

**TR'ONDĚK HWĚCH'IN**  
**LAND AND RESOURCES ACT**  
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**TR'ONDĚK HWĚCH'IN**  
**LAND AND RESOURCES ACT**

(Adopted by the Assembly of the Tr'onděk Hwěch'in'in under the authority provided by the Tr'onděk Hwěch'in Constitution, Article 5.5.0 of the Tr'onděk Hwěch'in Final Agreement and Article 13.3 of the Tr'onděk Hwěch'in Self-Government Agreement.)

**Citation**

1. This Act may be cited as the *Land and Resources Act*.

**Interpretation**

2. This Act shall be interpreted in a manner consistent with article 3 of the Constitution and as provided in this Act.
  - 2.1 In the event of any inconsistency or conflict between this Act and the Final Agreement or the Self-Government Agreement, the Final Agreement or the Self-Government Agreement, as the case may be, shall prevail to the extent of the inconsistency or conflict.
  - 2.2 In this Act, and in any regulations made under this Act:

“Act” means this Act and includes Regulations, both as amended from time to time;

“allocation” means an area of land in respect of which a citizen holds a grant under Part V of this Act;

“Assembly” means the General Assembly under the Constitution;

“Chief” has the same meaning as in the Constitution;

“citizen” means a citizen of the Tr'onděk Hwěch'in under the Tr'onděk Hwěch'in Citizenship Code who is eighteen years of age or older;

“Constitution” means the constitution of the Tr'onděk Hwěch'in, as amended from time to time;

“Council” means the Council under the Constitution;

“development” means and includes any human project, industry, undertaking, enterprise, operation or activity that involves use of the land, and any alteration or expansion

- of a use of the land, but does not include traditional activity unless otherwise provided in the Regulations;
- “director” means the Tr’ondëk Hwëch’in official who has senior responsibility for the administration of this Act;
- “dues” means all rents, royalties, fees, charges, levies, compensation or other money payable by a person to the Tr’ondëk Hwëch’in under this Act;
- “dwelling” includes any building, garage, outbuilding, shop, cabin or camp used on a temporary or permanent basis;
- “emergency” includes apprehended, imminent or actual danger to the life, health or safety of any person or animal, to property or to the environment;
- “encumbering right” means a license, permit, right, title or interest described in section 5.4.2 of the Final Agreement;
- “Final Agreement” means the agreement entered into among the Tr’ondëk Hwëch’in, Her Majesty the Queen in right of Canada and the Government of the Yukon and given effect by the *Yukon First Nations Land Claim Settlement Act*, S.C. 1994, c. 34 and *An Act Approving Yukon Land Claims Final Agreements*, S.Y. 1993, c. 19 as of September 15, 1998;
- “Government” means the Government of Canada, the Government of the Yukon, the government of a Yukon First Nation other than the Tr’ondëk Hwëch’in, or the government of a municipality, hamlet or settlement, whichever has responsibility from time to time for the matter in question;
- “grant” means an allocation or a permit, lease, quarry concession, easement, right of access or other right or interest issued or provided under this Act in, to or for the use or occupation of land, and, unless the context otherwise requires, includes any renewal or replacement thereof;
- “grantee” means the lawful holder of a grant;
- “heritage resources” has the same meaning as in the Final Agreement;
- “land” means Settlement Land of the Tr’ondëk Hwëch’in under the Final Agreement, whether Category A, Category B or Fee Simple Settlement Land, including the resources and specified substances on, under or within the Land, but excluding other minerals;
- “Land Management Advisory Committee” means the committee established under section 84 of this Act;

“Land Management Area” or “Resource Management Area” means an area of land or designated resources which is defined by boundaries ascertained to the satisfaction of the director and which is designated by Council as an area to which sections 14 to 16 of this Act shall apply;

“lease” means a lease issued under this Act;

“lot” means a part of a parcel, as defined by boundaries ascertained to the satisfaction of the director;

“minerals” means precious and base metals and other non-living, naturally occurring substances, whether solid, liquid or gaseous, and includes coal, oil, gas and any carving stone, flint, limestone, marble, gypsum, shale, slate, clay, sand, gravel, construction stone, sodium chloride, volcanic ash, earth, soil, diatomaceous earth, ochre, marl and peat;

“mischief” means behaviour that:

- a) renders property dangerous, useless, inoperative or ineffective; or
- b) causes annoyance or harm to others;

“parcel” means an R-block, S-block or C-block of land;

“permit” means a permit issued under this Act;

“person” means a natural person and any entity which has the rights, powers and privileges of a natural person, and includes a Government and, unless the context otherwise requires, the Tr’ondëk Hwëch’in;

“Register” means the register established under this Act;

“Regulations” means any regulation or regulations established under this Act;

“residence” means a person’s primary residence and includes any dwelling used for a traditional activity;

“resources” means renewable natural resources, specified substances and heritage resources on, under or within the land, and includes land, water, flora and fungi;

“Self-Government Agreement” means an agreement entered into among the Tr’ondëk Hwëch’in, the Government of Canada and the Government of the Yukon and given effect by the *Yukon First Nations Self-Government Act*, S.C. 1994, c. 35 and by the *First Nations (Yukon) Self-Government Act*, S.Y. 1993, c. 5 as of September 15, 1998;

“specified substances” means any of carving stone, flint, limestone, marble, gypsum, shale, slate, clay, sand, gravel, construction stone, sodium chloride, volcanic ash, earth, soil, diatomaceous earth, ochre, marl and peat.

“steward” means a person so designated under section 92 of this Act;

“timber” means any flora within the land in a wild or cultivated state which may be the subject of a grant or commercial transaction;

“traditional activity” means an activity undertaken by a citizen on a non-commercial basis for the purpose of obtaining food or providing for subsistence, or for a ceremonial, spiritual or cultural purpose, and any activity incidental thereto, and includes trapping;

“traditional territory” means the traditional territory of the Tr’ondëk Hwëch’in under the Final Agreement;

“Tr’ondëk Hwëch’in” means the legal entity established under article 9.0 of the Self-Government Agreement;

“vehicle” means any land or water craft or device used to transport people or things, and includes a truck, automobile, all-terrain vehicle, snowmobile, boat or airplane;

## **PART I**

### **GENERAL PROVISIONS**

#### **Application**

3. This Act applies to all persons on or within the land or holding or seeking to exercise or acquire a right or interest in or to the land, and, for greater certainty:
  - (a) applies to any person who holds or seeks to exercise or acquire a right, title or interest in or to minerals underlying Category B Settlement Land and who uses, occupies or exercises access to the land or wishes to do so; and
  - (b) does not apply to the granting of mineral rights other than rights in connection with specified substances, or to the management of the harvest of fish and wildlife.
4. No person shall exercise access to, occupy or use the land, or acquire or hold a right or interest in or to the land, except as provided in or authorized under this Act.

## **Rights under the Final Agreement**

5. Nothing in this Act is intended to annul, repeal or extinguish a right provided by the Final Agreement to any person.
6. A right provided by the Final Agreement to any person to exercise access to, occupy or use the land shall be exercised in accordance with the Final Agreement and any applicable legislation of the Tr'ondëk Hwëch'in, including this Act.

## **Traditional Activities**

7. A beneficiary of the Final Agreement shall have the right to use and occupy the land and to exercise access to the land for the purpose of carrying on a traditional activity of the Tr'ondëk Hwëch'in, including, without limiting the generality of the foregoing, for the purpose of:
  - (a) exercising rights under Chapters 16 and 17 of the Final Agreement;
  - (b) gathering flora and fungi for food or medicine;
  - (c) harvesting dead timber for personal use as firewood; or
  - (d) spiritual or ceremonial activities.
8. The rights described in section 7:
  - (a) may be exercised without need for further grant or authorization under this Act, unless the Council otherwise requires; and
  - (b) shall be exercised in accordance with the Final Agreement, any applicable legislation of the Tr'ondëk Hwëch'in, the custom of the Tr'ondëk Hwëch'in consistent with this Act, and subject to the terms of any grant under this Act.

