

A PROTOCOL WITH RESPECT TO ACCESS TO RECORDS

BETWEEN:

The Government of Yukon,
as represented by the Deputy Minister, Executive Council Office
(hereinafter referred to as "Yukon")

AND:

Her Majesty the Queen in Right of Canada,
as represented by the Regional Director General, Yukon Region,
Indian and Northern Affairs Canada
(hereinafter referred to as "Canada")

WHEREAS pursuant to the Yukon Northern Affairs Program Devolution Transfer Agreement dated October 29, 2001 (the "devolution agreement") Canada loaned, provided copies or transferred all records under the control of Canada to Yukon necessary for the fulfillment by Yukon of its responsibilities under the devolution agreement;

AND WHEREAS in the general interests of the administration of justice, Canada is required to have reasonable access from time to time to such records;

AND WHEREAS the devolution agreement provides for access to records being granted to Canada by Yukon on terms and conditions as may be agreed upon by the Parties hereto;

AND WHEREAS Yukon and Canada now wish to establish a protocol providing for the terms and conditions governing the granting of access to records by Yukon to Canada;

NOW THEREFORE in consideration of the mutual covenants contained in this protocol the Parties hereto agree and follows:

1.0 OBJECTIVE

- 1.1 The objective of this protocol is to establish a procedure by which Canada is granted access to records currently under the administration and control of Yukon pursuant to the devolution agreement and provide terms and conditions which govern such records while in the *de facto* custody and care of Canada.

2.0 DEFINITIONS

- 2.1 The meaning of the terms "Record, Non-Archival Record, Record Copies, Record Loaned and Record Transferred" (for purposes of this protocol collectively referred to as "records") shall have the same meaning as defined in the devolution agreement.

3.0 PROCEDURE

- 3.1 Canada will make any request to Yukon for access to records in writing describing in reasonable detail the nature of the records being sought, Canada's reasons for making such request and the identity of the department or agency of Yukon which Canada believes has custody of the records being sought.
- 3.2 Upon receipt of a written request by Canada for access to records Yukon, as soon as practicable, but in any event not later than 30 days following receipt of a request, will provide to Canada a list of requested records and not later than 60 days following receipt of a request shall provide the requested records to Canada which records shall be subject to the terms and conditions of this protocol.
- 3.3 Canada will be permitted access to the requested records for a minimum period of 180 days following the date the requested records have been delivered to Canada or such further period of time as reasonably may be required by Canada for its purposes with the consent of Yukon, such consent not to be unreasonably withheld.
- 3.4 Canada agrees that the following provisions apply to all records provided by Yukon pursuant to this protocol:
- 3.4.1 Canada will verify and confirm to Yukon not later than 30 days following Canada's receipt of any requested records that such records constitute all of the records as referenced in the list provided by Yukon required in paragraph 3.2 of this protocol or, in the alternative, provide particulars to

Yukon as to the reasons for Canada's inability to provide such confirmation.

- 3.4.2 Canada will take all reasonable steps to protect and safeguard all requested records in its custody including keeping such records safe from deterioration, loss, damage or unauthorized access.
- 3.4.3 At any time during Canada's *de facto* custody of records, upon written request, Canada will grant reasonable access to such records by Yukon or, in the alternative, provide true copies to Yukon of such records.
- 3.4.4 Immediately following its *de facto* custody of any records as provided by this agreement Canada will return all such records to Yukon in the same condition as originally received by Canada.
- 3.4.5 Yukon acknowledges that Justice Canada in its capacity as legal counsel for Indian and Northern Affairs Canada may directly request, receive and photocopy any records from Yukon in the same manner and under the same conditions as agreed upon by Indian and Northern Affairs Canada as party to this agreement.

4.0 MISCELLANEOUS

- 4.1 All records provided by Yukon to Canada under this agreement will remain the property of Yukon pursuant to the devolution agreement.
- 4.2 For purposes of this agreement and in the spirit of good government Yukon and Canada will each grant to the other reasonable access to persons and staff having relevant knowledge of particular records as may be requested from time to time pursuant to this agreement for purposes including but not limited to providing informational background and, where required, to act as witnesses in any legal proceeding involving both or either party hereto.

- 4.3. This agreement may be amended from time to time by mutual written Agreement of the Parties hereto.
- 4.4 This agreement shall come into force and is effective as at the 1st day of September 2006 and may be executed in counterparts.
- 4.5 Any request for records will be in writing but may be submitted electronically or by facsimile.

5.0 NOTICE

- 5.1 Wherever notice or demand is required or permitted by this agreement such notice or demand will be in writing and will be validly given or sufficiently communicated if personally served to the parties to the respective physical addresses listed below or if forwarded by registered mail, priority post mail or facsimile transmission to the mailing addresses or facsimile numbers listed below:

Canada: Indian and Northern Affairs Canada
Yukon Region
Room 415C – 300 Main Street
Whitehorse, Yukon
Y1A 2B5
(867) 667-3888 (voice); (867) 667-3801 (facsimile)

Yukon: Head, Records Management
Department of Energy, Mines and Resources
Government of Yukon
Room 345 – 300 Main Street
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6
(867) 667-3097 (voice); (867) 456-3965 (facsimile)

In Witness Whereof this agreement has been executed by the duly authorized representatives and signing authorities of the Parties hereto:

Signed at Whitehorse, Yukon, the 20th day of September 2006.

Government of Yukon



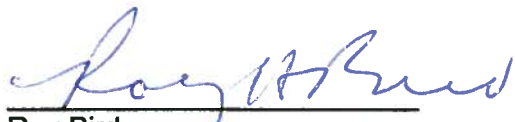
Janet Moodie
Deputy Minister
Executive Council Office
Government of Yukon



Witness

Signed at Whitehorse, Yukon, the 1st day of September 2006.

Her Majesty the Queen in Right of Canada



Roy Bird
Regional Director General
Indian and Northern Affairs Canada
Yukon Region
Government of Canada



Witness