

Fort William First Nation Land Code

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FORT WILLIAM FIRST NATION LAND CODE

Preamble

Whereas the Fort William First Nation has a profound relationship with the Land that is rooted in respect for the spiritual value of the Earth and the gifts of the Creator and has a deep desire to preserve their relationship with the land;

And Whereas thirteen First Nations and Canada concluded a government-to-government *Framework Agreement on First Nation Land Management* on February 12, 1996;

And Whereas the *Framework Agreement on First Nation Land Management* provides the option to First Nations of withdrawing their reserve land from the land management provisions of the *Indian Act* in order to exercise control over their land and resources for the use and benefit of their Members;

And Whereas Canada ratified its commitment to the *Framework Agreement on First Nation Land Management* with the enactment of the *First Nations Land Management Act*, S.C. 1999, c.24;

And Whereas under the *Framework Agreement on First Nation Land Management*, Canada recognizes that First Nations have a unique connection to and constitutionally protected interest in their lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands;

And Whereas under the *Framework Agreement on First Nation Land Management*, Canada has committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples in a manner consistent with the Canadian Constitution;

And Whereas Fort William First Nation became a signatory on **May 15, 2015** to the *Framework Agreement on First Nation Land Management*, as Fort William First Nation wishes to govern its land and resources under the *Fort William First Nation Land Code*, rather than having its land and resources managed on its behalf under the *Indian Act*,

And Whereas the *Framework Agreement on First Nation Land Management* acknowledges that Canada's special relationship with Fort William First Nation will continue;

And Whereas the *Framework Agreement on First Nation Land Management* is ratified by Fort William First Nation through Member approval of the *Fort William First Nation Land Code*;

NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE FORT WILLIAM FIRST NATION.

PART 1 PRELIMINARY MATTERS

1. Definitions

Clarification

- 1.1 Any words or terms used in this *Land Code* which are defined in the *Framework Agreement* shall have the same meaning as in the *Framework Agreement*, unless otherwise defined herein or where the context otherwise requires.

Definitions

- 1.2 The following definitions apply in this *Land Code*:

“Canada” means Her Majesty the Queen in Right of Canada;

“Common-Law Partnership” means the relationship between two (2) persons who are cohabiting in a conjugal relationship, for such period of time as prescribed under any Land Laws;

“Community Land” means any Fort William First Nation Land in which all Members have a common interest;

“Council” means the duly elected Chief and Council of Fort William First Nation or any successor elected government of Fort William First Nation;

“Eligible Voter” means, for the purpose of voting in respect of Land matters under this *Land Code*, a member who has attained eighteen (18) years of age on or before the day of the vote;

“Extended Family”, in respect of a person, means the person’s grandparent, uncle, aunt, first degree cousin, grandchild, and/or any other relation or relationship that Council may add by any Land Law;

“First Nation Lands Register” means the register established pursuant to section 51 of the *Framework Agreement* and regulated by the *First Nations Land Registry Regulations* or any successor land register that may be established to replace the First Nation Lands Register;

“*Framework Agreement*” means the *Framework Agreement on First Nation Land Management*, entered into between Canada and the signatory First Nations on

February 12, 1996, and amended to include Fort William First Nation on **May 15, 2015**;

“Immediate Family”, in respect of a person, means the person’s parent, sister, brother, child, and Spouse;

“Individual Agreement” means the Individual Agreement providing for the specifics of the transfer of administration made between Fort William First Nation and Canada in accordance with the *Framework Agreement*;

“Interest”, in relation to First Nation Land, means any interest, right or estate of any nature in or to the Land, or any part of the Land, including a certificate of possession, certificate of entitlement, lease, easement, right of way, servitude, or profit à prendre, but does not include title to the Land;

“Land” or “Fort William First Nation Land” means the Land described in Appendix “A hereto and any reserve land that is subject to this *Land Code*;

“Lands Committee” means the Lands Committee established under part 6 of this *Land Code*;

“Land Laws” means any laws, and rules and regulations thereunder, enacted by Council under this *Land Code*;

“Licence” in relation to Fort William First Nation Land, means any right of use or occupation of that Land, other than an Interest in the Land;

“Member” means a person whose name appears or is entitled to appear on the Fort William First Nation Band Membership List;

“Natural Resources” means any materials found in nature on or under the Land, including wildlife, timber, fresh water, or a mineral deposit, or such other material that are necessary or useful to humans and have an economic value;

“Panel” refers to the Dispute Resolution Panel under Part 8 of this Land Code;

“Spouse” means a person who is married to another, whether by a traditional, religious or civil ceremony, and includes a Common-Law Partnership.

2. Interpretation

Interpretation

2.1 In this *Land Code*:

- (a) The provisions herein shall be interpreted in a fair, large and liberal manner;
- (b) the word “shall” signify an obligation that, unless this *Land Code* provides to the contrary, must be carried out as soon as practicable after this *Land Code* comes into effect or the event that gives rise to the obligation;
- (c) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
- (d) titles and headings have been inserted in the *Land Code* for convenience of reference only, and are not interpretive aids;
- (e) unless it is otherwise clear from the context, the use of the masculine includes the feminine, and the use of the feminine includes the masculine;
- (f) unless otherwise clear from the context, whenever the singular is used, it will include the plural, and the use of the plural includes the singular;
- (g) all references to a time period of days means consecutive days and not business days;
- (h) where the time limited for the doing of an act expires or falls on a Saturday or Sunday, or a Fort William First Nation, federal or provincial holiday, the act may be done on the next day that is not a Saturday, Sunday or holiday;
- (i) where the time limited for the doing of an act in the Fort William First Nation administration building falls on a day when the office is not open, the act may be done on the next day that the office is open;

- (j) where there is a reference to a number of days or a number of days between two events, in calculating that number of days, the days on which the events happen are excluded; and
- (k) the principles set out in the Preamble to this *Land Code* may be used to interpret this *Land Code* in the event of ambiguity in the interpretation of any provision herein.

Culture and traditions

- 2.2 The structures, organizations and procedures established by or under this *Land Code* shall be interpreted in accordance with the culture, traditions and customs of Fort William First Nation.

Language

- 2.3 If the meaning of any provision in this *Land Code* is not otherwise clear, the language of Fort William First Nation may be used to clarify the meaning of such provision.

Consistency with *Framework Agreement*

- 2.4 If there is an inconsistency or conflict between this *Land Code* and the *Framework Agreement*, the *Framework Agreement* will prevail to the extent of the inconsistency or conflict.

Paramountcy

- 2.5 If there is an inconsistency or conflict between this *Land Code* and any other law, rule, regulation, instrument, code or order enacted by of Fort William First Nation, including a by-law enacted under section 81 of the *Indian Act*, this *Land Code* prevails to the extent of the inconsistency or conflict.

Rights not affected

- 2.6 This *Land Code* does not change:
- (a) any Aboriginal, Treaty, inherent rights or other rights or freedoms that pertain now or in the future to the Fort William First Nation or its Members;
 - (b) the fiduciary relationship between Canada and Fort William First Nation and its Members; or
 - (c) the by-law powers conferred on Council under the *Indian Act*.

