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This glossary contains a list of key terms found in the Land Management Manual. This is an evergreen document that will be continually updated.

Various instruments, agreements and orders may use the same language as what is found in the list of terms contained in the Land Management Manual, but those terms may have different definitions. While this list of terms and definitions was developed to apply to the Land Management Manual, readers are advised to be discerning and mindful of the context if they are using this glossary to apply to documents that are external to the chapters and procedures contained in the Land Management Manual.

Definitions

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, enter and leave a tract of land from a public way without trespassing on other property.

Accretion: the imperceptible and gradual addition to land by the slow action of water.

[Addition of Lands to Reserves and Reserve Creation Act](#): is legislation that enables the setting apart of lands as reserves for the use and benefit of First Nations. Its technical tools include: a) the approval of all reserve creation proposals by Ministerial Order rather than by Order in Council; b) the ability for all First Nations in Canada to designate lands for leasing before the lands are set apart as reserve (also known as pre-reserve designation); c) the ability for First Nations to arrange for leases and permits before the land is set apart as reserve; and, d) statutory easements and voluntary land exchanges linked to a reserve creation proposal approved by Ministerial Order.

Addition to Reserve: the act of adding land to the existing reserve land base of a Band.

Administrative Plan: a plan prepared under section 31 of the [Canada Lands Surveys Act](#) used for defining boundaries or parcels. It is approved by the Surveyor General before being recorded in the Canada Lands Surveys record.

Administrative Transfer: the instrument used by the executor of a will or the administrator of an estate, to transfer reserve lands to the heirs or beneficiaries of a will or an estate, pursuant to section 49 of the [Indian Act](#).

Administrator: a person appointed by the Minister to administer an estate. If there is no will, the Minister will appoint someone to handle all the legal and financial matters of the deceased's estate.

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Affidavit of Execution: a written declaration sworn before a person with the power to administer affidavits (e.g., a lawyer, a commissioner for oaths or a notary public) where an individual attests to witnessing another individual sign a document.

Allotment: the process by which an individual Band member receives lawful possession of reserve land from the Band Council under section 20 of the [Indian Act](#).

Allotted Land: a parcel of reserve land which the Band Council has validly allotted under the [Indian Act](#); the right to possession of the land is generally evidenced by a Certificate of Possession.

Alterations: any substantial changes, restorations, renovations, relocations, reductions, additions, expansions, reconstructions, removals, replacements, repairs or modifications of any premises.

Ancillary Uses: in the context of reserve land management, it is a broad term that means uses or activities that provide an essential support function to the primary use, activity or service.

Appraisal: a written opinion of an estimate of a specific type of value (e.g., highest and best use) prepared by an appraiser, in accordance with generally accepted appraisal practices.

Appraisal Institute of Canada: is a real property valuation association in Canada. Its members provide unbiased appraisals, reviews, consulting, reserve fund planning and machinery and equipment valuations.

Appraiser: a registered member of an accredited provincial organization and registered or licensed with the Appraisal Institute of Canada.

Architect: a professional who is licensed as an architect by an accredited provincial organization (e.g., a professional who designs buildings and supervises their construction). The definition of an architect may also include general contractors.

Area Development Plan: a general conceptual plan, certified by an architect or engineer, identifying the premises and setting out the basic development proposal for the lands, including, if available, those principles governing land use, environment, transportation and infrastructure.

Artifact: any burial site, human remains, or any item of archeological or cultural interest.

Assignment: an instrument used when a lessee transfers its leasehold interest to another party. The lessee's interest may be a lease, sublease, or mortgage. An

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assignment entails the full transfer of a lessee's interest in a lease to a third party, known as the assignee. An assignment cannot be used as a means to change the terms of an existing lease and it generally does not relieve the original lessee from its obligations under a lease, unless the lessee obtains an express release from the department.

Assignee: refers to the third party to which a lessee has transferred its leasehold interest. The assignee becomes a new lessee by agreeing to perform the responsibilities of the former lessee under the terms of the lease.

Assignment Consent Agreement: a document in which the assignee agrees to perform and observe all of the lessee's responsibilities under the lease. An assignment of a lease will not be valid until this document is executed and signed by the assignor, the proposed new assignee, the department, and the Band Council (if the Band is a contracting party to the lease).

Assignor: refers to the lessee who transfers its leasehold interest to a third party.

Authority: any federal, provincial, municipal, First Nation/Band having jurisdiction over or use of the premises, including the Band Council and any utility company lawfully acting under its statutory power.

Ballot: paper or other means used during the process voting (e.g., a piece of paper or cardboard on which a voter marks their vote).

Mail-in Ballot: a ballot that is delivered by mail. An elector completes and mails it to the electoral officer. Band electors that do not live on reserve often use them to vote because they may be unable to vote in person.

Rejected Ballot: a ballot which cannot be counted due to improper marking by the voter. An example of a rejected ballot is one that has more than one mark so the intent of the voter cannot be ascertained.

Band: a body of Indians for who(m): a) lands, the legal title to which is vested in the Crown, have been set apart (before, on or after September 4, 1951) for its collective use and benefit; b) moneys are held by the Crown for its collective use and benefit; or, c) have been declared to be a Band by the Governor in Council for the purposes of the [Indian Act](#). Many Indian bands have elected to call themselves a First Nation and have changed their name to reflect this. In the context of reserve land management, the term is often used interchangeably with "First Nation," a term not defined under the [Indian Act](#).

Band Council: the governance structure administered under the [Indian Act](#). The "council of the band" is defined in subsection 2(1) the [Indian Act](#) as: "a) in the case of a Band to which section 74 applies, the council established pursuant to that section; b) in the case

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of a Band that is named in the schedule to the [First Nations Elections Act](#), the council elected or in office in accordance with that act; c) in the case of a Band whose name has been removed from the schedule to the [First Nations Elections Act](#) in accordance with section 42 of that act, the council elected or in office in accordance with the community election code referred to in that section; or, d) in the case of any other Band, the council chosen according to the custom of the Band, or, if there is no council, the chief of the Band chosen according to the custom of the Band.” Also known as **Council and First Nation Council**.

Band Council Resolution: a document which contains an official determination, decision or expression made by a Band Council at a duly convened Band Council meeting which has been discussed, voted on, and passed by a quorum of council.

Band Electors: means Band members who are eligible to vote in a referendum.

Band Land Manager: a person who holds the position and is responsible to manage reserve lands, environment and natural resources.

Band Lands: reserve lands which the Band Council have not allotted to a Band member. This term is also sometimes referred to as “common Band lands.”

Band Membership: includes persons that are recognized as part of a First Nation, including individuals that live on and off reserve. Membership may be defined by the Band itself or by the [Indian Act](#).

Band Member: a person whose name appears on the Band list of a First Nation or who is entitled to have their name appear on that list.

Beneficiary: a person or persons (e.g., child, cousin or friend) or organizations (e.g., religious organization or charity) specifically named in the will to inherit from the estate.

Buckshee: a colloquial term for an agreement entered into between a Band member or the Band and another individual where the agreement has not been formally approved by the department in accordance with the [Indian Act](#). Buckshee agreements can include deeds, leases, permits, licenses, contracts, instruments, documents or agreements of any kind, whether written or oral. Buckshee agreements create risks for all parties involved; they are not registered and are not considered to be valid by the department.

Business Days: a day that is not a Saturday, a Sunday, a federal or provincial statutory holiday, National Indigenous Peoples Day, or, with respect to obligations owed by or owing to the First Nation, a day designated by the First Nation as an official holiday on which the First Nation’s administrative offices are closed.

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Bylaw: a regulation made by a local authority, corporation or Band Council. Within the context of reserve land management, a Band by-law is a local law that is passed by a Band Council to regulate affairs within its community. A by-law governs the activity in question on all reserve lands under the control of the Band Council that passed the by-law. The by-law applies to everyone present on the reserve, regardless of whether they are a Band member or whether they actually live on the reserve. Sections 81, 83, and 85.1 of the *Indian Act* provide the authorities for Band Councils to pass by-laws.

[Canadian Environmental Assessment Act, 2012](#): former federal legislation regarding the environmental assessment of certain activities and the prevention of significant adverse environmental effects. The [Canadian Environmental Assessment Act, 2012](#) was repealed on August 28, 2019 and replaced by the [Impact Assessment Act](#).

