

SUBJECT: Dispute Resolution Board

OBLIGATION: Establish the Dispute Resolution Board and appoint Members
21.3.1 - 21.3.3 , 21.3.6

PARTIES: Canada - Department of Indian and Northern Affairs
Province - Department of Labrador and Aboriginal Affairs
Nunatsiavut Government
Chief Justice of the Supreme Court of Newfoundland and Labrador

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|---|--|---|
| 1 | Meet to discuss appointment of potential Dispute Resolution Board Members. | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | Recommended six months prior to the Effective Date. |
| 2 | Establish Dispute Resolution Board by appointing five Members, to a term of six years, by consensus. | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | As soon as practicable after Effective Date. |
| 3 | Failing consensus, appoint one Member each. | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | Within 60 clear days after one year of Effective Date. |
| 4 | Prepare list, by consensus, of no fewer than five and no more than seven nominees and forward to Chief Justice of the Provincial Supreme Court. | Members appointed in Activity 3. | Within 30 clear days of appointment after Activity 3. |
| 5 | Appoint two Members, to a term of six years, from list prepared in Activity 4. | Chief Justice of the Supreme Court of Newfoundland and Labrador | As soon as practicable following receipt of the consensus list. |

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| 6 | Appoint chairperson, by consensus, from the membership. | Members of the Dispute Resolution Board. | Within 90 clear days of appointment of all Members to the Dispute Resolution Board. |
| 7 | Appoint one of the Members as chairperson. | Chief Justice of the Provincial Supreme Court | Upon application by one of the Parties, failing consensus at Activity 6. |

FINAL AGREEMENT PROVISIONS

- 21.3.1 A dispute resolution board shall be established as soon as practicable after the Effective Date and shall comprise five individuals appointed by consensus of the Parties, or in accordance with section 21.3.2.
- 21.3.2 If a consensus is not reached under section 21.3.1 within one year from the Effective Date, then within 60 clear days thereafter, each Party shall appoint one Member and within 30 clear days from their appointment, such Members shall submit a consensus list of no fewer than five and no more than seven nominees to the Chief Justice who shall appoint two Members from that list.
- 21.3.3 The term of office of a Member is six years during good behaviour and a Member may be re-appointed for a further term or terms in accordance with the process set out in section 21.3.4.
- 21.3.6 The chairperson shall be appointed by the Members from among their number but if a chairperson has not been selected within 90 clear days from the establishment of the Dispute Resolution Board, the Chief Justice, upon application by any one of the Parties, shall appoint one of the Members to be the chairperson.

BUDGET AND FUNDING RESPONSIBILITIES

The remuneration of Members shall be on an hourly or *per diem* basis for time worked (21.3.5). See Dispute Resolution Board budget in Annex D, Part 4.

SUBJECT: Dispute Resolution Board

OBLIGATION: Replace or reappoint Members of the Dispute Resolution Board
2.25.1, 21.3.4, 21.3.7

PARTIES: Canada - Department of Indian and Northern Affairs
Province - Department of Labrador and Aboriginal Affairs
Nunatsiavut Government
Chief Justice of the Supreme Court of Newfoundland and Labrador

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|--|--|--|
| 1 | Replace or reappoint Member by consensus for the unexpired portion of the term unless the Parties agree, in writing, that the replacement Member shall be appointed for a full term of six years. | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | Within 60 clear days of expiration of a Member's 6-year term or upon vacancy. |
| 2 | Failing consensus, determine who originally appointed the departed Member(s). | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | As soon as practicable, in sufficient time to make appointment within 30 clear days. |
| 3 | If Member(s) was/were appointed directly by one of the Parties, that Party replaces or reappoints. | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | Within 30 clear days of failure to reach consensus. |
| 4 | If Member(s) was/were appointed by consensus of the Parties or by the Chief Justice of the Provincial Supreme Court, then prepare list, by consensus, of no fewer than five and no more than seven nominees and forward to Chief Justice of the Provincial | Canada - Department of Indian and Northern Affairs Province - Department of Labrador and Aboriginal Affairs Nunatsiavut Government | Within 60 clear days from the date upon which the vacancy occurred. |

