

T'Sou-ke First Nation LAND CODE

[January 11, 2006]

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Preamble

Whereas the T'Sou-ke First Nation has a profound relationship with the Land;

Whereas the T'Sou-ke First Nation has entered into the *Framework Agreement on First Nation Land Management* with Canada on February 12, 1996, as amended, and which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act*;

And Whereas the T'Sou-ke First Nation wishes to manage its lands and resources, rather than having its lands and resources managed on its behalf under the *Indian Act*;

NOW THEREFORE, THIS LAND CODE IS HEREBY ENACTED AS THE FUNDAMENTAL LAND LAW OF THE T'SOU-KE FIRST NATION.

IF THERE IS ANY INCONSISTANCY BETWEEN THIS LAND CODE AND THE FRAMEWORK AGREEMENT, THE FRAMEWORK AGREEMENT PREVAILS TO THE EXTENT OF THE INCONSISTANCY.

PART 1 Preliminary Matters

1. Title

Title

1.1 The title of this enactment is the *T'Sou-ke First Nation Land Code*.

2. Interpretation

Definitions

2.1 The following definitions apply in this Land Code:

“Child or Children” means a Child(ren) born in or out of wedlock and a legally adopted Child(ren).

“Community Land” means any T'Sou-ke First Nation land in which all members have a common interest.

“Council” means the Chief and Council of T’Sou-ke First Nation.

“Duplicate Land Register” means the duplicate register maintained by the T’Sou-ke First Nation under section 29.

“Eligible Voter” means, for the purpose of voting in respect of land matters under this Land Code, a T’Sou-ke Nation member who has attained the age of eighteen (18) years of age on the day of the vote.

“Extended Family”, in respect of a person, means the person’s grandparent, parent, uncle, aunt, cousin, sister, brother, Child, grandchild or Spouse and includes Immediate Relatives.

“*Framework Agreement*” means the *Framework Agreement on First Nations Land Management* entered into between the Minister of Indian Affairs and Northern Development and the Chiefs of fourteen First Nations on February 12th, 1996, as amended.

“Immediate Relatives”, in respect of a person, means the person’s parent, sister, brother, Child or Spouse.

“Lands Committee” means the Lands Committee established under this Land Code.

“Law” means a law enacted pursuant to this Land Code.

“Meeting of Members” means a meeting under section 13 to which the members are invited to attend.

“Member” means a person whose name appears or is entitled to appear on the T’Sou-ke First Nation’s Band Membership List.

“Panel” means the Dispute Resolution Panel established under section 39.

“Ratification Vote” means a vote of eligible voters under section 14.

“Resolution” means a resolution of the Council enacted under this Land Code.

“Spouse” means a person who is married to another, whether by a traditional, religious or civil ceremony, and includes a Spouse by Common-law Marriage.

“Transfer Agreement” means the Individual Transfer Agreement made between T’Sou-ke First Nation and Her Majesty in right of Canada, dated _____.

“T’Sou-ke First Nation Land” means any portion of a reserve that is subject to this Land Code under Section 5.

T'Sou-ke Nation Land Code

“T’Sou-ke First Nations Land Register” means the register maintained by the Department of Indian Affairs and Northern Development under the *Framework Agreement*.

Paramountcy

- 2.2 If there is an inconsistency between this Land Code and any other enactment of the T’Sou-ke First Nation, this Land Code prevails to the extent of the inconsistency.

Culture and Traditions

- 2.3 The structures, organizations and procedures established by or under this Land Code shall be interpreted in accordance with the culture, traditions and customs of the T’Sou-ke First Nation, unless otherwise provided.

Language

- 2.4 The Language of the T’Sou-ke First Nation may be used to clarify the meaning of any provision of this Land Code, if the meaning of that provision is not clear in English.

Non-abrogation

- 2.5 This Land Code does not abrogate or derogate from any Aboriginal, Treaty or other rights or freedoms that pertain to the T’Sou-ke First Nation or its members.

Fair Interpretation

- 2.6 This Land Code shall be interpreted in a fair, large and liberal manner.

Fiduciary Relationship

- 2.7 This Land Code does not abrogate the fiduciary relationship between Her Majesty and the T’Sou-ke First Nation and its’ members.

Lands and interests affected

- 2.8 A reference to “land” in this Land Code means all rights and resources that belong to the land, and includes

- a) the water, beds underlying water, riparian rights, and renewable and non-renewable natural resources belonging to that land , to the extent that these are under the jurisdiction of Canada; and
- b) all the interests and licenses granted to the T'Sou-ke First Nation by Her Majesty in right of Canada listed in the Transfer Agreement.

3. Authority to Govern

Origin of authority

- 3.1 The traditional teachings of the T'Sou-ke First Nation speak of the obligation of the T'Sou-ke First Nation to care for and respect the land and the magnificent wonders of Nature created on the land. By enacting this Land Code, the T'Sou-ke First Nation is re-assuming this special responsibility.

Flow of authority

- 3.2 The authority of the T'Sou-ke First Nation to govern its lands and resources flows from the Creator to the people of the T'Sou-ke First Nation, and from the people to the Chief and Council according to the culture, traditions, customs and laws of the T'Sou-ke First Nation and from the T'Sou-ke First Nation's inherent right of self government and its rights, including aboriginal title.

Delegation

- 3.3 Council may, by resolution, delegate the performance of any function, decision or authority, other than the power to make laws, relating to the administration and management of T'Sou-ke Nation land to an employee or other official of the T'Sou-ke Nation.

4. Purpose

Purpose

- 4.1 The purpose of this Land Code is to set out the principles and administrative structures that apply to the T'Sou-ke First Nation lands and by which the T'Sou-ke First Nation will exercise authority over those lands.

Ratification

- 4.2 The *Framework Agreement* is ratified and confirmed when this Land Code takes effect.

