

INDIAN LAND REGISTRATION MANUAL

2006

INDIAN LANDS REGISTRY



Canada



This manual is intended to describe the criteria and procedures for the registration of instruments in the Indian Lands Registry. It is intended to provide information relating to general practices only, and should not form the basis for legal advice of any kind.



PUBLICATION HISTORY

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PART I

REGISTRATION OF DOCUMENTS

General Registration Requirements

Any instrument that grants or claims a right, interest or charge in or transfers, encumbers or affects Indian reserve, designated or surrendered lands, and submitted to the Registrar of Indian Lands in accordance with this Manual may be registered.

1. An instrument may be submitted by:
 - a. The person transferring, receiving or claiming the interest (“the applicant”);
 - b. the applicant’s solicitor;
 - c. the applicant’s agent;
 - d. an employee of the Department of Indian Affairs and Northern Development;
 - e. a First Nation that has delegated authority to approve the document under the *Indian Act* or any Indian self-government act.

2. (1) It is the responsibility of the parties to a transaction, rather than the staff at the Indian Lands Registry, to search the records and satisfy themselves as to the status of the relevant parcel prior to submitting the instrument for registration.

(2) An instrument submitted for registration shall:
 - a. be dated;
 - b. be legible;
 - c. identify each party to the instrument;
 - d. identify the nature of the right or interest to be registered;
 - e. executed in accordance with Part II of this Manual;



- f. contain either a corporate seal or affidavits of attestation in regard to the witnessing of the execution (signing) of the instrument;
 - g. where alterations have been made to the instrument, contain the initials of each party who has executed (signed) the instrument beside each alteration, or contain other proof of agreement; **changes on a BCR need only be initialled by the Chief of the First Nation;**
 - h. provide for consideration, where applicable; and
 - l. contain land descriptions that meet the requirements set out in Part III of this Manual.
3. (1) An instrument submitted for registration by a departmental employee **or a member of a First Nation who has access to the Indian Lands Registry System (ILRS), shall be accompanied by two Application for Registration forms which can be printed through the Pending File on the ILRS.**
- (2) An instrument submitted for registration by a client other than a departmental employee or First Nation, the application can be in the form of a covering letter.

Application for Registration

4. (1) An Application for Registration (“Application”) may be in the form attached as Appendix “B”, and it shall be completed and submitted in duplicate with the instrument to the Indian Lands Registry Office.
- (2) The Application shall contain, as it appears on the instrument submitted for registration, the following information;
- a. the name(s) and, where applicable, the Band member number(s) of the grantor(s) and grantee(s);
 - b. the instrument type;
 - c. the date of execution (signing) of the instrument (if there is more than one execution date, the latest of the several execution dates);



- d. if applicable, the purpose of the instrument;
 - e. the reserve name and number;
 - f. the Band name;
 - g. the province where the reserve is located;
 - h. the land description, and where the land affected by the instrument submitted for registration has been resurveyed, **the application must refer to the new plan and Plan number; and**
 - i. a list of the supporting documentation to the instrument.
- (3) The Registrar of Indian Lands may accept an instrument submitted for registration without an Application if the instrument purports to be:
- a. decision of the Minister or a court order; or
 - b. Approved by the Minister before January 1, 1989.
- (4) A statement in an Application submitted by a person indicating that the person is the solicitor or agent of the applicant shall be, in the absence of evidence to the contrary, proof that the person is the solicitor or agent of the applicant.

Evidence of Absolute Surrender

5. Where an instrument submitted for registration purports to dispose of or convey the title in all or part of reserve land, the instrument shall be accompanied by the absolute surrender of the land certified in accordance with section 40 of the *Indian Act* if the surrender has not previously been registered.

Evidence of Designation

6. Where an instrument submitted for registration purports to lease or grant an interest in all or part of a reserve, which has been designated for leasing purposes, the instrument shall be accompanied by the designation of the land certified in accordance with section 40 of the *Indian Act* if the designation has not previously been registered.



Evidence of Consent or Band Council Resolution

7. Where the consent of the Band Council or a Band member, who is lawfully, in possession of reserve land is required under the *Indian Act* or other applicable legislation to approve an instrument submitted for registration, **the original copy of the instrument** shall be accompanied by that consent.

Ministerial Approval

8. Where the approval of the Minister or anyone else is required under the *Indian Act* or any other applicable legislation for an instrument submitted for registration, the instrument shall be accompanied by that approval, and the approval shall be dated and indicate the title/position of the person signing on behalf of the Minister.

Copy of Plan

9. Where the land description contained in an instrument submitted for registration is required under Part III to be based on an Official Plan or Registration Plan, it is the applicant's responsibility to ensure that the Indian Lands Registry has or is provided with a copy of the Plan before or at the time of **Instrument** for Registration is submitted.

Outstanding Encumbrance or Charge

10. (1) Where an instrument submitted for registration purports to assign an interest in reserve, designated or surrendered land on which a pledge or mortgage has been registered, the instrument shall be accompanied by proof:
 - a. that the pledge or mortgage has been discharged;
 - b. that the pledge or mortgage has been assumed by the party to whom the interest is being assigned; or
 - c. that the pledge or mortgage will be discharged after the interest has been assigned.
- (2) Notwithstanding sub-paragraph 10(1), it is the responsibility of the parties to a transaction to search the records and satisfy themselves as to the status of the relevant parcel prior to submitting an instrument for registration.



Original or Copy of Instrument

11. (1) The original of an instrument shall be submitted for registration except in the circumstances set out in sub-paragraph (2).
 - 2) A copy of an instrument may be submitted for registration in the following circumstances:
 - a. a court order, certified by the court;
 - b. an instrument executed prior to December 1, 1989, certified by the appropriate provincial registrar or master of titles attesting that the original is in his/her possession (any instrument after that date should be the original);
 - c. a death certificate, marriage certificate, name change certificate, power of attorney, will, approval or probate of will, or appointment of administrator, certified by the person who is in possession of the original;
 - d. a certificate of amalgamation for a corporation, certified by the approving the amalgamation; or corporation, agency or department responsible for recording and
 - e. an Order in Council, certified by the Clerk of the Privy Council.
12. (1) A “facsimile” means an accurate reproduction of a document or record and includes a print from microfilm or a printed copy generated by or produced from a computer record.
 - (2) A facsimile of an instrument is not acceptable for registration.
 - (3) A facsimile of an instrument may be used to obtain prior approval of an instrument for registration before the original of the instrument is received for registration.



Order of Examination

13. The **Registration Officer** shall examine each **Instrument** affecting a particular parcel of land in the order that they are received in the Indian Lands Registry Office.

