

**GENERAL AGREEMENT-IN-PRINCIPLE**

**Between**

**THE DEHCHO FIRST NATIONS**

**And**

**The Government of Canada**

**And**

**The Government of the Northwest Territories**

WHEREAS Dehcho First Nations have lived in the Dehcho Territory according to their own laws and systems of government since time immemorial; and

WHEREAS the Peace Treaties of 1899 and 1921 between the Dene and the Crown recognize the inherent political rights and powers of the Dehcho First Nations; and

WHEREAS Canada, the GNWT and the DFN have entered into a Framework Agreement, and an Interim Measures Agreement (IMA), and Canada and the DFN have entered into an Interim Resource Development Agreement (IRDA), an Interim Land Withdrawals Agreement, a Memorandum of Understanding on Expansion of Nahanni National Park Reserve, an Interim Park Management Arrangement and a Settlement Agreement, all of which agreements remain valid and effective; and

WHEREAS the laws of the Dehcho Dene do not allow them to cede, release, surrender or extinguish their inherent rights; and

WHEREAS the Parties agree that the reconciliation of the legitimate constitutional interests of the Dehcho Dene and of the Crown can only be achieved if the Parties agree to make mutual concessions during the negotiating process; and

WHEREAS the Parties share the objective to negotiate and agree upon a solution in respect of their legitimate rights and interests; and

WHEREAS the Parties, in an effort to promote the attainment of their common objective, agree to pursue their negotiations without any prejudice to their respective legal positions and to ensure that their communications during their negotiations may not be used by one Party against the other before the courts; and

WHEREAS the Parties have agreed upon an Agreement-in-Principle which shall serve as the basis for the drafting of a Treaty which shall be a modern treaty within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

## ARTICLE 1 – DEFINITIONS

Agreement means: this agreement.

Community Government:

Crown Lands means:

Dehcho Dene means: a person who is a descendant of a Dene who resided on, used or occupied land in the Dehcho Territory prior to December 31<sup>st</sup>, 1922, and who identifies as a Dene or as a Metis, or a person who was adopted as a minor under the laws of any jurisdiction or under Dehcho Dene custom by a Dene who resided on, used or occupied land in the Dehcho Territory prior to December 31<sup>st</sup>, 1922, or is a descendant of a person so adopted.

Dehcho Agreement means: the Dehcho Final Agreement.

Dehcho Ndehe means: Lands retained by the Dehcho First Nations and owned in fee simple, inclusive of all sub-surface minerals.

Kue Zhagola Gondehe means: Community lands owned in fee simple title, inclusive of all sub-surface minerals.

Minerals means: (includes oil and gas)

Ndeh

Retained Land means:

Shared Lands means:

Settlement Area means:

## **ARTICLE 2 – GENERAL PROVISIONS AND CERTAINTY**

### **2. PURPOSE AND SCOPE OF THE AGREEMENT-IN-PRINCIPLE**

#### **2.1.1**

This agreement is an Agreement-in-Principle of general nature in which the Parties agree upon the structure, the general direction and the principles that will guide the drafting of the Dehcho Agreement. It is also an agreement, where specified, that certain actions will be taken by the Parties.

#### **2.1.2**

The Dehcho Agreement will not be limited to the provisions of this Agreement but will remain substantially in conformity with this Agreement.

#### **2.1.3**

This Agreement does not create legal obligations binding the Parties, nor does it infringe on the obligations or existing rights of the Parties and shall not be construed so as to abrogate, derogate or recognize any aboriginal, treaty or any other right.

#### **2.1.4**

This Agreement-in-Principle was negotiated and concluded without prejudice to the rights of the Parties and nothing in this agreement can be construed as changing the legal situation of either Party or modifying the legal relationship between Canada and the Dehcho First Nations prior to the conclusion of the Dehcho Agreement and the coming into force of the implementation legislation.

### **2.2 NATURE OF THE DEHCHO AGREEMENT**

The Dehcho Agreement shall be a modern treaty and shall have the legal protection of a “land claims agreement” under sections 25 and 35 of the *Constitution Act, 1982*. The Parties acknowledge that the term “land claims agreement” is used herein because that term is used in the *Constitution Act, 1982*, and not because the Dehcho Dene “claim” any land within the Dehcho Territory.