5. Description of T'Sou-ke First Nation Land

T'Sou-ke First Nation Land

- 5.1 The T'Sou-ke First Nation land that is subject to this Land Code is the Indian Reserve known as, and more particularly described as follows: T'Sou-ke Nation IR#1 and IR#2.

Excluded Lands

- 5.2 Despite section 5.1, the land described as follows is excluded from the application of this Land Code and may only be included after it is cleaned up and a full environmental assessment declares it to be free of environmental hazard and safe for community use:

[None]

Additional Lands

- 5.3 The following lands may be made subject to this Land Code after the applicable condition is met:
- any lands owned jointly by T'Sou-ke First Nation and another First Nation, when the First Nations involved agree upon a joint management scheme for those lands; and
 - any land or interest acquired by the T'Sou-ke First Nation after this Land Code takes effect, whether by land claim, purchase or other process, when an environmental audit declares it free of environmental hazard and safe for community use.

Land Exchange

- 5.4 For greater certainty, section 5.3 does not apply to land acquired by land exchange, which is governed by the process in section 17.

Inclusion of Land or Interest

- 5.5 When the relevant conditions in sections 5.2 and 5.3 are met, the Council shall call a meeting of members under section 11 and, after receiving their input, may by enacting a law declare the land or interest to be subject to this Land Code.

PART 2 **FIRST NATION LEGISLATION**

6. Law-Making Powers

Council may make
Laws

- 6.1 The Council may, in accordance with this Land Code, make laws respecting the development, conservation, protection, management, use and possession of T'Sou-ke First Nation Lands, and interests and licenses in relation to those lands. This power includes the power to make laws in relation to any matter necessary or ancillary to the making of laws in relation to T'Sou-ke First Nation Land.

Examples of Laws

- 6.2 The following examples illustrate some of the laws that may be enacted:
- a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
 - b) laws on the creation, regulation and prohibition of interests and licenses in relation to T'Sou-ke First Nation land;
 - c) laws on environmental assessment and protection;
 - d) laws on the provision of local services in relation to T'Sou-ke First Nation Land and the imposition of equitable user charges; and
 - e) laws on the provision of services for the resolution, outside the courts, of disputes in relation to T'Sou-ke First Nation Land.

7. Law-Making Procedure

Introduction of Laws

7.1 A proposed law may be introduced at a duly convened meeting of the Council by:

- a) a member of Council; or
- b) the representative of any body or authority composed of members that may be authorized by Council to do so.

Tabling and posting of proposed laws

7.2 Before a proposed law may be enacted by the Council, it must first be:

- a) tabled at a meeting of the Council held at least 28 days before the law is to be enacted;
- b) posted in public places on T'Sou-ke First Nation land at least 21 days before the law is to be enacted; and
- c) deposited with the Lands Committee.

Urgent Matters

7.3 The Council may enact a law without the preliminary steps required under section 7.2, if the Council is of the opinion that the law is needed urgently to protect T'Sou-ke First Nation land or the members, but the law expires 28 days after its enactment, unless re-enacted in accordance with section 7.2.

Approval of law by Council

7.4 A law is enacted if it is approved by a majority of the Council at a meeting of the Council open to the members.

Certification of Laws

7.5 The original copy of any law or resolution concerning T'Sou-ke First Nation land shall be signed by a quorum of the Council present at the meeting at which it was enacted.

8. Publication of laws

Publication

- 8.1 All laws shall be published in the minutes of the Council.

Posting Laws

- 8.2 Within 7 days after a law has been enacted, the Council shall post a copy of the law in the administrative offices¹ of the T'Sou-ke First Nation.

Registry of laws

- 8.3 The Council shall cause to be kept, at the administration offices of the T'Sou-ke Nation, a register of the original copy of all laws and resolutions, including laws and resolutions that have been repealed or are no longer in force.

Copies for any person

- 8.4 Any member may obtain a copy of a law or resolution from the Administration Office during regular business hours.
- 8.5 Any non-member may obtain a copy of a law or resolution on payment of a reasonable fee set by the Council, or body designated by Council.

9. Commencement of Laws

Laws taking effect

- 9.1 A law enacted by Council takes effect on the date of its' enactment or such later date as specified by or under the law.

¹ Copies would be posted at all the administrative offices of the T'Sou-ke First Nation.

PART 3
COMMUNITY APPROVALS

10. Rights of eligible voters

Rights of eligible
voters

- 10.1 Each member who is at least 18 years of age is eligible to vote at a meeting of members where a vote is called by Council and at a ratification vote.

11. Community Input

Prior meeting of
members

- 11.1 The Council in conjunction with the Lands Committee shall convene a meeting of members to receive their input prior to the introduction of the following laws:

- a) A law respecting a community plan or subdivision plan;
- b) A law declaring land or an interest referred to in section 5.2 or 5.3 to be subject to this land code;
- c) A law affecting a heritage site or an environmentally sensitive property;
- d) A law respecting environmental assessment;
- e) A law respecting the transfer and assignment of interests in land²;
- f) A law respecting the rate and criteria for the payment of fees or rent for land; and
- g) Any other law or class of law that Council, by resolution, declares to be subject to this section.

² Section 39, on spousal separation, contains a special provision for community participation in the making of rules and procedures on how to deal with interests in T'Sou-ke First Nation land if there is a marriage breakdown.

Process to
implement laws

- 11.2 Subject to section 39, the Lands Committee in conjunction with Council shall, within a reasonable time after this Land Code takes effect, establish a community process to develop and implement the laws referred to in section 11.1.

12. Community Approval at a Meeting of Members

Community approval
by meeting

- 12.1 Community approval at a meeting of members must be obtained for the following:

- a) any land use plan;
- b) any grant or disposition of an interest or license in any T'Sou-ke First Nation land exceeding a term of 25 years³;
- c) any renewal of a grant or disposition of an interest or license in any T'Sou-ke First Nation land that extends the original term beyond 25 years;
- d) any grant or disposition of any natural resources on any T'Sou-ke First Nation lands exceeding a term of 5 years;
- e) a charge or mortgage of a leasehold interest;
- f) any voluntary exchange of T'Sou-ke First Nation Land;
- g) any law on spousal separation that may be enacted under section 39; and
- h) any law or class of law that Council, by resolution, declares to be subject to this section.

