislation enacted for reasons of Forest Resources Management, land management, Conservation, protection of the environment, and for public health and public safety.

17.3.3 For the purposes of 17.3.1, where Legislation referred to in 17.3.2 requires the issuance of a permit or licence, such permit or licence issued to a Yukon Indian Person or a Yukon First Nation, as the case may be, shall be without fee.

17.3.4 The rights set out in 17.3.1 do not apply to Crown Land:

17.3.4.1 where the exercise of a right conflicts with the carrying out of any activity authorized by Government;

17.3.4.2 that is subject to a surface lease or an agreement for sale, unless the Person, other than Government, holding such interest consents; or

- 17.3.4.3 where access by the public is limited or prohibited.
- 17.3.5 Yukon Indian People may dispose of Trees harvested pursuant to 17.3.1 by way of gift, trade, barter or sale to other Yukon Indian People and to aboriginal people who are beneficiaries of Transboundary Agreements for the purposes described in 17.3.1.
- 17.3.6 Nothing in 17.3.1 shall be construed to:
  - 17.3.6.1 confer a right of ownership of Forest Resources upon a Yukon Indian Person or a Yukon First Nation;
  - 17.3.6.2 guarantee the supply of Forest Resources to a Yukon Indian Person or Yukon First Nation;
  - 17.3.6.3 preclude any Person from harvesting Forest Resources on Crown Land if permitted by and in accordance with Laws of General Application; or
  - 17.3.6.4 entitle Yukon Indian People or a Yukon First Nation to any priority of use, or right to any compensation for damage to, or loss of, Forest Resources or harvesting opportunities on Crown Land.

#### **17.4.0 Renewable Resources Councils**

- 17.4.1 A Renewable Resources Council may make recommendations to the Minister and the affected Yukon First Nation with respect to Forest Resources Management on Settlement Land and Non-Settlement Land within that Yukon First Nation's Traditional Territory, including:
  - 17.4.1.1 the coordination of Forest Resources Management throughout the Yukon and in the relevant Traditional Territory;
  - 17.4.1.2 the need for, and the content and timing of, Forest Resources inventories and management plans;
  - 17.4.1.3 the policies, programs and Legislation which affect Forest Resources;
  - 17.4.1.4 proposals for Forest Resources research;
  - 17.4.1.5 forest fire suppression plans, including the human, technical and financial resources required, the definition and establishment of priority zones for fire fighting and procedures for the monitoring, periodic review and amendment of the plans;

- 17.4.1.6 the allocation and use of Forest Resources for commercial purposes, including the terms and conditions of tenure, standards of operation, rates of harvest and means of access to Forest Resources;
  - 17.4.1.7 employment opportunities and training requirements in Forest Resources Management and commercial Forest Resources harvesting;
  - 17.4.1.8 measures for the control of forest pests and diseases; and
  - 17.4.1.9 other matters relating to the protection and management of Forest Resources.
- 17.4.2 Upon request by a Renewable Resources Council, the Minister and a Yukon First Nation may make available to the Council information in their possession with respect to the following:
- 17.4.2.1 Forest Resources inventories;
  - 17.4.2.2 Forest Resources Management plans;
  - 17.4.2.3 proposals for Forest Resources research; or
  - 17.4.2.4 information on policies and programs related to Forest Resources.
- 17.4.3 Renewable Resources Councils shall cooperate with each other and with Yukon First Nations in matters of common concern and shall explore means of coordinating their activities.
- 17.4.4 Yukon First Nations shall cooperate with each other and with Renewable Resources Councils in matters of common concern and shall explore means of coordinating their activities.
- 17.4.5 A Renewable Resources Council may submit a budget for costs of carrying out its responsibilities under this chapter as a part of the budget submitted under 16.6.7.
- 17.5.0 Forest Resources Management Plans**
- 17.5.1 The Minister may prepare, approve and implement plans for Forest Resources Management on Non-Settlement Land.
- 17.5.2 A Yukon First Nation may prepare, approve and implement plans for Forest Resources Management on its Settlement Land.

- 17.5.3 After Consultation with Yukon First Nations, the Minister shall establish the order in which plans for Forest Resources Management are to be developed. The Minister shall Consult with Yukon First Nations prior to changing the order established.
- 17.5.4 The timing for the development of Forest Resources Management plans for each Yukon First Nation's Traditional Territory shall be addressed in Yukon First Nation Final Agreements.

**Specific Provision**

- 17.5.4.1 The Minister, in Consultation with Kluane First Nation and the Dän Keyi Renewable Resources Council, shall determine the timing for the development of Forest Resources Management plans for the Traditional Territory of Kluane First Nation.
- 17.5.4.2 The Minister, in Consultation with Kluane First Nation, shall determine the need for and the timing of the preparation of any inventory of Trees on Crown Land in the Traditional Territory of Kluane First Nation.
- 17.5.4.3 Where the Minister has determined that more than one area in the Traditional Territory of Kluane First Nation is to be inventoried, the Minister and Kluane First Nation shall agree on the order in which the inventories shall be made, and failing agreement either may refer the matter to the dispute resolution process under 26.3.0.
- 17.5.4.4 If Government proposes to undertake any work related to an inventory of Trees on Crown Land in the Traditional Territory of Kluane First Nation, it shall Consult with Kluane First Nation to determine whether it wishes to participate in such work on a cost sharing basis in order to obtain similar information with respect to Settlement Land of Kluane First Nation.
- 17.5.4.5 The Minister shall provide to Kluane First Nation the results of any inventory of Trees on Crown Land in the Traditional Territory of Kluane First Nation on the same cost recovery basis as such results would be provided to any other Person.

- 17.5.5 When developing Forest Resources Management plans, the Minister and the Yukon First Nations shall take into account the following:

- 17.5.5.1 the principle of sustainable use of Forest Resources;

- 17.5.5.2 the principle of an integrated and balanced approach to the management and protection of interests in and uses of Forest Resources in a watershed;
  - 17.5.5.3 the principle of integrated Forest Resources Management on Settlement Land and Non-Settlement Land;
  - 17.5.5.4 the Forest Resources harvesting and management customs of Yukon Indian People;
  - 17.5.5.5 Fish and Wildlife Harvesting rights and management plans as set out in Chapter 16 - Fish and Wildlife;
  - 17.5.5.6 the knowledge and experience both of the Yukon Indian People and scientific communities in Forest Resources Management and use; and
  - 17.5.5.7 the principle of implementing the plan on a watershed basis.
- 17.5.6 A Forest Resources Management plan may provide guidelines in respect of:
- 17.5.6.1 Forest Resources pest and disease control;
  - 17.5.6.2 standards for the use of Forest Resources;
  - 17.5.6.3 terms, conditions and areas for the harvesting of Forest Resources; and
  - 17.5.6.4 such other matters as the Yukon First Nation or the Minister may request.
- 17.5.7 The Minister shall consider whether a management inventory of Trees is necessary on Non-Settlement Land for the preparation of a Forest Resources Management plan.
- 17.5.8 If the Minister considers that a management inventory pursuant to 17.5.7 is necessary, the Minister shall complete the inventory before the development of the Forest Resources Management plan.
- 17.5.9 The Minister shall make available to each Yukon First Nation, before its final land selections are signed by the negotiators for its Yukon First Nation Final Agreement, all information that Government possesses concerning any inventory of Trees on land available for selection by that Yukon First Nation.

### **17.6.0 Relationship between Forest Resources Management and Other Processes**

- 17.6.1 A Forest Resources Management plan and a forest fire management plan shall be consistent with any approved regional land use plans.
- 17.6.2 Yukon First Nations and Government shall manage, allocate and protect their respective Forest Resources in a manner consistent with any recommendations approved in accordance with Chapter 12 - Development Assessment.

### **17.7.0 Forest Resources Pest and Disease Control**

- 17.7.1 Where Forest Resources are threatened by pests or diseases a Yukon First Nation shall Consult the Minister before applying or permitting the application of pesticides and herbicides on Settlement Land.
- 17.7.2 Where Forest Resources are threatened by pests or diseases the Minister shall Consult the affected Yukon First Nation before applying pesticides and herbicides on Crown Land within that Yukon First Nation's Traditional Territory.
- 17.7.3 Where a pest or disease affects Forest Resources on Settlement Land, Government and the affected Yukon First Nation shall take such action as they may agree to control the problem.
- 17.7.4 The application of pesticides or herbicides pursuant to 17.7.1, 17.7.2, and 17.7.3 shall be subject to Chapter 12 - Development Assessment.
- 17.7.5 In emergency situations, nothing in 17.7.1 to 17.7.4 shall be construed to restrict the Minister's authority to control pests or diseases which threaten Forest Resources.

### **17.8.0 Forest Resources Protection**

- 17.8.1 Nothing in this chapter shall be construed to obligate Government to fight forest fires.
- 17.8.2 Government shall Consult with each Yukon First Nation on general priorities for fighting forest fires on that Yukon First Nation's Settlement Land and on adjacent Non-Settlement Land.

- 17.8.3 For a period of five years after the Effective Date of a Yukon First Nation Final Agreement, Government shall continue to fight forest fires on that Yukon First Nation's Settlement Land:
  - 17.8.3.1 in accordance with Government policy from time to time for fighting forest fires on Crown Land in the Yukon; and
  - 17.8.3.2 within the financial and other resources available to Government from time to time for fighting forest fires on Crown Land in the Yukon.
- 17.8.4 Government may take any action it considers necessary on Settlement Land for control or extinguishment of forest fires. Where practicable, Government shall give notice to the affected Yukon First Nation prior to taking such action.

<p><b>Specific Provision</b></p> <p>17.8.5 No later than four years after the Effective Date of this Agreement, Government and Kluane First Nation shall commence discussions to confirm their respective roles for managing forest fires on Settlement Land following the five year period specified in 17.8.3.</p> <p>17.8.6 The obligation set out in 17.8.5 shall not apply if there is in effect an agreement which addresses forest fire management on Kluane First Nation Settlement Land following the five year period specified in 17.8.3.</p>
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**17.9.0 Third Party Interests**

- 17.9.1 Unless otherwise agreed in a Yukon First Nation Final Agreement, where Settlement Land includes land to which a timber harvesting agreement applies:
    - 17.9.1.1 on the Effective Date of a Yukon First Nation's Final Agreement; or
    - 17.9.1.2 where the land becomes Settlement Land after the Effective Date of a Yukon First Nation's Final Agreement, on the date the land is transferred to the Yukon First Nation,
- the holder of the agreement shall be entitled to exercise all rights granted by or pursuant thereto as if the land had not become Settlement Land.



### **17.10.0 Access**

- 17.10.1 The holder of a commercial timber permit on Settlement Land which was in existence on the Effective Date of a Yukon First Nation Final Agreement shall have a right of access to use Settlement Land covered by the permit for purposes related to the commercial timber permit without the consent of the affected Yukon First Nation. The terms and conditions of the right of access shall be determined by the Minister as if that land had not become Settlement Land.
- 17.10.2 The holder of a commercial timber permit shall have a right of access to cross and make necessary stops on Settlement Land to reach adjacent land or to reach Settlement Land subject to that commercial timber permit with the consent of the affected Yukon First Nation or, failing consent, with an order of the Surface Rights Board setting out terms and conditions.
- 17.10.3 Where Settlement Land is subject to a timber harvesting agreement, the holder of the timber harvesting agreement shall have a right of access, including the right to construct new access, to use Settlement Land subject to the timber harvesting agreement for purposes related to that agreement without the consent of the affected Yukon First Nation. The terms and conditions of any right of access shall be determined by the Minister as if that land had not become Settlement Land.
- 17.10.4 The holder of a timber harvesting agreement shall have a right of access to cross and make necessary stops on Settlement Land to reach the adjacent land or to reach Settlement Land subject to the timber harvesting agreement with the consent of the affected Yukon First Nation, or failing consent, with an order of the Surface Rights Board setting out terms and conditions.
- 17.10.5 The Surface Rights Board shall not make an order for access pursuant to 17.10.2 and 17.10.4, unless the holder seeking access satisfies the Board that:
- 17.10.5.1 such access is reasonably required; and
  - 17.10.5.2 such access is not also practicable and reasonable across Crown Land.

### **17.11.0 Application of Access Rights on Developed Settlement Land**

- 17.11.1 Subject to 17.11.2, the provisions of 17.10.0 do not apply to Developed Settlement Land.

17.11.2 Where a commercial timber permit or the timber harvesting agreement described in 17.10.0 is on a Parcel of Developed Settlement Land, any right of access provided under 17.10.0 applies on that Parcel.

#### **17.12.0 Conditions of Access**

17.12.1 The rights of access provided by 17.10.1 and 17.10.3 are subject to the conditions that there shall be no:

17.12.1.1 unnecessary damage to Settlement Land or significant damage to improvements on Settlement Land;

17.12.1.2 mischief committed on Settlement Land;

17.12.1.3 unnecessary interference with the use and peaceful enjoyment by the Yukon First Nation of its Settlement Land;

17.12.1.4 fee or charge payable to the affected Yukon First Nation; or

17.12.1.5 compensation for damage other than unnecessary damage to Settlement Land or significant damage to improvements on Settlement Land.

17.12.2 A person who fails to comply with the conditions in 17.12.1.1, 17.12.1.2 and 17.12.1.3 shall be considered a trespasser with respect to that incident of access.

#### **17.13.0 Other Access Rights**

17.13.1 Nothing in this chapter shall be construed to prevent the holder of a commercial timber permit or timber harvesting agreement from exercising a right of access pursuant to a Settlement Agreement.

#### **17.14.0 Economic Opportunities**

17.14.1 Government shall, at the time it publicly invites tenders for Forest Resources Management or forest protection within a Yukon First Nation's Traditional Territory, provide a written notice of the tender to that Yukon First Nation.

17.14.2 When negotiating a Yukon First Nation Final Agreement, the parties to that Yukon First Nation Final Agreement shall address economic opportunities for the Yukon First Nation in the management, protection and harvesting of Forest Resources.

### **Specific Provision**

- 17.14.2.1 Nothing in this Agreement shall be construed to affect the ability of Kluane First Nation to apply for and obtain any right to harvest Trees on Non-Settlement Land in accordance with Laws of General Application.
- 17.14.2.2 Government shall provide written notice to Kluane First Nation of any public tender for contracts associated with Forest Resources Management within the Traditional Territory of Kluane First Nation.
- 17.14.2.3 Government shall include Kluane First Nation in any invitational tender for contracts associated with Forest Resources Management within the Traditional Territory of Kluane First Nation.
- 17.14.2.4 Kluane First Nation shall have the first opportunity to accept any contract offered by Government, other than by public or invitational tender, associated with silviculture within the Traditional Territory of Kluane First Nation upon the same terms and conditions as would be offered to others.
- 17.14.2.5 Any failure to provide written notice pursuant to 17.14.2.2 shall not affect the public tender process or the contract awards resulting therefrom.
- 17.14.2.6 Any failure to include Kluane First Nation in any invitational tender for contracts pursuant to 17.14.2.3 shall not affect the invitational tender process or the contract awards resulting therefrom.
- 17.14.2.7 Any failure to provide a first opportunity pursuant to 17.14.2.4 shall not affect any contract entered into associated with silviculture within the Traditional Territory of Kluane First Nation.
- 17.14.2.8 Government shall include a criterion for employment of Kluane People or engagement of Kluane Firms in any contract opportunities associated with silviculture in the Traditional Territory of Kluane First Nation.
- 17.14.2.9 Nothing in 17.14.2.8 shall be construed to mean that a criterion for employment of Kluane People or engagement of Kluane Firms shall be the determining criterion in awarding any contract.

- 17.14.2.10 Where Government requires Extra Forest Fire Personnel within the Traditional Territory of Kluane First Nation it shall, where practicable, hire Kluane People.
- 17.14.2.11 Government shall, prior to April 1st of each year, Consult with Kluane First Nation with a view to identifying economic and employment opportunities for Kluane People associated with forest fire management activities in the Traditional Territory of Kluane First Nation.
- 17.14.2.12 During the period ending on the tenth anniversary of this Agreement, Government shall provide Kluane First Nation with the first opportunity to remove Trees in the KFN Core Area from the right of way for the Shakwak Project and from any gravel sites established in connection with the Shakwak Project, in accordance with terms and conditions, including time limits, and clean up, established by Government for the removal of trees, but without payment of any stumpage fee or other charge.
- 17.14.2.13 Government shall incur no costs and shall not be liable to any person in respect of the removal of Trees by Kluane First Nation or the failure to remove Trees, and Kluane First Nation may dispose of Trees removed pursuant to 17.14.2.12 in accordance with Laws of General Application.
- 17.14.2.14 Any failure to provide a first opportunity pursuant to 17.14.2.12 shall not affect any contract entered into associated with the removal of Trees.
- 17.14.2.15 Legislation may require the issuance of a permit or licence for Kluane First Nation to exercise the right provided in 17.14.2.12, but any such licence or permit shall be issued without fee.

## **CHAPTER 18 - NON-RENEWABLE RESOURCES**

### **18.1.0 Specified Substances**

- 18.1.1 A Yukon First Nation having a Specified Substances Right and a Person having a Mineral Right shall exercise those rights so far as practicable in a manner that the exercise of one right does not interfere with the exercise of the other right.
- 18.1.2 In the event that there is conflict between the exercise of the Specified Substances Right and the exercise of the Mineral Right, either the Yukon First Nation or the Person having the Mineral Right may apply to the Surface Rights Board.
- 18.1.3 Subject to 18.1.4, on an application under 18.1.2, the Surface Rights Board shall make an order specifying the terms and conditions of exercising either the Specified Substances Right or the Mineral Right or both so as to reduce such interference as far as practicable and, to the extent that interference with the exercise of the Specified Substances Right cannot be avoided, the Board shall give priority to the Person having the Mineral Right subject only to the payment of compensation to the Yukon First Nation for:
- 18.1.3.1 interference with the exercise of the Specified Substances Right; and
  - 18.1.3.2 loss of opportunity to exercise the Specified Substances Right, taking into account the associated production cost incurred by the Person holding the Mineral Right.
- 18.1.4 The holder of an Existing Mineral Right is not required to pay compensation under 18.1.3.
- 18.1.5 Subject to any order of the Surface Rights Board issued pursuant to 18.1.3, any Person exercising a Mineral Right has a right to take, use, encounter, damage or destroy any Specified Substance incidental to the exercise of that Mineral Right without compensation to a Yukon First Nation.
- 18.1.6 Subject to 18.1.7, any Specified Substance taken, used, encountered, damaged or destroyed under 18.1.5 shall become the property of the Person exercising the Mineral Right.
- 18.1.7 A Person who has acquired a property interest in any Specified Substance pursuant to 18.1.6 is deemed to have forfeited all his proprietary rights therein upon expiry or termination of his Mineral Right, and thereafter the Yukon First Nation shall have the right to take and use that Specified Substance without compensation to that Person.

**18.2.0 Quarries**

18.2.1 In 18.2.0, the following definition shall apply.

"Government" includes the agents and contractors of Government.

18.2.2 Government shall endeavour to identify any Quarry required for public purposes within each Yukon First Nation's Traditional Territory before the final land selections for that Yukon First Nation have been signed by the negotiators to that Yukon First Nation Final Agreement.

18.2.3 Where reasonable and practicable to do so, Government shall endeavour to locate any Quarry on Non-Settlement Land.

18.2.4 Where reasonable and practicable to do so, Government shall endeavour to eliminate the use of Quarry sites on Settlement Land by locating an alternative Quarry on Non-Settlement Land.

18.2.5 Where Government has not identified adequate Quarries for public purposes before the final land selections have been signed by the negotiators to that Yukon First Nation Final Agreement, that Yukon First Nation Final Agreement shall set out:

18.2.5.1 a time period for further identification of any Quarry on Settlement Land which, unless the parties to that Yukon First Nation Final Agreement otherwise agree, shall be two years from the Effective Date of the Yukon First Nation Final Agreement;

**Specific Provision**

(a) The time period for further identification under 18.2.5.1, of any Quarry on Settlement Land, is two years from the Effective Date of this Agreement.

18.2.5.2 the area within the Traditional Territory that is subject to further identification of Quarries on Settlement Land; and

**Specific Provision**

(a) the following Parcels of Kluane First Nation Settlement Land are subject to further identification of Quarries, pursuant to 18.2.5.2:

- i) R-1A
- ii) R-46A
- iii) R-47A
- iv) R-48B
- v) R-49B
- vi) S-75A (whether consolidated with R-1A or R-47A or surveyed as separate Site Specific Settlement Land Parcels)
- vii) S-77A (whether consolidated with R-1A or R-45A or surveyed as separate Site Specific Settlement Land Parcels)

as identified in Appendix A - Settlement Land Descriptions, attached to this Agreement and in Appendix B - Maps, which forms a separate volume to this Agreement.

18.2.5.3 a process for Consultation with the Yukon First Nation in the further identification of Quarries on Settlement Land.

**Specific Provision**

(a) Government shall Consult with Kluane First Nation in respect of any Quarries on Kluane First Nation Settlement Land which Government proposes to identify pursuant to 18.2.5.

(b) Within 60 days of receipt of the notice required for the Consultation described in (a), Kluane First Nation shall provide Government with its views on the matters in writing and may request a meeting to present its views to Government.

(c) Government shall, if requested, meet with Kluane First Nation to discuss its proposed identification of that Quarry and review the establishment of Quarries on Non-Settlement Land.

(d) Government shall consider fully and fairly the views presented by Kluane First Nation and shall provide, to Kluane First Nation, its response in writing to those views and its decision on identification of that Quarry.

18.2.6 Unless otherwise provided in a Yukon First Nation Final Agreement, the following terms and conditions respecting a Quarry on Settlement Land identified under 18.2.2 or 18.2.5 shall apply:

18.2.6.1 Government shall have the exclusive use of Quarries and the right to take any Construction Materials required from such Quarries without the agreement of or compensation for such use or taking to the affected Yukon First Nation;

18.2.6.2 Government shall use a Quarry in accordance with commonly accepted land use standards and shall endeavour to minimize interference with other uses of the Settlement Land;

18.2.6.3 on ending its use of a Quarry, Government shall, if required by the affected Yukon First Nation, restore the Quarry in accordance with commonly accepted land use standards including, as appropriate, clean-up, drainage, erosion control, re-contouring, overburden replacement, and replanting of vegetation so that the Quarry will blend in with the local landscape and vegetation; and

18.2.6.4 where a dispute arises over the use or restoration of a Quarry by Government, either Government or the affected Yukon First Nation may refer the dispute to the Surface Rights Board.

18.2.7 Where Government needs a Quarry and no suitable alternative Quarry is available on Non-Settlement Land in the surrounding area, a Yukon First Nation shall allow Government to establish and work a Quarry on Settlement Land which has not been identified under 18.2.2 or 18.2.5 and take Construction Materials required for public purposes from the Quarry under such terms and conditions as may be agreed by Government and the affected Yukon First Nation including compensation to that Yukon First Nation for the Construction Materials taken.



- 18.2.8 If the Yukon First Nation and Government are unable to reach agreement on Government's need for a Quarry or on whether there is a suitable alternative Quarry or on the terms and conditions for Government's use of a Quarry under 18.2.7 within 30 days of Government's request for the use of the Quarry, Government or the affected Yukon First Nation may refer the dispute to the Surface Rights Board.
- 18.2.9 When the Surface Rights Board determines that Government does not need a Quarry on Settlement Land or that a suitable alternative on Non-Settlement Land is available, the Surface Rights Board shall deny Government the right to work the Quarry.
- 18.2.10 Unless Government and the affected Yukon First Nation otherwise agree, Government may use Construction Materials removed from a Quarry on Settlement Land only for public purposes either within the Yukon or no further than 30 kilometres beyond the boundaries of the Yukon.

### **18.3.0 Access to Settlement Land for an Existing Mineral Right**

- 18.3.1 Subject to 6.6.0, any Person having an Existing Mineral Right, whether on Settlement Land or on Non-Settlement Land, has a right of access, for purposes of exercising that right, to cross and make necessary stops on Settlement Land without the consent of the affected Yukon First Nation if:
- 18.3.1.1 the access is of a casual and insignificant nature; or
  - 18.3.1.2 the route used is generally recognized and was being used for access on a regular basis, whether year round or intermittently, either,
    - (a) prior to public notification of the final land selection for that Yukon First Nation's Final Agreement, or
    - (b) where the land becomes Settlement Land after the Effective Date of the Yukon First Nation Final Agreement, on the date the land became Settlement Land,on the condition that the exercise of the right of access does not result in a significant alteration being made of that route.
- 18.3.2 Any Person having an Existing Mineral Right on Settlement Land has a right of access, for purposes of exercising that right, to use that Parcel of Settlement Land without the consent of the affected Yukon First Nation, where provided by Laws of General Application.

- 18.3.3 Any Person having an Existing Mineral Right on Settlement Land who does not have a right of access to Settlement Land under 18.3.1, or a right of access included in the right described in 5.4.2, has a right of access, for purposes of exercising that right, to cross and make necessary stops on Settlement Land with the consent of the affected Yukon First Nation or failing consent, with an order of the Surface Rights Board setting out the terms and conditions of access.
- 18.3.4 Any Person having an Existing Mineral Right on Non-Settlement Land who does not have a right of access to Settlement Land under 18.3.1, or a right of access included in the right described in 5.4.2, has a right of access, for purposes of exercising that right, to cross and make necessary stops on Settlement Land with the consent of the affected Yukon First Nation or failing consent, with an order of the Surface Rights Board setting out the terms and conditions.
- 18.3.5 The Surface Rights Board shall not make an order under 18.3.4 unless the Person seeking access satisfies the Board that:
- 18.3.5.1 the access is reasonably required; and
  - 18.3.5.2 such access is not also practicable and reasonable across Crown Land.
- 18.3.6 If the Surface Rights Board makes an order under 18.3.3 or 18.3.4, it may order compensation as a term or condition of access only if a private owner of land in similar circumstances would be entitled to compensation, and then only to the same extent.

#### **18.4.0 Access to Settlement Land for a New Mineral Right**

- 18.4.1 Subject to 6.6.0, any Person having a New Mineral Right on Category B or Fee Simple Settlement Land or on Non-Settlement Land has a right of access, for purposes of exercising that New Mineral Right, to cross and make necessary stops on Settlement Land without the consent of the affected Yukon First Nation if:
- 18.4.1.1 the access is of a casual and insignificant nature; or
  - 18.4.1.2 the route used is generally recognized and was being used for access on a regular basis, whether year round or intermittently, either,
    - (a) prior to public notification of the final land selection for that Yukon First Nation's Final Agreement, or

(b) where the land becomes Settlement Land after the Effective Date of the Yukon First Nation Final Agreement, on the date the land became Settlement Land,

on the condition that the exercise of the right of access does not result in a significant alteration being made of that route.

18.4.2 Subject to 6.6.0, any Person having a New Mineral Right on Category B or Fee Simple Settlement Land has a right of access, for purposes of exercising that New Mineral Right, to use that Parcel of Settlement Land without the consent of the affected Yukon First Nation if the exercise of the right of access does not require the use of heavy equipment or methods more disruptive or damaging to the land than hand labour methods.

18.4.3 Any Person having a New Mineral Right on Category B or Fee Simple Settlement Land who does not have a right of access under 18.4.1 or 18.4.2, or a right of access included in the right described in 5.4.2, has a right of access, for purposes of exercising that New Mineral Right, to use, cross and make necessary stops on Settlement Land with the consent of the affected Yukon First Nation or failing consent, with an order of the Surface Rights Board setting out the terms and conditions of access.

18.4.4 Any Person having a New Mineral Right on Non-Settlement Land who does not have a right of access under 18.4.1, or a right of access included in a right described in 5.4.2, has a right of access, for purposes of exercising that New Mineral Right, to cross and make necessary stops on Settlement Land with the consent of the affected Yukon First Nation or failing consent, with an order of the Surface Rights Board setting out the terms and conditions of access.

18.4.5 The Board shall not make an order pursuant to 18.4.4 unless the Person seeking access satisfies the Board that:

18.4.5.1 the access is reasonably required; and

18.4.5.2 the access is not also practicable and reasonable across Crown Land.

## **18.5.0 Application of Access Rights on Developed Settlement Land**

18.5.1 Subject to 18.5.2, the provisions of 18.3.0 and 18.4.0 do not apply to Developed Settlement Land.

18.5.2 Where the Mineral Right described in 18.3.0 or 18.4.0 is on a Parcel of Developed Settlement Land, any right of access provided under 18.3.0 or 18.4.0 applies on that Parcel.

## **18.6.0 Conditions of Access**

18.6.1 The rights of access provided by 18.3.1. and 18.4.1 are subject to the conditions that there shall be no:

- 18.6.1.1 significant damage to the Settlement Land or to improvements on the Settlement Land;
- 18.6.1.2 mischief committed on the Settlement Land;
- 18.6.1.3 significant interference with the use and peaceful enjoyment of the Settlement Land by the Yukon First Nation;
- 18.6.1.4 permanent structure erected on the Settlement Land;
- 18.6.1.5 fee or charge payable to the affected Yukon First Nation; or
- 18.6.1.6 compensation for damage other than for significant damage.

18.6.2 The rights of access provided by 18.3.2 and 18.4.2 are subject to the conditions that there shall be no:

- 18.6.2.1 unnecessary damage to the Settlement Land or significant damage to improvements on the Settlement Land;
- 18.6.2.2 mischief committed on the Settlement Land;
- 18.6.2.3 unnecessary interference with the use and peaceful enjoyment of the Settlement Land by the Yukon First Nation;
- 18.6.2.4 fee or charge payable to the affected Yukon First Nation; or
- 18.6.2.5 compensation for damage other than unnecessary damage to the Settlement Land or for significant damage to improvements on the Settlement Land.

18.6.3 A Person who fails to comply with the conditions in 18.6.1.1, 18.6.1.2, 18.6.1.3, 18.6.1.4, 18.6.2.1, 18.6.2.2 or 18.6.2.3 shall be considered a trespasser with respect to that incident of access.

## **18.7.0 Other Access Rights**

18.7.1 Nothing in this chapter shall be construed to prevent the holder of a Mineral Right from exercising a right of access pursuant to a Settlement Agreement.

## CHAPTER 19 - FINANCIAL COMPENSATION

### 19.1.0 Definitions

In this chapter, the following definitions shall apply.

"1989 Aggregate Value" means the amount set out in 19.2.1.

"Adjusted Final Share" means with respect to each Yukon First Nation,

- (i) if the Yukon First Nation's Final Agreement is signed within two years of the effective date of Settlement Legislation, the greater of A or B, where:

A equals that Yukon First Nation's Unadjusted Final Share multiplied by P multiplied by Q, where,

P equals  $(1.04)^N$ , where N is the number of years from August 15, 1989 to the most recent anniversary of August 15 prior to the date of signature of that Yukon First Nation's Final Agreement, and

Q equals 1.00 plus (0.04 multiplied by F and divided by 365), where F is the number of days from the most recent anniversary of August 15 prior to the date of signature of that Yukon First Nation's Final Agreement, to the date of signature of that Yukon First Nation's Final Agreement, and

B equals that Yukon First Nation's Unadjusted Final Share multiplied by the value of the Final Domestic Demand Implicit Price Index for the latest quarter prior to the signature of that Yukon First Nation's Final Agreement, and divided by the value of the Final Domestic Demand Implicit Price Index for the third quarter of 1989;

- (ii) if the Yukon First Nation's Final Agreement is signed later than two years after the effective date of Settlement Legislation, the greater of C or D, where:

C equals that Yukon First Nation's Unadjusted Final Share multiplied by R multiplied by S, where,

R equals  $(1.04)^M$ , where M is the number of years from August 15, 1989 to the most recent anniversary of August 15 prior to the second anniversary of the effective date of Settlement Legislation, and

S equals 1.00 plus (0.04 multiplied by G and divided by 365), where G is the number of days from the most recent anniversary of August 15 prior to the second anniversary of the effective date of Settlement Legislation, to the second anniversary of the effective date of Settlement Legislation, and

D equals that Yukon First Nation's Unadjusted Final Share multiplied by the value of the Final Domestic Demand Implicit Price Index for the third quarter of the year of the second anniversary of the effective date of Settlement Legislation, and divided by the value of the Final Domestic Demand Implicit Price Index for the third quarter of 1989.

For the purposes of this definition, the value of the Final Domestic Demand Implicit Price Index for any quarter shall be deemed to be the latest published value, at the time of the Yukon First Nation's Final Agreement, of the Final Domestic Demand Implicit price Index for that quarter.

"Average Discount Rate" means the arithmetic mean of the 15-year amortized Consolidated Revenue Fund Lending Rates for each month for the period commencing on the first day of the month of the signing of the First Yukon First Nation Final Agreement, and ending on the second anniversary of such day (25 months).

"Consolidated Revenue Fund Lending Rate" means the rate of that name established from time to time by the Department of Finance, Canada.

"First Yukon First Nation Final Agreement" means the Yukon First Nation Final Agreement signed between Canada, the Yukon and a Yukon First Nation on a date prior to which no Yukon First Nation Final Agreement has been signed.

"Loans" means:

the loans made by Canada to the Council for Yukon Indians or to the Yukon First Nations for the purpose of providing grants to Yukon Indian Elders pursuant to the 1984 Agreement-in-Principle with respect to providing Interim Benefits to Yukon Indian Elders, and any interest that has accrued thereon; and

loans made by Canada to the Council for Yukon Indians or a Yukon First Nation for the purpose of negotiating all agreements-in-principle and Settlement Agreements, and any interest that has accrued thereon.

"Unadjusted Final Share" means, for each Yukon First Nation, that Yukon First Nation's share of the 1989 Aggregate Value, determined according to Schedule A - Apportionment of the 1989 Aggregate Value attached to this chapter.

## **19.2.0 Financial Compensation**

19.2.1 The 1989 Aggregate Value shall be \$242.673 million. This amount is the financial compensation for all comprehensive claims in Canada by Yukon Indian People whether they are settled or not at the time of a Yukon First Nation Final Agreement.

19.2.2 Upon the Effective Date, each Yukon First Nation shall be entitled to its Adjusted Final Share payable as in 19.3.0 and 19.4.0.

## **19.3.0 Schedule of Payments Prior to the Determination of the Average Discount Rate**

19.3.1 For each Yukon First Nation which signs a Yukon First Nation Final Agreement prior to the determination of the Average Discount Rate, a preliminary schedule of payments shall be appended to its Yukon First Nation Final Agreement and shall be calculated by Canada as follows:

19.3.1.1 the schedule shall consist of 15 consecutive equal annual payments which shall have a present value on the date of the signature of the Yukon First Nation Final Agreement equal to the Adjusted Final Share;

19.3.1.2 the first payment of the schedule shall be on the date of the signature of the Yukon First Nation Final Agreement;

19.3.1.3 following the first payment, there shall be 14 consecutive equal annual payments on the anniversary dates of the signature of the Yukon First Nation Final Agreement;

- 19.3.1.4 for purposes of computing the present value of the payments to a Yukon First Nation under the preliminary schedule of payments, the discount rate shall be the arithmetic mean of the 15-year amortized Consolidated Revenue Fund Lending Rates for each month starting the month of the signature of the First Yukon First Nation Final Agreement and ending the month prior to the signature of that Yukon First Nation Final Agreement, or if that rate is not available, the latest available rate; and
- 19.3.1.5 for purposes of computing the present value of the payments in the preliminary schedule of the First Yukon First Nation Final Agreement, the discount rate shall be the 15-year amortized Consolidated Revenue Fund Lending Rate for the month prior to the signature of that Yukon First Nation Final Agreement or if that rate is not available, the latest available rate.
- 19.3.2 For each Yukon First Nation to which 19.3.1 applies:
- 19.3.2.1 subject to 19.3.2.3 and 19.3.2.4, Canada shall make the first payment on the Effective Date, and the amount of the payment shall be as established in 19.3.1 adjusted from the date of signature of the Yukon First Nation Final Agreement, to the date of payment by using the rate, compounded annually, calculated in 19.3.1.4 or 19.3.1.5, as the case may be;
- 19.3.2.2 following the first payment and until the second anniversary of the date of signature of the First Yukon First Nation Final Agreement, Canada shall make the subsequent yearly payments at the dates and in the amounts set out in the preliminary schedule of payments for that Yukon First Nation;
- 19.3.2.3 a Yukon First Nation Final Agreement may provide for an advance on the first payment to be made to the Yukon First Nation on the date of signature of the Yukon First Nation's Final Agreement; and
- 19.3.2.4 where an advance payment has been made pursuant to 19.3.2.3, Canada shall pay any balance of the first payment to the Yukon First Nation adjusted from the date of signature of the Yukon First Nation Final Agreement, to the date of payment by using the rate, compounded annually, calculated in 19.3.1.4 or 19.3.1.5, as the case may be.
- 19.3.3 For each Yukon First Nation to which 19.3.1 applies, Canada shall make its annual payments after the second anniversary of the signature of the First Yukon First Nation Final Agreement in accordance with a final schedule of payments to be calculated by Canada in the following manner.