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| Supreme Court. | | | |
| 5 | Appoint Member(s) for the unexpired portion of the term unless the Parties agree, in writing, that the replacement Member shall be appointed for a full term of six years. | Chief Justice of the Supreme Court of Newfoundland and Labrador | As soon as practicable following receipt of list. |
| 6 | Replace or reappoint Chairperson by consensus. | Members | Within 60 clear days of expiration of a Chairperson's term or within 60 clear days of a vacancy. |
| 7 | Apply to the Chief Justice of the Supreme Court of Newfoundland and Labrador to appoint one of the Members as Chairperson. | Canada - Department of Indian and Northern Affairs - or - Province - Department of Labrador and Aboriginal Affairs - or - Nunatsiavut Government | Upon failure of the members to agree on a Chairperson within 60 clear days of expiration of a Chairperson's term or within 60 clear days of a vacancy. |

FINAL AGREEMENT PROVISIONS

- 2.25.1 If a vacancy occurs in the membership of a board established under the Agreement prior to the expiry of the member's term, the replacement member shall be appointed for the unexpired portion of the term unless the Parties agree, in writing, that the replacement member shall be appointed for a full term.
- 21.3.4 Upon the expiration of a Member's term of office or if a Member does not complete a full term, within 60 clear days from the date on which the vacancy occurs, a replacement shall be appointed by consensus of the Parties. If no consensus is reached:
 - (a) if the Member whose position is vacant was appointed by consensus of the Parties or by the Chief Justice, the replacement shall be appointed by the Chief Justice from a list of no fewer than five and no more than seven nominees prepared by consensus of the Parties; or
 - (b) within the following 30 clear days, if the Member whose position is vacant was appointed by a Party, the replacement shall be appointed by that Party.
- 21.3.7 Upon the expiration of the chairperson's term of office or if the chairperson does not complete a full term, the Members shall, within 60 clear days from the date on which a replacement is appointed under section 21.3.4, appoint a new chairperson from among their number. If a new chairperson has not been appointed within that time, the Chief Justice, upon application by any Party, shall appoint one of the Members to be the chairperson.

SUBJECT: Dispute Resolution Board

OBLIGATION: Administrative powers of the Dispute Resolution Board
21.4.1

PARTIES: Dispute Resolution Board

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|--|--------------------------|--|
| 1 | Establish rules and procedures for the Dispute Resolution Board's internal administration, including the provision of translation and interpretation services. | Dispute Resolution Board | Recommend within one year of establishment of the Board. |
| 2 | Establish rules and procedures for mediation and arbitration consistent with Chapter 21. | Dispute Resolution Board | Recommend within one year of establishment of the Board. |
| 3 | Establish a roster of mediators. | Dispute Resolution Board | Recommend within one year of establishment of the Board and prior to conducting first mediation. |
| 4 | Maintain a record of Arbitration Decisions, including an ongoing inventory. | Dispute Resolution Board | Ongoing, following conclusion of arbitration. |

PLANNING ASSUMPTIONS, GUIDELINES AND EXPLANATIONS

While the Agreement Chapter makes no reference to the time lines associated with administrative powers of the Board, it is expected that the functions on this Activity Sheet will have to be completed in advance of conducting any arbitration or mediation.

It is anticipated that, after establishment, the Board will hold a meeting annually to review roster of mediators and its rules and procedures. It is expected that the meeting could either take place in person or by teleconference.