Community Notification

- 12.2 The Council shall give written notice to the membership of any approvals in 12.1 that are less than 25 years.

³ Community approvals are not needed for grants of lots or CP's to members or transfers among members.

13. Procedure at a Meeting of Members

Voting

- 13.1 Decisions at a meeting of members are to be made by a majority vote of the eligible voters present at the meeting.

Notice of meeting

- 13.2 The Council shall give written notice of the meeting of members that
- a) specifies the date, time and place of the meeting; and
 - b) contains a brief description of the matters to be discussed and decided on at the meeting.

Manner of notice

- 13.3 The notice of a meeting of members must be given to the members by
- a) posting the notice in a public place on T'Sou-ke First Nation Land at least 21 days before the meeting;
 - b) mailing the notice to on and off reserve members;
 - c) publishing the notice in the community newsletter at least 10 working days before the meeting; and
 - | d) additional methods as the Council may consider appropriate in the circumstances such as phone calls, emailing and faxing members.

Who may attend

- 13.4 All members have a right to attend a meeting of members, but other persons may attend with the permission of Council.

Quorum

- 13.5 The quorum for a meeting of members under this Land Code is 50% plus 1 of Eligible Voters⁴ in attendance provided that there is no less than 20 Eligible Voters present.

⁴ The quorum of 20 Eligible Voters includes both on and off reserve members.

Other Meetings

- 13.6 Where a quorum of members was not in attendance at a meeting held in accordance with section 13.5, the Council may call a second meeting for the purpose of conducting a vote.
- 13.7 The Council shall give notice of a second meeting of members in accordance with section 13.2 and 13.3.
- 13.8 Where a second meeting of members is held and a majority of the Eligible Voters present at the meeting vote in favor of the matter proposed, the proposal shall be approved.

Other Laws

- 13.9 For greater certainty, the Council may make laws respecting meeting of members.

14. Ratification Votes

Community approval
by ratification vote

- 14.1 Community approval by a ratification vote, conducted by an Elections Officer certified by Indian and Northern Affairs Canada, must be obtained for the following:
 - a) any voluntary exchange of T'Sou-ke First Nation Land;
 - b) any amendment to this Land Code⁵; and
 - c) any law or class of law that Council, by resolution, declares to be subject to this section.

Transfer Agreement
with Canada

- 14.2 An amendment to, or renewal of, the Transfer Agreement does not require community approval by ratification vote, unless the amendment or renewal reduces the amount of funding provided by Canada; Council will notify the Members if the amount of funding provided by Canada is increased.

⁵ This could include rules and procedures on spousal separation made under section 39.

Ratification Process

14.3 Any ratification vote required under this Land Code shall be conducted in substantially the same manner as the T'Sou-ke First Nation Community Ratification Process, which was used to ratify this Land Code.

No Verifier

14.4 A verifier is not needed in any ratification vote, except a vote on an amendment to this Land Code.

Minimum requirements for approval.

14.5 A matter shall be considered approved at a ratification vote if a majority of the registered voters cast a vote in favor of the matter.

Other laws

14.6 For greater certainty, the Council may make laws respecting ratification votes.

PART 4
PROTECTION OF LAND

15. Expropriation

No Expropriation

15.1 There shall be no expropriation of any interest or license in T'Sou-ke First Nation Land by the T'Sou-ke First Nation.

16. Heritage Sites

Community approval of development

16.1 No development shall be allowed on any site designated as a heritage site under the land use plan.

Land Use Plan

- 16.2 No amendment may be made to a land use plan to change the use of a heritage site unless the amendment receives community approval by a ratification vote.

17. Voluntary Land Exchanges and Protections

Conditions for a land exchange

- 17.1 The T'Sou-ke First Nation may agree with another party to exchange a parcel of T'Sou-ke First Nation Land for a parcel of land from that other party in accordance with this Land Code and the *Framework Agreement*.

No Effect

- 17.2 A land exchange is of no effect unless it receives community approval by a ratification vote.

Land to be received

- 17.3 No land exchange may occur unless the land to be received in the exchange meets the following conditions:

- a) it must be equal to or greater than the area of T'Sou-ke First Nation land to be exchanged
- b) it must be at least comparable to the appraised value of the T'Sou-ke First Nation land; and
- c) it must become a reserve and T'Sou-ke First Nation land subject to this Land Code.

Negotiators

- 17.4 The persons who will have authority to negotiate a land exchange agreement on behalf of T'Sou-ke First Nation must be designated by resolution.

Additional land

- 17.5 The T'Sou-ke First Nation may negotiate to receive other compensation, such as money or one or more other parcels of land, in addition to the parcel referred to in section 17.1, which is intended to become a reserve. Such other parcels of land may be held by the T'Sou-ke First Nation in fee simple or some other manner.

Federal Consent

17.6 Before the T'Sou-ke First Nation concludes a land exchange agreement, it must receive a written statement from Canada clearly stating that Her Majesty in Right of Canada;

- a) consents to set apart as a reserve the land to be received in exchange, as of the date of the land exchange or such later date as the Council may specify by resolution; and
- b) consents to the manner and form of the exchange as set out in the exchange agreement.

Community notice

17.7 Once negotiations on the land exchange agreement are concluded, the Council in conjunction with the Lands Committee shall provide the following information to eligible voters at least 21 days before the Ratification Vote provided for in section 17.2:

- a) A description of the T'Sou-ke First Nation land to be exchanged;
- b) A description of the land to be received in the exchange;
- c) A description of any other compensation to be exchanged;
- d) A report of a certified land appraiser setting out that the conditions in section 17.3 have been met;
- e) A copy or summary of the exchange agreement; and
- f) A copy of the consent referred to in section 17.6.