- 19.3.3.1 An interim schedule shall be calculated as follows:
- (a) the schedule shall consist of 15 consecutive equal annual payments commencing on the date of the signature of that Yukon First Nation's Final Agreement; and
  - (b) the payments in the schedule shall have a present value on the date of signature of the Yukon First Nation Final Agreement equal to the Adjusted Final Share, calculated using the Average Discount Rate.
- 19.3.3.2 If payments calculated under the interim schedule are greater than the corresponding payments in the preliminary schedule of payments, the final schedule of payments shall be calculated by Canada as follows:
- (a) the schedule shall consist of 15 consecutive equal annual payments commencing on the date of the signature of that Yukon First Nation's Final Agreement;
  - (b) from the first payment until the most recent payment made prior to the calculation of the final schedule of payments, each payment in the final schedule shall be identical to the corresponding payment in the preliminary schedule;
  - (c) except for the next annual payment following the calculation of the final schedule of payments, each subsequent payment shall be identical to the corresponding payment of the interim schedule; and
  - (d) the amount of the next annual payment following calculation of the final schedule of payments shall be such that the present value of all payments in the final schedule of payments, calculated in the same manner as described in 19.3.3.1(b), shall equal the present value described in 19.3.3.1(b).
- 19.3.3.3 If payments calculated under the interim schedule defined in 19.3.3.1 are less than the corresponding payments in the preliminary schedule of payments, the final schedule of payments shall be calculated by Canada as follows:
- (a) the final schedule shall consist of 15 consecutive equal annual payments commencing on the date of the signature of that Yukon First Nation's Final Agreement;

- (b) from the first payment until the most recent payment actually made prior to the calculation of the final schedule of payments, each payment in the final schedule shall be identical to the corresponding payment in the preliminary schedule;
- (c) the amount of the next payment following the calculation of the final schedule shall be calculated by reducing the amount of the corresponding payment of the interim schedule by the amount necessary to satisfy 19.3.3.3 (e). If the result of this calculation is 50 percent or more than the payment under the preliminary schedule of payments, the payment shall be that amount. If the result of this calculation is less than 50 percent of the payment under the preliminary schedule of payments, the payment shall be 50 percent of the preliminary schedule of payments and in this case, the same operation shall apply to the calculation of the amount of the next following payment and to any further payments, if necessary, until the condition in 19.3.3.3(e) is satisfied;
- (d) each payment subsequent to the payments in 19.3.3.3(c) shall be identical to the corresponding payment in the interim schedule;  
and
- (e) the present value of all payments in the final schedule of payments, calculated in the same manner as described in 19.3.3.1(b), shall equal the present value described in 19.3.3.1(b).

**19.4.0 Schedule of Payments After the Determination of the Average Discount Rate**

19.4.1 For each Yukon First Nation which signs a Yukon First Nation Final Agreement on or after the determination of the Average Discount Rate, Canada shall, subject to 19.4.2, make its annual payment in accordance with a final schedule of payments to be appended to its Yukon First Nation Final Agreement and calculated by Canada as follows:

- 19.4.1.1 the schedule shall consist of 15 consecutive equal annual payments which shall have a present value on the date of the signature of the Yukon First Nation Final Agreement equal to the Adjusted Final Share;
- 19.4.1.2 the first payment of the schedule shall be on the date of the signature of the Yukon First Nation Final Agreement;
- 19.4.1.3 following the first payment, there shall be 14 consecutive equal annual

payments on the anniversary dates of the signature of the Yukon First Nation Final Agreement; and

19.4.1.4 for purposes of computing the present value of the payments in the schedule, the discount rate shall be the Average Discount Rate.

**Specific Provision**

19.4.1.5 The final schedule of payments is set out in Schedule B - Final Schedule of Payments, attached to this chapter.

19.4.2 For each Yukon First Nation to which 19.4.1 applies:

19.4.2.1 subject to 19.4.2.3 and 19.4.2.4, Canada shall make the first payment on the Effective Date, and the amount of the payment shall be as established in 19.4.1 adjusted from the date of signature of the Yukon First Nation Final Agreement to the date of payment by using the Average Discount Rate compounded annually;

19.4.2.2 following the first payment Canada shall make payments on the dates and in the amounts provided in 19.4.1;

19.4.2.3 a Yukon First Nation Final Agreement may provide for an advance on the first payment to be made on the date of signature of the Yukon First Nation's Final Agreement; and

**Specific Provision**

(a) On the date of the signature of this Agreement, Canada shall pay to Kluane First Nation an advance on the first payment to be made to Kluane First Nation, which advance shall be for the sum of \$1 Million.

19.4.2.4 where an advance payment has been made pursuant to 19.4.2.3, Canada shall pay any balance of the first payment to the Yukon First Nation adjusted from the date of signature of the Yukon First Nation Final Agreement, to the date of payment by using the Average Discount Rate, compounded annually.

19.4.3 If Canada is unable to make the second or the following payments on the

date of the anniversary of the signature of the Yukon First Nation Final Agreement pursuant to 19.4.2.2, the second or the following payments shall be adjusted as in 19.4.2.1 so as to satisfy 19.4.1.1.

### **19.5.0 Loans**

- 19.5.1 The Loans made to the Council for Yukon Indians prior to the date of signature of the First Yukon First Nation Final Agreement shall be prorated among the Yukon First Nations on the basis of Schedule A - Apportionment of the 1989 Aggregate Value attached to this chapter.
- 19.5.2 The Yukon First Nation which signs the First Yukon First Nation Final Agreement shall be liable only for its share of the Loans described in 19.5.1 and for Loans made directly to it, if any.
- 19.5.3 Loans made at any time after the date of signature of the First Yukon First Nation Final Agreement, shall be apportioned equally among the remaining Yukon First Nations that have not signed a Yukon First Nation Final Agreement.
- 19.5.4 A Yukon First Nation which signs its Yukon First Nation Final Agreement shall be liable for the following, unless otherwise agreed by Canada and that Yukon First Nation:
- 19.5.4.1 its share under 19.5.1;
  - 19.5.4.2 the aggregate of its shares apportioned under 19.5.3; and
  - 19.5.4.3 any Loans made directly to it.
- 19.5.5 Each Yukon First Nation Final Agreement shall set out the outstanding amount for which that Yukon First Nation is liable and shall establish a schedule of repayments commencing at the date of signature of that Yukon First Nation Final Agreement.

#### **Specific Provision**

- 19.5.5.1 The outstanding amount for which Kluane First Nation is liable, as calculated in accordance with 19.5.4.1 to 19.5.4.3 inclusive, is \$9,455,928.97 and the schedule of repayments is set out in Schedule C - Repayment of Loan Amounts, attached to this chapter.

- 19.5.6 The schedule of repayments of amounts due and payable by a Yukon First

Nation of Loans and interest due and payable pursuant to 19.5.7 shall provide that:

- 19.5.6.1 the amount of the first payment shall be 20 percent of the amount set out in 19.5.6.5;
  - 19.5.6.2 the amount of the second payment shall be 40 percent of the amount set out in 19.5.6.5;
  - 19.5.6.3 the amount of the third payment shall be 60 percent of the amount set out in 19.5.6.5;
  - 19.5.6.4 the amount of the fourth payment shall equal 80 percent of the amount set out in 19.5.6.5;
  - 19.5.6.5 the amount of the fifth to the eleventh payment shall be equal;
  - 19.5.6.6 the amount of the twelfth payment shall equal 80 percent of amount set out in 19.5.6.5;
  - 19.5.6.7 the amount of the thirteenth payment shall equal 60 percent of the amount set out in 19.5.6.5;
  - 19.5.6.8 the amount of the fourteenth payment shall equal 40 percent of the amount set out in 19.5.6.5; and
  - 19.5.6.9 the amount of the fifteenth payment shall equal 20 percent of the amount set out in 19.5.6.5.
- 19.5.7 The unpaid balance of the amounts of the Loans due and payable by a Yukon First Nation shall bear interest at the rate of six percent per annum calculated annually and not in advance from the date of the signature of that Yukon First Nation Final Agreement to the date of final repayment.
- 19.5.8 Canada shall set off against and deduct from each payment to be made to a Yukon First Nation pursuant to this chapter, the amount of repayment of the Loans to be made by that Yukon First Nation in accordance with the schedule of repayments referred in 19.5.6.
- 19.6.0 Loans Against Adjusted Final Share**
- 19.6.1 At any time after three years from the effective date of Settlement Legislation, a Yukon First Nation may request a loan from Canada against the then unpaid balance of its Adjusted Final Share.

19.6.2 The Minister of Finance may, at his discretion, negotiate with the Yukon First Nation the amount and terms and conditions of the requested loan.

**19.7.0 Advance Against Final Compensation**

19.7.1 The Council for Yukon Indians acknowledges the receipt of \$1 Million on May 29, 1989 as an advance on the 1988 Aggregate Value established in the 1989 Agreement-in-Principle.

19.7.2 The 1989 Aggregate Value set out in 19.2.1 was calculated by multiplying the 1988 Aggregate Value set out in the 1989 Agreement-in-Principle with the Council for Yukon Indians, by 1.0504, and subtracting from that amount \$1 Million multiplied by 1.02.

## SCHEDULE A

### APPORTIONMENT OF THE 1989 AGGREGATE VALUE

The apportionment of the 1989 Aggregate Value among the Yukon First Nations is:

Carcross/Tagish First Nation	\$ 17,687,553
Champagne and Aishihik First Nations	27,523,936
Dawson First Nation	21,811,002
Kluane First Nation	10,016,557
Kwanlin Dun First Nation	21,396,353
Liard First Nation	24,598,361
Little Salmon/Carmacks First Nation	15,568,239
First Nation of Nacho Nyak Dun	14,554,654
Ross River Dena Council	14,347,330
Selkirk First Nation	16,604,860
Ta'an Kwach'an Council	12,274,087
Teslin Tlingit Council	18,655,066
Vuntut Gwitchin First Nation	19,161,859
White River First Nation	<u>8,473,143</u>
1989 Aggregate Value	\$242,673,000

**SCHEDULE B**

**FINAL SCHEDULE OF PAYMENTS**

<b><u>Date</u></b>	<b><u>Payments</u></b>
On the date of signing the Agreement	\$1,466,053.00
On the first anniversary of the date of signing the Agreement	\$1,466,053.00
On the second anniversary of the date of signing the Agreement	\$1,466,053.00
On the third anniversary of the date of signing the Agreement	\$1,466,053.00
On the fourth anniversary of the date of signing the Agreement	\$1,466,053.00
On the fifth anniversary of the date of signing the Agreement	\$1,466,053.00
On the sixth anniversary of the date of signing the Agreement	\$1,466,053.00
On the seventh anniversary of the date of signing the Agreement	\$1,466,053.00
On the eighth anniversary of the date of signing the Agreement	\$1,466,053.00
On the ninth anniversary of the date of signing the Agreement	\$1,466,053.00
On the tenth anniversary of the date of signing the Agreement	\$1,466,053.00
On the eleventh anniversary of the date of signing the Agreement	\$1,466,053.00
On the twelfth anniversary of the date of signing the Agreement	\$1,466,053.00
On the thirteenth anniversary of the date of signing the Agreement	\$1,466,053.00
On the fourteenth anniversary of the date of signing the Agreement	\$1,466,053.00



**SCHEDULE C**

**REPAYMENT OF LOAN AMOUNTS**

<b><u>Payments</u></b>	<b><u>Date</u></b>
First Payment*	\$ 253,315.44 on the date of signing of the Agreement
Second Payment*	\$ 506,630.89 on the first anniversary of the date of signing the Agreement
Third Payment*	\$ 759,946.33 on the second anniversary of the date of signing the Agreement
Fourth Payment*	\$1,013,261.77 on the third anniversary of the date of signing the Agreement
Fifth Payment*	\$1,266,577.21 on the fourth anniversary of the date of signing the Agreement
Sixth Payment*	\$1,266,577.21 on the fifth anniversary of the date of signing the Agreement
Seventh Payment*	\$1,266,577.21 on the sixth anniversary of the date of signing the Agreement
Eighth Payment*	\$1,266,577.21 on the seventh anniversary of the date of signing the Agreement
Ninth Payment*	\$1,266,577.21 on the eighth anniversary of the date of signing the Agreement
Tenth Payment*	\$1,266,577.21 on the ninth anniversary of the date of signing the Agreement
Eleventh Payment*	\$1,266,577.21 on the tenth anniversary of the date of signing the Agreement
Twelfth Payment*	\$1,013,261.77 on the eleventh anniversary of the date of signing the Agreement
Thirteenth Payment*	\$ 759,946.33 on the twelfth anniversary of the date of signing the Agreement
Fourteenth Payment*	\$ 506,630.89 on the thirteenth anniversary of the date of signing the Agreement
Fifteenth Payment*	\$ 253,315.44 on the fourteenth anniversary of the date of signing the Agreement

\*The first payment of this loan repayment schedule shall be made on the Effective Date and the amount of the payment shall be adjusted from the date of signing of the Agreement to the Effective Date using an interest rate of 6% per annum, compounded annually. If the Effective Date occurs after the date appearing in the schedule for any given subsequent payment, the amount of such payment shall be adjusted from the specified payment date to the Effective Date using an interest rate of 6% per annum, compounded annually.



## **CHAPTER 20 - TAXATION**

### **20.1.0 Definitions**

In this chapter, the following definitions shall apply.

"Income Tax Act" means the federal Income Tax Act, S.C. 1970-71-72, c. 63 and the Income Tax Act, R.S.Y. 1986, c. 90, except as provided in 20.2.1, 20.4.11 and 20.4.18, 20.4.21, 7 of Schedule A and 1 of Schedule B.

"Minister" means the Minister of National Revenue or the Minister's delegate.

### **20.2.0 General**

20.2.1 Words and phrases used in this chapter shall be deemed to have the same meaning as in the federal Income Tax Act, S.C. 1970-71-72, c. 63.

20.2.2 Unless otherwise provided herein, the provisions of the Income Tax Act shall apply to the provisions of this chapter with such modifications as the circumstances require.

20.2.3 Unless otherwise provided herein, no provision in this chapter shall be construed to limit the application of the Income Tax Act.

20.2.4 The Income Tax Act shall be amended as required to provide for the implementation and enforcement of the provisions of this chapter.

### **20.3.0 Instalments of Compensation and Other Payments**

20.3.1 There shall be no federal, territorial or municipal tax or other similar charges exigible in respect of, or reduction to the capital cost or adjusted cost base of property acquired as a result of, the receipt by a Yukon First Nation, or the receipt by a Settlement Corporation that may be reasonably considered to be such a receipt, of the following amounts:

20.3.1.1 any payments made pursuant to 19.3.0 and 19.4.0;

20.3.1.2 any payments for property tax assistance made pursuant to 20.7.0;

20.3.1.3 any payments made pursuant to 20.6.5 and 20.6.6; and

20.3.1.4 any loan against the Adjusted Final Share described in 19.6.0.

20.3.2 Except as provided in 20.4.11 to 20.4.17 inclusive, there shall be no federal, territorial or municipal tax or other similar charges exigible from a Settlement Corporation.

20.3.3 Any income earned on an amount described in 20.3.1 received by a Person other than a Settlement Corporation shall be subject to federal, territorial or municipal tax or other similar charges as exigible under Laws of General Application.

#### **20.4.0 Settlement Corporations**

20.4.1 Each Yukon First Nation, alone or together with one or more other Yukon First Nations may create one or more Settlement Corporations, the main purpose of which shall be to carry out permitted activities and make permitted investments in accordance with this chapter, on condition that the Yukon First Nation complies with notification requirements set out from time to time by the Minister.

##### **Description**

20.4.2 A Settlement Corporation shall be a corporation without share capital, shall have a fiduciary obligation towards each member of the Yukon First Nation or Nations for which it was created, and shall be created and operated such that all or substantially all of its activities are for the general benefit of its members.

20.4.3 No contributions shall be made to a Settlement Corporation other than contributions made by:

20.4.3.1 a Yukon First Nation for which the Settlement Corporation was created; and

20.4.3.2 another Settlement Corporation created for the Yukon First Nation.

20.4.4 The aggregate amount of property contributed by a Yukon First Nation to one or more Settlement Corporations shall not exceed the sum of the payments received by the Yukon First Nation as described in 20.3.1.1 and shall be contributed to the Settlement Corporations no later than five years after receipt of the last payment referred to in 20.3.1.1 by the Yukon First Nation.

## **Disbursement Requirements**

- 20.4.5 A Settlement Corporation shall be subject to the disbursement rules, including the disbursement excess rules, applicable to public foundations under the Income Tax Act with such modifications as are required. Such rules shall not apply to a Settlement Corporation or its disbursements during the 15 years commencing on the date of payment by Canada of the first payment referred to in 19.3.0 to any of the Yukon First Nations for which that Settlement Corporation was created.
- 20.4.6 For the purposes of 20.4.5, the amount of any transfer or loan by a Settlement Corporation on activities permitted under Schedule A - Permitted Activities for Settlement Corporations attached to this chapter shall be considered to be a gift made to a qualified donee.

## **Qualified Investments**

- 20.4.7 Subject to 20.4.8 and 20.4.9, a Settlement Corporation shall restrict its investments to those:
- 20.4.7.1 made in the course of carrying on the activities permitted in Schedule A - Permitted Activities for Settlement Corporations attached to this chapter; or
  - 20.4.7.2 described in Schedule B - Qualified Investments attached to this chapter, as that Schedule is amended from time to time by agreement among the Yukon First Nation, the Minister of Finance of Canada and the Yukon.
- 20.4.8 Notwithstanding 20.4.9, no Settlement Corporation, either alone or as part of a group that includes another Settlement Corporation or a Yukon First Nation, shall control directly or indirectly, in any manner whatever, a corporation or other entity which carries on a business or whose primary activity is the making of investments, except to realize on a security held by the Settlement Corporation, in which case its controlling interest shall be disposed of within a reasonable period not to exceed two years.
- 20.4.9 A Settlement Corporation shall not invest in a partnership or a trust other than a small business investment limited partnership, a small business investment trust or a trust that is described in Schedule B - Qualified Investments attached to this chapter.
- 20.4.10 A Settlement Corporation may borrow money from time to time to finance the acquisition of qualified investments or otherwise to enable it to carry out its operations and may repay the borrowed money and interest thereon.

## Taxation of Settlement Corporations

- 20.4.11 In addition to 20.4.17, a Settlement Corporation shall be liable to pay the tax under Part XI of the federal Income Tax Act, S.C. 1970-71-72, c. 63 as if that Part were stated to be specifically applicable to Settlement Corporations.
- 20.4.12 For the purposes of the Income Tax Act, the taxable income of a Settlement Corporation for a taxation year shall be deemed to be an amount equal to the aggregate of the following amounts:
- 20.4.12.1 the amount of any income derived during the year by the Settlement Corporation from property, including any gain from the disposition of the property, other than property that is a qualified investment described in Schedule B - Qualified Investments attached to this chapter or that is acquired in the course of a carrying on a permitted activity under Schedule A - Permitted Activities for Settlement Corporations attached to this chapter;
  - 20.4.12.2 any amounts contributed or otherwise paid to the Settlement Corporation during that year, other than amounts,
    - (a) received from a Yukon First Nation or another Settlement Corporation as described in 20.3.1 and that are within the limitations contained in 20.4.3, or
    - (b) included in computing taxable income for the year under 20.4.12.1 or 20.4.12.3; and
  - 20.4.12.3 any amounts described in 20.4.13, 20.4.14, 20.4.19 and 20.4.22.
- 20.4.13 For the purposes of 20.4.12, if a Settlement Corporation makes a transfer or loan as part of an activity that is not permitted by Schedule A - Permitted Activities for Settlement Corporations attached to this chapter and such transfer or loan is made after the time referred to in 20.4.16, an amount equal to the amount of the transfer or the loan, divided by (1-A), shall be an amount referred to in 20.4.12.3 for the taxation year in which the loan or the transfer was made, where A is the aggregate of the federal and the Yukon tax rates applicable to public Corporations for that year before deducting the Yukon territorial abatement and including any surtaxes.

- 20.4.14 For the purposes of 20.4.12, if any time before the time referred to in 20.4.16, a Settlement Corporation makes a transfer or loan as part of an activity that is not permitted by Schedule A - Permitted Activities for Settlement Corporations attached to this chapter, where the Minister is satisfied having regard to all the circumstances that the Settlement Corporation did not take reasonable steps to correct the situation within the six-month period from receipt of written notice from the Minister of the non-permitted activity, the amount of the transfer or loan shall be an amount referred to in 20.4.12.3 in the taxation year of the Settlement Corporation in which the six-month period ends.
- 20.4.15 Where an activity referred to in 20.4.14 cannot, in the opinion of the Minister, be corrected, the Minister may waive the necessity of correction.
- 20.4.16 The time referred to in 20.4.13 or 20.4.14 shall be the later of five years after the date of signature of the Yukon First Nation Final Agreement of the Yukon First Nation for which it was created or the Yukon First Nation that made the first contribution to the Settlement Corporation, if created for more than one Yukon First Nation (in 20.4.16 the "relevant Yukon First Nation") and the time of receipt at which the sum of the payments received by the relevant Yukon First Nation equals at least one-third of the sum of the payments which it is entitled to receive pursuant to 19.3.0 and 19.4.0.
- 20.4.17 The tax payable for a taxation year by a Settlement Corporation upon its taxable income deemed by 20.4.12 shall be that percentage of its taxable income that is the maximum federal and Yukon territorial tax rate applicable to a public corporation for the year, plus any surtaxes to which public corporations may be liable for the year, and shall be determined without any deduction.

### **Revocation of Settlement Corporation Status**

- 20.4.18 Where the Minister is of the opinion that a Settlement Corporation has failed to comply with any provision in this chapter, the Minister may notify the Settlement Corporation in writing and if the Settlement Corporation does not address the default to the satisfaction of the Minister within 100 days after the registered mailing of such notice, the Minister may revoke the status of the corporation as a Settlement Corporation subject to the same right of appeal as that applicable in respect of a revocation of the registration of a registered charity as set out in the federal Income Tax Act, S.C. 1970-71-72, c. 63.

20.4.19 If the Minister revokes the status of a Settlement Corporation, the taxation year of the Settlement Corporation that would otherwise have included the time of revocation shall be deemed to end immediately before that time and the Settlement Corporation shall be deemed to have disposed of all its assets immediately before the time that is immediately before that time for proceeds of disposition equal to the fair market value thereof at that time and to have reacquired such assets at that time at a cost equal to such fair market value and, for the purposes of 20.4.12, an amount equal to the amount by which such fair market value exceeds the aggregate of:

20.4.19.1 amounts that may reasonably be considered to have been otherwise included in computing the taxable income of the Settlement Corporation in a taxation year under 20.4.12; and

20.4.19.2 amounts that may reasonably be considered to be a portion of the total amount of the payments to the relevant Yukon First Nation described in 20.3.1.1 that have been contributed to the Settlement Corporation by a Yukon First Nation or is deemed to be so contributed by virtue of 20.4.24,

shall be an amount deemed to be an amount referred to in 20.4.12.3 for the year.

20.4.20 For the purposes of 20.4.18, the distribution of any amount that may reasonably be considered to be payments referred to in 20.3.1 by a Settlement Corporation to Yukon Indian People shall not be considered as a cause for the revocation of the status of a Settlement Corporation.

20.4.21 Where a Settlement Corporation (in 20.4.21, the "transferor") has made a transfer or loan of any of its property, directly or indirectly or by means of a trust or by any other means whatever, to one or more Settlement Corporations or any other Person or partnership (in 20.4.21, the "transferee") and the Minister in the circumstances is satisfied that the main reason for the transfer or loan, but for this provision, is to avoid the payment of tax under 20.4.11 to 20.4.17, the transferor and the transferee shall be subject to the rules in section 160 of the federal Income Tax Act, S.C. 1970-71-72, c. 63 with such modifications as are required, provided that the Minister gives notice to the transferor and the transferee of the Minister's intention to apply this provision to a particular loan or transfer within two years of the end of the taxation year in which the particular transfer or loan was made.



## **Winding-Up**

- 20.4.22 Where a Settlement Corporation commences to be wound-up or liquidated or commences proceedings to be granted articles of continuance or similar corporate constitutional documents in a jurisdiction outside Canada, the taxation year of the Settlement Corporation that would otherwise have included the time of such commencement shall be deemed to end immediately before that time and the Settlement Corporation shall be deemed to have disposed of all its assets immediately before the time that is immediately before that time for proceeds of disposition equal to the fair market value thereof at that time and to have reacquired such assets immediately after the time at a cost equal to such fair market value and, for the purposes of 20.4.12, an amount equal to the amount by which such fair market value exceeds the aggregate of:
- 20.4.22.1 amounts that may reasonably be considered to have been otherwise included in computing the taxable income of the Settlement Corporation in a taxation year under 20.4.12;
  - 20.4.22.2 amounts that may reasonably be considered to be a portion of the total amount of the payments to the relevant Yukon First Nation described in 20.3.1.1 that have been contributed to the Settlement Corporation by a Yukon First Nation or are deemed to be so contributed by virtue of 20.4.24; and
  - 20.4.22.3 amounts paid or transferred on activities permitted under Schedule A - Permitted Activities for Settlement Corporations attached to this chapter by the Settlement Corporation within 24 months of the end of the year, shall be deemed to be an amount that is referred to in 20.4.12.3 for the year.

## **Taxation of Yukon Indian People or Yukon Indian Organizations**

- 20.4.23 There shall be no federal, territorial or municipal tax or other similar charge payable by a Yukon Indian Person, a Yukon First Nation, or any corporation or entity controlled, directly or indirectly in any manner whatever, by one or more Yukon Indian People or Yukon First Nations (collectively the recipient), on amounts disbursed or distributed to a recipient in accordance with Schedule A - Permitted Activities for Settlement Corporations attached to this chapter, except for 11 and 12(e) of that Schedule, other than amounts disbursed or distributed to a recipient as consideration for value provided to the Settlement Corporation by that recipient.

20.4.24 For the purposes of this chapter, where a particular property is contributed by one Settlement Corporation (the "transferor" in 20.4.24) to one or more Settlement Corporations (the "transferee" in 20.4.24) the transferor and the transferee shall each file a copy of a joint designation with their tax returns for the year of the transfer designating an amount, if any, in respect of the property so transferred. After the time of the transfer, in applying the provisions of this chapter including, without limiting 20.4.24 to the transferor or any transferee, the designated amount shall be deemed to be a contribution received by the transferee from a Yukon First Nation and shall reduce the amount that would otherwise be the amount of contributions received by the transferor from the Yukon First Nation, provided that the designated amount shall not exceed:

20.4.24.1 the amount of contributions received by the transferor at any time before the transfer of the particular property from the Yukon First Nation; and

20.4.24.2 the amount of any deemed contributions received by the transferor from the Yukon First Nation by virtue of 20.4.24.

## **20.5.0 Acquisition and Disposition of Real Property**

20.5.1 The cost of acquisition to a Yukon Indian Person or to a Yukon First Nation of any real property, including Settlement Land, other than depreciable property, transferred to it by Canada pursuant to a Settlement Agreement shall, for the purposes of the Income Tax Act, be deemed to be an amount equal to the fair market value thereof at the earlier of the time at which title to such land or property or both is registered in the name of the Yukon Indian Person or the Yukon First Nation and the time at which any right or interest in such property is acquired by the Yukon Indian Person or Yukon First Nation.

20.5.2 Where any real property, including Settlement Land, acquired under the Settlement Agreement, other than depreciable property, is disposed of by a Yukon First Nation (in 20.5.2, the "transferor"):

20.5.2.1 to a Yukon Indian Person (in 20.5.2 the "transferee"), and such real property has not previously been disposed of by any organization to another Yukon Indian Person; or

20.5.2.2 within 10 years of the transfer of Settlement Land to the Yukon First Nation, to another Yukon First Nation (the transferee),

the real property shall, for the purposes of the Income Tax Act, be deemed to have been disposed of by the transferor for proceeds of disposition equal to the greater of the amount that would otherwise be the proceeds of disposition and the adjusted cost base to the transferor of the real property at that time and to have been acquired by the transferee at a cost equal to the amount at which it was deemed to have been disposed.

### **Depreciable Property**

- 20.5.3 The rules of 20.5.2 shall apply to depreciable property with such modifications as the circumstances require.
- 20.5.4 In the event that Yukon First Nations have income from, or proceeds from the disposition of, any Canadian resource property relating to Settlement Land, an amount of such income or proceeds equal to the amount if any, by which \$20 million exceeds the aggregate of amounts of such income or proceeds previously received by any Yukon First Nation, shall be exempt from all federal, territorial or municipal tax or other similar charge or levy.

### **Taxes on Transfer of Settlement Land**

- 20.5.5 No federal, territorial or local government tax, or other similar charges shall be payable in respect of the transfer or registration of the initial title to Fee Simple Settlement Land and the title to the Mines and Minerals of Category A Settlement Land.
- 20.5.6 Registration pursuant to the Land Titles Act, R.S.C. 1985, c. L-5, of the initial title of Category A and Category B Settlement Land and subsequent registrations of all Settlement Land shall be subject to the schedule of fees or taxes under such Act.

### **20.6.0 Taxation Principles**

- 20.6.1 As of the third anniversary of the effective date of Settlement Legislation, section 87 of the Indian Act, R.S.C. 1985, c. I-5, shall not apply to:
  - 20.6.1.1 the interest in a Reserve or surrendered land in the Yukon of any Indian, Yukon First Nation or Band;
  - 20.6.1.2 the personal property situated on a Reserve in the Yukon of any Indian, Yukon First Nation or Band; and

- 20.6.1.3 the personal property situated on a Reserve outside the Yukon of a Yukon First Nation or a Yukon Indian Person resident in the Yukon, and the residency shall be defined in the regulations established pursuant to 20.6.3.
- 20.6.2 For all purposes of section 87 of the Indian Act, R.S.C. 1985, c. I-5, all settlement benefits and proceeds arising from the use and disposition of settlement benefits and any income of a Yukon Indian Person or a Yukon First Nation attributable directly or indirectly thereto shall be deemed not to be situated on a Reserve.
- 20.6.3 Settlement Legislation shall provide that Government, after Consultation with the Council for Yukon Indians, may make such amendments to statutes or regulations as are necessary for the purpose of giving effect to and enforcing provisions of 20.6.1 and 20.6.2.
- 20.6.4 The provisions of 20.6.0 shall not be construed to affect the authority of Parliament to amend or repeal section 87 of the Indian Act, R.S.C. 1985, c. I-5.
- 20.6.5 In 20.6.5, the Adjusted Value means the greater of the amount calculated in (a) or (b) multiplied by the value of the Final Domestic Demand Implicit Price Index for the latest quarter prior to the third anniversary of the effective date of Settlement Legislation and divided by the value of the Final Domestic Demand Implicit Price Index for the second quarter of 1990:
- (a) \$12.6 million multiplied by 1.03,
  - (b) \$12.6 million multiplied by the value of the Final Domestic Demand Implicit Price Index for the second quarter of 1990 and divided by the value of the Final Domestic Demand Implicit Price Index for the third quarter of 1989.
- 20.6.5.1 As soon as practicable after the third anniversary of the effective date of Settlement Legislation, Canada shall pay to each Yukon First Nation its share of the Adjusted Value prorated on the same basis as in Schedule A - Apportionment of the 1989 Aggregate Value attached to Chapter 19 - Financial Compensation.
- 20.6.6 In 20.6.6, the Adjusted Value means the greater of the amount calculated in (a) or (b) multiplied by the value of the Final Domestic Demand Implicit Price Index for the latest quarter prior to the third anniversary of the effective date of Settlement Legislation and divided by the value of the Final Domestic Demand Implicit Price Index for the second quarter of 1990:

- (a) \$13.97 million multiplied by 1.03,
  - (b) \$13.97 million multiplied by the value of the Final Domestic Demand Implicit Price Index for the second quarter of 1990 and divided by the value of the Final Domestic Implicit Price Index for the third quarter of 1989.
- 20.6.6.1 Upon the third anniversary of the effective date of Settlement Legislation, each Yukon First Nation shall be entitled to its share of the Adjusted Value as established pursuant to 20.6.7.
- 20.6.6.2 Canada shall make its annual payment in accordance with a schedule of payments to be calculated by Canada as follows,
  - (a) the schedule shall consist of 10 consecutive equal annual payments which shall have a present value on the third anniversary of the effective date of Settlement Legislation equal to each Yukon First Nation's share of the Adjusted Value as determined pursuant to 20.6.6.1,
  - (b) the first payment shall be on the third anniversary of the effective date of Settlement Legislation,
  - (c) following the first payment, there shall be nine consecutive equal annual payments on the anniversary date of the effective date of Settlement Legislation, and
  - (d) for purposes of computing the present value of the payments in the schedule, the discount rate shall be the nine-year amortized Consolidated Revenue Fund Lending Rate for the month prior to the third anniversary of the effective date of Settlement Legislation.
- 20.6.6.3 Canada shall make the first payment to each Yukon First Nation as soon as practicable after the third anniversary of the effective date of Settlement Legislation. The amount of the first payment shall be as established in 20.6.6.2 adjusted from the third anniversary of the effective date of Settlement Legislation to the date of payment by using the rate described in 20.6.6.2 (d), compounded annually.
- 20.6.7 The Council for Yukon Indians and the Yukon First Nations have agreed that the annual amount described in 20.6.6.2 is to be allocated among the Yukon First Nations on the same basis as the apportionment of the 1989 Aggregate Value described in Schedule A - Apportionment of the 1989 Aggregate Value attached to Chapter 19 - Financial Compensation.

- 20.6.8 The moratorium on collection of taxes shall be rescinded on the third anniversary of the effective date of Settlement Legislation.
- 20.6.9 There shall be remission orders sponsored by the Minister of Indian Affairs and Northern Development and by the Yukon eliminating liability for all taxes not collected under the moratorium on collection of taxes, on the third anniversary of the effective date of Settlement Legislation.

### **20.7.0 Property Tax Assistance**

- 20.7.1 During a 10-year transitional period beginning with the year following the year in which a Yukon First Nation Final Agreement is signed, Canada shall assist that Yukon First Nation with the payment of Property Taxes on any Settlement Land of that Yukon First Nation that are subject to Property Taxes while owned by that Yukon First Nation, net of any homeowner's grants. The assistance shall be 100 percent in year one, decreasing by 10 percentage points per year, to 10 percent in year 10. During such time, Canada shall have the same rights in respect of any assessment of taxes as a property owner.

### **20.8.0 Administration and Enforcement**

#### **Responsible Department**

- 20.8.1 The Minister shall be responsible for the administration and enforcement of the provisions of this chapter that relate to income taxation and to that end the Minister may seek the advice of the Minister of Indian Affairs and Northern Development and the Office of Superintendent of Financial Institutions with respect to any matter arising out of these provisions.

#### **Report**

- 20.8.2 Every Settlement Corporation shall produce every year a report in a form acceptable to the Minister from a public accountant who has audited the Settlement Corporation providing the Minister with the information required to administer the provisions of this chapter.

## SCHEDULE A

### PERMITTED ACTIVITIES FOR SETTLEMENT CORPORATIONS

1. For the purposes of this schedule a low income person is a person whose total family income is less than 75 percent of the average of all households in the Yukon as published in the last available Statistics Canada Census publication.

#### **Program Funding and Administration**

2. Supplementing existing federally or territorially funded programs relating to child care, adoption, alcohol and drug abuse, hospital construction or upgrading, medical, dental and mental health care, justice and similar programs and initiating, funding and administering new programs in those areas.

#### **Housing and Municipal and Local Taxes Assistance**

3. Funding or providing:
  - a) low interest or no interest mortgages or other loans to low income people to enable them to acquire freehold or leasehold interests in residential properties in the Yukon;
  - b) grants or forgivable loans to low income people to enable them to make down payments on conventional purchases of residential properties in the Yukon;
  - c) funds for the construction, operation and administration of subsidized cooperative or communal housing for low income people in the Yukon;
  - d) funds for the renovation or repair of residential properties owned or leased by low income people in the Yukon; and
  - e) financial assistance to low income people to enable them to pay municipal or other local taxes on improved Settlement Land.

#### **Municipal Services Upgrading**

4. Funding and administering municipal services and utilities upgrading programs for the benefit of Yukon Indian People.

## **Yukon First Nation Assistance**

5. Funding to Yukon First Nations for reasonable management and personnel costs.

## **Education and Training**

6. Funding and providing:
  - a) courses for non-native and native teachers and other instructors to enable them to conduct courses in native culture, language and similar areas;
  - b) training for Yukon Indian elders to enable them to participate in the delivery of native culture and language instructional programs;
  - c) native studies, culture and language programs for "school age" and adult people;
  - d) scholarships and reimbursement of other expenses for juvenile and adult Yukon Indian People to enable them to attend conventional educational institutions within and outside the Yukon;
  - e) vocational training and similar programs and facilities for youth and adults within and outside the Yukon;
  - f) native language and cultural education teaching and research programs; and
  - g) training for justices of the peace and other persons employed in connection with the implementation of an Indian justice program.

## **Economic Development**

7. Providing loans at a rate of interest not to exceed the prescribed rate in effect at the time of the making of the loan for the purpose of computing employee benefits from low interest loans, under the federal Income Tax Act, S.C. 1970-71-72, c. 63, loan guarantees or minority equity investment to Persons or entities, other than a corporation which is controlled, directly or indirectly, by one or more Settlement Corporations, engaged in the promotion of economic development opportunities for Yukon Indian People within the Yukon provided that:



- a) the Persons or entities are unable to borrow at normal commercial rates from ordinary commercial lenders or government financial programs without guarantees provided by the Settlement Corporation; and
- b) the Settlement Corporation may not acquire a controlling equity interest in an entity except by way of realization of its security in which case its controlling interest in the entity shall be disposed of within a reasonable period, not to exceed two years, of its acquisition.

### **Commercial Fishing**

- 8. Providing loans or equity to Persons or entities for the creation and operation of fish enhancement programs and a fishing enterprise for the benefit of Yukon Indian People provided that such loans meet the requirements set out in Article 7 of this Schedule.

### **Traditional Harvesting and Cultural Activities**

- 9. Providing loans or equity to Persons or entities for traditional harvesting and cultural activities including manufacture of handicrafts, arts and crafts, hunting, fishing and trapping and like pursuits provided that:
  - a) the Person or entities are unable to borrow at normal commercial rates from ordinary commercial lenders without guarantees provided by the Settlement Corporation;
  - b) the Settlement Corporation may not acquire a controlling equity interest in any entity except by way of realization of its security in which case its controlling interest in the entity shall be disposed of within one year of its acquisition; and
  - c) the Settlement Corporation does not contract to receive a rate of return on any such loan greater than the normal commercial rate of return for similar investments.

### **Recreational Lands and Facilities**

- 10. Funding and administering parks and other recreational facilities such as skating rinks, arenas, libraries, assembly halls and similar municipal facilities that are not for commercial use.