FINAL AGREEMENT PROVISIONS

- 21.4.1 In addition to the powers of the Dispute Resolution Board set out elsewhere in the Agreement, and in accordance with this chapter, the Dispute Resolution Board has the following powers:
- (a) to sit as an Arbitration Panel;
 - (b) to establish a roster of mediators and to appoint mediators from the roster;
 - (c) to establish rules and procedures for mediation and arbitration consistent with this chapter;
 - (d) to establish rules and procedures for the Dispute Resolution Board's internal administration; and
 - (e) to maintain a record of Arbitration Decisions.
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CROSS-REFERENCED AND RELATED PROVISIONS

21.8.2 - Interpretation and translation services in Inuktitut and Canada's official languages available to Disputant, upon request.

BUDGET AND FUNDING RESPONSIBILITIES

See Dispute Resolution Board budget in Annex D, Part 4.

SUBJECT: **Mediation**

OBLIGATION: **Conduct mediation**
21.2.1, 21.5.1 - 21.5.3, 21.5.5 - 21.5.7, 21.5.10, 21.8.2, 21.8.3

PARTIES: **Disputants**
 Dispute Resolution Board
 Mediator

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|--|--------------------------|--|
| 1 | Make good faith efforts to resolve Dispute(s) through discussion or negotiations. | Disputants | Prior to seeking recourse through mediation. |
| 2 | If informal discussion or negotiations do not produce resolution, submit written request for mediation to the Dispute Resolution Board, and any request for interpretation and translation in Inuktitut and Canada’s official languages. | Disputants | Upon agreement by Disputants to proceed to mediation. |
| 3 | Review the request and confirm that good faith efforts to resolve dispute have been undertaken by the Disputants. | Dispute Resolution Board | Upon receipt of request for mediation. |
| 4 | Appoint a mediator from roster of mediators. | Dispute Resolution Board | Within 7 clear days of receipt of request. |
| 5 | Arrange for translation or interpretation services. | Dispute Resolution Board | As requested, before conducting mediation. |
| 6 | Provide full disclosure of all relevant facts, information and documents to each other and to the mediator. | Disputants | In a timely manner. |
| 7 | Conduct and conclude mediation. | Mediator | Within 21 clear days of date of appointment, unless Disputants and mediator agree to an extension. |

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| 8 | <p>Submit written mediation report to Disputants, in Inuktituk (unless the Nunatsiavut Government agrees otherwise) and English (and where required in French by law).</p> <p>Advise Dispute Resolution Board in writing that mediation has been concluded.</p> | Mediator | Upon conclusion of mediation. |
| 9 | If mediation report is accepted or if other settlement is reached, carry out the terms of settlement. | Disputants | As soon as possible upon acceptance of report or other settlement. |
| 10 | If mediation report is rejected, then the Disputants, or any one of them, may proceed to Arbitration. | Disputant(s) | As desired. |

PLANNING ASSUMPTIONS, GUIDELINES AND EXPLANATIONS

It is expected that the Dispute Resolution Board should establish a process to provide translation and interpretation services (Inuktitut or Canada’s official languages) before the beginning of the mediation, as it may be requested by a Disputant at any time during the process (21.8.1, 21.8.2).

Confidential information disclosed shall be kept confidential by the Disputants, the mediator and third parties to the mediation (21.5.4).

The mediation, including the mediation report, shall be confidential and without prejudice to the rights and claims of the Disputants (21.5.8).

A Disputant shall not, in any Legal Proceeding relating to a Dispute that has been the subject of mediation:

- (a) call a mediator as a witness;
- (b) seek access to any records or notes of the mediator; or
- (c) introduce the mediation report as evidence (21.5.9).

No Disputant may apply to a court to attempt to delay, enjoin, prohibit or otherwise interfere with a mediation or arbitration that has been commenced under this chapter but nothing in this section:

- (a) affects the ability of a Disputant or Party to prevent or remedy a breach of section 21.2.2;
- (b) affects the jurisdiction of an Arbitration Panel under subsection 21.6.7(j); or
- (c) prevents judicial review of an interim or interlocutory Arbitration Decision under section 21.7.5 (21.9.2).