General Grounds for Refusing Registration

14. The Registrar of Indian Lands shall not register an instrument in any one of the following circumstances:
 - a. where, in the opinion of the Registrar of Indian Lands, the **Instrument** does not meet the requirements set out in this Manual;
 - b. where, in the opinion of the Registrar of Indian Lands, the information contained in an Application does not correspond with the information contained in the instrument submitted for registration;
 - c. where an instrument purports to grant an interest in a lot or parcel of reserve, designated or surrendered land which has no means of access, unless the instrument falls into one of the exceptions listed in sub-paragraphs 43(2) through 43(4);
 - d. where an instrument purports to transfer the right to possession to reserve land to any person not entitled to hold lawful possession in that reserve;
 - e. where an instrument relates to a subordinate interest and the primary interest upon which it depends has not been previously registered;
 - f. where the Registrar of Indian Lands, based on matter of record, is not satisfied that the person transferring the interest is in lawful possession of the reserve land;
 - g. where the applicant has not applied to register all interests that purport to affect reserve, designated or surrendered described in the instrument submitted for registration;
 - h. where multiple instruments are submitted for registration by an applicant, affecting the same parcel and the same interest, if one instrument is refused for registration, all instruments will be returned to the applicant to be resubmitted (see paragraph 17 of this Manual);



- I. where the instrument submitted for registration, in the opinion of the Registrar, does not in whole or in part, affect or relate to an interest in reserve, designated or surrendered land; or
 - j. where the interest in an instrument submitted for registration is affected by or related to an outstanding encumbrance or charge, and evidence of an assumption or discharge of that outstanding encumbrance or charge has not been submitted.
- 15. (1) An instrument shall not be registered if the interest granted by the instrument overlaps or is inconsistent with a previously registered interest.
- (2) For the purposes of sub-paragraph (1), an interest shall be considered to be inconsistent with previously registered interests if:
 - a. the instrument is a Band Council Resolution purporting to allot reserve land and a previously registered instrument for the same reserve land indicated:
 - i. that another member of the Band has lawful possession of the reserve land;
 - ii. that the Minister has authorized the reserve land to be used for any of the purposes specified in subsection 18(2) of the *Indian Act*.
 - ii. that the reserve land has been taken pursuant to section 35 of the *Indian Act*; or
 - iv. that the reserve land has been surrendered or designated;



- b. the instrument purports to transfer lawful possession of reserve land for which a previously registered instrument for the same reserve land indicates;
 - i. that the Minister has authorized the reserve land to be used for any of the purposes specified in subsection 18(2) of the *Indian Act*;
 - ii. that the reserve land has been taken pursuant to section 35 of the *Indian Act*; or
 - iii. that the reserve land has been surrendered or designated; or
- c. the instrument purports to grant a leasehold interest and the Indian Lands Registry records indicate that an existing lease, registered on the same lot or parcel of reserve or designated land, has not expired.

Procedure when Instrument Accepted for Registration

- 16. (1) Where an instrument is accepted for registration, the Registrar of Indian lands shall register the instrument by assigning a registration number to the instrument and recording in the Day book and on the appropriate abstract page the following information:
 - a. the name of all parties to the instrument;
 - b. the nature of the right or interest;
 - c. the reserve, designated or surrendered land affected;
 - d. the registration number; and
 - e. the date of registration.
- (2) The time of registration shall be recorded in the Day Book.



- (3) The date of execution (signing) of the instrument, i.e. the “instrument date”, shall be recorded on the appropriate abstract page.
- (4) The registration number and the time and date of registration shall be recorded on the instrument and on the Application.
- (5) Where evidence of lawful possession is issued based on the instrument, the nature of the evidence of lawful possession (e.g. Certificate of Possession, Certificate of Occupation, Oka Letter) shall be recorded on the appropriate abstract page.
- (6) “NETI” (no evidence of title issued) shall be recorded on the appropriate abstract page where a subsequent transfer has been executed but not yet registered (i.e. pending) in regard to the same parcel or if the recipient of the interest is an Estate.

Procedure when Registration Refused

17. (1) Where an instrument is not accepted for registration, the duplicate copy of the Application, the instrument and all accompanying documentation shall be returned to the applicant with written reasons for the refusal.
- (2) All rejected instruments must be resubmitted with a **new** original Application in duplicate.

Documentation Required when Setting Aside Land as Indian Reserve Land

18. (1) The following instruments shall be filed when setting aside land as Indian reserve land;
 - a. an Order in Council;
 - b. Evidence of Federal Crown title (normally provincial documents); and
 - c. an Application for Registration in duplicate.
 - d. proper survey fabric as defined in Part III of this manual.



- (2) The supporting provincial documents referred to in sub-paragraph (1) b. may be:
 - a. annexed to the Order in Council;
 - b. not annexed to the Order in Council and filed as a package (i.e. one supporting provincial document with the other provincial documents annexed to it) together with an Application for Registration in duplicate; or
 - c. not annexed to the Order in Council and each supporting provincial document filed separately together with Applications for Registration in duplicate for each document filed.

- (3) Where the relevant parcel is not shown on a plan recorded in the Canada Lands Survey Records, the Applicant must attach to the document to be registered either a copy of a provincial survey plan in its entirety, or, in the case where the provincial survey plan is too large, a copy of the relevant portion of the provincial survey plan.

PART II

EXECUTION OF INSTRUMENTS

Witness and Attestation

19. (1) The execution of an instrument submitted for registration shall be witnessed, and attested to, by at least one person who has attained the age of majority and who is not a party to the instrument.



- (2) Sub-paragraph (1) does not apply to:
- a. a Crown grant;
 - b. an absolute surrender of reserve lands;
 - c. a designation of reserve lands;
 - d. a Band Council Resolution;
 - e. a ministerial order;
 - f. a court order;
 - g. an Order in Council;
 - h. a certificate of death, marriage, name change or amalgamation
 - i. an instrument under the seal of a corporation;
 - j. a request for a replacement of title;
 - k. a Notice (see Part V of this Manual).
 - l. a transfer of Land by Personal Representative (Admin.Transfer).

Proof of Execution

20. An instrument must be accompanied by an affidavit (in the prescribed form shown as Appendix "C") of a witness, not being a party to the instrument, attesting to the execution (signing) of the instrument by each party who appears to have executed (signed) the instrument. Affidavits of a witness are not required for instruments executed by a person on behalf of the Minister of the Department of Indian and Northern Affairs.



Swearing Affidavits

21. Every affidavit necessary for the purposes of this Manual shall be executed (signed) in the presence of a person who is authorized to receive a solemn declaration under section 41 of the *Canada Evidence Act* or is considered an *ex officio* commissioner for the taking of oaths under section 108 of the *Indian Act*.

Registration where no Proof of Execution

22. The Registrar may accept an instrument for registration where there is no proof of execution (e.g. where there is no witness) if the Registrar is satisfied as to the facts and as to the testimony, submitted by affidavit, that the signature on the instrument is that which it purports to be.

Registration where Execution or Proof Defective

23. The Registrar of Indian Lands may accept an instrument for registration despite a defect in the proof or form of its execution where the instrument was approved by the Minister prior to January 1, 1989.