### **Elders Assistance Program**

11. Providing funding to confer benefits on Yukon Indian People who are at least 65 years of age at the Effective Date of the Yukon First Nation Final Agreement or who turn 65 within the five years following the Effective Date of the Yukon First Nation Final Agreement, provided such benefits do not exceed \$3000 per individual per year in 1988 dollars indexed in the same manner as Canada old age security.

### **Other Permitted Costs and Disbursements by a Settlement Corporation**

12.
  - a) settlement costs;
  - b) costs to implement the Settlement Agreements;
  - c) payment of reasonable administrative costs not to exceed five percent of the assets of the Settlement Corporation annually for the first five years after the effective date of Settlement Legislation and three percent per year thereafter;
  - d) transfers to other Settlement Corporations or to registered charities;
  - e) transfers to a low income Yukon Indian Person; and
  - f) within the first 15 years of a Yukon First Nation Final Agreement, capital distributions to Yukon Indian People not exceeding a total of \$3,000 per person in 1988 dollars to be indexed by the Consumer Price Index.
13. A Settlement Corporation may borrow money from time to time to carry out activities under this Schedule and may repay the borrowed money and interest thereon.

**SCHEDULE B**

**QUALIFIED INVESTMENTS**

1. Qualified investments for a trust governed by a Registered Retirement Savings Plan within the meaning of section 146 (1)(g) of the federal Income Tax Act, S.C. 1970-71-72, c. 63.



## **CHAPTER 21 - TAXATION OF SETTLEMENT LAND**

### **21.1.0 Definitions**

In this chapter, the following definitions shall apply.

"Improved Rural Settlement Land" means Settlement Land outside a Community Boundary which is used for commercial purposes or which contains a permanent structure other than a cabin, camp, tent frame, cache, fish rack, or other like improvement which is used primarily for trapping or non-commercial Wildlife Harvesting or other traditional purposes.

"Unimproved Rural Settlement Land" means Settlement Land outside a Community Boundary other than Improved Rural Settlement Land.

"Government" means local, territorial or federal government, as the case may be.

"Yukon First Nation Corporation" means a corporation owned or controlled by a Yukon First Nation.

### **21.2.0 Application of Certain Laws**

21.2.1 Fee Simple Settlement Land shall be subject to Laws of General Application respecting Property Taxes, and Government and a Yukon First Nation may agree in a self-government agreement negotiated pursuant to Chapter 24 - Yukon Indian Self-Government that Fee Simple Settlement Land is also subject to the power of the Yukon First Nation to levy and collect fees for the use or occupation of Settlement Land, including property taxes.

21.2.2 Any residence of a Yukon Indian Person which is occupied as a personal residence on Fee Simple Settlement Land, and which otherwise meets the criteria, shall be deemed to be owner-occupied for the purposes of any homeowner's grant programs available from time to time, notwithstanding that title to the lands on which the residence is situated, is held by a Yukon First Nation or Yukon First Nation Corporation.

21.2.3 Unimproved Rural Settlement Land is exempt from Property Taxes.

- 21.2.4 Unless the parties to a Yukon First Nation Final Agreement otherwise agree, in the event a Community Boundary is altered so as to encompass a Parcel of Unimproved Rural Settlement Land, the tax exempt status of the Parcel shall not change until an agreement with respect to Local Government Services has been entered into for that Parcel between the Yukon First Nation and Government.
- 21.2.5 Except as otherwise provided in a Yukon First Nation Final Agreement or in a self-government agreement negotiated pursuant to Chapter 24 - Yukon Indian Self-Government, all other Settlement Land shall be subject to Laws of General Application respecting Property Taxes as if such lands were equivalent private property.

**Specific Provision**

- 21.2.5.1 Specific provisions in respect of Property Taxes are also set out in the Kluane First Nation Self-Government Agreement.
- 21.2.5.2 For the purposes of this Agreement, the Community Boundaries of Burwash Landing and Destruction Bay are as shown on Map Sheets 115 G/2, 115 G/6 and 115 G/7, in Appendix B - Maps, which forms a separate volume to this Agreement.
- 21.2.5.3 Subject to 21.2.5.4 and 21.2.5.5, Category A and Category B Settlement Land of Kluane First Nation within the Community Boundaries of Burwash Landing and Destruction Bay, shall be exempt from Property Taxes.
- 21.2.5.4 The whole or any part of a Parcel of Category A or Category B Settlement Land of Kluane First Nation within the Community Boundaries of Burwash Landing and Destruction Bay which is reasonably associated with an improvement shall be subject to Laws of General Application respecting Property Taxes as if such lands were equivalent private property.
- 21.2.5.5 The whole or any part of a Parcel of Category A or Category B Settlement Land of Kluane First Nation within the Community Boundaries of Burwash Landing and Destruction Bay which is reasonably associated with a commercial use for any portion of a year shall be subject to Laws of General Application respecting Property Taxes for all of that year as if such lands were equivalent private property.

21.2.5.6 Factors to be considered in determining the parts of Category A or Category B Settlement Land of Kluane First Nation within the Community Boundaries of Burwash Landing and Destruction Bay that are reasonably associated with an improvement or with a commercial use include, but are not limited to, the following:

- (a) the area and location of the land associated with the use or improvement;
- (b) the area authorized by Kluane First Nation for the use or the improvement;
- (c) the area of parcels of land typically associated with similar uses or improvements in similar locations; and
- (d) existing boundaries, surveyed or otherwise, delineated on or within Settlement Land.

21.2.5.7 For greater certainty, in 21.2.5.4 to 21.2.5.6 "improvement" and "commercial" have the meanings assigned in the Laws of General Application respecting Property Taxes and if no definitions exist, then such terms shall have their ordinary meaning.

### **21.3.0 Arrears**

21.3.1 Notwithstanding Laws of General Application, Settlement Land held by a Yukon First Nation or any Yukon First Nation Corporation shall not be subject to attachment, seizure or sale for non-payment of Property Taxes. If Property Taxes owing on such Settlement Land remain unpaid for more than two years, the taxing authority may withdraw the delivery of any or all services to such Settlement Land until the outstanding Property Taxes have been paid.

21.3.2 Unless the parties to a Yukon First Nation Final Agreement otherwise agree, if the Property Taxes remain unpaid on Settlement Land six months after the withdrawal of any Local Government Services under 21.3.1, the taxing authority may attach the assets of that Yukon First Nation or any Yukon First Nation Corporation of that Yukon First Nation in addition to all other remedies including the filing of a lien or other instrument against such Settlement Land.

- 21.3.3 Unless the parties to a Yukon First Nation Final Agreement otherwise agree, if arrears under any agreement negotiated between the Yukon First Nation and Government for the provision of Local Government Services on Settlement Land remain unpaid for a period of six months, Government may withdraw any or all such services to such land until the outstanding arrears have been paid.
- 21.3.4 Unless the parties to a Yukon First Nation Final Agreement otherwise agree, if the arrears remain unpaid six months after the withdrawal of services under 21.3.3, Government may, without the consent of the Yukon First Nation or any Yukon First Nation Corporation, refer the matter to the dispute resolution process under 26.3.0.

#### **21.4.0 Determination of Rates**

- 21.4.1 Yukon First Nation Final Agreements shall provide for Yukon First Nations or any Yukon First Nation Corporation to pay similar rates for user-pay Local Government Services as are paid by property owners in the same or similar communities.

##### **Specific Provision**

- 21.4.1.1 Unless otherwise agreed between Kluane First Nation, the Yukon and any future municipality of Burwash Landing or Destruction Bay, Kluane First Nation and any corporation owned or controlled by Kluane First Nation shall pay the same rates for user-pay Local Government Services in respect of Settlement Land within the Community Boundaries as are paid by owners of property within the Community Boundaries of Burwash Landing or Destruction Bay.
- 21.4.1.2 For greater certainty, any residence of a Yukon Indian Person which is occupied as a personal residence on Kluane First Nation Settlement Land within the Community Boundaries of Burwash Landing or Destruction Bay and which otherwise meets the appropriate criteria shall be deemed to be owner-occupied for the purpose of determining the appropriate rates to be paid for user-pay Local Government Services notwithstanding that the land on which the residence is situated is owned by Kluane First Nation or a corporation owned or controlled by Kluane First Nation.
- 21.4.1.3 In addition to the specific provisions set out in this Agreement, specific provisions in respect of user-pay Local Government Services shall be set out in the Kluane First Nation Self-Government Agreement.



## **21.5.0 Grants in Lieu**

21.5.1 Notwithstanding Chapter 2 - General Provisions, Canada shall cease to make grants in lieu of taxes to the Yukon or Yukon municipalities in relation to a parcel of Land Set Aside upon the cancellation of the notation in respect of that parcel pursuant to 4.2.0.

## **21.6.0 Outstanding Property Taxes**

21.6.1 Prior to the ratification of a Yukon First Nation Final Agreement, Government and the Yukon First Nation shall resolve the issue of outstanding Property Taxes on Settlement Land.

### **Specific Provision**

21.6.1.1 Kluane First Nation shall not be liable for any Property Taxes that are outstanding as at the Effective Date of this Agreement in respect of Kluane First Nation Settlement Land.

21.6.1.2 For greater certainty, a Person who is not a Kluane Person and who occupied land prior to the Effective Date of this Agreement that on the Effective Date of this Agreement became Kluane First Nation Settlement Land continues to be liable in accordance with the Laws of General Application for Property Taxes outstanding as at the Effective Date of this Agreement.

21.6.1.3 Any remedies available to Government under Laws of General Application and 21.3.1 and 21.3.2 of this Agreement for non-payment of the amounts referred to in 21.6.1.2 shall not be exercised against an interest in Settlement Land of Kluane First Nation or a Yukon First Nation Corporation owned or controlled by Kluane First Nation.

21.6.2 Notwithstanding 21.6.1, Government shall not collect Property Taxes on Unimproved Rural Settlement Land outstanding at the Effective Date of a Yukon First Nation Final Agreement.



## **CHAPTER 22 - ECONOMIC DEVELOPMENT MEASURES**

### **22.1.0 Objectives**

22.1.1 The objectives of this chapter are as follows:

- 22.1.1.1 to provide Yukon Indian People with opportunities to participate in the Yukon economy;
- 22.1.1.2 to develop economic self-reliance for Yukon Indian People; and
- 22.1.1.3 to ensure that Yukon Indian People obtain economic benefits that flow directly from the Settlement Agreements.

### **22.2.0 General**

- 22.2.1 Nothing in a Settlement Agreement shall be construed to prevent a Yukon First Nation or a Yukon Indian Person from accessing and making use of economic development programs of general application to a Yukon resident and a Canadian citizen.
- 22.2.2 Except as otherwise agreed in a Yukon First Nation Final Agreement, nothing in this chapter shall be construed to impose any financial obligation on Government.
- 22.2.3 Measures identified in this chapter shall take into consideration Government fiscal responsibility and economic objectives.

### **22.3.0 Yukon First Nation Final Agreements**

- 22.3.1 As soon as practicable after the completion of the implementation plan for a Yukon First Nation Final Agreement, the parties to each Yukon First Nation Final Agreement shall develop a plan for Yukon Indian People to take advantage of economic development opportunities generated by that Settlement Agreement, which plan may be completed either before or after a Yukon First Nation Final Agreement.
- 22.3.2 The plans shall include recommendations to:
  - 22.3.2.1 maximize opportunities for training and identify the experience that Yukon Indian People will require to take advantage of the economic opportunities generated by Settlement Agreements;

- 22.3.2.2 maximize the use of available financial and technical resources; and
- 22.3.2.3 identify the funding requirements and measures necessary to stimulate community level economic activity.

22.3.3 Each Yukon First Nation Final Agreement shall provide for specific economic measures which shall address:

- 22.3.3.1 access to employment and contract opportunities for Yukon Indian People generated as a direct consequence of the Settlement Agreements;
- 22.3.3.2 access to employment and contract opportunities for Yukon Indian People generated as a direct consequence of the land and resource management regime set out in the Umbrella Final Agreement;
- 22.3.3.3 participation by Yukon Indian People in harvesting activities; and
- 22.3.3.4 the interest of Yukon First Nations in strategic investments in areas such as transportation, culture, communication, agriculture, renewable resource services, energy resources, industry and tourism.

**Specific Provision**

- 22.3.3.5 Certain of the specific economic measures required by 22.3.3 are set out in Part I of Schedule A - Economic Measures, attached to this chapter, and others are located elsewhere in this Agreement.

- 22.3.4 Unless otherwise agreed in a Yukon First Nation Final Agreement, participation of Yukon Indian People in contracts identified pursuant to 22.3.3.1 and 22.3.3.2 shall be on a competitive basis.
- 22.3.5 Unless otherwise agreed in a Yukon First Nation Final Agreement, participation of Yukon Indian People in employment opportunities pursuant to 22.3.3.1 and 22.3.3.2 shall be based on appropriate qualifications or experience.
- 22.3.6 Each Yukon First Nation Final Agreement shall set out a process for allocation to that Yukon First Nation of licences, permits or grants for outfitting, commercial fishing other than salmon fishing, or other uses of natural resources.

### **Specific Provision**

22.3.6.1 The process required by 22.3.6 is set out in Part II of Schedule A - Economic Measures, attached to this chapter.

22.3.7 The allocation of a licence, permit or grant provided under 22.3.6 shall be in accordance with the following conditions:

22.3.7.1 an existing licence, permit or grant shall continue in force for the present holder; and

22.3.7.2 renewals or assignments shall not be affected if the present holder is otherwise entitled to renew or assign.

### **22.4.0 Employment Opportunities**

22.4.1 Where public service employment opportunities exist, Government shall assist in facilitating training and professional development of Yukon Indian People so that they will have access to such employment opportunities, with particular emphasis on increasing over a reasonable period of time the number of Yukon Indian People in technical, managerial and professional positions within the public service.

22.4.2 The Yukon and Yukon First Nations jointly shall explore ways to make apprenticeship programs more flexible, and to promote greater participation by Yukon Indian People in such programs, and shall examine other means of providing training for employment.

### **22.5.0 Contracting**

22.5.1 The Yukon, at the time it publicly invites tenders, shall provide written notice to those Yukon First Nations who have indicated a wish to be advised of public tenders. Where bidders' lists or similar methods are used, the Yukon shall notify those Yukon First Nations who have indicated their interest in contracting and their ability to supply the tendered goods or services.

22.5.2 Any failure to provide notice pursuant to 22.5.1 shall not affect the public tender process or the contract awards resulting therefrom.

22.5.3 The Yukon shall provide information on a regular basis to Yukon First Nations on contracts awarded which were not advertised for public tender.

- 22.5.4 For contracts to be awarded in the Yukon, Canada undertakes to include on contract lists those qualified Yukon First Nations who have indicated an interest in contracting.
- 22.5.5 A Yukon First Nation may request information from a federal contracting authority on contracts awarded in the Yukon. Where such information is publicly available, the authority shall make all reasonable efforts to provide the requested information.
- 22.5.6 At the request of Yukon Indian People, Government shall provide information on how to access Government supply and services contracts and standing offers, and how to register on lists or inventories which Government uses for contracting.
- 22.5.7 Where practicable, provision of information in 22.5.6 shall be through seminars and workshops.
- 22.5.8 Government shall ensure that Yukon Indian People and Yukon First Nations' corporations are advised on how to access Government contracting, and that such individuals and businesses are given full opportunity to be registered on any lists or inventories Government uses for contracting purposes.
- 22.5.9 Any criteria for northern preference in contracting shall not exclude Yukon Indian People.
- 22.5.10 The Yukon shall, where reasonable, make best efforts to structure contracts, on both Settlement Land and Non-Settlement Land, so that they are of a size manageable by small businesses.
- 22.6.0 Public Corporations**
- 22.6.1 Subject to 22.2.0, Government shall assist Yukon Indian People to make investments in public corporations.
- 22.6.2 The Yukon shall ensure that the Board of Directors of the Yukon Development Corporation is generally representative of the Yukon population.
- 22.6.3 The Yukon shall make best efforts to structure the Board of Directors of the Yukon Energy Corporation so that at least one-quarter of the directors are Yukon Indian People.

- 22.6.4 Yukon First Nation corporations may participate with the Yukon Development Corporation in economic opportunities, and such participation may include, but is not limited to, joint ventures, partnerships and equity participation in subsidiary corporations.
- 22.6.5 Yukon First Nations shall be offered an opportunity to participate in all ventures where the Yukon Development Corporation seeks public participation in the acquisition or disposal of a business venture.
- 22.6.6 Government and Yukon First Nations shall establish, to the extent practicable, procedures for joint capital planning.

### **22.7.0 Economic Planning**

- 22.7.1 The Yukon shall make best efforts to structure the Yukon Council on the Economy and the Environment so that at least one-quarter of its members are Yukon Indian People.
- 22.7.2 The Yukon shall ensure that at least one-quarter of the delegates invited to attend the annual review of the Yukon Economic Strategy are Yukon Indian People or their representatives.

### **22.8.0 Financial Institutions**

- 22.8.1 The parties to the Umbrella Final Agreement shall examine the viability of a Yukon First Nation controlled trust company within two years of the enactment of Settlement Legislation.
- 22.8.2 If the concept of a Yukon First Nation trust company appears viable, Government shall take such measures as may be necessary and as are reasonable to enable Yukon First Nations to establish such an institution.

### **22.9.0 Implementation**

- 22.9.1 A full and complete review of the effectiveness of the provisions of this chapter shall be carried out in the year 2010 by Government and the Yukon First Nations. If, after the review, the parties to the Umbrella Final Agreement agree that the objectives of this chapter have been met, the obligations of Government under this chapter shall cease commencing January 1, 2011. So long as these obligations remain in effect, a like review shall be carried out every five years thereafter.

**Specific Provision**

22.9.1.1 For greater certainty, the obligations of Government under this chapter shall continue until Kluane First Nation agrees that the objectives of this chapter have been met.



**SCHEDULE A**

**ECONOMIC MEASURES**

**PART I - SPECIFIC ECONOMIC MEASURES**

**1.0 Government Employment**

1.1 Government shall develop and implement a plan which will include measures designed to attain the goals of:

1.1.1 a representative public service located in the Yukon, taking into account the aboriginal/non-aboriginal and gender make-up of the population of the Yukon; and

1.1.2 to the degree practical, a representative public service located within the Traditional Territory of Kluane First Nation that reflects the aboriginal/non-aboriginal make-up of the population of the Traditional Territory of Kluane First Nation.

1.2 Government shall Consult with Kluane First Nation in developing the plan.

1.3 The plan shall be prepared within two years of the Effective Date of this Agreement.

1.4 Government may consolidate the plan, after Consultation with Kluane First Nation, with any other similar plan required by another Yukon First Nation Final Agreement, provided the consolidation does not adversely affect the benefits of the Kluane People set out in the plan.

1.5 The plan shall provide for periodic review.

1.6 The plan shall address:

1.6.1 training;

1.6.2 public information;

- 1.6.3 counselling;
- 1.6.4 work place support;
- 1.6.5 targeted recruiting;
- 1.6.6 the designation of positions to be held by aboriginal people;
- 1.6.7 preferences in hiring;
- 1.6.8 measures to manage the effect of the Government plan on the ability of Kluane First Nation to recruit and retain qualified employees;
- 1.6.9 an analysis, using available data, to determine the level of representation of aboriginal people in public service positions in the Traditional Territory of Kluane First Nation and to identify practical ways to achieve the goals referred to in 1.1; and
- 1.6.10 such other measures as may reasonably contribute to achieving the goal of a representative public service.

1.7 Government shall review job descriptions and other requirements for public service positions to ensure that:

- 1.7.1 implicit or explicit cultural bias is eliminated in the hiring and promotional process; and
- 1.7.2 employment requirements are reasonable relative to the work, and free of standards and requirements that unfairly reduce the opportunities for Kluane People and other residents of the Traditional Territory of Kluane First Nation to obtain employment and to receive promotions.

## **2.0 Project Agreements in Relation to Non-Settlement Land and Yukon Asset Construction Agreements**

2.1 In 2.0, the following definitions shall apply.

"Asset" means property, plant and equipment.

"Capital Cost" means the planned expenditures in 1998 dollars for planning, designing, procuring, constructing and installing all buildings, housing, machinery and equipment and infrastructure associated with an Asset, including any such costs incurred outside the Traditional Territory of Kluane First Nation in relation to the Asset, but shall not include financing costs.

"Project" has the same meaning as in Chapter 12 - Development Assessment but does not include a Project in respect of which Government or an agency of Government is the Proponent.

"Project Agreement" means an agreement providing benefits for Kluane First Nation, Kluane People or Kluane Firms concluded in accordance with 2.2 to 2.11.

"Proponent" means the person or body that proposes to undertake a Project.

"Yukon Asset Construction Agreement" means an agreement providing benefits for Kluane First Nation, Kluane People or Kluane Firms concluded in accordance with 2.18 to 2.28.

### **Project Agreements in Relation to Non-Settlement Land**

- 2.2 Subject to 2.3, where the Yukon issues a Decision Document in relation to a Project on Non-Settlement Land that will create in one year either 25 or more full time jobs each with a duration of one year or the equivalent thereof, in the Traditional Territory of Kluane First Nation, the Yukon shall set out in the Decision Document the requirement that a Project Agreement either be concluded in accordance with 2.4 to 2.11 or be waived by the Yukon in accordance with 2.12 to 2.17.
- 2.3 The provisions of 2.2 do not apply to a Project that is undertaken in response to a temporary emergency in circumstances such that the Project must be carried out without delay in the interest of protecting property or the environment or in the interest of public health or safety.
- 2.4 Where, in respect of a Project referred to in 2.2, the Yukon does not waive the requirement for a Project Agreement, the Proponent, Kluane First Nation and the Yukon shall negotiate with a view to concluding a Project Agreement.

- 2.5 If negotiations pursuant to 2.4 do not result in the conclusion of a Project Agreement within 30 days or such further period of time that in the Yukon's opinion is reasonable in the circumstances, the Yukon may request that Kluane First Nation and the Proponent each provide to the Yukon and to each other:
- 2.5.1 a proposal respecting provisions to be included in the Project Agreement; and
  - 2.5.2 an assessment of the prospects of concluding a Project Agreement.
- 2.6 Kluane First Nation and the Proponent shall each respond in writing to the Yukon within 15 days of receipt of a request made pursuant to 2.5.
- 2.7 Following receipt of the responses pursuant to 2.6 or expiry of the time period referred to in 2.6, whichever is earlier, the Yukon shall advise Kluane First Nation and the Proponent of the time period in which to conclude the negotiation of a Project Agreement.
- 2.8 Where a Project Agreement is not concluded among the Proponent, Kluane First Nation and the Yukon within the time period specified under 2.7, the Yukon may make the final determination respecting the provisions to be included in the Project Agreement.
- 2.9 A document signed on behalf of the Minister containing the provisions determined by the Yukon pursuant to 2.8 shall be deemed to be a concluded Project Agreement for the purposes of 2.2 and 2.4.
- 2.10 Project Agreements may address:
- 2.10.1 employment opportunities for Kluane People;
  - 2.10.2 business opportunities for Kluane First Nation, Kluane Firms and Kluane People;
  - 2.10.3 investment opportunities for Kluane First Nation, Kluane Firms and Kluane People; and
  - 2.10.4 other benefits for Kluane First Nation, Kluane Firms or Kluane People required by the Yukon pursuant to 2.8 or agreed to by the Yukon, Kluane First Nation and the Proponent.

2.11 Project Agreements shall:

- 2.11.1 provide benefits commensurate with the nature, scale, duration and cost of the Project; and
- 2.11.2 not place an excessive burden on the Proponent or adversely affect the viability of the Project.

2.12 The Yukon may waive the requirement for a Project Agreement where:

- 2.12.1 a Project Agreement or the requirement for a Project Agreement would breach an interprovincial or international agreement or would interfere with intergovernmental relations;
- 2.12.2 economic benefits or opportunities for Kluane First Nation, Kluane Firms or Kluane People in respect of the Project, or the negotiation of an agreement regarding such benefits or opportunities in respect of the Project, are expressly provided for in a law applicable to the Project;
- 2.12.3 an agreement with Kluane First Nation regarding economic benefits or opportunities for Kluane First Nation, Kluane Firms or Kluane People applicable to that Project is already in place; or
- 2.12.4 other such public interest circumstances exist.

2.13 Where the Yukon intends to waive the requirement for a Project Agreement pursuant to 2.12.1, 2.12.3 or 2.12.4, the Yukon shall so notify Kluane First Nation and the Proponent in writing with reasons.

2.14 Within 30 days of receipt of the notice provided pursuant to 2.13, Kluane First Nation and the Proponent shall each provide to the Yukon their views in writing of the intended waiver.

2.15 In the 30 days following the receipt by the Yukon of the response of Kluane First Nation and the Proponent under 2.14, Kluane First Nation and the Yukon shall make reasonable efforts to reach consensus regarding the intended waiver.

- 2.16 If the Yukon and Kluane First Nation fail to reach agreement under 2.15 or if Kluane First Nation fails to provide its views of the intended waiver within the time period specified in 2.14, the Yukon may proceed to waive the requirement for a Project Agreement and shall notify Kluane First Nation and the Proponent in writing of such waiver.
- 2.17 Where the Yukon waives the requirement for a Project Agreement pursuant to 2.12.2, it shall so notify Kluane First Nation and the Proponent in writing.

### **Yukon Asset Construction Agreements**

- 2.18 Subject to 2.19, where the Yukon intends to construct an Asset in the Traditional Territory of Kluane First Nation that has a Capital Cost of \$2 million or more, the Yukon and Kluane First Nation shall conclude a Yukon Asset Construction Agreement in accordance with 2.20 to 2.28 unless the Yukon waives the requirement for a Yukon Asset Construction Agreement in accordance with 2.29 to 2.34.
- 2.19 The provisions of 2.18 do not apply to an Asset the construction of which is undertaken in response to a temporary emergency in circumstances such that the construction must be carried out without delay in the interest of protecting property or the environment or in the interest of public health or safety.
- 2.20 Where the requirement for a Yukon Asset Construction Agreement under 2.18 is not waived, the Yukon and Kluane First Nation shall enter into negotiations with a view to concluding a Yukon Asset Construction Agreement.
- 2.21 If negotiations under 2.20 fail to result in the conclusion of a Yukon Asset Construction Agreement within 30 days or such further period of time that in the Yukon's opinion is reasonable in the circumstances, the Yukon may ask Kluane First Nation to provide its proposal respecting provisions to be included in a Yukon Asset Construction Agreement.
- 2.22 Kluane First Nation shall respond in writing to the Yukon within 15 days of receipt of a request under 2.21.

- 2.23 If negotiations under 2.20 fail to result in the conclusion of a Yukon Asset Construction Agreement within 30 days or such further period of time that in Kluane First Nation's opinion is reasonable in the circumstances, Kluane First Nation may notify the Yukon of its proposal respecting provisions to be included in the Yukon Asset Construction Agreement.
- 2.24 Following receipt of the response pursuant to 2.22 or the expiry of the time period referred to in 2.22, whichever is earlier, or following receipt of a notice provided pursuant to 2.23, the Yukon, at its discretion, shall either:
- 2.24.1 refer to mediation under 26.4.0 any outstanding matters regarding the provisions to be included in the Yukon Asset Construction Agreement; or
  - 2.24.2 make the final determination respecting the provisions to be included in the Yukon Asset Construction Agreement.
- 2.25 If the Yukon refers outstanding matters to mediation under 2.24.1 and following mediation no agreement results, the Yukon shall make the final determination respecting the provisions to be included in the Yukon Asset Construction Agreement.
- 2.26 Where the Yukon makes the final determination respecting the provisions to be included in the Yukon Asset Construction Agreement pursuant to 2.24.2 or 2.25, such Yukon Asset Construction Agreement shall be deemed to be concluded for the purposes of 2.18 and 2.20.
- 2.27 Yukon Asset Construction Agreements may address:
- 2.27.1 provisions to be included in any contracts entered into by the Yukon associated with the construction of the Asset including;
    - 2.27.1.1 employment opportunities for Kluane People;
    - 2.27.1.2 business opportunities for Kluane First Nation, Kluane Firms and Kluane People; and
    - 2.27.1.3 training opportunities for Kluane People,
  - 2.27.2 training or employment opportunities for Kluane People with the Yukon that are directly associated with the construction of the Asset; and

2.27.3 other benefits for Kluane First Nation, Kluane Firms or Kluane People required by the Yukon pursuant to 2.24.2 or 2.25 or agreed to by the Yukon and Kluane First Nation.

2.28 Yukon Asset Construction Agreements shall:

2.28.1 provide benefits commensurate with the nature, scale, duration and cost of the construction of the Asset; and

2.28.2 not place an excessive burden on the Yukon or on the agent of the Yukon constructing the Asset or adversely affect the viability of the construction of the Asset.

2.29 The Yukon may waive the requirement for a Yukon Asset Construction Agreement under 2.18 where:

2.29.1 a Yukon Asset Construction Agreement or the requirement for a Yukon Asset Construction Agreement would breach an interprovincial or international agreement or would interfere with intergovernmental relations;

2.29.2 economic benefits or opportunities for Kluane First Nation, Kluane People or Kluane Firms in respect of the construction of the Asset, or the negotiation of an agreement regarding such benefits or opportunities in respect of the construction of the Asset are expressly provided for in a law applicable to the construction of the Asset;

2.29.3 an agreement with Kluane First Nation regarding economic benefits or opportunities for Kluane First Nation, Kluane People or Kluane Firms applicable to the construction of that Asset is already in place; or

2.29.4 other such public interest circumstances exist.

2.30 Where the Yukon intends to waive the requirement for a Yukon Asset Construction Agreement under 2.29.1, 2.29.3 or 2.29.4, the Yukon shall so notify Kluane First Nation in writing with reasons.

2.31 Within 30 days of receipt of the notice under 2.30, Kluane First Nation shall provide the Yukon with its views in writing of the intended waiver.



- 2.32 In the 30 days following the receipt by the Yukon of Kluane First Nation's response under 2.31, Kluane First Nation and the Yukon shall make reasonable efforts to reach consensus regarding the intended waiver.
- 2.33 If the Yukon and Kluane First Nation fail to reach agreement under 2.32 or if Kluane First Nation fails to provide its views of the intended waiver within the time period specified in 2.31, the Yukon may proceed to waive the requirement for a Yukon Asset Construction Agreement.
- 2.34 Where the Yukon waives the requirement for a Yukon Asset Construction Agreement pursuant to 2.29.2, it shall so notify Kluane First Nation in writing.

#### **Other Residents**

- 2.35 Negotiations under 2.4 and 2.20 shall include negotiation of employment, business, investment or other opportunities for other residents of the Traditional Territory of Kluane First Nation, if provided for in or pursuant to Yukon Legislation.
- 2.36 For greater certainty, any benefits which may be included for other residents of the Traditional Territory of Kluane First Nation in a Project Agreement in relation to Non-Settlement Land or in a Yukon Asset Construction Agreement are not included pursuant to this Agreement.

#### **General Provisions**

- 2.37 Where a Project Agreement is required by the Yukon pursuant to 2.0 and by Kluane First Nation pursuant to 3.0 of Part 1 of Schedule A to this chapter in respect of a Project which involves the Right to Work Mines and Minerals on Category B or Fee Simple Settlement Land, the Yukon and Kluane First Nation shall endeavour to harmonize the terms and conditions of their proposed Project Agreements and if, in the opinion of the Yukon, the proposed Project Agreements are not harmonized, only a Project Agreement required by the Yukon shall apply to the Project.
- 2.38 Except in respect of 2.39 and 2.40, the Yukon may extend any time period provided for in 2.0.

2.39 The Yukon and Kluane First Nation shall review the provisions of 2.0 in the tenth year following the Effective Date of this Agreement, unless they otherwise agree.

2.40 The provisions of 2.2 and 2.18 expire on the 20<sup>th</sup> anniversary of the Effective Date of this Agreement, unless otherwise agreed by the Yukon and Kluane First Nation.

### **3.0 Project Agreements in Relation to Settlement Land and Kluane Asset Construction Agreements**

3.1 In 3.0, the following definitions shall apply.

"Asset" means property, plant and equipment.

"Capital Cost" means the planned expenditures in 1998 dollars for planning, designing, procuring, constructing and installing all buildings, housing, machinery and equipment and infrastructure associated with an Asset, including any such costs incurred outside the Traditional Territory of Kluane First Nation in relation to the Asset, but shall not include financing costs.

"Project" has the same meaning as in Chapter 12 - Development Assessment but does not include a Project in respect of which Kluane First Nation or an agency of Kluane First Nation is the Proponent.

"Project Agreement" means an agreement which includes benefits for other residents of the Traditional Territory of Kluane First Nation concluded in accordance with 3.2 to 3.11.

"Proponent" means the person or body that proposes to undertake a Project.

"Kluane Asset Construction Agreement" means an agreement concluded in accordance with 3.18 to 3.29.

#### **Project Agreements in Relation to Settlement Land**

3.2 Subject to 3.3, where:

3.2.1 Kluane First Nation issues a Decision Document in relation to a Project on Settlement Land that will create in the Traditional Territory of Kluane First Nation and on Settlement Land outside of the Traditional Territory of Kluane First Nation, together, in one year, either 25 or more full time jobs each with a duration of one year or the equivalent thereof; and

3.2.2 the negotiation of employment, business, investment or other opportunities for other residents of the Traditional Territory of Kluane First Nation respecting a Project as defined in 2.1 of Part I of Schedule A to Chapter 22 - Economic Development Measures is provided for in or pursuant to Yukon Legislation referred to in 2.35,

Kluane First Nation shall exercise whatever legislative or other authority it has to enable it to set out in the Decision Document the requirement that a Project Agreement be concluded in accordance with 3.4 to 3.11 or be waived by Kluane First Nation in accordance with 3.12 to 3.17.

3.3 The provisions of 3.2 do not apply to a Project that is undertaken in response to a temporary emergency in circumstances such that the Project must be carried out without delay in the interest of protecting property or the environment or in the interest of public health or safety.

3.4 Where, in respect of a Project referred to in 3.2, Kluane First Nation does not waive the requirement for a Project Agreement, the Proponent, Kluane First Nation and the Yukon shall negotiate with a view to concluding a Project Agreement.

3.5 If negotiations pursuant to 3.4 do not result in the conclusion of a Project Agreement within 30 days or such further period of time that in the opinion of Kluane First Nation is reasonable in the circumstances, Kluane First Nation may request that the Yukon and the Proponent each provide to Kluane First Nation and each other:

3.5.1 a proposal respecting provisions to be included in the Project Agreement; and

3.5.2 an assessment of the prospects of concluding a Project Agreement.

3.6 The Yukon and the Proponent shall each respond in writing to Kluane First Nation within 15 days of receipt of a request made pursuant to 3.5.

- 3.7 Following receipt of the responses pursuant to 3.6 or expiry of the time period referred to in 3.6, whichever is earlier, Kluane First Nation shall advise the Yukon and the Proponent of the time period in which to conclude the negotiation of a Project Agreement.
- 3.8 Where a Project Agreement is not concluded among the Proponent, Kluane First Nation and the Yukon within the time period specified under 3.7, Kluane First Nation may make the final determination respecting the benefits for other residents of the Traditional Territory of Kluane First Nation and other provisions to be included in the Project Agreement.
- 3.9 A document signed on behalf of Kluane First Nation containing the provisions determined by Kluane First Nation pursuant to 3.8 shall be deemed to be a concluded Project Agreement for the purposes of 3.2 and 3.4.
- 3.10 Project Agreements may address the matters set out in 2.10 and:
- 3.10.1 employment opportunities for other residents of the Traditional Territory of Kluane First Nation;
  - 3.10.2 business opportunities for other residents of the Traditional Territory of Kluane First Nation;
  - 3.10.3 investment opportunities for other residents of the Traditional Territory of Kluane First Nation; and
  - 3.10.4 other benefits for other residents of the Traditional Territory of Kluane First Nation required by Kluane First Nation pursuant to 3.8 or agreed to by the Yukon, Kluane First Nation and the Proponent.
- 3.11 Project Agreements shall:
- 3.11.1 provide benefits commensurate with the nature, scale, duration and cost of the Project; and
  - 3.11.2 not place an excessive burden on the Proponent or adversely affect the viability of the Project.
- 3.12 Kluane First Nation may waive the requirement for a Project Agreement where:

- 3.12.1 a Project Agreement or the requirement for a Project Agreement would breach an interprovincial or international agreement or would interfere with intergovernmental relations;
  - 3.12.2 economic benefits or opportunities for other residents of the Traditional Territory of Kluane First Nation in respect of the Project, or the negotiation of an agreement regarding such benefits or opportunities in respect of the Project, are expressly provided for in a law applicable to the Project;
  - 3.12.3 an agreement respecting economic benefits or opportunities for other residents of the Traditional Territory of Kluane First Nation applicable to that Project is already in place; or
  - 3.12.4 other such public interest circumstances exist.
- 3.13 Where Kluane First Nation intends to waive the requirement for a Project Agreement pursuant to 3.12.1, 3.12.3 or 3.12.4, Kluane First Nation shall so notify the Yukon and the Proponent in writing with reasons.
- 3.14 Within 30 days of receipt of the notice provided pursuant to 3.13, the Yukon and the Proponent shall each provide to Kluane First Nation their views in writing of the intended waiver.
- 3.15 In the 30 days following the receipt by Kluane First Nation of the Yukon's response under 3.14, Kluane First Nation and the Yukon shall make reasonable efforts to reach agreement regarding the intended waiver.
- 3.16 If the Yukon and Kluane First Nation fail to reach agreement under 3.15 or if the Yukon fails to provide its views of the intended waiver within the time period specified in 3.14, Kluane First Nation may proceed to waive the requirement for a Project Agreement and shall notify the Yukon and the Proponent in writing of such waiver.
- 3.17 Where Kluane First Nation waives the requirement for a Project Agreement pursuant to 3.12.2, it shall so notify the Yukon and the Proponent in writing.