Process of Land Exchange

17.8 The Land exchange agreement shall provide that

- a) The other party to the exchange must transfer to Canada the title to the land which is to be set apart as a reserve;
- b) The Council must pass a resolution authorizing Canada to transfer title to the T'Sou-ke First Nation land being exchanged, in accordance with the exchange agreement; and

- c) A copy of the instruments transferring title to the relevant parcels of land must be registered in the T'Sou-ke First Nation's Land Registry.

PART 5
ACCOUNTABILITY

18. Conflict of Interest

Application of Rules

18.1 The rules in section 18.2 apply to the following persons:

- a) each member of Council who is dealing with any matter before the Council that is related to T'Sou-ke First Nation land;
- b) each person who is an employee of the T'Sou-ke First Nation dealing with any matter that is related to T'Sou-ke First Nation land; and
- c) each person who is a member of a board, committee or other body of T'Sou-ke First Nation dealing with any matter that is related to T'Sou-ke First Nation land.

Duty to report and abstain

18.2 If there is any interest, financial or otherwise, in the matter being dealt with that might involve the person or his or her immediate relatives, the person

- a) shall disclose the interest to the Council, or the board, committee or other body as the case may be; and
- b) shall not take part in any deliberations on that matter or vote on that matter.

Common Interests

18.3 Section 18.2 does not apply to any interest that is held by a member in common with every other member.

Meeting of eligible voters

- 18.4 If the Council is unable to vote on a proposed law or resolution due to a conflict of interest, the Council may refer the matter to a Meeting of the Members and, if a quorum of eligible voters is present, a majority of the eligible voters present at the meeting may enact the law or resolution.

Inability to act

- 18.5 If the board, committee or other body referred to in paragraph 18.1 (c), is unable to act due to a conflict of interest, the matter shall be referred to the Council.

Specific conflict situations

- 18.6 Because of the unusual conflicts of interest possible in the community, there should, where possible, at least one representative from differing extended families on a board, committee or other body⁶ referred to in paragraph 18.1 (c), dealing with any matter that is related to T'Sou-ke First Nation land.

Disputes

- 18.7 Questions about whether a breach of this section have occurred may be referred to the Panel.

Other laws

- 18.8 For greater certainty, the Council may enact laws to further implement this section.

19. Financial Management

Application

- 19.1 This section applies only to financial matters relating to the T'Sou-ke First Nation Land.

Establishment of bank accounts

- 19.2 The Council shall maintain one or more financial accounts in a financial institution and shall deposit in those accounts

⁶ The Council is not included under this rule.

- a) transfer payments received from Canada for the management and administration of First Nation Land;
- b) moneys received by the T'Sou-ke First Nation from the grant or disposition of any interests or licenses in T'Sou-ke First Nation land;
- c) all fees, fines, charges and levies collected under a land law or land resolution;
- d) all capital and revenue moneys received from Canada from the grant or disposition of any interests or licenses in T'Sou-ke First Nation land; and
- e) Any other land revenue received by the T'Sou-ke First Nation.

Signing officers

19.3 The Council shall authorize at least three persons, at least one of whom shall be a member of the Council, to sign cheques and other bills of exchange or transfer drawn on the account.

Bonding

19.4 Every signing officer must be bondable.

Two signatures

19.5 To be valid, a cheque or bill of exchange or transfer drawn on the account must be signed by any two signing officers referred to in section 19.3.

Fiscal year

19.6 The fiscal year of the T'Sou-ke First Nation begins on April 1 of each year and ends on March 31 of the following year.

Adoption of budget

19.7 The Council shall, by resolution, prior to the beginning of each fiscal year, adopt a land management budget for that fiscal year and may, if the Council deems it necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.

Procedure

- 19.8 After adopting the land management budget or supplementary budget, the Council shall, without undue delay
- a) Present the budget or supplementary budget to the members at an annual community meeting or a Meeting of the Members; and
 - b) Make a copy of the budget or supplementary budget available at the administrative offices of the T'Sou-ke First Nation for inspection by members at reasonable hours.

If no budget

- 19.9 If the Council fails to adopt a land management budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.

Budget rules

- 19.10 The Council may make rules respecting the preparation and implementation of land management budgets.

Expenditures

- 19.11 The Council may not expend moneys related to land or commit itself, by contract or otherwise, to expend moneys related to land, unless the expenditure is authorized by or under a law or an approved budget.

Financial policy

- 19.12 The T'Sou-ke First Nation may, in accordance with this Land Code, adopt a financial policy to further manage moneys related to T'Sou-ke First Nation land.

20. Financial Records

Financial Records

- 20.1 The T'Sou-ke First Nation shall keep financial records related to land in accordance with generally accepted accounting principles.

Offences

- 20.2 A person is guilty of an offence if the person

- a) impedes or obstructs anyone from exercising their right to inspect the financial records of the T'Sou-ke First Nation; or
- b) has control of the books or account or financial records of the T'Sou-ke First Nation and fails to give all reasonable assistance to anyone exercising their right to inspect the financial records.

Preparation of
financial statement

- 20.3 Within 90 days after the end of each fiscal year, the Council on behalf of the T'Sou-ke First Nation shall prepare a financial statement in comparative form, containing at a minimum
- a) a balance sheet
 - b) a statement of revenues and expenditures and a comparison of these with amounts stated in the Land Management budget and any supplementary budget; and
 - c) any other information necessary for a fair presentation of the financial position of the T'Sou-ke First Nation.

Consolidated accounts, etc.

- 20.4 The accounting, auditing and reporting requirements of this Land Code may be done together with, and consolidated with, the other accounts, audits and reports of the T'Sou-ke First Nation.

21. Audit

Appointment of
auditor

- 21.1 For each fiscal year, a duly accredited auditor shall be appointed to audit the land related financial records of the T'Sou-ke First Nation.

Holding office

- 21.2 The auditor appointed under this section holds office until reappointed, or replaced.