Persons with Physical Disability or Illiteracy

24. Where an instrument is executed by a person who may have difficulty reading the instrument (by reason of physical disability, illiteracy, or lack of understanding of the English or French language), a statement to this effect must appear on the instrument, and an affidavit respecting the execution of the instrument must accompany the instrument to show:
 - a. that the contents and effect of the instrument were sufficiently made known to the person executing (signing) the instrument; and
 - b. that the person executing (signing) the instrument appeared to fully understand the contents of the instrument and voluntarily executed the instrument or adopted the execution of it made on his/her behalf in the manner shown on its face.



Change of Name

25. (1) On application, an abstract may be revised to reflect a change of name of any party holding a registered interest in reserve, designated or surrendered lands.
- (2) The Application shall be accompanied by proof of the name change such as a marriage certificate, a certificate of name change, or a certificate of amalgamation.

Guardian Ad Litem / Power of Attorney

26. (1) An instrument submitted for registration and executed (signed) by a guardian ad litem or an agent under a power of attorney shall not be registered unless accompanied by:
 - a. the original appointment of the guardian ad litem or the original power of attorney; or
 - b. a copy of the original appointment of the guardian ad litem certified by the person who has custody of the original or a copy of the original power of attorney certified by the person who has custody of the original.
27. The guardian ad litem or the agent under a power of attorney shall execute the instrument on behalf of the principal by signing his/her own name and by indicating the name of the principal on the instrument.
28. The execution of a power of attorney shall be witnessed in the same manner as required under this Manual (see paragraph 20) and the proof of execution (signing) of a power of attorney shall be proven by a statutory declaration of the agent.

Revocation of Power of Attorney

29. A power of attorney filed with the Registrar of Indian lands may be revoked by registering a Notice of Revocation.



Person signing on Behalf of a Corporation

30. Where a person signs on behalf of a corporation he/she must either:
- a. affix a corporate seal; or
 - b. type or print his/her name, position and the statement "I have authority to bind the corporation" above, beneath or beside his/her signature.

PART III

SURVEY PLANS AND LAND DESCRIPTIONS

Definitions

- 31.
- a. "Official Plan" is a graphical description of boundaries of land prepared from field notes of a survey pursuant to section 29 of the *Canada Lands Surveys Act*.
 - b. "Registration Plan" is a graphical description of the boundaries of land prepared from information contained in existing documents, field notes of survey, controlled aerial photographs or maps and from information found in land transaction documents, and approved pursuant to section 31 of the *Canada Lands Surveys Act*.
 - c. "Textual description" is a legal description of lands, prepared under the guidelines of the Indian Lands Registration Manual and without reference to any standards or instructions from Legal Surveys Division.

Requirements for Land Descriptions

32. Attached as Appendix "D" is a copy of Chart A to Schedule A of the Framework Agreement with Natural Resources Canada dated March 11, 2004. The most up-to-date interdepartmental agreement should be consulted whenever issues arise in relation to land descriptions. The requirements for textual land descriptions are described in Appendix "L".



Surrender Vote

33. (1) Reserve land which will be the subject of a surrender vote must be shown on a Registration Plan.
- (2) An Order in Council accepting the surrender may use the same land description as the one used in the surrender instrument.
- (3) An Official Plan must be completed prior to the disposition of surrendered land.

Designation Vote

34. (1) Reserve land which will be the subject of a designation vote must be shown on a Registration Plan.
- (2) An Order in Council accepting the designation may use the same land description as the one used in the designation instrument.

Easement / Taking of Lands

35. Where an instrument purports to take lands or to grant an easement over reserve or designated land under section 35 of the *Indian Act*, the land descriptions contained in the instrument must be based on a Registration Plan.



Boundary surveys or Disposing of Land

36. Where an instrument purports:

- a. To define the exterior (jurisdictional) boundaries of Indian reserves; or
- b. To dispose of surrendered land.

The land descriptions contained in the instrument must be shown on an Official Plan.

Plan for Permit to Utilities

37. The Registrar of Indian Lands may accept an instrument for registration, based on a textual description where the instrument is a blanket permit which grants an interest in land to a utility company for the purpose of providing service to a First Nation or members of a First Nation on a reserve.



Long Term Interests and Lawful Possession

38. (1) Where an instrument purports:
- a. To lease or otherwise grant a right or interest in designated or surrendered land for a term of 10 years or more;
 - b. To lease or otherwise grant an interest, other than lawful possession in reserve land for a term of 10 years or more;
 - c. To take reserve land under section 18(2) of the *Indian Act*, for the general welfare of a First Nation;

The land descriptions contained in the instrument must be based on a Registration Plan with field survey.

- (2) Where lawful possession of a portion of a parcel of reserve land is being transferred and a portion is being retained, both portions must be shown on a Registration Plan.
- (3) Where an instrument purports:
- a. To lease or otherwise grant a right or interest in a building unit with interest in land, or building unit only for a term of ten years or more;
 - b. To lease or otherwise grant a right or interest, other than lawful possession in reserve land, building unit with interest in land, or building unit only for a term of ten years or more;

The land descriptions contained in the instrument must be based on a Registration Plan.



Short Term Interests

39. Where an instrument purports:
- a. To lease or otherwise grant an interest in designated or surrendered land or building unit only for a term of less than ten years; or
 - b. To lease or otherwise grant an interest, other than lawful possession, in reserve land or building unit only for a term of less than ten years,

The land descriptions contained in the instrument can be of a textual description.

40. The term of any instrument referred to in paragraphs 36, 38 and 39 includes all provisions for renewal or extension of the right or interest.
41. In cases where it is not clear which product must be used for an instrument, the regional surveyor of each region will identify the product to be used after discussions with the Indian Lands Registry.

Acquisition of Survey Products

42. Copies of survey products may be obtained from the Regional Surveyor, Legal Surveys Division, Department of Natural Resources, for the province in which the office of Natural Resources administering the reserves is situated. A list of regional surveyors is shown as Appendix "E" to this Manual.



PART IV

FORM OF ACCESS

43. (1) No interest in a lot may be registered in the Indian Lands Registry unless access has been provided. Subject to sub-paragraphs 2, 3 and 4, the extent of the access must be described textually or shown on a Registration Plan or an Official Plan of survey.
- (2) In cases where there is no access (road allowance, street or lane) shown on a plan, the following will be accepted in relation to the lawful possession of reserve land:
- a. where there is access over land held by lawful possessors, a witnessed right-of-way agreement (providing for access in perpetuity; the right of access is not a personal right, but rather the right of access attaches to the property) signed by all adjoining interest holders over whose land the access is being provided agreeing to the access, and its approximate location described textually based on the current plan(s) defining the adjoining interests;
 - b. where access is over Band land, a Band Council Resolution agreeing to the access and giving its approximate location;
 - c. subject to sub-paragraph 43(3), where new parcels are being created by the subdivision of an “existing land-locked parcel” (i.e. a parcel which was land-locked prior to January 1, 1989), all new parcels must have access to the point of entry of the original land-locked parcel, and a witnessed agreement signed by each Band member who holds an interest in any of the new parcels must be provided accepting lawful possession under these conditions; and
 - d. **A new allotment or a subdivided interest** where access is through the reserve boundary or over a body of water, a witnessed agreement signed by all affected Band members accepting lawful possession under these conditions;
 - e. **Islands do not require an access agreement.**



