MEMORANDUM OF UNDERSTANDING

Between:
THE GOVERNMENT OF YUKON

And
YUKON WATER BOARD

(collectively, the "parties")

1. PREAMBLE

The Yukon Water Board ("YWB") was initially established by statute by the Government of Canada over three decades ago. On April 1, 2003, as a result of devolution of the federal Northern Affairs Program to the Government of Yukon ("YG"), YG obtained control and administration of all rights in respect of water other than waters in federal conservation areas.[1] Post-devolution of the Northern Affairs Program, the YWB was continued under the *Waters Act* (Yukon).

The YWB has a mandate under both the *Waters Act* and the Yukon First Nation Final Agreements ("Final Agreements").

The objects of the YWB, as stated in section 10 of the *Waters Act,* are:

> to provide for the conservation, development, and utilization of waters in a manner that will provide the optimum benefit from them for all Canadians and for the residents of the Yukon in particular.

In addition, the YWB's role in managing the quality and quantity of water in Yukon is codified in Chapter 14 of the Final Agreements that have been entered into by eleven Yukon First Nations, the Government of Canada and the Government of Yukon.

[1] *Yukon Act,* S.C. 2002, c.7, subsection 48(2).

Additional responsibilities and obligations of the YWB are identified in the *Yukon Environmental and Socio-economic Assessment Act* (Canada).

In addition to its responsibilities related to water, on April 1, 2003, the YWB was transferred certain functions of the Chief of Mining Land Use in relation to Class 4 placer land use operations pursuant to subsection 99(5) of the *Placer Mining* Act (the "transfer of functions").

The parties to this MOU are committed to continuous improvement in regulatory processes related to both water quality and quantity and Class 4 placer land use operations. To this end they have agreed to the following provisions.

2. PURPOSE

2.1 This MOU is intended to promote greater clarity and understanding between the parties regarding:

2.1.1 their respective roles within Yukon's regulatory processes; and

2.1.2 their respective roles related to YWB Secretariat staffing and organizational administration.

2.2 This MOU is not intended to describe all functions of the YWB or YG; nor is it meant to describe or impact any relationship that the YWB or YG may have with any Yukon First Nation. This MOU also does not alter or in any manner change the legal obligations and responsibilities of either party.

3. REGULATORY PROCESS

3.1 The parties acknowledge that they each have a valuable role to play in regulatory processes involving the use of water and the deposit of waste into water within Yukon and that while their roles are distinct and separate, they are also interdependent and, to a degree, overlapping.

3.2 As provided in the *Yukon Act* (Canada), YG has administration and control of all rights in respect of waters in Yukon, other than waters in federal conservation areas. The YWB, an independent administrative tribunal, has the authority to issue, assign, renew, amend and cancel water licences under the *Waters Act*. In carrying out these functions, the YWB has specific obligations and responsibilities with regards to Yukon First Nations treaty rights and participation in the water licensing process as set out in the Final

Agreements.

3.4 As a result of the transfer of functions of the Chief of Mining Land Use to the YWB, both parties have obligations and responsibilities under the *Placer Mining Act.*

3.5 Given the nature of the parties' separate, independent roles, obligations and responsibilities, the parties recognize the need for ongoing discussions outside of specific regulatory or adjudicative YWB proceedings related to their respective areas of jurisdiction, particularly in relation to standards, guidelines, policies and processes.

3.6 The parties agree to respect each other's roles, responsibilities and obligations.

3.7 The parties acknowledge that the YWB is independent in its decision-making. In accordance with the principles of procedural fairness, the YWB and the Secretariat staff will not discuss or share non-public information about specific regulatory or adjudicative YWB proceedings with YG or other parties.

3.8 Subject to the *Waters Act* and Chapter 14, the parties agree to work collaboratively to promote greater clarity and understanding between themselves on policy and legislative matters while ensuring that, in accordance with the principles of procedural fairness, the YWB remains independent in exercising its decision-making functions related to water use disputes as well as the issuance, amendment, cancellation, assignment or renewal of water licences.