[Canadian Impact Assessment Registry](#): a searchable record of potential and current projects, regional and strategic assessments and projects on federal lands.

Canadian Standards Association: a not-for-profit organization that develops and maintains consensus standards for business, industry, government and consumers.

Capital Improvement Investment: the amount a lessee is required to invest in the leased premises to create or improve capital assets, such as buildings, fences and roads.

Capital Recapture Period: for commercial leases, it is the length of time the lessee will require to repay, from revenues, the capital improvement investment made in the leased property. For non-commercial leases, it is the period during which the lessee's investment in improvements to the property is deemed to be repaid, either by loan repayment or through enjoyment of the use of the capital asset.

Cardex Holding: a historical individual interest in reserve land created by a Band Council Resolution and approved by the Minister, pursuant to section 20(1) of the [Indian Act](#). Although the parcel of land is not surveyed, the Band Council Resolution is registered in the Indian Land Registry System by the Registrar who will issue a No Evidence of Title. Cardex Holdings are no longer issued, however, existing interests remain active. Land descriptions related to Cardex Holdings were often vague and inaccurate. While Cardex Holdings are registered in the Indian Lands Registry, a proper survey must be done before any further transactions can take place on the particular land.

Cardex Holder: a person who is in lawful possession of land.

Certificate of Financial Advice: written instruction on the management of money or enterprise from a financial professional.

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Certificate of Occupation: documentary evidence issued under subsection 20(5) of the [Indian Act](#) regarding a Band member's authority to temporarily occupy reserve lands described therein pursuant to subsections 20(4) and (6) of the [Indian Act](#).

Certificate of Possession: documentary evidence issued under subsection 20(2) of the [Indian Act](#) regarding a Band member's right to lawful possession of reserve lands described therein pursuant to subsections 20(1), (3) or sections 22, 24 or 49 of the [Indian Act](#).

Clause: in the context of reserve land management, it means a single statement in an agreement.

Amending Clause: a clause which provides that minor adjustments to account for clerical mistakes or errors can be made to the designation upon submission of a Band Council Resolution and approval of the Minister by way of a Ministerial Order.

Revoking Clause: a clause that provides the Band Council with the authority to cancel a designation (in part or in whole) for parcels of land where no interests have been granted.

Clear Days: refers to where there is a reference to a number of clear days (i.e., a day means 24 hours as a unit of time) or at least a number of days between two events, when calculating that number of days on which the events happen are excluded.

Civil Code: the general principles of law that govern persons and relations between persons and property. In the Land Management Manual, this term refers to the Civil Code of Quebec, a body of laws used in the province of Quebec that is in harmony with the Canadian Charter of Human Rights and Freedoms.

Collective Asset: a resource with economic value that is owned, controlled and/or shared by a group of people.

Community Vote: in the context of reserve land management, it means an election on an important question that is open to all Band electors and is held in accordance with the [Indian Referendum Regulations](#).

Compiled Plan: a plan of parcels or boundaries prepared from information found on plans and field notes recorded in the Canada Lands Surveys record or provincial registry (i.e., not based upon any new field survey). It may be dealt with under or section 29 or section 31 of the [Canada Lands Surveys Act](#). It is either approved or confirmed by the Surveyor General before being recorded in the Canada Lands Surveys record.

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Consent: to give permission or to agree.

Informed Consent: permission granted in the knowledge of the possible consequences. In the context of reserve land management, informed consent is often required for making major decisions (e.g., for a designation to be successful, informed consent is obtained from Band electors through a vote held in accordance with the [Indian Referendum Regulations](#)).

Consideration: Also known as **Rent**. See **Rent**. / Also known as **Fee**. See **Fee** (under the section on **Rent**).

Construction Plan: dependent on the stage of building, individually or collectively, plans, design briefs, construction specifications, cost estimates, as built plans and any other documents that the lessor reasonably requires, of the improvements or premises prepared and certified by an architect or engineer, and includes all site plans drawn to scale showing the various features with appropriate dimensions. Also known as a **Development Plan**.

Contaminant: any toxic or hazardous substance, hazardous waste, hazardous recyclable, ozone-depleting substance, halocarbon, pesticide, designated material or substance as defined in or pursuant to any applicable environmental laws.

Contaminated Sites Management Policy: provides guidance for the management of contaminated sites located on reserve lands, on federal lands north of the 60th parallel, and on any other lands under the department's custodial responsibility. It provides direction to meet Treasury Board requirements and to support the principles of the Sustainable Development Strategy.

Corporate Standing: a determination that indicates whether a corporation has filed all necessary reports and paid all necessary fees.

Corporation: a group of people authorized to act as an individual, especially in business. A corporation must be registered federally or provincially.

Band-owned Corporation: refers to a corporation in which the Band is the proprietor.

Council: Also known as **Band Council**. (See **Band Council**).

Credit Check: a process in which financial information is shared with a lender, bank or other financial service provider to determine a person's financial history. Its main purpose is to confirm that the person has sufficient means to pay the agreed upon rent.

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Crown: a source of sovereign authority and power in constitutional monarchies such as Canada and refers to the fact that the monarch is the head of state.

Custom Election or Ratification Process: means the Band decides how an election will take place (e.g., the [Indian Act](#) requirements on length of time in office and the [Indian Referendum Regulations](#) voting procedures do not apply; the Band's custom election code determines these rules).

Custom Interests or Rights: Not all Bands use the allotment provisions of the [Indian Act](#). Some Bands provide individual Band members the rights to certain reserve lands by the custom or tradition of the Band. Since the department is not involved in addressing or negotiating these interests, the Band Council must extinguish these interests or exclude them from the lands proposed for designation before the referendum vote, before a permit can be issued or another land interest such as a set aside (section 18(2) of the [Indian Act](#)) can occur.

Date: day, month and year when an event takes place. In the context of reserve land management, there are specific dates for particular activities and some specific terminology such as:

Commencement Date: the starting date of the Term of the instrument.

Expiry Date: the date on which the Term of an instrument ends.

Instrument Date: the date the instrument was dated for reference. This date is used solely for administrative purposes (e.g., "**THIS LEASE**, made in quadruplicate and dated for reference this 21st day of June, 2021.")

Registration Date: the date of registration of an instrument in the Indian Lands Registry System.

Received Date: the date that an instrument is stamped as received by the departmental regional office. (The received date is sometimes referred to as the "forwarded date.")

Term: a period of time starting on the commencement date and expiring on a subsequent and agreed upon date, or an earlier date if there is an early termination, which is known as the termination date. (See **Termination Date**).

Termination Date: the date, determined by His Majesty, as the early end of the Term of the instrument. Termination of the Term is a unilateral action by His Majesty, usually due to the interest holder's material breach of one or more terms and conditions of the instrument. (The termination date is sometimes referred to as the "cancellation date").

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Delegation of Authority: the transfer of responsibility for a task from one department or person to another department or person (e.g., delegated ministerial authority to the Band Land Manager under subsection 53(1) of the [Indian Act](#)).

Delegation of Authority Document: a record outlining the process of transferring responsibility for a task from one department or person to another department or person.

Department: A branch of administration. All federal departments are named in Schedule I of the [Financial Administration Act](#). In the Land Management Manual, unless otherwise specified, the department means the Department of Indigenous Services Canada and/or the Department of Crown-Indigenous Relations and Northern Affairs Canada (or its successor).

Designated Project: means one or more physical activities that are carried out in Canada or on federal lands, and, are designated by regulations made under paragraph 109(b) or designated in an order made by the Minister under subsection 9(1) of the [Impact Assessment Act](#). It includes any physical activity that is incidental to those physical activities, but it does not include a physical activity designated by regulations made under paragraph 112(1)(a.2) of the [Impact Assessment Act](#).

Designation: allows for exclusive use of a specified portion of the reserve to a third party. Bands that operate under the [Indian Act](#) can designate reserve land or designate lands that are intended to be added to or set apart as a reserve for leasing or other purposes. Before a lease being issued on land that has not been allotted to an individual, it must first be designated. When a Band designates land, it allows the Minister to grant land instruments that allow for exclusive use of a specified portion of the reserve to a third party for economic development or other purposes. Designated lands do not lose reserve status.

Combination Designation: when general and specific proposals are considered together under one referendum, it is commonly referred to as a combination designation. Some regions refer to combination designations as “hybrid” designations.