## **Minimum Terms and Conditions**

9. No person shall:
  - (a) cause significant damage to the land or to improvements on the land;
  - (b) cause or commit mischief on the land;
  - (c) cause significant interference with the use and peaceful enjoyment of the land by others;
  - (d) disturb a burial site, a site of paleontological or archaeological interest, a

historic site or a heritage site which may be found within the land; or

- (e) allow any petroleum product, chemical or any other substance hazardous to the environment, people or wildlife to be stored or transferred in such a manner as to allow spillage into a body of water or the land;
- (f) abandon or discard on the land rubbish, refuse, garbage, packaging, containers, glass, paper, metal, soil, manure, sewage, the whole or part of a vehicle or machinery, or any material used in construction or resulting from demolition;

unless permitted under a law of the Tr'ondëk Hwëch'in, including this Act.

### **Liability**

10. A person who exercises access to, occupies or uses the land, or acquires or holds an interest in the land, shall do so entirely at his or her own risk and shall have no cause of action in negligence or otherwise against the Tr'ondëk Hwëch'in, the Council, the director, any official, steward, officer, employee or agent of the Tr'ondëk Hwëch'in in respect of any harm, injury, loss or damage of any kind which that person may suffer, directly or indirectly, in or as a consequence of his or her exercise of access to, occupation or use of the land, or acquisition or holding of a right or interest in or on the land, or as a consequence of any act or omission of the Tr'ondëk Hwëch'in, the Council, the director or any official, steward, officer, employee or agent of the Tr'ondëk Hwëch'in acting within authority and in good faith in the exercise of any authority or the performance of any duty under this Act.
11. Except as may be otherwise provided under this Act, a person shall be liable to the Tr'ondëk Hwëch'in for that person's willful or negligent acts or omissions which cause harm, injury, loss or damage to the land or to any improvement or property of the Tr'ondëk Hwëch'in situate on the land.

## **PART II**

### **LAND AND RESOURCE MANAGEMENT**

#### **Responsibility**

12. The land shall be managed by the Tr'ondëk Hwëch'in in accordance with this Act and the custom of the Tr'ondëk Hwëch'in consistent with this Act, and, taking into account the needs of present and future generations of the Tr'ondëk Hwëch'in, so as to:



- (a) provide for the sustainable use of the land;
  - (b) promote a healthy lifestyle for citizens; and
  - (c) preserve the peaceful enjoyment of the land by citizens.
13. The Council, in accordance with this Act, may:
- (a) grant a right or interest in, to or affecting the land or resources;
  - (b) designate any part of the land or resources to be available for a particular use or class of use;
  - (c) establish any term, condition, restriction or stipulation to apply to any particular land or resource use or class of land or resource use, or to any grant or class of grant;
  - (d) set apart or reserve any land or resources for any purpose;
  - (e) withhold from availability for access, occupation or use any land or resources for any purpose;
  - (f) designate any part of the land or resource as a Land Management Area or a Resource Management Area;
  - (g) cause the land to be surveyed;
  - (h) subdivide the land;
  - (i) exercise any authority, perform any duty and delegate the exercise of any authority or performance of any duty as provided in this Act;
  - (j) enter into agreements as provided in this Act; and
  - (k) exercise any discretion and do all such act and things as may be necessary for the exercise of its authority or performance of its duties under this Act.

### **Land or Resource Management Areas**

14. For each Land Management Area or Resource Management Area, as the case may be, there shall be a land use or resource management plan to guide and facilitate the use and conservation of the land or resources of that Area
15. A land use or resource management plan, as the case may be, shall include provisions in respect of:

- (a) the protection, control and use of the land or designated resources in a prescribed area; and
  - (b) the making of grants to the land or designated resources in that area, the terms and conditions recommended to apply thereto and the dues recommended to be charged in connection therewith.
16. A land use or resource management plan, as the case may be, shall be approved, and may be amended or revoked, by the Council. A decision of the Council under this section shall have effect as of the day it is made, unless the Council otherwise provides.

16.1 Where:

- (a) a person occupies or uses the land or resources or exercises a right of access to the land prior to the date at which a land use or resource management plan comes into effect for a Land Management Area or Resource Management Area which includes that land or those resources; and
- (b) that person does so in a manner that does not conform with that land use or resource management plan;

that person, after that date, may continue that non-conforming use, occupation or exercise of right, but only to the extent his or her actual practice as of that date, and otherwise that person, after that date, shall use or occupy the land or resources or exercise that particular right in a manner which conforms to the land use or resource management plan.

### **PART III**

#### **APPLICATIONS AND ASSESSMENTS**

17. Subject to the provisions of this Part and Part IV, a person who wishes to acquire, renew, replace or surrender a grant, and a grantee who wishes to have his or her grant cancelled, shall apply and provide information as required by this Act, and the assessment of and a decision upon each application shall be made as provided in this Act.
18. The Council has no obligation to consider or to approve an application which it receives under section 17.
19. The Council may postpone consideration of an application until such time as a land use plan or resource management plan for the land or area which the application involves is approved.

20. The Council shall cause notice of each application received under section 17 to be posted at the offices of the Tr'ondëk Hwëch'in and may, prior to making a decision on the application,
  - (a) cause a consultation with respect to the application to occur with the citizens who reside within the traditional territory and with any affected grantee or interest holder; and/or
  - (b) refer the application to the Land Management Advisory Committee or to a project review committee for its review and recommendations, under such terms of reference as the Council shall provide.
21. The members of the Land Management Advisory Committee or a project review committee, as the case may be, shall be free from conflict of interest in relation to an application or appeal which is before them for consideration.
- 21.1 A project review committee shall consist of such persons as Council may deem to be appropriate for the conduct of a competent review.

### **Development Assessment**

22. The provisions of this Act shall not limit development assessment under Chapter 12 of the Final Agreement.
23. Unless the Council otherwise provides in respect of a particular application, the proceedings under this Part in respect of an application shall be in addition to any proceedings which may take place by virtue of Chapter 12 of the Final Agreement in respect of the same proposed development.
- 23.1 For greater certainty, the Council may provide in relation to a proposed development that the proceedings of a development assessment panel established pursuant to Chapter 12 of the Final Agreement shall be adopted by the Tr'ondëk Hwëch'in as the proceedings of a project review committee for the purposes of this Act.

## **PART IV**

### **PRIORITY**

24. A person who wishes or is required to acquire a grant shall have priority in accordance with this Part.

### **Expressions of Interest**

25. Subject to section 28, before the time that a land use plan is in effect for a parcel, a person may notify the director, orally or in writing, that he or she wishes to acquire a grant in respect of all or a portion of that parcel, and the director forthwith shall note the name and proposed land use of that person, and the time and date at which that notice was received, and that information shall be entered in the Register.
- 25.1 Each expression of interest in a parcel or portion thereof shall have priority in accordance with the time and date at which it was received.
- 25.2 Every expression of interest made in good faith and received by the director prior to the coming into force of this Act shall be deemed to have been received under this Act and each shall have effect under this Part in the order in which it was received in the first instance.
- 25.3 An expression of interest by a person since deceased shall enure for the benefit of his lawful heir or heirs.
26. A person may request that the consideration of his or her expression of interest be postponed, in which event the director shall accept the postponement and an entry showing the time and date at which it was accepted shall be made in the Register.
- 26.1 An expression of interest which has been postponed under section 26 shall continue to have the same priority over any other expression of interest in the same parcel or portion thereof, notwithstanding the postponement.

### **Applications**

27. Subject to section 28, a person may apply for a grant in respect of a parcel at any time on or after the date at which a land use plan for that parcel is in effect.
- 27.1 The director shall note each application received under section 27, and the date and time at which it was received, and that information shall be entered in the Register.
- 27.2 An application under section 27 shall have priority over any other application in respect of the same parcel, as of and from the time and date it was received by the director, but it shall not have priority over an expression of interest (including an expression of interest which has been postponed) in the same parcel.

### **Citizens**

28. Subject to sections 29 to 31.1, and notwithstanding its date of record:
- (a) an expression of interest by a citizen in a parcel shall have priority over an application by a non-citizen in respect of the same parcel; and

- (b) an application by a citizen in respect of a parcel shall have priority over an application by a non-citizen in respect of the same parcel.