If the Disputants have requested mediation, an Arbitration Panel shall not arbitrate the Dispute until the mediation has been concluded (21.5.11).

FINAL AGREEMENT PROVISIONS

- 21.2.1 Disputants shall make good faith efforts to resolve Disputes promptly through discussion or negotiation before seeking recourse to the processes set out in this chapter.
- 21.5.1 Mediation of a Dispute shall not be initiated without the agreement of the Disputants and shall be conducted in accordance with this part.
- 21.5.2 Where mediation of a Dispute is requested by the Disputants, the Dispute Resolution Board shall:
- (a) satisfy itself that the Disputants have complied with section 21.2.1; and
 - (b) if so satisfied, within seven clear days from the receipt of the request, appoint a mediator from the roster referred to in subsection 21.4.1(b).
- 21.5.3 The Disputants shall provide full and timely disclosure of all relevant facts, information and documents to each other and to the mediator so as to facilitate the mediation.
- 21.5.5 The mediation shall be concluded within a maximum period of 21 clear days from the date of appointment of the mediator under subsection 21.5.2(b) unless the Disputants and the mediator agree to an extension.
- 21.5.6 The Disputants shall each bear their own costs of participation in a mediation and pay equally all other costs of mediating the Dispute, including the remuneration of the mediator.
- 21.5.7 The mediator shall submit a mediation report to the Disputants upon conclusion of the mediation, and shall give written notice to the Dispute Resolution Board that mediation has been concluded.
- 21.5.10 If the mediation report referred to in section 21.5.7 is accepted by the Disputants, or other settlement of the Dispute is reached, the Disputants shall carry out the terms of settlement as soon as possible.
- 21.8.2 Interpretation and translation services for Inuktitut and Canada's official languages shall be made available by the Dispute Resolution Board at the request of a Disputant and any evidence, whether written or oral, must be translated into Inuktitut and Canada's official languages at the request of a Disputant.
- 21.8.3 Arbitration Decisions and mediation reports must be in Inuktitut unless the Nunatsiavut Government otherwise agrees and in English and, where required by Law, in French.

BUDGET AND FUNDING RESPONSIBILITIES

21.5.6 The Disputants shall each bear their own costs of participation in a mediation and pay equally all other costs of mediating the Dispute, including the remuneration of the mediator.

SUBJECT: Arbitration

OBLIGATION: Conduct arbitration
 21.2.1, 21.4.1 (a), 21.5.11, 21.6.1 - 21.6.5, 21.6.7 - 21.6.13, 21.6.15,
 21.6.16, 21.7.6, 21.8.2

PARTIES: Disputants
 Arbitration Panel
 Dispute Resolution Board

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|--|--------------------------|---|
| 1 | Forward written submission for arbitration to Dispute Resolution Board, including: a) the Disputants; b) the nature of the Dispute; c) a summary of the facts; d) the issue or issues requiring resolution; e) the relief being sought; f) in the case of a joint submission, any matter agreed to by the Disputants; and g) any request for interpretation and translation services. | Disputant(s) | i) Upon exhausting good faith efforts for resolution, or ii) if mediation was pursued, upon conclusion of mediation, or iii) upon demonstration of bad faith to the extent that the Disputant can not continue to make good faith efforts to resolve Dispute, or iv) as provided otherwise in the Agreement. |
| 2 | If Disputant is party to two or more Disputes, he/she may request consolidation, sequencing or deferring of arbitration hearings. | Disputant | Upon written submission for arbitration or before arbitration commences. |
| 3 | Except in cases of a joint submission, serve submission in Activity 1 on the other Disputant(s). | Disputant(s) | Immediately upon forwarding submission to Dispute Resolution Board. |
| 4 | Review request and confirm that: a) good faith efforts to resolve Dispute have been undertaken by the Disputants; | Dispute Resolution Board | Upon receipt of written submission. |