Lands and Interests affected

- 2.7 A reference to Land in this *Land Code* includes all the Interests and rights in and/or to the Land, as well as the Natural Resources that belong to that Land to the extent these are under the jurisdiction of Canada and are part of that Land, and includes:
- (a) the water, beds underlying water, riparian rights, and renewable and non-renewable Natural Resources in and of that Land;
 - (b) all the Interests and Licences granted by Canada listed in the Individual Agreement; and
 - (c) all the Interests and Licences granted by Fort William First Nation after this *Land Code* comes into effect.

Eligible Reserve Land

- 2.8 Only Land that is part of a reserve of Fort William First Nation is eligible to be governed by Fort William First Nation as Land under this *Land Code*.

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of Fort William First Nation speak of the obligation of the people of Fort William First Nation to care for and respect the Land and the magnificent wonders of nature created on the Land. By enacting this *Land Code*, Fort William First Nation is reclaiming this special responsibility.

Flow of authority

- 3.2 The authority of Fort William First Nation to govern its Land and resources flows from the Creator to the people of Fort William First Nation, and from the people to Council according to the culture, traditions, customs and laws of Fort William First Nation.

4. Purpose

Purpose

- 4.1 The purpose of this *Land Code* is to set out the principles, rules and administrative structures that apply to Fort William First Nation Land and

by which Fort William First Nation will exercise authority over that Land in accordance with the *Framework Agreement*.

5. Description of Fort William First Nation Land

Fort William First Nation Land

- 5.1 The Fort William First Nation Land that is subject to this *Land Code* is the Land described in Appendix “A” of this *Land Code*, together with any other additional reserve Lands or Interests of Fort William First Nation that are made subject to this *Land Code* by resolution or ministerial order, from time to time.

Addition to Fort William First Nation Land

- 5.2 In accordance with any request made by Fort William First Nation, the Minister may, by order, set apart as a reserve, for the use and benefit of Fort William First Nation, any lands the title to which is vested in Canada, and provide in such order that the lands are Fort William First Nation Land.

Application of Land Code

- 5.3 Before the lands are transferred to Canada by Fort William First Nation or a third party for the purpose of being set apart as a reserve, or before the lands are otherwise set apart as a reserve, Fort William First Nation may, in accordance with this *Land Code*:

- (a) grant Interests and Licences in relation to such lands, and
- (b) enact zoning or other laws within the scope of the *Framework Agreement* in relation to the lands;

that will come into force only if and when such lands become Fort William First Nation Land.

Amendment to the Description of Land

- 5.4 As of the date of any resolution or ministerial order adding land to Fort William First Nation Land, the description of the Fort William First Nation Land in this *Land Code* will be deemed to be amended to add the description of such land set out in the resolution or order.

Additional Lands

- 5.5 Save and except where permitted under Section 5.4, Council shall hold a meeting of Members prior to the amendment of the description of Fort William First Nation Land subject to this *Land Code*.

PART 2 FIRST NATION LEGISLATION

6. Law-Making Powers

Authority to Manage Land

- 6.1 Except as otherwise expressly provided in this *Land Code*, the power and authority to manage the Fort William First Nation Land and to implement and enforce this *Land Code* and Land Laws or other instruments enacted under it shall be vested in and carried out by Council or by any person or body to whom a power is delegated by Council or by a Land Law enacted under this *Land Code*.

Council may make Land laws

- 6.2 Council may, in accordance with this *Land Code*, make Land Laws respecting:
- (a) the development, conservation, protection, management, use and possession of Fort William First Nation Land;
 - (b) Interests and Licences in relation to Fort William First Nation Land; and
 - (c) any matter necessary or ancillary to the making of Land laws in relation to the management and governance of Fort William First Nation Land.

Examples of Land laws

- 6.3 Without restricting the generality of section 6.2, Council may enact Land Laws respecting:
- (a) regulation, control and prohibition of zoning, Land use, subdivision control, property standards, animal control and land development;

- (b) the creation, acquisition, granting, regulation and prohibition of Interests and Licences in relation to Fort William First Nation Land;
- (c) environmental assessment and protection;
- (d) provision of local services in relation to Fort William First Nation Land and the imposition of equitable user charges for those services;
- (e) enforcement of Land laws; and
- (f) provision of services for the resolution, outside the courts, of disputes in relation to Fort William First Nation Land.

Regulatory Instruments

- 6.4 For greater certainty, in addition to Land Laws, Council may make other regulatory instruments, including rules, regulations, standards, codes and policies.

7. Law-Making Procedure

Introduction of Land laws

- 7.1 A proposed Land Law may be introduced at a duly convened meeting of Council by:
- (a) the Chief;
 - (b) a Councilor; or
 - (c) the representative of the Lands Committee, or other body or authority composed of Members, that may be authorized by Council to do so.

Rationalization of Proposed Land law

- 7.2 Any proponent shall submit a written explanation of the reason for the proposed Land Law.

Lands Committee Review

- 7.3 Council shall refer a proposed Land Law to the Lands Committee for review and comment, unless the Lands Committee is the proponent.

Procedure upon receipt of Proposed Land law

7.4 Upon receipt of a proposed Land Law, Council may:

- (a) table the proposed Land Law for further review or for enactment;
- (b) request that the proponent provide further information or attend before a future meeting of Council to speak to the proposed Land Law;
- (c) undertake or direct the preparation of a draft Land Law concerning matters raised in the proposed Land Law, for consideration by Council; or
- (d) reject the proposed Land Law.

Tabling and posting
of proposed Land laws

7.5 Before a proposed Land Law may be enacted, Council shall:

- (a) table the proposed Land Law at a duly convened meeting of Council;
- (b) post it in public places on Fort William First Nation Land and publish it on the Fort William First Nation website;
- (c) deposit the proposed Land Law with the Lands Committee;
- (d) review comments and recommendations, provided by the Lands Committee; and
- (e) take any other steps to give notice of the proposed Land Law that Council may consider appropriate.

Urgent matters

7.6 Council may enact a Land Law without the preliminary steps ordinarily required if Council is of the opinion that the Land Law is needed urgently for public health and safety or to protect Fort William First Nation Land or the Members, provided such Land Law expires one hundred and twenty (120) days after its enactment unless re-enacted in accordance with the required preliminary steps.

Approval of Land law

- 7.7 Subject to this *Land Code*, a Land Law is approved by resolution of Council at a duly convened meeting of Council open to the Members.

Certification of Land laws

- 7.8 The original copy of any approved Land Law or resolution concerning Fort William First Nation Land shall be signed by a quorum of Council.

Land laws taking effect

- 7.9 A Land Law enacted by Council takes effect on the date of its enactment or such later date as specified in the Land Law.

8. Publication of Land Code and Land Laws

Publication

- 8.1 This Land Code and every Land Law shall be recorded in the minutes of the Council meeting at which it is adopted and published within ten days after enactment by posting a certified copy for not less than thirty days:
- (a) in a location within the administrative office of Fort William First Nation accessible to all Members;
 - (b) on the Fort William First Nation website; and
 - (c) by publication of a notice through any additional method as Council may consider appropriate.

Registry of Land laws

- 8.2 Council shall establish and cause to be kept at the administrative offices of Fort William First Nation a registry containing the following records:
- (a) Original or electronic images of certified copies of all Land Code enactments, together with any supporting documentation required by this Land Code or included by reference in the enactment, endorsed with the time and date of registration thereof; and
 - (b) Original or electronic images of all Land Laws together with any supporting documentation required by this Land Code or included by reference in the enactment, including Land Laws that have been repealed or are no longer in force.