### **2.3 RECOGNITION OF ABORIGINAL RIGHTS AND CERTAINTY**

#### **2.3.1**

The Aboriginal and Treaty rights, including Aboriginal title and rights under Treaties 11 and 8, of the Dehcho Dene shall be recognized, affirmed and continued by the Dehcho Agreement and the implementation legislation. From then on, these rights shall also be protected by the Dehcho Agreement. They shall have the effects and shall be exercised in the manner provided for in the Dehcho Agreement.

**2.3.2**

The historical and cultural importance of Treaties 8 and 11 shall be recognized in the Dehcho Agreement. The Dehcho Agreement will provide that annual meetings will be held to affirm this importance, to make treaty payments, and to recognize and affirm the importance of the Dehcho Agreement.

**2.3.3**

The rights of the Crown covered by the Dehcho Agreement shall, from then on, be exercised with respect to the lands and resources of the Dehcho in accordance with the provisions of the Dehcho Agreement.

**2.3.4**

Neither the Dehcho Agreement nor the implementation legislation shall have the effect of infringing on the rights of the Dehcho Dene as regards land located outside of the limits of the Northwest Territories.

**2.3.5**

The Dehcho Agreement will not seek to exhaustively enumerate or replace the Aboriginal and treaty rights, including Aboriginal title and rights under Treaties 11 and 8, of the Dehcho Dene with Dehcho Agreement rights. It shall ensure that these rights, as well as the rights it creates, receive protection under section 35(1) of the *Constitution Act, 1982*.

**2.3.6**

Self-government, as an inherent right, is included among the Aboriginal rights of the Dehcho Dene. It shall have the effects and be exercised by the Dehcho Dene and by each Dehcho First Nation community according to the manner set out in the Dehcho Agreement within the Dehcho Territory and, when the Dehcho Agreement so provides, outside of the Dehcho Territory.

**2.3.7**

The cultures of the Dehcho Dene as well as their language, Dene Zhatie, shall be protected by the Dehcho Agreement. The Dehcho Agreement shall facilitate the adoption of protection and promotion measures for the Dene and Metis cultures and Dene Zhatie.

**2.3.8**

Nothing in the Dehcho Agreement shall prevent a Dehcho First Nation community or their members from participating in the programs of the governments of Canada and the NWT or from benefiting from them in accordance with the general criteria established for these programs, except where the Dehcho Agreement provides otherwise.

**2.3.9**

Nothing in the Dehcho Agreement shall prevent a Dehcho government or Community Government from participating in the programs of the governments of Canada and the

NWT or from benefiting from them in accordance with the general criteria established for these programs, except where the Dehcho Agreement provides otherwise.

## **2.4 TERRITORIAL APPLICATION**

### **2.4.1**

The provisions of the Dehcho Agreement shall apply in the Northwest Territories.

### **2.4.2**

The status of Dehcho Dene rights and interests in the Yukon Territory, British Columbia and Alberta will be addressed prior to the signing of the Dehcho Agreement.

### **2.4.3**

The boundary and overlap issues between the Dehcho and Sahtu, Akaitcho and Dene Tha' will be considered prior to the signing of the Dehcho Agreement.

### **2.4.4**

The following will be finalized prior to the signing of a Dehcho Agreement:

- a) The Dehcho status of Nahanni National Park (Reserve), including the role, authorities, and jurisdiction of the Dehcho First Nations in the joint management of Nahanni National Park. The Dehcho Agreement shall establish a joint management body that is consistent with the Interim Park Management Arrangement.
- b) The Dehcho Agreement shall guarantee the Aboriginal and Treaty rights of the Dehcho First Nations in Nahanni National Park., and be consistent with s. 8 of the Interim Park Management Arrangement, and s. 40 of the *Canada National Parks Act*. These provisions will continue in effect when NNPR achieves full National Park status under the *Act*.
- c) The status of candidate Protected Areas under the PAS, including the role, authorities, and jurisdiction of the Dehcho First Nations in the joint management of Protected Areas under the PAS. All areas protected under the PAS will include both surface and subsurface lands.

## **ARTICLE 3 – LAND USE PLANNING**

### **3.1**

An approved Dehcho Land Use Plan (LUP) will be implemented and legally binding at a date no later than the date of the initialing of this Agreement.

**3.2**

The Dehcho Agreement will provide that the Land Use Planning provisions of the Dehcho Interim Measures Agreement (IMA) will remain in effect throughout the Settlement Area, with any modifications necessary to reflect the fact that land use planning will from then on be a permanent feature of land and resource management in the Settlement Area.