- (3) Transfers of lawful possession of existing land-locked parcels will be accepted without access being provided if the whole parcel is being transferred and a witnessed statement signed by all parties agreeing to accept lawful possession under these conditions is provided.
- (4) In cases where there is no access (road allowance, street or lane) shown on a plan, the following will be accepted in relation to leaseholds on reserve or designated land:
 - a. when access is over adjoining leaseholds, a witnessed agreement signed by all adjoining lessees over whose land the access is being provided described by a textual description based on the current plan(s) defining the adjoining leasehold interests agreeing to the access, and its approximate location;
 - b. when access is over Band land, a Band Council Resolution agreeing to the access and giving its approximate location; and
 - c. when access is through the reserve boundary or over a body of water, a statement acknowledging the land-locked situation shall be included in the lease agreement

PART V

NOTICES

Definitions

44. (1) The instrument known as a Caveat will no longer be registered in the Indian Lands Registry and is replaced with the instrument known as a Notice.
- (2) Part VI of the previous Indian Lands Registration Manual issued February 1, 1990 applies only to existing instruments registered in the Indian Lands Registry as Caveats.
- (3) Part VI of the previous Indian Lands Registration Manual issued February 1, 1990 does not apply to instruments registered as Notices in the Indian Lands Registry as of the date of issuance of this Manual.



Form and Content

45. The Notice may be in the form attached as Appendix “F” and shall contain:
- a. The name and address of the person claiming the right or interest;
 - b. The nature of the right or interest claimed;
 - c. The grounds for the claim; and
 - d. The description of the parcel of reserve, designated or surrendered land.
46. (1) The filing of the depositor’s affidavit(s) of service, which may be in the form attached as Appendix “G”, of the Notice on the person, or those persons, who have acquired an interest in the relevant parcel of land and thereby are presently affected by the claim, shall be a condition precedent to the deposit of a Notice.
- (2) The affidavit of service shall be signed by the person who served the Notice, and it is the claimant’s responsibility to ensure that the Registrar is furnished with an affidavit of service.

Right to Deposit

47. Any person claiming an interest related to reserve, designated or surrendered land, as opposed to a personal claim not attaching to land, by virtue of:
- a. An unregistered instrument that is not capable of immediate registration;
 - b. The operation of law; or
 - c. Other evidence of a claim to an interest in reserve, designated or surrendered land, may deposit a Notice with the Registrar of Indian Lands.



48. (1) Where a Notice is deposited with the Indian Lands Registry, it reflects the existence of a claim or interest, whether legally valid or not, against a parcel of reserve, designated or surrendered land
- (2) A deposited Notice, which has not yet been withdrawn, shall expire a year after the date upon which it was deposited.

Effect of Depositing a Notice

49. (1) The deposit of a Notice shall not delay, restrict nor prevent the registration of subsequent instruments affecting the same parcel of reserve, designated or surrendered land provided that the said subsequent instruments are submitted in accordance with the provisions of this Manual.
- (2) Upon the deposit of a Notice with the Indian Lands Registry, the Registrar will not be responsible for notifying the person(s) affected by the claim, but rather, as per sub-paragraph 2(1) of this Manual, it is the responsibility of the parties to the transaction to satisfy themselves as to the status of the relevant parcel prior to submitting an instrument for registration.

Deposit of a Response to a Notice

50. A person against whose interest a Notice is deposited may deposit a "Response to the Notice" in the form attached as Appendix "H".

Withdrawal of a Notice

51. The person claiming the right or interest may at any time withdraw the Notice by depositing a written "Withdrawal of Notice".



PART VI

FORMS OF LAWFUL POSSESSION

52. This part has no bearing on the way in which the expressions “joint tenant” and “tenant in common” are used in regard to leases.

Joint Tenancy

53. Joint tenancy is a form of lawful possession of reserve land in which two or more Band members (a Band cannot be a joint tenant) jointly hold equal undivided shares in the whole of a parcel of reserve land. The distinguishing feature of an interest held in joint tenancy is that, upon the death of one joint tenant, his/her interest in the land passes to the surviving joint tenant(s) by the right of survivorship. The right of survivorship takes precedence over any testamentary disposition made by a joint tenant. Therefore, even if the will of the deceased joint tenant provides that his/her lawful possession of reserve land is to pass to a certain person, his/her lawful possession of reserve land will nevertheless pass to the surviving joint tenant(s). The same principle applies if a joint tenant dies intestate (i.e. without a will). An interest held in joint tenancy cannot pass by devise or intestacy to any person or persons except the surviving joint tenant(s).

Tenancy in Common

54. Tenancy in common is a form of lawful possession of reserve land in which two or more Band members, or one or more Band members and the Band, hold reserve land in equal or unequal undivided shares. Unlike joint tenancy, tenancy in common has no right of survivorship. Therefore, upon the death of one of the tenants in common (who is a Band member rather than being the Band itself), his/her interest in the land passes to his/her estate or heirs. An interest held in tenancy in common may pass by devise or intestacy.

Joint Tenancy is Not Applicable in Quebec

55. Except for those joint tenancies already in existence, all parcels of land in the province of Quebec shall be held in tenancy in common. Therefore, the Joint Tenancy / Tenancy in Common agreement as shown in Appendix “I” should not accompany Quebec transfer documents.



Creation of a Joint Tenancy or a Tenancy in Common

56. The manner in which two or more band members hold lawful possession of reserve land should be decided at the time they acquire the interest in the land. At that time the band members should execute an agreement as to the manner in which they want to hold the property.

57. This agreement shall be made in the form shown as Appendix "I".

58.
 - (1) Appendix "I" for Joint Tenancy **can** be signed by all joint tenants and witnessed (an affidavit of witness is not required).
 - (2) Subject to sub-paragraph (3) Appendix "I" for Tenancy in Common **can** be signed by all new (as opposed to pre-existing) tenants in common.
 - (3) If a band wishes to hold land as a tenant in common, it need not sign Appendix "I" for Tenancy in Common.
 - (4) If the band members do not **indicate on a transfer** as to the manner in which they want to hold the property at the time the lawful possession of reserve land is acquired, the interest will be recorded as being held in tenancy in common.
 - (5) Despite the tenancy in common default created by sub-paragraph (4), the Registrar of Indian Lands encourages the practice of executing Appendix "I" for Tenancy in Common and attaching it to each transfer document which creates a tenancy in common (except Quebec transfer documents) unless doing so would cause undue hardship (eg. The expense of appointing a guardian ad litem for a minor).
 - (6) **When transferring an undivided interest, the undivided interest must be indicated on the transfer document.**