Vacancy in office

- 21.3 Where a vacancy occurs during the term of an auditor, the Council shall, without delay, appoint a new auditor for the remainder of the former auditor's term.

Remuneration

21.4 The auditor's remuneration shall be fixed by the Council.

Duty of auditor

21.5 The auditor shall, within 120 days after the end of the T'Sou-ke First Nation's fiscal year, prepare and submit to the Council, a report on the T'Sou-ke First Nation's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the T'Sou-ke First Nation in accordance with generally accepted accounting principles applied on the basis consistent with that applied in the previous fiscal year.

Access to records

21.6 In order to prepare the report on T'Sou-ke First Nations financial statement, the auditor may at all reasonable times inspect any financial records of the T'Sou-ke First Nation and any person or body who administers money on behalf of the T'Sou-ke First Nation.

Explanation of
auditor's report

21.7 The Council shall present the auditor's report to the members at a Meeting of Members or an annual community meeting.

22. Annual Report

Publish annual report

22.1 The Council, on behalf of the T'Sou-ke First Nation, shall publish an annual report on T'Sou-ke First Nation Lands issues within one month of the receipt of the community's audit.

Contents

22.2 The annual report will include

- a) an annual review of land management;
- b) a copy and explanation of the audit as it applies to lands; and
- c) any other matter considered worth including by the Council or Lands Committee.

23. Access to information

Access

23.1 Any person may, during normal business hours at the main administrative office of T'Sou-ke First Nation, have reasonable access to

- a) the register of laws;
- b) the auditor's report; and
- c) the annual report on the T'Sou-ke First Nation's Lands issues.

Copies for members

23.2 Any member may obtain a copy of the auditor's report or annual report.

Access to records

23.3 Any person authorized by the Council may, at any reasonable time, inspect the financial records of T'Sou-ke First Nation related to First Nation land.

PART 6 **LAND ADMINISTRATION**

24. Lands Committee

Lands Committee
established

24.1 The Lands Committee is hereby established to

- a) assist with the development of the land administration system;
- b) advise the Council and its staff on matters respecting T'Sou-ke First Nation land;
- c) recommend laws, resolutions, policies and practices respecting T'Sou-ke First Nation land to the Council;

- d) hold regular and special meetings of members to discuss T'Sou-ke First Nation Land issues and make recommendations to Council on the resolution of such issues;
- e) to assist in the exchange of information on land issues between members and the Council;
- f) oversee community approvals and consultation under this Land Code;
- g) keep up to date on all Land Management operations; and
- h) such other duties and functions as Council may direct.

Development of land
related rules and
procedures

24.2 Within a reasonable time after this Land Code takes effect, the Lands Committee shall, in consultation with the community, ensure that rules and procedures are developed that address the following matters:

- a) environmental protection and assessment in relation to T'Sou-ke First Nation Land;
- b) any outstanding issues on the resolution of disputes in relation to T'Sou-ke First Nation land; and
- c) land use planning and zoning; and
- d) section 39 respecting matrimonial property and spousal separation and whether any change should be made to the policy upon which that section is based.

Implementation of
policies

24.3 The rules and procedures, once developed, shall be presented to the Council for consideration and implementation as policies, laws or amendments to this Land Code, whichever is most appropriate.

Internal procedures

24.4 The Lands Committee may establish rules for the procedure at its meetings and generally for the conduct of its affairs, provided that such rules are not inconsistent with those established by the Council.

25. Membership of the Lands Committee

Composition

- 25.1 The Lands Committee shall be composed of 11 members, all of whom must be eligible voters.

Eligibility to be a
Lands Committee
Member

- 25.2 Any eligible voter, whether resident on or off T'Sou-ke First Nation land, is eligible for appointment or election to the Lands Committee, except for the following persons:

- a) any person convicted of a corrupt practice, including accepting a bribe, dishonesty or wrongful conduct.

Selection of Lands
Committee members

- 25.3 The members of the Lands Committee are to be selected as follows:

- a) one eligible voter is to be appointed by Council;
- b) one member of Council is to be appointed by Council;
- c) the other members are to be elected by eligible voters.

Term of Office

- 25.4 The term of office for members of the Lands Committee will be 2 years.

Initiating terms

- 25.5 The commencement for the terms of office of the members of the Lands Committee are initiated as follows:

- a) the 2 appointed members are to be appointed by the Council as soon as possible after the election of Council;
- b) the other elected members are to be elected following the Ratification of the Land Code on its effective date through the term of 2 years on a date fixed by the Council.

Election law

- 25. The Council shall enact a law to establish the procedure for the Lands Committee selection, including transitional rules for the first members of the Lands Committee.

Vacancy on Lands Committee

25.7 The office of a member of the Lands Committee becomes vacant if the person, while holding office,

- a) is or becomes ineligible to hold office under section 25.2;
- b) is or becomes ineligible because of a transfer of membership from the T'Sou-ke First Nation; or
- c) is absent for 3 consecutive meetings of the Lands Committee for a reason other than illness or incapacity, and without being authorized to do so by the Lands Committee.
- d) dies;
- e) is mentally incompetent; or
- f) is removed by recommendation of the Lands Committee approved by Resolution.

Vacancy in term

25.8 Where the office of an elected or appointed member of the Lands Committee becomes vacant for more than 90 days before the date when another appointment of election would ordinarily be held, a special election may be held or appointment made in accordance with this Land Code, as the case may be, to fill the vacancy.

Balance of term of office

- 25.9 A member of the Lands Committee appointed or elected to fill a vacancy remains in office for the balance of the term in respect of which the vacancy occurred.

26. Chairperson of the Lands Committee

Chairperson

- 26.1 The member of Council who is appointed to the Lands Committee under paragraph 25.3 (b) is the chairperson of the Lands Committee, unless his or her duties on Council preclude fulfilling this function.

Alternate Chairperson

- 26.2 If the Chairperson is unable to perform the functions of office, either temporarily or on a long-term basis, the Lands Committee, shall appoint one of the other Lands Committee members to act as or be the Chairperson.