### **Kluane Asset Construction Agreement**

- 3.18 Kluane First Nation shall exercise whatever legislative or other authority it has to enable it to conclude a Kluane Asset Construction Agreement as set out in 3.19.
- 3.19 Subject to 3.20, where Kluane First Nation intends to construct an Asset in the Traditional Territory of Kluane First Nation that has a Capital Cost of \$2 million or more, Kluane First Nation and the Yukon shall conclude a Kluane Asset Construction Agreement in accordance with 3.20 to 3.29 unless Kluane First Nation waives the requirement for a Kluane Asset Construction Agreement in accordance with 3.30 to 3.35.
- 3.20 The provisions of 3.21 do not apply to an Asset the construction of which is undertaken in response to a temporary emergency in circumstances such that the construction must be carried out without delay in the interest of protecting property or the environment or in the interest of public health or safety.
- 3.21 Where the requirement for a Kluane Asset Construction Agreement under 3.19 is not waived, the Yukon and Kluane First Nation shall enter into negotiations with a view to concluding a Kluane Asset Construction Agreement.
- 3.22 If negotiations under 3.21 fail to result in the conclusion of a Kluane Asset Construction Agreement within 30 days or such further period of time that in Kluane First Nation's opinion is reasonable in the circumstances, Kluane First Nation may ask the Yukon to provide its proposal respecting provisions to be included in a Kluane Asset Construction Agreement.
- 3.23 The Yukon shall respond in writing to Kluane First Nation within 15 days of receipt of a request under 3.22.
- 3.24 If negotiations under 3.21 fail to result in the conclusion of a Kluane Asset Construction Agreement within 30 days or such further period of time that in the Yukon's opinion is reasonable in the circumstances, the Yukon may notify Kluane First Nation of its proposal respecting provisions to be included in the Kluane Asset Construction Agreement.
- 3.25 Following receipt of the response pursuant to 3.23 or the expiry of the time period referred to in 3.23, whichever is earlier, or following receipt of a notice provided pursuant to 3.24, Kluane First Nation, at its discretion, shall either:

- 3.25.1 refer to mediation under 26.4.0 any outstanding matters regarding the benefits for other residents of the Traditional Territory of Kluane First Nation to be included in the Kluane Asset Construction Agreement; or
- 3.25.2 make the final determination respecting the benefits for other residents of the Traditional Territory of Kluane First Nation to be included in the Kluane Asset Construction Agreement.
- 3.26 If Kluane First Nation refers outstanding matters to mediation under 3.25.1 and following mediation no agreement results, Kluane First Nation shall make the final determination respecting the provisions to be included in the Kluane Asset Construction Agreement.
- 3.27 Where Kluane First Nation makes the final determination respecting the provisions to be included in the Kluane Asset Construction Agreement pursuant to 3.25.2 or 3.26, such Kluane Asset Construction Agreement shall be deemed to be concluded for the purposes of 3.19 and 3.21.
- 3.28 Kluane Asset Construction Agreements may address the matters set out in 2.27 and:
- 3.28.1 benefits for other residents of the Traditional Territory of Kluane First Nation to be included in any contracts entered into by Kluane First Nation associated with the construction of the Asset including:
- 3.28.1.1 employment opportunities;
- 3.28.1.2 business opportunities; and
- 3.28.1.3 training opportunities,
- 3.28.2 training or employment opportunities for other residents of the Traditional Territory of Kluane First Nation with Kluane First Nation that are directly associated with the construction of the Asset; and
- 3.28.3 other benefits for other residents of the Traditional Territory of Kluane First Nation required by Kluane First Nation pursuant to 3.25.2 or 3.26 or agreed to by the Yukon and Kluane First Nation.
- 3.29 Kluane Asset Construction Agreements shall:

- 3.29.1 provide benefits commensurate with the nature, scale, duration and cost of the construction of the Asset; and
  - 3.29.2 not place an excessive burden on Kluane First Nation or on the agent of Kluane First Nation constructing the Asset or adversely affect the viability of the construction of the Asset.
- 3.30 Kluane First Nation may waive the requirement for a Kluane Asset Construction Agreement under 3.19 where:
- 3.30.1 a Kluane Asset Construction Agreement or the requirement for a Kluane Asset Construction Agreement would breach an interprovincial or international agreement or would interfere with intergovernmental relations;
  - 3.30.2 economic benefits or opportunities for other residents of the Traditional Territory of Kluane First Nation in respect of the construction of the Asset, or the negotiation of an agreement regarding such benefits or opportunities in respect of the construction of the Asset are addressed in a law applicable to the construction of the Asset;
  - 3.30.3 an agreement respecting economic benefits or opportunities for other residents of the Traditional Territory of Kluane First Nation applicable to the construction of that Asset is already in place; or
  - 3.30.4 other such public interest circumstances exist.
- 3.31 Where Kluane First Nation intends to waive the requirement for a Kluane Asset Construction Agreement under 3.30.1, 3.30.3 or 3.30.4, Kluane First Nation shall so notify the Yukon in writing with reasons.
- 3.32 Within 30 days of receipt of the notice under 3.31, the Yukon shall provide Kluane First Nation with its views in writing of the intended waiver.
- 3.33 In the 30 days following the receipt by Kluane First Nation of the Yukon's response under 3.32, Kluane First Nation and the Yukon shall make reasonable efforts to reach consensus regarding the intended waiver.



3.34 If the Yukon and Kluane First Nation fail to reach a consensus under 3.33 or if the Yukon fails to provide its views of the intended waiver within the time period specified in 3.32, Kluane First Nation may proceed to waive the requirement for a Kluane Asset Construction Agreement.

3.35 Where Kluane First Nation waives the requirement for a Kluane Asset Construction Agreement pursuant to 3.30.2, it shall so notify the Yukon in writing.

### **General Provisions**

3.36 Where a Project Agreement is required by Kluane First Nation pursuant to 3.0 and by the Yukon pursuant to 2.0 of Part 1 of Schedule A to this chapter, in respect of a Project which involves the Right to Work Mines and Minerals on Category B or Fee Simple Settlement Land, the Yukon and Kluane First Nation shall endeavour to harmonize the terms and conditions of their proposed Project Agreements and if, in the opinion of the Yukon, the proposed Project Agreements are not harmonized, only a Project Agreement required by the Yukon shall apply to the Project.

3.37 For greater certainty, any benefits for other residents of the Traditional Territory of Kluane First Nation which may be included in a Project Agreement in Relation to Settlement Land or in a Kluane Asset Construction Agreement are not included pursuant to this Agreement.

3.38 Except in respect of 3.39 and 3.40, Kluane First Nation may extend any time period provided for in 3.0.

3.39 The Yukon and Kluane First Nation shall review the provisions of 3.0 in the tenth year following the Effective Date of this Agreement, unless they otherwise agree.

3.40 The provisions of 3.2 and 3.19 expire on the 20<sup>th</sup> anniversary of the Effective Date of this Agreement, unless otherwise agreed by the Yukon and Kluane First Nation.

### **4.0 Economic Development Agreements**

4.1 Government may enter into economic development agreements with the Kluane First Nation which provide:

4.1.1 technical and financial assistance for economic development purposes to residents of the Traditional Territory of the Kluane First Nation and to organizations, businesses and corporations owned by those residents, Kluane People or the Kluane First Nation;

4.1.2 for the participation of the Kluane First Nation in the planning, management, administration and decision making of those programs and services; and

4.1.3 for measures to implement recommendations of the regional economic development plan.

4.2 Economic development agreements referred to in 4.1:

4.2.1 shall describe the purposes for which technical and financial assistance may be used;

4.2.2 may provide for a financial contribution by Kluane First Nation, consistent with the ability of Kluane First Nation to contribute; and

4.2.3 may provide for a financial contribution by Government for the purposes of the agreements.

4.3 Kluane First Nation shall nominate no less than one third of the members of any joint planning, management, advisory, or decision making body established pursuant to an economic development agreement referred to in 4.1.

## **5.0 Strategic Investments**

5.1 In 5.0, the following definitions shall apply.

"Equity Cost" means the cost of a Project, exclusive of debt financing.

"Kluane First Nation's Share" means the share, expressed as a percentage, which Kluane First Nation proposes to acquire in the Proponent's Share in a Project, pursuant to the exercise of the option described in 5.2.

"Project" means a non-renewable resource or hydro-electric project in the Traditional Territory of Kluane First Nation, construction of which commences after the Effective Date of this Agreement, and which is not an addition to or an improvement of a non-renewable resource or hydro-electric project or infrastructure existing at the Effective Date of this Agreement.

"Proponent" means the Yukon, or the agency or corporation of the Yukon which is a proponent of a Project.

"Proponent's Share" means the share, expressed as a percentage, of the Proponent in a Project.

5.2 Kluane First Nation shall have the option to acquire up to 25 percent of the interest of a Proponent in a Project.

5.3 Unless the Proponent and Kluane First Nation otherwise agree:

5.3.1 Kluane First Nation shall pay for the acquisition of its interest in a Project by:

5.3.1.1 paying an amount equal to Kluane First Nation's Share of the Proponent's Share of the Equity Cost of the Project;

5.3.1.2 assuming liability for a share of the full recourse debt financing for the Project equal to Kluane First Nation's share of the Proponent's Share of the liability under such financing, and

5.3.2 the other terms and conditions of the acquisition of its interest in the Project by Kluane First Nation shall be no less favourable than the terms and conditions applying to all participants in the Project, including the Proponent.

5.4 Subject to 5.5 and 5.6, and after notice has been given under 5.7.2, the Proponent and Kluane First Nation, at the request of Kluane First Nation, shall negotiate the terms and conditions of Kluane First Nation acquiring its interest in a Project.

5.5 At any time at least 270 days after notice has been given under 5.7.2, the Proponent may provide in writing to Kluane First Nation an offer setting out all the proposed terms and conditions of Kluane First Nation acquiring its interest pursuant to 5.2 in the Project.

- 5.6 The offer referred to in 5.5 shall be open for acceptance by Kluane First Nation for 30 days, and, failing acceptance of the offer, the option described in 5.2 shall lapse, and the Proponent shall have no further obligation to Kluane First Nation under 5.0 for that Project.
- 5.7 The Proponent shall, as soon as practicable:
- 5.7.1 give notice to Kluane First Nation of completion of all studies of and investigations into the feasibility of a Project and make those studies available to Kluane First Nation; and
  - 5.7.2 give notice to Kluane First Nation of receipt of all regulatory approvals required to start construction of a Project.
- 5.8 Nothing in 5.2 shall be construed to prevent Kluane First Nation from entering into an agreement to acquire an additional interest in a Project.
- 5.9 Unless otherwise agreed by all the parties owning an interest in a Project, Kluane First Nation, upon receipt of a bona fide offer to purchase all or a portion of the interest it acquired in the Project pursuant to 5.2, which offer it is ready and willing to accept, shall communicate the terms of the offer to the Proponent, which shall have the first right to purchase that interest or portion thereof at the price and on the terms set out in the offer.
- 5.10 The Proponent may exercise the first right to purchase set out in 5.9 at any time during 30 days from the date on which it receives notice of the said bona fide offer, by advising Kluane First Nation in writing of its intention to exercise the right and to complete the purchase of the said interest or portion thereof within the following 100 days.
- 5.11 For greater certainty nothing in 5.0 shall be construed to prevent the Kluane First Nation from exercising the option described in 5.2 through the agency of a corporation which it owns or controls.
- 5.11.1 If Kluane First Nation chooses to exercise the option described in 5.2 through the agency of a corporation which it owns or controls, the provisions of 5.0 shall apply to that corporation as if it was Kluane First Nation.

5.11.2 If Kluane First Nation chooses to exercise the option described in 5.2 through the agency of a corporation which it owns or controls, it shall advise the Proponent of that choice and of the legal name of the corporation as soon as possible.

5.12 Nothing in 5.0 shall be construed to prevent Kluane First Nation and the Yukon, its agencies and corporations from entering into an agreement whereby Kluane First Nation acquires an interest in an addition to, or improvement of, a non-renewable resource development or hydro-electric project or infrastructure which addition or improvement did not exist at the Effective Date of this Agreement.

5.12.1 Unless Kluane First Nation and the Yukon, its agency or corporation otherwise agree, the terms and conditions upon which Kluane First Nation acquires an interest in an addition to, or improvement of, a non-renewable resource development or hydro-electric project or infrastructure, which addition or improvement did not exist at the Effective Date of this Agreement, shall be no less favourable than the terms and conditions applying to all parties, including the Proponent, acquiring any interest in that addition to, or improvement of, a non-renewable resource development or hydro-electric project or infrastructure.

5.13 Nothing in 5.0 shall be construed to prevent Kluane First Nation from entering into an agreement with Government, its agencies or corporations, to build or develop a non-renewable resource development or hydro-electric project.

## **6.0 Sale of Surplus Assets**

6.1 In 6.0 the following definitions shall apply.

"Department of Kluane First Nation" means a Settlement Corporation and each board, commission, foundation, corporation or other similar agency expressly established or incorporated as an agent of Kluane First Nation, and their wholly owned subsidiaries, but does not include any entity which is an agent of Kluane First Nation solely by reason of a contract.

"Department of the Yukon" means each board, commission, foundation, corporation or other similar agency expressly established or incorporated as an agent of the Yukon and their wholly owned subsidiaries, but does not include any entity which is an agent of the Yukon solely by reason of a contract.

"Kluane First Nation Asset" means property owned by Kluane First Nation including property owned by or assigned to a Department of Kluane First Nation that:

- (a) in the case of a building and the land the building is situated on, is located in the Traditional Territory of Kluane First Nation; and
- (b) in the case of property other than that referred to in (a), has, in the opinion of Kluane First Nation, primarily been used in the Traditional Territory of Kluane First Nation,

but does not include property acquired or manufactured for resale, unimproved land, or salvage allowed to a contractor under the terms of a contract.

"Original Registered Cost" in relation to a Yukon Asset means the cost to the Yukon or a Department of the Yukon as registered by the Yukon or a Department of the Yukon at the time the Yukon Asset is acquired and in relation to a Kluane First Nation Asset means the original book cost.

"Yukon Asset" means property owned by the Yukon including property owned by or assigned to a Department of the Yukon that:

- (a) in the case of a building and the land the building is situated on, is located in the Traditional Territory of Kluane First Nation; and
- (b) in the case of property other than that referred to in (a), has, in the opinion of the Yukon, primarily been used in the Traditional Territory of Kluane First Nation,

but does not include property acquired or manufactured for resale, unimproved land, or salvage allowed to a contractor under the terms of a contract.

6.2 The Yukon shall provide to Kluane First Nation a notice in writing setting out:

- 6.2.1 any Yukon Asset with an Original Registered Cost of \$10,000.00 or more that the Yukon intends to dispose of by way of public tender, public auction, public sale or invitational tender (the "Listed Assets"); and

- 6.2.2 those Listed Assets, if any, in respect of which the Yukon, in its discretion, is prepared to offer to Kluane First Nation a first right to acquire and the terms and conditions, including price, applicable to such first right to acquire (the "Direct Sale Assets").
- 6.3 For greater certainty, the provisions of 6.2 shall not apply to a Yukon Asset that is approved for disposition by way of donation to eligible recipients pursuant to the Yukon's regulations or policies in place from time to time.
- 6.4 The Yukon shall provide the notice referred to in 6.2 to Kluane First Nation prior to the disposal of the Listed Assets.
- 6.5 Kluane First Nation may exercise the first right to acquire any of the Direct Sale Assets on the terms and conditions set out in the notice provided pursuant to 6.2 at any time during the 30 day period following the date upon which it receives such notice by providing the Yukon with written notice of its exercise of that right.
- 6.6 If Kluane First Nation fails to provide written notice to the Yukon within the time period specified in 6.5 of its exercise of the right to acquire any of the Direct Sale Assets, it shall be deemed to have not exercised that right.
- 6.7 If Kluane First Nation does not exercise a right to acquire any of the Direct Sale Assets, the Yukon may, subject to 6.8 and 6.9, dispose of such Direct Sale Assets in any manner that it determines.
- 6.8 Except in respect of Direct Sale Assets disposed of by public tender, public auction, public sale or invitational tender, the Yukon shall not dispose of any of the Direct Sale Assets referred to in 6.7 to any person upon terms and conditions, including price, more favourable than were available to Kluane First Nation.
- 6.9 If the Yukon proposes to dispose of any of the Direct Sale Assets referred to in 6.7 by way of an invitational tender, the Yukon shall include the Kluane First Nation in such invitational tender.
- 6.10 Kluane First Nation shall provide to the Yukon a notice in writing setting out any Kluane First Nation Asset with an Original Registered Cost of \$10,000.00 or more that Kluane First Nation intends to dispose of by way of public tender, public auction, public sale or invitational tender.

- 6.11 Kluane First Nation shall provide the notice referred to in 6.10 to the Yukon at least 30 days prior to the disposal of any Kluane First Nation Asset listed in such notice.
- 6.12 Any failure to provide notice pursuant to 6.2 shall not affect any agreement entered into for the disposal of Yukon Assets.
- 6.13 Any failure to include Kluane First Nation in any invitational tender pursuant to 6.9 shall not affect the invitational tender process or any agreement entered into for the disposal of Yukon Assets.
- 6.14 Any failure to provide notice pursuant to 6.10 shall not affect any agreement entered into for the disposal of Kluane First Nation Assets.
- 6.15 Nothing in 6.1 to 6.14 shall be construed to prevent Kluane First Nation from acquiring surplus Yukon Assets pursuant to and in accordance with regulations and policies of the Yukon in place from time to time.
- 6.16 The provisions of 6.1 to 6.15 shall expire on the 20<sup>th</sup> anniversary of the Effective Date of this Agreement unless otherwise agreed by the Yukon and Kluane First Nation.

## **7.0 Regional Economic Development Plan**

- 7.1 No later than one year after the Effective Date of this Agreement, or as Government and Kluane First Nation may otherwise agree, Government and Kluane First Nation shall jointly undertake the preparation of a regional economic development plan for the Traditional Territory of Kluane First Nation.
- 7.2 Government and Kluane First Nation shall provide the opportunity to involve the communities of Burwash Landing and Destruction Bay, existing commercial and industrial interests within the Traditional Territory of Kluane First Nation, and other residents of the Traditional Territory of Kluane First Nation in the preparation of the regional economic development plan.
- 7.3 The regional economic development plan shall:
- 7.3.1 examine the state of the economy in the Traditional Territory of Kluane First Nation;



- 7.3.2 assess the potential for development in the areas of communication, culture, transportation, agriculture, energy, renewable and non-renewable resources and tourism in the Traditional Territory of Kluane First Nation;
  - 7.3.3 recommend appropriate types of economic development activities which are consistent with the principles of Sustainable Development;
  - 7.3.4 recommend priorities for economic development in the Traditional Territory of Kluane First Nation and methods to increase the participation of Kluane First Nation and Kluane People in those areas of economic development;
  - 7.3.5 recommend measures to integrate Kluane First Nation economic development opportunities plan required pursuant to 22.3.1 with the regional economic development plan for the Traditional Territory of Kluane First Nation;
  - 7.3.6 recommend measures to integrate the regional economic development plan with other relevant economic plans and strategies, including any economic plans and strategies prepared by or on behalf of Government;
  - 7.3.7 recommend actions which Government and Kluane First Nation should take to implement the regional economic development plan;
  - 7.3.8 recommend whether limits or other restrictions are required for commercial activities within the scope of Part II of this schedule, and if limits or other restrictions are required, recommend what those limits or restrictions should be;
  - 7.3.9 provide for periodic review and evaluation of the regional economic development plan; and
  - 7.3.10 recommend a process of amendment for the regional economic development plan.
- 7.4 Nothing in 7.1, 7.2, and 7.3 shall be construed to impose on Government or Kluane First Nation an obligation to implement the recommendations of the regional economic development plan.
- 7.5 Nothing in the regional economic development plan shall be construed to:

7.5.1 prevent Kluane First Nation or Kluane People from accessing or making use of economic development programs of general application available to a Yukon resident or a Canadian citizen; or

7.5.2 restrict access by Kluane People to any other employment or training position available outside the Traditional Territory of Kluane First Nation.

## **8.0 Boards**

8.1 The Boards referred to in 2.12.1 of Chapter 2 - General Provisions and the Designated Office defined in 12.2.0 of Chapter 12 - Development Assessment Process shall consider the inclusion of criteria for special aboriginal or local knowledge when establishing specifications for contract opportunities and job descriptions for any employment activities which a Board or a Designated Office may have.

8.2 Nothing in 8.1 shall be construed to mean that a criterion for employment of Kluane People shall be the determining criterion in awarding any contract.

## **9.0 Agreements**

9.1 The parties to this Agreement may enter into agreements to give effect to recommendations in plans described in this chapter or to otherwise achieve the objectives of 22.1.0 of Chapter 22 - Economic Development Measures.

9.2 An agreement referred to in 9.1 shall state whether, and if so, to what extent, the agreement is binding on the parties to the agreement.

9.3 Nothing in this Agreement shall be construed to limit the ability of Kluane First Nation and the Yukon to make recommendations to, and enter into agreements with, each other respecting the establishment of measures, policies, and programs with the objective of furthering the economic development of resources within the Traditional Territory of Kluane First Nation, in a manner which is consistent with the culture, values and identity of Kluane First Nation.

## **10.0 General**

10.1 Measures identified in this schedule shall take into consideration Kluane First Nation fiscal responsibility and economic objectives.

## **11.0 Airstrips**

11.1 In 11.0, "Burwash Landing Airstrip Reserve" means the area designated as the Burwash Landing Airstrip Reserve on Map Sheet 115 G/6, 7 - Burwash Landing Area, in Appendix B - Maps, which forms a separate volume to this Agreement.

11.2 The parties acknowledge that it is the current intention of the Yukon to prepare a development plan for the Burwash Landing Airstrip Reserve. The Yukon shall Consult with Kluane First Nation in the preparation of that development plan.

11.3 Upon completion of a development plan for the Burwash Landing Airstrip Reserve or within 3 years of the Effective Date of this Agreement, whichever is the earlier, the Yukon shall offer to Kluane First Nation a right of first refusal to acquire a leasehold interest in one or more parcels of land with a total area of up to one hectare, situated in the Burwash Landing Airstrip Reserve (the "Leasehold Parcel or Parcels") in the following manner:

11.3.1 the Minister shall provide notice, in writing, to Kluane First Nation identifying the Leasehold Parcel or Parcels and specifying the terms and conditions upon which the Leasehold Parcel or Parcels may be leased;

11.3.2 Kluane First Nation may exercise the right of first refusal with respect to the Leasehold Parcel or Parcels on the terms and conditions set out in the notice provided pursuant to 11.3.1 at any time during the 30 day period following the date upon which Kluane First Nation receives such notice by providing the Yukon with written notice of its exercise of that right; and

11.3.3 if Kluane First Nation fails to provide written notice to the Yukon within the time period specified in 11.3.2 of its exercise of the right of first refusal, the right of first refusal provided in 11.3 shall cease to exist.

11.4 For greater certainty, nothing in 11.0 shall be construed to prevent Kluane First Nation from acquiring any other leasehold interest in the Burwash Landing Airstrip Reserve.

## **12.0 Campgrounds**

- 12.1 "Campground" in 12.0 means any place in the Traditional Territory of Kluane First Nation which is designated by the Yukon as a campground pursuant to the Parks and Land Certainty Act, RSY 2002, c. 165.
- 12.2 The parties acknowledge that it is not the current intention of the Yukon to contract out the operation and maintenance of any Campground in the Traditional Territory of Kluane First Nation.
- 12.3 If the Yukon decides to contract out the operation and maintenance of any Campground in the Traditional Territory of Kluane First Nation, it shall first offer the contract to Kluane First Nation in the following manner:
- 12.3.1 the Minister shall provide notice, in writing, to Kluane First Nation specifying the terms and conditions of the contract;
  - 12.3.2 where Kluane First Nation does not accept, in writing, the contract within 30 days, the Minister may offer the contract to any other Person on the same terms and conditions as specified in the notice given under 12.3.1; and
  - 12.3.3 if the contract offered to any other Person is not accepted, the Minister may re-offer the contract on new terms and conditions in accordance with the procedure set out in 12.3.1 and 12.3.2.
- 12.4 Upon acceptance of a contract by Kluane First Nation pursuant to 12.3 for the operation and maintenance of a Campground in the Traditional Territory of Kluane First Nation (the "Accepted Campground"), its right of first offer in 12.3 shall cease to exist.
- 12.5 Upon the expiration of the initial contract accepted by Kluane First Nation pursuant to 12.4 and if the Yukon decides to continue to contract out the operation and maintenance of the Accepted Campground, the Yukon shall first offer to Kluane First Nation, in accordance with the procedure set out in 12.3, any further contracts for the operation and maintenance of the Accepted Campground.

12.6 The terms and conditions offered by the Yukon in any further contracts referred to in 12.5 shall be the same terms and conditions as would be offered by the Yukon to any other Person in a contract for the operation and maintenance of the Accepted Campground.

12.7 Kluane First Nation's right of first offer in 12.5 shall cease to exist either, at the time that Kluane First Nation fails to accept any further contract offered pursuant to 12.5 and such further contract is accepted by any other Person pursuant to 12.5, or, on the 20<sup>th</sup> anniversary of the Effective Date of this Agreement, whichever is the earlier, unless the Yukon and Kluane First Nation otherwise agree.

12.8 For greater certainty, nothing in 12.0 shall be construed to prevent Kluane First Nation from tendering on a contract for the operation and maintenance of any other Campground offered by the Yukon.

### **13.0 Strategic Economic Development Investment Fund**

13.1 Canada shall pay \$4,540,967.00 on or as soon as practicable after the Effective Date to Kluane First Nation to be the Kluane First Nation Strategic Economic Development Investment Fund ("the Fund").

13.2 The Fund shall be kept segregated from other Kluane First Nation monies provided that Kluane First Nation may deposit other monies into the Fund.

13.3 Subject to 13.4 and 13.5, monies in the Fund may be invested in any kind of property, real, personal or mixed, but in so doing, Kluane First Nation shall exercise the judgement and care that a person of prudence, discretion and intelligence would exercise as a trustee of the property of others, and pending such investment, shall be held on deposit with a Canadian chartered bank.

13.4 Subject to 13.5, monies in the Fund may be used only for purposes of:

13.4.1 economic development of Kluane People and Kluane First Nation;

13.4.2 training and education of Kluane People; and

13.4.3 costs of administering the Fund, including the audits and reports required by 13.0;

in accordance with terms of reference for the Fund (the "Terms of Reference") prepared and approved by Kluane First Nation.

- 13.5 Kluane First Nation may reimburse itself from the Fund for the costs of preparation, approval and amendment of the Terms of Reference.
- 13.6 Kluane First Nation shall provide the Terms of Reference and any amendments to Canada.
- 13.7 Kluane First Nation shall cause the Fund to be audited annually by an independent auditor who is a member in good standing of the Canadian Institute of Chartered Accountants and the audit shall be presented each year to a general assembly held in accordance with the Kluane First Nation Constitution.
- 13.8 Kluane First Nation shall prepare an annual report comparing the activities of the Fund with the Terms of Reference in the manner and with the content set out in the implementation plan for this Agreement, and the report shall be presented each year to the meeting referred to in 13.7.
- 13.9 Kluane First Nation shall provide to Canada a copy of the audit and report prepared pursuant to 13.7 and 13.8, respectively.
- 13.10 At any time after the amount of the Fund used for the purposes provided for in 13.4 equals the amount which was paid into the Fund by Canada pursuant to 13.1, Kluane First Nation may terminate the Fund by a resolution of the Kluane First Nation Council and any monies remaining in the Fund at that time shall be dealt with in accordance with that resolution.
- 13.11 Kluane First Nation shall prepare an audit and a report for the period of time between the last annual audit and report and the termination of the Fund and shall present the audit and report, together with the resolution of the Kluane First Nation Council terminating the Fund, to the next general assembly held in accordance with the Kluane First Nation Constitution.
- 13.12 Kluane First Nation shall provide a copy of the audit and report referred to in 13.11, together with a certified copy of the resolution of the Kluane First Nation Council terminating the Fund, to Canada.
- 13.13 For greater certainty, nothing in 13.0 creates an individual interest in the Fund.

#### **14.0 Buffer**

14.1 In 14.0, "Buffer" means the land shown cross-hatched and designated as Buffer on Map Sheet 115 G/7 in Appendix B - Maps, which forms a separate volume to this Agreement.

14.2 If the Yukon decides to offer to another Person the opportunity to purchase any portion of the Buffer, the Kluane First Nation shall have the first right to purchase that portion at fair market value in the following manner:

14.2.1 the Yukon shall provide written notice to the Kluane First Nation setting out the price and the other terms and conditions upon which the portion may be purchased;

14.2.2 if the Kluane First Nation does not accept, in writing, the offer referred to in 14.2.1 within 60 days of its receipt, it shall be deemed to have declined the offer and the Yukon may offer the opportunity to purchase the portion to other Persons upon the same terms and conditions as offered to the Kluane First Nation; and

14.2.3 if no other Person accepts the public offer referred to in 14.2.2, the Yukon may re-offer the portion on new terms and conditions but in accordance with the procedure set out in 14.2.1 and 14.2.2.

## **SCHEDULE A**

### **ECONOMIC MEASURES**

#### **PART II - ALLOCATION OF LICENCES, PERMITS AND CONCESSIONS**

##### **1.0 Commercial Freshwater Fish**

1.1 Kluane First Nation shall have a right of first refusal to acquire licences or permits in respect of commercial freshwater fishing in the Traditional Territory of Kluane First Nation as follows:

1.1.1 Government shall offer to Kluane First Nation any new licences or permits in respect of commercial freshwater fishing until Kluane First Nation and Kluane Firms together have been allocated, by weight, 25 percent of the commercial freshwater fish quota in the Traditional Territory of Kluane First Nation; and

1.1.2 unless required for Conservation, Government will not adjust the lake trout quota for Kluane Lake of 3050 kilograms, until it seeks a recommendation from the Dän Keyi Renewable Resources Council.

##### **2.0 Commercial Wilderness Adventure Travel**

2.1 If Government places a limit upon the number of licences or permits to be issued in respect of a sector of the commercial wilderness adventure travel industry in the Traditional Territory of Kluane First Nation, Kluane First Nation shall have a right of first refusal to acquire a portion of those licenses or permits as follows:

2.1.1 in the first year that Government places the limit, Government shall offer to Kluane First Nation in respect of its Traditional Territory:

2.1.1.1 25 percent of the licences or permits to be issued, less the number of licenses or permits required to allow existing operations which are held by Kluane Firms to operate at their then existing level; or



2.1.1.2 the number of licences or permits that remain after the then existing operations in the Traditional Territory of Kluane First Nation have been issued the licences or permits that are required to allow them to operate at their then existing level,

whichever is less; and

2.1.2 in the second year, and each year thereafter, Government shall offer to Kluane First Nation any new licences or permits issued from time to time until Kluane First Nation and Kluane Firms together have been issued 25 percent of the licences or permits issued from time to time.

2.2 In calculating the number of licences or permits required to be offered to Kluane First Nation pursuant to 2.1, the number of licences or permits to be issued solely to Kluane First Nation in the Asi Keyi Natural Environment Park as well as the number of licences or permits to be issued to both Kluane First Nation and White River First Nation jointly in the Asi Keyi Natural Environment Park in respect of a sector of the commercial wilderness adventure travel industry shall be included in the total number of licences or permits to be issued in the Traditional Territory of Kluane First Nation in respect of that sector.

2.3 The number of licences or permits offered solely to Kluane First Nation as well as those offered jointly to Kluane First Nation and White River First Nation pursuant to 6.4 of Schedule B - Asi Keyi Natural Environment Park to Chapter 10 - Special Management Areas, shall not be included in the calculation of the number of licences or permits required to be offered to Kluane First Nation pursuant to 2.1.

### **3.0 Commercial Freshwater Sports Fishing**

3.1 If Government places a limit upon the number of licences or permits to be issued in respect of a sector of the commercial freshwater sports fishing industry in the Traditional Territory of Kluane First Nation, Kluane First Nation shall have a right of first refusal to acquire a portion of those licences or permits as follows:

3.1.1 in the first year that Government places the limit, Government shall offer to Kluane First Nation in respect of its Traditional Territory:

3.1.1.1 25 percent of the licences or permits to be issued, less the number of licences or permits required to allow existing operations which are held by Kluane Firms to operate at their then existing level; or

3.1.1.2 the number of licences or permits that remain after the then existing operations in the Traditional Territory of Kluane First Nation have been issued the licences or permits that are required to allow them to operate at their then existing level,

whichever is less; and

3.1.2 in the second year, and in each year thereafter, Government shall offer to Kluane First Nation any new licences or permits issued from time to time until Kluane First Nation and Kluane Firms together have been issued 25 percent of the licences or permits issued from time to time.

#### **4.0 Conditions**

4.1 Government shall Consult with Kluane First Nation when deciding to establish a licencing or permitting regime or when deciding to amend an existing licencing or permitting regime in respect of the industries referred to in 1.0, 2.0 and 3.0 in the Traditional Territory of Kluane First Nation.

4.2 Government shall Consult with Kluane First Nation when deciding to place a limit or vary an existing limit upon the number of licences or permits to be issued in respect of the industries referred to in 1.0, 2.0 and 3.0 in the Traditional Territory of Kluane First Nation.

4.3 In making a decision referred to in 4.2 and in responding to a recommendation pursuant to 4.4, Government shall consider the following:

4.3.1 the number of existing operations in the sector of the industry referred to in 1.0, 2.0 and 3.0 in respect of which the placing of a limit or the varying of an existing limit upon the number of licences or permits to be issued in the Traditional Territory of Kluane First Nation is being considered;

4.3.2 the capacity of that sector to accommodate additional operators, including Kluane First Nation and Kluane Firms;

- 4.3.3 whether a delay in placing a limit or varying an existing limit upon the number of licences or permits to be issued in respect of that sector would affect the ability of Kluane First Nation and Kluane Firms together to acquire 25 percent of the licences or permits to be issued;
  - 4.3.4 the objectives of this chapter; and
  - 4.3.5 such other matters as to which the parties may agree.
- 4.4 Kluane First Nation may, in writing, giving reasons, recommend to the Minister:
- 4.4.1 the establishment of or amendment to a licencing or permitting regime in respect of the industries referred to in 1.0, 2.0 and 3.0; and
  - 4.4.2 the placement of or variation of a limit upon the number of licences or permits to be issued in respect of the industries referred to in 1.0, 2.0 and 3.0.
- 4.5 The Minister shall, within 90 days of receipt of a recommendation from Kluane First Nation pursuant to 4.4, respond in writing to Kluane First Nation, giving reasons for any decision made in respect of that recommendation.
- 4.6 Kluane First Nation may enter into joint ventures or other arrangements with other persons to use the licences or permits issued to Kluane First Nation pursuant to 1.0, 2.0 or 3.0.
- 4.7 Kluane First Nation shall apply to Government within one year of the offer of a licence or permit referred to in 1.0, 2.0 and 3.0, failing which the right of first refusal for that licence or permit shall lapse.
- 4.8 A licence or permit in respect of which a right of first refusal has lapsed under 4.7 shall not be considered a licence or permit offered to Kluane First Nation under 1.0, 2.0 or 3.0.
- 4.9 When Kluane First Nation applies for a licence or permit in accordance with 4.7 and satisfies the requirements that otherwise apply to obtaining such a licence or permit, Government shall issue that licence or permit to Kluane First Nation.

- 4.10 A renewal or assignment of a licence or permit shall not be considered a new licence or permit for the purpose of the calculation of the number of licences or permits required to be offered to Kluane First Nation pursuant to 1.0, 2.0 and 3.0.
- 4.11 Nothing in 1.0, 2.0 or 3.0 shall be construed to obligate Government to replace a licence or permit obtained by Kluane First Nation pursuant to these provisions where Kluane First Nation has sold or assigned that licence or permit.
- 4.12 Nothing in 1.0, 2.0 and 3.0 shall be construed to prevent Kluane First Nation or a Kluane Firm from acquiring additional licences or permits through the normal regulatory process.
- 4.13 The rights of first refusal referred to in 1.1, 2.1 and 3.1 shall expire on the 20<sup>th</sup> anniversary of the Effective Date of this Agreement, unless the parties to this Agreement agree to extend the application of those provisions.

## **5.0 Outfitting Concession**

- 5.1 Kluane First Nation shall have the first right to acquire the next outfitting concession which becomes available in the Traditional Territory of Kluane First Nation after the Effective Date of this Agreement.
- 5.1.1 Upon that outfitting concession becoming available, Government shall give notice in writing to Kluane First Nation of that fact and of the terms and conditions upon which that concession might be acquired.
- 5.1.2 Kluane First Nation may exercise the first right to acquire referred to in 5.1, at any time during the 90 days following the date upon which it received the notice referred to in 5.1.1, by advising Government in writing of its intention to exercise that right.
- 5.1.3 If Kluane First Nation fails, within the 90 days following its receipt of the notice referred to in 5.1.1, to advise Government that it wishes to exercise the first right to acquire referred to in 5.1, it shall be deemed to have given notice that it will not be exercising that right.
- 5.2 For the purposes of 5.0, an outfitting concession becomes available only in the following circumstances:

5.2.1 Government decides to grant a concession in respect of an area, the greatest part of which has never been the subject of any outfitting concession;

5.2.2 Government decides to grant one or more additional concessions in respect of an area which was previously the subject of only one concession;

5.2.2.1 for greater certainty, the realignment of the existing boundaries of two or more adjacent outfitting areas does not result in a new concession becoming available for the purposes of 5.0;

5.2.3 Government decides to grant a concession in respect of an area, the previous concession in respect of which Government has revoked or refused to renew because of the concession holder's failure to comply with the Laws of General Application; or

5.2.4 Government decides to grant a concession in respect of an area, the previous concession in respect of which Government has revoked or refused to renew because it was then of the opinion that to do so was necessary for the conservation of wildlife in the area or protection of the public interest.

5.3 The first right to acquire referred to in 5.1 shall expire on the 20<sup>th</sup> anniversary of the Effective Date of this Agreement, unless the parties to this Agreement agree to extend the application of this provision.