Severance: Joint Tenancy

59. (1) Joint tenancy can be severed (i.e. changed to an interest held in tenancy in common) at any time in any of the following ways:
- (a) a joint tenant may transfer in writing his/her interest to any other band member or to the band without being required to obtain the consent of the other joint tenant(s). A joint tenant may not transfer his/her interest to his/her self in order to sever a joint tenancy as this is contrary to Section 24 of the Indian Act.
- (Note:)** If there are more than two joint tenants, the severance by one joint tenant will not affect the manner in which the remaining joint tenants hold their interests with respect to each other.
- (b) all joint tenants may enter into a written agreement to hold the interests as tenancy in common.
 - (c) all joint tenants may enter into a written agreement to partition their interest (divide the parcel of land into smaller parcels of land and each take one or more of the smaller parcels) and sever the joint tenancy. This agreement would require approval pursuant to Section 24 of the Indian Act.
- (2) This “unilateral severance” of a joint tenancy policy (described in subparagraph (1)) will apply to all joint tenancies including the existing joint tenancies in the Province of Quebec (i.e. to existing joint tenancies as well as those joint tenancies created after the publication of this Manual).
60. Where two joint tenants subdivide their parcel of land and transfer a portion of the original parcel to the band or another Band member, the joint tenancy in regard to the subdivided parcel(s) which they retain will not be severed, but rather they will continue to hold the retained parcel(s) as joint tenants.
61. This concept of severance, applicable to a joint tenancy situation, does not apply to a tenancy in common situation.



Death of a Joint Tenant

62. (1) Upon the death of a joint tenant, the registration of a death certificate shall cause the Registrar of Indian Lands to record a transfer of interest from the deceased joint tenant to the surviving joint tenant(s).
- (2) Upon the receipt of a death certificate for registration as evidence of the death of a band member who was in lawful possession of reserve land as a joint tenant with one or more other band members, a new Certificate of Possession or Certificate of Occupation will be issued to the surviving joint tenant(s).
- (3) If requested in writing, a new Certificate of Possession or Certificate of Occupation may be issued to the surviving joint tenant(s), without the provision of a death certificate, where the death of a band member can be confirmed by reference to band membership records.

Issuance of Certificate of Possession or Occupation

63. (1) Where joint tenancy exists, one Certificate of Possession or Certificate of Occupation will be issued to all joint tenants.
- (2) Where tenancy in common exists, a separate Certificate of Possession or Certificate of Occupation will be issued for each lawful possessor outlining their respective fractional interest.
- (3) **A request for new Evidence of Title due to land being resurveyed, if the locatees are Joint Tenants, then only 1 locatee is required to sign, if the locatees hold the land as Tenants-in-Common, then all locatees must sign the request.**



PART VII

INDIAN LANDS REGISTRY OFFICE

Office Hours

64. The Indian Lands Registry Office shall be kept open from 8:30 in the morning to 4:30 in the afternoon (Ottawa time), Monday through Friday except holidays.
65. “Holiday” means:
- (a) Saturday;
 - (b) Sunday; or
 - (c) a day that is a holiday for civil servants as prescribed by regulations under the Public Service Act.

Registrar of Indian lands

66. (1) The Registrar of Indian Lands (“the Registrar”) is the officer of the Department responsible for the registers created according to sections 21 and 55 of the *Indian Act*.
- (2) A listing of the principal officers of the Indian Lands Registry Office is attached as Appendix “J”.



Books and Abstracts

67. The following books and abstracts shall be kept in the Department:

- (a) an entry book, called the Day Book, in which the Indian Lands Registry staff records in chronological order by time and date of registration, each instrument registered by the Registrar;
- (b) a register, called the Reserve General **Abstract Report**, for tracts of land established as reserves in which the Indian Lands Registry staff records particulars relating to any rights or interests concerning the establishment of a reserve, transactions creating a surrender or designation of reserve land and other transactions that affect a reserve as a whole;
- (c) an abstract, Parcel Abstract **Report** in which the Indian Lands Registry staff records for lots or parcels of reserve, surrendered or designated land, any rights or interests in the lots or parcels that are registered by the Registrar;
- (d) a survey book, in which the Indian Lands Registry staff enters for each province, registration plans used for the description of reserve, designated or surrendered land in documents registered by the Registrar;
- (e) a CLSR index book, in which the Indian Lands Registry staff enters for each Indian reserve, the CLSR plans (i.e. the plans recorded in the Canada Lands Survey Records) used for the description of reserve, designated or surrendered land; and



APPENDIX "A"

Registration Checklist

GENERAL REQUIREMENTS

Is the document either an original or a copy as per Part I Sec 11(2) of the Indian Lands Registration Manual?

Is the document dated and legible?

Are parties (and addresses for leases and permits) identified? i.e. lessee, lessor, locatee, locator

Is the document signed and witnessed and affidavit attached or is the corporate seal affixed?

Are the signatures consistent with identification of the parties?

Has the document been executed by proper delegated authority under the *Indian Act*? (Except Sechelt Act or FNLMA)

Have all alterations been initialled by pertinent parties?

Is there provision for consideration?

Has access been provided? (Except Kahnawake - lots landlocked before 1989)

INDIVIDUAL LAND-HOLDING (BCR, TRANSFER)

Does the individual/Band doing the conveyance have an interest in the land?

Is the individual receiving the interest entitled to hold an interest in the land?

Does the land have reserve status? (i.e.) not surrendered, designated or expropriated)

If land is a mortgaged, does transferee assume? Are there any other encumbrances.

Does individual's name, band and member number correspond to the Indian Registration System (IRS) (membership records)?



INDIVIDUAL ESTATES (ADMINISTRATIVE TRANSFER)

Has an "Appointment of Administrator" or Approval of Will" been included with the Administrative Transfer?

Has the Administrative Transfer been executed by the individual appointed to administer the estate?

LEASE/PERMIT/ASSIGNMENT

Is the transaction on band land? If Band land, except for Sections 58(1) or 58(4), of the *Indian Act*. is surrender/designation registered?)

If locatee land, did the locatee approve?

If a permit over 1 year, has the Band Council consented to the permit?

If there is a prior mortgage/caveat? If yes, has it been dealt with? (Assumption, discharge, letter of undertaking)

If the transaction is related to another interest, is that interest registered?

Is the previous interest correctly referred to in the document being submitted?

List any other encumbrances that affect the transaction.

Have the encumbrances been adequately addressed in the transaction?

EXPROPRIATION/DESIGNATION/REVOCAION

Is there an affidavit sworn by an official on behalf of the Minister?

Is there an affidavit sworn by the Chief and/or Councillors?

Is there an accepting Order in Council?



LAND DESCRIPTION

Does description in document correspond to parcel of land on a survey plan?

Does the land description correspond with Part III of this Manual?

NOTE: If there is uncertainty about the land description, refer the document to Survey section. If any of the above questions are answered negatively, reject document.