Designated Lands: defined in the [Indian Act](#) as “a tract of land or any interest therein the legal title to which remains vested in His Majesty and in which the band for whose use and benefit it was set apart as a reserve has, otherwise than absolutely, released or surrendered its rights or interests, whether before or after the coming into force of this definition.”

General Designation: a type of designation where no specific or immediate project is planned but land is designated for a range of defined potential uses.

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General designations are used in anticipation of future development so that a Band may be in a position to quickly lease reserve land when a specific project arises.

Pre-reserve Designation: identifies land for a specific or general purpose before that land receives reserve status. If the Band Council has requested that the Minister set apart certain lands as a reserve, the Band may designate any interest or right in or to the lands, including for the purpose of the replacement of an existing interest or right in or to those lands. By obtaining a pre-reserve designation, the Band is assured that the land can be used for the intended purpose(s) before advancing through the addition to reserve process. Where there is an existing exclusive use business on the land where an [Indian Act](#) lease will be required upon reserve creation to satisfactorily replace an existing third-party interest, a pre-reserve designation is required before the lands may be added to reserve. Pre-reserve designations are available to Bands through the [Addition of Lands to Reserves and Reserve Creation Act](#). Before the [Addition of Lands to Reserves and Reserve Creation Act](#) was in force, pre-reserve designations were available to Bands located in Alberta and Saskatchewan through the [Claim Settlements \(Alberta and Saskatchewan\) Implementation Act](#) and in Manitoba through the [Manitoba Claims Settlement and Implementation Act](#).

Specific Designation: is a type of designation when a particular project and/or activity (e.g., a small area of land for a gas station, a strip mall or rental cottages) is proposed for a parcel of reserve land.

Designation Document: contains detailed information such as the duration, purpose, land description and conditions upon which reserve lands can be leased. The Band Council provides it to Band electors when undertaking a referendum vote. It is used as a key piece of information and is voted on during a referendum by Band electors. If the vote is successful, the Band Council signs it.

Development Plan: Also known as a **Construction Plan**. (See **Construction Plan**).

Discount Rate: the rate by which prepaid rent payments are reduced to reflect their present value.

Easement: a non-exclusive interest in land owned by another giving the right to use the other owner's land for a particular purpose, or to prevent the other owner from using their land in a particular way. The land which benefits from the easement is referred to as the "dominant tenement" and the land over which the easement is exercised is referred to as the "servient tenement." In common law, an easement must have both a dominant and servient tenement. However, in the case of an easement created by or under the

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authority of a statute (sometimes referred to as a “statutory easement”), a dominant tenement may not be required.

Electoral Officer: the person in charge of the local office of the department or any officer of the department acting under the direction of the Minister or Assistant Deputy Minister for the purposes of a referendum.

Deputy Electoral Officer: a person appointed by an electoral officer for the purposes of a referendum.

Encumbrance: an interest or right in real property that may diminish the value of the premises, but does not prevent its conveyance (e.g., easements, mortgages and judgments).

Encumbrance Check: an examination to verify if any interests or rights in real property exist. In the context of reserve land management, an encumbrance check is conducted in the Indian Lands Registry System before the issuance of any lease.

Engineer: a professional who is licensed as an engineer at an accredited provincial organization (e.g., professional specializing in the application of science to the design, building and use of machines). The definition of an engineer may also include general contractors.

Environment: means the components of the earth. It includes three elements: a) land, water and air, including all layers of the atmosphere; b) all organic and inorganic matter and living organisms; and, c) the interacting natural systems that include components listed in the first and second elements.

Environmental Audits: provide a snapshot of existing environmental practices on a property, in a facility or within an organization. They are useful tools for environmental monitoring and enforcement but are not part of the environmental review process for a project. They generally examine operations, physical activities, monitoring, sampling, recordkeeping and reporting practices with respect to air and other emissions, water and discharge quality, land and soil contamination, training and awareness, contingency planning, internal organization and response measures, and ongoing maintenance practices. They are conducted by an independent qualified environmental professional in accordance with the International Standard Organization and are generally undertaken by the proponent.

Environmental Inspections: are used for monitoring and enforcement purposes, such as evaluating the compliance of a business or ongoing activity with the environmental terms, conditions, and best practices stipulated in a land instrument or funding

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agreement. They are not part of the environmental review process. Environmental inspections are undertaken by a qualified environmental professional, or equivalent, from the department or the Band to identify any issues with follow-up from the department to determine if any further action is required.

Environmental Integrity: a condition where the natural processes of a place occur within the expected frequency and strength in its natural state. It includes normal environmental patterns such as rainfall, snowfall, and, plant and animal ecosystems that contain native species in the area. Environmental integrity is often used in legal and philosophical writing to refer to an undisturbed state of natural conditions in which plant, animal and human life can continue freely.

Environmental Laws: are a) any laws relating, in whole or in part, to the assessment and protection of the environment; and, b) any decisions, determinations, mitigation measures, standards, codes, guidelines, or environmental protection measures made pursuant to those laws.

Environmental Management Processes: a wide-ranging term for various procedures such as site assessments, reviews, and audits that may be required.

Environmental Review Process: is used to evaluate, anticipate and mitigate potential environmental risks associated with projects carried out on reserve for which the department is issuing a land instrument or providing direct funding. Proponents are responsible for all costs related to the environmental review process. Due to the environmental review process, projects on reserve are carefully considered before the issuance of federal funding or land tenure.

Environmental Site Assessment: an analysis of a property that includes a review of past and present uses that may have impacted or have the potential to impact the property's environmental quality. Environmental site assessments identify if contaminants are present and, if so, their location and concentration. Environmental site assessments are conducted by an independent qualified environmental professional and include a report documenting the study results.

Equity of Redemption: refers to the right of a mortgagor in law to redeem their property once the debt secured by the mortgage has been discharged.

Erosion: the imperceptible and gradual loss of land by the slow action of water.

Estate: the real (immovable) property, (e.g., land and buildings or structures) and personal (movable) property that someone owned or had in their possession when they died.

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Evidence of Title: documentary proof of a Band member's lawful possession of reserve lands pursuant to the [Indian Act](#) such as a Certificate of Possession, Oka Letter, Notice of Entitlement, Certificate of Occupation, Cardex Holding and No Evidence of Title Issued.

Exchange Lands: lands held by the expropriating authority that form part or all of the compensation to a First Nation for a section 35 transaction or lands held for another purpose (e.g., a First Nation can absolutely surrender their interest in a parcel of reserve land for the purpose of transferring it to another entity (usually a province) in exchange for lands being transferred by that entity (known as the exchange lands) for the purpose of having the lands received set apart as reserve).

Exclusive Use: means that no other parties can use the land (e.g., in a lease, the lessor retains exclusive rights and control of the land while the lessee is entitled to exclusive use of the land during the term of the lease).

Executor: a person named in the will to administer (handle all of the legal and financial matters) the estate of the deceased and to ensure the details of the will are carried out.

Explanatory Plan: a graphical description of a parcel prepared without a full field survey under section 31 of the [Canada Lands Surveys Act](#). Parcel boundaries are defined by, or in relation to, existing boundaries or monuments shown on plans or field notes recorded in the Canada Lands Surveys Record. It is used for short-term or non-exclusive interests (e.g., short-term leases, utility easements, access roads, permits, and First Nation surrender or designation votes). It may also be used for exclusive-use interests, including fee simple, for purposes such as parcel consolidations, replacing meters and bounds descriptions, and road closures, provided that using explanatory plans for these purposes is acceptable to the government body. The plan is approved by the Surveyor General before being recorded in the Canada Lands Surveys record.

Expropriating Authority: a provincial government, municipal or local authority, or corporation that has legislative authority, through federal or provincial law, to take or use lands or any interest in the land without the consent of the landowner. While the Governor in Council may consent to the taking of reserve lands by expropriating authorities and Band consent is not required, it is departmental policy to make the transaction only after consultation with the Band and consent from the Band is obtained.

Extinguish: to destroy or terminate (e.g., rights or interests in reserve land).

Fact Letter: a letter from Canada sent to both a Band and an expropriating authority setting out the substantive facts (including compensation, legal descriptions, the handling of third party interests and other requirements set out in the Federal Requirements List) of the transaction pursuant to section 35 of the [Indian Act](#).