## **6.0 Special Sheep Guiding Opportunities**

6.1 In 6.0 the following definitions shall apply.

"Permit Area" means the area identified as "Special Sheep Guiding Opportunity Area (SSGOA)", on Map Sheets - 115G & 115F (east ½), in Appendix B - Maps which forms a separate volume to this Agreement.

"Price Paid" is the gross dollar amount paid by a non-Resident hunter through auction or any other means for a Sheep hunting opportunity.

"Resident" has the same meaning as in the Wildlife Act, RSY 2002, c. 229.

"Sheep" means sheep belonging to the species *ovis dalli dalli* or *ovis dalli stonei*.

- 6.2 Nothing in 6.0 shall be construed to limit the authority of the Minister to authorize harvesting of other species of wildlife within the Permit Area.
- 6.2.1 The Special Sheep Guiding Opportunity is not an exclusive opportunity and for greater certainty, after the expiration of two years from the Effective Date of this Agreement, the Minister may issue one Sheep hunting permit annually in the Permit Area to a Resident hunter, in accordance with the Wildlife Act, RSY 2002, c. 229.
- 6.3 A person who is issued a big game guiding permit pursuant to 6.4 or 6.5 shall have, for purposes of exercising the rights provided by the permit, the same right of access to Settlement Land in the Permit Area as an outfitting concession holder has pursuant to 16.12.7, 16.12.10 and 16.12.11.
- 6.4 For the first five years commencing upon the expiration of two years from the Effective Date of this Agreement, Kluane First Nation may, on or before January 31<sup>st</sup> of each calendar year thereafter, request the Minister to issue a big game guiding permit to a Yukon outfitter identified by Kluane First Nation. The permit shall authorize that outfitter to provide a guide to hunt for one Sheep in the Permit Area by a non-Resident, during the hunting seasons, in that calendar year.
- 6.5 Upon the expiration of the five year period in 6.4, Kluane First Nation may, on or before January 31<sup>st</sup> of each calendar year, identify a person qualified to be issued a big game guiding permit, and may request the Minister to issue a big game guiding permit authorizing that qualified person to provide a guide to hunt for one Sheep in the Permit Area by a non-Resident, during the hunting seasons, in that calendar year.
- 6.6 Kluane First Nation shall provide written notice to the Yukon on or before January 31<sup>st</sup> of each year that it wishes to exercise a 6.4 or 6.5 opportunity identifying the name of the permittee to whom it wishes the big game guiding permit be issued.

- 6.7 Subject to 6.8 and any limitations provided in the Wildlife Act, RSY 2002, c. 229, the Minister shall, within 60 days of receipt of a 6.6 notice, issue a big game guiding permit to the permittee identified by Kluane First Nation authorizing that person to provide a guide to hunt for one Sheep in the Permit Area by a non-Resident, during the hunting seasons, in that calendar year.
- 6.8 Any permit issued pursuant to 6.7 may be subject to written conditions set out in the permit consistent with the provisions of 6.0 and shall only be issued to persons otherwise qualified under the Wildlife Act, RSY 2002, c. 229.
- 6.9 The opportunities provided in 6.4 and 6.5 shall expire upon the earlier of the Minister having issued 30 permits in accordance with 6.0 or the expiration of 42 years from the Effective Date of this Agreement.
- 6.10 Kluane First Nation shall, subject to 6.11, in respect of the issuance of the first five permits in accordance with 6.0, cause 50% of the Price Paid for the Sheep hunting opportunity to be used for purposes of conservation of wildlife and wildlife habitat in the Kluane First Nation Traditional Territory.
- 6.11 Kluane First Nation shall meet with the Yukon and the Dän Keyi Renewable Resources Council to discuss the expenditures Kluane First Nation proposes to make pursuant to 6.10.
- 6.12 As soon as practicable after the Effective Date, the Commissioner in Executive Council shall make regulations pursuant to the Wildlife Act, RSY 2002, c. 229 to allow the opportunity provided in 6.0.
- 6.13 The Yukon and Kluane First Nation shall discuss methods to mutually assist in the marketing of the non-Resident Sheep hunt.





## **CHAPTER 23 - RESOURCE ROYALTY SHARING**

### **23.1.0 Definitions**

In this chapter, the following definitions shall apply.

"Crown Royalty" means any amount received by the Yukon, paid in money or in kind, in respect of a Resource produced by a Person from land where Government owns the Resource, but does not include any payment made for a service, for the creation of special purposes funds, for the issuance of a right or interest or for the granting of an approval or authorization, any payment required regardless of the ownership of the Resource, or any payment for incentives, less:

- (a) the reasonable costs incurred by the Yukon for the collection of the Crown Royalty; and
- (b) any deductions made by Canada from federal financial contributions to the Yukon by reason of the Yukon receiving revenues from a Resource.

"Resource" means Mines and Minerals, other than Specified Substances, found in, on or under the Yukon Territory.

"Yukon First Nation Royalty" means any sum which would be payable to the Yukon in respect of the production of a Resource on Category A Settlement Land as if that land were owned by Government, regardless of whether a Yukon First Nation actually receives a greater or lesser royalty when granting interests in a Resource on Category A Settlement Land, less the reasonable costs incurred by the Yukon First Nation for the collection of its royalty.

"Yukon Territory" means the Yukon Territory as defined in the Yukon Act, R.S.C. 1985, c. Y-2 as at December 15, 1988, notwithstanding any subsequent amendment to that Act.

### **23.2.0 Crown Royalty Sharing**

23.2.1 In the event that Canada transfers to the Yukon the authority to receive or to levy and collect royalties in respect of the production of a Resource, the following arrangements shall apply:

- 23.2.1.1 the Yukon shall, subject to 23.2.2, pay to the Yukon First Nations, annually, an amount equal to,

- (a) 50 percent of the first two million dollars of any amount by which the Crown Royalty exceeds the Yukon First Nation Royalty, in respect of that year, and
  - (b) 10 percent of any additional amount by which the Crown Royalty exceeds the Yukon First Nation Royalty in respect of that year.
- 23.2.2 Subject to 23.2.5, the amount due to Yukon First Nations pursuant to 23.2.1 in any year shall not exceed the amount which, if distributed equally among all Yukon Indian People, would result in an average per capita income for Yukon Indian People equal to the Canadian average per capita income.
- 23.2.3 The Yukon shall Consult with a Yukon First Nation before granting a fee simple interest within that Yukon First Nation's Traditional Territory in any Resource.
- 23.2.4 The amounts due pursuant to 23.2.1 shall be prorated among Yukon First Nations on the same basis as Schedule A - Apportionment of the 1989 Aggregate Value, attached to Chapter 19 - Financial Compensation.
- 23.2.5 The amounts referred to in 23.2.4 shall, in each year, be payable only to those Yukon First Nations who have entered into a Yukon First Nation Final Agreement during or prior to that year. The amounts allocated to Yukon First Nations which have not entered into Yukon First Nation Final Agreements shall not be payable and shall remain vested in the Yukon.
- 23.2.6 In the event that, following payment, there is determined to have been an overpayment or underpayment to a Yukon First Nation in any year, such variance may be adjusted for in the payment in the following year.
- 23.2.7 While the parties to the Umbrella Final Agreement acknowledge that nothing in the Umbrella Final Agreement constitutes any commitment to shared management of the Resources between Government and Yukon First Nations, the Yukon shall Consult with Yukon First Nations before making changes to the fiscal regime which would change the Crown Royalty regime.
- 23.2.8 Any payments made by the Yukon to Yukon First Nations pursuant to 23.2.1 shall not be reimbursed to the Yukon, in whole or in part, by Canada.
- 23.3.0 Interim Provisions**
- 23.3.1 The parties to the Umbrella Final Agreement recognize that Canada and the Yukon are negotiating agreements with respect to the transfer of administration and management of Resources.

- 23.3.2 The Council for Yukon Indians may participate with the Yukon in the development of the Yukon's negotiating positions for negotiations pursuant to 23.3.1.
- 23.3.3 It is acknowledged the Yukon will represent the interests of all Yukon residents in negotiations pursuant to 23.3.1.
- 23.3.4 Any agreement as a result of negotiations pursuant to 23.3.1 shall be consistent with this chapter.



## **CHAPTER 24 - YUKON INDIAN SELF-GOVERNMENT**

### **24.1.0 General**

- 24.1.1 Government shall enter into negotiations with each Yukon First Nation which so requests with a view to concluding self-government agreements appropriate to the circumstances of the affected Yukon First Nation.
- 24.1.2 Subject to negotiation of an agreement pursuant to 24.1.1 and in conformity with the Constitution of Canada, the powers of a Yukon First Nation may include the powers to:
- 24.1.2.1 enact laws and regulations of a local nature for the good government of its Settlement Land and the inhabitants of such land, and for the general welfare and development of the Yukon First Nation;
  - 24.1.2.2 develop and administer programs in areas of Yukon First Nation responsibility;
  - 24.1.2.3 appoint representatives to boards, councils, commissions and committees as provided for in the Settlement Agreements;
  - 24.1.2.4 allocate, administer and manage Settlement Land;
  - 24.1.2.5 contract with Persons or governments;
  - 24.1.2.6 form corporations and other legal entities;
  - 24.1.2.7 borrow money; and
  - 24.1.2.8 levy and collect fees for the use or occupation of Settlement Land including property taxes.
- 24.1.3 Self-government agreements shall not affect:
- 24.1.3.1 the rights of Yukon Indian People as Canadian citizens; and
  - 24.1.3.2 unless otherwise provided pursuant to a self-government agreement or legislation enacted thereunder, their entitlement to all of the services, benefits and protections of other citizens applicable from time to time.

## **24.2.0 Subjects for Negotiation**

24.2.1 Negotiations respecting a self-government agreement for a Yukon First Nation may include the following subjects:

- 24.2.1.1 the Yukon First Nation constitution;
- 24.2.1.2 the Yukon First Nation's community infrastructure, public works, government services and Local Government Services;
- 24.2.1.3 community development and social programs;
- 24.2.1.4 education and training;
- 24.2.1.5 communications;
- 24.2.1.6 culture and aboriginal languages;
- 24.2.1.7 spiritual beliefs and practices;
- 24.2.1.8 health services;
- 24.2.1.9 personnel administration;
- 24.2.1.10 civil and family matters;
- 24.2.1.11 subject to federal tax Law, the raising of revenue for local purposes including direct taxation;
- 24.2.1.12 economic development;
- 24.2.1.13 the administration of justice and the maintenance of law and order;
- 24.2.1.14 relations with Canada, the Yukon and local governments;
- 24.2.1.15 financial transfer arrangements;
- 24.2.1.16 an implementation plan; and
- 24.2.1.17 all matters ancillary to the foregoing, or as may be otherwise agreed.

### **24.3.0 Devolution**

- 24.3.1 Government and a Yukon First Nation may negotiate the devolution of programs and services associated with the responsibilities of the Yukon First Nation as agreed in negotiations over matters enumerated in 24.2.1.
- 24.3.2 For greater certainty, pursuant to 24.2.1, Government and the Yukon First Nation may negotiate the devolution of programs and services dealing with the following:
- 24.3.2.1 Yukon First Nation authority for the design, delivery and management of Indian language and cultural curriculum;
  - 24.3.2.2 Yukon First Nation authority for the design, delivery and administration of tribal justice; and
  - 24.3.2.3 the division and sharing of Yukon First Nation and Government responsibility for the design, delivery and administration of programs relating to,

#### **Education**

- (a) Indian student counselling,
- (b) cross cultural teacher/administrator orientation,
- (c) composition of teaching staff,
- (d) early childhood, special, and adult education curriculum,
- (e) kindergarten through grade 12 curriculum,
- (f) the evaluation of teachers, administrators and other employees,

#### **Health and Social Services**

- (g) family and child welfare, including custom adoption,
- (h) substance abuse programs,
- (i) juvenile offender programs,
- (j) child development programs,

- (k) programs for the mentally, physically, emotionally or socially disabled,
- (l) other health and social services that the parties may agree to from time to time,

### **Justice**

- (m) policing and enforcement of law,
- (n) corrections,
- (o) probation services,
- (p) community conflict resolution,

### **Employment Opportunities**

- (q) increased employment opportunities for Yukon Indian People; and

24.3.2.4 such other programs and services as the parties may agree.

## **24.4.0 Participation**

24.4.1 The parties to the Umbrella Final Agreement may negotiate guaranteed representation for Yukon First Nations on government commissions, councils, boards and committees in the Yukon established to deal with the following matters:

- 24.4.1.1 education;
- 24.4.1.2 health and social services;
- 24.4.1.3 justice and law enforcement; and
- 24.4.1.4 other matters as may be agreed.

## **24.5.0 Yukon First Nation Constitutions**

24.5.1 Negotiations regarding a Yukon First Nation constitution may include the following:



- 24.5.1.1 composition, structure and powers of the Yukon First Nation government institutions;
- 24.5.1.2 membership;
- 24.5.1.3 election procedures;
- 24.5.1.4 meeting procedures;
- 24.5.1.5 financial management procedures;
- 24.5.1.6 composition and powers of all committees;
- 24.5.1.7 the rights of individual members of a Yukon First Nation with respect to the powers of the Yukon First Nation government institutions;
- 24.5.1.8 amending procedures;
- 24.5.1.9 internal management of the Yukon First Nation, including regional or district management structures; and
- 24.5.1.10 use, occupation and disposition of the Yukon First Nation's Settlement Land and resources.

#### **24.6.0 Financial Transfer Arrangements**

- 24.6.1 The intent of any financial transfer arrangement negotiated in accordance with 24.2.1.15 shall be to:
  - 24.6.1.1 specify a method for determining levels of Government financial transfers to the Yukon First Nation in question;
  - 24.6.1.2 specify obligations of all parties, including minimum program delivery standards for programs to be delivered by the Yukon First Nation; and
  - 24.6.1.3 specify accountability requirements with respect to transferred funds.
- 24.6.2 Such financial transfer arrangements shall address requirements for contributions from the Government towards the funding of Yukon First Nation institutions and programs.
- 24.6.3 Financial transfer arrangements may provide for the transfer of funds through a block-funding mechanism.
- 24.6.4 Financial transfer arrangements may be re-negotiable every five years.

## **24.7.0 Regional or District Structures**

24.7.1 A Yukon First Nation, Canada, the Yukon and Yukon municipalities, may develop common administrative or planning structures within a community, region or district of the Yukon and these structures shall:

24.7.1.1 remain under the control of all Yukon residents within that district; and

24.7.1.2 include direct representation by the affected Yukon First Nations within that district.

## **24.8.0 Status of Yukon First Nations under the Income Tax Act**

24.8.1 Agreements negotiated pursuant to 24.1.1 shall include provisions respecting the status of a Yukon First Nation as a municipality or public body performing the functions of government or a municipal corporation under the Income Tax Act, S.C. 1970-71-72, c. 63.

24.8.2 Unless the parties otherwise agree, an entity described in 24.8.1 shall be restricted by its enabling authority to the provision of government or other public services and, in particular, it shall not engage in commercial activities nor control any entity that carries on a commercial activity or is engaged in making investments.

### **Specific Provision**

24.8.2.1 Exceptions to the restrictions set out in 24.8.2 are set out in the Kluane First Nation Self-Government Agreement.

## **24.9.0 Legislation**

24.9.1 The parties to the Umbrella Final Agreement shall negotiate guidelines for drafting Legislation to bring into effect agreements negotiated pursuant to 24.1.1.

24.9.2 Subject to 24.9.1, the Yukon shall recommend to its Legislative Assembly, Legislation separate from the Settlement Legislation to bring into effect those agreements negotiated pursuant to 24.1.1 for which the Yukon has legislative authority.

24.9.3 Subject to 24.9.1, Canada shall recommend to Parliament Legislation separate from the Settlement Legislation to bring into effect those agreements negotiated pursuant to 24.1.1 for which Canada has legislative authority.

#### **24.10.0 Amendment**

24.10.1 Government shall consult with affected Yukon First Nations before recommending to Parliament or the Yukon Legislative Assembly, as the case may be, Legislation to amend or repeal Legislation enacted to give effect to those agreements negotiated pursuant to 24.1.1.

24.10.2 The manner of consultation in 24.10.1 shall be set out in each self-government agreement.

24.10.3 Yukon First Nations constitutions may be amended only by internal amending formulae or by amendment to the self-government Legislation.

#### **24.11.0 Process**

24.11.1 Prior to commencing substantive negotiations on self-government agreements, the parties to such negotiations shall agree on:

24.11.1.1 the order in which the matters to be negotiated are to be addressed;

24.11.1.2 the time frame within which negotiations will take place, which shall be concurrent with time frames established for the negotiation of Yukon First Nation Final Agreements; and

24.11.1.3 such other matters as may be necessary or desirable to ensure that negotiations proceed in a logical and efficient manner.

24.11.2 Funding for negotiations shall be according to federal policy for self-government negotiations.

#### **24.12.0 Protection**

24.12.1 Agreements entered into pursuant to this chapter and any Legislation enacted to implement such agreements shall not be construed to be treaty rights within the meaning of section 35 of the Constitution Act, 1982.

- 24.12.2 Nothing in this chapter or in the Settlement Agreements shall preclude Yukon First Nations, if agreed to by the Yukon First Nations and Canada, from acquiring constitutional protection for self-government as provided in future constitutional amendments.
- 24.12.3 Any amendments to this chapter related to the constitutional protection for self-government in whole or in part shall be by agreement of Canada and the Yukon First Nations.
- 24.12.4 Nothing in 24.12.1, 24.12.2 or 24.12.3 shall be construed to affect the interpretation of aboriginal rights within the meaning of sections 25 or 35 of the Constitution Act, 1982.

## **CHAPTER 25 - TRANSBOUNDARY AGREEMENTS**

### **25.1.0 General**

- 25.1.1 Government, the Council for Yukon Indians and the affected Yukon First Nations shall cooperate in negotiating Transboundary Agreements.
- 25.1.2 Government, the Council for Yukon Indians and the affected Yukon First Nations shall endeavour to secure the cooperation of the Government of British Columbia, the Government of the Northwest Territories and transboundary aboriginal groups in negotiating Transboundary Agreements.

### **25.2.0 Transboundary Negotiations**

- 25.2.1 Government, the Council for Yukon Indians and Yukon First Nations whose Traditional Territories are affected by a transboundary aboriginal claim shall work together in respect of each transboundary aboriginal claim to negotiate a Transboundary Agreement.
- 25.2.2 Government, the Council for Yukon Indians and the affected Yukon First Nations shall make best efforts to settle the transboundary aboriginal claims of Yukon Indian People in the Northwest Territories and British Columbia based upon reciprocity for traditional use and occupancy.
- 25.2.3 Canada shall make adequate resources available for Yukon First Nations to negotiate Transboundary Agreements in accordance with federal comprehensive claims funding policies.
- 25.2.4 The negotiations shall be based on traditional use and occupancy.

### **25.3.0 Internal Relations**

- 25.3.1 Nothing in this chapter shall preclude a Yukon First Nation and a transboundary claimant group who are parties to a Transboundary Agreement from making agreements in respect of the sharing of their lands, resources and benefits or from developing their own forms of internal relations.
- 25.3.2 Transboundary claimant participation in land and resources management in the Yukon shall be provided for in Transboundary Agreements.

#### **25.4.0 Amendment**

25.4.1 Except where expressly provided otherwise in a Transboundary Agreement, that Transboundary Agreement may only be amended with the consent of all parties to that Transboundary Agreement.

#### **25.5.0 Yukon First Nation Final Agreements and Transboundary Agreements Conflicts**

25.5.1 For the purposes of 25.5.0, "Subsequent Transboundary Agreement" means:

25.5.1.1 a Transboundary Agreement entered into after the ratification of the Umbrella Final Agreement; and

25.5.1.2 any amendment, after ratification of the Umbrella Final Agreement, to a Transboundary Agreement entered into prior to ratification of the Umbrella Final Agreement.

25.5.2 A Yukon First Nation Final Agreement shall contain provisions which, to the satisfaction of the parties to that Yukon First Nation Final Agreement:

25.5.2.1 resolve any inconsistencies or conflicts between that Yukon First Nation Final Agreement and any Subsequent Transboundary Agreement then in effect which has application in the Traditional Territory of the Yukon First Nation; and

25.5.2.2 allow for the resolution of any inconsistencies or conflicts between that Yukon First Nation Final Agreement and a Subsequent Transboundary Agreement not then in effect but which, when in effect, might have application in the Traditional Territory of the Yukon First Nation.

25.5.3 Canada shall not agree in a Subsequent Transboundary Agreement to provisions:

25.5.3.1 which resolve conflicts or inconsistencies between that Subsequent Transboundary Agreement and a Yukon First Nation Final Agreement; or

25.5.3.2 which allow for the resolution of inconsistencies or conflicts between that Subsequent Transboundary Agreement and any Yukon First Nation Final Agreement not then in effect but which, when in effect, might have application in the same area of the Yukon as the Subsequent Transboundary Agreement,

without the consent of the Yukon First Nation in whose Traditional Territory the Subsequent Transboundary Agreement has, or, when in effect, might have application, and the consent of the Yukon.

25.5.4 The Yukon shall not agree in a Subsequent Transboundary Agreement to provisions:

25.5.4.1 which resolve conflicts or inconsistencies between that Subsequent Transboundary Agreement and a Yukon First Nation Final Agreement;  
or

25.5.4.2 which allow for the resolution of inconsistencies or conflicts between that Subsequent Transboundary Agreement and any Yukon First Nation Final Agreement not then in effect but which, when in effect, might have application in the same area of the Yukon as the Subsequent Transboundary Agreement,

without the consent of the Yukon First Nation in whose Traditional Territory the Subsequent Transboundary Agreement has, or, when in effect, might have application, and the consent of Canada.

25.5.5 Canada shall not agree to any provision in a Subsequent Transboundary Agreement which primarily affects a matter within the jurisdiction of the Yukon without the consent of the Yukon.





## **CHAPTER 26 - DISPUTE RESOLUTION**

### **26.1.0 Objectives**

26.1.1 The objectives of this chapter are as follows:

26.1.1.1 to establish a comprehensive dispute resolution process for resolving disputes which arise out of the interpretation, administration or implementation of Settlement Agreements or Settlement Legislation; and

26.1.1.2 to facilitate the out-of-court resolution of disputes under 26.1.1, in a non-adversarial and informal atmosphere.

### **26.2.0 Definitions**

In this chapter, the following definitions shall apply.

"Board" means the Dispute Resolution Board established pursuant to 26.5.1.

"Panel" means the Dispute Resolution Panel appointed pursuant to 26.5.3.

### **26.3.0 Specific Disputes**

26.3.1 A party to a Settlement Agreement may refer any of the following matters to mediation under 26.6.0:

26.3.1.1 any matter which the Umbrella Final Agreement refers to the dispute resolution process;

26.3.1.2 any matter which a Settlement Agreement, a Yukon First Nation self-government agreement or any other agreement between the parties to a Yukon First Nation Final Agreement refers to the dispute resolution process; and

26.3.1.3 any other matter which at any time all parties to a Settlement Agreement agree should be referred to the dispute resolution process whether or not related to a Settlement Agreement.

26.3.2 Each party to a Settlement Agreement has a right to be a party to a dispute described in 26.3.1 arising out of that Settlement Agreement.

- 26.3.3 Subject to 26.8.0, no party to a Settlement Agreement may apply to any court for relief in respect of any dispute which may be referred to mediation under 26.3.1 except for an application for interim or interlocutory relief where the Board has failed to appoint a mediator under 26.6.2 or an arbitrator under 26.7.2 within 60 days of application by any party to the dispute.
- 26.3.4 Any Person whose interests, in the opinion of the mediator, will be adversely affected by a dispute referred to mediation under 26.3.1 has a right to participate in the mediation on such terms as the mediator may establish.
- 26.3.5 A dispute described in 26.3.1 which is not resolved by mediation under 26.6.0 may be referred to arbitration under 26.7.0 by any party to the dispute.

#### **26.4.0 Other Disputes**

- 26.4.1 A party to a Settlement Agreement may refer any of the following matters to mediation under 26.6.0:
- 26.4.1.1 any matter which the Umbrella Final Agreement refers to mediation under the dispute resolution process;
  - 26.4.1.2 any matter which a Settlement Agreement, a Yukon First Nation self-government agreement or any other agreement between the parties to a Yukon First Nation Final Agreement refers to mediation under the dispute resolution process;
  - 26.4.1.3 any matter which at any time all the parties to a Settlement Agreement agree should be referred to mediation under the dispute resolution process, whether or not related to a Settlement Agreement;
  - 26.4.1.4 any matter which a board listed in 2.12.0 established pursuant to a Settlement Agreement, acting pursuant to its rules and procedures directs to mediation under the dispute resolution process; and
  - 26.4.1.5 any matter arising out of the interpretation administration, or implementation of that Settlement Agreement, with the consent of all the other parties to that Settlement Agreement, whether the dispute is among the parties to the Settlement Agreement or not.
- 26.4.2 Each party to a Settlement Agreement has a right to be a party to any dispute referred to mediation under 26.6.0.
- 26.4.3 The parties to a dispute described in 26.4.1 which is not resolved by mediation under 26.6.0 may agree to refer the dispute to arbitration under 26.7.0.

- 26.4.4 Any Person whose interests, in the opinion of the arbitrator, will be adversely affected by a dispute referred to arbitration under 26.3.5 or 26.4.3 has a right to participate in the arbitration on such terms as the arbitrator may establish.
- 26.4.5 Subject to 26.8.0, no party to a Settlement Agreement may apply to any court for relief in respect of any dispute which has been referred to arbitration under 26.3.5 or 26.4.3, except for an application for interim or interlocutory relief where the Board has failed to appoint an arbitrator under 26.7.2 within 60 days of an application by any party to the dispute.

### **26.5.0 Dispute Resolution Board and Panel**

- 26.5.1 A Dispute Resolution Board shall be established comprising three persons appointed jointly by the Council for Yukon Indians and Government in accordance with 26.5.2.
- 26.5.2 If, upon 30 days notice by a party to the Umbrella Final Agreement of its readiness to establish the Board, the parties to the Umbrella Final Agreement do not jointly agree on the membership of the Board:
- 26.5.2.1 the Council for Yukon Indians shall appoint one member;
  - 26.5.2.2 Canada and the Yukon shall jointly appoint one member;
  - 26.5.2.3 the members appointed pursuant to 26.5.2.1 and 26.5.2.2 shall select jointly the third member who shall be the chairperson of the Board; and
  - 26.5.2.4 if a chairperson has not been selected pursuant to 26.5.2.3 within 60 days of the appointment of the members pursuant to 26.5.2.1 and 26.5.2.2, the Senior Judge of the Supreme Court of the Yukon, or another Judge designated by the Senior Judge, shall appoint the chairperson upon application by one of the parties to the Umbrella Final Agreement.
- 26.5.3 The Board may, if, in its opinion, circumstances warrant, appoint persons including its own members to form the Dispute Resolution Panel provided that the total number of persons on the Panel, including members of the Board, does not exceed 15.
- 26.5.4 The Board appointed under 26.5.1 shall have the following responsibilities:
- 26.5.4.1 to ensure Panel members have or receive training in mediation and arbitration principles and techniques;

- 26.5.4.2 to maintain a roster of mediators and a roster of arbitrators from those persons who are appointed members of the Panel;
- 26.5.4.3 to appoint mediators and arbitrators;
- 26.5.4.4 to set from time to time the fees to be charged for Panel members' services;
- 26.5.4.5 to prepare annual budgets for administrative costs of the Board and Panel and to submit such budgets to Government for approval; and
- 26.5.4.6 after Consultation with the parties to the Umbrella Final Agreement, to establish rules and procedures governing mediation and arbitration.

## **26.6.0 Mediation**

- 26.6.1 The parties to a dispute referred to mediation shall attempt to choose a mediator within 15 days of the dispute being referred to mediation.
- 26.6.2 If a dispute cannot be settled informally by the parties and the parties cannot agree on a mediator, the Board shall appoint a mediator from the Panel.
- 26.6.3 A mediator agreed upon by the parties or appointed by the Board shall promptly meet with the parties to assist them in the resolution of the dispute.
- 26.6.4 The mediation shall not extend beyond four hours unless the parties to the dispute and the mediator agree.
- 26.6.5 The mediator, at his own option, may provide a brief non-binding written recommendation to the parties.
- 26.6.6 The mediator, at the request of the parties to the mediation, shall provide a brief non-binding written recommendation to the parties.
- 26.6.7 The mediation and any recommendations of the mediator shall be confidential to the parties to the dispute unless the parties otherwise agree.
- 26.6.8 The costs of the mediator for the first four hours shall be borne by the Board. Thereafter, the costs of the mediator shall be borne equally by the parties to the mediation.
- 26.6.9 Notwithstanding 26.6.8, the Board shall determine who shall pay the costs of mediation pursuant to 26.4.1.4.

## **26.7.0 Arbitration**

- 26.7.1 The parties to a dispute referred to arbitration shall attempt to choose an arbitrator within 15 days of the dispute being referred to arbitration.
- 26.7.2 If the parties do not agree on an arbitrator under 26.7.1, the Board, on application of a party to the dispute, shall appoint an arbitrator from the Panel.
- 26.7.3 With respect to a dispute referred to arbitration under a Settlement Agreement, the arbitrator shall have the authority to resolve the dispute including the authority:
- 26.7.3.1 to determine all questions of procedure including the method of giving evidence;
  - 26.7.3.2 to subpoena witnesses and documents;
  - 26.7.3.3 to administer oaths and solemn affirmations to the parties and witnesses;
  - 26.7.3.4 to order a party to cease and desist from activity contrary to the provisions of a Settlement Agreement;
  - 26.7.3.5 to order a party to comply with the terms and conditions of a Settlement Agreement;
  - 26.7.3.6 to make an order determining the monetary value of a loss or injury suffered by a party as a result of contravention of a Settlement Agreement and directing a party to pay all or part of the amount of that monetary value;
  - 26.7.3.7 to declare the rights and obligations of the parties to a dispute;
  - 26.7.3.8 to make an order providing interim relief; and
  - 26.7.3.9 to refer any question of Law to the Supreme Court of the Yukon.
- 26.7.4 The cost of the arbitration shall be borne equally among the parties to the dispute unless otherwise assigned by the arbitrator.
- 26.7.5 Subject to 26.8.0, a decision or order of an arbitrator shall be final and binding on the parties to the arbitration.

26.7.6 A party affected by a decision or order of an arbitrator may, after the expiration of 14 days from the date of the release of the decision or order or the date provided in the decision for compliance, whichever is later, file in the Registry of the Supreme Court of the Yukon a copy of the decision and the decision or order shall be entered as if it were a decision or order of the Court, and on being entered shall be deemed, for all purposes except for an appeal from it, to be an order of the Supreme Court of the Yukon and enforceable as such.

#### **26.8.0 Judicial Review**

26.8.1 The decision or order of an arbitrator under 26.7.5 is not subject to appeal or to judicial review in any court except on the ground that the arbitrator failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise jurisdiction.

26.8.2 The Supreme Court of the Yukon shall have jurisdiction in respect of an appeal or judicial review pursuant to 26.8.1.

#### **26.9.0 Transitional**

26.9.1 Until the Board is appointed, the Arbitration Act, R.S.Y. 1986, c. 7 shall apply to any arbitration under 26.7.0.

## **CHAPTER 27 - YUKON FISH AND WILDLIFE ENHANCEMENT TRUST**

### **27.1.0 Definitions**

In this chapter, the following definitions shall apply.

"Adjusted Contribution" means the greater of the amount calculated in (a) or (b), multiplied by the value of the Final Domestic Demand Implicit Price Index for the latest quarter prior to the effective date of Settlement Legislation and divided by the value of the Final Domestic Demand Implicit Price Index for the second quarter of 1990:

- (a) \$1,050,400 x 1.03,
- (b) \$1,050,400 multiplied by the value of the Final Domestic Demand Implicit Price Index for the second quarter of 1990 and divided by the value of the Final Domestic Demand Implicit Price Index for the third quarter of 1989.

"Trust" means the Yukon Fish and Wildlife Enhancement Trust.

### **27.2.0 Trust**

- 27.2.1 A Yukon Fish and Wildlife Enhancement Trust shall be established by the parties to the Umbrella Final Agreement having the objective set out in 27.4.0.

### **27.3.0 Trustees**

- 27.3.1 Members of the Fish and Wildlife Management Board shall serve as the trustees.

### **27.4.0 Trust Objective**

- 27.4.1 The objective of the Trust is to restore, enhance and protect Fish and Wildlife populations and their habitat in the Yukon so as to achieve the objectives of Chapter 16 - Fish and Wildlife.
- 27.4.2 The trustees may initiate, sponsor, fund, direct and carry out measures designed to achieve the objective in 27.4.1.

## **27.5.0 Initial Trust Capital**

27.5.1 The Yukon, Canada and the Yukon First Nations shall make contributions to the Trust as follows:

27.5.1.1 the contributions to the Trust by Canada shall consist of four equal annual payments, the sum of which shall equal the Adjusted Contribution;

27.5.1.2 the contribution to the Trust by the Yukon shall consist of four equal annual payments, the sum of which shall equal the Adjusted Contribution; and

27.5.1.3 the contribution to the Trust by the Yukon First Nations shall be,

(a) for the first annual payment, 10 percent of the Adjusted Contribution,

(b) for the second annual payment, 20 percent of the Adjusted Contribution, and

(c) for each of the third and the fourth annual payments, 35 percent of the Adjusted Contribution.

27.5.2 Canada, the Yukon and the Yukon First Nations shall make their first payments as soon as practicable after the effective date of Settlement Legislation.

27.5.3 Canada, the Yukon and the Yukon First Nations shall make the subsequent annual payments on the anniversary date of the effective date of Settlement Legislation.

## **27.6.0 General**

27.6.1 The Trust capital may be increased by gifts, donations, grants and other sources of funds.

27.6.2 No federal, territorial or municipal tax shall be paid by the Trust in respect of the payments received by the Trust under 27.5.0.

27.6.3 Subject to the terms of the agreement referred to in 27.6.7, no federal, territorial or municipal tax shall be paid by the Trust in respect of any income earned by the Trust.



- 27.6.4 Except for the reasonable costs of administering the Trust, all expenditures from the Trust shall be solely directed to the objectives of the Trust, and no monies for any other purpose shall be expended from the Trust capital.
- 27.6.5 Subject to the terms of the agreement referred to in 27.6.7, the Trust shall be deemed to be a charitable organization for purposes of granting receipts to Persons making gifts to the Trust.
- 27.6.6 Expenditures from the Trust are not intended to duplicate or replace Government expenditures on Fish or Wildlife management.
- 27.6.7 Prior to the effective date of Settlement Legislation, the parties to the Umbrella Final Agreement shall enter into an agreement to give effect to the Trust.



## **CHAPTER 28 - IMPLEMENTATION AND TRAINING FOR SETTLEMENT IMPLEMENTATION**

### **28.1.0 Objectives**

28.1.1 The objectives of this chapter are as follows:

- 28.1.1.1 to establish a process and fund for the implementation of Settlement Agreements;
- 28.1.1.2 to promote the participation of Yukon Indian People in the implementation of Settlement Agreements;
- 28.1.1.3 to establish timely and effective implementation of the Settlement Agreements to ensure that Yukon First Nations benefit from Settlement Legislation and Yukon First Nation Final Agreements;
- 28.1.1.4 to assist Yukon Indian People to take full advantage of the Settlement Agreements to strengthen their communities;
- 28.1.1.5 to establish implementation plans that foster the socio-economic development and prosperity of Yukon Indian People;
- 28.1.1.6 to ensure that Yukon Indian People receive training in order to participate effectively in opportunities arising from and associated with the implementation of Settlement Agreements; and
- 28.1.1.7 to provide a trust fund for training which may be directed towards meeting training priorities identified by Yukon First Nations and established in the training plan.

### **28.2.0 Implementation Planning Fund**

- 28.2.1 Canada shall pay to the Council for Yukon Indians, as soon as practicable after the effective date of Settlement Legislation, \$0.5 Million (1990 dollars) to pay for the costs of Yukon First Nations in the development of implementation plans.
- 28.2.2 The indexation of the Implementation Planning Fund value from 1990 to the effective date of Settlement Legislation shall be based on the appropriate Treasury Board policy governing spending commitments.

### **28.3.0 Implementation Plans**

- 28.3.1 There shall be an implementation plan developed for the Umbrella Final Agreement by the parties to the Umbrella Final Agreement and an implementation plan for each Yukon First Nation Final Agreement developed by Government and that Yukon First Nation.
- 28.3.2 The Umbrella Final Agreement implementation plan and Yukon First Nation Final Agreement implementation plans shall identify:
- 28.3.2.1 the specific activities and projects required to implement the Settlement Agreements;
  - 28.3.2.2 the economic opportunities for Yukon Indian People resulting from the Settlement Agreements;
  - 28.3.2.3 the responsibility for specific activities and projects, the time frames, the costs and which party or parties will bear the costs;
  - 28.3.2.4 an information strategy to enhance community and general public awareness of the Settlement Agreements and the implementation plans;
  - 28.3.2.5 a process to monitor and evaluate implementation and to amend implementation plans; and
  - 28.3.2.6 means by which the implementation of Yukon First Nation Final Agreements and the implementation of Yukon First Nation self-government agreements shall be coordinated.
- 28.3.3 The Umbrella Final Agreement implementation plan shall identify:
- 28.3.3.1 measures for dealing with the implementation interests of each Yukon First Nation which has yet to conclude negotiation of its Yukon First Nation Final Agreement;
  - 28.3.3.2 implementation tasks that are common to all Yukon First Nation Final Agreements;
  - 28.3.3.3 Legislation required to give effect to Settlement Agreements;
  - 28.3.3.4 the impact of Settlement Agreements on all new or existing Government regulatory regimes;
  - 28.3.3.5 Government programs which should be modified to assist in the implementation of the Settlement Agreements; and

- 28.3.3.6 resources and means, within the budgets existing from time to time, relating to effective, efficient and environmentally sound Salmon enhancement in the Yukon.
- 28.3.4 All implementation plans shall be governed by principles of accountability and economy.
- 28.3.5 The parties negotiating an implementation plan shall consider including in the implementation plan funding which allows each board listed in 2.12.1 to provide its members with:
  - 28.3.5.1 cross-cultural orientation and education;
  - 28.3.5.2 other training directed to improving members' ability to carry out their responsibilities; and
  - 28.3.5.3 facilities to allow board members to carry out their responsibilities in their traditional languages.
- 28.3.6 Notwithstanding 28.9.1, any funding included in an implementation plan pursuant to 28.3.5 shall be a charge on Government.
- 28.3.7 The parties negotiating an implementation plan shall consider including in the implementation plan provisions for jointly informing members of each board listed in 2.12.1 of the purposes of that board.