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| | <p>b) that bad faith has been demonstrated</p> <p>c) that mediation proceedings have been concluded.</p> | | |
| 5 | <p>Accept request for arbitration if it complies with conditions identified in Activity 4 and:</p> <p>a) where the Dispute is between Persons who are required to or have a right under the Agreement to the use of the arbitration process; or</p> <p>b) where the Dispute is between Parties who are required by an ancillary or supplemental agreement to resolve the Dispute under Chapter 21 of the Agreement or who have a right under the ancillary or supplemental agreement to seek the resolution of the Dispute under Chapter 21; or</p> <p>c) where the Dispute is between Parties to the Agreement, proceed with an arbitration upon a joint submission of the Parties.</p> | Dispute Resolution Board | Upon receipt of written submission. |
| 6 | Approve consolidation, sequencing or deferring of arbitration hearings. | Dispute Resolution Board | Upon making a decision following receipt of written submission. |
| 7 | Provide written notice to any Party to the Agreement that is not a Disputant. | Dispute Resolution Board | Upon acceptance of application for arbitration. |
| 8 | Decide on preferred number of Members to sit on Arbitration Panel - 5, 3, or 1 - and submit names to the Dispute Resolution Board. | Disputants | Before initiating arbitration process. |
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| 9 | Establish Arbitration Panel. | Dispute Resolution Board | Before initiating arbitration process. |
| 10 | If Arbitration Panel consists of 3 Members, then appoint chair, unless: a) existing Dispute Resolution Board chair is sitting on the Arbitration Panel; or b) the Disputants agree that one of the Members will sit as the chair if none of the three Members is already the chair. | Dispute Resolution Board | Upon appointment of 3 Member Arbitration Panel and before taking any further action. |
| 11 | Appoint a specialist to assist Arbitration Panel. | Dispute Resolution Board | As required by a provision of the Agreement. |
| 12 | Arrange for experts to present technical advice at arbitration proceedings. | Dispute Resolution Board | At the request of a Disputant or the Arbitration Panel or on the initiative of the Dispute Resolution Board. |
| 13 | Arrange for interpretation and translation of oral or written evidence in Inuktitut and Canada's official languages. | Dispute Resolution Board | Upon request of a Disputant and before conducting arbitration. |
| 14 | Conduct arbitration in accordance with 21.6.7 of the Agreement and any internal rules of the Board: a) in public if all Disputants are Parties to the Final Agreement, unless otherwise agreed; b) in private if any Disputant is not a Party to the Final Agreement. | Arbitration Panel | After establishment of Arbitration Panel. |

PLANNING ASSUMPTIONS, GUIDELINES AND EXPLANATIONS

Interpretation and translation services for Inuktitut and Canada's official languages shall be made available by the Dispute Resolution Board at the request of a Disputant (21.8.2).

Until the Dispute Resolution Board is established, the *Arbitration Act* applies to any arbitration conducted under the Agreement (21.10.1).

Until the Dispute Resolution Board has established rules and procedures for arbitration, the *Arbitration Act* shall apply to any arbitration conducted by an Arbitration Panel (21.10.2).

A Party has the right to participate in an arbitration proceeding, whether or not that Party is a Disputant, in accordance with the rules established under subsection 21.4.1(c), but a Party that is not a Disputant and is exercising its right to participate in an arbitration under this section shall not participate in the selection of an Arbitration Panel (21.6.14).

Nothing shall prevent a Disputant from making an offer of settlement relating to a Dispute during the course of arbitration, but the offer shall be excluded from consideration in the arbitration except for purposes of an award of costs (21.6.6).

If an arbitration involves a Disputant other than a Party, all proceedings shall be in private and the Disputants shall ensure that the conduct of the arbitration and the terms of the award are, subject to registration of the award in the Supreme Court, kept confidential unless the Disputants otherwise agree. The obligation to maintain confidentiality under this section shall not affect judicial review or prevent any Party from complying with the provisions of the Agreement (21.6.15).