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Fair Market Value: the most probable price that a property will bring in a competitive and open market under all conditions requisite to a fair transaction and not affected by undue stimulus, with the seller and purchaser each acting prudently and knowledgeably, and assuming that the property is held by the seller in fee simple (notwithstanding that the property may have been reserve lands and inalienable except to the Crown) and has no charges or encumbrances existing against title.

Federal Real Property and Federal Immovables Act: federal legislation that provides primary statutory authority for the real property conveyance practices of the federal government.

Federal Requirements List: the list of standard legal and policy requirements of Canada necessary to process a transaction pursuant to section 35 of the [Indian Act](#).

Fiduciary: a person or organization that acts on behalf of another person or persons and puts the other person or persons' interest ahead of their own, with a duty to preserve good faith and trust. Being a fiduciary requires being bound both legally and ethically to act in the other's best interests. In the context of reserve land management, the federal government has a fiduciary responsibility for reserve lands administered pursuant to the [Indian Act](#).

Financial Administration Act: federal legislation that provides the foundation for the financial administration of the Government of Canada, the establishment and maintenance of the accounts of Canada, and the control of Crown corporations. It is the legal framework for general financial management and accountability in the Public Service of Canada and sets out a series of fundamental principles on which government spending may be approved, expenditures made, revenues obtained and public funds borrowed.

Financial Advice: instruction from a professional on the management of money or monetary support for an enterprise.

First Nation: a term that is often used interchangeably with the term "Band." (Although the term "First Nation" is commonly used by many people, it is not defined in the [Indian Act](#).)

First Nation Council: Also known as **Band Council**. (See **Band Council**).

First Nation Member: Also known as **Band Member**. (See **Band Member**).

First Nations Commercial and Industrial Development Act: legislation that enables complex projects to proceed and closes the regulatory gap on reserves. At the request of the First Nation, this act is used to develop federal regulations for complex commercial

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and industrial development projects such as large mines or hydro facilities. The regulations are project-specific, developed in cooperation with the First Nation and the relevant province, and are limited to the particular lands described in the project.

Fisheries Act: federal legislation that manages and protects fisheries resources, and contains requirements to prevent pollution in Canadian waters.

Fixed Term: a specific period of time.

Foreclosure: an action before the court where the mortgagee asks the court to become the owner of the mortgaged property.

Forest Management Plan: is a technical planning document outlining the objectives, strategies, administration and commitments related to a large area of forests and their undergrowth. It identifies intended methods of cutting, reforestation, and managing timber resources sustainably within the defined area of responsibility during a longer time frame, usually ten years. Forest management planning ensures that forestry operations and related activities are carried out in ways that support the sustainable management of all forest resources for generations to come.

Framework Agreement on First Nation Land Management: a historic, government-to-government agreement that recognizes First Nations' inherent right to govern their reserve lands. It applies to First Nations that are signatories to the agreement. Each signatory community assumes the administration and full law-making authority of their reserve lands, environment and natural resources, when they ratify their land code.

Framework Agreement on First Nation Land Management Act: is legislation that allows First Nations to opt out of the 44 land management related requirements of the [Indian Act](#) and manage their land, resources and environment under their community-approved land codes.

Geotechnical Evaluation Report: provides a description of the site geology and a general assessment of the mineral resources that could potentially be explored and exploited from a specific site. It generally provides background data for more accurate assessments of potential future site developments for mineral disposition.

Governor in Council: refers to the Governor General, acting by and with the advice and consent of the King's Privy Council for Canada. The Governor in Council is assigned many duties including providing recommendations on proposed bills, dissolving Parliament, opening and closing parliamentary sessions, and appointing senior governmental officers. In many cases the Governor in Council needs to give final approval on legislative changes.

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Grantee: the person, corporation, partnership or other entity acquiring the interest.

Grantor: the person, corporation, partnership or other entity from who the interest is to be acquired.

Gross Revenue: the total revenue earned before deduction of taxes and expenses.

Guardian *ad litem*: a guardian appointed by the court to represent the interests of a minor or person who is incapable of managing their own affairs in legal actions.

Heir: a person(s) who may inherit from the estate of a deceased person (e.g., spouse, children, parents and other relatives). **Highest and Best Use of the Land:** means the reasonably probable and legal use of property, that is physically possible, appropriately supported, and financially feasible, and that results in the highest value. In the context of reserve land management, it is determined through an appraisal process and included in the Designation Document to be shared with Band electors.

His Majesty: a title of respect used when referring to a king. In the context of reserve land management, it currently refers to His Majesty King Charles III (His Majesty the King in right of Canada).

Historical Band Name: refers to the former name of a Band/First Nation.

Historical Reserve Name: refers to the former name of a reserve.

Hypothec: refers to an obligation, right or security given by contract or by operation of law to a creditor over property of the debtor without transfer of possession or title to the creditor. In the context of reserve land management, a hypothec is a legal interest under Quebec Civil Law, allowing an unpaid creditor who has secured a loan with a hypothec to force the sale of the property; subsequently, the creditor has a right to follow the property into whosever hands it may be.

Hypothecary Creditor: means a person to whom a debt is owing related to any loan issued by a hypothec. (This term is used under Quebec Civil Law. Under common law, this term is similar to a lender under a mortgage).

[Impact Assessment Act](#): is federal legislation that outlines the process for considering the effects of major projects and projects carried out in Canada or on federal lands. It is used as a planning and decision-making tool to assess: a) positive and negative environmental, economic, health, and social effects of proposed projects; and, b) impacts to Indigenous groups and rights of Indigenous peoples. In 2019, it replaced the [Canadian Environmental Assessment Act, 2012](#).

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Improvements: any buildings, structures, works, facilities, infrastructure, services, landscaping, and other improvements (including any equipment, machinery, apparatus, and other such fixtures forming part of or attached to the improvements), made by any person that are, from time to time, situated on, under, or above the lands but excludes trade fixtures and existing improvements at the time the instrument was issued.

Indefinite Term: an unspecified period of time.

Independent Legal Advice: impartial advice provided by a lawyer to a person without any conflict of duty or interest, and is provided in the best interest of that person. The lawyer giving the advice is not connected to the other parties or the transaction and is, therefore, independent.

Certificate of Independent Legal Advice: an attestation from a lawyer confirming that legal advice was given to a client.

Indian Act: is one of the primary pieces of legislation the federal government uses to administer Indian status, First Nations governments and the management of reserve land. The act was passed in 1876 and has been amended several times.

Indian Band Council Procedure Regulations: the prescribed rules respecting processes and practices at Band Council meetings.

Indian Lands Registration Manual: the department's guide containing the criteria and procedures for the registration of instruments in the Indian Lands Registry as amended from time to time.

Indian Lands Registry: a repository of documents related to interests in reserve land that are administered in accordance with the Indian Act. It is guided by a set of interacting procedures designed to govern the registration of rights or interests in reserve lands. Also known as the **Indian Lands Registry System**.

Indian Mining Regulations: the prescribed rules that provide for disposition of reserve minerals. Some federal-provincial mineral agreements may affect the administration of minerals on reserve lands and the benefits from their disposition.

Indian Oil and Gas Canada: a special operating agency within Indigenous Services Canada. It regulates oil and gas resources on designated First Nation lands. Its dual mandate is to fulfill the Crown's fiduciary and statutory obligations related to the management of oil and gas resources on First Nation lands and to further First Nation initiatives to manage and control their oil and resources.

Indian Oil and Gas Regulations: the prescribed rules that include the regulatory tools to manage oil and gas activities on designated First Nation reserve lands.

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Indian Referendum Regulations: the prescribed rules that govern the holding of votes on reserves.

Indian Reserve Waste Disposal Regulations: the prescribed rules that require an operator to obtain a permit to operate a garbage dump on a reserve or to store or dispose of wastes on reserve land.

Indian Timber Regulations: the prescribed rules that apply to the cutting of timber on surrendered lands and on reserve lands.

Individual Land Holding: a parcel of reserve land that is allotted by a Band Council to a member of that Band in accordance with section 21 of the [Indian Act](#).

Initial Period: the period of time starting on the commencement date of an instrument often used in reference to periodic rental payments. An initial period is often a five year period; however, there may be circumstances where it may be longer or shorter.

Information Document: a summary which outlines all knowledge or news that the Band Council considers necessary for Band electors to give their informed consent to a designation (e.g., any additional benefits such as employment and taxation). Mandatory information requirements include: the land description, duration, proposed use, appraisal, consideration, and amending and revoking clauses. Information provided in this document must not conflict with the Designation Document. It is posted and made available to Band electors for all proposed designations in advance of the Information Meeting.