### **Umbrella Final Agreement Implementation Plan**

- 28.3.8 The parties to the Umbrella Final Agreement implementation plan shall be Canada, the Yukon and the Council for Yukon Indians acting on its own behalf and on behalf of the Yukon First Nations.
- 28.3.9 The negotiators of the Umbrella Final Agreement implementation plan shall initial an agreement in principle for the implementation plan prior to ratification of the Umbrella Final Agreement by the Yukon First Nations.
- 28.3.10 The Umbrella Final Agreement implementation plan shall be approved by the Council for Yukon Indians before the approval of Government is sought.
  - 28.3.10.1 Approval of the Umbrella Final Agreement implementation plan by Canada shall be sought at the same time as ratification of the Umbrella Final Agreement.
- 28.3.11 Each Yukon First Nation, upon the ratification of its Yukon First Nation Final Agreement, shall be deemed to have:

- 28.3.11.1 ratified the Umbrella Final Agreement implementation plan, and all actions taken or to be taken pursuant to that implementation plan by the Council for Yukon Indians on behalf of that Yukon First Nation, including but not limited to any acknowledgements or releases by the Council for Yukon Indians that Government has, or, upon the carrying out of certain tasks set out in the implementation plan, will have satisfied its particular obligations arising from the Umbrella Final Agreement to that Yukon First Nation or the Yukon Indian People enrolled in that Yukon First Nation's Final Agreement; or
- 28.3.11.2 if the Umbrella Final Agreement implementation plan has not then been completed, delegated authority to enter into the Umbrella Final Agreement implementation plan on its behalf to the Council for Yukon Indians, which may include acknowledgements or releases by the Council for Yukon Indians that Government has, or, upon the carrying out of certain tasks set-out in the implementation plan, will have satisfied its particular obligations arising from the Umbrella Final Agreement to that Yukon First Nation or the Yukon Indian People enrolled in that Yukon First Nation's Final Agreement; and
- 28.3.11.3 delegated to the Council for Yukon Indians the authority to provide subsequent acknowledgements or releases to Government in respect of obligations of Government arising from the Umbrella Final Agreement implementation plan to the Yukon First Nation and the Yukon Indian People enrolled in that Yukon First Nation's Final Agreement.

### **Yukon First Nation Final Agreement Implementation Plan**

- 28.3.12 The parties to a Yukon First Nation Final Agreement implementation plan shall be the Yukon First Nation, Canada and the Yukon.
- 28.3.13 Each Yukon First Nation, upon ratification of its Yukon First Nation Final Agreement, shall be deemed to have:
  - 28.3.13.1 ratified its Yukon First Nation Final Agreement implementation plan, or if its Yukon First Nation Final Agreement implementation plan has not then been completed, delegated authority to enter into its Yukon First Nation Final Agreement implementation plan to a Yukon First Nation entity named in its Yukon First Nation Final Agreement; and

28.3.13.2 delegated to a Yukon First Nation entity named in the Yukon First Nation Final Agreement the authority to provide acknowledgements or releases to Government in respect of the obligations of Government to the Yukon First Nation and the Yukon Indian People enrolled in that Yukon First Nation's Final Agreement arising from the Yukon First Nation Final Agreement.

**Specific Provision**

28.3.13.3 The Kluane First Nation Council is the Yukon First Nation entity referred to in 28.3.13.1 and 28.3.13.2.

**28.4.0 Implementation Planning Working Groups**

28.4.1 Implementation plans shall be prepared by Implementation Planning Working Groups.

28.4.2 For the Umbrella Final Agreement implementation plan, there shall be an Implementation Planning Working Group which shall be established no later than June 1, 1990, consisting of one representative appointed by Canada, one representative appointed by the Yukon and two representatives appointed by Yukon First Nations.

28.4.3 For each Yukon First Nation implementation plan, there shall be an Implementation Planning Working Group which shall consist of one representative appointed by Canada, one representative appointed by the Yukon and two representatives of a Yukon First Nation, one of whom may be a Yukon First Nation representative from the Umbrella Final Agreement Implementation Planning Working Group.

28.4.4 The Implementation Planning Working Group members may retain the advice of other persons or technical expertise as required.

28.4.5 If the Implementation Planning Working Group is unable to reach agreement on a particular issue, that issue shall be referred to the parties nominating the representatives of that Implementation Planning Working Group for resolution.

28.4.6 To the extent practicable:

28.4.6.1 the work of the Umbrella Final Agreement Implementation Planning Working Group shall be carried out in the Yukon; and

- 28.4.6.2 the work of each Implementation Planning Working Group for Yukon First Nation Final Agreements shall be carried out in the community of the affected Yukon First Nation.
- 28.4.7 Funding for Yukon First Nation administrative support and for participation of Yukon Indian People and Yukon First Nations in Implementation Planning Working Groups for the Umbrella Final Agreement and Yukon First Nation Final Agreements shall be provided by the Implementation Planning Fund.
- 28.4.8 Implementation plans shall be attached to but not form part of Settlement Agreements and they shall be a contract between the affected parties, except to the extent set out in the plan.
- 28.4.9 Upon initialling of the Umbrella Final Agreement, Government will investigate its ability to provide funding for the development of implementation plans for the period between initialling of the Umbrella Final Agreement and the establishment of the Implementation Planning Fund.
- 28.5.0 Yukon First Nation Implementation Fund**
- 28.5.1 The Council for Yukon Indians shall establish a Yukon First Nation Implementation Fund as soon as practicable after the effective date of Settlement Legislation.
- 28.5.2 The Yukon First Nation Implementation Fund shall be administered either as a charitable trust, a Settlement Corporation or other legal entity.
- 28.5.3 The objectives of the Yukon First Nation Implementation Fund shall be:
- 28.5.3.1 to support Yukon First Nations to establish the entities required for a Yukon First Nation to carry out its responsibilities in implementing the Umbrella Final Agreement and a Yukon First Nation Final Agreement; and
- 28.5.3.2 to support a Yukon First Nation and a Yukon Indian Person to take full advantage of the opportunities, including economic opportunities, arising from the Umbrella Final Agreement and a Yukon First Nation Final Agreement.
- 28.5.4 As soon as practicable after the effective date of Settlement Legislation, Canada shall provide \$4.0 Million (1990 dollars) to the Council for Yukon Indians, as initial capital for the establishment of the Yukon First Nation Implementation Fund.



- 28.5.5 No federal, territorial or municipal tax shall be paid by the Council for Yukon Indians in respect of the payments received by the Council for Yukon Indians under 28.5.4.
- 28.5.6 No federal, territorial or municipal tax shall be paid by the Yukon First Nation Implementation Fund in respect of the payments received by the Fund under 28.5.4.
- 28.5.7 The indexation of the Yukon First Nation Implementation Fund value from 1990 to the effective date of Settlement Legislation shall be based on the appropriate Treasury Board policy governing spending commitments.

### **28.6.0 Training Trust**

- 28.6.1 A Training Trust (the "Trust") having the objective set out in 28.6.4 shall be established by the parties to the Umbrella Final Agreement.
- 28.6.2 Prior to the effective date of Settlement Legislation, Canada, the Yukon and the Council for Yukon Indians shall enter into an agreement to give effect to the Trust.
- 28.6.3 The members of the Training Policy Committee or their designates shall serve as the trustees.
- 28.6.4 The objective of the Trust shall be to advance the training of Yukon Indian People in accordance with the training plan approved under 28.8.1.
- 28.6.5 As soon as practicable after the effective date of Settlement Legislation, Government shall contribute \$6.5 Million (1988 dollars) to the Trust as follows:
  - 28.6.5.1 the Yukon \$3.25 Million; and
  - 28.6.5.2 Canada \$3.25 Million.
- 28.6.6 The indexation of the Trust value from November 1, 1988 to the effective date of Settlement Legislation shall be based on the appropriate Treasury Board policy governing spending commitments.
- 28.6.7 Except for reasonable costs associated with the administration of the Trust, all expenditures from the Trust shall be directed toward training of Yukon Indian People in accordance with the training plan approved under 28.8.1.
- 28.6.8 No federal, territorial or municipal tax shall be paid by the Trust in respect of the payments received by the Trust under 28.6.5.

- 28.6.9 Subject to the terms of the agreement referred to in 28.6.2, no federal, territorial or municipal tax shall be paid by the Trust in respect of any income earned by the Trust.
- 28.6.10 The Trust capital may be increased by a donation, grant and other source of funds.
- 28.6.11 Subject to the terms of the agreement referred to in 28.6.2, the Trust shall be deemed to be a charitable organization for purposes of granting a receipt to a Person making a gift to the Trust.

### **28.7.0 Training Policy Committee**

- 28.7.1 The Training Policy Committee ("the Committee") shall be established no later than July 1, 1990, consisting of five representatives, one representative nominated by Canada, one representative nominated by the Yukon, and three representatives nominated by the Council for Yukon Indians.
- 28.7.2 Government and the Council for Yukon Indians shall approve nominations for appointment to the Committee on or before the date of Government ratification of the Umbrella Final Agreement.
- 28.7.3 Government shall nominate representatives who are senior officials who have authority to represent Government in education and training matters.
- 28.7.4 The Committee shall:
- 28.7.4.1 establish training programs for Yukon Indian People;
  - 28.7.4.2 develop a training plan which addresses matters identified in the implementation plans;
  - 28.7.4.3 develop a work plan to be included in the Umbrella Final Agreement implementation plan;
  - 28.7.4.4 develop guidelines for expenditure of money from the Trust;
  - 28.7.4.5 expend the money in the Trust in accordance with the approved work plan;
  - 28.7.4.6 prepare an annual report to be delivered to the parties to the Umbrella Final Agreement; and

- 28.7.4.7 establish consultative arrangements between Government and Yukon First Nations to ensure effective and economical integration of existing programs with new programs established by the training plan.

### **28.8.0 Training for Settlement Implementation**

- 28.8.1 The training plan developed by the Committee shall be submitted to Government and the Council for Yukon Indians for their review and approval prior to the effective date of Settlement Legislation.
- 28.8.2 The training plan shall identify specific training activities intended to meet the objectives of this chapter.
- 28.8.3 The training plan shall identify existing Government training programs which are available for training Yukon Indian People and shall, within existing budgets, propose modifications to those programs required to make them more responsive to training requirements identified under 28.8.2.
- 28.8.4 The training plan, to the extent practicable, shall reflect the training priorities established for implementation by the Implementation Planning Working Groups.
- 28.8.5 Each party shall pay its own expenses for participation in the Committee.

### **28.9.0 General**

- 28.9.1 Except as provided pursuant to 2.12.2.9 and 28.6.5, and except as may be provided pursuant to 28.3.5, Government shall have no obligation pursuant to any Settlement Agreement to fund training for Yukon Indian People.
- 28.9.2 Nothing in 28.9.1 shall be construed to limit the application of existing or future training programs which may be available for training Yukon Indian People.
- 28.9.3 Prior to ratification of the Umbrella Final Agreement by Yukon First Nations, Government shall investigate and report to the Council for Yukon Indians on its ability to fund the Training Trust as soon as possible after the date of ratification.
- 28.9.4 Any contribution made to the Trust pursuant to 28.9.3 shall be deducted from the Government contribution described in 28.6.5.

28.9.5 Nothing in this chapter shall be construed to affect the ability of a Yukon Indian Person to participate in and benefit from Government training programs existing from time to time.

## **APPENDIX A - SETTLEMENT LAND DESCRIPTIONS**

### **1.0 Definitions**

In this appendix, the following definitions shall apply.

"2003 Alaska Highway" means, subject to 2.6, the road alignment of the Major Highway known as the Alaska Highway as existing at the date of signature of this Agreement.

"Airport Zoning Controls" means land use regulations enacted pursuant to the Aeronautics Act, R.S.C. 1985, c. A-2 and in the absence of regulations, means such restrictions on the use and development of land as are required to meet the standards set out in a publication of the Air Navigation System Directorate, Department of Transport, Canada, titled "Land Use in the Vicinity of Airports" and bearing departmental reference TP1247, as amended from time to time.

"Alaska Highway Re-alignment Provisions" means those provisions in the descriptions of particular Settlement Land Parcels concerning the re-alignment of the Major Highway known as the Alaska Highway.

"Interests" means the reservations, exceptions, restrictions, inclusions, easements, licences, permits, applications, rights-of-way, Special Conditions and other interests, whether interests in land or not, applicable to a Parcel.

"Old Alaska Highway" means any road alignments of the Major Highway known as the Alaska Highway, other than the 2003 Alaska Highway and the Reconstructed Alaska Highway, which have ceased to be used as part of the Major Highway in fact, notwithstanding that they remain a portion of a "highway" within the meaning of the Highways Act, RSY 2002, c. 108 until closed.

"Proposed Alaska Highway Re-alignment" means the proposed re-alignment of the Major Highway known as the Alaska Highway as recorded in the records of the Yukon Department of Highways and Public Works and shown approximately by a dashed line designated as Proposed Alaska Highway Re-alignment on the Map Sheets which are set out in Appendix B - Maps, which forms a separate volume of this Agreement.

"Quarrying Right" means a right of Government to operate a Quarry identified under 18.2.2 or 18.2.5 in accordance with 18.2 and Laws which apply to Crown Land and includes a right of ingress and egress between a Quarry and a highway across Settlement Land and the right to construct, upgrade and maintain any roads required therefor, provided that if there is a road between a Quarry and a highway across Settlement Land Government's right of ingress and egress shall be limited to that road.

"Realigned Roadway" means that portion of a Major Highway on Settlement Land which, as a result of reconstruction and realignment of a Major Highway occurring prior to the Effective Date of this Agreement, ceases to be used as part of the Major Highway in fact, notwithstanding it remains a portion of a "highway" within the meaning of the Highway Act, RSY 2002, c. 108 until closed.

"Reconstructed Alaska Highway" means the road alignment of the Major Highway known as the Alaska Highway as existing upon the completion of the construction of the Proposed Alaska Highway Re-alignment.

"Special Condition" means a right-of-way, easement, reservation, exception, restriction or special condition, whether an interest in land or not, which did not exist prior to the Effective Date of this Agreement.

"Specified Access Right" means:

- (a) unless otherwise provided in this appendix, a sixty metre wide right-of-way being thirty metres each side of the centre line of an existing highway; and
- (b) a right of Government to regulate the use of the right-of-way described in (a) as a highway and the use and operation of motor vehicles thereon in accordance with Laws which apply to lands under the administration and control of the Commissioner, and to maintain the right-of-way.

"Tachal Region" has the same meaning as in Schedule C - Kluane National Park and Park Reserve, to chapter 10 of this Agreement.

## **2.0 General**

- 2.1 The parties have made best effort to list, in the description of each Parcel, all rights-of-way, easements, reservations, exceptions, restrictions, and other interests, whether interests in land or not, which apply to that Parcel as of the Effective Date of this Agreement but the listing is for information only and does not limit the application of 5.4.2 to a Parcel.
- 2.2 The listing in the description of a Parcel of a right-of-way, easement, reservation, exception, restriction, or other interest, whether an interest in land or not, as an interest existing prior to the Effective Date of this Agreement is not a warranty that the interest is a valid, subsisting interest.
- 2.3 The maps and Parcel descriptions, including plans and map references where available, required by 5.3.1 are comprised of:
  - 2.3.1 the Map Sheets which are set out in Appendix B - Maps, which forms a separate volume of this Agreement; and

- 2.3.2 the specific descriptions for each Parcel set out in this appendix.
- 2.4 Unless otherwise provided in this appendix, references to Parcel identifiers, applications, reservations, notations, plans, rights-of-way, easements and reference plans in this appendix are references to Parcel identifiers, applications, reservations, notations, plans, rights-of-way, easements and reference plans recorded in:
- 2.4.1 the land records of the Indian Affairs Program, Yukon Region - Department of Indian Affairs and Northern Development;
  - 2.4.2 the land records of the Lands Disposition and Client Services Branch - Department of Energy, Mines and Resources;
  - 2.4.3 the Land Titles Office;
  - 2.4.4 the Canada Lands Surveys Records; or
  - 2.4.5 the land records of the Agriculture Branch - Department of Energy, Mines and Resources,
- as the case may be.
- 2.5 The numbering system for interests recorded in the land records of the Indian Affairs Program, Yukon Region - Department of Indian Affairs and Northern Development and in the Lands Disposition and Client Services Branch - Department of Energy, Mines and Resources, as at the time of signing of this Agreement, is in a process of change whereby the six zeros which have traditionally followed the quad number and preceded the three digit identifying number are being phased out. A reference in this appendix to an interest by either numbering system shall be deemed to include documents recorded under both numbering systems.
- 2.6 Unless otherwise provided in the description of a Parcel, where a road right-of-way forms a boundary of a Parcel, the following shall apply to the survey of that boundary:
- 2.6.1 if the road right-of-way has never been surveyed, the right-of-way for the road shall be centred upon the general centre line of the existing road alignment;
  - 2.6.2 if the most recent survey of the right-of-way for the road is reflective of the existing road alignment, the boundaries of the right-of-way shall be adopted for the Parcel boundary; or

- 2.6.3 if the most recent survey of the right-of-way for the road is not reflective of the existing road alignment, or if the location of the surveyed right-of-way is not readily determinable, the survey of the Parcel shall create a new right-of-way fronting the Parcel centred upon the general centre line of the existing road alignment.
- 2.7 Unless otherwise provided in the description of a Parcel, a survey of a Parcel of Settlement Land pursuant to 15.2.1 of this Agreement shall effect a consolidation of all unsurveyed land and previously surveyed lots included in that Parcel.
- 2.8 Notwithstanding any orders made under the Territorial Lands (Yukon) Act, SY 2003, c. 17, the Quartz Mining Act, SY 2003, c. 14, the Placer Mining Act, SY 2003, c. 13 or the Lands Act, RSY 2002, c. 132 withdrawing or prohibiting entry on Proposed Site Specific Settlement Land, Government shall have the right to construct the Proposed Alaska Highway Re-alignment on Parcels S-50B, S-73A, S-75A, S-76B, S-77A, S-79B, S-80B, and S-81B.
- 2.9 The right referred to in 2.8 includes necessary alterations of land and watercourses by earthmoving equipment and the use, removal and deposition of overburden and Construction Materials for the purposes of constructing the Proposed Alaska Highway Re-alignment.
- 2.10 Upon completion of the construction of the Proposed Alaska Highway Re-alignment, Government shall, if required by Kluane First Nation, reclaim any affected Settlement Land in accordance with commonly accepted land use standards including, as appropriate, clean-up, drainage, erosion control, re-contouring, overburden replacement and replanting of vegetation.
- 2.11 If construction of the Proposed Alaska Highway Re-alignment has not been completed in Parcels S-50B, S-73A, S-75A, S-76B, S-77A, S-79B, S-80B or S-81B (the "Affected Parcels") by the 10th anniversary of the Effective Date of this Agreement, the parties to this Agreement shall meet to:
- 2.11.1 review the status of, and projected time lines for, construction of the Proposed Alaska Highway Re-alignment; and
- 2.11.2 consider the consequences, if any, of continued delay in surveying any of the Affected Parcels,

and may agree to amend the Alaska Highway Re-alignment Provisions applicable to any of the Affected Parcels or to exchange Crown Land for an Affected Parcel or portions thereof so that the Crown Land will be Settlement Land, provided that any such agreement shall not affect the cession, release and surrender of any aboriginal claim, right, title or interest in respect of that Crown Land.



### **3.0 Interests Referred to in 5.4.2.5**

3.1 A Special Condition shall be listed in 3.2 or in the description of a Parcel and the listing of a Special Condition creates that Special Condition.

3.2 Parcels are subject to the following Special Conditions:

3.2.1 unless otherwise provided in this appendix, all routes referred to in 6.3.1.2 include as part of the route a ten metre wide public right-of-way for the purposes stated in 6.3.1;

3.2.2 unless otherwise provided in this appendix, all roads and routes included in a Parcel of Developed Settlement Land are Undeveloped Settlement Land;

3.2.3 unless otherwise provided in this appendix, the boundaries of a right-of-way shall be located one half of the width of the right-of-way on either side of the general centre line of the road or route, and one half of the width of the right-of-way on each side of the proposed centre line of a future road or route;

3.2.4 unless otherwise provided in this appendix, all routes, roads and rights-of-way referred to in this appendix, including Specified Access Rights, are for the benefit of the general public and Persons and vehicles;

3.2.5 Government, prior to or during the survey of a boundary of a Parcel which is described as a route, road, highway, or right-of-way for a route, road or highway, may, with the consent of the Settlement Land Committee, change the location of that route, road or highway, or right-of-way for a route, road or highway and the boundary of the Parcel shall change accordingly;

3.2.6 Government, upon ending its use of a haul road used as part of a Quarrying Right, shall, at the request of the Kluane First Nation, rehabilitate Settlement Land used as part of that haul road;

3.2.7 Government has the right for the purposes of maintaining a road, route or right-of-way to which a Specified Access Right applies, to significantly alter Settlement Land to which that Specified Access Right applies with the consent of the Kluane First Nation, or, failing consent, an order of the Surface Rights Board setting out terms and conditions of such significant alteration;

3.2.8 Unless otherwise provided in this appendix, a Realigned Roadway is subject to a Specified Access Right;

- 3.2.9 Government may, following Consultation with the Kluane First Nation, close all or any portion of a Realigned Roadway in which case the Specified Access Right shall no longer apply to the closed Realigned Roadway or any portion thereof, as the case may be;
- 3.2.10 If Government closes a Realigned Roadway which connects a Major Highway to a reservation by notation in favour of the Northern Pipeline Agency, the Realigned Roadway shall be subject to a right of Foothills Pipe Lines (South Yukon) Ltd. to construct, upgrade and maintain a road to be used for the construction, operation and maintenance of a "pipeline" as defined in the Northern Pipeline Act, R.S.C. 1985 c. N-26; and
- 3.2.11 Parcels will be subject to the temporary access corridors, permanent access corridors and reservations by notation as shown in the Alaska Highway Gas Pipeline Project (Yukon Section) Route Maps, Revised 88-07, prepared by Foothills Pipe Lines (South Yukon) Ltd. as if those corridors and reservations were reservations by notation for Northern Pipeline Agency within the meaning of 5.4.2 for the purposes of this Agreement and subject to the Northern Pipeline Act, R.S.C. 1985 c. N-26.

## Settlement Land Descriptions of the Kluane First Nation

R-1A Category A, being the Parcel shown as R-1A on Map Sheets 115 G/2, 115 G/3, 115 G/6, and 115 G/7, dated October 18, 2003, having as an easterly boundary, in part, the westerly bank of Lewis Creek, as a southwesterly boundary the line shown on Plan 68006 CLSR, 67421 LTO and as a northeasterly boundary, in part, the southwesterly boundaries of Parcel S-75A, Parcel S-77A and the 90 metre right-of-way for the 2003 Alaska Highway,

including:

- the land described in Reservation No. 115G06-0000-00017;
- a portion of the land described in Reservation No. 115G07-0000-00025;

not including:

- the land described as Parcel R-49B in this appendix;
- that portion of the land described in Application No. 15288 shown cross-hatched as Sketch 1 on Map Sheet 115 G/6;
- the land described in Reservation No. 115G06-0000-00002;
- the land described in Application No. 15287;
- the land described in Application No. 15282;
- Lot 12 Remainder, Group 852, Plan 42131 CLSR, 22181 LTO;
- Lot 1 Remainder, Group 852, Plan 53106 CLSR, 28366 LTO;
- Lot 299, Group 852, Plan 53106 CLSR, 28366 LTO;
- the land described as Parcel C-8B in this appendix;
- the land described in Lease No. 115G07-0000-00029;
- the land described as Access Road Right-of-Way on Plan 51541 CLSR, 25994 LTO;
- the land described in Application No. 2003-0058 and shown cross-hatched as Sketch 6 on Map Sheet 115 G/7;
- Lot 286, Group 852, Plan 51541 CLSR, 25994 LTO;
- the land shown cross-hatched as Sketch 5 on Map Sheet 115 G/7;
- the land described in Reservation No. 115G07-0000-00036 and Application No. 15285;
- the land described as Parcel S-83A in this appendix;

subject to:

- the right-of-way for the Haines/Fairbanks pipeline as shown on Plans 43071 and 43072 CLSR, 22228 LTO;
- the easement described in Certificate of Title 84Y726;
- Reservation No. 115G06-0000-00028;
- Application No. 15288;
- Reservation No. 115G06-0000-00001;
- Reservation No. 115G06-0000-00026;
- Reservation No. 115G06-0000-00030;

- Reservation No. 115G06-0000-00007;
- Application No. 15289;
- Reservation No. 115G07-0000-00032;
- Reservation No. 115G07-0000-00031;
- Application No. 15306;
- Reservation No. 115G07-0000-00033;
- a 30 metre right-of-way for the road known as Burwash Creek Road and shown approximately by a solid line designated as Burwash Creek Road on Map Sheet 115 G/6;
- a 30 metre right-of-way for the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;
- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

subject to the following Special Conditions:

- Airport Zoning Controls shall apply;
- Quarrying Rights for Reservation No. 115G06-0000-00007, Application No. 15289, Application No. 15288, Application No. 15306, and for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;
- a Specified Access Right shall apply on the 30 metre right-of-way for the road known as Burwash Creek Road and shown approximately by a solid line designated as Burwash Creek Road on Map Sheet 115 G/6;
- Government shall have the right to construct and upgrade, on the 30 metre right-of-way, the road known as Burwash Creek Road and shown approximately by a solid line designated as Burwash Creek Road on Map Sheet 115 G/6;
- a Specified Access Right shall apply on the 30 metre right-of-way for the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;
- Government shall have the right to construct and upgrade, on the 30 metre right-of-way, the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;
- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;
- the following provisions shall apply in connection with Application No. 15289:

- a) no later than the Effective Date of this Agreement, the Yukon shall amend Application No. 15289 to exclude, from the land described in the Application, all portions of Parcel R-1A, other than the area shown cross-hatched as Sketch 7 on Map Sheet 115 G/7;
- b) the Yukon, in its discretion, may amend Application No. 15289 to include, in the land described in the Application, an additional 47.03 hectares of Parcel R-1A;
- c) the Yukon, in its discretion, may also amend Application No. 15289 to remove, from the land described in the Application, any portion of the area of Parcel R-45A shown cross-hatched as Sketch 8 on Map Sheet 115 G/7 and add, to the land described in the Application, portions of Parcel R-1A equivalent in size to the portion removed from Parcel R-45A;
- d) the Yukon shall locate any land added pursuant to b) or c) within the area shown as Original Application No. 15289 and shall attempt to locate the additional land adjacent to the area shown cross-hatched as Sketch 7 on Map Sheet 115 G/7;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel R-1A shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcels S-75A and S-77A or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-75A may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-75A in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-75A shall all apply to the portions of Parcel S-75A consolidated with this Parcel;
  - 3) portions of Parcel S-77A may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-77A in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-77A shall all apply to the portions of Parcel S-77A consolidated with this Parcel,

having an area of approximately 440.7 square kilometres.

R-2B Category B, being the Parcel shown as R-2B on Map Sheet 115 G/2, dated October 18, 2003, having as a southwesterly boundary the northeasterly boundary of Parcel S-79B and as a northeasterly boundary the southwesterly shore of Kluane Lake,

not including:

- the land described in Reservation No. 115G02-0000-00007;
- the land described in Application No. 15305;

subject to:

- Reservation No. 115G02-0000-00013;

subject to the following Special Condition:

- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel R-2B shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-79B or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-79B may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-79B in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-79B shall all apply to the portions of Parcel S-79B consolidated with this Parcel,

having an area of approximately 8.5 square kilometres.

R-3A Category A, being the Parcel shown as R-3A on Map Sheets 115 G/1 and 115 G/2, dated October 18, 2003, having as a westerly boundary the easterly shore of Kluane Lake,

including:

- the land described in Reservation No. 115G01-0000-00018 comprising Lot 1001, Quad 115 G/1, Plan 72541 CLSR, 89-156 LTO;

- the land described in Reservation No. 115G01-0000-00019 comprising Lot 1002, Quad 115 G/1, Plan 72541 CLSR, 89-156 LTO;

not including:

- Lot 1002, Quad 115 G/2, Plan 74567 CLSR, 92-116 LTO;
- a 15 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road on Map Sheet 115 G/2;

subject to:

- Reservation No. 115G01-0000-00029;
- Reservation No. 115G01-0000-00028;
- Reservation No. 115G01-0000-00027;
- a 60 metre right-of-way for the road known as Cultus Bay Road and shown approximately by a solid line designated as Cultus Bay Road on Map Sheets 115 G/1 and 115 G/2;
- the easement described in Certificate of Title 84Y726;

subject to the following Special Conditions:

- subject to 11.10.1 and 11.10.2 of this Agreement, Government shall have the right to construct and upgrade, on the 60 metre right-of-way, the road known as Cultus Bay Road and shown approximately by a solid line designated as Cultus Bay Road on Map Sheets 115 G/1 and 115 G/2;
- subject to 11.10.1 and 11.10.2 of this Agreement, a Specified Access Right shall apply on the 60 metre right-of-way for the road known as Cultus Bay Road and shown approximately by a solid line designated as Cultus Bay Road on Map Sheets 115 G/1 and 115 G/2;
- the Parcel is to be adjusted pursuant to 15.6.2 of this Agreement by adjustment of the easterly boundary of the Parcel, consistent with 9.4.0 of this Agreement, so that the total surveyed area of Category A Settlement Land of the Kluane First Nation is 250 square miles;
- the following outfitting provisions shall apply:
  - 1) the holder on the Effective Date (the "Existing Holder") of the outfitting concession for any outfitting area in this Parcel (the "Concession") has a right of access to use that portion of the Parcel located within the outfitting area (the "Portion"), for all purposes relating to the outfitting of non-residents for the spring hunting of bear, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner;
  - 2) the right set out in 1) shall expire upon the Existing Holder ceasing, for any reason, to hold the Concession;

- 3) all subsequent holders of the Concession may, on an annual basis, request a meeting with Kluane First Nation and, upon receipt of such a request, Kluane First Nation shall meet with the holder to discuss whether it will consent to the holder's use of the Portion, for purposes relating to the outfitting of non-residents for the hunting of big game, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner,
- 4) for greater certainty, nothing in this Special Condition shall be construed as imposing upon Kluane First Nation any obligation to ensure that the Existing Holder or a subsequent holder of the Concession complies with the Laws of General Application;

having an area of approximately 50.4 square kilometres.

R-4B Category B, being the Parcel shown as R-4B on Map Sheet 115 G/7, dated October 18, 2003, comprising Jacquot Island in Kluane Lake,

subject to the following Special Conditions:

- a Person has a right of access, without the consent of Kluane First Nation and subject to the conditions set out in 6.1.6 of this Agreement, to enter, cross and stay for a reasonable period of time on that portion of the Parcel shown crossed-hatched and designated as Access Corridor on Map Sheet 115 G/7, (the "Access Corridor") for commercial recreational purposes;
- the Yukon and Kluane First Nation may agree in writing to modify the right of access described in the preceding Special Condition in connection with any agreement to designate a portion of the Access Corridor as Developed Settlement Land pursuant to 6.1.8 of this Agreement,

having an area of approximately 4.2 square kilometres.

R-5B Category B, being the Parcel shown as R-5B on Map Sheet 115 G/7, dated October 18, 2003, having as southerly, westerly and easterly boundaries, the northerly, easterly and westerly shores, respectively, of Kluane Lake,

subject to the following Special Conditions:

- the Parcel is to be adjusted pursuant to 15.6.2 of this Agreement by adjustment of the northerly boundary of the Parcel, consistent with 9.4.0 of this Agreement, so that the total surveyed area of Category B Settlement Land and Fee Simple Settlement Land of the Kluane First Nation and the land retained pursuant to 4.1.1.1(a) of this Agreement is 102.63 square miles;
- the following outfitting provisions shall apply:



- 1) the holder on the Effective Date (the "Existing Holder") of the outfitting concession for any outfitting area in this Parcel (the "Concession") has a right of access to use that portion of the Parcel located within the outfitting area (the "Portion"), for all purposes relating to the outfitting of non-residents for the spring hunting of bear, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner;
- 2) the right set out in 1) shall expire upon the Existing Holder ceasing, for any reason, to hold the Concession;
- 3) all subsequent holders of the Concession may, on an annual basis, request a meeting with Kluane First Nation and, upon receipt of such a request, Kluane First Nation shall meet with the holder to discuss whether it will consent to the holder's use of the Portion, for purposes relating to the outfitting of non-residents for the hunting of big game, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner,
- 4) for greater certainty, nothing in this Special Condition shall be construed as imposing upon Kluane First Nation any obligation to ensure that the Existing Holder or a subsequent holder of the Concession complies with the Laws of General Application;

having an area of approximately 43.5 square kilometres.

R-7B Category B, being the Parcel shown as R-7B on Map Sheet 115 F/9, dated October 18, 2003, having as a southerly boundary the northerly shore of Tepee Lake and as a southwesterly boundary, in part, the northeasterly bank of an unnamed creek,

subject to the following Special Condition:

- the Parcel shall be subject to 12.5 and 12.7 of Schedule B - Asi Keyi Natural Environment Park, attached to Chapter 10 of this Agreement,

having an area of approximately 0.8 square kilometre.

R-8B Category B, being the Parcel shown as R-8B on Map Sheet 115 F/10, dated October 18, 2003, having as an easterly boundary the westerly bank of an unnamed creek,

subject to the following Special Condition:

- the Parcel shall be subject to 12.5 and 12.7 of Schedule B - Asi Keyi Natural Environment Park attached to Chapter 10 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 0.8 square kilometre.

R-9A Category A, being the Parcel shown as R-9A on Map Sheet 115 G/14, dated October 18, 2003, having as a southerly boundary, in part, the northerly shore of Tincup Lake and as a westerly boundary the easterly bank of Tincup Creek,

having an area of approximately 0.9 square kilometre.

R-13A Category A, being the Parcel shown as R-13A on Map Sheet 115 G/7, dated October 18, 2003, having as a westerly boundary the easterly shore of Kluane Lake and as a northerly boundary, in part, the southerly bank of an unnamed creek,

not including:

- the land described in Lease No. 115G07-0000-00015,

having an area of approximately 2.1 square kilometres.

R-17B Category B, being the Parcel shown as R-17B on Map Sheet 115 G/1, dated October 18, 2003, having as a northwesterly boundary the southeasterly shore of Kluane Lake and as a southeasterly boundary the northwesterly boundary of Parcel S-81B,

including:

- a portion of Lot 1013, Quad 115 G/1, Plan 82039 CLSR, 98-170 LTO being a portion of Reservation 1999-0135;

not including:

- Lot 1016, Quad 115 G/1, Plan 86804 CLSR, 2002-0266 LTO;

subject to the following Special Conditions:

- the Yukon shall close those portions of the right-of-way for the Old Alaska Highway as shown on Plan 40910 CLSR, 19526 LTO, lying within Parcel R-17B;
- Airport Zoning Controls shall apply;

- the Yukon shall amend Reservation No. 1999-0135 to exclude Parcel R-17B from the land described in the Reservation;

provided that:

- no later than the date of signature of this Agreement, the Champagne and Aishihik First Nations provide the parties to this Agreement with a resolution consenting to that portion of the Parcel shown cross-hatched on Map Sheet 115 G/1 becoming Kluane First Nation Settlement Land, failing which that portion of the Parcel shall not become Kluane First Nation Settlement Land;
- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel R-17B shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-81B or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-81B may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-81B in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-81B shall all apply to the portions of Parcel S-81B consolidated with this Parcel,

having an area of approximately 0.8 square kilometre.

R-18B Category B, being the Parcel shown as R-18B on Map Sheet 115 G/7, dated October 18, 2003, having as southerly and westerly boundaries the northerly and easterly shores, respectively, of Kluane Lake,

subject to:

- a 60 metre right-of-way for the road known as Cultus Bay Road and shown approximately by a solid line designated as Cultus Bay Road on Map Sheet 115 G/7;

subject to the following Special Conditions:

- subject to 11.10.1 and 11.10.2 of this Agreement, Government shall have the right to construct and upgrade, on the 60 metre right-of-way, the road known as Cultus Bay Road and shown approximately by a solid line designated as Cultus Bay Road on Map Sheet 115 G/7;

- subject to 11.10.1 and 11.10.2 of this Agreement, a Specified Access Right shall apply on the 60 metre right-of-way for the road known as Cultus Bay Road and shown approximately by a solid line designated as Cultus Bay Road on Map Sheet 115 G/7,

having an area of approximately 7.2 square kilometres.

R-19B Category B, being the Parcel shown as R-19B on Map Sheet 115 G/7, dated October 18, 2003, having as a southerly boundary the northerly bank of Raft Creek and as a westerly boundary the easterly shore of Talbot Arm, Kluane Lake,

having an area of approximately 0.6 square kilometre.