Copies for any
Person

- 8.3 Any person may obtain a copy of the Land Code, any Land Laws or any resolutions promulgated or passed thereunder, during normal business hours in the administrative offices of Fort William First Nation on payment of an administrative fee fixed by Council. Such administrative fee may be amended from time to time by quorum of Council.

9. Enforcement of Land Laws

Enforceability of Land laws

- 9.1 To enforce this *Land Code* and its Land Laws, Fort William First Nation shall have the power to:
- (a) establish offences that are punishable on summary conviction;
 - (b) provide for fines, imprisonment, restitution, community services, and alternate means for achieving compliance;
 - (c) provide for alternate and/or traditional resolution mechanisms such as talking circles or other restorative justice programs;
 - (d) establish comprehensive enforcement procedures consistent with federal and provincial law, including inspections, searches, seizures and compulsory sampling, testing and the production of information; and
 - (e) provide for the collection of non-tax debts, fees or charges owed to Fort William First Nation using taxation collection remedies made under Fort William First Nation taxation laws, if Fort William First Nation has enacted taxation laws or by-laws under another act of Parliament.

Agreement for Recovery of Fines

- 9.2 Fort William First Nation may enter into agreements with other governments or government agencies to collect any fines, debts, fees or other penalties imposed by this *Land Code* or any Fort William First Nation laws.

Prosecuting Offences

- 9.3 For the purpose of prosecuting offences, Fort William First Nation may:

- (a) retain its own prosecutor;
- (b) enter into an agreement with the province to arrange for a provincial prosecutor; and
- (c) make laws with respect to the appointment and authority of justices of the peace.

PART 3 COMMUNITY MEETINGS AND APPROVALS

10. Participation of Members

Participation of Members

- 10.1 Every Member is entitled to participate in the meeting of Members set out in Part 3 of this *Land Code*.

11. Participation of Eligible Voters

Participation of Eligible Voters

- 11.1 Every Eligible Voter is entitled to participate in the Member approval process set out in Part 3 of this *Land Code*.

12. Meeting of Members and Approval Procedure

Notice of meeting

- 12.1 Council shall give written notice of the meeting of Members and any matter requiring Member approval at a meeting of Members, and shall include in the notice:
- (a) the date, time and place of the meeting;
 - (b) a brief description of the matter to be discussed;
 - (c) a brief description of any matter that requires Member approval; and

- (d) other information and material that Council considers appropriate.

Manner of notice

12.2 The notice shall be given to the Members before the meeting or vote, by:

- (a) posting the notice in public places located on Fort William First Nation Land;
- (b) taking reasonable steps to locate and provide the notice to Members who reside on and off-reserve;
- (c) posting the notice on the Fort William First Nation website; and
- (d) additional methods Council considers appropriate.

Non-Members

12.3 A person, who is not a Member, may only attend a meeting of the Members if authorized by Council.

Informed Decision

12.4 Council may schedule more than one meeting of Members as may be necessary to ensure that Members are well informed before making a decision on a proposed Land Law or Land matter.

13. Meetings of Members

Member Meetings

13.1 Council shall call a meeting of Members prior to:

- (a) enacting a Land Law respecting a community plan or subdivision plan;
- (b) making a decision concerning any development affecting a heritage site or an environmentally sensitive property;
- (c) enacting a Land Law respecting environmental assessment and protection;

- (d) enacting a Land Law respecting the transfer and assignment of Interests in Fort William First Nation Land;
- (e) enacting a Land Law respecting family homes and matrimonial Interests on Fort William First Nation Land;
- (f) enacting a Land Law respecting the rate and criteria for the payment of fees or rent for Fort William First Nation Land;
- (g) enacting a Land Law respecting the rights and procedures on community expropriation; and
- (h) respecting any other matter, Land Law or class of law that Council, by resolution, declares to be subject to this section 13.1.

No Quorum

13.2 No quorum or minimum level of participation is required at a meeting of Members.

14. Member Approval

Member approval

14.1 Member approval shall be obtained for the following:

- (a) any master Land use plan;
- (b) any new grant or disposition of an Interest or Licence in any Fort William First Nation Land exceeding a term of thirty five (35) years;
- (c) any renewal of a grant or disposition of an Interest or Licence in any Fort William First Nation Land that extends the original term beyond thirty five (35) years;
- (d) any grant or disposition of any non-renewable Natural Resources on Fort William First Nation Land, or any part thereon or thereunder, exceeding a term of five (5) years;
- (e) any deletion of a heritage site;
- (f) any voluntary exchange of Fort William First Nation Land; and

- (g) any other matter, Land Law or class of law that Council, by resolution, declares to be subject to this section.

Utility Permits Excepted

- 14.2 Notwithstanding Section 14.1, Member approval is not required for an easement, right of way or permit granted by Council for utilities, including telecommunications, water, electricity, natural gas, sewer services and ancillary services.

Method of Voting

- 14.3 Member approval shall be obtained by one or more of the following methods:
- (a) establishing polling locations;
 - (b) show of hands at a duly convened meeting of Members;
 - (c) mail-in ballot;
 - (d) alternative voting methods, such as electronic and telephone voting; or
 - (e) any other method outlined in Fort William First Nation voting policies.

Approval by Majority

- 14.4 A matter shall be considered approved if a majority of fifty percent plus one (50%+1) of participating Eligible Voters cast a vote in favor of the matter.

Increased threshold

- 14.5 Despite 14.4, Council may, by resolution prior to a vote, do either or both of the following:
- (a) Establish a percentage of Eligible Voters who must participate in the vote in order for the result to be binding;
 - (b) require that a percentage greater than fifty percent plus one (50% + 1) of participating Eligible Voters must approve the matter in order to obtain Member approval.

15. Ratification Votes

Member approval
by Ratification vote

15.1 Member approval by ratification vote shall be obtained for an amendment to this *Land Code*.

Exceptions

15.2 Notwithstanding section 15.1, a Member approval by ratification vote is not required for:

- (a) an amendment to the description of Land of this *Land Code*;
- (b) revisions to this *Land Code* made pursuant to section 48; and
- (c) an amendment to, or renewal of, the Individual Agreement.

Ratification process

15.3 Any ratification vote required under this *Land Code* may be conducted in a similar manner as the *Fort William First Nation Community Ratification Process*, which was used to ratify this *Land Code*.

No Verifier

15.4 A Verifier is not required in any ratification vote.

Approval by Majority

15.5 A matter shall be considered approved if a majority of fifty percent plus one (50%+1) of participating Eligible Voters cast a vote in favor of the matter.

Increased threshold

15.6 Despite 15.5, Council may, by resolution prior to a vote, do either or both of the following:

- (a) establish a percentage of Eligible Voters who must participate in the vote in order for the result to be binding;
- (b) require that a percentage greater than fifty percent (50%) of participating Eligible Voters must approve the matter in order to obtain Member approval.

Policies Consultation, Approval
and Ratification

15.7 For greater certainty, Council may make Land laws or policies respecting:

- (a) meetings of Members;
- (b) community consultations;
- (c) Member approvals;
- (d) ratification votes; and
- (e) any other matter, that Council, by resolution, declares to be subject to Part 3 of this *Land Code*.