Appendix "B"
Application for Registration
Send two copies to:

Indian and Northern Affairs
Indian Lands Registry
Terrasses de la Chaudière
Ottawa, Ontario K1A 0H4
Attention: Registrar of Indian Lands

<p>The undersigned hereby requests that the instrument, the particulars of which are set out below, be entered, pursuant to the Indian Act, in the appropriate register of the Indian Land Registry</p>	<p>Le/La soussigné(e) demande par la présente que le document dont les détails sont indiqués ci-dessous, soit inscrit conformément à la loi sur les Indiens dans le Registre des terres indiennes concerné.</p>
---	---

NAME OF PARTIES TO INSTRUMENT / NOM DES PARTIES DU DOCUMENT

Grantor / Cédant
<u>Name / Nom</u>
Grantee / Cessionnaire
<u>Name / Nom</u>

<u>Log # / # au registre</u>	<u>Log Date / Date au registre</u>	<u>Regional File # / # de dossier régional</u>
	<u>Dd/mm/yy</u> <u>jj/mm/aa</u>	

Instrument Type / Type de document: (or / ou Code)

Instrument Date / Date du document: (or / ou Code)

Purpose / Objet:



LAND DESCRIPTION / DESCRIPTION DE LA TERRE

Province:

Reserve Name / Nom de la réserve:

Crown Land Name / Nom de la terre de la couronne:

Legal Description - Land Affected /

Remarks / Remarques:

	()		
Signature of Applicant	Tel. # of Applicant	email	Date
Signature du requérant	# Tél. du requérant	courriel	

Return to:

Address:

Application for Registration

Send two copies to:

Indian and Northern Affairs
 Indian Lands Registry
 Terrasses de la Chaudière
 Ottawa, Ontario K1A 0H4
 Attention: Registrar of Indian Lands

Registration Number / Numéro d'enregistrement: _____

Registration Date / Date d'enregistrement: _____ **And Time / et heure:** _____ **A.M./P.M.**

Signature of Registration Officer/ Signature de l'officier d'enregistrement	Date



COMMENTS / COMMENTAIRES:

REASON FOR REJECTION / RAISON DU REJET:

**Signature of Registration Officer/
Signature de l'officier d'enregistrement**

Date



APPENDIX "C"

Affidavit of Witness
re: Execution (Signing) of Document

Blank lines for header information

CANADA PROVINCE OF _____

I _____

OF THE CITY OF ____

OF THE PROVINCE OF _____

TO WIT

Make oath and say

1. That I was personally present and did see the within instrument duly executed by

_____.
(Where execution by mark, insert applicable clause.)

2. That I know the said party(ies), and that the said party(ies) in my belief is/are the full age of majority for the province of _____

3. That I am the subscribing witness to the said instrument.

Signature of Witness

SWORN before me at the City of _____, Province of _____,
this _____ days of _____ 19____,

A Notary Public in and for the Province of _____ or a Commissioner for taking Oaths.
(Indicate under what authority and when Commission expires.)

Blank line for signature



NOTE: EXECUTION BY MARK

Where the transfer is signed by mark the following should be added to the attestation clause to be signed by the witness.

“That the said transfer having first been truly and audibly read over to _____, he/she appeared to understand it, and made his/her mark hereto in our presence as aforesaid.”



**APPENDIX “D”
INDIAN LANDS REGISTRY and FIRST NATION LAND REGISTER, MINIMUM LAND
DESCRIPTION REQUIREMENTS**

CHART “A”	See specific notes on the following page	Standards for these products are set out in the <i>Manual of Instructions for the Survey of Canada Lands</i>		
		Administrative Plan - Sec. 31		Official Plan - Sec. 29
Purpose		Registration Plan -(Field Survey may be required)	Registration Plan - (Field Survey mandatory)	Survey Plan
I - ADDITIONS		No	No	Yes / Prov. Plan
II - RE-SURVEYS OF JURISDICTIONAL BOUNDARIES		No	No	Yes
III - SALES - Surrender Vote Sec. 38(1) and accepting OC - Disposition - Section 35 (highways, etc.) - Section 35 (easements)	See Note 3	Yes No No Yes	Optional No No Optional	No Yes Yes No
IV - FIRST NATION PURPOSES - Designation Vote Sec 38(2) and accepting OC - Welfare of First Nation (Sec.18(2))	See Note 3 See Note 1	Yes No	Optional Yes	No No
V - LAWFUL POSSESSION - Allotment Sec 20 - Transfers Sec 24, 43, 49 - Access Agreements	See Note 1 See Note 1 See Note 4	Yes Yes Optional	Optional Optional Optional	No No No



<p>VI - LEASES Sec. 53, 58</p> <p>- 10 years or more</p> <ul style="list-style-type: none"> - land - building unit with interest in land - building unit only <p>less than 10 years</p> <ul style="list-style-type: none"> - land - building unit only 	<p>See Note 5</p> <p>See Note 1</p> <p>See Note 4</p>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Optional</p> <p>Optional</p>	<p>Yes</p> <p>Optional</p> <p>Optional</p> <p>No</p>	<p>No</p> <p>No</p> <p>No</p> <p>No</p> <p>No</p>
<p>VII - PERMITS Sec. 28(2)</p> <ul style="list-style-type: none"> - 10 years or more - less than 10 years - Utilities distribution (Blanket Permit) 	<p>See Note 5</p> <p>See Note 4</p> <p>See Note 4</p>	<p>Yes (2)</p> <p>Optional</p> <p>Optional</p>	<p>Optional</p> <p>Optional</p> <p>Optional</p>	<p>No</p> <p>No</p>

Definition: "OC" - Order-in Council (Privy Council)

Notes:

- (1) Specific circumstances may require a higher quality product.
- (2) The plan will create no new lots. The plan will create a right-of-way or may be used to create an easement.
- (3) Not required if the parcel can be fully described by reference to existing plans recorded in the CLSR.



- (4) The minimum description required by the ILR and the FNLR for these transactions is a textual reference. The guidelines for textual references are set out in the Indian Lands Registration Manual. A Land Use Area Plan (LUA) prepared under the instructions of the Surveyor General may be used as the basis of a textual reference prepared for an agricultural permit.
- (5) The term of leases and permits include any renewal and extension provisions.

References to Sections 29 and 31 in Chart A are to the *Canada Lands Surveys Act* , all other Section references are to the *Indian Act*.

Subsection 18(2)	land in a reserve may be taken for the general welfare of the Band (e.g. schools, Band roads, churches, etc).
Subsection 20(1)	possession of land can be allotted by a Band Council.
Section 24	the right to possession of land may be transferred.
Subsection 28(2)	permits may be issued on reserve lands.
Section 35	land in a reserve may be taken for public purposes.
Subsection 38(1)	a Band may absolutely surrender all of its rights in land to Her Majesty in Right of Canada.
Subsection 38(2)	a Band may designate (by way of a surrender that is not absolute) any right for the purpose of leasing or granting the right.
Sections 43 & 49	the administration of property of deceased Indians.
Sections 53 & 58	Surrendered, designated or reserve lands may be leased.