R-20B Category B, being the Parcel shown as R-20B on Map Sheets 115 G/11 and 115 G/12, dated October 18, 2003, having as an easterly boundary, in part, the westerly bank of Kluane River and as a southerly boundary the northerly boundary of the 90 metre right-of-way for the 2003 Alaska Highway,

including:

- the land described in Reservation No. 115G11-0000-00009 comprising Lot 1001, Quad 115 G/11, Plan 72567 CLSR, 90-12 LTO;
- the land described in Reservation No. 115G11-0000-00010 comprising Lot 1002, Quad 115 G/11, Plan 72568 CLSR, 90-13 LTO;
- the land described in Reservation No. 115G12-0000-00014 comprising Lot 1000, Quad 115 G/12, Plan 72722 CLSR, 90-37 LTO;
- a portion of the land described in Reservation No. 115G12-0000-00006;

subject to:

- Reservation No. 115G11-0000-00014;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43488 CLSR, 23112 LTO;

subject to the following Special Condition:

- the Yukon shall close that portion of the right-of-way for the Old Alaska Highway lying within Parcel R-20B,

having an area of approximately 8.4 square kilometres.

R-22B Category B, being the Parcel shown as R-22B on Map Sheet 115 F/16, dated October 18, 2003, having as a northwesterly boundary, in part, the southeasterly shore of Pickhandle Lake and as a northeasterly boundary the southwesterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway,

not including:

- the land described in Reservation No. 115F16-0000-00021 comprising Lot 42, Group 901, Plan 53430 CLSR, 28980 LTO;

subject to the following Special Condition:

- the Parcel shall be subject to 10.4 and 10.8 of Schedule A - Pickhandle Lakes Habitat Protection Area, attached to Chapter 10 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 0.5 square kilometre.

R-24A Category A, being the Parcel shown as R-24A on Map Sheet 115 G/8, dated October 18, 2003, having as a northerly boundary, in part, the southerly bank of Gladstone Creek,

not including:

- any existing cabins and their curtilage and a 50 metre buffer from the cabin which is farthest from Swanson Creek, shown approximately as Sketch 1 on Map Sheet 115 G/8;
- a 30 metre right-of-way for the road known as Gladstone Road and shown approximately by a solid line designated as Gladstone Road on Map Sheet 115 G/8,

having an area of approximately 0.6 square kilometre.

R-25B Category B, being the Parcel shown as R-25B on Map Sheets 115 J/2 and 115 J/3, dated October 18, 2003, having as a northerly boundary the southerly bank of Nisling River, as a westerly boundary the easterly bank of an unnamed creek and as an easterly boundary the westerly bank of Onion Creek,

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheets 115 J/2 and 115 J/3;
- Lot 1000, Quad 115 J/2, Plan 83645 CLSR, 2000-0133 LTO;

subject to:

- Reservation No. 115J02-0000-005;
- Reservation No. 115J02-0000-006;
- Reservation No. 115J03-0000-001;

subject to the following Special Condition:

- the following outfitting provisions shall apply:
  - 1) the holder on the Effective Date (the "Existing Holder") of the outfitting concession for any outfitting area in this Parcel (the "Concession") has a right of access to use that portion of the Parcel located within the outfitting area and lying within a corridor 500 metres wide measured landward from the southerly bank of the Nisling River, for all purposes relating to the outfitting of non-residents for the fall hunting of bear and moose, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner;
  - 2) the right set out in 1) shall expire upon the Existing Holder ceasing, for any reason, to hold the Concession;
  - 3) all subsequent holders of the Concession may, on an annual basis, request a meeting with Kluane First Nation and, upon receipt of such a request, Kluane First Nation shall meet with the holder to discuss whether it will consent to the holder's use of that portion of the Parcel located within the outfitting area, for purposes relating to the outfitting of non-residents for the hunting of big game, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner,
  - 4) for greater certainty, nothing in this Special Condition shall be construed as imposing upon Kluane First Nation any obligation to ensure that the Existing Holder or a subsequent holder of the Concession complies with the Laws of General Application;

having an area of approximately 18.9 square kilometres.

R-26B Category B, being the Parcel shown as R-26B on Map Sheet 115 G/10, dated October 18, 2003, having as westerly and southerly boundaries, in part, the easterly and northerly shores, respectively, of Brooks Arm, Kluane Lake,

including:

- a portion of the land described in P.C. 1985-1365;

not including:

- the land shown as Sketch 1 on Map Sheet 115 G/10 being Lot 1001, Quad 115 G/10, Plan 75466 CLSR, 93122 LTO and the land between Lot 1001 and the shore of Kluane Lake;
- the land described in Lease No. 115G10-0000-00004;

having an area of approximately 3.6 square kilometres.

R-27B Category B, being the Parcel shown as R-27B on Map Sheet 115 G/6, dated October 18, 2003, having as a northerly boundary the southerly bank of Little Creek,

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/6,

having an area of approximately 4.2 square kilometres.

R-28A Category A, being the Parcel shown as R-28A on Map Sheets 115 G/5 and 115 G/6, dated October 18, 2003, having as a northwesterly boundary the southeasterly bank of Maple Creek and the southeasterly boundary of a 60 metre right-of-way for the road known as Quill Creek Road and shown approximately by a dashed line designated as Quill Creek Road on Map Sheets 115 G/5 and 115 G/6 and as a southwesterly boundary the northeasterly bank of an unnamed creek,

subject to:

- a 30 metre right-of-way for the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;

subject to the following Special Conditions:

- Government shall have the right to construct and upgrade, on the 30 metre right-of-way, the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;
- a Specified Access Right shall apply on the 30 metre right-of-way for the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6,

having an area of approximately 3.0 square kilometres.

R-29B Category B, being the Parcel shown as R-29B on Map Sheet 115 G/2, dated October 18, 2003, having as a northerly boundary the southerly boundary of Parcel S-80B,

subject to:

- Reservation No. 115G02-0000-00025;
- the easement described in Certificate of Title 84Y726;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plans 43073 and 43074 CLSR, 22228 LTO;

subject to the following Special Condition:

- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel R-29B shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-80B or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-80B may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-80B in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-80B shall all apply to the portions of Parcel S-80B consolidated with this Parcel,

having an area of approximately 4.0 square kilometres.

R-35B Category B, being the Parcel shown as R-35B on Map Sheet 115 G/15, dated October 18, 2003, having as a northeasterly boundary the southwesterly bank of Brooks Creek and as a northerly boundary the southerly shore of Red Tail Lake (also known as Kiyera Lake),

having an area of approximately 1.0 square kilometre.

R-42A Category A, being the Parcel shown as R-42A on Map Sheet 115 G/11, dated October 18, 2003, having as a westerly boundary the easterly bank of Kluane River,



subject to the following Special Condition:

- the following outfitting provisions shall apply:
  - 1) the holder on the Effective Date (the "Existing Holder") of the outfitting concession for any outfitting area in this Parcel (the "Concession") has a right of access to use that portion of the Parcel located within the outfitting area and lying within a corridor 500 metres wide measured landward from the easterly bank of the Kluane River (the "Portion"), for all purposes relating to the outfitting of non-residents for the spring and fall hunting of bear, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner;
  - 2) the right set out in 1) is subject to the condition that the Existing Holder must conduct the fall hunts so as to avoid use of that part of the Portion used by Kluane First Nation for traditional fall activities and shall expire upon the Existing Holder ceasing, for any reason, to hold the Concession;
  - 3) to reduce conflicts between the right set out in 1) and the traditional fall activities of the Kluane First Nation, the Existing Holder shall, on an annual basis no later than 45 days before the beginning of the fall hunting season, provide the Kluane First Nation with the times and locations of the fall hunting activities which the Existing Holder proposes to conduct on the Portion, and the Kluane First Nation shall, within 15 days thereafter, provide the Existing Holder with the times and locations of the traditional fall activities it proposes to conduct on the Portion;
  - 4) subject to 5), if the Existing Holder fails to comply with the condition set out at 2), the Existing Holder shall forfeit the right set out in 1) with respect to that incident of access;
  - 5) if, in conducting fall hunting activities, the Existing Holder uses a part of the Portion used by Kluane First Nation for traditional fall activities but was not informed about those activities in accordance with 3), forfeiture pursuant to 4) shall not occur;
  - 6) all subsequent holders of the Concession may, on an annual basis, request a meeting with Kluane First Nation and, upon receipt of such a request, Kluane First Nation shall meet with the holder to discuss whether it will consent to the holder's use of that portion of the Parcel located within the outfitting area, for purposes relating to the outfitting of non-residents for the hunting of big game, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner,
  - 7) for greater certainty, nothing in this Special Condition shall be construed as imposing upon Kluane First Nation any obligation to ensure that the Existing Holder or a subsequent holder of the Concession complies with the Laws of General Application;

having an area of approximately 6.1 square kilometres.

R-45A Category A, being the Parcel shown as R-45A on Map Sheet 115 G/7, dated October 18, 2003, having as a northeasterly boundary the southwesterly shore of Kluane Lake, as a southeasterly boundary the northwesterly bank of Lewis Creek and as a southwesterly boundary, in part, the northeasterly boundary of Parcel S-77A,

including:

- the land described in Reservation No. 115G07-0000-00023 comprising Lot 1011, Quad 115 G/7, Plan 72803 CLSR, 90-46 LTO;
- the land described in Reservation No. 115G07-0000-00028;
- the land described in Reservation No. 115G07-0000-00030;

not including:

- the land described in Agreement for Sale No. 115G07-0000-00014;
- the land described in Application No. 13462;
- the land shown cross-hatched and designated as Buffer on Map Sheet 115 G/7;
- the land described as Parcel C-4B in this appendix;

subject to:

- Application No. 15289;
- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;
- a 15 metre right-of-way for the existing access road shown approximately by a solid line designated as Access Road 2 on Map Sheet 115 G/7;

subject to the following Special Conditions:

- a Quarrying Right for Application No. 15289;
- the holder of Agreement for Sale No. 115G07-0000-00014 shall have a right, on the 15 metre right-of-way, to maintain, repair and upgrade the existing access road shown approximately by a solid line designated as Access Road 2 on Map Sheet 115 G/7;
- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;
- no later than the Effective Date of this Agreement, the Yukon shall amend Application No. 15306 to exclude Parcel R-45A from the land described in the Application;
- the following provisions shall apply in connection with Application No. 15289:

- a) no later than the Effective Date of this Agreement, the Yukon shall amend Application No. 15289 to exclude, from the land described in the Application, all portions of Parcel R-45A, other than the area shown cross-hatched as Sketch 8 on Map Sheet 115 G/7;
- b) the Yukon, in its discretion, may amend Application No.15289 to remove, from the land described in the Application, any portions of the area of Parcel R-45A shown cross-hatched as Sketch 8 and add, to the land described in the Application, portions of Parcel R-1A equivalent in size to the portion removed from Parcel R-45A;
- c) the Yukon shall Consult with the Kluane First Nation respecting the planning and development of any Quarry located in the area shown cross-hatched as Sketch 8 on Map Sheet 115 G/7 taking into particular account the sensitive nature of that portion of Sketch 8 designated as Sensitive Area on Map Sheet 115 G/7;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel R-45A shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-77A or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-77A may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-77A in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-77A shall all apply to the portions of Parcel S-77A consolidated with this Parcel,

having an area of approximately 7.1 square kilometres.

R-46A Category A, being the Parcel shown as R-46A on Map Sheet 115 G/6, dated October 18, 2003, having as an easterly boundary, in part, the westerly shore of Kluane Lake,

including:

- the land described in Reservation No. 115G06-0000-00022;

not including:

- Lot 1000, Quad 115 G/6, Plan 71655 CLSR, 88-136 LTO;
- the land described in Agreement for Sale No. 115G06-0000-00024;
- the land described in Lease No. 115G06-0000-00025;

- the land described as Parcel C-16B in this appendix;
  - the land described in Application No. 15303;
  - a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/6;
  - the land shown cross-hatched as Sketch 5 on Map Sheet 115 G/6 being a portion of Lot 297, Group 852, Plan 53106 CLSR, 28366 LTO;
- subject to:
- a 15 metre right-of-way for the existing access roads shown approximately by dashed lines designated as Access Road 1, Access Road 2, and Access Road 3 on Map Sheet 115 G/6;

subject to the following Special Conditions:

- the registered owner of Lot 1000, Quad 115 G/6, Plan 71655 CLSR, 88-136 LTO, and the holders of Agreement for Sale No. 115G06-0000-00024 and Lease No. 115G06-0000-00025 shall each have a right, on the 15 metre right-of-way, to maintain, repair and upgrade the existing access road shown approximately by a dashed line designated as Access Road 1 on Map Sheet 115 G/6;
- the registered owner of Lot 1000, Quad 115 G/6, Plan 71655, 88-136 LTO, shall have a right, on the 15 metre right-of-way, to maintain, repair and upgrade the existing access road shown approximately by a dashed line designated as Access Road 2 on Map Sheet 115 G/6;
- the holders of Agreement for Sale No. 115G06-0000-00024 and Lease No. 115G06-0000-00025 shall each have a right, on the 15 metre right-of-way, to maintain, repair and upgrade the existing access road shown approximately by a dashed line designated as Access Road 3 on Map Sheet 115 G/6;
- a Quarrying Right for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;
- Airport Zoning Controls shall apply,

having an area of approximately 12.5 square kilometres.

R-47A Category A, being the Parcel shown as R-47A on Map Sheet 115 G/6 dated October 18, 2003, having as a northeasterly boundary the southwesterly bank of Kluane River and as a southwesterly boundary, in part, the northeasterly boundary of Parcel S-75A,

including:

- the land described in Reservation No. 115G06-0000-00014 comprising Lot 1003, Quad 115 G/6, Plan 72807 CLSR, 90-49 LTO;
- the land described in Reservation No. 115G06-0000-00016;
- the land described in Reservation No. 115G06-0000-00019 comprising Lot 1004, Quad 115 G/6, Plan 72807 CLSR, 90-49 LTO;

- the land described in Reservation No. 115G06-0000-00020 comprising Lot 1002, Quad 115 G/6, Plan 72807 CLSR, 90-49 LTO;
- the land described in Reservation No. 115G06-0000-00021 comprising Lot 1001, Quad 115 G/6, Plan 72806 CLSR, 90-48 LTO;
- Lot 242, Group 852, Plan 42964 CLSR, 21846 LTO;
- the land described in Reservation No. 115G06-0000-00023;

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/6;
- the land described in Reservation No. 115G06-0000-00002;
- the land described in Application No. 15303;
- the land described in Application No. 15287;

subject to:

- Reservation No. 115G06-0000-00008;
- Reservation No. 115G06-0000-00027;
- Application No. 15288;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43071 CLSR, 22228 LTO;
- a 15 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road 1 on Map Sheet 115 G/6;

subject to the following Special Conditions:

- Quarrying Rights for Reservation No. 115G06-0000-00008, Application No. 15288 and for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;
- the following provisions shall apply in connection with Application No. 15288:
  - a) the Yukon shall only use a portion of the land described in Application No. 15288 not exceeding 100 metres in width and 900 metres in length as a Quarry;
  - b) on or before December 31, 2005, the Yukon shall cease using the land described in Application No. 15288 as a Quarry and shall reclaim, in accordance with 18.2.6.3 and 18.2.6.4, any portion of the land described in Application No. 15288 that has been used as a Quarry;
  - c) the Yukon shall not use the access road located near existing cabins on the Parcel to access, for quarrying purposes, the land described in Application No. 15288;
  - d) the Yukon shall establish and repair channel dikes to prevent flooding of the existing cabins on the Parcel located near the land described in Application No. 15288;
- Airport Zoning Controls shall apply;

- the registered owner of Lot 1000, Quad 115 G/6, Plan 71655 CLSR, 88-136 LTO, and the holders of Agreement for Sale No. 115G06-0000-00024 and Lease No. 115G06-0000-00025 shall each have a right, on the 15 metre right-of-way, to maintain, repair and upgrade the existing access road shown approximately by a dashed line designated as Access Road 1 on Map Sheet 115 G/6;
- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;
- the Yukon shall close those portions of the right-of-way for the Old Alaska Highway lying within Parcel R-47A;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel R-47A shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-75A or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-75A may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-75A in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-75A shall all apply to the portions of Parcel S-75A consolidated with this Parcel,

having an area of approximately 63.8 square kilometres.

R-48B Category B, being the Parcel shown as R-48B on Map Sheet 115 G/11, dated October 18, 2003, having as a southwesterly boundary, in part, the northeasterly bank of Kluane River,

subject to the following Special Conditions:

- a Quarrying Right for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;

- the following outfitting provisions shall apply:
  - 1) the holder on the Effective Date (the "Existing Holder") of the outfitting concession for any outfitting area in this Parcel (the "Concession") has a right of access to use that portion of the Parcel located within the outfitting area and lying within a corridor 500 metres wide measured landward from the easterly bank of Kluane River (the "Portion"), for all purposes relating to the outfitting of non-residents for the spring and fall hunting of bear, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner;
  - 2) the right set out in 1) is subject to the condition that the Existing Holder must conduct the fall hunts so as to avoid use of that part of the Portion used by Kluane First Nation for traditional fall activities and shall expire upon the Existing Holder ceasing, for any reason, to hold the Concession;
  - 3) to reduce conflicts between the right set out in 1) and the traditional fall activities of the Kluane First Nation, the Existing Holder shall, on an annual basis no later than 45 days before the beginning of the fall hunting season, provide the Kluane First Nation with the times and locations of the fall hunting activities which the Existing Holder proposes to conduct on the Portion, and the Kluane First Nation shall, within 15 days thereafter, provide the Existing Holder with the times and locations of the traditional fall activities it proposes to conduct on the Portion;
  - 4) subject to 5), if the Existing Holder fails to comply with the condition set out in 2), the Existing Holder shall forfeit the right set out in 1) with respect to that incident of access;
  - 5) if, in conducting fall hunting activities, the Existing Holder uses a part of the Portion used by Kluane First Nation for traditional fall activities but was not informed about those activities in accordance with 3), forfeiture pursuant to 4) shall not occur;
  - 6) all subsequent holders of the Concession may, on an annual basis, request a meeting with Kluane First Nation and, upon receipt of such a request, Kluane First Nation shall meet with the holder to discuss whether it will consent to the holder's use of that portion of the Parcel located within the outfitting area, for purposes relating to the outfitting of non-residents for the hunting of big game, if permitted by and in accordance with laws which apply to lands under the administration and control of the Commissioner;
  - 7) for greater certainty, nothing in this Special Condition shall be construed as imposing upon Kluane First Nation any obligation to ensure that the Existing Holder or a subsequent holder of the Concession complies with the Laws of General Application;

having an area of approximately 40.8 square kilometres.

R-49B Category B, being the Parcel shown as R-49B on Map Sheets 115 G/5, 115 G/6 and 115 G/11, dated October 18, 2003, having as a northwesterly boundary the southeasterly bank of Quill Creek and as a northeasterly boundary, in part, the southwesterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway,

including:

- a portion of Lot 307, a portion of Lot 304 and the whole of Lot 308, Group 852, Plan 56215 CLSR;
- a portion of Lots 115 and 116, Group 852, Plan 43139 CLSR;
- a portion of Lot 125, Group 852, Plan 43118 CLSR;

not including:

- the land described in Lease No. 115G11-0000-00003;
- a 30 metre right-of-way for the road known as Quill Creek Road and shown approximately by a dashed line designated as Quill Creek Road on Map Sheets 115 G/6 and 115 G/11;

subject to:

- a 30 metre right-of-way for the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;
- a 30 metre right-of-way for the road known as Burwash Creek Road and shown approximately by a dashed line designated as Burwash Creek Road on Map Sheet 115 G/6;
- the easement described in Certificate of Title 84Y726;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43071 CLSR, 22228 LTO;

subject to the following Special Conditions:

- a Quarrying Right for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;
- a Specified Access Right shall apply on the 30 metre right-of-way for the road known as Burwash Creek Road and shown approximately by a dashed line designated as Burwash Creek Road on Map Sheet 115 G/6;
- Government shall have the right to construct and upgrade, on the 30 metre right-of-way, the road known as Burwash Creek Road and shown approximately by a dashed line designated as Burwash Creek Road on Map Sheet 115 G/6;
- a Specified Access Right shall apply on the 30 metre right-of-way for the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;



- Government shall have the right to construct and upgrade, on the 30 metre right-of-way, the road known as Tatamagouche Creek Road and shown approximately by a dashed line designated as Tatamagouche Creek Road on Map Sheet 115 G/6;
- the Yukon shall close those portions of the right-of-way for the Old Alaska Highway lying within Parcel R-49B,

having an area of approximately 123.0 square kilometres.

R-50B Category B, being the Parcel shown as R-50B on Map Sheet 115 G/15, dated October 18, 2003, having as a southwesterly boundary the northeasterly bank of Brooks Creek and as a westerly boundary the easterly bank of an unnamed creek,

having an area of approximately 0.6 square kilometre.

R-51A Category A, being the Parcel shown as R-51A on Map Sheet 115 G/14, dated October 18, 2003, having as a southerly boundary, in part, the northerly shore of Tincup Lake and as an easterly boundary the westerly bank of Tincup Creek,

having an area of approximately 0.8 square kilometre.

R-52B Category B, being the Parcel shown as R-52B on Map Sheet 115 G/6, dated October 18, 2003, having as southerly and easterly boundaries the northerly and westerly shores, respectively, of Brooks Arm, Kluane Lake,

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/6;
- the land described in Reservation No. 115G06-0000-00005,

having an area of approximately 2.4 square kilometres.

S-1B Proposed Site Specific Settlement Land, being the area shown as S-1B, near Kluane Lake, on Map Sheet 115 G/7, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-1B1,

having an area of approximately 2.0 hectares.

S-4B Proposed Site Specific Settlement Land, being the area shown as S-4B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/7, dated October 18, 2003, having as an easterly boundary the westerly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-4B1,

having an area of approximately 2.0 hectares.

S-5B Proposed Site Specific Settlement Land, being the area shown as S-5B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/7, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a partial cabin and a camp site are located, to be known as S-5B1,

having an area of approximately 2.0 hectares.

S-6B Proposed Site Specific Settlement Land, being the area shown as S-6B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/7, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-6B1,

having an area of approximately 2.0 hectares.

S-7B Proposed Site Specific Settlement Land, being the area shown as S-7B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/7, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-7B1,

having an area of approximately 2.0 hectares.

S-8B Proposed Site Specific Settlement Land, being the area shown as S-8B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/7, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-8B1,

having an area of approximately 2.0 hectares.

- S-9B Proposed Site Specific Settlement Land, being the area shown as S-9B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/10, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-9B1,
- having an area of approximately 2.0 hectares.
- S-10B Proposed Site Specific Settlement Land, being the area shown as S-10B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/10, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-10B1,
- having an area of approximately 1.0 hectare.
- S-11B Proposed Site Specific Settlement Land, being the area shown as S-11B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/10, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-11B1,
- having an area of approximately 2.0 hectares.
- S-12B Proposed Site Specific Settlement Land, being the area shown as S-12B, at Brooks Arm, Kluane Lake, on Map Sheet 115 G/6, dated October 18, 2003, all of which shall be selected as a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-12B1,
- not including:
- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/6;
- having an area of approximately 9.0 hectares.
- S-13B Proposed Site Specific Settlement Land, being the area shown as S-13B, at Ki'yeta Lake, on Map Sheet 115 G/15, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-13B1,
- having an area of approximately 4.0 hectares.
- S-14B Proposed Site Specific Settlement Land, being the area shown as S-14B, at Ka'ma Zē Ta'gäya Creek, on Map Sheet 115 G/15, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-14B1,

having an area of approximately 2.0 hectares.

S-15B Proposed Site Specific Settlement Land, being the area shown as S-15B, at Onion Creek, on Map Sheet 115 G/14, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-15B1,

not including:

- Lot 1001, Quad 115 G/14, Plan 80836 CLSR, 98-32 LTO, being Champagne and Aishihik First Nations Parcel S-400B1,

having an area of approximately 2.0 hectares.

S-17B Proposed Site Specific Settlement Land, being the area shown as S-17B, at Tin Cup Lake, on Map Sheet 115 G/11, dated October 18, 2003, having as a southerly boundary the northerly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-17B1,

having an area of approximately 2.0 hectares.

S-18B Proposed Site Specific Settlement Land, being the area shown as S-18B, at Tincup Lake, on Map Sheet 115 G/14, dated October 18, 2003, having as a southerly boundary the northerly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-18B1,

having an area of approximately 2.0 hectares.

S-19B Proposed Site Specific Settlement Land, being the area shown as S-19B, at Tincup Lake, on Map Sheet 115 G/14, dated October 18, 2003, having as a southerly boundary the northerly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-19B1,

having an area of approximately 1.0 hectare.

S-20B Proposed Site Specific Settlement Land, being the area shown as S-20B, at an unnamed lake, on Map Sheet 115 G/11, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-20B1,

not including:

- a 30 metre right-of-way for the existing access road shown approximately by a solid line designated as Access Road 1 on Map Sheet 115 G/11;
- the land described in Reservation No. 115G11-0000-00006,

having an area of approximately 5.0 hectares.

S-22B Proposed Site Specific Settlement Land, being the area shown as S-22B, at Tincup Creek, on Map Sheet 115 G/13, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-22B1,

having an area of approximately 2.0 hectares.

S-23B Proposed Site Specific Settlement Land, being the area shown as S-23B, at Kluane River near Tom Murray Creek, on Map Sheet 115 G/13, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-23B1,

having an area of approximately 2.0 hectares.

S-24B Proposed Site Specific Settlement Land, being the area shown as S-24B on Map Sheet 115 G/12, dated October 18, 2003, having as a northeasterly boundary the southwesterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-24B1,

having an area of approximately 4.0 hectares.

S-25B Proposed Site Specific Settlement Land, being the area shown as S-25B, at Donjek River, on Map Sheet 115 G/12, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which cabins are located, to be known as S-25B1,

including:

- a portion of Lot 1, Group 902, Plan 42962 CLSR, 21823 LTO,

having an area of approximately 5.0 hectares.

S-26B Proposed Site Specific Settlement Land, being the area shown as S-26B, near Donjek River, on Map Sheet 115 G/12, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-26B1,

having an area of approximately 8.0 hectares.

S-27B Proposed Site Specific Settlement Land, being the area shown as S-27B, at Mystery Lake, on Map Sheet 115 G/12, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-27B1,

subject to:

- Lease No. 115F16-0000-00024,

having an area of approximately 12.0 hectares.

S-28B Proposed Site Specific Settlement Land, being the area shown as S-28B, at Koidern River, on Map Sheet 115 F/16, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-28B1,

subject to the following Special Condition:

- the Parcel shall be subject to 10.4 and 10.8 of Schedule A - Pickhandle Lakes Habitat Protection Area, attached to Chapter 10 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 2.0 hectares.

S-29B Proposed Site Specific Settlement Land, being the area shown as S-29B, at Koidern River, on Map Sheet 115 F/16, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-29B1,

including:

- a portion of Lot 33, Group 901, Plan 42313 CLSR, 20967 LTO;

subject to:

- Reservation No. 115F16-0000-00011;

subject to the following Special Condition:

- the Parcel shall be subject to 10.4 and 10.8 of Schedule A - Pickhandle Lakes Habitat Protection Area, attached to Chapter 10 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 2.0 hectares.

S-32B Proposed Site Specific Settlement Land, being the area shown as S-32B, at Wolverine Creek, on Map Sheet 115 G/12, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which cabins and cabin remnants are located, to be known as S-32B1,

having an area of approximately 2.0 hectares.

S-34B Proposed Site Specific Settlement Land, being the area shown as S-34B, near Wade Creek, on Map Sheet 115 G/5, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-34B1,

having an area of approximately 16.0 hectares.

S-35B Proposed Site Specific Settlement Land, being the area shown as S-35B, near Gladstone Lakes, on Map Sheet 115 G/8, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-35B1,

subject to the following Special Condition:

- the Parcel shall be subject to a Flooding Right for the purposes of the Gladstone Lakes Diversion Project identified pursuant to 7.8.1 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the Champagne and Aishihik First Nations provide the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 2.0 hectares.

S-36B Proposed Site Specific Settlement Land, being the area shown as S-36B, near Gladstone Lakes, on Map Sheet 115 G/8, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-36B1,

subject to the following Special Condition:

- the Parcel shall be subject to a Flooding Right for the purposes of the Gladstone Lakes Diversion Project identified pursuant to 7.8.1 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the Champagne and Aishihik First Nations provide the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 2.0 hectares.

S-37B Proposed Site Specific Settlement Land, being the area shown as S-37B on Map Sheets 115 G/10 and 115 G/11, dated October 18, 2003, having as a northeasterly boundary the southwesterly bank of an unnamed creek and as a southerly boundary the northerly shore of Brooks Arm, Kluane Lake, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-37B1,

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheets 115 G/10 and 115 G/11,

having an area of approximately 27.9 hectares.



S-39B Proposed Site Specific Settlement Land, being the area shown as S-39B on Map Sheet 115 A/13, dated October 18, 2003, having as a northeasterly boundary the southwesterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-39B1,

subject to the following Special Condition:

- the Yukon shall close that portion of the right-of-way for the Old Alaska Highway lying within Parcel S-39B1;

provided that:

- no later than the date of signature of this Agreement, the Champagne and Aishihik First Nations provide the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 15.0 hectares.

S-42B Proposed Site Specific Settlement Land, being the area shown as S-42B, at Wolf Lake, on Map Sheet 115 F/16, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin is located, to be known as S-42B1,

subject to:

- Lease No. 115F16-0000-00024;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 4.0 hectares.

S-43B Proposed Site Specific Settlement Land, being the area shown as S-43B on Map Sheet 115 G/12, dated October 18, 2003, having as a southwesterly boundary, in part, the northeasterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-43B1,

not including:

- the land shown cross-hatched as Sketch 1 on Map Sheet 115 G/12;

- a 15 metre right-of-way for the trail known as Mystery Lake Trail and shown approximately by a solid line designated as Mystery Lake Trail on Map Sheet 115 G/12;

subject to the following Special Conditions:

- the Yukon shall close that portion of the right-of-way for the Old Alaska Highway shown approximately by a double solid line designated as Old Alaska Highway on Map Sheet 115 G/12 lying within Parcel S-43B1;
- the Yukon shall reduce to 30 metres in width that portion of the right-of-way for the Old Alaska Highway shown approximately by a double solid line designated as Old Alaska Highway on Map Sheet 115 G/12 which forms the boundary of Parcel S-43B with the land shown cross-hatched as Sketch 1 on Map Sheet 115 G/12,

having an area of approximately 6.0 hectares.

S-44B Proposed Site Specific Settlement Land, being the area shown as S-44B, at Andrew Lake, on Map Sheet 115 G/13, dated October 18, 2003, having as a northerly boundary the southerly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, all of which shall be selected as a Parcel of Category B Settlement Land, to be known as S-44B1,

subject to the following Special Condition:

- the Yukon shall close that portion of the right-of-way for the Old Alaska Highway lying within Parcel S-44B1,

having an area of approximately 3.0 hectares.

S-45B Proposed Site Specific Settlement Land, being the area shown as S-45B, at Toshingermann Lakes, on Map Sheet 115 G/14, dated October 18, 2003, having as a westerly boundary, in part, the easterly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-45B1,

having an area of approximately 9.0 hectares.

S-46B Proposed Site Specific Settlement Land, being the area shown as S-46B on Map Sheet 115 F/16, dated October 18, 2003, having as an easterly boundary the westerly boundary of the 90 metre right-of-way for the 2003 Alaska Highway and as a southeasterly boundary the northwesterly boundary of a 15 metre right-of-way for an existing road shown approximately by a dashed line designated as Road on Map Sheet 115 F/16, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-46B1,

not including:

- the land described in Reservation No. 115F16-0000-00001;

subject to:

- Reservation No. 115F16-0000-00030;
- the easement described in Certificate of Title 84Y726;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43486 CLSR, 22228 LTO,

having an area of approximately 2.0 hectares.

S-47B Proposed Site Specific Settlement Land, being the area shown as S-47B, at Talbot Arm, Kluane Lake, on Map Sheet 115 G/10, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a cabin and cabin remnants are located, to be known as S-47B1,

having an area of approximately 3.0 hectares.

S-48B Proposed Site Specific Settlement Land, being the area shown as S-48B on Map Sheet 115 G/12, dated October 18, 2003, having as a westerly boundary the easterly bank of Donjek River, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-48B1,

not including:

- the land described in Reservation No. 115G12-0000-00013;

subject to the following Special Condition:

- the Yukon shall amend Reservation No. 115G12-0000-00016 to exclude Parcel S-48B1 from the land described in the Reservation,

having an area of approximately 2.0 hectares.

S-49B Proposed Site Specific Settlement Land, being the area shown as S-49B on Map Sheet 115 G/2, dated October 18, 2003, having as an easterly boundary the westerly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, all of which shall be selected as a Parcel of Category B Settlement Land, to be known as S-49B1,

subject to:

- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43074 CLSR, 22228 LTO;

subject to the following Special Conditions:

- until the plan of survey of Parcel S-49B1 is confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, Kluane First Nation shall not make use of Parcel S-49B except for uses that are permitted in:
  - 1) the Kluane National Park Reserve of Canada, if the Tachal Region is part of the Kluane National Park Reserve of Canada at the time of the use; or
  - 2) Kluane National Park, if the Tachal Region is part of Kluane National Park at the time of the use;
- the following restrictions shall apply to any development within Parcel S-49B1:
  - 1) Kluane First Nation shall take into account the management plan applicable in the Tachal Region when considering authorizing any development;
  - 2) development shall be compatible with the uses which may be made of lands in the Tachal Region adjacent to the Parcel;
  - 3) Kluane First Nation shall Consult with the Parks Canada Agency respecting any proposed development;
  - 4) any dispute respecting the application of this Special Condition may be referred by any party to this Agreement to the dispute resolution process under 26.3.0;

provided that:

- confirmation of the plan of survey of Parcel S-49B1 in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, shall be coordinated with the amendment of the boundary of the Kluane National Park Reserve of Canada or of Kluane National Park, as the case may be, in accordance with 3.0 of Schedule C - Kluane National Park and Park Reserve, to Chapter 10 of this Agreement;
- for greater certainty, construction of the Proposed Alaska Highway Re-alignment shall not occur within Parcel S-49B1,

having an area of approximately 2.0 hectares.

S-50B Proposed Site Specific Settlement Land, being the area shown as S-50B on Map Sheet 115 G/2, dated October 18, 2003, having as a northerly boundary, in part, the northerly boundary of the land subject to the easement described in Certificate of Title 84Y726, as an easterly point the westerly shore of Kluane Lake, as a southerly boundary, in part, the northerly boundary of a 20 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road on Map Sheet 115 G/2 and as a westerly boundary a line approximately 145 metres perpendicularly distant westerly from the surveyed centre line for the Proposed Alaska Highway Re-alignment and which includes the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-50B1,

including:

- a portion of Lot 1004, Quad 115 G/2, Plan 82068 CLSR, 99-0014 LTO;

subject to:

- Reservation No. 115G02-0000-00012;
- the easement described in Certificate of Title 84Y726;

subject to the following Special Condition:

- Government shall amend Reservation No. 2000-0702 to exclude Parcel S-50B1 from the land described in the Reservation;

provided that:

- unless the parties of this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel S-50B1 shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-50B;
  - 2) Parcel S-50B1 shall have as a westerly boundary the easterly boundary of a 90 metre right-of-way for the Reconstructed Alaska Highway and the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within Parcel S-50B1;
  - 3) for greater certainty, Parcel S-50B1 shall not include any portion of Parcel S-50B that lies to the west of the westerly boundary of the 90 metre right-of-way for the Reconstructed Alaska Highway,

having an area between 44.0 and 71.8 hectares approximately.

S-52B Proposed Site Specific Settlement Land, being the area shown as S-52B, at Kluane River, on Map Sheet 115 G/11, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-52B1,

having an area of approximately 1.0 hectare.

S-53B Proposed Site Specific Settlement Land, being the area shown as S-53B, at Kluane Lake, on Map Sheet 115 G/2, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-53B1,

having an area of approximately 12.0 hectares.

S-55B Proposed Site Specific Settlement Land, being the area shown as S-55B, at Brooks Arm, Kluane Lake, on Map Sheet 115 G/10, dated October 18, 2003, having as a southwesterly boundary the northeasterly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-55B1,

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/10,

having an area of approximately 28.3 hectares.

S-56B Proposed Site Specific Settlement Land, being the area shown as S-56B, at Tincup Lake, on Map Sheet 115 G/11, dated October 18, 2003, having as an easterly boundary the westerly bank of an unnamed creek, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-56B1,

having an area of approximately 6.0 hectares.

S-58B Proposed Site Specific Settlement Land, being the area shown as S-58B, at Horseshoe Bay, Kluane Lake, on Map Sheet 115 G/2, dated October 18, 2003, comprising Lot 282, Group 852, Plan 52328 CLSR, 27102 LTO, all of which shall be selected as a Parcel of Category B Settlement Land, to be known as S-58B1,

not including:

- the land described as Parcel S-73A in this appendix;

subject to the following Special Condition:

- the Yukon shall amend Reservation No. 85-0010 to exclude Parcel S-58B1 from the land described in the Reservation,

having an area of approximately 5.87 hectares, more or less.

S-59B Proposed Site Specific Settlement Land, being the area shown as S-59B, at Dutch Harbour, Kluane Lake, on Map Sheet 115 G/2, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-59B1,

having an area of approximately 0.5 hectare.

S-60B Proposed Site Specific Settlement Land, being the area shown as S-60B, at Onion Creek, on Map Sheet 115 G/15, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-60B1,

not including:

- a 60 metre right-of-way for the proposed road known as Casino Road and shown approximately by a dashed line designated as Casino Road on Map Sheet 115 G/15,

having an area of approximately 1.0 hectare.

S-62B Proposed Site Specific Settlement Land, being the area shown as S-62B, near Koidern River, on Map Sheet 115 F/16, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, on which a trailer is located, to be known as S-62B1,

subject to:

- Lease No. 115F16-0000-00024;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 1.0 hectare.