PART 4 PROTECTION OF LAND

16. Purchase of Land

Purchasing Interests

16.1 Fort William First Nation may, in accordance with its Land Laws, negotiate to purchase an Interest or Licence from the holder of such Interest or Licence.

17. Expropriation

Acquisition by Mutual Agreement

17.1 Fort William First Nation may expropriate an Interest or Licence in Fort William First Nation Land, provided that it has made a good faith effort to acquire, by mutual agreement, the Interest or Licence.

Rights and Interests that may be expropriated

17.2 An Interest or Licence in Fort William First Nation Land, or in any building or other structure on that Land, may only be expropriated by Fort William First Nation in accordance with the *Framework Agreement* and any Land Law enacted for the purpose of establishing the rights and procedures for community expropriations.

Community purposes

17.3 A community expropriation shall only be made for necessary community works or other Fort William First Nation community purposes, including a fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Expropriation Land laws

17.4 Before proceeding to make any community expropriations in accordance with this *Land Code* and the *Framework Agreement*, Council shall enact a Land Law respecting the rights and procedures for community expropriations, including provisions respecting:

- (a) the taking of possession of Interests or Licences;
- (b) transfer of the Interests or Licences;
- (c) notice of expropriation and service of the notice of expropriation;
- (d) entitlement to compensation;
- (e) determination of the amount of compensation; and
- (f) the method of payment of compensation.

Public report

17.5 Before Fort William First Nation expropriates an Interest or Licence, it shall make a public report on the reasons justifying the expropriation.

Member notification

17.6 In the case of an expropriation of a Member's Interest in Fort William First Nation Land, the affected Member or Members shall receive notification of the expropriation within a reasonable time prior to the release of the public report.

Rights that may not be expropriated

17.7 In accordance with section 17.6 the *Framework Agreement*, and notwithstanding the provisions under this Part, an Interest of Canada or the province of Ontario in Fort William First Nation Land is not subject to expropriation by Fort William First Nation.

Compensation for rights and Interests

17.8 Fort William First Nation shall, in accordance with its Land Laws and the *Framework Agreement*:

- (a) serve reasonable notice of the expropriation on each affected holder of the Interest or Licence to be expropriated; and
- (b) pay fair and reasonable compensation to the holders of the Interest or Licence being expropriated.

Compensation calculations

17.9 In accordance with section 17.4 the *Framework Agreement*, Fort William First Nation shall calculate the total value of the compensation under this section based on the heads of the compensation set out in the *Expropriation Act* (Canada).

Market value

17.10 The “market value” of an expropriated Interest or Licence is equal to the amount that would have been paid for the Interest or Licence if it had been sold by a willing seller to a willing buyer under no duress.

Neutral evaluation to Resolve Disputes

17.11 The resolution of disputes concerning the right of Fort William First Nation to expropriate shall be determined by neutral evaluation, in the same manner as provided in part IX of the *Framework Agreement*, and the sixty (60) day period referred to in the *Framework Agreement* shall be applied, as appropriate in the circumstance, by the neutral evaluator.

Arbitration to resolve
Disputes

17.12 The resolution of the following disputes shall be determined by arbitration, in the same manner as provided in part IX of the *Framework Agreement*:

- (a) disputes concerning the right of a holder of an expropriated Interest or Licence to compensation; and
- (b) disputes concerning the amount of the compensation.

18. Voluntary Exchange of Fort William First Nation Land

Conditions for a land exchange

18.1 Fort William First Nation may agree with another party to exchange a parcel of Fort William First Nation Land for a parcel of Land from that other party in accordance with this *Land Code* and the *Framework Agreement*.

No effect

18.2 A land exchange is of no effect unless it receives Member approval in accordance with Part 3 of this *Land Code* and with section 14.2 of the *Framework Agreement*.

Land to be received

18.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- (a) it shall be equal to or greater than the area of the Fort William First Nation Land to be exchanged;
- (b) it shall be at least comparable to the appraised value of the Fort William First Nation Land; and
- (c) it shall become a reserve and Fort William First Nation Land subject to this *Land Code*.

Negotiators

18.4 The person who will have authority to negotiate a land exchange agreement on behalf of Fort William First Nation shall be designated by resolution of Council.

Additional land

18.5 Fort William First Nation may negotiate to receive other compensation, such as money or other additional parcels of land, in addition to the parcel which is intended to become a reserve. Such other parcels of land may be held by Fort William First Nation in fee simple or some other manner.

Federal Consent

18.6 Before Fort William First Nation concludes a land exchange agreement, it shall receive a written statement from Canada expressly stating that Canada:

- (a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as Council may specify; and
- (b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

18.7 Once negotiations on the land exchange agreement are concluded, Council shall provide the following information to Eligible Voters at least thirty (30) days before the vote takes place:

- (a) a description of the Fort William First Nation Land to be exchanged;
- (b) a description of the land to be received in the exchange;
- (c) a description of any other compensation to be exchanged;
- (d) a report of a certified land appraiser setting out that the conditions for the land to be received in the exchange have been met;
- (e) a copy or summary of the exchange agreement; and
- (f) a copy of Canada's consent.

Process of land exchange

18.8 The land exchange agreement shall provide that:

- (a) the other party to the exchange must transfer to Canada title to the land which is to be set apart as a reserve;
- (b) Council must pass a resolution authorizing Canada to transfer title to the Fort William First Nation Land being exchanged, in accordance with the exchange agreement;
- (c) a copy of the instruments transferring title to the relevant parcels of land must be registered in the First Nation Lands Register; and

- (d) the land to be set apart as a reserve has been subject to an environmental audit, and clearance or remediation as necessary, or that Council is satisfied that adequate provisions have been made for such clearance or remediation at no cost to Fort William First Nation, and with full indemnification to Fort William First Nation.

PART 5 ACCOUNTABILITY

19. Conflict of Interest or Appearance of Conflict of Interest

Application of rules

19.1 The conflict-of-interest rules in this *Land Code* apply to the following persons:

- (a) each member of Council who is dealing with any matter before Council that is related to Fort William First Nation Land;
- (b) each person who is an employee of Fort William First Nation dealing with any matter that is related to Fort William First Nation Land;
- (c) each member of the Panel; and
- (d) each person who is a member of a board, committee or other body authorized by this Land Code or a Land Law, or authorized by Council, dealing with any matter that is related to Fort William First Nation Land.

Duty to report and abstain

19.2 If there is any actual or apparent financial, familial or personal conflict of interest, other than an interest held in common with all other Members, in the matter being dealt with, the person shall:

- (a) disclose the conflict of interest to Council, or the board, committee or other body as the case may be;

- (b) recuse themselves from any discussion, decision, debate or vote or any matter in respect of which they would be in a conflict of interest;
- (c) take appropriate steps to ensure the recusal is recorded in an official record with sufficient detail to identify the conflict of interest that was avoided; and
- (d) remove themselves from the proceedings.

Apparent conflict of interest

19.3 A person has an apparent conflict of interest if there is a reasonable perception, which a reasonably well-informed person could properly have, that the person's ability to deliberate or decide on the matter has been affected by his or her private interest or the private interest of an Immediate Relative.

Inability to act – board, committee or other body or person

19.4 If a board, committee or other body or person is unable to act in respect of a matter due to a conflict of interest, the board, committee, or other body or person shall, notwithstanding the conflict of interest, refer the matter to Council.