Functions of Chairperson

- 26.3 The functions of the Chairperson are to

- a) ensure the preparation of financial statements relating to all activities of the Lands Committee, including the revenues and expenditures concerning T'Sou-ke First Nation's Lands;
- b) table the Lands Committee's financial statements with the Council;
- c) report to the members on the activities of the Lands Committee;
- d) ensure the audited annual financial statements are published under section 21;
- e) chair meetings of the committee; and
- f) all other functions as reasonably prescribed by Council.

27. Revenue from Lands

Determination of fees and rent

- 27.1 The Lands Committee shall, subject to the approval of the Council, establish the process for determining
- a) the fees and rent for interests and licenses in community land; and
 - b) the fees for services provided in relation to any T'Sou-ke First Nation land.

28. Registration of Interests and Licenses

Enforcement of interests and licenses

- 28.1 An interest or license in T'Sou-ke First Nation land created or granted after this Land Code takes effect is not enforceable unless it is registered in the T'Sou-ke First Nations Lands Register.

Registration of consent or approval

- 28.2 No instrument that requires the consent of the Council, or community approval, may be registered unless a verified copy of the document that records the consent or approval is attached.

Duty to deposit

- 28.3 The Council shall ensure that an original copy of the following instruments is deposited in the T'Sou-ke First Nation's Land Register;
- a) any grant of an interest or license in T'Sou-ke First Nation Land;
 - b) any transfer or assignment of an interest in T'Sou-ke First Nation Land;
 - c) every land use plan, subdivision plan or resource use plan; and
 - d) this Land Code and any amendments to this Land Code.

29. Duplicate Lands Register

Duty to maintain
duplicate register

- 29.1 The Council shall maintain a Duplicate Land Register in the same form and with the same content as the T'Sou-ke First Nations Land Register.

Duty of member to deposit

- 29.2 Every person who receives an interest or license in T'Sou-ke First Nation land from a member shall deposit an original copy of the relevant instrument in the Duplicate Land Register

PART 7 **INTERESTS AND LICENSES IN LAND**

30. Limits on interests and licenses

All dispositions in
writing

- 30.1 An interest in, or license to use, T'Sou-ke First Nation land may only be created, granted, disposed of, assigned or transferred by a written document in accordance with this Land Code.

Standards

- 30.2 The Council may establish mandatory standards, criteria and forms for interests and licenses in T'Sou-ke First Nation Land.

Improper transactions
void

- 30.3 A deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which T'Sou-ke First Nation, a member or any other person purports to grant, dispose of, transfer or assign an interest or license in T'Sou-ke First Nation Land after the date this Land Code takes effect is void if it contravenes this Land Code.

Non-Members

- 30.4 A person who is not a member may only hold a lease, license or permit in T'Sou-ke First Nation land.

Grants to non-members

- 30.5 The written consent of Council must be obtained for any grant or disposition of a lease, license or permit in T'Sou-ke First Nation land to a person who is not a member.

31. Existing interests

Continuation of existing interests

- 31.1 Any interest or license in T'Sou-ke First Nation land that existed when this Land Code takes effect will, subject to this Land Code, continue in force in accordance with its terms and conditions.

32. New Interests and Licenses

Authority to make dispositions

- 32.1 Subject to section 12.1, the Council may, on behalf of the T'Sou-ke First Nation, grant

- a) interests and licenses in community lands, including certificates of possession, leases, permits, easements and rights-of-ways; and
- b) permits to take resources from community lands, including cutting timber, or removing minerals, stone, sand, gravel, clay, soil or other substances.

Conditional grant

32.2 The grant of an interest, license or permit may be made subject to the satisfaction of written conditions.

Role of the Lands Committee

32.3 The Lands Committee shall advise Council on the granting of interests, licenses and permits and may be authorized to act as a delegate of the Council under this section.

33. Certificates of Possession

Application

33.1 This section codifies the rights attaching to certificates of possession, whether issued under the *Indian Act* or under this Land Code.

Nature of interest in CP

33.2 Subject to sections 12.1 and 28, a certificate of possession in respect of a parcel of land is an interest that entitles the member holding it to

- a) permanent possession of the parcel;
- b) benefit from the resources arising from the parcel;
- c) grant subsidiary interests and licenses in the parcel, including leases, permits, easements and rights-of-ways;
- d) transfer, devise or otherwise dispose of the parcel to another member;
- e) grant permits to take resources from the parcel, including cutting timber or removing minerals, stone, sand, gravel, clay, soil or other substances;

- f) any other rights, consistent with this Land Code, that are attached to certificates of possession under the *Indian Act*.⁷

34. Allocation of Land

Allocation of lots

- 34.1 The Council may, by lease or other disposition, allocate lots of available land to members in accordance with procedures established by the Council.⁸

Allocation of lots

- 34.2 No Community approval is required for

- a) the allocation of lots to members; or
- b) the issuance of certificates of possession to members

No allocation of lots
to non-members

- 34.3 A person who is not a member is not entitled to be allocated a lot or to hold a permanent interest in T'Sou-ke First Nation land.

Issuance of CP

- 34.4 The Council may issue a certificate of the interest to a member for a lot allocated to that member.

35. Transfer and assignment of interests

Transfer of CP's

- 35.1 A member may transfer or assign an interest in T'Sou-ke First Nation land to another member without the need for any community approval or consent of the Council.

Consent of Council

⁷ For example, ministerial approval of transfers of a CP would not be included in (f).

⁸ Allocation is generally done by CP, although the issuance of a CP may be conditional on financing. Some residential units or apartment units could also be established by lease or rental arrangement.

35.2 Except for transfers under section 35.1 and transfers that occur by operation of the law,⁹

- a) there shall be no transfer or assignment of an interest in T'Sou-ke First Nation land without the written consent of the Council; and
- b) the grant of an interest or license is deemed to include section 35.2(a) as a condition on any subsequent transfers or assignments.