S-63B Proposed Site Specific Settlement Land, being the area shown as S-63B on Map Sheet 115 G/12, dated October 18, 2003, having as a southwesterly boundary the northeasterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-63B1,

not including:

- the land described in Reservation No. 115G12-0000-00004;

subject to the following Special Condition:

- the Yukon shall close that portion of the right-of-way for the Old Alaska Highway lying within Parcel S-63B1,

having an area of approximately 8.0 hectares.

S-64B Proposed Site Specific Settlement Land, being the area shown as S-64B, at Kluane River, on Map Sheet 115 G/11, dated October 18, 2003, having as a southwesterly boundary the northeasterly boundary of a 30 metre right-of-way for the Old Alaska Highway shown approximately by a double solid line designated as Old Alaska Highway on Map Sheet 115 G/11, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-64B1,

subject to the following Special Condition:

- the Yukon shall reduce the right-of-way for the Old Alaska Highway bounding Parcel S-64B1 to 30 metres and shall have no responsibility to maintain the road,

having an area of approximately 2.0 hectares.

S-65B Proposed Site Specific Settlement Land, being the area shown as S-65B, at Kluane River, on Map Sheet 115 G/11, dated October 18, 2003, having as a southwesterly boundary the northeasterly boundary of a 30 metre right-of-way for the Old Alaska Highway shown approximately by a double solid line designated as Old Alaska Highway on Map Sheet 115 G/11, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-65B1,

subject to the following Special Condition:

- the Yukon shall reduce the right-of-way for the Old Alaska Highway bounding Parcel S-65B1 to 30 metres and shall have no responsibility to maintain the road,

having an area of approximately 2.0 hectares.



S-66B Proposed Site Specific Settlement Land, being the area shown as S-66B, at Kluane River, on Map Sheet 115 G/11, dated October 18, 2003, having as a westerly boundary the easterly boundary of a 30 metre right-of-way for the Old Alaska Highway shown approximately by a double solid line designated as Old Alaska Highway on Map Sheet 115 G/11, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-66B1,

subject to the following Special Conditions:

- the Yukon shall reduce the right-of-way for the Old Alaska Highway bounding Parcel S-66B1 to 30 metres and shall have no responsibility to maintain the road;
- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment,

having an area of approximately 8.0 hectares.

S-69B Proposed Site Specific Settlement Land, being the area shown as S-69B, at Kluane Lake, on Map Sheet 115 G/1, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-69B1,

having an area of approximately 3.0 hectares.

S-70B Proposed Site Specific Settlement Land, being the area shown as S-70B, at Isaac Creek, on Map Sheet 115 H/5, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-70B1,

including:

- the land described in Reservation No. 115H05-0000-00003;

subject to the following Special Condition:

- a portion of the Parcel shall be subject to a Flooding Right for the purposes of the Gladstone Lakes Diversion Project identified pursuant to 7.8.1 of this Agreement;

provided that:

- no later than the date of signature of this Agreement, the Champagne and Aishihik First Nations provide the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 1.0 hectare.

S-71B Proposed Site Specific Settlement Land, being the area shown as S-71B, at Kluane Lake, on Map Sheet 115 G/2, having as a northwesterly boundary the southeasterly boundary of a 20 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road on Map Sheet 115 G/2, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-71B1,

including:

- a portion of Lot 1004, Quad 115 G/2, Plan 82068 CLSR, 99-0014 LTO;

subject to:

- the easement described in Certificate of Title 84Y726;
- Reservation No. 115G02-0000-00012;

subject to the following Special Condition:

- the Yukon shall amend Reservation No. 2000-0702 to exclude Parcel S-71B1 from the land described in the Reservation,

having an area of approximately 2.0 hectares.

S-72B Proposed Site Specific Settlement Land, being the area shown as S-72B on Map Sheet 115 F/16, having as a southerly boundary the northerly bank of Koidern River, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-72B1,

not including:

- the land described in Application No. 15324;

provided that:

- no later than the date of signature of this Agreement, the White River First Nation provides the parties to this Agreement with a resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 4.0 hectares.

S-73A Proposed Site Specific Settlement Land, being the area shown as S-73A on Map Sheet 115 G/2, dated October 18, 2003, having as a southwesterly boundary the northeasterly boundary of the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43074 CLSR, 22228 LTO and as a northeasterly boundary, in part, the southwesterly shore of Kluane Lake, and which includes the 90 metre right-of-way for the 2003 Alaska Highway and includes the surveyed centre line for the Proposed Alaska Highway Re-alignment, out of which shall be selected one or more Parcels of Category A Settlement Land, to be known as S-73A1, S-73A2, etc., as required (the "Site Specific Parcels"),

not including:

- the land described as Parcel S-58B in this appendix;

subject to the following Special Condition:

- until the plans of survey of the Site Specific Parcels are confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, Kluane First Nation shall not make use of Parcel S-73A except for uses that are permitted in:
  - 1) the Kluane National Park Reserve of Canada, if the Tachal Region is part of the Kluane National Park Reserve of Canada at the time of the use; or
  - 2) Kluane National Park, if the Tachal Region is part of Kluane National Park at the time of the use;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-73A;
  - 2) the Site Specific Parcels shall comprise all of the land in Parcel S-73A except a 90 metre right-of-way for the Reconstructed Alaska Highway and the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels;
- confirmation of the plans of survey of the Site Specific Parcels in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, shall be coordinated with the amendment of the boundary of the Kluane National Park Reserve of Canada or of Kluane National Park, as the case may be, in accordance with 3.0 of Schedule C - Kluane National Park and Park Reserve, to Chapter 10 of this Agreement,

having an area of approximately 99.0 hectares.

S-74B Proposed Site Specific Settlement Land, being the area shown as S-74B on Map Sheet 115 G/11, having as a southerly boundary the northerly boundary of a 60 metre right-of-way for the road known as Quill Creek Road and shown approximately by a dashed line designated as Quill Creek Road on Map Sheet 115 G/11, out of which shall be selected a Parcel of Category B Settlement Land, on which a camp site is located, to be known as S-74B1,

having an area of approximately 1.0 hectare.

S-75A Proposed Site Specific Settlement Land, being the area shown as S-75A on Map Sheet 115 G/6, dated October 18, 2003, having as a southwesterly boundary the northeasterly boundary of Parcel R-1A and as a northeasterly boundary the southwesterly boundary of Parcel R-47A, comprising approximately a 290 metre corridor centred on the surveyed centre line for the Proposed Alaska Highway Re-alignment plus the area shown cross-hatched on Map Sheet 115 G/6, and which includes the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected one or more Parcels of Category A Settlement Land, to be known as S-75A1, S-75A2, etc., as required (the "Site Specific Parcels"),

not including:

- the land described in Reservation No. 115G06-0000-00002;
- the land described in Application No. 15287;

subject to:

- the easement described in Certificate of Title 84Y726;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plans 43071 and 43072 CLSR, 22228 LTO;

subject to the following Special Conditions:

- a Quarrying Right for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;
- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:

- 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-75A;
- 2) at the time the Site Specific Parcels are surveyed:
  - (a) if Parcel R-47A has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-75A that lies between Parcel R-47A and a 90 metre right-of-way for the Reconstructed Alaska Highway;
  - (b) if Parcel R-47A has not been surveyed, any portion of Parcel S-75A that lies between Parcel R-47A and a 90 metre right-of-way for the Reconstructed Alaska Highway shall be consolidated with Parcel R-47A and surveyed as one Parcel to be known as R-47A;
  - (c) if Parcel R-1A has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-75A that lies between Parcel R-1A and a 90 metre right-of-way for the Reconstructed Alaska Highway;
  - (d) if Parcel R-1A has not been surveyed, any portion of Parcel S-75A that lies between Parcel R-1A and a 90 metre right-of-way for the Reconstructed Alaska Highway shall be consolidated with Parcel R-1A and surveyed as one Parcel to be known as R-1A;
  - (e) for greater certainty, the Site Specific Parcels, Parcel R-47A and Parcel R-1A shall not include a 90 metre right-of-way for the Reconstructed Alaska Highway;
  - (f) the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels, Parcel R-47A and Parcel R-1A,

having an area of approximately 176.0 hectares.

S-76B Proposed Site Specific Settlement Land, being the area shown as S-76B on Map Sheet 115 G/6,7 - Burwash Landing Area, dated October 18, 2003, having as a northerly boundary the southerly boundary of Parcel C-4B and the northerly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, as a southwesterly boundary the northeasterly boundary of Parcel C-8B and as an easterly boundary the westerly boundary of Parcel S-77A, and which includes the 90 metre right-of-way for the 2003 Alaska Highway and includes the surveyed center line for the Proposed Alaska Highway Re-alignment, out of which shall be selected one or more Parcels of Category B Settlement Land, to be known as S-76B1, S-76B2, etc., as required (the "Site Specific Parcels"),

including:

- a portion of the land shown cross-hatched as Sketch 4 on Map Sheet 115 G/6,7 - Burwash Landing Area;

not including:

- Lot 298, Group 852, Plan 52935 CLSR, 27992 LTO;

subject to:

- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing and future utility lines;
- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43072 CLSR, 22228 LTO;

subject to the following Special Condition:

- Airport Zoning Controls shall apply;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-76B;
  - 2) at the time the Site Specific Parcels are surveyed:
    - (a) if Parcel C-4B has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-76B that lies between Parcel C-4B and a 90 metre right-of-way for the Reconstructed Alaska Highway but not including any land which lies between the 90 metre right-of-way for the Reconstructed Alaska Highway and Lot 298, Group 852, Plan 52935 CLSR, 27992 LTO;
    - (b) if Parcel C-4B has not been surveyed, any portion of Parcel S-76B that would otherwise become the Site Specific Parcels under (a) shall be consolidated with Parcel C-4B and surveyed as one Parcel to be known as C-4B;
    - (c) if Parcel C-8B has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-76B that lies between Parcel C-8B and a 90 metre right-of-way for the Reconstructed Alaska Highway but not including any land shown cross-hatched as Sketch 4 on Map Sheet 115 G/6,7 - Burwash Landing Area;
    - (d) if Parcel C-8B has not been surveyed, any portion of Parcel S-76B that would otherwise become the Site Specific Parcels under (c) shall be consolidated with Parcel C-8B and surveyed as one Parcel to be known as C-8B;

- (e) for greater certainty, the Site Specific Parcels, Parcel C-4B and Parcel C-8B shall not include a 90 metre right-of-way for the Reconstructed Alaska Highway,
- (f) the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels, Parcel C-4B and Parcel C-8B,

having an area of approximately 39.2 hectares.

S-77A Proposed Site Specific Settlement Land, being the area shown as S-77A on Map Sheet 115 G/7, dated October 18, 2003, having as a northeasterly boundary the northeasterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway, as a southwesterly boundary, in part, the northeasterly boundary of Parcel R-1A and as a westerly boundary the easterly boundary of Parcel S-76B, comprising approximately a 290 metre corridor which includes the surveyed centre line for the Proposed Alaska Highway Re-alignment and which includes the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected one or more Parcels of Category A Settlement Land, to be known as S-77A1, S-77A2, etc., as required (the "Site Specific Parcels"),

including:

- a portion of the land described in Reservation No. 115G07-0000-00025;
- a portion of the land described in Reservation No. 115G07-0000-00036;
- a portion of the land described in Application No. 15306;
- a portion of the land described in Application No. 15285;

not including:

- the land shown cross-hatched as Sketch 5 on Map Sheet 115 G/7;
- the land described as Parcel C-8B in this appendix;
- the land described as Parcel C-4B in this appendix;
- the land described in Agreement for Sale No. 115G07-0000-00014;
- the land described in Application No. 13462;
- the land shown cross-hatched and designated as Buffer on Map Sheet 115 G/7;
- the land described as Access Road Right-of-Way on Plan 51541 CLSR, 25994 LTO;

subject to:

- Application No. 15285;
- Application No. 15289;
- Application No. 15306;
- Reservation No. 115G07-0000-00036;
- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing and future utility lines;

- a 15 metre right-of-way for the existing access road shown approximately by a solid line designated as Access Road 2 on Map Sheet 115 G/7;

subject to the following Special Conditions:

- Quarrying Rights for Application No. 15289, Application No. 15306, Application No. 15285, Reservation No. 115G07-0000-00036, and for any Quarry identified pursuant to 18.2.5.2(a) of this Agreement;
- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;
- the holder of Agreement for Sale No. 115G07-0000-00014 shall have a right, on the 15 metre right-of-way, to construct, maintain, repair and upgrade the existing access road shown approximately by a solid line designated as Access Road 2 on Map Sheet 115 G/7;
- for greater certainty, the Yukon shall have the right to construct the Proposed Alaska Highway Re-alignment on the land described in Reservation No. 115G07-0000-00025;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S- 77A;
  - 2) at the time the Site Specific Parcels are surveyed:
    - (a) if Parcel R-45A has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-77A that lies between Parcel R-45A and a 90 metre right-of-way for the Reconstructed Alaska Highway but not including any land which lies between the 90 metre right-of-way for the Reconstructed Alaska Highway and:
      - i) the land described in Agreement for Sale No. 115G07-0000-00014;
      - ii) the land described in Application No. 13462; and
      - iii) the land shown cross-hatched and designated as Buffer on Map Sheet 115 G/7;
    - (b) if Parcel R-45A has not been surveyed, any portion of Parcel S-77A that would otherwise become the Site Specific Parcels under (a) shall be consolidated with Parcel R-45A and surveyed as one Parcel to be known as R-45A;



- (c) if Parcel R-1A has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-77A that lies between Parcel R-1A and a 90 metre right-of-way for the Reconstructed Alaska Highway but not including:
  - i) any land which lies between the 90 metre right-of-way for the Reconstructed Alaska Highway and the land shown cross-hatched as Sketch 5 on Map Sheet 115 G/7; and
  - ii) any land described in Reservation No. 115G07-0000-00036, Application No. 15306 or Application No. 15285;
- (d) if Parcel R-1A has not been surveyed, any portion of Parcel S-77A that would otherwise become the Site Specific Parcels under (c) shall be consolidated with Parcel R-1A and surveyed as one Parcel to be known as R-1A;
- (e) for greater certainty, the Site Specific Parcels, Parcel R-45A and Parcel R-1A shall not include a 90 metre right-of-way for the Reconstructed Alaska Highway;
- (f) the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels, Parcel R-45A and Parcel R-1A,

having an area of approximately 137.0 hectares.

S-79B Proposed Site Specific Settlement Land, being the area shown as S-79B on Map Sheet 115 G/2, dated October 18, 2003, having as a northeasterly boundary the southwesterly boundary of Parcel R-2B, comprising approximately a 290 metre corridor centred on the surveyed centre line for the Proposed Alaska Highway Re-alignment and which includes the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected one or more Parcels of Category B Settlement Land, to be known as S-79B1, S-79B2, etc., as required (the "Site Specific Parcels"),

not including:

- the land described in Reservation No. 115G02-0000-00007;
- the land described in Reservation No. 115G02-0000-00009;

subject to:

- Reservation No. 115G02-0000-00013;

subject to the following Special Condition:

- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-79B;
  - 2) at the time the Site Specific Parcels are surveyed:
    - (a) if Parcel R-2B has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-79B that lies between Parcel R-2B and a 90 metre right-of-way for the Reconstructed Alaska Highway;
    - (b) if Parcel R-2B has not been surveyed, any portion of Parcel S-79B that lies between Parcel R-2B and a 90 metre right-of-way for the Reconstructed Alaska Highway shall be consolidated with Parcel R-2B and surveyed as one Parcel to be known as R-2B;
    - (c) for greater certainty, the Site Specific Parcels and Parcel R-2B shall not include a 90 metre right-of-way for the Reconstructed Alaska Highway;
    - (d) the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels and Parcel R-2B,

having an area of between zero and 112.0 hectares approximately.

S-80B Proposed Site Specific Settlement Land, being the area shown as S-80B on Map Sheet 115 G/2, dated October 18, 2003, having as a southerly boundary the northerly boundary of Parcel R-29B, comprising approximately a 400 metre corridor centred on the surveyed centre line for the Proposed Alaska Highway Re-alignment and which includes the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected one or more Parcels of Category B Settlement Land, to be known as S-80B1, S-80B2, etc., as required (the "Site Specific Parcels"),

subject to:

- the easement described in Certificate of Title 84Y726;

subject to the following Special Condition:

- for greater certainty and without limiting the application of 6.4.1 of this Agreement, Government, its agents and contractors have, pursuant to 6.4.1, a right of access to enter, cross and stay on the Parcel and use natural resources incidental to such access to maintain stream channels, which maintenance includes, but is not limited to, the necessary alteration of land and watercourses by earthmoving equipment;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-80B;
  - 2) at the time the Site Specific Parcels are surveyed:
    - (a) if Parcel R-29B has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-80B that lies between Parcel R-29B and a 90 metre right-of-way for the Reconstructed Alaska Highway;
    - (b) if Parcel R-29B has not been surveyed, any portion of Parcel S-80B that lies between Parcel R-29B and a 90 metre right-of-way for the Reconstructed Alaska Highway shall be consolidated with Parcel R-29B and surveyed as one Parcel to be known as R-29B;
    - (c) for greater certainty, the Site Specific Parcels and Parcel R-29B shall not include a 90 metre right-of-way for the Reconstructed Alaska Highway;
    - (d) the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels and Parcel R-29B,

having an area of between zero and 110.0 hectares approximately.

S-81B Proposed Site Specific Settlement Land, being the area shown as S-81B on Map Sheet 115 G/1, dated October 18, 2003, having as a northwesterly boundary the southeasterly boundary of Parcel R-17B, comprising approximately a 290 metre corridor centred on the surveyed centre line for the Proposed Alaska Highway Re-alignment and which includes the 90 metre right-of-way for the 2003 Alaska Highway, out of which shall be selected one or more Parcels of Category B Settlement Land, to be known as S-81B1, S-81B2, etc., as required (the "Site Specific Parcels"),

subject to:

- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43074 CLSR, 22228 LTO;

subject to the following Special Condition:

- Airport Zoning Controls shall apply;

provided that:

- no later than the date of signature of this Agreement, the Champagne and Aishihik First Nations provide the parties to this Agreement with a

resolution consenting to the Parcel becoming Kluane First Nation Settlement Land, failing which the Parcel shall not become Kluane First Nation Settlement Land;

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of the Site Specific Parcels shall be delayed until the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-81B;
  - 2) at the time the Site Specific Parcels are surveyed:
    - (a) if Parcel R-17B has been surveyed, the Site Specific Parcels shall comprise any portion of Parcel S-81B that lies between Parcel R-17B and a 90 metre right-of-way for the Reconstructed Alaska Highway;
    - (b) if Parcel R-17B has not been surveyed, any portion of Parcel S-81B that lies between Parcel R-17B and a 90 metre right-of-way for the Reconstructed Alaska Highway shall be consolidated with Parcel R-17B and surveyed as one Parcel to be known as R-17B;
    - (c) for greater certainty, the Site Specific Parcels and Parcel R-17B shall not include:
      - i) a 90 metre right-of-way for the Reconstructed Alaska Highway; and
      - ii) any portion of Parcel S-81B that lies to the southeast of the southeasterly boundary of the 90 metre right-of-way for the Reconstructed Alaska Highway;
    - (d) the Yukon shall close those portions of the rights-of-way for the Old Alaska Highway and the 2003 Alaska Highway lying within the Site Specific Parcels and Parcel R-17B,

having an area between zero and 22.3 hectares approximately.

S-82B Proposed Site Specific Settlement Land, being the area shown as S-82B on Map Sheet 115 G/12, dated October 18, 2003, out of which shall be selected a Parcel of Category B Settlement Land, to be known as S-82B1,

having an area of approximately 4.0 hectares.

S-83A Proposed Site Specific Settlement Land, being the area shown as S-83A on Map Sheets 115 G/2, 115 G/3 and 115 G/6, dated October 18, 2003, having as a southwesterly boundary the northeasterly bank of Duke River, all of which shall be selected as a Parcel of Category A Settlement Land, to be known as S-83A1,

not including:

- the land described as Parcel R-1A in this appendix;

subject to the following Special Conditions:

- until the plan of survey of Parcel S-83A1 is confirmed in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, Kluane First Nation shall not make use of Parcel S-83A except for uses that are permitted in:
  - 1) the Kluane National Park Reserve of Canada, if the Tachal Region is part of the Kluane National Park Reserve of Canada at the time of the use; or
  - 2) Kluane National Park, if the Tachal Region is part of Kluane National Park at the time of the use;
- the following restrictions shall apply to any development within Parcel S-83A1:
  - 1) Kluane First Nation shall take into account the management plan applicable in the Tachal Region when considering authorizing any development;
  - 2) development shall be compatible with the uses which may be made of lands in the Tachal Region adjacent to the Parcel;
  - 3) Kluane First Nation shall Consult with the Parks Canada Agency respecting any proposed development;
  - 4) any dispute respecting the application of this Special Condition may be referred by any party to this Agreement to the dispute resolution process under 26.3.0;

provided that:

- confirmation of the plan of survey of Parcel S-83A1 in accordance with Chapter 15 - Definition of Boundaries and Measurement of Areas of Settlement Land, shall be coordinated with the amendment of the boundary of the Kluane National Park Reserve of Canada or of Kluane National Park, as the case may be, in accordance with 3.0 of Schedule C - Kluane National Park and Park Reserve, to Chapter 10 of this Agreement,

having an area of approximately 5017.0 hectares.

C-1FS Category Fee Simple, being the Parcel shown as C-1FS on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, dated October 18, 2003, comprising Lot 2-1, Group 852, Plan 56894 CLSR, 34763 LTO, being the land described in Reservation No. 115G07-0000-00016,

subject to:

- a 20 metre right-of-way for the existing access road shown approximately by a double dashed line designated as Access Road on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area;
- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

subject to the following Special Conditions:

- Airport Zoning Controls shall apply;
- a Specified Access Right shall apply on the 20 metre right-of-way for the existing access road shown approximately by a double dashed line designated as Access Road on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area;
- Government shall have the right to construct and upgrade, on the 20 metre right-of-way, the existing access road shown approximately by a double dashed line designated as Access Road on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area,

having an area of 3.0 hectares, more or less.

C-2B Category B, being the Parcel shown as C-2B on the Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, dated October 18, 2003, having as a northerly boundary the southerly shore of Kluane Lake,

including:

- Lot 6, Group 852, Plan 41265 CLSR, 19467 LTO, being a portion of the land described in Reservation No. 115G07-0000-00004;
- Parcel D, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO, being the land described in Reservation No. 115G07-0000-00005;
- Parcel C, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO, being the land described in Reservation No. 115G07-0000-00007;
- the land shown as Road on Plan 42392 CLSR, 21270 LTO;
- a portion of Parcel E, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO, being a portion of the land described in Reservation No. 115G07-0000-00017;

not including:

- the land described as Parcel C-13FS in this appendix;
- the land described as Parcel C-1FS in this appendix;
- the land shown cross-hatched as Sketch 2 on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area;
- the land shown as Road Allowance on Plan 42392 CLSR, 21270 LTO;
- Parcel B, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO;
- the land shown cross-hatched as Sketch 6 on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, being a portion of Parcel E, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO;

subject to:

- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;
- a 15 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road 2 on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area;
- a Specified Access Right shall apply to the 15 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road 2 on Map Sheet 115 G/6, 7 - Detail of Burwash Landing Area;
- Government shall have the right to construct and upgrade, on the 15 metre right-of-way, the existing access road shown approximately by a dashed line designated as Access Road 2 on Map Sheet 115 G/6, 7 - Detail of Burwash Landing Area;

subject to the following Special Conditions:

- a Specified Access Right shall apply to the 15 metre right-of-way for the existing access road shown approximately by a dashed line designated as Access Road 2 on Map Sheet 115 G/6, 7 - Detail of Burwash Landing Area;
- Government shall have the right to construct and upgrade, on the 15 metre right-of-way, the existing access road shown approximately by a dashed line designated as Access Road 2 on Map Sheet 115 G/6, 7 - Detail of Burwash Landing Area;
- Airport Zoning Controls shall apply;
- Government shall amend Reservation No. 115G07-0000-00017 to exclude Parcel C-2B from the land described in the Reservation;

having an area of approximately 12.7 hectares.

C-4B Category B, being the Parcel shown as C-4B on Map Sheet 115 G/6,7 - Burwash Landing Area, dated October 18, 2003, having as a southerly boundary, in part, the northerly boundary of Parcel S-76B,

including:

- Lot 300, Group 852, Plan 56694 CLSR, 34361 LTO, being a portion of the land described in Reservation No. 115G07-0000-00004;
- Lot 1003 Remainder, Quad 115 G/7, Plan 69797 CLSR, 76781 LTO, being the land described in Reservation No. 115G07-0000-00010;
- the land described in Reservation No. 115G07-0000-00024;

not including:

- Lot 2 Remainder, Group 852, Plan 56894 CLSR, 19467 LTO;
- Lot 298, Group 852, Plan 52935 CLSR, 27992 LTO;
- the land described as Parcel R-45A in this appendix;

- the land described as Parcel C-12FS in this appendix;
- the land described as Parcel C-1FS in this appendix;
- the land shown as Road Allowance on Plan 42392 CLSR, 21270 LTO;
- the land shown as Road on Plan 72348 CLSR, 89-148 LTO;
- Lots 1016, 1017 and Road, Quad 115 G/7, Plan 74484 CLSR, 92-92 LTO;
- the land shown cross-hatched as Sketch 2 on Map Sheet 115 G/6,7 - Burwash Landing Area;

subject to:

- Reservation No. 115G07-0000-00013 and Application No. 15286;
- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

subject to the following Special Conditions:

- Airport Zoning Controls shall apply;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel C-4B shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-76B or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-76B may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-76B in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-76B shall all apply to the portions of Parcel S-76B consolidated with this Parcel,

having an area of approximately 206.0 hectares.

C-6B Category B, being the Parcel shown as C-6B on Map Sheet 115 G/6,7 - Burwash Landing Area, dated October 18, 2003, having as a southerly boundary the northerly boundary of the 90 metre right-of-way for the 2003 Alaska Highway and as an easterly boundary, in part, the westerly shore of Kluane Lake,

including:

- the land described in Reservation No. 115G06-0000-00010;
- a portion of Lot 1 Remainder, Group 852, Plan 53106 CLSR, 28366 LTO;



- a portion of Lot 297, Group 852, Plan 53106 CLSR, 28366 LTO;
- the land shown as Road on Plan 41518 CLSR, 19835 LTO;
- the land shown as Road on Plan 41265 CLSR, 19467 LTO;

not including:

- Lot 2 Remainder, Group 852, Plan 56894 CLSR, 19467 LTO;
- the land described as Parcel C-14FS in this appendix;
- Lot 9 Remainder, Group 852, Plan 41518 CLSR, 19835 LTO, being a portion of the land described in Reservation No. 115G07-0000-00004;
- the land shown cross-hatched as Sketch 5 on Map Sheet 115 G/6,7 - Burwash Landing Area;

subject to:

- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

subject to the following Special Condition:

- Airport Zoning Controls shall apply,

having an area of approximately 76.9 hectares.

C-8B Category B, being the Parcel shown as C-8B on Map Sheet 115 G/6,7 - Burwash Landing Area, dated October 18, 2003, having as a northeasterly boundary, in part, the southwesterly boundary of the 90 metre right-of-way for the 2003 Alaska Highway and as westerly and southerly boundaries the easterly and northerly boundaries, respectively, of Parcel R-1A,

including:

- the land described in Reservation No. 115G06-0000-00018;

not including:

- Lot 1, Quad 115 G/6, Plan 65233 CLSR, 55084 LTO;
- Lot 1 Remainder, Group 852, Plan 53106 CLSR, 28366 LTO;
- Lot 2 Remainder, Group 852, Plan 56894 CLSR, 19467 LTO;
- Lot 299, Group 852, Plan 53106 CLSR, 28366 LTO;
- the land shown cross-hatched as Sketch 4 on Map Sheet 115 G/6,7 - Burwash Landing Area, having an area of approximately 20 hectares;

subject to:

- the right-of-way for the Haines/Fairbanks pipeline as shown on Plan 43072 CLSR, 22228 LTO;

subject to the following Special Condition:

- Airport Zoning Controls shall apply;

provided that:

- unless the parties to this Agreement otherwise agree, the following Alaska Highway Re-alignment Provisions shall apply:
  - 1) notwithstanding 15.2.10 of this Agreement, the survey of Parcel C-8B shall be delayed until the earlier of the completion of the building of those portions of the Proposed Alaska Highway Re-alignment lying within Parcel S-76B or the completion of the surveys of all Settlement Land Parcels which are not subject to Alaska Highway Re-alignment Provisions other than those Parcels to be adjusted pursuant to 15.6.2 of this Agreement;
  - 2) portions of Parcel S-76B may be consolidated with this Parcel in accordance with the Alaska Highway Re-alignment Provisions listed in the description of Parcel S-76B in this appendix and, for greater certainty, the Interests applicable to this Parcel and the Interests applicable to Parcel S-76B shall all apply to the portions of Parcel S-76B consolidated with this Parcel,

having an area of approximately 280.2 hectares.

C-11B Category B, being the Parcel shown as C-11B on the Map Sheet 115 G/2,7 - Destruction Bay Area, dated October 18, 2003, comprising the land described in Reservation No. 115G07-0000-00020 being Lots 22, 23, 24 and 25, Destruction Bay, Plan 53805 CLSR, 29916 LTO,

subject to:

- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

provided that:

- any survey of Parcel C-11B pursuant to 15.2.1 of this Agreement shall maintain the existing surveys of Lots 22, 23, 24 and 25, Destruction Bay, Plan 53805 CLSR, 29916 LTO and shall not effect a consolidation of those lots,

having an area of 0.34 hectare, more or less.

C-12FS Category Fee Simple, being the Parcel shown as C-12FS on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, dated October 18, 2003, comprising Lot 1009, Quad 115 G/7, Plan 72348 CLSR, 89-148 LTO,

subject to:

- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

subject to the following Special Condition:

- Airport Zoning Controls shall apply,

having an area of 0.40 hectare, more or less.

C-13FS Category Fee Simple, being the Parcel shown as C-13FS on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, dated October 18, 2003, comprising Parcel A, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO, saving and excepting the easterly 263.6 feet of Parcel A,

not including:

- the land shown cross-hatched as Sketch 2 on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area;

subject to:

- Caveat No. 85500;

subject to the following Special Condition:

- Airport Zoning Controls shall apply;

provided that:

- on or before the Effective Date of this Agreement, the owner registered in the Land Titles Office transfers all right, title and interest to Parcel A, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO, saving and excepting the easterly 263.6 feet of Parcel A, to the Kluane First Nation failing which this Parcel shall not become Kluane First Nation Settlement Land,

having an area of approximately 0.53 hectare.

C-14FS Category Fee Simple, being the Parcel shown as C-14FS on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, dated October 18, 2003, comprising Lot 7, Group 852, Plan 41265 CLSR, 19467 LTO;

subject to the following Special Condition:

- Airport Zoning Controls shall apply,

having an area of 0.21 hectare, more or less.

C-15FS Category Fee Simple, being the Parcel shown as C-15FS on Map Sheet 115 G/6,7 - Detail of Burwash Landing Area, dated October 18, 2003, comprising Parcel F, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO,

subject to:

- any easement, licence or permit issued by Government on or before the Effective Date of this Agreement in respect of existing utility lines;

subject to the following Special Condition:

- Airport Zoning Controls shall apply;

provided that:

- on or before the Effective Date of this Agreement, the owner registered in the Land Titles Office transfers all right, title and interest to Parcel F, Lot 4, Group 852, Plan 42392 CLSR, 21270 LTO, to the Kluane First Nation failing which the Parcel shall not become Kluane First Nation Settlement Land,

having an area of 1.05 hectare, more or less.

C-16B Category B, being the Parcel shown as C-16B on Map Sheets 115 G/6,7 - Burwash Landing Area, dated October 18, 2003, having as an easterly boundary the westerly shore of Kluane Lake,

not including:

- the land described as Parcel C-6B in this appendix;
- the land described as Parcel R-46A in this appendix;
- Lot 9 Remainder, Group 852, Plan 41518 CLSR, 19835 LTO, being a portion of the land described in Reservation No. 115G07-0000-00004;
- Lot 297, Group 852, Plan No. 53106 CLSR, 28366 LTO;
- the land shown cross-hatched as Sketch 5 on Map Sheet 115 G/6,7 - Burwash Landing Area;

subject to the following Special Condition:

- Airport Zoning Controls shall apply,

having an area of approximately 46.5 hectares.

**LIST OF MAPS**  
**LOCATED IN APPENDIX B - MAPS**  
**WHICH FORMS A SEPARATE VOLUME OF THIS AGREEMENT**

<b><u>Sheet</u></b>	<b><u>Map</u></b>	<b><u>Content</u></b>
1	1:150,000	Rural and Site-Specific Summary
2	115 A/13	Settlement Land of Kluane First Nation
3	115 F/9	Settlement Land of Kluane First Nation
4	115 F/10	Settlement Land of Kluane First Nation
5	115 F/16	Settlement Land of Kluane First Nation
6	115 G/1	Settlement Land of Kluane First Nation
7	115 G/2	Settlement Land of Kluane First Nation
8	115 G/3	Settlement Land of Kluane First Nation
9	115 G/5	Settlement Land of Kluane First Nation
10	115 G/6	Settlement Land of Kluane First Nation
11	115 G/7	Settlement Land of Kluane First Nation
12	115 G/8	Settlement Land of Kluane First Nation
13	115 G/10	Settlement Land of Kluane First Nation
14	115 G/11	Settlement Land of Kluane First Nation
15	115 G/12	Settlement Land of Kluane First Nation
16	115 G/13	Settlement Land of Kluane First Nation
17	115 G/14	Settlement Land of Kluane First Nation
18	115 G/15	Settlement Land of Kluane First Nation
19	115 J/2	Settlement Land of Kluane First Nation
20	115 J/3	Settlement Land of Kluane First Nation
21	115 H/5	Settlement Land of Kluane First Nation
22	115 B, C, G, F	Core Concept Area
23	1:150,000	Heritage Routes of Kluane First Nation
24	115 G/2,7 - Destruction Bay Area	
25	115 G/6,7 - Burwash Landing Area	
26	115 G/6,7 - Detail of Burwash Landing Area	
27	115 G	Ruby Range Area (RRA)
28	115 G, F	Asi Keyi Natural Environment Area (AKNEA)
29	115 F	Pickhandle Lakes Habitat Protection Area (PLHPA)
30	115 B, C, F, G	Tachal Region Boundary (TRB)
31	1:150,000	Kluane First Nation Traditional Territory
32	115 G & F	Special Sheep Guiding Opportunity



## APPENDIX C

### MEMORANDUM REGARDING CERTAIN FINANCIAL ARRANGEMENTS

#### Part I - Financial Arrangements in relation to indexation

This sets out our shared understanding of how Canada will proceed with payment of certain additional monies.

Canada agrees to pay \$2,992,082 to Kluane First Nation in addition to what is provided for in the Final Agreement. This will provide Kluane First Nation with the same amount it would have received if the indexation of financial compensation provided for in the Final Agreement was extended to March 31, 2002. The additional amount will be adjusted using the "Average Discount Rate" of 8.1536 percent, from signing date up to the date that the payment is actually made, compounded annually. Payment will be made as soon as practicable after the Effective Date of the Final Agreement. The amount paid pursuant to this Part is not paid pursuant to Chapters 19 or 20 of the Final Agreement.

#### Part II - Financial arrangements in relation to certain payments contemplated by chapter 20 - Taxation of the Kluane First Nation Final Agreement

This sets out our shared understanding of how Canada will proceed with payment of certain monies contemplated by Chapter 20 which were not payable on the dates set out in chapter 20 as a result of the Federal Court of Appeal decision in Carcross/Tagish First Nation v. Her Majesty(A-232-00).

Kluane First Nation has not received the Adjusted Value lump sum payment contemplated by 20.6.5.1 nor any of the Adjusted Value annual payments contemplated by 20.6.6.2.

In satisfaction of the lump sum payment contemplated by 20.6.5.1 Canada shall pay \$598,437.00 to Kluane First Nation on the Effective Date of the Final Agreement.

In satisfaction of the Adjusted Value annual payments contemplated by 20.6.6.2, Canada shall pay:

\$583,177 to Kluane First Nation as soon as practicable after the Effective Date of the Final Agreement, which amount will be adjusted at an interest rate of 5.73% from February 14, 2003 up to the date the payment is actually made, compounded annually, and

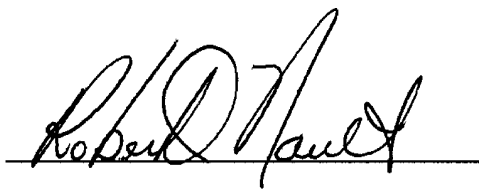
four payments of \$84,176.00 on each February 14 of the next four calendar years.

The amounts paid pursuant to this Part are payments coming within 20.3.1.3 of the Final Agreement and within 16.9 of the Kluane First Nation Self-Government Agreement.

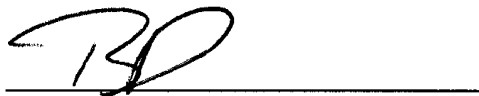
Subject to the Final Agreement coming into effect, and except in respect of payments Canada agrees to make in Part II of this Memorandum, Kluane First Nation

- releases Canada from any claims of whatever nature, whether known or unknown that Kluane First Nation or the predecessor band to Kluane First Nation ever had, now has or may have in the future related to or arising out of the payments contemplated by 20.6.5 and 20.6.6 of the Final Agreement, and
- agrees not to assert any action, cause of action, suit, claim or demand whatsoever related to or arising out of the payments contemplated by 20.6.5 and 20.6.6 of the Final Agreement.

Signed at Burwash Landing, this 18th day of October, 2003 by duly authorized representatives of Canada and Kluane First Nation.

A handwritten signature in black ink, appearing to read "Robert D. Nault", written over a horizontal line.

The Honourable Robert D. Nault  
Minister of Indian Affairs and Northern Development

A handwritten signature in black ink, appearing to read "RD", written over a horizontal line.

Robert Dickson  
Chief, Kluane First Nation