Meeting of Members

19.5 If Council cannot achieve or maintain quorum in respect of a matter by reason of conflict of interests, Council may by resolution direct that the matter be decided by a majority vote of the Eligible Voters conducted in accordance with Part 3 inclusive and, for the purposes of such resolution, none of the members of Council shall be deemed to have a conflict of interest.

Specific Conflict situations

19.6 No Immediate Family and not more than two (2) members from the same Extended Family shall be concurrent members of an appointed board, committee or other body dealing with any matter that is related to Fort William First Nation Land. Council or any other elected board, committee or body is exempt from this rule.

Disputes

19.7 The Panel has the jurisdiction to hear and decide on any matter concerning a conflict of interest.

Other laws

19.8 Council may develop a policy or enact laws to further implement this section.

20. Financial Management

Application

20.1 This section applies only to financial matters relating to Fort William First Nation Land and Natural Resources.

Financial policies

20.2 Council may, in accordance with this *Land Code*, develop, adapt or adopt financial management laws or policies, including:

- (a) regulating the receipt, management and expenditure of monies, including transfer payments, all capital and revenue monies received from Canada, all Land revenue, and monies received from a grant or disposition of any Interest or Licence in relation to Fort William First Nation Land and Natural Resources;
- (b) managing financial records and accounts;
- (c) preparing financial statements and audits;
- (d) preparing and implementing budgets and annual presentation of budgets;
- (e) determining general investment strategies;
- (f) approval of contract notes, loans and other indebtedness;
- (g) establishing fees, fines, charges and levies; and
- (h) establishing and maintaining a recordkeeping system that ensures confidentiality, security of records and document retention.

Administrative structure

20.3 Council shall establish the administrative structure necessary to:

- (a) implement all financial policies and procedures;
- (b) oversee the day-to-day operational responsibilities for managing monies related to Fort William First Nation Land and Natural Resources;
- (c) ensure the accuracy of the accounting records;
- (d) reconcile, review and approve bank statements;
- (e) present annual budgets to Members;
- (f) present audited financial statements to the Members on an annual basis; and
- (g) to prepare the annual report to Members.

21. Annual Report

Publish annual report

- 21.1 Council, on behalf of the Fort William First Nation, shall publish an Annual Land Management Report on Land matters.

Contents

- 21.2 The Annual Land Management Report shall include, for the reported period:
- (a) an annual review of Fort William First Nation Land and natural resources management;
 - (b) annual budget;
 - (c) a copy and explanation of the audit as it applies to Fort William First Nation Land and natural resources; and
 - (d) any other matter as determined by Council or Lands Committee.

22. Access to Information

Access

- 22.1 Any person may, during normal business hours at the administrative offices of the Fort William First Nation, have reasonable access to:
- (a) the register of Land laws;
 - (b) the auditor's report; and
 - (c) the annual report on Land and natural resources.

Copies for Members

- 22.2 Any Member may obtain a copy of the auditor's report or annual report.

Access to records

- 22.3 Any person authorized by Council may inspect the financial records of Fort William First Nation related to Fort William First Nation Land.

PART 6 LAND AND NATURAL RESOURCES ADMINISTRATION

23. Land Staff

Administration

- 23.1 Council may delegate administrative authority to staff to carry out functions necessary for day-to-day administrative operations of Land and Natural Resources.

24. Lands Committee

Lands Committee established

- 24.1 The Lands Committee is hereby established for the following purposes:
- (a) assist Council with the development of the Land administration system;
 - (b) advise Council and its staff on matters respecting Fort William First Nation Land;

- (c) recommend Land laws, resolutions, policies and practices respecting Fort William First Nation Land to Council;
- (d) consult with Members and non-Members on Fort William First Nation Land issues, and make recommendations on the resolution of those issues to Council;
- (e) oversee community meetings of Members, Member approvals and ratification votes; and
- (f) perform such other duties as may be delegated or assigned by resolution of Council or Land Law under this *Land Code*.

Process to Implement Land laws

24.2 The Lands Committee shall, within a reasonable time after this *Land Code* takes effect, recommend to Council a community process to develop and implement Land Laws.

Internal procedures

24.3 The Lands Committee may establish rules for the procedure at its meetings and generally for the conduct of its affairs, provided such rules are consistent with those established by Council under any other law of Fort William First Nation.

25. Implementation of the Lands Committee

First Lands Committee

25.1 Immediately upon the coming into effect of this *Land Code*, Council shall select a Lands Committee to serve for a term of up to three (3).

Policy Governing Successors to the First Lands Committee

25.2 As soon as possible after the coming into force of this *Land Code*, Council, in consultation with the Lands Committee, shall develop a policy for the selection, election, or appointment of Eligible Voters to serve on the Lands Committee, and dealing with such matters as number of members, composition, eligibility, Chair and Deputy Chair, functions of the Chair, term of office, remuneration, conditions of service, termination, vacancies arising during term and such other matters as Council deems appropriate to the operation of the Lands Committee.

PART 7 INTERESTS AND LICENCES IN LAND

26. Revenue from Land and Natural Resources

Revenue from Natural Resources

26.1 The Nature Resources on Community Land and any revenue arising from the sale of those Natural Resources belongs to Fort William First Nation.

Determination of fees and rent

26.2 The Lands Committee shall, subject to the approval of Council, establish the process and recommend Land Laws or policies for determining:

- (a) the fees and rent for Interests and Licences in Fort William First Nation Land;
- (b) the fees for services provided in relation to any Fort William First Nation Land; and
- (c) the fees and royalties to be paid for the removal of any Natural Resources from Fort William First Nation Land.

27. Registration of Interests and Licences

Enforcement of Interest and Licences

27.1 An Interest or Licence in Fort William First Nation Land created or granted after this *Land Code* takes effect is not enforceable unless it is registered in the First Nation Lands Register.

Registration of Consent or approval

27.2 An instrument granting an Interest or Licence in Fort William First Nation Land that requires the consent of Council, or Member approval, shall include a form of certificate indicating that the applicable consent or approval has been obtained.

Duty to deposit

27.3 A copy of the following instruments shall be deposited in the First Nation Lands Register:

- (a) any grant of an Interest or Licence in Fort William First Nation Land;
- (b) any transfer or assignment of an Interest or Licence in Fort William First Nation Land;
- (c) every Land use plan, subdivision plan or resource use plan;
- (d) every Land Law: and
- (e) this *Land Code* and any amendment to this *Land Code*.

28. Limits on Interests and Licences

All dispositions in writing

- 28.1 An Interest or Licence in Fort William First Nation Land may only be created, granted, disposed of, assigned or transferred by a written document made in accordance with this *Land Code* and any applicable Land Law.

Standards

- 28.2 Council may establish mandatory standards, criteria and forms for Interests and Licences in Fort William First Nation Land.

Improper Transactions void

- 28.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which Fort William First Nation, a Member or any other person purports to grant, dispose of, transfer or assign an Interest or Licence in Fort William First Nation Land after the date this *Land Code* takes effect is void if it contravenes any provision of this *Land Code*.

29. Existing Interests

Continuation of existing Interests and Licences

- 29.1 Any Interest or Licence in Fort William First Nation Land that existed when this *Land Code* takes effect will, subject to this *Land Code* and Land Laws enacted pursuant to this Land Code, continue in force in accordance with its terms and conditions.