4. YWB STAFFING, FINANCES, AND ADMINISTRATION

4.1 The *Waters Act* establishes that the Minister of Executive Council Office ("Minister") shall provide staff to the YWB from within the public service as necessary for the proper conduct of the business of the YWB (the "Secretariat staff"). Both parties recognize that they have certain responsibilities in relation to the Secretariat staff.

4.2 The parties agree that Secretariat staff will assist the YWB in carrying out its functions as Chief of Placer Land Use in relation to Class 4 placer land use operations. The Secretariat staff includes a legal counsel position independent of YG's Department of Justice, who provides legal services to the YWB and the Secretariat.

4.3 The parties agree that the responsibilities of YG, as it relates to Secretariat staff and administration of the YWB, include ensuring that the provisions of the *Public Service Act* and *Financial Administration Act*, and related policies and procedures, are upheld.

4.4 The parties further agree that once Secretariat staff employees are provided by YG to support the YWB, the employees, while performing their duties necessary to conduct the

business of the YWB, as described by the employees' job descriptions and/or Rules, if any, developed by the YWB pursuant to section 22(d) of the Act, report directly to the YWB.

4.5 In order to maintain the impartiality, neutrality, fairness and integrity of the regulatory processes in which they both play a part, the parties agree to the following.

4.5.1 The Director will provide day-to-day supervision and direction to the Secretariat staff, including setting priorities for the Secretariat staff. The Director will also be primarily responsible for operations of the Secretariat.

4.5.2 The Chair and YG officials will meet upon the request of either and for greater certainty will meet no less than annually to discuss the priorities identified by the YWB for the upcoming year, to review the related financial and staffing requirements and to determine if the priorities and financial and staffing requirements can be accommodated within the budget of the YWB.

4.5.3 The Chair will be a member of the recruitment panel for the Director. YG agrees that it will not appoint an individual to the position of Director over the objections of the Chair.

4.5.4 Subject to the *Public Service Act*, the Chair will provide day-to-day supervision of the Director in relation to their duties to the YWB. As such the Chair will direct and monitor the performance of the Director and develop, in consultation with the Director and the members of the YWB, a recommended Performance Development Plan for the Director for consideration of the relevant YG officials. The Chair will review the Performance Development Plan with the appropriate YG officials before it is approved by YG to ensure that the Plan is consistent with YG policies, practices and directives.

4.5.5 The Chair will recommend for consideration of the relevant YG officials the level of performance and a specific range of performance award, if any, annually for the Director in accordance with the Performance Development Plan process and principles established by YG. In advance of making a recommendation, the Chair and the appropriate YG officials will discuss any limitations or restrictions related to performance and performance awards developed for that year by YG and the Chair will ensure that recommendations regarding performance and performance awards are consistent with the identified limitations or restrictions.

4.5.6 The parties agree that all performance management discussions and any disciplinary action taken in respect of the Director will be done in accordance with the Discipline and Grievance Processes set out in Section M: Conditions of Employment for Managers, Legal Officers and Deputy Ministers.

4.5.7 The parties further agree, in so far as the *Public Service Act*, YG financial and

human resources, policies and procedures permit, neither YG officials nor the Chair will engage in performance management or discipline discussions with the Director without having invited the other party to attend and participate.

4.5.8 For clarity, the use of the term Chair throughout this MOU includes the Vice Chair in the absence or unavailability of the Chair.

4.5.9 YG agrees that it will not take any disciplinary action, including the removal of an individual from the position of Director, without meaningfully consulting the Chair.

4.5.10 For clarity, meaningful consultation includes:

a) informing the Chair of YG's intention to enter into discussions with or take disciplinary action against the Director;
b) providing the Chair with the basis and rationale on which YG intends to enter into discussions with or take disciplinary action against the Director;
c) providing a minimum of 5 days for the Chair to consider YG's basis and rationale and provide views to YG.

