

MDS TERMS OF REFERENCE

1.0 INTRODUCTION

On January 2, 2017, Yukon Government and Self-Governing Yukon First Nations (the “**Parties**”) signed the Mining Memorandum of Understanding (the “**MMOU**”). The MMOU commits the Parties to work collaboratively to improve the management of placer and quartz mining in Yukon. A specific commitment of the MMOU is the creation of a Yukon Mineral Development Strategy (the “**MDS**”).

On December 20, 2018 the MMOU Main Table approved the attached recommendation for a MDS Panel to provide the Main Table with a draft MDS.

2.0 GUIDING PRINCIPLES

In developing the MDS the Panel will:

- articulate the vision, values and objectives of Yukoners with respect to the management, use and development of placer and quartz resources;
- consider the mining sector challenges and identify ways to support a viable and responsible mining industry in Yukon;
- ensure the MDS is consistent with Yukon First Nation Final and Self-Government Agreements;
- consider the perspectives of First Nations without Final Agreements and Transboundary First Nations;
- operate within these Terms of Reference;
- act independently of the Parties;
- work together in a respectful manner and listen to all perspectives forwarded on relevant issues and;
- plan face-to-face meeting to maximize participation taking into consideration community events.

3.0 MANDATE

The Panel will develop a MDS consistent with section 7 of the MMOU:

The development of a collective strategy for the management of placer and quartz mineral prospecting, exploration, development, production, reclamation, closure and post-closure management that:

Respects the special relationship between the YG and First Nations governments that sets Yukon apart from other jurisdictions; and

Creates jobs strengthens and diversifies our economy, respects environmental stewardship and supports the development of a thriving and prosperous economy that benefits all Yukoners and recognizes and respects the Yukon First Nations’ special relationship with the land and resource of their respective traditional territories.

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4.0 PANEL STRUCTURE

4.1 PANEL MEMBERSHIP

The Panel will be made up of three members as follows:

- One Member appointed by Yukon First Nations;
- One Member appointed by the Yukon government; and
- One Member appointed jointly by the Yukon Government and Yukon First Nations that will provide the Panel with a mining industry perspective.

The members of the Panel will not be delegates or representatives of the Party or Parties that appointed them. They are appointed based on their experience and expertise relating to lands and resources management, including mineral exploration.

4.2 PANEL CHAIR

The Panel may choose one of its members to be Chair if deemed appropriate.

4.3 SELECTION OF REPLACEMENT OF MEMBER

If a member of the Panel steps down or is unable to act, a replacement member will be appointed in the manner outlined in 4.1 based upon which member is to be replaced.

5.0 PANEL PROCESS

5.1 PANEL WORK

1. The Panel will:
 - a. prepare a discussion paper that outlines the primary issues and options related to mineral development in Yukon including guiding public consultations;
 - b. conduct an initial public consultation with communities and Yukoners;
 - c. submit a “What We Heard” to the Mining MOU Main Table by August 31, 2019 that summarizes the input of the public consultation; and
 - d. prepare and conduct a second public consultations on a draft MDS based on the “What We Heard”.
2. The Panel will submit a draft MDS to the Main Table no later than March 31, 2020.

5.2 PANEL ACTIVITIES

The Panel will conduct a jurisdictional analysis of the following matters to inform the development of the draft MDS:

- management regimes, practices and law of other jurisdictions, including Alaska;
- efforts to create a sustainable vibrant economy with long term benefits for local and regional communities; and
- mitigation of socio-economic and environmental impact and, in particular, reclamation and security issues.

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In order to carry out its work under these Terms of Reference, the Panel can do a range of activities including but not limited to:

- having *in camera* discussions between panel members to exchange perspectives and establish a shared understanding;
- meeting with the MMOU Main Table at key milestones to exchange views and provide updates;
- hosting public meetings in Yukon communities to facilitate engagement;
- holding targeted meetings to engage:
 - First Nations, including transboundary;
 - specific stakeholders; and
 - experts and interest groups.

5.3 SUPPORT

The Council of Yukon First Nations and the Strategic Alliances Branch will collaborate to provide administrative and day-to-day support to the Panel.

The Panel will also be supported by a writer/researcher and a facilitator to provide assistance with respect to its work, including the public consultations, preparation of consultation materials and writing of the consultation summaries and drafts of the MDS.

5.4 CONFIDENTIALITY

Panel meetings and conversations are confidential. Information provided will be confidential except as required to complete the documents noted in section 5.1 of these Terms of References. Comments in meetings will not be attributed to any Panel member and this will be noted in each set of minutes.

All members are expected to protect and maintain as confidential any privileged information divulged during the work of the Panel. Members must not discuss this information with persons not on the Panel, or divulge information obtained from the work of the Panel, including presentations made to it, until such time as this information has been officially released for public distribution.

5.5 WORK PLAN AND BUDGET

Panel will work with the writer/researcher and facilitator to develop a work plan, including timelines and milestones and an annual budget for review by the MMOU Main Table. Approved expenses, including remuneration for the Panel members and supporting contractors, will be charged to YG.

5.6 CONFLICTS OF INTEREST

The Panel will make a written recommendation to the MMOU Main Table, with respect to any potential or perceived conflicts of interest held by its members. Panel members will take part in this process with integrity, regardless of their relevant affiliations and interests.

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Additionally, conflicts of interests will be mitigated through the consensus requirement below.

5.7 CONSENSUS

The Panel will operate on the basis of consensus. Any disputes that require resolution or any issues that require clarification will be referred to the MMOU Main Table.

5.8 TERM

The Panel will dissolve no later than March 31, 2020, unless the MMOU Main Table amends these Terms of Reference or provides specific instructions to the Panel.

5.9 ACCESS TO INFORMATION AND PROTECTION OF PRIVACY

The Panel will be subject to and agree to abide by any relevant provisions of the *Access to Information and Protection of Privacy Act*.