It is recommended that if a Disputant, who is involved in two or more Disputes, wants a hearing to be consolidated, sequenced or deferred, then this request should be made in the initial submission (21.6.8).

A Person shall not litigate a Dispute if the Dispute is one that must be referred to dispute resolution under a provision of the Agreement (21.9.1).

No Disputant may apply to a court to attempt to delay, enjoin, prohibit or otherwise interfere with a mediation or arbitration that has been commenced under this chapter but nothing in this section:

- (a) affects the ability of a Disputant or Party to prevent or remedy a breach of section 21.2.2;
- (b) affects the jurisdiction of an Arbitration Panel under subsection 21.6.7(j); or
- (c) prevents judicial review of an interim or interlocutory Arbitration Decision under section 21.7.5 (21.9.2).

FINAL AGREEMENT PROVISIONS

21.2.1 Disputants shall make good faith efforts to resolve Disputes promptly through discussion or negotiation before seeking recourse to the processes set out in this chapter.

21.4.1 In addition to the powers of the Dispute Resolution Board set out elsewhere in the Agreement, and in accordance with this chapter, the Dispute Resolution Board has the following powers:

- (a) to sit as an Arbitration Panel;...

21.5.11 If the Disputants have requested mediation, an Arbitration Panel shall not arbitrate the Dispute until the mediation has been concluded.

21.6.1 An Arbitration Panel shall not arbitrate a Dispute unless it is satisfied that:

- (a) the Disputants have complied with section 21.2.1; or
 - (b) the bad faith of one of the Disputants renders compliance with section 21.2.1 unreasonable.
- 21.6.2 An arbitration shall be initiated by a written submission to the Dispute Resolution Board by a Disputant or the Disputants.
- 21.6.3 Except in the case of a joint submission under subsection 21.6.4(c), the Disputant initiating a submission shall immediately serve the submission referred to in section 21.6.2 on all other Disputants.
- 21.6.4 The Dispute Resolution Board shall:
- (a) accept a request for arbitration from one of the Disputants where the Dispute is between Persons who are required by the Agreement to resolve the Dispute under this chapter or who have a right under the Agreement to seek the resolution of the Dispute under this chapter;
 - (b) accept a request for arbitration from one of the Disputants where the Dispute is between Parties who are required by an ancillary or supplemental agreement to resolve the Dispute under this chapter or who have a right under the ancillary or supplemental agreement to seek the resolution of the Dispute under this chapter; and
 - (c) where each Disputant is a Party, proceed with arbitration upon a joint submission of the Disputants.
- 21.6.5 The submission to the Dispute Resolution Board referred to in section 21.6.2 shall set out the following:
- (a) the Disputants;
 - (b) the nature of the Dispute;
 - (c) a summary of the facts;
 - (d) the issue or issues requiring resolution;
 - (e) the relief being sought; and
 - (f) in the case of a joint submission, any matter agreed upon by the Disputants.
- 21.6.7 Subject to section 21.2.2, an Arbitration Panel has the powers and is subject to the duties of an arbitrator under the *Arbitration Act* and, has the jurisdiction to arbitrate all matters related to a Dispute, including the jurisdiction to:
- (a) determine any question of Law;
 - (b) determine any question of fact;
 - (c) order a Disputant to furnish further details, whether factual or legal;
 - (d) determine any question as to the Arbitration Panel's jurisdiction under the Agreement;
 - (e) make one or more interim awards, including stop orders and orders in the nature of an injunction;
 - (f) proceed, despite a failure by a Disputant to comply with the Dispute Resolution Board's rules or an order or direction of the Arbitration Panel, after giving written notice of intention to do so;