36. Limits on Mortgages and Seizures

Protections

36.1 In accordance with the Framework Agreement, section 29, section 87 and subsections 89(1) and (2) of the Indian Act continue to apply to First Nations land.

Mortgage of CP

36.2 The interest of a member in First Nation land may be subject to a mortgage or charge, but only to the T'Sou-ke First Nation with the written consent of the Council.¹⁰

Mortgages of
leasehold interests
with consent

36.3 A leasehold interest may be subject to charge or mortgage, but only with the written consent of the Council.

Time Limit

36.4 The term of any charge or mortgage of a leasehold interest shall not exceed the lesser of

- a) the term of the lease; or
- b) 25 years, or such longer period as may receive community approval referred to in section 12.1.

Default in mortgage

⁹ Examples are wills and estates and the right of a spouse to a matrimonial home on spousal separation.

¹⁰ The Indian Act (s. 89) allows mortgages between status Indians and the Band.

- 36.5 In the event of default in the terms of a charge or mortgage of a leasehold interest, the leasehold interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure, unless
- a) the charge or mortgage received with the written consent of Council;
 - b) the charge or mortgage received community approval where required;
 - c) the charge or mortgage was registered in the T'Sou-ke First Nations' Land Register; and
 - d) a reasonable opportunity to redeem the charge or mortgage is given to the Council on behalf of the T'Sou-ke First Nation.

Power of redemption

- 36.6 If the Council exercises its power of redemption with respect to a leasehold interest, the T'Sou-ke First Nation becomes the lessee of the land and takes the position of the chargor or mortgagor for all purposes after the date of the redemption.

37. Residency and access rights

Right of residence

- 37.1 The following persons have a right to reside on First Nation Lands:
- a) members, who have been allocated a residential lot by Council, and their spouses¹¹ and children;
 - b) members with a registered interest in T'Sou-ke First Nation land;
 - c) any invitee of a member referred to in clause (a) or (b); and
 - d) lessees and permittees, in accordance with the provisions of the instrument granting the lease or permit.

Right of Access

- 37.2 The following persons have a right of access to T'Sou-ke First Nation lands:
- a) a lessee and his or her invitees;
 - b) permittees and those granted a right of access under the permit;

¹¹ "spouse" is intended here to include "common-law" spouses.

- c) T'Sou-ke First Nation members and their spouses and children;
- d) a person who is authorized by a government body or any other public body established by or under an enactment of the T'Sou-ke First Nation, parliament or the province to establish, operate or administer a public service, to construct or operate a public institution or to conduct a technical survey;
- e) a person authorized in writing by the Council/Lands Committee or by a T'Sou-ke First Nation Law; or
- f) invitees of Members

Public Access

- 37.3 Any individual may have access to T'Sou-ke First Nation land for any social or business purposes, if
- a) the individual does not trespass on occupied land;
 - b) the individual does not interfere with any interest in land;
 - c) the individual complies with all applicable laws; and
 - d) no resolution has been enacted barring that individual.

Trespass

- 37.4 Any person who resides on, enters or remains on T'Sou-ke First Nation land other than in accordance with a residence or access right under this Land Code is guilty of an offence.

Civil remedies

- 37.5 Subject to a Law passed under section 6.1 or 6.2, all civil remedies for trespass are preserved.

38. Spousal property law

Development of rules
and procedures

- 38.1 The Council shall enact a spousal property law providing rules and procedures applicable on the breakdown of marriage, to

- a) The use, occupancy and possession of T'Sou-ke First Nation land; and
- b) The division of interests in that land.

Enactment of rules
and procedures

- 38.2 The rules and procedures contained in the spousal property law shall be developed by the Lands Committee in consultation with the community.

Enactment deadline

- 38.3 The spousal property law must be enacted within 12 months from the date this Land Code takes effect.

General principles

- 38.4 For greater certainty, the rules and procedures developed by the Lands Committee under this section must respect the following general principles¹²;

- a) each spouse should have an equal right to possession of their matrimonial home;
- b) each spouse should be entitled to an undivided half interest in their matrimonial home, as a tenant in common;
- c) the rules and procedures shall not discriminate on the basis of sex;
- d) only members are entitled to hold a permanent interest in T'Sou-ke First Nation land or a charge against a permanent interest in T'Sou-ke First Nation land;
- e) a Child(ren) of a Spouse has a right to reside in the matrimonial home.

Immediate rules

- 38.5 In order that members benefit immediately from the legislative authority of the Council to address the issue of spousal property under this Land Code, the Council may enact a spousal property law as soon as this Land Code comes into force. As this law would be enacted before the work of the Lands Committee and the community consultation is complete, the law will expire at the end of the 12 month period after the coming into force of this Land Code, unless re-enacted under section 39.1, replaced or amended.

¹² These general principles would form the structure of the rules. There could be some specific exceptions, e.g. the right of a couple to negotiate a marriage contract to vary the general right of a spouse to a half interest in the matrimonial home.

39. Transfers on Death

Transfer of an Interest

- 39.1 A transfer of an interest in T'Sou-ke First Nation land executed in the manner prescribed by Council by the executor or administrator of an estate, together with a true copy of the will or letters of administration, shall be effective to transfer that interest from the estate to the beneficiary, subject to any applicable terms and conditions.

Transfer to a Beneficiary

- 39.2 Notwithstanding clause 38.2, the order of a court of competent jurisdiction directing the transfer of an interest in T'Sou-ke First Nation land from an estate to a beneficiary shall be effective to transfer that interest, subject to any applicable terms and conditions, provided that the prescribed period during which the order can be appealed has elapsed and no appeal has been filed.

Beneficiary Entitlement

- 39.3 Clauses 38.1 and 38.2 do not apply if the beneficiary of the transfer is not entitled to hold an interest in T'Sou-ke First Nation land.