### **Present Occupation**

29. Where, at the date this Act comes into force:

- (a) a citizen occupies any parcel of land; or
- (b) any person who is not a citizen occupies any parcel of land under an agreement made with the Tr'ondëk Hwëch'in prior to the coming into force of the Final Agreement for the future grant of a right to do so;

that citizen or person may continue to occupy that parcel for the use he or she is then making of it, provided that citizen or that person complies with section 30 and is or undertakes to bring himself or herself into compliance with any applicable land use plan.

30. Every citizen or person described in section 29 shall apply to the director within six months after the effective date of this Act for a grant in respect of the land as described in section 29.

31. Subject to section 31.1, the interest of a person described in section 29 shall have priority over the application of any other person for the time set out in section 30, but shall not have priority at any time over an expression of interest noted by the director under section 25 as of a time which, in the director's opinion, was prior to the date at which the person described in section 29 commenced occupation of that land.

31.1 The interest of a citizen who, at the date this Act comes into force, occupies any parcel of land for the purposes of a traditional activity shall have priority over the application of any other person, notwithstanding the expiry of the time set out in section 30, but shall not have priority at any time over an expression of interest noted by the director under section 25 as of a time which, in the director's opinion, was prior to the date at which that citizen commenced occupation of that land.

### **No Duplication**

32. A person may not maintain an expression of interest in or an application for use of a lot or portion of a parcel if another application by or for the benefit of the same person for the same use within the same parcel has been approved.

32.1 A person may not maintain an expression of interest in or an application for primary residential use in relation to any parcel if another application by or for the

benefit of that same person for primary residential use within the same or another parcel has been approved.

## **PART V**

### **ALLOCATIONS**

33. The Council may grant an allocation to a citizen, but only on his or her own behalf, for the use or occupation of the land for the purposes of a traditional activity
34. A citizen who holds an allocation shall have, subject to this Act:
  - (a) access to, and an exclusive right to occupy and use the land described in the allocation for the purpose of the allocation;
  - (b) reasonable access to enter and cross any adjoining land for the purpose of having access to the land described in the allocation; and
  - (c) a right to permit members of his or her family and his or her invitees to have access to, occupy or use the land for the purpose of the allocation.
35. A citizen may transfer his or her allocation to any other citizen, provided that, where the transfer is to be made to a citizen who is not a member of the family of the transferor, Council consent to the transfer first is obtained.
36. Except as provided in this section, an allocation to a citizen shall form part of the estate of that citizen, and
  - (a) if that citizen dies leaving a will, the allocation may pass, subject to any such life estate in favour of a non-citizen who is a spouse or child of that citizen as that citizen may specify, to such lawful heir who is a citizen or, notwithstanding section 62, to such trustee for a minor citizen, as the will may stipulate; or
  - (b) if that citizen dies without a will, the allocation may pass to the eldest lawful heir of that person who is a citizen;provided that, in either case:
  - (c) where the spouse of a citizen who dies without a will is not a citizen and remains living, that spouse, if he or she so chooses, may continue to use and occupy the allocation for its intended purpose until the end of his or her natural life; and

- (d) an allocation which passes to a trustee in trust for a minor citizen shall be deemed to be made to and held by that citizen at the date that citizen reaches the age of majority; and
  - (e) the heir of an allocation shall have, in respect of that allocation, all of the rights and obligations specified in the grant or otherwise set out in this Act.
37. The transfer of an allocation shall not have effect until it is entered in the Register.
38. The rights of a grantee of an allocation shall not be pledged or otherwise stand as security for credit.

## **PART VI**

### **LEASES, QUARRY CONCESSIONS AND EASEMENTS**

39. The Council may grant a lease, quarry concession or easement to any person.
40. A person shall not hold, directly or indirectly, right or interest in more than one lease for residential purposes.
41. A lease, quarry concession or easement shall terminate in the event the grantee, within the time stipulated in the grant thereof, fails to obtain any other right or authority which may be required under this Act or any other law of the Tr'ondëk Hwëch'in in order to carry out the activities contemplated by the lease or otherwise fails to carry out those activities.
42. The grantee of a lease shall have, subject to this Act:
- (a) an exclusive right to exercise access to, occupy or use of the land described in the lease for the purpose stated in the lease;
  - (b) a right of access to enter and cross any adjoining land which is not Developed Settlement Land under the Final Agreement for the purpose of exercising access to the land described in the lease;
  - (c) a right to assign the lease:
    - (i) to any citizen; or
    - (ii) to any person who is not a citizen, with the prior consent of the Council; and
  - (d) where the grantee is a natural person, a right to transfer his or her right or

interest under the lease by will to any person, provided that a transfer by will to a person who is not a citizen shall not be valid or have effect without the prior consent of the Council; and

the grantee of a quarry concession or easement shall have such right or interest as the Regulations and the grant thereof may provide.

43. Where the grantee of a lease, quarry concession or easement is a natural person who dies without a will, all right, interest and obligation of the grantee under this Act and the grant shall pass to the lawful heirs of that person.
44. The right or interest of the grantee of a lease, quarry concession or easement shall not be pledged or otherwise stand as security for credit without the prior consent of the Council.

## **PART VII**

### **PERMITS**

45. The Council may issue a permit to any person.
46. A person shall not cause any development to occur within the land which is not otherwise authorized under this Act without being the holder of a permit granted for that activity.
47. A person who holds a permit, by virtue of that permit, shall not have an interest in the land, but may occupy or use, and shall for that purpose have a non-exclusive right of access to, the land, as described therein, and, where expressly so provided, may sever, remove and convert a resource forming part of the land.
48. Except as provided in section 61, a permit shall not survive its holder, shall otherwise terminate according to its terms, and shall not be transferable without the prior consent of the Council.
49. The rights of the grantee of a permit shall not be pledged or otherwise stand as security for credit without the prior consent of the Council.

## **PART VIII**

### **ACCESS**

50. The Council, in accordance with this Act, may:
  - (a) provide a right of access to the land to any person on such terms and with



such restrictions as the Council may determine;

- (b) where applicable under the Final Agreement, enter into an agreement which provides consent on the part of the Tr'ondëk Hwëch'in to the exercise of access to the land by any person on such terms and with such restrictions as the Council may deem appropriate; and
  - (c) establish by Regulation terms and conditions for the exercise of a right of access described in article 6.6 of the Final Agreement.
- 50.1 Where a right of access is not provided under the Final Agreement, this Act or a grant, a law enforcement officer or inspector acting under an applicable law of general application shall have a right of access, to be exercised in accordance with this Act, to enter the land and to carry out his or her lawful activities within the land.
- 50.2 Nothing in sections 50 to 53 is intended to preclude the making or application of an agreement under section 50, subparagraph (b) or the Regulations described in section 50, subparagraph (c).
- 50.3 Nothing in sections 50 to 53 is intended to restrict the application of Article 6.6 of the Final Agreement or to authorize the Council to make Regulations, issue a grant or, unless the other parties to such an order otherwise agree, enter into an agreement on terms inconsistent with an order of the Surface Rights Board.

## **Emergencies**

51. A person in an emergency may have access to, occupy or use the land for the duration of the emergency without need for a grant under this Act.
- 51.1 For greater certainty, in an emergency, where a right of access is not provided under the Final Agreement and there is no applicable grant or agreement under section 50, a Government employee, agent or contractor, or a volunteer, shall have a right of access, to be exercised in accordance with this Act, to enter the land and to carry out such lawful activities within the land as may be necessary to relieve the emergency.
52. A person in an emergency may start a campfire on the land if required to prepare food or obtain warmth.
53. A person who causes damage to the land during an emergency must report that damage as soon as practicable to a steward or to the nearest office of the Tr'ondëk Hwëch'in.

## **PART IX**

### **GRANTS - GENERAL PROVISIONS**

#### **Obligations and Provisos**

54. Every grant under this Act is subject to:
- (a) this Act;
  - (b) any applicable encumbering right;
  - (c) a right in the Tr'ondëk Hwëch'in to vary the terms thereof as the Council may deem required from time to time for the protection and preservation of burial sites, sites of paleontological or archaeological interest, or of historic or heritage importance; and
  - (d) the obligation of the grantee, in addition to any other applicable obligation, to:
    - (i) conserve the Land;
    - (ii) pay all sums when due and maintain all security required under this Act or the grant; and
    - (iii) comply with the terms of grant, this Act and any other applicable law, and any lawful order made thereunder.

