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[DRAFT] TERMS OF REFERENCE for the **Forest Sector Trust Board**

1. Definitions

- 1.1. A board can be defined as a group of people appointed for a specific function such as to oversee or discharge certain authorities.
- 1.2. For the purposes of this Board, conflict of interest is defined as any situation where there is an actual or perceived incompatibility between a Board member's duties and their private or personal interests, or role in other professional bodies.
- 1.3. Consensus means general agreement among a group of people. For the purposes of this Board, achieving consensus refers to all Board members being in agreement on a particular matter.
- 1.4. Eligibility means that a Person has met certain requirements and therefore is eligible for membership on the Board.
- 1.5. Quorum refers to the minimum number of members of the Board that must be present at any meetings to make the proceedings of the meeting valid.
- 1.6. A trust is a relationship whereby property or capital is held and managed by a trustee on behalf of one or more beneficiaries.

2. Preamble

- 2.1. The impetus to establish the Forest Sector Trust Board (Board) is generated by requirements of the *Forest Resources Act* (FRA) to ... (*Mention the work of the Committee*).
- 2.2. The Board consists of three persons recommended by Yukon First Nations and three persons recommended by Government of Yukon;
- 2.3. The 'Forest Sector Trust' refers to the trust to be established that will house the funds provided by the Government of Canada through the *Devolution Transfer Agreement* 'for the purposes of forest sector activities' (originally \$4 500 000). Through interest generation, this fund has an approximate balance of \$5 600 000 and has since been given more recent legislative direction under the *Forest Resources Act* 'to restore, enhance and protect forest resources and forests' (Section 36).
- 2.4. The *Forest Resources Act* came into force on public land in Yukon on January 31, 2011.
- 2.5. This Terms of Reference establishes the objectives, roles and responsibilities of the Board.

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2.6. The work of the Board shall support the sustainable forest management of Yukon forests and balance its inherent values: environmental, economic and social values for the benefit of all Yukoners including the future of a sustainable forest products sector.

3. Board Structure and Operating Procedures

3.1 Membership

- 3.1.1 Once appointed, the Board will operate on an ongoing basis so long as the Trust is in existence.
- 3.1.2 Appointments will be made through the RAR appointments process for Boards and Committees through the Executive Council Office of the Government of Yukon.
- 3.1.3 Membership of the Board will consist of an equal number of nominees – up to six members – recommended by Yukon Government and Yukon First Nations.
- 3.1.4 Terms for three of the members will be three years and terms for three of the members will be for two years for the first term of the Board to ensure continuity in membership. Terms for all members thereafter will be for three years.
- 3.1.5 The Board will select a Chair within the Board membership by consensus whose responsibilities include:
 - i. Scheduling and conducting meetings;
 - ii. Liaising with First Nations, renewable resources councils, industry and the Government of Yukon;
 - iii. Ensuring financial and administrative reporting is completed; and
 - iv. Ensuring consistency between FST initiatives and existing legislation, policies and plans (e.g. FRA, FRMPs, etc.).
- 3.1.6 The Board will select a Vice-Chair within the Board membership. If the Chair is unable at any time for any reason to perform the duties of office, or if the office is vacant, the Vice-Chair has and may exercise all the powers and functions of the Chair.
- 3.1.7 To form quorum, four Board members are required.
- 3.1.8 A Board member will make best efforts to attend meetings. If a member has been absent without reasonable cause for three Board meetings within a one year period, this absence may be considered grounds for requesting the resignation of the member at the discretion of the Board.

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- 3.1.9 Board members, anticipating to be absent from a meeting shall give a week's notice to the Chair (or to a designate).
- 3.1.10 In the event that a Board member can no longer participate as a member, for example due to unforeseen circumstances or resignation, the Chair will confirm the resignation or removal of the Board member with Boards and Committees, Executive Council Office in writing and request a new member.
- 3.1.11 The Board members may engage an ex-officio non-voting advisor to add technical strength and depth to their meetings.
- 3.1.12 Board meetings will take place at least four times per fiscal year.

3.2 Conduct

- 3.2.1** Board members are responsible for conducting themselves in a manner that maintains and fosters public trust. If a member has any conflict of interest as defined in this document, or thinks they may have a conflict of interest, the member has a duty to disclose that information to the Board and may remove themselves from any related discussions or decisions.
- 3.2.2** Board members will work collaboratively and respectfully to achieve the deliverables described in a fair and transparent manner.
- 3.2.3** Members shall not be delegates of the Parties who nominate or appoint them. Board members are recommended by Yukon First Nations and Yukon Government but their appointment does not entail representation of those parties.

3.3 Operation

- 3.3.1 Draft meeting minutes will be recorded and distributed to Board members within two weeks of a Board meeting. Meeting minutes will be approved by the Board at the subsequent meeting.
- 3.3.2 The Terms of Reference for the Board may be amended by Board consensus.
- 3.3.3 Board meetings will be scheduled at the direction of the Chair.
- 3.3.4 Face-to-face meetings are preferable. Additional meetings may take place via telephone or video conference call.
- 3.3.5 The work of the Board will aim to be achieved by consensus, facilitated by the Chair. In the absence of consensus, all members present at a meeting will cast a vote.