- (g) order the production of documents;
 - (h) receive and take into account such written or oral evidence tendered by the Disputants as the Arbitration Panel determines is relevant, whether or not that evidence is admissible in Law;
 - (i) subject to part 21.8 and any agreement of the Disputants with respect to the language of the arbitration, determine the language or languages to be used in the arbitration and make any order with respect to the translation of evidence, documents or submissions;
 - (j) refer any question of Law to the Supreme Court; and
 - (k) award any remedy in Law, subject to the provisions of the Agreement and any terms of a joint submission to arbitration by the Disputants.
- 21.6.8 The Dispute Resolution Board may, upon application by a party to two or more Disputes, order that:
- (a) Disputes be consolidated on any terms it considers just;
 - (b) a number of Disputes be heard at the same time or in a specified sequence; or
 - (c) a Dispute be stayed until after the determination of another Dispute.
- 21.6.9 The arbitration of a Dispute shall be by the Dispute Resolution Board acting as an arbitration panel unless the Disputants agree to arbitration:
- (a) by naming a single Member to act as the arbitration panel; or
 - (b) by naming three Members to act as the arbitration panel.
- 21.6.10 When three Members are named as an Arbitration Panel, the Dispute Resolution Board shall appoint one of them as chairperson of the Arbitration Panel unless:
- (a) one of them is the chairperson of the Dispute Resolution Board, in which case the chairperson of the Dispute Resolution Board shall be the chairperson of the Arbitration Panel; or
 - (b) none of them is the chairperson of the Dispute Resolution Board and the Disputants have agreed that one of the named Members will be chairperson of the Arbitration Panel.
- 21.6.11 Where so required by a provision of the Agreement, the Arbitration Panel shall appoint a specialist to assist it in determining the matter.
- 21.6.12 The Dispute Resolution Board may, at the request of a Disputant, at its own initiative or at the request of an Arbitration Panel, arrange for experts to be present at an arbitration to provide technical advice to the Arbitration Panel.
- 21.6.13 The Dispute Resolution Board shall give written notice of an arbitration to any Party that is not a Disputant.
- 21.6.15 If an arbitration involves a Disputant other than a Party, all proceedings shall be in private and the Disputants shall ensure that the arbitration and the terms of the award are, subject to registration of the award in the Supreme Court, kept confidential unless the Disputants otherwise agree. The obligation to maintain confidentiality under this section shall not affect judicial review under section 21.7.5 or prevent any Party from complying with the Agreement.
- 21.6.16 If an arbitration involves only Parties, the Dispute Resolution Board, at the request of all participating

- Parties, shall:
- (a) hold the arbitration in private; and
 - (b) hold as privileged and confidential any document or record produced in the course of the arbitration.
- 21.7.6 Unless otherwise determined by an Arbitration Panel, the Disputants shall each bear their own costs and pay equally all other costs of the arbitration.
- 21.8.2 Interpretation and translation services for Inuktitut and Canada's official languages shall be made available by the Dispute Resolution Board at the request of a Disputant and any evidence, whether written or oral, must be translated into Inuktitut and Canada's official languages at the request of a Disputant.
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CROSS-REFERENCED AND RELATED PROVISIONS

Archaeology - 15.13.2. - Standards

BUDGET AND FUNDING RESPONSIBILITIES

- 21.7.6 Unless otherwise determined by an Arbitration Panel, the Disputants shall each bear their own costs and pay equally all other costs of the arbitration.

SUBJECT: Arbitration

OBLIGATION: Arbitration Decision
21.7.1 - 21.7.3, 21.7.6 - 21.7.8, 21.8.3

PARTIES: Arbitration Panel
Disputants
Parties

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|---|--|---|
| 1 | Invite submissions from the Disputants regarding costs. | Arbitration Panel | As desired, according to the rules set by the Dispute Resolution Board. |
| 2 | Render written, binding Arbitration Decision in Inuktituk (unless the Nunatsiavut Government agrees otherwise) and English (and where required in French by law) including the facts, reasons for decision and assignment of costs, if any. | Sole arbitrator or majority of Arbitration Panel | Upon conclusion of Arbitration proceedings. |
| 3 | Apply to the Supreme Court to register Arbitration Decision. | Disputant(s) | As desired. |
| 4 | Implement Arbitration Decision in accordance with its terms and conditions. | Disputants Parties to the Agreement | As per the terms of the Arbitration Decision. |

PLANNING ASSUMPTIONS, GUIDELINES AND EXPLANATIONS

An Arbitration Decision is confidential unless it is registered with the Supreme Court of Newfoundland and Labrador (21.6.15).