**3.3**

The Dehcho Agreement will provide that all recommendations and decisions concerning lands and resource use in the Settlement Area shall conform to an approved land use plan.

**ARTICLE 4 – LAND TITLE****4.1**

The Dehcho Agreement will provide that legal title to all lands permanently protected under the Protected Areas Strategy (PAS) or the expanded Nahanni National Park will be vested in the Crown. The Agreement will further provide that the boundaries and status of Parks or protected areas cannot be changed without the consent of affected DFN communities. DFN members would retain all of their Treaty and Aboriginal harvesting rights throughout the Settlement Area.

*NOTE: any lands not permanently protected by the National Parks Act or other mechanisms, may require an additional legal mechanism to ensure that their zoning designation cannot be changed without the support of affected DFN communities.*

**4.2**

The Dehcho Agreement will provide that the Dehcho Dene, through the Dehcho government, will retain ownership of 108,000 sq km of surface and subsurface lands, primarily from areas not protected under the LUP or PAS.

**4.3**

The Dehcho Agreement will provide that the lands retained by the Dehcho Dene will be called “Dehcho Ndehe”, and will include both the surface and all sub-surface materials, and will be owned by the Dehcho Dene through the Dehcho regional government.

**4.4**

The Dehcho Agreement will provide that, in addition to Dehcho Ndehe, each community in the Dehcho will have Ndeh title to current community settlement lands, plus sufficient lands to allow the community to grow for 100 years. These areas will be known as Kue Zhagola Gondehe (Community lands).

**4.5**

The Dehcho Agreement will provide that, in addition to Dehcho Ndehe and the Kue Zhagola Gondehe (Community lands), the Dehcho Dene, through the Dehcho government, will own 30% of the subsurface in all Shared Lands.

## ARTICLE 5 - JURISDICTION

### 5.1

The Dehcho Agreement will provide that the Dehcho regional government will have exclusive legislative jurisdiction over Dehcho Ndehe in the following areas:

- Government structure / internal management
- Citizenship and eligibility
- Management and protection of Dehcho Ndehe outside of communities, including parks
- Renewable resources
- Non-renewable resources, including mining and mineral claims
- Rivers, lakes and water
- Pollution control and enforcement
- Environmental management and protection
- Protection of heritage resources and practices
- Language, culture and arts
- Training
- Social assistance, including social housing
- Child and family services
- Adoption and guardianship
- Intoxicants
- Wills and estates
- Education, including post-secondary
- Marriages and vital statistics
- Alternative dispute resolution services
- Practice of traditional medicine
- Taxation, including income, property (outside of communities), sales, user fees, business license fees
- Regional economic development, including economic development in communities, which have not legislated for economic development
- Negotiation of impact and benefits agreements for major developments
- Regional education services, including capital planning, distance education and specialized education
- Sub-surface lands and resources, including royalties
- Regional roads and public works
- Regional elections
- Public safety and law enforcement outside of communities
- Regional health services
- Intergovernmental relations
- Regional protected areas
- Borrowing
- Emergency measures
- Justice, including enforcement (policing) and administration (courts)

- Research licences and permits
- Tourism
- Gaming
- Museums and artifacts
- Intellectual property (including TK)
- Professional certification and standards
- Labour standards and labour relations
- Holidays
- Construction standards

## 5.2

The Dehcho Agreement will provide that the Dehcho community governments will have legislative jurisdiction over Kue Zhagola Gondehe in the following areas:

- Operations and internal management of community governments
- Borrowing
- Management and administration of community lands
- Community land use planning
- Community housing – construction and maintenance
- By-law enforcement within the community
- Intoxicants (shared jurisdiction with regional government)
- Local transportation
- Pre-school
- Community elections
- Community based economic development
- Municipal services, including water, sewage, waste management and fire dept.
- Property taxation, business and user fees
- Local wildlife harvesting - fisheries and harvesting
- Renewable resources within community boundaries, – Flora/fauna
- Community protected areas
- Impact and benefit agreements for non-major projects
- Emergency measures
- Language and Culture
- Recreation
- Education – Local implementation and management
- Dene medicine (shared jurisdiction)
- Local land health
- Local Dene knowledge

## 5.3

In addition to its jurisdictions under 5.1, the regional government would have jurisdiction to legislate in areas of local jurisdiction when local governments have not legislated.

## 5.4

The Dehcho Agreement will provide that the Dehcho government and the Crown will have shared legislative jurisdiction over Dehcho Ndehe in some areas.