#### **Rights, Titles and Interests Excepted and Reserved**

55. Unless otherwise provided expressly in the grant, there shall be excepted and reserved from every grant made under this Act, for the benefit of the Tr'ondëk Hwëch'in, all right, title and interest in and to the land which is not expressly conferred by the grant, including, without limiting the generality of the foregoing:
- (a) a right to expropriate any right or interest of a grantee in or to the land as deemed required by the Council for a bona fide governmental purpose of the Tr'ondëk Hwëch'in upon payment to the grantee of compensation as provided in section 119;
  - (b) all right, title and interest to the mines and minerals within and under Category A land (other than specified substances the use of which may be incidental to the use authorized by the grant), including a right in the Tr'ondëk Hwëch'in or any grantee thereof to have access to the land and to

work the mines and minerals on such terms as the Council may determine;  
and

- (c) all right, title and interest to the timber within the land (other than timber the use of which may be incidental to the use authorized by the grant), including a right in the Tr'ondëk Hwëch'in or any grantee thereof to have access to the land and to sever and remove the timber on such terms as the Council may determine.

### **Council Authority**

56. The Council shall not:

- (a) sell the land, or grant a fee simple interest in land;
- (b) make a grant on terms inconsistent with an approved land use plan or resource management plan, without prior consultation with the Land Management Advisory Committee; or
- (c) make a grant under this Act in a manner or on terms inconsistent with the Constitution.

57. Where the grantee is in compliance with this Act and the terms of the grant, the Council, on application of the grantee, may:

- (a) suspend or cancel the grant;
- (b) renew the grant upon the expiry of its initial term; or
- (c) replace the grant with another grant of any kind.

58. Where the Council on reasonable grounds believes that a grantee is not in compliance with this Act or the terms of the grant, the Council, upon reasonable notice and after first providing the grantee reasonable opportunity to comply, may suspend, cancel or revoke the grant, as Council may deem appropriate in the circumstances.

### **Default by Grantee**

59. Notwithstanding any other provision of this Act, where a grantee:

- (a) files a petition in bankruptcy;
- (b) commences proceedings for winding-up or dissolution; or
- (c) otherwise is a party to proceedings which affect the grantee's right or

interest under a grant;

the right or interest of the grantee shall not pass to any other person by operation of law or court order without the prior consent of the Council.

### **Effect of Unregistered Interest**

60. The right or interest of a grantee, or of a bona fide purchaser or transferee for value of a grant, shall not be affected by any right or interest in, to or affecting the grant which is not entered in the Register, other than a right, title or interest of the Tr'ondëk Hwëch'in reserved under or provided by this Act.

### **Liability of Grantee**

61. Notwithstanding the suspension, cancellation, revocation, expiry or termination of a grant, the grantee, and any executor, administrator, receiver, receiver-manager, trustee or assignee thereof, and any successor thereto, shall be liable to the Tr'ondëk Hwëch'in for the grantee's acts or omissions and for the discharge of any obligation of the grantee which occurred, arose or applied by virtue of the grant or otherwise while the grant was in force or in good standing.

### **Limitation to Citizens**

62. A person who is not a citizen may not acquire or hold, directly or indirectly, or by virtue of any proceedings, a right or interest which only may be acquired or held under this Act by a person who is a citizen.
63. Except as provided in this Act, where the right or interest of a grantee depends upon the grantee being a citizen, the grant shall terminate and all right, title or interest of the grantee thereunder shall revert to the Tr'ondëk Hwëch'in, without compensation, upon the termination of the grantee's status as a citizen of the Tr'ondëk Hwëch'in.

### **Form of Grant**

64. A grant may take such form and shall be for such time and on such further terms or conditions as may be provided in the Regulations or set out in the grant.

### **When Grant is Binding**

65. A grant is binding according to its terms and this Act, and there shall be no representation, warranty, collateral agreement or condition affecting the grant except as provided in this Act or as may be set out or referentially incorporated therein.
66. A grant, or a transfer, surrender, cancellation or revocation of a grant, is not made

by or binding upon the Tr'ondëk Hwëch'in until:

- (a) it is duly approved by the Council;
- (b) executed or endorsed by a duly authorized representative of the Tr'ondëk Hwëch'in; and
- (c) the seal of the Tr'ondëk Hwëch'in has been affixed thereto.

## **PART X**

### **FEES, CHARGES, RENTS AND ROYALTIES**

- 67. A grantee shall pay such fee, rent or charge as the Council shall stipulate or the Regulations may require for each year or part thereof in which a grant is in effect.
- 68. Where, in the Council's opinion, there is a substantial likelihood that the activity of, exercise of access to, or occupation or use of the land by a grantee will cause significant alteration of the land, the grantee shall pay such restoration fee as the Council may stipulate or the Regulations may require.
- 69. All fees collected by the Council under section 68 shall be contributed to a fund to be established and administered by the Tr'ondëk Hwëch'in for restoration of the land.
- 70. A grantee shall pay such royalty or other similar charge or levy, in cash or kind, as the Council may stipulate or the Regulations may require in respect of the harvest, production, severance, removal or conversion of a resource.
- 71. A grantee shall pay as and when due any fee payable to the Tr'ondëk Hwëch'in in respect of services, improvements, surveys or other like benefits which may be provided by the Tr'ondëk Hwëch'in to the grantee from time to time.
- 72. A grantee shall pay as and when due all other fees, levies, taxes or charges as may be imposed by law.
- 73. A grantee shall provide and maintain such financial security as the Council may stipulate or the Regulations may require, in such form as the Council or the Regulations may permit.
- 74. Any sum payable under this Part shall be recoverable as a debt due to the Tr'ondëk Hwëch'in.

## **PART XI**

### **ADMINISTRATION**

#### **Delegation of authority**

75. The Council, in writing, may delegate the exercise of any power, duty or authority of the Council under this Act, other than the power to make regulations, to the director or to any other Government on such terms as the Council may deem appropriate, and may terminate any such delegation in writing at any time.
76. Notwithstanding the authority of the Council under section 75, in an emergency the Chief in writing may terminate any delegation of authority under section 75 and establish a new delegation of authority to have effect until the next meeting of the Council.

#### **Co-operative Management**

77. The Council may enter into an agreement with any Government or organization for the purposes of:
- (a) managing the natural resources, including minerals, of the traditional territory;
  - (b) monitoring and inspecting the activities of any person within the traditional territory and enforcing the terms of any grant, this Act or any land or resource or mineral or mining legislation of that Government; or
  - (c) pursuing any other measure relating to the land or resources, including minerals, of the traditional territory.

## **PART XII**

### **LAND REGISTRY**

#### **Land Register**

78. A Register is hereby established which shall contain:
- (a) original documents recording each expression of interest, each grant and each postponement, renewal, replacement, transfer, surrender, cancellation or revocation of an expression of interest or a grant made under this Act;
  - (b) all surveys of the land;

- (c) a copy of any enactment or regulation of the Tr'ondëk Hwëch'in which is relevant to matters under this Act; and
  - (d) any other document required under this Act or any other enactment to be placed in the Register.
79. A person shall be entitled to rely upon the Register as a conclusive record.
80. Neither the Tr'ondëk Hwëch'in, the Council, the director, nor any official, steward or officer of the Tr'ondëk Hwëch'in, including the Clerk of the Register and any person acting under the authority of the Clerk of the Register, is liable to any person who relies upon the Register, or to any action or proceedings, for or in respect of any act done or omitted to be done in good faith in the performance of duties or the exercise of powers under this Act in relation to the Register.

### **Administration of the Register**

81. A Clerk of the Register shall be appointed by the Council to maintain the Register.
82. The Register shall be located at the principal office of the Tr'ondëk Hwëch'in and shall be accessible to any person during normal Tr'ondëk Hwëch'in business hours.
83. A person shall pay the prescribed fee for access to or use of the Registry.