Voluntary amendment or replacement of existing Interests and Licences

29.2 For greater certainty, the terms of a designation or surrender made under the *Indian Act* do not restrict the ability of Fort William First Nation and third parties, Members or non-Members, by agreement, to modify an Interest or Licence or to have the Interest or Licence replaced by a new Interest or Licence issued under this *Land Code*.

Replacing the role of the Minister

29.3 Immediately upon the coming into force of this *Land Code*, Canada transfers and assigns to Fort William First Nation all the rights and obligations of Canada as grantor in respect of existing Interests and Licences in or in relation to Fort William First Nation Land.

Unregistered Interests

29.4 A policy shall be established as soon as practical after the coming into force of this *Land Code* to accommodate unregistered Interests.

30. New Interests and Licences

Authority to make Dispositions

30.1 Subject to section 14.1, Council may, on behalf of Fort William First Nation, grant:

- (a) Interests and Licences in Fort William First Nation Land, including certificates of possession, Member allocations, leases, permits, easements and rights-of-way; and
- (b) Agreements granting the removal of Natural Resources from Fort William First Nation Land, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

30.2 The grant of an Interest or Licence may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

30.3 The Lands Committee shall advise Council on the granting of Interests or Licences and may be authorized to act as a delegate of Council under this Part.

31. Interests of Non-Members

Grants to non-Members

- 31.1 A transfer or other disposition of all or any part of an Interest or Licence in Fort William First Nation Land to a person who is not a Member shall not be effective unless and until it is confirmed by a resolution of Council.

32. Certificates of Possession or Member Interests

Application

- 32.1 For greater certainty, certificates of possession or Member Interests previously issued under the *Indian Act* shall continue to exist after the coming into force of this *Land Code*.

33. Allocation of Land to Members

Policies and procedures
for allocation of Land

- 33.1 Subject to the provisions of this *Land Code*, Council in consultation with the Lands Committee shall enact Land Laws and establish policies and procedures for the allocation of Land to Members.

Allocation

- 33.2 Council may, in accordance with this *Land Code*:
- (a) allocate Land to Members; or
 - (b) issue a certificate for an interest to a Member for Land allocated to that Member.

No allocation of Land
to non-Members

- 33.3 A person who is not a Member is not entitled to be allocated Land or to hold a permanent Interest in Fort William First Nation Land.

34. Transfer and Assignment of Interests

Transfer of Member Interest

- 34.1 A Member may transfer or assign their Interest in Fort William First Nation Land to another Member without Member approval or the consent of Council.

Consent of Council

34.2 There shall be no transfer or assignment of an Interest or Licence in Fort William First Nation Land without the written consent of Council, except for:

- (a) transfers under Section 34.1;
- (b) transfers that occur by operation of law, including transfers of estate by testamentary disposition; and
- (c) transfers in accordance with any Land Laws enacted by Council pertaining to family homes and matrimonial interests.

35. Limits on Mortgages and Seizures

Protections

35.1 In accordance with the *Framework Agreement*, the following provisions of the *Indian Act*, as amended from time to time, continue to apply to Fort William First Nation Land:

- (a) section 29;
- (b) section 87;
- (c) Sub-section 89(1); and
- (d) Sub-section 89(2).

Mortgage of Allocated Land

35.2 The Interest of a Member in Fort William First Nation Land may be subject to a mortgage or charge, but only to a Member or, Fort William First Nation with the express written consent of Council through a resolution of Council.

Mortgages of leasehold Interests
with consent

35.3 A leasehold interest may be subject to charge or mortgage, but only with the express written consent of Council through a resolution of Council.

Time limit

35.4 The term of any charge or mortgage of a leasehold interest shall not exceed the term of the lease.

Default in mortgage

- 35.5 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the charge or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless:
- (a) the charge or mortgage received the written consent of Council by resolution of Council;
 - (b) the charge or mortgage was registered in the First Nation Lands Register; and
 - (c) a reasonable opportunity to redeem the charge or mortgage is given to Council on behalf of Fort William First Nation.

Power of redemption

- 35.6 Subject to prior redemption by the lessee or Member, Council may redeem the charge or mortgage from the charger or mortgagor in possession and shall thereupon acquire all the rights and Interests of the charger or mortgagor and of the lessee or Member for all purposes after the date of the redemption.

Waiver of redemption

- 35.7 Council may waive its right to redemption for any charge or mortgage of a leasehold interest or Licence.

36. Residency and Access Rights

Right of residence

- 36.1 The following persons have a right to reside on Fort William First Nation Land:
- (a) A Member, and residing with the Member, the Spouse, child or grandchild of the Member and any person who is in the care and custody of the Member pursuant to the custom of Fort William First Nation or by order of a court of competent jurisdiction;
 - (b) Members with a registered Interest in Fort William First Nation Land;

- (c) any invitee of a Member referred to in section(a) or (b), other than an invitee of a Member referred to in section(a) or (b) barred from entering or residing on Fort William First Nation Land by a resolution of Council or by any other law enacted by Council from time to time;
- (d) lessees and permittees, in accordance with the provision of (i) any interest, licence, permit or instrument in effect as of the date of adoption of this Land Code, or (ii) the provisions of a granting instrument created in accordance with this Land Code and any applicable Land Laws; and
- (e) a person authorized in writing by Council, Lands Committee or by a Land law.

Right of Access

36.2 The following persons have a right of access to Fort William First Nation Land:

- (a) A person entitled to reside on Fort William First Nation Land pursuant to section 36.1.
- (b) A person entitled to access Fort William First Nation Land pursuant to an Interest, Licence or other such permit granting a right of access to the person;
- (c) An invitee of a person described in sections (a), (b) or (c), other than an invitee of a person described in section (a), (b) or (c) barred from entering or residing on Fort William First Nation Land by a resolution of Council or by any other law enacted by Council from time to time;
- (d) a person who is authorized by a government body or any other public body, established by or under an enactment of the Fort William First Nation, Parliament or the province of Ontario to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey provided that the person received written authorization from Council; or
- (e) a person authorized in writing by Council or Lands Committee or by a Land law.

Public access

- 36.3 Notwithstanding section 36.2, any person may have access to Fort William First Nation Land for any social or business purposes, if:
- (a) the person does not trespass on occupied Fort William First Nation Land and does not interfere with any Interest in Fort William First Nation Land;
 - (b) the person complies with all applicable laws; and
 - (c) no resolution has been enacted barring that person from entering or accessing Fort William First Nation Land.

Use of Roads

- 36.4 Any person may have the right of access to Fort William First Nation public roads, subject to this *Land Code* and Land laws.

Trespass

- 36.5 Any person, who resides on, enters or remains on Fort William First Nation Land, other than in accordance with a residence or access right under this *Land Code*, is guilty of an offence.

Civil remedies

- 36.6 All civil remedies for trespass are preserved.

37. Transfers on Death

Indian Act application

- 37.1 Subject to any laws of Fort William First Nation in respect of family homes and matrimonial interests, and until Fort William First Nation exercises jurisdiction in relation to wills and estates, the provision of the *Indian Act* relating to the disposition of Interests and Licences relating to Fort William First Nation Land on the death of a Member shall continue to apply.

