

**EXEMPTION AGREEMENT PURSUANT TO SCHEDULE 12-1 (Item 7)
OF THE NUNAVUT AGREEMENT**

BETWEEN:

THE NUNAVUT IMPACT REVIEW BOARD (NIRB)

AND

**HIS MAJESTY THE KING IN RIGHT OF CANADA, as represented by the Minister of
Fisheries and Oceans,**

Individually referenced as a “Party” and collectively referenced as the “Parties”

PREAMBLE

WHEREAS the NIRB has statutory responsibilities pursuant to Article 12 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)*, the *Nunavut Land Claims Agreement Act*, S.C. 1993, c. 29 (*Nunavut Land Claims Agreement Act*) and Part 3 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14 (*NuPPAA*) to conduct environmental and socio-economic impact assessments of project proposals within the Nunavut Settlement Area (NSA);

AND WHEREAS DFO is the federal department established under the *Department of Fisheries and Oceans Act* (R.S.C., 1985, c. F-15), which also establishes the powers, duties and functions of the Minister of Fisheries and Oceans (Minister). As established under the Act, the Minister has various responsibilities including, but not limited to, protecting and managing Canada’s aquatic ecosystems, specifically the collection of baseline data, monitoring of fish populations, and assessment of environmental changes in marine and freshwater environments;

AND WHEREAS the Minister has the authority to licence fishing for experimental, scientific, educational and other purposes under s. 52 of the *Fisheries (General) Regulation*, SOR/93-53, which may, in some cases, be a project proposal subject to the requirements of Article 12 of the *Nunavut Agreement*, Part 3 of the *NuPPAA*, and unless exempted (as described below) may be subject to screening by the NIRB;

AND WHEREAS the Minister has the authority to authorize the disturbance of Marine Mammals under s. 38 of the *Marine Mammal Regulations*, (SOR/93-56) which may, in some cases, be a project proposal subject to the requirements of Article 12 of the *Nunavut Agreement*, Part 3 of the *NuPPAA*, and unless exempted (as described below) may be subject to screening by the NIRB;

AND WHEREAS Schedule 12-1, Item 7 of the *Nunavut Agreement* and s. 230 of the *NuPPAA* authorizes the NIRB and the appropriate Minister to exempt from the requirements for screening under Article 12 of the *Nunavut Agreement* and Part 3 of the *NuPPAA*, such categories of activities and projects as may be agreed upon by the NIRB and the Minister (an Exemption Agreement);

AND WHEREAS pursuant to s. 230(4) of the *NuPPAA*, an Exemption Agreement may be submitted by the Parties to the Minister of Northern and Arctic Affairs to be added to *NuPPAA, Schedule 3: Classes of Works and Activities Exempt from Screening*.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1.0 GENERAL

1.1 Definitions

For the purposes of this Exemption Agreement, these terms will have the following meanings:

“DFO” means the Department of Fisheries and Oceans, also operating under the name of Fisheries and Oceans Canada, and includes a duly authorized representative of the Department of Fisheries and Oceans, as appropriate.

“Minister” means the Minister of Fisheries and Oceans as established under s.2(2) of the *Department of Fisheries and Oceans Act*, R.S.C. 1985, c. F-15

“NIRB” means either the Nunavut Impact Review Board or a duly authorized representative of the Nunavut Impact Review Board, as appropriate.

“project proposal” means a physical work that a proponent proposes to construct, operate, modify, decommission, abandon or otherwise carry out, or a physical activity that a proponent proposes to undertake or otherwise carry out, such work or activity being within the Nunavut Settlement Area, except as provided in Article 12, Section 12.11.1 of the *Nunavut Agreement*, but does not include the construction, operation or maintenance of a building or the provision of a service, within a municipality, that does not have ecosystemic impacts outside the municipality and does not involve the deposit of waste by a municipality, the bulk storage of fuel, the production of nuclear or hydro-electric power or any industrial activity

“Licence to Fish for Scientific Purpose” means a licence issued by the DFO under s. 52 of the *Fisheries (General) Regulation*, SOR/93-53 that is required for all scientific activities that would be in keeping with the proper management and control of fisheries.

“Authorized Disturbance of Marine Mammals” means an authorization issued by the DFO under s. 38 of the *Marine Mammal Regulations*, (SOR/93-56) that authorizes the disturbance of marine mammals.