## **PART XIII**

### **LAND MANAGEMENT ADVISORY COMMITTEE**

#### **Committee Established**

84. The Land Management Advisory Committee is hereby established to advise and make recommendations to the Council as provided in this Act.

#### **Duties**

85. The Land Management Advisory Committee shall:
- (a) perform such duties as may be assigned to it by or under this Act;
  - (b) review and make recommendations to the Council with respect to any application for a grant which is referred to it by the Council;
  - (c) review and make recommendations to the Council with respect to all

proposed Regulations and all proposed land use plans or resource management plans; and

- (d) consider whether the terms and conditions to apply to a grant described in (b), in proposed Regulations or under a land use or resource management plan are consistent with this Act and prevailing or desired policy, taking into consideration any concerns and interests expressed by citizens, the Council and Tr'ondëk Hwëch'in land and resource management staff;

and, where the Land Management Advisory Committee believes it helpful, may refer any matter to the Tr'ondëk Hwëch'in Elders Council for its guidance before finalizing the Committee's recommendations.

### **Composition**

- 86. The Land Management Advisory Committee shall consist of six persons each of whom shall be appointed by the Council for a term of three years, except with respect to the initial appointments, in which case two persons shall be appointed by the Council for a term of one year, two shall be appointed by the Council for a term of two years, and two shall be appointed by the Council for a term of three years.

### **Procedures**

- 87. The Land Management Advisory Committee shall meet as required, but not less often than once each calendar quarter.
- 88. A quorum of the Land Management Advisory Committee shall be four members.
- 89. The Land Management Advisory Committee shall appoint one member of the committee as the chair. The chair shall be the spokesperson for the Committee and shall chair its meetings.

### **Support**

- 90. The Council may provide services to the Land Management Advisory Committee to:
  - (a) record and maintain a record of minutes;
  - (b) prepare an agenda prior to the meeting;
  - (c) ensure that each Committee member has a copy of the minutes and agenda prior to the start of the meeting;
  - (d) advertise and inform citizens and delegations of the date, time and place of



each meeting; and

- (e) forward updates of Committee activities and recommendations of the Committee to the Council.

## **PART XIV**

### **MONITORING, INSPECTION AND ENFORCEMENT**

#### **Stewards**

- 91. The director shall have the power and authority of a steward.
- 92. The Council may designate any person who is an employee of the Tr'ondëk Hwëch'in as a steward, in addition to the director, and may designate such number of stewards as it deems necessary for the purposes of the Act.

#### **Authority**

- 93. A steward shall have the power and authority of a steward under this Act, any other enactment of the Tr'ondëk Hwëch'in or as provided under an agreement made with any other Government.
  - 93.1 A steward shall identify himself or herself as a steward when engaged in the performance of the duties of a steward.
- 94. A steward may be assisted in the performance of his or her duties by a peace officer or an officer appointed under any other Act of the Tr'ondëk Hwëch'in or any other Government.
- 95. A steward shall have the duty and authority to monitor and inspect the exercise of access to, occupation or use of the land or resources under this Act and, where deemed necessary, to take steps to ensure compliance with this Act and the terms of any grant made under this Act.
  - 95.1 In the performance of his or her duties, a steward shall have access to the land and may enter upon any part of the land which is the subject of a grant and may, with the consent of the owner or, failing consent, with an order of the court, enter any dwelling or other physical structure within the land for the purpose of monitoring or inspecting the exercise of access to, occupation or use of the land or a resource under this Act or for ensuring compliance with this Act and the terms of any grant made under this Act.
- 96. The owner of and every person found in any place in respect of which a steward is

exercising his or her authority under this Act shall:

- (a) assist the steward to perform his or her duties; and
- (b) provide any information required by the steward to enable him or her to perform his or her duties;

as the steward reasonably may request.

### **Order of a Steward**

97. Where a steward reasonably believes that a person is not in compliance with this Act or the terms of a grant, the steward may order that person to:
- (a) cease their activity;
  - (b) give up possession of the land and any resource originally forming part of the land and remove any improvements made by that person on or to the land; and/or
  - (c) restore the land to a condition satisfactory to the steward.
98. An order given under section 97 shall state:
- (a) the time and place of the matter;
  - (b) a description of the matter; and
  - (c) the action required to be taken by the person.
99. A person to whom an order is issued shall comply with that order within thirty days or such lesser period as the steward may specify.
100. The director may extend the time for compliance with an order made by a steward.
101. Where the steward who made an order is satisfied that adequate steps have been taken to remedy the non-compliance which led to the issuance of the order, the steward shall rescind the order.
- 101.1. If a person to whom a Steward's order is directed fails to comply with its terms, the Steward may apply to the Supreme Court of the Yukon Territory for
- (a) an injunction ordering that person to comply with the order under any terms and conditions the Supreme Court may determine; or

(b) any other order that the Court sees fit to make, including a writ of possession

### **Obstruction**

102. No person shall hinder or obstruct a steward in the lawful performance of his or her duties under this Act.
103. No person shall ignore, disobey or disregard the order or request of a steward.

## **PART XV**

### **RECONSIDERATION AND REVIEW**

104. A person who is the subject of an order made by a steward may seek reconsideration of that order by written application to the director delivered within seven days of the date on which that order was issued.
105. Upon a reconsideration, the director shall affirm, vary, substitute for or rescind the order which is the subject of the application, as he or she may deem appropriate, within ten days of the date on which the application for reconsideration was received.
106. A person may seek review of a decision made by the director under section 105 by written application to the Land Management Advisory Committee delivered to the chair of the Committee within fifteen days of the date of the director's decision.
107. Upon a review, the Land Management Advisory Committee shall recommend to Council that Council affirm, vary, substitute for or rescind the decision which is the subject of the application, as the Committee may deem appropriate, and shall make its recommendation within forty-five days of the date on which the application for review was received.
108. The Council shall consider the recommendation of the Land Management Advisory Committee under section 107 and determine the matter at its discretion within a reasonable time after that recommendation is received. The determination by the Council in the matter shall be final and binding.
109. A person affected by the order of a steward, and the steward, shall have an opportunity to be heard by the director in a proceeding for reconsideration. That person, the steward (if applicable) and the director shall have an opportunity to be heard by the Land Management Advisory Committee, and that person, the Committee and the director shall have an opportunity to be heard by the Council, in a proceeding for review.

110. Unless otherwise provided by the director, a person affected by the order of a steward or by a decision of the director shall comply with that order or decision, pending the outcome of any application for reconsideration or review which may be filed.

### **Action to Restore the Land**

111. If a person fails to comply with the terms of a grant or this Act, or fails to comply with the order of a steward, the director may take any reasonable action to secure possession of the land and to restore the land, and the cost to the Tr'ondëk Hwëch'in of such action may be recovered from the person as a debt due to the Tr'ondëk Hwëch'in.

### **Service**

112. Any order, a notice or other document to be given or delivered under this Act may be given or delivered effectively:
- (a) by personal delivery to the person to whom it is directed;
  - (b) by registered mail addressed to the person to whom it is directed at the address for that person last known to the sender; or
  - (c) if the person is unknown, by posting the order, notice or other document in a conspicuous location where the activity of concern is occurring or has occurred.

### **Liability**

113. The Tr'ondëk Hwëch'in shall be liable for actual loss or damage caused to a person by virtue of anything unlawfully done or omitted to be done by a steward or any person assisting a steward.

## **PART XVI**

### **PROCEEDINGS**

114. The Council, in the name of the Tr'ondëk Hwëch'in:
- (a) may initiate or defend (and, if not the initiator or defendant, shall have standing in) any proceeding in which a right, title or interest in or to the land, including a right of access to the land, is in issue;
  - (b) settle or compromise on such terms as the Council may deem appropriate any dispute described in subsection (a) to which the Tr'ondëk Hwëch'in is a party; and

- (c) seek or respond to an application for an order of the Surface Rights Board concerning, or settle or compromise on such terms as the Council may deem appropriate, the terms and conditions to apply to the exercise of a right of access, including a right of access described in article 6.6 of the Final Agreement.

