

IMPACT, BENEFITS AND RECONCILIATION AGREEMENT

THIS AGREEMENT dated _____ day of _____, 2015 is made

BETWEEN:

Name of First Nation, for and on behalf of the First Nation and all of the Members

AND:

Name of Company or Organization

WHEREAS: *This section covers the foundation and significant matters that each party considers fundamental for the agreement*

- A. What is the core matter that the two parties are addressing in the agreement?
- B. What are the details of the project?
- C. Description of where the project is located within the territory on which the First Nation has Aboriginal Rights and Title and any related historic declarations or treaties made by the First Nation with respect to the territory.
- D. Description of the commitment of the company or organization to the Aboriginal Rights and Title of the First Nation, providing economic opportunities, mitigating potential impacts and providing legal certainty for the project.
- E. Describe the long-term vision of the parties including setting out their mutual understandings regarding reconciliation and building a long-term sustainable relationship.
- F. Describe any historic grievances of the First Nation and the steps that will be taken to address these matters.

DEFINITIONS

This section provides further clarity of key matters that are addressed in the agreement

Some examples are:

“**Aboriginal Rights and Title**”



“**Authorization**” means any tenure, approval, permit, licence or other authorization, issued or required to enable the project and operations;

“**Dispute**”

“**Dispute Resolution Process**”

“**Member**” means an individual who is a member of the First Nation

“**Project Description**” means to project as described in the agreement and the rights and limitations on the use of land for the project

“**Territory**” means the geographical area outlined in the map attached

FINANCIAL BENEFITS

Payments

This section outlines the benefits that will flow to the First Nation, the timing of payments and whether certain financial benefits are targeted to specific matters such as training, support for community priorities including education, child care, and health matters. These targeted funding could be part of the reconciliation process for the parties.

LAND AND ENVIRONMENTAL MATTERS

This section outlines matters related to the use of land within the First Nation territory, any transfer of ownership of land to the First Nation and commitment of the parties to the protection of the environment.

This section also provides the opportunity for the parties to outline co-management arrangements that allow for joint decision making on land, resource and environmental issues.

RECONCILIATION AND HISTORIC GRIEVANCES



One of the best sources for looking at what reconciliation means for business is the report of the Truth and Reconciliation Commission of Canada: Call to Action. Section 92 of the report outlines a number of steps that can be taken by a company or organization that can help build the basis of reconciliation with aboriginal peoples in Canada:

Business and Reconciliation

92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:
- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
 - ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
 - iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the *United Nations Declaration on the Rights of Indigenous Peoples*, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Building a future that includes reconciliation often involves addressing the past. This may include an apology for broken relationships, use of First Nation land without their permission or involvement or impact that damaged or destroyed traditional resources. Reconciling historic grievances may involve symbolic recognition of what happened and a commitment to a different and inclusive future. Reconciliation may include addressing the past by returning land to the First Nation or taking steps to restore land and resources to a more abundant state.



The key is that reconciliation is a process that involves dialogue between the parties to arrive at the appropriate outcomes that are mutually beneficial.

CONSENT AND LEGAL CERTAINTY

This section outlines the specific consent that the First Nation is giving, it will describe in detail the nature of the project, what land and resources are impacted, what environmental and regulatory approvals is the First Nation concurring with and the duration of such consent.

This section would also address any limitations that the First Nation is agreeing to regarding their aboriginal rights and title, such as agreeing not to seek further accommodation of those rights regarding the project, as described.

IMPLEMENTATION

It is critical that a clear implementation plan be set out within the agreement. This may involve an implementation committee that has joint representation. For example the agreement could contain the following provisions:

- (1) develop a reporting mechanism for tracking the progress on the commitments in the agreement;*
- (2) address unresolved issues that the parties agreed to carry over to post-agreement, and matters related to the operation of the project;*
- (3) decide on a process for sharing information on employment and training opportunities and develop mechanisms to assist members in benefiting from those opportunities;*
- (4) review contracting opportunities that may be of interest to First Nation businesses and member businesses and develop a process for promoting those opportunities to members;*
- (5) look for opportunities to support the recognition of First Nation culture and values;*
- (6) undertake further discussions regarding potential archaeological and environmental issues and ways to address those potential issues.*