Information Meeting: an assembly to share relevant knowledge or news on the proposed designation project(s). The Band Council must hold at least one Information Meeting with Band electors.

Instrument: a legal document dealing with transactions relating to interests in reserve land. The document specifies the type of transaction, the parcel of land, the parties to the transaction, and any legal details. (Also known as a **Lands Instrument**).

Insurance: provides protection against a possible eventuality. In the context of reserve land management, several types of insurance may be necessary such as construction insurance, errors and omissions insurance, commercial general liability insurance, liability and property insurance, and equipment breakdown insurance.

Additional Insurance: a type of general liability insurance that provides coverage to other individuals and/or groups not initially named in the insurance.

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Named Insurance: a type of insurance for the person (or people) or business (or businesses) actually named in the policy.

Interdepartmental Letter of Agreement: an arrangement related to cooperation between the department and another federal department (e.g., between the department and the Department of Justice, or, the department and Natural Resources Canada in the area of surveys and the specifications for descriptions of lands for transactions on reserve lands).

Interest: a legal right to occupy, use or otherwise benefit from reserve land.

Interpretation Act: federal legislation about the construction of certain words and phrases, and, words of enactment, amendment or repeal of law.

Joint Tenancy: a form of ownership in the same property by two or more persons. The individuals, called joint tenants, share equal ownership of the property and have the equal, undivided right to keep or dispose of the property. Upon death, the share of a joint tenant who dies goes to the surviving joint tenants, not to the estate of the deceased joint tenant.

Joint Venture: is a business arrangement or commercial enterprise undertaken together by two or more parties which otherwise retain their distinct identities. The undertaking is its own entity, separate from the participants' other business interests.

Land Instrument: See **Instrument**.

Landlocked: describes land belonging to one person, which is surrounded by land belonging to others. The land cannot be accessed except by travelling over the other person's land.

Land Management Manual: the department's guide on reserve land management as amended from time to time. It includes chapters with policies, procedures and other resources.

Lands: are a solid part of the earth's surface. In the context of reserve land management, the term "lands" often refers to those lands situated and being in the reserve. In general, reserve land includes not only the surface but whatever else is present within the boundaries of the lot, and everything above the surface including the buildings on the land and the columns of air. In some cases, it also includes whatever is under the surface of the reserve (e.g., minerals).

Cultivated Lands: lands that are worked by plowing, sowing and raising crops.

Uncultivated Lands: lands or fields not prepared for raising crops.

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Land Status Report: a report that contains all pertinent information from the Indian Land Registry, and appropriate departmental files, regarding the encumbrances and/or interests on a particular parcel of reserve land. The report identifies existing registered interests such as leases, permits, easements, Certificates of Possession, or potential encumbrances such as Cardex Holdings or designations.

Land Use Area Plan: an outlined area on a photo map for certain types of land transactions such as agricultural or grazing permits.

Land Use Plan: a document that outlines the future location and type (e.g., residential, commercial, industrial) of development activities. In the context of reserve land management, it helps to define particular areas of reserve land for specific purposes or uses.

Lawful Possessor: a Band member who has been allotted the right to use and occupy a parcel or parcels of reserve land pursuant to the [Indian Act](#).

Laws: all legislation, statutes, regulations, codes and Band by-laws.

Lease: a contract by which one party (the landlord or lessor) grants to another party (the tenant or lessee) exclusive use and possession of a property for a specified period of time and purpose in return for a specified rent.

Agricultural Lease on Designated Lands: a type of lease used for planned agricultural activity that involves real, immovable property (i.e., improvements such as barns for an intensive livestock operation or greenhouses) requiring exclusive occupation of the land. This type of lease is authorized under subsection 53(1)(b) of the [Indian Act](#).

Agricultural Lease on Undesignated Band Lands: a type of lease used for agricultural purposes and authorizes the production of agricultural crops or the grazing of livestock on lands which are uncultivated and unused. This type of lease is authorized under subsection 58(1)(c) of the [Indian Act](#). Once a lease under subsection 58(1)(c) has been issued on the land, this section of the [Indian Act](#) cannot be used again on the land.

Commercial-Industrial Lease on Designated Lands: a type of lease used when the leased property is intended for most commercial or industrial ventures. Commercial ventures could include shopping centres, restaurants, banks, gas stations, hotel facilities and casinos. Industrial ventures could include manufacturing facilities for various goods and materials. This type of lease is authorized under subsection 53(1)(b) of the [Indian Act](#).

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Cottage Lease: Also known as an **Individual Residential Lease on Designated Lands**. (See **Individual Residential Lease on Designated Lands**).

Head Lease: a lease made directly between the department and a lessee.

Individual Residential Lease on Designated Lands: a type of lease designed to reflect the special requirements attached to leasing land for single family use such as seasonal or year-round cottage recreation (e.g., such a lease might restrict use of the leased land to only the summer months). This type of lease is authorized under subsection 53(1)(b) of the [Indian Act](#). Also known as a **Seasonal Recreational Lease** or **Cottage Lease**.

Leasehold: is a property held under the tenure of a lease.

Leasehold Interest: is the interest of a lessee in any leased property. A lessee who leases property acquires a leasehold interest in that property regardless of whether or not any capital cost is incurred in respect of that interest.

Lessee: means a person holding a property by lease.

Lessor: means a person who lets (rents) a property by lease.

Multi-Unit Lease: Also known as **Strata Lease on Designated Lands**. (See **Strata Lease on Designated Lands**).

Oil and Gas Lease: a type of lease that confers surface or subsurface rights or interests or the option to acquire such a lease for the purpose of oil and gas exploration or exploitation. Before leasing, the land is designated. This type of lease is issued under the [Indian Oil and Gas Act](#).

Seasonal Recreational Lease: Also known as an **Individual Residential Lease on Designated Lands**. (See **Individual Residential Lease on Designated Lands**).

Strata Lease on Designated Lands: a type of lease used when leasing multiple housing units for residential purposes. This type of lease is typically used within the same building or housing complex such as an apartment building, condominiums, multiple story homes and/or terrace/town homes. This type of lease is authorized under subsection 53(1)(b) of the [Indian Act](#). Also known as a **Multi-Unit Lease**.

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Legal Land Description: a representation by which property can be definitely located by reference to surveys or approved recorded plans within a system set up by law or approved by law.

Letters Patent: an instrument issued by a government to the patentee, granting or confirming a right to the exclusive possession and enjoyment of land.

Licence: authorizes the use or occupation of land for a specific purpose. It is defined in the [Indian Act](#) and its regulations (e.g., [Indian Timber Regulations](#)). Regions also issue licences under the [Federal Real Property and Federal Immovables Act](#) in the course of managing federal Crown lands held in the name of His Majesty which have not yet been set apart as reserve.

Life Interest: when a Band member has a Certificate of Possession on reserve land and another person (typically a family member) is granted the right to use and occupy the land and live in the house. The life interest lasts as long as the person with the life interest is living or until they relinquish their life interest.

Locatee: a Band member in lawful possession of lands that has been allotted to them in accordance with the [Indian Act](#). A locatee might have acquired their interest under the following scenarios: a) subsection 20(1) – Right to Allotted Lands; b) subsection 20(3) – Location Ticket; c) section 22 – Lawful Possession from Reserve Creation; d) historical individual interests; e) section 24 – Transfer of Possession to the Band or another Band Member; or, f) section 49 - Devisee's Entitlement.

Locatee Lands: reserve lands that have been allotted to a Band member under section 20 of the [Indian Act](#).

Logging and Harvesting: the practice of felling and removing trees or the removal of dead and damaged trees from an area.

Logging Plan: provides site-specific details, harvesting methods and technology to be used that is necessary to ensure that harvesting operations achieve certain standards and obligations.

Lot: a parcel of land that has been subject to a recognized subdivision of property and has a written legal description addressing permissions and constraints upon its development.

Memorandum of Understanding: an agreement between two or more parties which expresses a convergence of will between the parties and indicates an intended common line of action. It is often used in cases where parties do not imply a legal commitment or where the parties cannot create a legally enforceable agreement. It can also be used between a government agency and a non-commercial, non-governmental organization.

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[Migratory Birds Convention Act](#): federal legislation that protects and conserves migratory bird populations and individual birds. It also provides legal protection for their eggs, nests and any part of the bird.