2.0 SCOPE OF THE EXEMPTION

2.1 Works Governed by the Exemption Agreement

Activities requiring a Licence to Fish for Scientific Purpose and/or Authorized Disturbance of Marine Mammals issued by DFO as defined above are exempt from the requirement for screening by the NIRB.

2.2 Cumulative Impacts

Where DFO has concerns regarding the potential for cumulative ecosystemic and socio-economic impacts associated with the activities within the scope of Clause 2.1 of this Exemption Agreement, DFO may, at their discretion, send any such project proposals, including those that would otherwise be exempt from screening under this Exemption Agreement, to the Nunavut Planning Commission to determine whether cumulative effects concerns warrant forwarding the project proposal to the NIRB for screening.

2.3 Public Concern

Where public concern has been expressed regarding the activities within the scope of Clause 2.1 of this Exemption Agreement, DFO, may at their discretion, send any such project proposals, including those that would otherwise be exempt from screening under this Exemption Agreement, to the Nunavut Planning Commission to determine whether the project proposal should be forwarded to the NIRB for screening.

2.4 Authorizations Not Governed by the Exemption Agreement

Any authorizations issued by DFO or the Minister for works and/or activities that constitute project proposals in the NSA other than the works to which this Exemption Agreement applies will continue to be subject to screening by the NIRB as required under Article 12 of the *Nunavut Agreement* and Part 3 of the *NuPPAA*.

3.0 TERM OF THIS AGREEMENT

3.1 Term

This Exemption Agreement commences on the date the last of the Parties signs the Exemption Agreement and continues until the Exemption Agreement is terminated as set out in Clause 3.2 of this Exemption Agreement.

3.2 Termination of the Agreement

Upon providing 120 days' written notice to the other Party and an explanation as to the rationale for terminating the Exemption Agreement (including issues such as noncompliance with the terms of the Exemption Agreement, a determination that the Exemption Agreement is no longer appropriate or required, etc.), either Party to this Exemption Agreement may terminate the Exemption Agreement.

4.0 TERMS AND CONDITIONS

4.1 Monitoring and Reporting

For the purposes of monitoring the effectiveness of the Exemption Agreement, every year, on or before March 31st of the following year, DFO will provide the NIRB with:

- A listing of the works and/or activities and objectives within the scope of Clause 2.1 that were exempted from NIRB screening in the previous year; and
- A report which notifies the NIRB of any particular concerns regarding potential adverse impacts associated with any of the works and/or activities within the scope of Clause 2.1 that were exempted from NIRB screening in the previous year.

5.0 EXEMPTION AGREEMENTS UNDER *NUPPAA* SCHEDULE 3

5.1 Submission for Inclusion

When the NIRB and the Minister of Fisheries and Oceans have signed the Exemption Agreement and the NIRB has complied with the notice and comment requirements set out in s. 230 of the *NuPPAA*, the NIRB shall forward the Exemption Agreement to the Minister of Northern and Arctic Affairs to be added to *NuPPAA, Schedule 3: Classes of Works and Activities Exempt from Screening*.

5.2 The Effect of Termination of The Exemption Agreement

In the event this Exemption Agreement is terminated by either Party as set out in Clause 3.2 above, the NIRB shall post notice of the termination and the rationale for the termination and shall provide specific notice of the termination of the Exemption Agreement to the Minister of Northern and Arctic Affairs, with a request to remove the works and activities included under the terminated Exemption Agreement from *NuPPAA, Schedule 3: Classes of Works and Activities Exempt from Screening*.

6.0 COUNTERPARTS

This Exemption Agreement may be signed in several counterparts and each counterpart shall constitute an original document; these counterparts taken together shall constitute one and the same agreement. The Parties agree that executed counterparts may be transmitted electronically and that such counterparts shall be treated as originally executed instruments. Each Party undertakes to provide the others with a copy of the original Agreement bearing actual original signatures within a reasonable time following the execution of this Exemption Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives:

On behalf of the Nunavut Impact
Review Board

On behalf of His Majesty the King in Right of
Canada, as represented by the Minister of
Fisheries and Oceans

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Chairperson
Nunavut Impact Review Board

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XX Minister
Fisheries and Oceans Canada

Date _____

Date: _____