4.5.11 The Director will be a member of any recruitment panel for all other Secretariat staff.

4.5.12 All hiring will occur following YG recruitment procedures and practices and will be subject to any applicable constraints flowing from the collective agreement between YG and the Public Service Alliance of Canada, as amended from time to time.

4.5.13 Subject to the *Public Service Act*, the Director will be responsible for monitoring, reviewing and directing the overall performance and duties of Secretariat staff. Performance reviews will be carried out by the Director, in consultation with the Chair. If any disciplinary action is required for any of the Secretariat staff, the Director will review the matter with the Chair and the appropriate YG official prior to initiating the disciplinary action. All disciplinary action must be in accordance with any applicable laws and the appropriate YG policies, procedures and directives.

4.5.14 Secretariat staff will perform their duties in accordance with the reasonable expectations of any other YG employee and the Secretariat will conduct its affairs in accordance with all of the financial and human resource policies, practices and procedures applicable to all other YG employees.

4.5.15 The parties agree that the *Public Service Act* and other legislation applicable to other members of the YG public service will apply to Secretariat staff.

4.5.16 At levels comparable to other employees of YG, all employee benefits,

opportunities and support will be provided to Secretariat staff.

4.5.17 To ensure that the operations of the Secretariat are being carried out in accordance with YG financial and human resource policies, practices and procedures, the Director will meet regularly with the appropriate YG officials to review these matters and the Director will ensure that all Secretariat staff implement and respect all YG financial and human resource policies, practices and procedures.

4.5.18 YG will provide support to the YWB and Secretariat staff in respect of records management, information technology and financial management comparable to the support provided to branches and departments of YG. In addition, where requested by the Director and as appropriate while maintaining the independence of the YWB and its functions, YG will also discuss with the Director how it may provide additional administrative, policy, or communications support to the Secretariat.

4.5.19 When requested by YG, the Secretariat will provide information as needed to support YG's development of communications materials. YG will provide an opportunity for the Director to conduct a timely review of such materials before they are released.

4.6 The parties acknowledge that the Minister is accountable to the Yukon Legislative Assembly for the budget and financial activities of the YWB.

4.7 The Director will ensure that all financial authorities and approvals sought above determined thresholds for the Director shall be brought forward to the relevant YG officials after consultation with the Chair.

4.8 The YWB will prepare an annual report in a manner determined by the Minister to be tabled annually in the Legislative Assembly by the Minister and posted publicly to the YWB website.

4.9 The YWB acknowledges that the YG internal auditor is authorized to audit in accordance with its authority under the *Financial Administration Act* and may undertake audits in accordance with these authorities. YG agrees to consult with the Chair regarding the outcomes of any audit reports.

5. POLICY

5.1 The parties acknowledge that the Minister has the authority to provide binding policy direction to the YWB under the *Waters Act* and subject to the exceptions in the *Waters*

Act or Chapter 14 of the Final Agreements, the YWB must comply with those policy directions. In situations where binding policy direction is given to the YWB, the parties agree that both the YWB as well as Secretariat staff must follow that policy direction.

5.2 The parties agree that the YWB will make all written policy directions publicly available on the YWB website.

5.3 In the absence of such binding ministerial policy direction, however, the parties agree that YWB has the discretion to develop policies that promote the objects of the *Waters Act* and the YWB's mandate under Chapter 14.

5.4 For greater clarity, except in situations where binding ministerial policy direction has been given to the YWB, the parties after that if a YWB policy related to the business of the YWB conflicts with a YG policy or guideline, the YWB Chair and YG's ADM Strategic Corporate Services will meet to discuss the matter.

5.5 The YWB agrees that it will consult YG on rules issued per s.22 (d) of the *Waters Act* to ensure that the rules do not place Secretariat staff in conflict with the terms and conditions of their employment.