Minerals: means ore of metal and every natural substance that can be mined and that: a) occurs in fragments or particles lying on, above, or adjacent to the bedrock source from which it is derived and commonly described as talus; b) is in place or position in which it was originally formed or deposited, as distinguished from loose, fragmentary, or broken rock or float, which, by decomposition or erosion of rock, is found in wash, loose earth, gravel, or sand; and, c) includes coal, petroleum, and all other hydrocarbons, regardless of gravity and recovered natural gas, methane, coal bed methane, and other gases, building and construction stone, limestone, dolomite, marble, shale, clay, sand and gravel.

Minister: means the head of a government department. In the Land Management Manual, this term can refer to either the Minister of Indigenous Services or the Minister of Crown-Indigenous Relations and Northern Affairs (or their successor). The Minister of Indigenous Services and the Minister of Crown-Indigenous Relations and Northern Affairs are both responsible for additions to reserve and pre-reserve designations (e.g., both ministers can issue a Ministerial Order under the [Addition of Lands to Reserves and Reserve Creation Act](#)). The Minister of Indigenous Services is largely responsible for all other reserve land management activities.

Ministerial Loan Guarantees: are used to secure loans to build, purchase or renovate on-reserve housing. Subsection 89(1) of the [Indian Act](#) prevents the use of reserve land to be used as security for loans as the lender is unable to seize the real or personal property of the owner. As a result, an impediment is created for First Nations wishing to access financing for housing projects. To offset this barrier, the department issues Ministerial Loan Guarantees to secure loans for First Nations for the purpose of construction, acquisition or renovation of on-reserve housing. By providing a Ministerial Loan Guarantee, the Minister guarantees that the Crown will pay the loss incurred by the lender if a First Nation defaults on its loan with the lender.

Ministerial Order: a decision made by a Minister of the Crown that does not require the approval of the federal cabinet.

Mitigating Measures: the elimination, reduction, or control of the adverse environmental effects of the project, including restitution for any damage to the environment caused by such effects through replacement, restoration, compensation, or any other means.

Mortgage: a legal agreement by which a bank or other creditor lends money at interest in exchange for taking title of the debtor's property, with the condition that the conveyance of title becomes void upon the payment of the debt.

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Mortgage Acknowledgement Agreement: is a document used to ensure that a mortgage will be legally recognized.

Mortgagee: a lender under a mortgage.

Mortgagor: a person that enters into a mortgage agreement with a lender.

Municipality: a city, town, village or other built-up area with municipal authorities and includes a rural or urban municipality, as defined in relevant provincial legislation.

Negotiation: confer to reach an agreement.

No Evidence of Title Issued: means when a Band member is in lawful possession of reserve lands pursuant to the [Indian Act](#) but evidence of title was not issued for the land. The transaction granting possession may have been administratively deficient, or the lawful possessor who received the interest was deceased or was immediately transferring their right of possession to another Band member and therefore a Certificate of Possession was not issued. (This term is a status designator invoked within the Indian Lands Registration System against either an allotment or a section 24/49 transfer where a Certificate of Possession to 'evidence' title is not issued because of a deficiency or ambiguity).

Nominal Rent: See **Rent**.

Non-Disturbance Agreement: a contract or document that stipulates if the lease is terminated, the department will not disturb the sublessee's possession and quiet enjoyment of the subleased premises, on the condition the sublessee continues to comply with the terms and conditions of the sublease. It ensures a sublessee will not be evicted if the lessor goes bankrupt.

Non-metallic Minerals: mineral substances located at or near the surface of the land, which may be removed by an open excavation. They include sand, gravel, clay, earth, ash, marl, peat, limestone, gypsum, granite, diamond, coal, placer deposits of non-metallic minerals and other non-metallic substances, but do not include a) oil, gas and bitumen as defined in the [Indian Oil and Gas Act](#) and its [Indian Oil and Gas Regulations](#); and, b) naturally occurring metallic substances and rock containing those substances.

Non-negotiable Terms: are firm stipulations in a lease (e.g., applicable laws and standards that must be included in the lease).

Notice: a document, registered in the Indian Lands Registry that reflects the existence of a claim or interest, whether legally valid or not, against a parcel or reserve, designated or surrendered land.

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Notice of Entitlement: a historical individual interest in reserve land created by Band Council Resolution and approved by the Minister under subsection 20(1) of the [Indian Act](#). After 1951, a Band member received a Notice of Entitlement as evidence of right to lawful possession to reserve lands which had not been officially surveyed. Although all existing Notice of Entitlements continue to be recognized, they are no longer issued as they have been replaced with Certificates of Possession.

Notice of Referendum: means a notification about an upcoming referendum vote. The [Indian Referendum Regulations](#) require it to be posted by the electoral officer or deputy electoral officer at least 14 days before the day of the Information Meeting for the referendum and at least 42 days before the day of the referendum.

Official Plan: a survey plan which is confirmed pursuant to section 29 of the [Canada Lands Surveys Act](#). Official plans are used for the survey of jurisdictional boundaries of reserve lands or parcels which create a jurisdictional boundary once a land transaction has been completed.

Oka Letter: a document issued to a Band member of the Mohawks of Kanesatake informing the Band member that their rights and interests in Kanesatake lands have been recorded in the Indian Lands Registry System.

Open Excavation: means digging that is not fully underground or deep in the earth (such as a mine) but rather an open dig site. Often the width is greater than the depth and is unsupported with side slopes cut at safe inclinations to enter or exit the excavation.

Operational and Restoration Plan: a document that describes the working procedures for taking, removing and disposing of unconsolidated non-metallic substances, and, their potential impact on the environment, reserve and its surrounding lands, including an indication of remedial measures the company intends to implement.

Order in Council: a legal instrument made by the Governor in Council on the advice of the federal cabinet.

Parcel: a piece of land.

Partnership: an arrangement between two or more people to oversee business operations and share its profits and liabilities.

General Partnership: a business arrangement in which two or more individuals agree to share in all assets, profits, and financial and legal liabilities of a jointly-owned business. In this arrangement, partners agree to unlimited liability meaning liabilities are not capped and can be paid through the seizure of an owner's assets. Any partner may be sued for the debts of the business.

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Limited Liability Partnership: a form of business organization where all of the owners have partial personal legal responsibility for the financial obligations of the business. It is liable as an entity for any debts or obligations and the partners are not liable personally.

Party: a person or other legal entity that enters into an agreement.

Period: the legally recognized time of years, months, days, as the case may be (e.g., a five year period starting on the day following the end of a preceding five year period).

Permit: a contract by which one party (the landlord or permittor) authorizes another party (the tenant or permittee) the non-exclusive use of a parcel of land for a specified period of time in return for a specified rent.

Access Permit: is a type of permit that authorizes a party to use roads on the reserve, either to get to and from the lands for which the user has a lease or permit, or to go through the reserve to an off-reserve location.

Agricultural Permit: is a type of permit that authorizes activities for crop production. These permits do not allow for the construction of buildings (e.g., barns); only removable structures are allowed (e.g., fences).

Distribution Permit: is a type of permit that authorizes utility services where the primary purpose is to distribute services on a reserve, such as electricity, water, sewer, telecommunications, Internet, cable or natural gas.

General Permit: is a type of permit that authorizes activities on reserve lands not otherwise included in other specific permit types.

Grazing Permit: is a type of permit that authorizes cattle feeding.

Easement Permit: is a type of permit that authorizes: i) utility services where the primary purpose is to transmit services across a reserve, such as electricity, water, sewer, telecommunications, Internet, cable or natural gas; or, ii) other non-exclusive uses of reserve land, such as irrigation ditches, drainage and temporary flooding.

Interim Use and Occupation Permit: is a type of permit that authorizes the use and occupation of reserve lands to carry out construction while the Band goes through the process of designating the lands for a lease. This type of permit may also be appropriate in support of a section 35 transaction.

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Natural Resources Permit: includes mineral and timber permits and other instruments authorized under the [Indian Mining Regulations](#) and [Indian Timber Regulations](#).

Permittee: a person or party who is issued a permit or receives other official authorization to do something (e.g., the proponent).

Permitter: a person or party who issues a permit (e.g., the Department).

Waste Disposal Permit: is a type of permit that authorizes the operation of a waste disposal site on reserve land as per the [Indian Reserve Waste Disposal Regulations](#).