Duty of Applicant

- 39.4 It is the duty of the person applying to effect a transfer of an estate's interest in T'Sou-ke First Nation land to satisfy the Land Manager, by affidavit or otherwise, that all conditions precedent to an effective transfer under this section have been met.

PART 8
DISPUTE RESOLUTION

40. Dispute resolution panel

Panel established

- 40.1 The dispute resolution Panel is hereby established with jurisdiction to resolve disputes in relation to T'Sou-ke First Nation land.

Appointment of Panel

- 40.2 The panel shall be comprised of 5 panellists, all of whom must be eligible voters.

Representation

- 40.3 The Lands Committee shall appoint the panellists, and shall ensure that the Panel represents the various elements of the community, including elders, youth, professionals and non-resident members.

Term of office

- 40.4 The panellists hold office for a term of 3 years.

No Remuneration

- 40.5 Panellists are to act on a volunteer basis and receive no remuneration for their services.

41. Dispute Procedure

Disputes

- 41.1 Any matter or dispute related to T'Sou-ke First Nation land may be referred to the Panel for resolution.¹³

¹³ Disputes that arose before the Land Code takes effect could also be referred to the Panel.

Optional process

41.2 An application to the Panel to resolve a dispute is optional. All other civil remedies continue to be available to a party to the dispute.

Disputes not resolved
by Council

41.3 If a member, or a non-member with an interest in T'Sou-ke First Nation Land, has a dispute with the Lands Committee or with the Council, the person must first attempt to resolve that dispute with the Council or the Lands Committee before referring the dispute to the Panel.

Application
procedures

41.4 Applications to the Panel shall be made in accordance with the procedures established by the Panel.

Limitation period

41.5 The limitation period for referring a matter or dispute to the Panel is

- a) 60 days after the day the decision, act or omission being referred was made;
- b) in the case of an estate dispute under section 38.4, 18 months after the date of the death; or
- c) in the case of a dispute with the Lands Committee or the Council, 30 days after the Lands Committee or Council rejects the attempts at resolution made under section 41.3.

Panel of three

41.6 Disputes referred to the Panel are to be heard by 3 panellists chosen as follows:

- a) one panelist is to be chosen by each of the two parties to the dispute;
- b) one panelist, who is to be the chairperson, is to be chosen by the rest of the Panel;
and

- c) in the case of situations not adequately covered by section (a) or (b), all three panelists are to be chosen by the Panel as a whole.

42. Impartiality

Duty to act impartially

- 42.1 The Panel shall act impartially and without bias or favor to any party in a dispute

Offence

- 42.2 It is an offence for a person to act, or attempt to act, in a way to improperly influence a decision of the Panel.

Rejection of application

- 42.3 In addition to any other sanction, the Panel may reject an application without hearing it if the Panel believes that the applicant acted, or attempted to act, in a way to improperly influence its decision.

43. Powers of Panel

Powers of Panel

- 43.1 The Panel may, after hearing a dispute

- a) confirm or reverse the decision, in whole or in part;
- b) substitute its own decision for the decision in dispute;
- c) direct that an action be taken or ceased; or
- d) refer the matter or dispute back for a new decision.

Rules of Panel

- 43.2 The Panel may establish rules for the procedure at its hearings and generally for the conduct of its affairs.

Professional Services

- 43.3 The Panel may obtain the service of professionals to assist it in fulfilling its functions, in which case it shall make best efforts to use professional services available in the community.

Written decisions

- 43.4 Decisions of the Panel must be in writing, signed by the person chairing the Panel or by an officer designated by the Panel to do so.

Reasons

- 43.5 The Panel may give reasons for its decision, and shall do so in writing if a party to the proceedings request them before, or within 14 days after, the date of decision.

Appeal of Decision

- 43.6 A decision of the Panel is binding but, subject to any exception established by a law, may be appealed to the Federal Court (Trial Division).

PART 9
OTHER MATTERS

44. Liability

Liability Coverage

- 44.1 The Council shall arrange, maintain and pay, out of transfer payments received from Canada, insurance coverage for its officers, employees and the T'Sou-ke First Nation engaged in carrying out any matter related to T'Sou-ke First Nation land to indemnify them against personal liability arising from the performance of those duties.

Extent of coverage

- | 44.2 The extent of the insurance coverage shall be determined by the Council.

Bonding

- 44.3 Every employee of the T'Sou-ke First Nation whose responsibilities include land administration or collecting or accounting for land revenues must be bondable.

45. Offences

Application of the
Criminal Code

- 45.1 Unless some other procedure is provided for by a law, the summary conviction procedure of Part XXVII of the *Criminal Code*, as amended from time to time, apply to offences under this Land Code or under a law.

46. Amendments to Land Code

Community Approval

- 46.1 All amendments that change the substance of this Land Code must receive community approval by ratification vote on an amendment.

Verifier

- 46.2 A verifier is required in a ratification vote on an amendment.

Revisions

- 46.2 A Ratification Vote is not required for revisions made to this Land Code that do not change the substance of this Land Code. The Council shall, from time to time, arrange and revise this Land Code. Revisions may be made as a result of, but are not limited to:

- a) a reference in this Land Code to a clause in another act or document that has amended and resulted in clause renumbering;
- b) a reference in this Land Code to an Act or parts thereof that have expired, have been repealed or suspended;
- c) minor improvements in the language as may be required to bring out more clearly the intention of the T'Sou-ke Nation without changing the substance of the Land Code;
- d) changes in this Land Code as are required to reconcile seeming inconsistencies with other acts; and
- e) correcting editing, grammatical or typographical errors.

47. Commencement

Preconditions

47.1 This Land Code shall not take effect unless

- a) the community approves this Land Code and the Transfer Agreement with Canada and this Land Code has been certified by the verifier pursuant the *Framework Agreement*; and
- b) the Council has enacted a resolution confirming that adequate funding for land management has been identified and assured by Canada under the Transfer Agreement.

Commencement date

47.2 Subject to section 47.1, this Land Code shall take effect on the first day of the month following the certification of this Land Code by the verifier.

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