## **PART XVII**

### **OFFENCES**

115. Every person who:

- (a) contravenes this Act;
- (b) fails to comply with the lawful order or request of a steward or the Director, when acting as a steward, made under this Act;

is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment not exceeding six months, or to both.

116. Where a violation of this Act continues for more than one day, each day of violation shall constitute a separate offence.

117. Where a violation of this Act is committed directly or indirectly by an entity having the capacity, powers and privileges of a natural person, the directors and officers thereof personally shall be liable to prosecution and penalty for the acts or omissions of that entity.

### **Trespass**

118. Nothing in this Part shall affect the right of the Tr'ondëk Hwëch'in or of any affected grantee to bring an action for trespass against any person.

## **PART XVIII**

### **MISCELLANEOUS**

### **Compensation**

119. Any compensation payable by the Tr'ondëk Hwëch'in under this Act shall be such compensation as the Council or a court deems reasonable and appropriate in the circumstances and, without limiting the generality of the foregoing, may include the provision of a grant to land or resources in substitution for any grant affected by the action or decision of the Tr'ondëk Hwëch'in in respect of which the compensation is to be paid.

## **Regulations**

120. The Council may establish any regulation it deems necessary to carry out the provisions and purposes of this Act and, without limiting the generality of the foregoing, may make regulations in respect of:
- (a) the making of grants and the renewal, replacement, transfer, surrender, cancellation or revocation of grants and prescribing the terms and conditions thereof, including the payment of any dues and the exemption therefrom of any person or class of persons;
  - (b) the making of reports by grantees;
  - (c) the calculation and payment of dues; and
  - (d) the composition and provision of financial security.

## **Severability**

121. A finding by a court that a provision of this Act is invalid shall not affect the validity of any other provision of this Act.

## **Transition**

122. Except as provided in sections 29 to 31, a person who, under an agreement approved by the Council prior to the coming into force of this Act, has a right of access to or a right to occupy or use the land, as the case may be, as of the date this Act comes into force shall be entitled to continue to exercise that right on all the same terms without a grant hereunder until the termination of that right according to the terms of the applicable agreement.

## **Amendment**

123. This Act may be amended by any Assembly, provided that:
- (a) the proposed amendment is clear and unambiguous, and has been provided to all citizens of voting age at least two weeks prior to the meeting; and
  - (b) at least 60% of the citizens of voting age present at the meeting of the Assembly vote in favour of the proposed amendment.

## **Coming into Force**

124. This Act shall come into force and have effect as a whole or in part or parts at a day or days to be fixed by the Council.

# TR'ONDĚK HWĚCH'IN LAND AND RESOURCES ACT

## PERMIT REGULATIONS

(Adopted by the Council under section 120 of the Tr'onděk Hwěch'in *Land and Resources Act*.)

### Application

1. These regulations do not apply to minerals.
2. Section 4 does not apply to:
  - (a) a Citizen who wishes to engage in traditional activities within Tr'onděk Hwěch'in Settlement Land; or
  - (b) a Government, or a corporation wholly-owned by a Government or the Tr'onděk Hwěch'in which wishes to use or exercise access to Tr'onděk Hwěch'in Settlement Land for a governmental purpose.
3. These regulations apply to any Government or person, other than a Citizen who wishes to engage in traditional activities, which or who wishes to use Tr'onděk Hwěch'in Settlement Land, or to exercise access to Tr'onděk Hwěch'in Settlement Land, under a right provided by the Final Agreement, so as to enable the Tr'onděk Hwěch'in to establish terms and conditions for that use or exercise of access.

### Land Use Permits

4. A person who:
  - (a) wishes to use the land for a limited period of time; or
  - (b) wishes to exercise access to the land for any purpose; and
  - (c) does not require any other authorization under the Act or regulations

made under the Act, including these regulations;  
shall hold a land use permit.

### **Government Access Permit**

5. A Government, or a corporation wholly-owned by a Government or the Tr'ondëk Hwëch'in, which:
  - (a) wishes to use or to exercise access to Tr'ondëk Hwëch'in Settlement Land, whether directly or by way of its agents, contractors or employees, for any governmental purpose; and
  - (b) does not require any other authorization under the Act or regulations made under the Act, including these regulations;

shall hold a Government Access permit.

### **Grazing Permit**

6. A person who wishes to exercise access to Tr'ondëk Hwëch'in Settlement Land for the purpose of enabling animals owned by that person to graze within the land shall hold a grazing permit.
7. A grazing permit shall state the area to which it applies and the species permitted to graze thereunder, and shall contain provisions intended to protect the integrity of the land and the interests of the Tr'ondëk Hwech'in.
8. The holder of a grazing permit shall certify the number of animals grazing within the land under that permit by use of reasonable counting procedures and shall report that result to the director annually or with such other frequency as the director may specify.

### **Easements**

9. A person who wishes to establish or maintain a right of way over Tr'ondëk Hwëch'in Settlement Land for any purpose shall hold an easement.
10. An easement shall apply to a single, continuous corridor within Tr'ondëk Hwëch'in Settlement Land.



11. Where an easement is for a seasonal or temporary road, the holder of the easement shall:
  - (a) establish the road in such a way that traffic can proceed safely upon it; and
  - (b) erect such signs as would normally be erected for the notice and safety of road users on similar public roads.
12. An easement may be used by any person who has a right of access to the land, provided that each such person shall act in accordance with applicable law and exercise such access at his or her own risk.
13. Where it is expected that an easement may, in the director's opinion:
  - (a) receive significant traffic; or
  - (b) result in significant impact on wildlife or undue wildlife harvesting;the director may require the holder of the easement to erect a gate at the point of access thereto and to establish any other reasonable means for the control of access.

### **Emergency Access**

14. In the case of fire fighting, oil spill control operations, or other similar emergency operations, the responsible officials and any other emergency personnel acting under the authority thereof may have access to the land without prior notification to or authority from the Tr'ondëk Hwëch'in in order to carry out their duties in the emergency for so long as the emergency continues, provided that the party responsible for such persons notifies the director of the exercise of access within 24 hours of its first occurrence.
15. Where the emergency conditions are expected to continue for longer than 24 hours, the officials responsible for attending to that emergency, at the director's request, shall:
  - (a) establish a process for regular consultation with the director with respect to the emergency operations to be carried out;
  - (b) provide business and employment opportunities for the Tr'ondëk

Hwech'in and its citizens; and

- (c) where the emergency is caused by an act or omission within the control of the party responsible, cause the party responsible to reimburse the Tr'ondëk Hwech'in for its costs incurred in connection with the emergency.

# TR'ONDĚK HWĚCH'IN LAND AND RESOURCES ACT

## LEASE REGULATIONS

(Adopted by the Council under section 120 of the Tr'onděk Hwěch'in *Land and Resources Act*.)

### Residential Leases

1. A natural person who wishes to use and occupy Tr'onděk Hwěch'in Settlement Land for the purpose of a primary residence shall hold a residential lease, unless that person is the holder of an allocation under the Act for the same location.
  - 1.1 For greater certainty:
    - (a) an entity which has the rights, powers and privileges of a natural person may not hold a residential lease; and
    - (b) a person who holds an allocation under the Act may apply for a residential lease of the same location, and any residential lease granted on account of that application shall take the place of that allocation.
2. The director shall determine whether an application for a residential lease shall be assessed as an application for:
  - (a) a country residential lease;
  - (b) a rural residential lease; or
  - (c) any other residential lease to which section 6 shall apply.
3. Unless the Council otherwise provides in a particular case:
  - (a) a country residential lease shall be for an area not more than 1.5 ha. and not less than 0.8 ha. in size;

- (b) a rural residential lease shall be for an area not more than 4 ha. and not less than 1.5 ha. in size; and
  - (c) any other residential lease shall be for an area not more than 0.8 ha and not less than 0.2 ha.
6. Unless the Council otherwise provides in a particular case, a residential lease may be granted for an initial term not exceeding 50 years.

### **Commercial Leases**

7. A person who wishes to use and occupy Tr'ondëk Hwëch'in Settlement Land for the purpose of carrying on a business activity shall hold a commercial lease.
8. A commercial lease shall be for an area not exceeding 60 ha..
9. Unless the Council otherwise provides in a particular case, a commercial lease shall be for an initial term not exceeding 30 years.