If the Dispute Resolution Board fails to notify a Party prior to arbitration, that Party is not bound by the decision (21.7.3).

If Arbitration Decision is registered with the Supreme Court of Newfoundland and Labrador then it will be enforced in the same manner as a judgment or order of the Supreme Court (21.7.8).

It is normally the Disputant that wishes the decision be enforced that will apply to have the decision

registered to the Supreme Court.

Until the Dispute Resolution Board is established, the *Arbitration Act* applies to any arbitration conducted under the Agreement (21.10.1).

Until the Dispute Resolution Board has established rules and procedures for arbitration under subsection 21.4.1(c), the *Arbitration Act* shall apply to any arbitration conducted by an Arbitration Panel (21.10.2).

FINAL AGREEMENT PROVISIONS

- 21.7.1 An Arbitration Decision must be in writing and contain a recital of the facts upon which the Arbitration Decision is based and the reasons for the Arbitration Decision.
- 21.7.2 An Arbitration Decision must be made by either the sole arbitrator or by a majority of the Arbitration Panel, as the case may be.
- 21.7.3 An Arbitration Decision is binding on the Disputants and on any Party that received notice of the arbitration under section 21.6.13.
- 21.7.6 Unless otherwise determined by an Arbitration Panel, the Disputants shall each bear their own costs and pay equally all other costs of the arbitration.
- 21.7.7 An Arbitration Panel may invite submissions as to costs and may consider, among other things, an offer of settlement made by a Disputant to any other Disputant prior to or during the course of an arbitration.
- 21.7.8 Upon application to the Supreme Court, an Arbitration Decision may be registered and enforced in the same manner as a judgment or order of the Supreme Court.
- 21.8.3 Arbitration Decisions and mediation reports must be in Inuktitut unless the Nunatsiavut Government otherwise agrees and in English and, where required by Law, in French.
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CROSS-REFERENCED AND RELATED PROVISIONS

21.9.1, 21.9.2 - Limitations to litigation

BUDGET AND FUNDING RESPONSIBILITIES

- 21.7.6 Unless otherwise determined by an Arbitration Panel, the Disputants shall each bear their own costs and pay equally all other costs of the arbitration.

SUBJECT: Arbitration

OBLIGATION: Judicial review of Arbitration Decision
21.7.5

PARTIES: Parties
Disputants
Dispute Resolution Board
Supreme Court of Newfoundland and Labrador

| | <i>Activities</i> | <i>Responsibility</i> | <i>Timing</i> |
|---|---|--|---|
| 1 | Submit Arbitration Decision to Supreme Court of Newfoundland and Labrador for review. | Parties Disputant(s) | If a party believes that the Panel: a) acted without or beyond its jurisdiction or failed to act where it has a duty to act; b) failed to act in a manner consistent with the principles of natural justice; c) made an error in Law or an erroneous finding of fact; or d) acted in any other way contrary to Law. |
| 2 | Review the Arbitration Decision. | Supreme Court of Newfoundland and Labrador | According to the rules and procedures of the Supreme Court of Newfoundland and Labrador. |

FINAL AGREEMENT PROVISIONS

21.7.5 An Arbitration Decision may be reviewed by the Supreme Court on the grounds that the Arbitration Panel:

- (a) acted without jurisdiction, acted beyond its jurisdiction or failed to act where it has a duty to act;
- (b) failed to act in a manner consistent with the principles of natural justice;
- (c) based an Arbitration Decision on an error in Law or on an erroneous finding of fact; or
- (d) acted in any other way contrary to Law.