Appendix “E”

LSD REGIONAL SURVEYORS AND CLIENT LIAISON LIMITS

CLIENT LIAISON UNIT (CLU) ATLANTIC

Gord Isaacs

Head, Atlantic CLU
136 Victoria Street East
Amherst, Nova Scotia
B4H 1Y1

Telephone # (902) 661-6766
Fax # (902) 661-6769
Cellular phone # (902) 664-8482

ONTARIO CLU

Cindy Kliaman

Head, Ontario CLU
55, St. Clair Avenue East
Suite 606
Toronto, Ontario
M4T 1M2

Telephone # (416) 973-1006
Fax # (416) 973-1004
Cellular phone # (416) 574-9418

QUÉBEC CLU

Josée Bastien

Chef, Services aux clients
320, rue St-Joseph Est
C.P. 51127 - G. Roy
Québec (Québec)

Telephone # (418) 648-5724
Fax # (418) 648-5728



ALBERTA CLU

Richard Beaumont

Head, Alberta CLUI
9700 Jasper Avenue
Suite 605
Edmonton, Alberta
T5J 4C3

Telephone # (403) 495-6174
Fax # (403) 495-4052

BRITISH COLUMBIA CLU

Steve Minnie

Head, B.C. CLU
1550 Alberni Street, Suite 800
Vancouver, British Columbia
V6G 3C6

Telephone # (604) 666-3517
Fax # (604) 666-0522

SASKATCHEWAN CLU

Ravi Shrivastava

Head, saskatchewan CLU
100 Central Park Place
2208 Scarth Street
Regina, Saskatchewan
S4P 2L6

Telephone # (306) 780-5402
Fax # (306) 780-5191

MANITOBA CLU

Dewey Hoplock

Head, Manitoba CLU
2-250, 365 Hargrave Street
Winnipeg, Manitoba
R3B 2K3

Telephone # (204) 983-3793
Fax # (204) 983-0157



APPENDIX "F"

**Registrar, Indian Lands
Indian Lands Registry
Department of Indian Affairs
and Northern Development**

NOTICE

Take notice that _____, claims an interest in the land described hereunder:

(claimant)

(Legal Description, Plan No., Reserve name and number, Province)

The names of the persons who have acquired an interest in the above-mentioned parcel of land and are thereby affected by this claim.

I have enclosed herewith affidavits of service of this Notice on the person, or those persons, who have acquired an interest in the above-mentioned parcel of land and thereby are presently affected by this claim.

The nature of the right or interest claimed:

The grounds for the claim:

That I, _____, understand that:
(claimant)



- (i) the deposit of this Notice shall not delay, restrict nor prevent the registration of subsequent instruments affecting the same parcel of reserve, designated or surrendered lands;
- (ii) the Registrar, Indian Lands will not be responsible for notifying the person(s) affected by the claim;
- (iii) a person against whose interest this Notice is deposited may deposit a response to this Notice;
- (iv) this Notice, if not yet withdrawn, shall expire a year after the date upon which it is deposited; and
- (v) I may at any time withdraw this Notice by depositing a written withdrawal of Notice with the Registrar of Indian Lands.

(Signature of the claimant)

Address of the claimant:



APPENDIX “G”

AFFIDAVIT OF SERVICE

1. (The full name of the person who served the Notice), (occupation), of (city, town, etc.), in the Province (or Territory) of (province or territory), MAKE OATH AND SAY:

(Personal Service)

1. On (date), at (time), I served (identify the person served) with the (identify the Notice served) by leaving a copy with him (or her) at (address where service was made).
2. I was able to identify the person by means of (state means by which the person’s identity was ascertained).

(Or)

(Service by Registered Mail with an Acknowledgement of Receipt)

1. On (date), at (time), I served (identify the person served) with the (identify the Notice served) by sending him (or her) a copy by registered mail with an acknowledgement of receipt.
2. Please find attached as “Exhibit #1” to this affidavit the relevant acknowledgement of receipt card signed by (identify the person served).

SWORN before me at
 (city) , in the
Province (or Territory) of
(province or territory).,
on the (day) Of
 (month) , (year) .

(Commissionaire for Oaths
for the relevant province/
territory)_____

(signature of the person who served the Notice)

(Affix stamp/seal)



APPENDIX "H"

Registrar, Indian Lands
Indian Lands Registry
Department of Indian Affairs
and Northern Development

RESPONSE TO A NOTICE

1. _____, am a person against whose interest in the land described hereunder a Notice, with the Registration Number (Registration Number given to the Notice at the Indian Lands Registry), has been deposited at the Indian Lands Registry:

(Legal Description, Plan No., Reserve name and number, Province)

The following is my response to the aforementioned Notice:

Multiple horizontal lines for writing the response.

(signature of the person
Depositing the Response
To the Notice)



APPENDIX "I"

AGREEMENT JOINT TENANCY / TENANCY IN COMMON

- **Joint tenancy is Not Applicable in the Province of Quebec. (Except for those joint tenancies already in existence, all parcels of land in the province of Quebec shall be held in tenancy in common (as per paragraph 56 of the 1998 version of the Indian Lands Registration Manual). Therefore this Joint Tenancy/ Tenancy in Common agreement should not accompany Quebec transfer documents).**

JOINT TENANCY: We, the undersigned, _____ agree to hold the following reserve land as joint tenants.

LAND DESCRIPTION: _____

We fully understand that joint tenancy is a form of lawful possession in which two or more Band members jointly hold equal undivided shares in the whole of a parcel of reserve land. The distinguishing feature of an interest held in joint tenancy is that, upon the death of one joint tenant his or her interest in the land passes to the surviving joint tenant(s) by the right of survivorship. The right of survivorship takes precedence over any testamentary disposition of land made by a joint tenant. An interest held in joint tenancy cannot pass by devise or intestacy to any other person or persons except the surviving joint tenant(s).

Joint Tenancy can be severed (changed to a tenancy in common) in the following ways:
a) a joint tenant may transfer his/her interest to any other Band member or to the band without the consent of the other joint tenant(s) (a joint tenant may not transfer the interest to his/her self in order to sever a joint tenancy).
b) all joint tenants may enter into a written agreement to hold their interests as tenants in common.
c) all joint tenants may enter into a written agreement to partition their interest (divide the parcel of land into smaller parcels of land and each take one or more of the smaller parcels) and sever the joint tenancy. This would require approval pursuant to Section 24 of the Indian Act.

TENANCY IN COMMON: We, the undersigned, _____, agree to hold the following reserve land as tenants in common.

LAND DESCRIPTION: _____

We fully understand that tenancy in common is a form of lawful possession in which two or more band members, or one or more band members and the band, hold equal or unequal undivided shares in a parcel of reserve land and that this form of lawful possession does not create the right of survivorship. This means that on the death of one of us, his/her interest in the land passes to his/her estate or heirs.



Tenancy in common may be changed at any time to joint tenancy by two or more of the tenants in common transferring to two or more band members as joint tenants their undivided shares in a parcel of reserve land.

This transfer would require approval pursuant to Section 24 of the *Indian Act*.

-Despite the tenancy in common default created by sub-paragraph 58(4) of the 1998 version of the Indian Lands Registration Manual, the Registrar of Indian Lands encourages the practice of executing this Tenancy in Common agreement and attaching it to each transfer document which creates a tenancy in common (except Quebec transfer documents) unless doing so would cause undue hardship (eg. the expense of appointing a guardian ad litem for a minor).