Plan of Survey: is a plan prepared from a full field survey with official survey monuments placed to reference all corners of the parcels or boundary.

[Policy on Additions to Reserve/Reserve Creation:](#) provides guidance on assessment, acceptance and implementation of reserve creation proposals.

Power of Sale: an action taken by the mortgagee to sell the lawful possession of the mortgaged property to a purchaser, free and clear of the interest of the mortgagor or any other person having an interest subsequent to the mortgage.

Precedents: templates used when drafting documents such as standard contracts or other agreements. In the context of land management, they provide the basis for land instruments (e.g., leases) and include necessary policy and legal requirements to ensure consistency and accuracy when negotiating terms. Precedents simplify drafting, allow for a streamlined process and can be tailored to meet the needs of specific projects.

Premises: the lands and improvements or any part of the lands and improvements.

Project: is defined under section 81 the [Impact Assessment Act](#) as “(a) a physical activity that is carried out on federal lands or outside Canada in relation to a physical work and that is not a designated project or a physical activity designated by regulations made under paragraph 112(1)(a.2); and, (b) a physical activity that is designated under section 87 or that is part of a class of physical activities that is designated under that section.”

Proponent: the person, body, federal authority, or government that proposes the carrying out of an activity on reserve.

Public Purpose: a purpose that primarily benefits the general public or a portion of the general public, as opposed to benefitting only particular individuals or entities. Examples of a public purpose include a railway, public road, pipeline, public work or work designed for a utility that benefits the public, such as a power transmission line.

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Quit Claim: is a formal renunciation of any claim against a person or of a right to land. Quit Claims are not accepted in some circumstances.

Quit Claim Deed: releases a person's interest in a property without stating the nature of the person's interest or rights, and with no warranties of that person's interest or rights in the property.

Receiver General for Canada: the central treasurer and accountant of the federal government. It oversees all the funds coming in and going out of government accounts and safeguards public money.

Referendum: means a vote on an important question that is open to all electors (on a reserve).

Region: the appropriate regional office of the department, and includes "district" offices.

Registrar: an employee of the department responsible for maintaining the Indian Register. The Registrar is the sole authority for determining which names will be added, deleted or omitted from the Register.

Registration: the process of inserting into the Indian Land Registry the instruments and supporting documentation affecting a parcel of reserve land.

Registration Number: the number assigned to an instrument registered in the Indian Lands Registry System.

Regulatory Gap: refers to an absence of laws. In the context of reserve land management, the division of law-making authority between the federal and provincial governments has resulted in some laws not applying on reserve.

Remediation Process: refers to the conduct and control of the clean-up of hazardous materials and other environmental damages on an existing environmental site. It must be completed to fulfil a remediation order or enforceable directive of any authorized governmental authority in accordance with applicable environmental law.

Rent: money or other consideration paid by a tenant/lessee to a landlord/lessor in exchange for the exclusive use and enjoyment of land, a building or part of a building. Also known as **Consideration**.

Additional Rent: any amount payable to the lessor under a lease other than Annual Rent and Fair Market Rent.

Annual Rent: the amount of rent paid annually or monthly in a year.

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Fair Market Rent: the most probable rent a property should bring in a competitive and open market, reflecting all conditions and restrictions of the specified lease agreement including term, rental adjustment and revaluation, authorized uses, use restrictions and expense obligations; the lessee and lessor each acting prudently and knowledgeably and assuming consummation of a lease contract.

Fee: money or other consideration paid by a tenant/permittee to a landlord/permittor in exchange for the non-exclusive use of a parcel of land for a specific period of time. In the context of reserve land management, the term “rent” is often used when describing consideration for a lease but the term “fee” is often used when describing consideration for a permit.

Nominal Rent: a rent agreed between parties which is not related to actual value.

Prepaid Rent: the rent payable on or before the commencement date of the instrument.

Proposed Rent: anticipated amount of rent to be charged according to a rental structure.

Reduced Rent: means the amount of rent reduced from the rents charged at the fair market rate.

Rent Adjustment: means the department, with the consent of the Band Council, may reduce or adjust the amount and/or the interest payable under the contract as per subsection 59(a) of the [Indian Act](#).

Rental Structure: means a payment made periodically by a lessee to a lessor for the occupation or use of land, buildings, or other property.

Rental Yield: the rental return generated by the lease.

Rent Payment Arrangement: a plan outlining the rent imbursement details. In the context of reserve land management, a designation may contemplate a deferred rent payment arrangement.

Rent Review Period: refers to the timeframe for rent reviews. In the context of reserve land management, they are based on an appraisal to determine fair market rent in every lease and the standard compensation review period is five years, but a longer or shorter period may be negotiated in the lease.

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Rent Reviews: are the mechanism for adjusting a lessee's rent to the current market level. The main purpose of rent reviews is to protect the lessor against inflation.

Reserve: a tract of land, the legal title to which is vested in the Crown, that has been set apart for the use and benefit of a Band.

Joint Reserve: a reserve set aside for two or more First Nations.

Reserve Creation Proposal: a set of documents submitted by a First Nation to its respective departmental regional office to initiate the addition to reserve process. It includes a Band Council Resolution and a proposal with information that should meet the minimum requirements as set out in the [Policy on Additions to Reserve/Reserve Creation](#).

Reserve General Abstract: contains particulars which relate to the establishment of a reserve, transactions such as a surrender or designation of reserve land and other transactions that affect the reserve as a whole.

Reserve Land Register: a list established pursuant to section 21 of the [Indian Act](#). It records interests on Band land, instruments respecting lands which are allotted to individual Band members under section 20 of the [Indian Act](#) and other transactions relating to those individual land holdings.

Revocation: an instrument used to nullify all or part of specific legal interests.

Right of Renewal: is the tenant's option to enter into a new contract with the landlord. (It is not an extension of the existing term of the contract).

Right-of-Way: in its traditional sense, a type of easement giving the right to pass through land owned by another. At common law, a right-of-way does not give the holder a fee simple interest or the right to exclusive possession of the land. However, in modern usage, the term sometimes refers to a physical tract of land and does not describe the nature of interest in the land. In that sense, depending on the circumstances, the right-of-way may be a limited interest in the land, such as an easement, or a fee simple interest.

Right-of-Way Between Band Members: a legally delineated parcel of land, over which permission is granted to people, vehicles and utilities to cross and it exists in perpetuity (i.e., it follows the land and is not based on ownership).

Riparian: of, relating to, or living on the bank of a river or stream.

Risk: chance or possibility of danger or loss.

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Royal Prerogative: refers to the power of the Crown to take action as an exercise of its executive power.

Royalties: are usage-based payments, usually expressed as a percentage of the production sold, made by one party (the permittee) to another (the permittor) for the right to ongoing use of an asset.

Run with the Land: refers to the rights and covenants in a real estate deed that remain with the land regardless of ownership. Rights and covenants “run with the land” when the property changes hands meaning the rights are tied to the property (land) and not to the owner and move from deed to deed as the land is transferred from one owner to another.

Schedule: an attachment to legal instruments which forms part of and is integral to those legal instruments.

Search of Title: is the research of public records to determine a property's legal ownership and identification of what claims are on the property.

Section 35 Agreement: a final agreement between a Band Council and the expropriating authority, usually in the form of a letter or memorandum of understanding with respect to a section 35 transaction. This agreement must satisfy the Federal Requirements List. It is departmental policy to make the section 35 transaction only after consultation with the Band and consent is obtained from the Band.

Section 35 Easement: the grant or transfer of less than a full interest in reserve lands to an expropriating authority for a specific purpose, in accordance with section 35 of the [Indian Act](#). When Canada grants or transfers less than a full interest under section 35 of the [Indian Act](#), the underlying interest remains with Canada and continues to have reserve status.

Section 35 Transaction: a generic term used to describe a section 35 Transfer, or a section 35 easement, authorized pursuant to section 35 of the [Indian Act](#) and the [Federal Real Property and Federal Immovables Act](#).

Section 53/60: refers to sections 53 and 60 of the [Indian Act](#) whereby a Band has obtained delegated authority to manage or lease designated lands and/or exercise control and management over reserve lands occupied by the Band on behalf of the Minister.

Security deposit: a performance bond, letter of credit or other similar security required under a contract.

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Service Agreements: arrangements for the provision of amenities. In the context of reserve land management, the Band Council and the relevant municipality, district, or province/territory need to arrange for services on reserve land such as water, sewer, solid waste disposal, fire, and, road or highway access.