6. CONFIDENTIAL INFORMATION – USE OF COMPUTER SERVERS

6.1 In order for the YWB to conduct its business in a more economical manner, YG will provide the YWB with access to YG servers. Subject to paragraph 5.2, the parties agree that even though YG owns these servers, information related to the deliberations of the YWB on applications for water licenses, meeting minutes and correspondence of the YWB is confidential information of the YWB and will not be accessed by YG without the prior written approval of the YWB.

6.2 The YWB will ensure that all use of YG provided computers and electronic networks by the YWB and Secretariat staff complies with all applicable laws and YG policies, programs and directives regarding the use of computers and electronic networks.

7. DISPUTE RESOLUTION

7.1 In the event of disagreement between the parties in relation to anything set out in this MOU, the parties agree to engage in open and cooperative discussions to settle the disagreement.

7.2 For greater certainty, if the dispute involves the Director or Secretariat staff, the dispute will be resolved in accordance with all applicable laws, this MOU, and following the applicable YG employer-employee grievance and disciplinary procedures, practices and

directives.

8. PERIOD, REVIEW AND AMENDMENT

8.1 This MOU is in effect from the date that it is signed and remains in effect until terminated, in writing, by one of the parties.

8.2 This MOU will be subject to periodic review and may be amended at any time by mutual consent of the parties.

8.3 The parties agree to meet as often as is necessary, but in any event, no less than once a year to discuss matters of common interest and the matters outlined in this MOU.

9. TRANSPARENCY

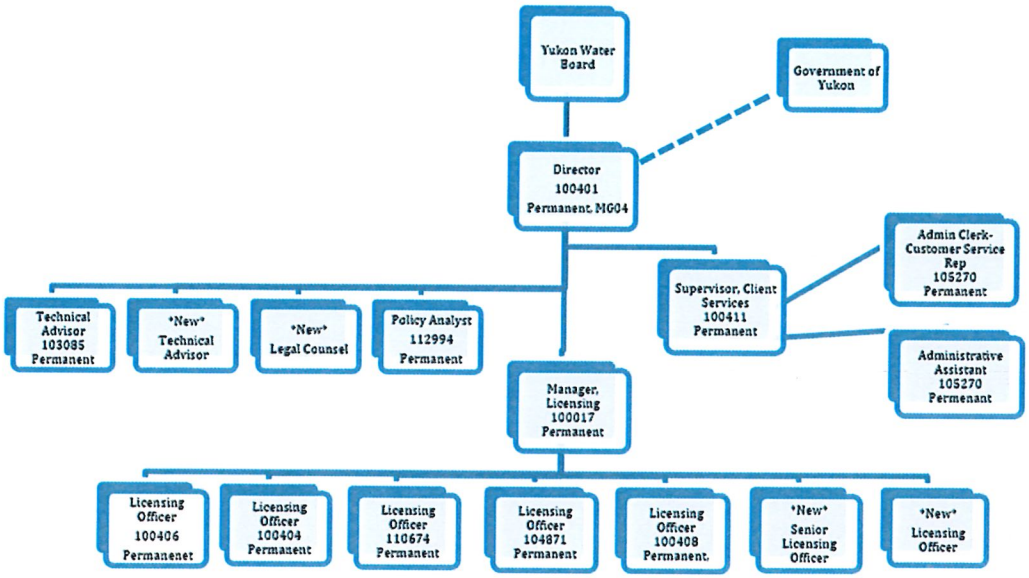
9.1 The parties agree that this MOU will also be available to the public, upon request, and will be included on the website maintained by the YWB.

Dated at Whitehorse, Yukon, this 10 day of November, 2026.

The Honourable Currie Dixon
Premier of Yukon

Brooke Rudolph
Chair, Yukon Water Board

Organizational Chart



signifies communication line

signifies reporting line