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- 3.3.6 Absent Board members may have their concerns, opinions and recommendations represented in writing. These representations will be presented by the Chair or Vice Chair.
- 3.3.7 Absent Board members may not vote.
- 3.3.8 Written notice of three weeks for all meetings will be given.
- 3.3.9 In the event of issues that arise, the Board will seek to resolve these through ordinary means such as facilitation and mediation.

3.4 Board Adherence to the Investment Policy

- 3.4.1 The Board shall make decisions affecting the Trust in a fiduciary manner to best meet the Trust's mandate while encouraging growth of the Trust's capital. The Prudent Investor Rule will apply.
- 3.4.2 Unanimous decision of all Board members with agreement from the Trustee is required for transactions affecting the Trust investments. Decision may be reached using email, for example.
- 3.4.3 The Board members shall meet at least quarterly to review the quarterly statements and discuss any changes to the general investment strategy.

4 Annual Operational and Maintenance Expenditures of the Trust

- 4.1.1 Board members shall budget for operational and maintenance expenditures for each fiscal year and a decision of all Board members with approval from the Trustee is required to transfer funds from the Investment Account to the Trust's Bank Account for the annual operation and maintenance expenditures.
- 4.1.2 The annual operational and maintenance expenditures shall be the priority from the annual Expense Fund allocation and only the remaining Expense Funds, the "Project Funds", shall be used for distribution under a call for project proposals.
- 4.1.3 The following expenses shall be considered under operational and maintenance expenditures:
 - a) Administrative expenses. These expenses shall include but are not limited to:
 - i. Professional services
 - ii. Advertising and promotion
 - iii. Trust Manager
 - iv. Trustee
 - v. Meeting expenses

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- b) Board member expenses. These expenses shall include:
 - i. Honoraria and travel to and from Yukon communities for members that are required to attend meetings that are directly related to the management of the Trust.
 - ii. Accommodation for members that must be away from their principal residence to attend business (ie. Board meetings) that is directly related to the management of the Trust.
 - iii. Training and professional development opportunities that may assist members with the overall improvement of the Trust.
- 4.1.4 Under special circumstances the Board may, from time to time decide to spend additional funds on professional services, professional development, and such other expenses as may be deemed appropriate from time to time, that would assist with the overall functioning or improvement of the Trust.
- 4.1.5 A unanimous decision of all Board members is required to transfer allocated funds for proposal calls or Trust Initiated Projects prior to funding projects. Board members need not be present at a meeting; a decision communicated by email is sufficient.

5 Trust Initiated Projects

- 5.1.1 Board members may unanimously decide to initiate and/or fund any project(s) or proposal(s) that meet the Objective of the Trust to restore, enhance and protect forest resources and forests either through its general Call for Proposals or by a separate Trust initiated resolution outside that process to be known as a Trust Initiated Project.
- 5.1.2 The Trust Initiated Project should not exceed 20% of the annual project expenditure or other threshold that Board members agree on.
- 5.1.3 If possible, Trust Initiated Projects shall follow the process outlined in Schedule A - Operating Procedures under the heading Proposal Review and Selection.

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6 Trust Annual Call for Proposals

- 6.1.1 Pursuant to section 4, the Trust shall call for proposals on [date] of each calendar year.
- 6.1.2 Call for proposals shall be placed in a major Yukon wide publication; and by any other means practical, at the discretion of the Trust.

7 Proposal Review and Selection

- 7.1.1 The Board shall ensure that a technical review is performed on all proposals prior to the Board's final review.
- 7.1.2 The Board's technical review shall consist of a minimum of two Board members, the Trust Manager, and any other person(s) from recognized organizations or government at the discretion of the Board. Further detail is contained in Schedule A - Operating Procedures.

8 Annual Report

- 8.1.1 The Board shall develop an annual report which will include the annual audit, a message from the Chair, information on the Trust's application process, a list of the projects funded, and any information that highlights or promotes the work of the Trust.
- 8.1.2 As per the *Forest Resources Act* S.36 (5), the Trustee must report annually to the Minister and First Nations on the financial affairs of the trust. To fulfill this requirement, the Board will review the Trustee's annual financial report and submit to the Minister and First Nations.

Attached Schedules:

- SCHEDULE A - Operating Procedures

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SCHEDULE A

Operating Procedures for the **Forest Sector Trust Board**

The Forest Sector Trust (the “Trust”) is a trust fund that was established pursuant The Trust Indenture Agreement (the “Agreement”) which acts as the governing document for the Trust.