Witness

Signature

Date

Witness

Signature

Date



APPENDIX "J"

ADDRESSES AND TELEPHONE NUMBERS OF CHIEF OFFICERS, INDIAN LANDS REGISTRY DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

Stephen Gagnon

Registrar Indian Lands
Les Terrasses de la Chaudière
17th Floor
10 Wellington Street
Gatineau (Quebec) K1A 0H4

Phone number (819) 997-9939
Fax 1 (819) 994-6882

Jacques Desrochers

Manager Surveys, Imaging and Title Research
Les Terrasses de la Chaudière
17th Floor
10 Wellington Street
Gatineau (Quebec) K1A OH4

Phone number (819) 994-6743
Fax: 1 (819) 997-6882

Barbara Beck

A/Deputy Registrar
Les Terrasses de la Chaudiere
17th Floor
10 Welington Street
Gatineau (Quebec) K1A OH4

Phone number (819) 997-8130
Fax 1 (819) 997-6882

Loretta Roy

A/Senior Lands Registration Officer - FNLMA
Les Terrasses de la Chaudiere
17th Floor
10 Wellington Street
Gatineau (Quebec) K1A OH4

Phone number (819) 953-0614
Fax 1 (819) 997-6882





APPENDIX “K”

Glossary of Terms

Cautionary Note

The “Glossary of Terms” provides a quick reference guide to terminology used in the Manual. These definitions are not intended to be comprehensive legal interpretations. Where an understanding of the full legal impact of any of the terms is required, appropriate legal advice ought to be obtained from legal services.

ABSTRACT	A summary in sequence of the documents, facts and events evidencing or affecting the nature of a person’s title or interest in a given tract of land.
ACCESS	The way or means to approach, to enter and to leave a privately owned tract of land from a public way without trespassing on other privately owned property.
INSTRUMENT	A formal legal document.
AFFIDAVIT OF EXECUTION	A written statement sworn before a person having authority to administer an oath, by a person having witnessed a document testifying to the document having been executed by the parties there.
BAND	Means a body of Indians; a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after the 4th day of September, 1951. b) for whose use and benefit in common, moneys are held by Her Majesty, or, c) declared by the Governor in Council to be a band for the purposes of the Indian Act.



BCR	Band Council Resolution is a resolution duly passed by a quorum of the band council. Band Council Resolution and First Nation Council Resolution are used interchangeably.
CERTIFICATE OF OCCUPATION	Documentary evidence of an Indian's right to temporary possession of lands described therein under the terms of the Indian Act, which may be replaced by a certificate of possession subject to the fulfilment of certain conditions.
CERTIFICATE OF POSSESSION	Documentary evidence of an Indian's right to lawful possession of land described therein, under the terms of the Indian Act.
CONSIDERATION	The price or subject matter which induces a contract, may be in money, commodity exchange or a transfer of personal effect. 90% of transfers of Indian Lands have One dollar and/or "love and affection" for consideration.
DESIGNATED LAND	Means a tract of land or any interest therein the legal title to which remains vested in Her Majesty and in which the band for whose use and benefit it was set apart as a reserve had, otherwise than absolutely, released or surrendered its rights or interests, whether before or after the coming into force of this definition. (Indian Act, 1951)
EASEMENT	A non-possessing interest held by one person in land of another whereby the first person is accorded partial use of such land for a specific purpose. An easement restricts but does not abridge the rights of the fee owner to the use and enjoyment of his land.
ENCUMBRANCE	An interest or right in real property which diminishes the value of the fee, but does not prevent conveyance of the fee by the owner. Mortgages, taxes, judgements are encumbrances known as liens. Restrictions, easements, reservations are encumbrances, though not liens.



JOINT TENANCY	The holding of property by two or more persons in such a manner that upon the death of one joint owner, the survivor, or survivors take the entire property. The right of survivorship takes precedence over any testamentary disposition made by a joint tenant. To be distinguished from tenancy in common.
LEGAL DESCRIPTION	A statement containing a designation by which land is identified according to a system set up by law or approved by law.
LOCATEE	Means the band member entitled to the use and occupation of a parcel of reserve land duly allotted to him (aka lawful possessor).
LOT	A piece of land, regardless of size or ownership.
NETI	No Evidence of Title Issued. The locatee, when abstracted as having title does not have lawful possession of the subject property, it was simply that the transaction granting possession was administratively deficient or the locatee receiving the interest was deceased or immediately transferring their right of possession onto another band member, and therefore a Certificate of Possession was not issued.
NOTICE	A document, when deposited with the Indian Lands Registry, reflects the existence of a claim or interest, whether legally valid or not, against a parcel or reserve, designated or surrendered land.
OFFICIAL PLAN	Upon confirmation by the surveyor General, a plan is deemed to be the official plan of those lands shown supersedes any other records plan of a prior date.
ORDER IN COUNCIL	An order made by the Governor General (or Lieutenant Governor of a Province) on behalf of Her Majesty the Queen on the advice of the Privy Council, either under statute or by royal prerogative.



REGISTER	A record of a land transaction so arranged as to show possessory entitlement, encumbrances and obstructions, relating to identified parcels of land.
REGISTRAR OF INDIAN LANDS	A person appointed by the Minister whose function it is to keep a register and who is entrusted with the custody of public documents.
REGISTRATION	The act of recording a land transaction in such a way that all persons, agencies, and lands affected are advised of the implications of the transactions.
RESERVE	Means a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band, and; except in subsection 18(2), section 20 to 25, 28, 36 to 38, 42, 44, 46, 48 to 51, 58, 60 and 124 and the regulations made under any of those provisions, includes designated lands, (Indian Act, 1951).
SURRENDERED LANDS	Means a reserve or part of a reserve or any interest therein, the legal title to which remains vested in Majesty, that has been released or surrendered by the band for whose use and benefit it was set apart. (Indian Act, 1951).
TENANCY IN COMMON	The holding of property by two or more persons each of whom has an undivided interest which, upon his death, passes to his heirs and not to the survivor or survivors. To be distinguished from joint tenancy.
WILL	The legal statement concerning the disposition of one's property after death; the document containing such wishes; to dispose of by testament.



APPENDIX “L”

Textual Description

- (1) A textual description is a description of the extent of certain interest in Indian Lands and may be used when the interests are, or will be, registered in the Indian Lands Registry. The current Framework Agreement indicates the transactions for which a textual description may be used.

- (2) A textual description must clearly and unambiguously identify the land subject to the interest. If the land subject to the interest is the whole of, or a portion of, a lot shown on an existing plan, then the description must refer to the plan and lot. The dimensions of the parcel of land must be mentioned in the text or be clearly shown on an attached sketch. It is preferred that any sketch accompanying a textual description not exceed a maximum size of 27.94 cm x 43.18 cm (11" x 17").

- (3) Lands described by a textual description may be surveyed at some future date. However, there is no requirement to do so. A textual description is deemed to be replaced when the land which it describes is defined by an Official Plan, Explanatory Plan, or Registration Plan.