### **Government Leases**

10. A Government, or a corporation wholly-owned by a Government or the Tr'ondëk Hwëch'in, which wishes to use and occupy Tr'ondëk Hwëch'in Settlement Land for a governmental purpose shall hold a government lease.
11. A government lease shall be for an area not exceeding 60 ha.
12. Unless the Council otherwise provides in a particular case, a government lease shall be for an initial term not exceeding 50 years.

### **General**

13. The director may grant leases containing a provision for renewal on all the same terms and conditions, but for the length of the renewal term, the lease fee to be paid in respect thereof, and provision for further renewal.
14. A lessee may claim the benefit of a renewal provision only if the lessee is

in compliance with the terms and conditions of the lease at the time the request to renew is made.

# TR'ONDĚK HWĚCH'IN LAND AND RESOURCES ACT

## DISPOSITION REGULATIONS

(Adopted by the Council under section 120 of the Tr'onděk Hwěch'in *Land and Resources Act*.)

### Interpretation

1. In these regulations,

“day” means a day on which the principal offices of the Tr'onděk Hwěch'in are open for regular business; and

“grant” means the conferral by the Tr'onděk Hwěch'in of a right, title or interest in or to Tr'onděk Hwěch'in Settlement Land, and includes a right to use, occupy or have access to Tr'onděk Hwěch'in Settlement Land which does not constitute an interest therein.

### PART I

#### Expressions of Interest

2. For the purposes of this Part, an expression of interest shall be treated as if it were an application made as of the effective date of these regulations.

#### Application form

3. Each application for a grant under the Act, or for the cancellation, renewal or replacement of a grant, shall:
  - (a) identify the applicant by name and address, and also identify the parcel of land and the land use in respect of which the application is made; and

- (b) be in the form set out in Schedule 1.

### **Information to be provided**

4. Each application for a grant or for the renewal of a grant shall contain:
  - (a) a location sketch of the proposed grant;
  - (b) a description of the proposed activity and of the land and/or any resources likely to be affected by the proposed activity;
  - (c) a description of the operations anticipated under the activity within the first five years, and a plan of operations for the activity within the first year; and
  - (d) background information describing the applicant and any holder of a beneficial interest in the grant proposed.
  
5. In addition, the director may require an applicant for a grant or for the renewal of a grant to provide in conjunction with an application:
  - (a) an assessment of the social, economic and environmental benefits and impacts of the proposed activity, and an undertaking as to the measures proposed to be taken in order to avoid or mitigate its adverse effects and to enhance its beneficial effects;
  - (b) an initialled agreement with the Tr'ondëk Hwëch'in and/or its nominee for the participation thereof in the social and economic benefits of the proposed activities;
  - (c) an initialled agreement with the holder of any registered trapping concession and/or any grantee affected by the proposed activity in respect of compensation or other remedy which addresses their interests;
  - (d) proof of the financial ability of the applicant to undertake and complete the activities contemplated by the application, and to satisfy when due the financial obligations which may be imposed upon the applicant under this Act; and/or
  - (e) proof of financial security for the costs of restoration and

abandonment of the land affected.

## **Fees**

6. An application fee of \$25.00 shall be required to be paid.

## **Sufficiency of Application**

7. The director, within 10 days after the date an application is received, shall
  - (a) cause notice of the application to be posted at the offices of the Tr'ondëk Hwëch'in; and
  - (b) determine whether the application provides sufficient information in order to enable it to be assessed.
8. If the director requires additional time in order to make a determination under section 7 (b), the director shall so notify the applicant in writing.
9. If the director determines that an application does not provide sufficient information to enable it to be assessed, the director shall notify the applicant in writing of the additional information required.
  - 9.1 The director shall have no obligation to deal further with an application in respect of which notice has been given under section 9 until the information specified in that notice is provided to the director's satisfaction.
  - 9.2 An applicant who fails to provide the information required by a notice given under section 9:
    - 9.2.1 within three months, in the case of an application for residential use; or
    - 9.2.2 within six months, in the case of an application for commercial or governmental use;shall forfeit the priority in time which otherwise might have attached to that application.
  - 9.3 The director may extend the time for filing under 9.2 at the request



of the applicant, or if no competing application is on record or received within that time, at his or her own discretion.

### **Stage One Assessment**

10. Where the director determines that an application provides sufficient information to enable it to be assessed, the director, within 10 days after the date of that determination, shall:
  - (a) assess the application; and
    - (i) approve or reject the application, if authorized to do so; or
    - (ii) recommend to the Council, in writing and with reasons, that the application be approved or rejected; or
  - (b) notify the applicant in writing that the application will be assessed under section 11.

### **Stage Two Assessment**

11. Where the director gives notice under subsection 10 (b), the director shall assess the application and shall do so:
  - (a) within six months after the date the application was received; or
  - (b) within a longer time.

The director shall give notice to the applicant where the director expects a time longer than six months will be required to complete the assessment of an application.

12. In connection with the assessment of an application under section 11, the director may require an applicant to pay an assessment fee in accordance with the Schedule 2, and shall defer the assessment of that application under the fee is paid.
13. In an assessment under section 11, the director may:
  - (a) require the applicant:

- (i) to complete and report upon such steps as may, in the director's opinion, enable the better assessment of the application; and
    - (ii) to provide the director with such further information to address matters arising in the assessment process as will, in the opinion of the director, enable the better assessment of the application;
  - (b) with Council approval:
    - (i) cause a consultation to occur with the citizens who reside in the traditional territory, and any affected grantee, with respect to the application; and/or
    - (ii) refer the matter to the Land Management Advisory Committee or to a project review panel for its review and recommendations under such terms of reference as Council may approve; and
  - (c) take other such steps as may enable the better assessment of the application.
14. The director shall inform the applicant of the substance of any non-confidential results obtained by the director under subsections 13 (b) and (c).
15. Once the assessment of an application under section 11 is completed to the director's satisfaction, the director, within 30 days from the date of completion, shall:
- (a) approve or reject the application, if authorized to do so; or
  - (b) recommend to the Council, in writing and with reasons, that the application be approved or rejected.

### **Power to Vary**

16. The director may determine or recommend, and the Council may determine, that an application should be varied and, if varied, approved, and may recommend or impose terms and conditions as part of the approval of an application, whether or not those terms and conditions formed part of the

application in the first instance.

### **Development Assessment**

17. Where an application concerns a matter which is liable to development assessment under legislation established pursuant to Chapter 12 of the Final Agreement, the times set out in these regulations shall not run until the date at which the final recommendations determined through that assessment have been received by the Tr'ondëk Hwëch'in.

## **PART II**

### **Surveys**

18. Unless otherwise provided by the director, the applicant for a grant shall pay the cost of all surveys required to be made in connection with the ascertainment of the area of the grant.

### **Reports**

19. Upon request, a grantee shall provide the director with a report of his or her activity under the grant, including activity to ensure compliance with the terms and conditions thereof, and otherwise shall provide the director from time to time with such information as the director may specify for the purposes of the Act, in the form and within the time so specified.

### **Clearances**

20. The obligations of a grantee to restore, reclaim and rehabilitate the land shall be discharged within one year after the cancellation or expiry of the grant, unless the director otherwise provides.
21. Notwithstanding the cancellation or expiry of a grant, the grantee thereof remains responsible for the performance of his or her obligations under that grant until such time as the director issues a letter of clearance.
22. Where the director is satisfied that a grantee has complied with all of the terms and conditions of his or her grant, the director shall issue a letter of clearance to that person.

23. A letter of clearance shall be deemed to have been issued in respect of a land use permit on that date which is 90 days after the date of cancellation or expiry of that permit, unless the director has issued a notice of deficiency to the grantee on or before the date on which the letter is to be deemed to have been issued.