Registration of transfer

- 37.2 A person who receives an Interest in Fort William First Nation Land by testamentary disposition or succession in accordance with a written decision of the Minister, or his or her designate, pursuant to the *Indian Act*, is entitled to have that Interest registered in the First Nation Lands Register.

Disposition of Interest

37.3 If no provision has been made by the deceased Member of the disposition of the Interest to another Member, the following rules apply:

- (a) the Minister or his or her delegate may make application to Council requesting that an instrument evidencing lawful possession or occupation of Fort William First Nation Land be issued; or
- (b) a certificate for an Interest or other instrument may be issued in accordance with procedures established by Council, or application of the Minister or his or her delegate, if the beneficiary or purchaser is a Member of Fort William First Nation.

38. Family Homes and Matrimonial Interests Land Law

Development of rules
and procedures

38.1 Council has the power to enact Land laws that apply during a conjugal relationship, when that relationship breaks down or on the death of a Spouse, respecting:

- (a) the use, occupancy and possession of family homes on Fort William First Nation Land;
- (b) the division of the value of any Interests held by Spouses in or to structures and lands, and improvements to such structures and lands, on Fort William First Nation Land: and
- (c) the period of cohabitation in a conjugal relationship to qualify as a Common-Law Partnership.

Enactment of rules and procedures

38.2 The rules and procedures contained in matrimonial Interests Land Laws shall be developed by the Lands Committee in consultation with Council and Members.

Additional Provisions

38.3 Matrimonial Interests Land Laws may include:

- (a) provisions for administrating those laws;
- (b) despite subsection 89 (1) of the *Indian Act*, provisions for enforcing, on Fort William First Nation Land, an order of a court or a decision made or an agreement reached under those laws; and
- (c) procedures for amendment and repeal of those laws.

Interim Rules

38.4 Until a matrimonial Interests on reserve law is enacted under the Land Code, the provisional rules of the *Family Homes on Reserve and Matrimonial Interests or Rights Act* S.C. 2013, c. 20, as amended from time to time, shall apply.

Notice of Land Laws

38.5 Council will provide, to the provincial Attorney General, notice of its intent to make matrimonial real property laws and, upon enactment, provide a copy of those laws to the Attorney General.

PART 8 DISPUTE RESOLUTION

39. Purpose

Intent

39.1 The intent of this part is to ensure (i) that all persons are entitled to possess, reside upon, use or otherwise occupy Fort William First Nation Land, and that they are able to do so harmoniously with due respect to the rights of others and of Fort William First Nation; and (ii) provide procedures to resolve disputes.

Purpose

39.2 The purpose of these rules is to enable the parties to a dispute to achieve a just, speedy and inexpensive determination of a matter in dispute, taking into account the values which distinguish dispute resolution from litigation.

40. Disputes

Dispute Prevention

- 40.1 The parties shall use best efforts to prevent disputes from arising and shall consider the use of dispute resolution processes at the earliest possible stage of any conflict.

Parties Responsible for Costs

- 40.2 All parties to a dispute must bear their own costs in any dispute resolution process they undertake. For greater certainty, Fort William First Nation is not liable or responsible for the costs of any dispute resolution process under this Part where Fort William First Nation is not itself a party to the dispute.

Disputes Prior to Land Code

- 40.3 Disputes that arose before this *Land Code* takes effect could also be referred to the procedures established under this part.

Decision of Council or Lands Committee

- 40.4 If a Member, or a non-Member with an Interest or Licence in Fort William First Nation Land, has a dispute with respect to a decision of Council or the Lands Committee, the person shall first attempt to resolve that dispute with Council or the Lands Committee before referring the dispute to the Panel.

Settle a Dispute

- 40.5 Nothing in this part shall be construed to limit the ability of any person to reach agreement to settle a dispute without recourse to this Part.

Settlement Agreement

- 40.6 Any settlement reached through dispute resolution shall not be legally binding until it has been reduced to writing and properly executed by, or on behalf of, the parties.

Contractual Agreement

- 40.7 A contractual agreement made under this *Land Code* may establish that the dispute resolution outlined in this *Land Code* and its Land laws may be mandatory or may to some degree prescribe for alternate dispute resolution processes if there is consensual agreement by the parties involved in that agreement. The dispute resolution section which forms part of a contract shall be treated as an agreement independent of the other terms of the contract.

Variation of Rules

40.8 The parties to a dispute to which these rules apply may to some degree, modify, vary or amend these rules by consensual agreement in writing, and notify the Panel in writing.

Civil Remedies

40.9 Nothing in this Part shall be construed to prevent a party to a dispute from, at any stage of dispute resolution, applying to have the dispute resolved in a court of competent jurisdiction.

Challenge to Validity of Law

40.10 Nothing in this Part shall be construed to prevent a party to a dispute from challenging the validity of a Land law, but such a challenge may be heard only in a court of competent jurisdiction.

41. Processes

Staged Processes

41.1 Fort William First Nation intends that a dispute in relation to Fort William First Nation Land, except as otherwise provided, may progress through the following stages:

- (a) facilitated discussions;
- (b) negotiation;
- (c) mediation; and
- (d) final arbitration by the Dispute Resolution Panel.

Procedure to File a Dispute

41.2 A person who wishes to resolve a dispute with another person, or with Fort William First Nation, in relation to the use or occupation of Fort William First Nation Land may file a written notice of dispute setting out:

- (a) the nature of the dispute;
- (b) a statement outlining the facts and supporting arguments of the dispute claim; and
- (c) the relief that is sought.

Termination of
Processes

41.3 Facilitated discussions, negotiations and mediations may be suspended upon any of the following occurrences:

- (a) the parties reach an agreement;
- (b) one of the parties refuses to continue with facilitated discussions, negotiations or mediation;
- (c) the mediator assesses that nothing meaningful is to be gained in continuing the process; or
- (d) upon the request of both parties.

Notice of
Termination

41.4 A notice of termination is required when further facilitated discussions, negotiations or mediation shall not resolve the dispute. The dispute may progress to the next stage of the dispute resolution process or to final arbitration.

Dispute resolution not available

41.5 Dispute resolution is not available for disputes in relation to:

- (a) administration or distribution of an estate;
- (b) decisions relating to housing allocations;
- (c) decisions of Council to grant or refuse to grant an Interest or Licence in Fort William First Nation Land to a non-Member;
- (d) decisions on expropriation under this *Land Code*; and
- (e) prosecution or conviction of an offence under a Land law or under the *Criminal Code* (Canada).

Duty of Fairness

41.6 All persons involved in a dispute under this part shall be:

- (a) treated fairly;

- (b) given a full opportunity to present their case; and
- (c) given reasons for a decision made under this Part.

Rules and Procedures

41.7 Council may prescribe such laws, resolutions, rules, policies, procedures, forms and reasonable fees not inconsistent with this *Land Code*, as may be necessary to give effect to this Part including:

- (a) facilitated discussions, negotiations, mediations and arbitrations;
- (b) terms of office for panelists;
- (c) remuneration of facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- (d) code of conduct for facilitators, mediators, arbitrators, panelists, expert advisors, professionals or other persons retained to assist in the resolution of disputes;
- (e) disclosure and confidentiality;
- (f) imposition of time limitations for submitting a notice of dispute and referring a matter or dispute to the Panel;
- (g) implementing recommendations of the Panel; and
- (h) any other matter necessary to give effect to this Part.