The Trust received its source of funding from Canada pursuant to the *Devolution Transfer Agreement*, Appendix B, Section D. Under 1.1 of Section D, it states that ‘The public interest shall guide the management of funding.’ The *Forest Resources Act* Section 36 provides further guidance and direction on operation.

The following are Operating Procedures and policies that are accepted by all Board members but do not form part of the Agreement. Where there is any inconsistency or conflict between these Operating Procedures and the Agreement, the Agreement prevails to the extent of the inconsistency or conflict. The Operating Procedures complement the Terms of Reference. For clarification, the Operating Procedures outline various processes of Trust operation, proposals and fund disbursement whereas the Terms of Reference specify the roles and function of the Board.

1. Objective of the Forest Sector Trust

To use Trust funds to restore, enhance and protect forest resources and forests in Yukon and may include initiating, sponsoring, funding, directing and carrying out measures to achieve those objectives.

2. Investment Direction

2.1 To ensure the Trust maintains growth, Trustees shall limit their total annual expenditures to a maximum of 80% of the three preceding years’ average of the Trust’s Investment Portfolio’s net change in market value (net of custodial and

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portfolio management costs) annually, as of September 30th; the first calculation of this policy will occur for the 2018-19 budget year and shall use the preceding two years' average of the Trust's Investment Portfolio's net change in market value; and the average of the net change in market value of the Trust's Investment Portfolio projected for any given year will be referred to as the Trust's "Expense Fund".

3. Annual Project Funding Expenditures

- 3.1 Once annual administrative costs, identified in section 4, have been calculated and subtracted from the gross Expense Funds available for the fiscal year, all remaining Expense Funds, the Project Funds, may be utilized for approved projects or Trust Initiated Projects.
- 3.2 Unexpended Project Funds shall be carried forward and added to and become part of the current year's Project Funds. Consideration may be given for reinvesting the unexpended Project Funds.
- 3.3 If available Project Funds for a fiscal year do not consist of a minimum of \$xxxxxx, then the call for proposals will be postponed for a year and the unused Project Funds from the postponed year may be added to the next year's Project Funds allocation if not used by Trust Initiated Project(s).
- 3.4 There is no requirement for all Project Funds allocated for annual project expenditure to be distributed. Proposed projects must meet minimum evaluation criteria to qualify rather than a priority to expend all funds.
- 3.5 The Trust will not duplicate the efforts of planned and required government expenditure and programming. Project applicants will be encouraged to look to other available sources of funding before applying to access Trust payments.

4. Trust Accounts

- 4.1 The Trust shall have two accounts: a Trust bank account to deal with the general administration of the Trust; and the Trust's Investment Account which deals with the Trust's Investment portfolio.
- 4.2 Only Funds transferred in accordance with this policy shall be retained in the Trust's bank account.
- 4.3 Any contributions to the Trust shall be transferred to the Investment Account as soon as practical.
- 4.4 As outlined in the Indenture Agreement, only the Trustee or a delegated person can be signatories to the Trust's accounts.

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4.5 The Trust may use the services of an approved financial advisor, councilor or manager to assist with investment purchases, trading or other strategic investment initiatives that fall within the mandate of the Trust.

4.6 The Trust will ensure its books are kept up to date for financial management purposes.

4.7 The Trust shall appoint a registered chartered accountant to conduct the Trust's annual audit.

5. Proposal Review and Selection

5.1 Only proposals that meet the Trust's Objective may be considered for funding.

5.2 The Trust may use standardized methods to assess each proposal and each proposal will be evaluated equally using a consistent and objective method.

5.3 Proposals will be categorized as:

- i. Successful
- ii. Successful - pending mandated revisions
- iii. Wait-Listed
- iv. Unsuccessful

5.4 The Board's technical review will rate the proposals (the categories listed in s.7.5.1) and scores will be averaged and shall be summarized along with their overall recommendations for each proposal.

5.5 A proposal's average rated placement and score will determine its priority status in its respective category.

5.6 Successful proposals will be funded, upon availability of funds allocated, in order of priority.

5.7 Proposals rated Successful-pending mandated revisions may be classified as Successful if the Chair determines the proponent has or will adequately meet the required revisions.

5.8 Proposals rated Wait-Listed may be funded, if the Chair determines there is money remaining once Successful-pending proposals have been considered for funding and the project applicant has adequately agreed to meet any required revisions.

5.9 The Board's decisions on proposals shall be final.

5.10 All proposal applicants shall receive a response letter (or email).

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- 5.11 Successful project applicants shall sign a contribution agreement with the Trust prior to the disbursement of funds.
- 5.12 Revisions to contribution agreements will be discouraged whenever possible.
- 5.13 By consensus, the Board may revoke or discontinue a project applicant's funding at any time and for any reasons the Board sees as reasonable and prudent pursuant to the terms of the Trust's funding contribution agreement.
- 5.14 Collaboration with First Nations, Yukon Government and others on projects is encouraged by the Forest Sector Trust Board. Collaboration may come in the form of cost sharing or in-kind support.