### **PART III**

#### **Security**

24. Where a person is required to provide financial security in connection with a grant, that security shall be provided in such form, amount and design as may be satisfactory to the director, and may consist of:
- (a) a promissory note drawn in favour of the Tr'ondëk Hwëch'in and guaranteed by a chartered bank in Canada;
  - (b) a certified cheque made payable to the Tr'ondëk Hwëch'in and drawn on a chartered bank in Canada;
  - (c) bearer bonds issued or guaranteed by the Government of Canada and delivered to the Tr'ondëk Hwëch'in; or
  - (d) such other forms, or any combination of forms, as may be satisfactory.
25. Security provided under the Act, and any proceeds from the investment thereof, shall vest in the Tr'ondëk Hwëch'in and may be dealt with by the Tr'ondëk Hwëch'in, to the credit of the person providing it, in accordance with the Act and these regulations.
26. Where, in the opinion of the director, a grantee has not complied with a term or condition of the grant, the director may apply such part of the financial security provided in connection the grant, and any proceeds from the investment thereof, as is, in the director's opinion, reasonably necessary to achieve compliance.
27. Nothing in sections 25 or 26 is intended to prevent the director from allowing a grantee to have access to the amount of financial security

provided, and any proceeds which have arisen from the investment thereof, on such terms as the director may specify, in order to facilitate the progressive restoration or rehabilitation of the land by the grantee.

28. Where the director is satisfied that the financial security provided in connection with a grant, and any proceeds from the investment thereof, both in whole or part as the case may be, are no longer required to be retained to ensure compliance with the grant or restoration or rehabilitation of the land, the director shall return or release that security, including any proceeds from the investment thereof, both in whole or part as the case may be, to the grantee.

# **DISPOSITION REGULATIONS**

## **Schedule 1**

### **Forms of Application**

Grant

Renewal or Replacement of a Grant

Cancellation of a Grant

**TR'ONDĚK HWĚCH'IN  
LAND AND RESOURCES ACT**

**CENTRAL TR'ONDĚK  
LAND MANAGEMENT AREA**

**REGULATIONS**

(Adopted by Council under Part II and section 120 of the Tr'onděk  
Hwěch'in *Land and Resources Act*)

**Purpose**

1. The Central Tr'onděk Land Management Area shall be the primary area within Tr'onděk Hwěch'in Settlement Land to be available for commercial and residential land use, and for use for Tr'onděk Hwěch'in government facilities.

**Lands Included**

2. The Central Tr'onděk Land Management Area shall include the following parcels of land:
  - (a) in the Klondike Valley, parcels C-3B, C-4B/D, C-5B, C-7, C-13B, C-14B, C-42B, C-70B, C-85FS/D, C-86FS/D, C-87FS, S-122B, S-126B and S-153B; and
  - (b) in West Dawson, parcels R-69, C-8B, C-17B, C-77FS/D, C-88FS/D, C-92FS/D, S-99B, S-104FS/D, S-214B, S-160B, S-175B, S-210B and S-213B.

**Access to Land**

3. Each parcel of land within the Central Tr'onděk Management Area shall be available for use, on application, as of the date the Council has declared that the land use plan approved by Council for that parcel shall come into effect. The moratorium on access to land in that parcel shall be at an end as of that date.

## **Land Use Plans**

4. The land use plan for a parcel, in addition to any matter required by the Act to be addressed, shall provide for compatible uses of that parcel over the long term, and may provide for:
  - (a) intensive management of the use of the parcel;
  - (b) the zoning of different portions of the parcel for different uses;
  - (c) the interior survey of the parcel;
  - (d) the phased development of infrastructure within the parcel; and
  - (e) phased access to the parcel.
  
5. Land use plans for parcels within the Central Tr'ondëk Land Management Area, taken altogether, shall demonstrably provide for the variety of land use needs of the Tr'ondëk Hwëch'in.
  
6. Land use plans may be made for only a portion of a parcel, where the director is satisfied that:
  - (a) there is sufficient demand for access to that portion; and
  - (b) providing access to that portion in accordance with such a plan will not unduly prejudice the good management of that parcel as a whole.

## **Other Measures**

1. Nothing in these regulations is intended to prevent a person from having access to other Tr'ondëk Hwëch'in Settlement Land in accordance with the Act.



# TR'ONDĚK HWĚCH'IN LAND AND RESOURCES ACT

## QUARRY REGULATIONS

(Adopted by the Council under section 120 of the Tr'onděk Hwěch'in *Land and Resources Act*.)

### Application

1. These regulations apply to grants in relation to carving stone, flint, limestone, marble, gypsum, shale, slate, clay, sand, gravel, construction stone, sodium chloride, volcanic ash, earth, soil, diatomaceous earth, ochre, marl and peat (collectively, "specified substances").

### PART I

#### Quarry License

2. A person who:
  - (a) wishes to remove a specified substance from Tr'onděk Hwěch'in Settlement Land; and
  - (b) is not the holder of a quarry concession;shall hold a quarry license.
3. A quarry license shall be for a term not exceeding one year.
4. The holder of a quarry license shall have the right, subject to the payment of royalty, to remove from within Tr'onděk Hwěch'in Settlement Land the specified substance identified in the license in the volume, not exceeding \_\_\_\_ cubic metres, stated therein.

#### Personal Use

5. A citizen, upon providing his or her statutory declaration to the director that a specified substance which he or she wishes to remove is required solely for personal use, and not for barter, sale or delivery to third parties, shall have a right to a quarry license to remove from a site designated under section 6, without payment of royalty, not more than 38 cubic metres per calendar year of sand and/or gravel.
6. The director shall designate a site as near as practicable to each Tr'onděk Hwěch'in community to be used as the source of sand and/or gravel for the benefit of citizens residing in that community.

### PART II

### **Quarry Concession**

7. A person who wishes to operate a quarry within Tr'ondëk Hwëch'in Settlement Land as a business activity shall hold a quarry concession.
8. The holder of a quarry concession shall have the exclusive right to explore for and develop within, and to remove from, Tr'ondëk Hwëch'in Settlement Land, subject to the payment of royalty, the specified substances enumerated in the grant of concession, within the area, time and any volume specified therein.
9. The area of a quarry concession shall not exceed 10 ha.
10. A quarry concession shall be for an initial term not exceeding 10 years and may be renewable for one or more additional terms, each of up to 5 years duration.

### **Expressions of Interest**

11. A citizen [or a Tr'ondëk Hwech'in business] may file with the director in writing an expression of interest in establishing a quarry concession in any area within Tr'ondëk Hwech'in Settlement Land which is:
  - (a) described in the filing, or defined after inspection, to the director's satisfaction; and
  - (b) which has not been noted or granted for the benefit of another person.

The director shall note each such expression of interest in the records of the Tr'ondëk Hwech'in at the date and time it is received.

12. An expression of interest shall have priority, according to the date and time it is noted under section 11, with respect to the grant of a quarry concession for the area to which it applies, as against any other expression of interest or application for a quarry concession.
13. An expression of interest shall be deemed abandoned and of no further force or effect if the person filing same has not applied for a quarry concession in respect of the area to which the expression applies within 60 days after the date of notation under section 11.

### **Cancellation**

14. A quarry concession which is not actively used in each of 12 consecutive months may be cancelled by the director upon 30 days notice in writing to the holder thereof. No compensation shall be payable by the Tr'ondëk Hwech'in to the holder upon or in respect of the cancellation of a quarry concession under this section 14.

## **PART III**

### **General Provisions**

15. The director may limit the number of quarry licenses and/or quarry concessions held by or for the benefit of the same person.
16. A person who holds a quarry concession does not require a quarry license in order

to remove the specified substances enumerated therein from the area to which the concession applies.

**Commercial Use**

17. Every holder of a quarry license or quarry concession who wishes to remove a specified substance from within Tr'ondëk Hwëch'in Settlement Land for the purpose of barter, sale or delivery to a third party shall:
- (a) provide evidence satisfactory to the director that the substance is required for a project approved by Government or the Tr'ondëk Hwëch'in; and
  - (b) file with the director a true copy of that person's contract for the supply of the material involved.

**Royalties**

18. Every holder of a quarry license or a quarry concession, other than a person described in section 5, shall pay to the Tr'ondëk Hwëch'in, in accordance with Schedule 1, a royalty for each prescribed unit of a specified substance removed from the land under that license or concession.

# **QUARRY REGULATIONS**

## **Schedule 1**

### **Specified Substance Royalties**