Waiver of Liability

41.8 By participating in this dispute resolution process, the parties agree that the facilitators, mediators, arbitrators and panelists shall not be liable to the parties for any act or omission in connection with the services provided by them in, or in relation to, the dispute resolution processes, unless the act or omission is fraudulent or involves willful misconduct.

42. Dispute Resolution Panel Established

Appointment to Dispute Resolution Panel

- 42.1 The Dispute Resolution Panel shall be composed of a maximum of ten (10) panelists.

Ineligible

- 42.2 Notwithstanding the general rules of conflict of interest in this *Land Code*, no member of Council, employee of Fort William First Nation or person otherwise serving on another board, body, or committee related to Fort William First Nation Land shall sit on the Dispute Resolution Panel.

Representation

- 42.3 Council shall appoint the panelists on the Dispute Resolution Panel, and shall ensure that, where possible, the panelists on the Dispute Resolution Panel represent the various elements of the community.

Rules of Roster Panel

- 42.4 The Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs.

43. Impartiality of the Dispute Resolution Panel

Duty to Act Impartially

- 43.1 The Panel shall act impartially and without bias or favor to any party in a dispute.

Offence

- 43.2 Every person commits an offence who offers or agrees to give a benefit of any kind to a member of the Panel, or to any person for the benefit of a member of the Panel, or acts, or attempts to act, in a way to induce or improperly influence the Panel's decision.

Rejection of Application

- 43.3 In addition to any other sanction, the Panel may reject an application without hearing it if the Panel believes that the applicant offered or agreed to give a benefit of any kind to a member of the Panel, or to any person for the benefit of a member of the Panel, or acted, or attempted to act, in a way to induce or improperly influence its decision.

Rules of Conduct for Parties to a Dispute

43.4 The Roster Panel shall establish rules of conduct for the parties to a dispute.

44. Arbitration by the Dispute Resolution Panel

Disputes

44.1 Applications for resolution by the Panel shall be submitted to the Lands Committee.

Panel of Three Chosen from Roster Panel

44.2 Disputes referred to the Roster Panel are to be heard by a minimum of three (3) panelists chosen as follows:

- (a) one (1) panelist is to be chosen by each of each one the parties to the dispute;
- (b) one (1) panelist, who is to be the chairperson and who shall have the casting vote, shall be chosen by the other panelists chosen in accordance with Section 44.2(a) f; and
- (c) in the case of situations not adequately covered by Section 44.2(a) or 44.2(b), any additional panelists required shall be chosen by the Roster Panel as a whole.

Panel Established

44.3 The Panel is hereby established with jurisdiction to resolve disputes in relation to Fort William First Nation Land.

Dispute resolution
not available

44.4 For greater certainty, the Panel shall not hear disputes in respect of matters that are not subject to dispute resolution under this *Land Code*.

45. Powers of the Dispute Resolution Panel

Power of the Panel

45.1 The Panel may, after hearing a dispute:

- (a) confirm or reverse the decision, in whole or in part;

- (b) substitute its own decision for the decision in dispute;
- (c) direct that an action be taken or ceased;
- (d) refer the matter or dispute back for a new decision; or
- (e) make an order to give effect to its decision, including any necessary order for the survey of an Interest in Fort William First Nation Land, the registration of an Interest in Fort William First Nation Land, and the allocation of the costs of any incidental measures to be taken to give effect to such an order.

Recommendations by Panel

45.2 In addition to making a determination in respect to a particular dispute, the Panel may recommend to Council:

- (a) the suspension of any Land law or decision made by Council for such period as is necessary for Council to reconsider, amend or repeal such Land law or decision, provided that any amendment or repeal of a Land law is made in a manner consistent with this *Land Code*; or
- (b) any other recommendation that it deems reasonable and necessary in the circumstances.

Interim Decisions

45.3 The Panel may, in relation to a dispute over which it has jurisdiction under this Part, make any interim order it considers to be necessary as a matter of urgency to preserve the rights of the parties to the dispute or to preserve or protect an Interest in Fort William First Nation Land.

Professional Services

45.4 The Panel may obtain the service of professionals to assist it in fulfilling its functions, in which case it shall make best efforts to use professional services available in the community.

Written Decisions

45.5 Decisions of the Panel shall be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so. Where requested,

the written decision shall be provided to a party to the proceeding within fourteen (14) days after the date of the decision.

Appeal of Decision

45.6 A decision of the Panel is binding but, subject to review by the Federal Court (Trial Division).

PART 9 OTHER MATTERS

46. Liability

Liability Coverage Laws

46.1 Council may enact laws providing for limits on liability, defenses and immunities to any person or entity in respect of any act or omission occurring in the exercise of a power or the performance of a duty under this *Land Code* or under a Land law.

Liability Limitations

46.2 The limits on liability, defenses and immunities in a Land law shall be no greater than those that would apply to a person or entity performing a similar duty under the laws of the province of Ontario.

Extent of coverage

46.3 Council shall arrange, maintain and pay insurance coverage for its officers and employees engaged in carrying out any matter related to Fort William First Nation Land to indemnify them against personal liability arising from the performance of those duties and determine the extent of the insurance coverage.

47. Offences

Application of the Criminal Code

47.1 Unless some other procedure is provided for by a Land law, the summary conviction procedures of part XXVII of the *Criminal Code*, as amended from time to time, apply to offences under this *Land Code* or under a Land law.

Fines & Imprisonment

47.2 Unless some other procedure is provided by a Land law, any person who commits an offence under this *Land Code* or under a Land law is liable to a fine not to exceed five thousand (\$5,000) and to a term of imprisonment not to exceed six months or to both fine and imprisonment, provided however, that offences related to Fort William First Nation environmental protection laws may carry penalties consistent with similar environmental protection laws in force in Canada.

48. Revisions to *Land Code*

Revisions

48.1 This *Land Code* may be amended by a Member approval by ratification vote conducted in accordance with Part 3.

48.2 Notwithstanding section 48.1, a Member approval by ratification vote is not required for revisions made to this *Land Code* that do not change the substance of this *Land Code*. Council may, from time to time, arrange and revise this *Land Code*. Revisions include:

- (a) an amendment of the description of Fort William First Nation Land subject to this *Land Code*;
- (b) a reference in this *Land Code* to a section in another act or document that was amended and resulted in section renumbering;
- (c) a reference in this *Land Code* to an Act or parts thereof that have expired, have been repealed or suspended;
- (d) changes in this *Land Code* as are required to reconcile seeming inconsistencies with other acts;
- (e) minor improvements in the language as may be required to bring out more clearly the intention of Fort William First Nation, and provided the substance of this *Land Code* is not changed; and
- (f) correcting grammatical or typographical errors.

49. Commencement

Preconditions

49.1 This *Land Code* shall take effect provided the following conditions are met:

- (a) the community approves this *Land Code* and the Individual Agreement with Canada; and
- (b) this *Land Code* has been certified by the verifier pursuant to the *Framework Agreement*.

Commencement date

49.2 This *Land Code* shall take effect on the first day of the month following the certification of this *Land Code* by the verifier.

APPENDIX “A”

Description of the Fort William First Nation Land

Fort William Indian Reserve No. 52 (06300) – Canada Lands Survey