**5.5**

The Dehcho Agreement will provide that the Dehcho government and the Crown will have shared legislative jurisdiction over Crown lands in the Settlement Area in the following areas:

- a. Oil and gas exploration
- b. Mines and minerals
- c. Renewable resources, including, without limitation, forestry, wildlife, water and fisheries
- d. Heritage resources
- e. Environmental assessment and regulatory approval
- f. Land use planning, including infrastructure corridors
- g. Royalties

**ARTICLE 6 – GOVERNANCE STRUCTURES****6.1**

The Dehcho Agreement will recognize a Dehcho regional government which will be a Dene government, chosen by and representing the Dehcho Dene. The Dehcho regional government will be based on Dene laws, customs values and principles. Institutions will be implemented to ensure that non-Dene have a role in decision making with respect to any decisions which would affect their rights or interests.

**6.2**

The Dehcho Agreement will recognize Dehcho community governments which reflect the interests and capacity of each Dehcho community. All residents of the Dehcho who meet a five (5) years' residency requirement will be entitled to vote and run in local community elections. 50% of seats on local councils will be reserved for Dehcho Dene. In addition, the position of Chief or local community leader will be reserved for persons who are Dehcho Dene.

**6.3**

The Dehcho Agreement will provide that the regional government of the Dehcho and the Dehcho community governments will have legal status comparable to that of local and regional Aboriginal governments recognized in other modern treaties.

**ARTICLE 7 – RESOURCE MANAGEMENT****7.1**

The Dehcho Agreement will provide that the community support and consultation requirements in the IMA will remain in effect on Shared Lands throughout the Settlement Area, and will be expanded to include protection against mineral staking without consultation, and environmental assessment referral authority for Dehcho community and regional governments.

**7.2**

The Dehcho Agreement will provide that land and resources management on Dehcho Ndehe and Crown lands will be the responsibility of the Dehcho Resource Management Authority (DCRMA).

**7.3**

The Dehcho Agreement will provide that the authorities and functions of the DCRMA will be harmonized with the *Mackenzie Valley Resource Management Act* and the boards operating under the *MVRMA*.

**ARTICLE 8 – OTHER MATTERS****8.1**

The Dehcho Agreement will provide that the Dehcho government will receive and disburse funds through annual block funding for education, housing and health benefits, as required by Treaties 8 and 11. (Need to ensure equal access for Dehcho Metis)

**8.2**

The Dehcho Agreement will contain provisions for funding for Dene language and cultural programs and healing programs, as well as a harvesters' support program and a long term economic development fund.

**8.3**

The Dehcho Agreement will provide that the Dehcho government will receive \$310 million (in 2007 dollars) paid over 10 years, with interest. \$300 million will be net, after the repayment of the Dene Metis loan amount.

**8.4**

The Dehcho Agreement will provide that the *Indian Act (Canada)* will no longer apply in or to the Dehcho, except for the purposes of determining who is a status Indian.

**8.5**

Canada, the DFN and the GNWT will complete and implement a *Capacity Building and Training Agreement (CBTA)* to ensure that DFN members are able to fully benefit from employment opportunities arising from implementation of the agreement, and to address the funding obligations of the parties. The Parties agree to use best efforts to complete and implement the CBTA as soon as possible, and in any event prior to the initialling of the Dehcho Agreement.

**8.6**

The Dehcho Agreement will provide that the government of the Dehcho is the only government with the authority to tax Dehcho Dene within Dehcho Ndehe. The government of the Dehcho will also have the authority to tax residents of Dehcho Ndehe, including corporations carrying out business within Dehcho Ndehe.

**8.7**

An implementation agreement will be completed prior to signing of Dehcho agreement.

**8.8**

All Dehcho Dene will be entitled to enrolment. A person who is not a Dehcho Dene may be enrolled through a "community acceptance" process if he or she is a Canadian Citizen resident in the Dehcho Territory and accepted by the community at any time up to two years following the date of Dehcho Agreement legislation. Acceptance by the community means that a person was sponsored by a Dehcho Dene and was approved by a majority of Dehcho Dene voting in the specific Dehcho community.

An initial enrollment will begin no later than one month following the signing of the AiP and will be completed prior to the ratification of the Dehcho Agreement.

**8.9**

The AiP will be ratified by a Dehcho Assembly. The Dehcho Agreement will first be approved by an Assembly and then be ratified by enrolled Dehcho Dene in a referendum in which a majority of those voting in the referendum indicate their support for the Agreement.