Setting Land Aside: is a term that is generally used to refer to activities under subsection 18(2) the [Indian Act](#) which states the Minister may authorize the use of reserve lands for schools, the administration of affairs, burial grounds, health projects or, with the consent of Band Council, for any other purpose for the general welfare of the Band and may take any lands in a reserve required for such purposes.

Simple Majority: means the highest number of votes cast exceeds the second-highest number. For example: if there are 100 eligible electors and 49 vote in the referendum; if 25 vote in favour, the vote passes.

Majority: In keeping with a plain reading of the [Indian Act](#) and the [Interpretation Act](#), the greater number of votes cast in favour of a result (i.e., either for or against). It does not mean over 50% of the votes cast.

Site Reclamation: the process of cleaning up and reconvertng disturbed and utilized land to its former state or other productive uses. This process is often related to remediation of the land.

[Species at Risk Act](#): federal legislation that prevents wildlife species from becoming extinct and secures the necessary actions for their recovery. It provides for the legal protection of wildlife species and the conservation of their biological diversity.

Stale Dating: refers to specific timelines in which environmental site assessments completed can no longer be relied upon. In such cases, the site must be reassessed.

Statement of Vote Results: a report completed by the electoral officer indicating the outcome of the referendum.

Statutory Declaration: a statement of facts that a person puts in writing. The person making the statement must sign it to confirm they are telling the truth and must sign it in the presence of someone (a witness) who has the legal authority to take oaths or affirmations (e.g., a lawyer, a commissioner for oaths or a notary public). A person is guilty of an offence if they make a false statutory declaration. The declaration is of the same force and effect as if made under oath and therefore has value as evidence.

Stumpage fee: the price businesses and individuals pay for the right to harvest timber from a given land base.

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Sublease: is created when a lessee in turn leases all or part of their interest in the land under the head lease to a third party.

Sublessee: the lessee in any sublease (i.e., the holder of the sublease).

Substantial Completion: the date on which the lessor is provided with a written certificate by an architect or engineer certifying to the lessor that: a) improvements are substantially complete in all material respects in a proper manner and in accordance with the area development plan and the construction plan, and in accordance with the requirements of a lease, except for deficiencies the correction of which, in the opinion of the architect or engineer, will be adequately addressed by the lessee; b) all permits for occupancy required by an authority have been obtained; and, c) the improvements are ready for occupancy.

Subsurface Materials: means earth, minerals or rocks near but not exposed at the surface of the ground.

Subsurface Rights: are rights to extract earth, minerals or rock from below the surface of the land.

Surface: refers to the land and means on the top of the ground.

Surface Consideration: See **Surface Fee**.

Surface Fee: compensation for the use and loss of land as a result of the operation. A surface fee can be negotiated as a condition to ensure the proponent extracts the minerals within the term of the permit/lease rather than holding the resource. While surface fees are ultimately negotiable, they should be based upon fair market rent or current market value of the utilized lands and coverage area required for the operation. (Also known as **Surface Consideration**).

Surrender: the release, either absolutely or not, and either conditionally or unconditionally, by a Band and its members in all or part of a reserve as provided for in subsection 38(1) of the [Indian Act](#).

Absolute Surrender: means the Band relinquishes its interest in all or part of a reserve to the Crown. The Crown is then allowed to "sell" or "exchange" reserve land for the benefit of the Band. Surrendered lands lose their reserve status, and the Band's interest in the land (both collective and individual) is extinguished.

Conditional Surrender: means the release of all or part of a reserve to allow for leasing or other temporary interests in the lands.

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Historical Surrender: generally refers to a surrender that occurred before 1988.

Surrendered Lands: a reserve or part of a reserve or any interest therein, the legal title to which remains vested in the Crown, that has been released or surrendered by the Band for whose use and benefit it was set apart.

Surrendered and Designated Lands Register: is a list established pursuant to section 55(1) of the [Indian Act](#). It records the particulars in connection with any transaction affecting absolutely surrendered or designated lands. The Surrendered and Designated Lands Register is maintained by the department.

Survey: the legal delineation of a parcel of land resulting from the scientific process of measuring the dimensions of a particular area of the earth's surface, including its horizontal distances, directions, angles, and elevations. Artificial structures, such as a road or building, may also be recorded. Once these measurements are taken, they can be used to make a plan or a map.

Tenancy in Common: a form of concurrent ownership that can be created by deed, will or operation of law. A tenant in common may have a larger share of property than the other tenants and is free to dispose of their share without the restrictive conditions place on a joint tenancy. Unlike joint tenancy, tenancy in common has no right of survivorship, and the property goes to the deceased's heirs.

Textual Description: are prepared without survey instructions, are not based upon a field survey, and are not recorded in the Canada Lands Survey Records. Textual descriptions are suitable only for the description of limited and short term interests.

Third Party: in the Land Management Manual, this term refers to another person or other legal entity besides the two principle parties (which are generally the Band and the department).

Third Party Interest: refers to the right to occupy, use or otherwise benefit from reserve land of another person or other legal entity besides the two principle parties (which are generally the Band and the department). In cases such as pre-reserve designations and before land is added to reserve, it may be encumbered by third party interests which must be satisfied and/or discharged from title before the reserve can be created.

Timber: means trees, whether standing, fallen, living, dead, limbed, bucked or peeled.

Timber Mark: certifies ownership of the logs and helps prevent theft of timber from Crown lands. It does not authorize timber to be cut. Not all provinces issue timber marks.

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Title: means right to ownership of a property with or without possession. In the context of reserve land management, title of the reserve land belongs to the Crown and is held for the use and benefit of a Band.

Trade Fixtures: typically means personal chattels installed during the term of the lease by or on behalf of the lessee or sublessee for carrying on their trades on the premises. They remain the property of the lessee or sublessee.

Transaction: an act which creates, changes, transfers or terminates interest in reserve land.

Transfer: See section 24, 35, and 49 transfers in the list below for specifics.

Section 24 Transfer: allows a Band member to transfer their lawful possession of reserve land to the Band Council or to another Band member(s), with the approval of the Minister.

Section 35 Transfer: the grant or transfer of a full interest in reserve lands to an expropriating authority, in lieu of the expropriating authority acquiring the lands without the consent of the owner pursuant to its expropriation powers. The grant or transfer is usually made for a specific purpose and is subject to a requirement that the lands be returned to Canada when no longer needed for that purpose.

Section 49 Transfer: all transfers of lawful possession or occupation of reserve land to a person claiming to be entitled to that land by devise or descent, must be approved by the Minister.

Transferee: the person receiving a legal interest.

Transferor: the person transferring a legal interest.

Trustee: an individual that manages assets or holds legal title to property to administer it for a beneficiary.

Unavoidable Delay: provides for some leeway to stay out of a default situation when delays and/or interruptions occur which are out of the control of any party.

Unconsolidated Non-Metallic Substances: refers to sediments ranging from clay to sand to gravel, with connected pore spaces that allow groundwater to be stored and transported. This mainly includes sand, gravel, clay, earth, ash, marl, stone, fill material, top soil, non-metallic placer deposits and peat.

Utilities: refers to an organization supplying water, sewer, gas, electricity, telecommunications, Internet, cable or other important services to the community.

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Value Assessment: means weighting the worth of a lease. In the context of reserve land management, it is undertaken during the leasing phase.

Voluntary Transfer: a voluntary transfer (done of one's free will) of a locatee's interest in the affected lands to the Band under section 24 of the [Indian Act](#).

Voter Declaration Form: a document that sets out or provides for: a) the name of an elector; b) the Band membership or registry number of the elector or, if the elector does not have a Band membership or registry number, the date of birth of the elector; c) a statement that the elector has read and understood the information package regarding the proposed designation or surrender and has voted freely and without compulsion; and, d) the name, address and telephone number of a witness to the signature of the elector.

Voters List: a list comprised of Band electors (including both on-reserve and off-reserve members) that is created for a referendum or election.

Voting Package: a set of information that a electoral officer or a deputy electoral officer mails or delivers to every Band elector who does not reside on the reserve and for whom an address has been provided. It includes the Designation Document, Information Document, the Notice of Referendum, the date, time and location of the information meeting, a mail-in ballot stating the question to be submitted to the Band electors, envelopes, a voter declaration form, and a letter of instruction about voting by mail-in ballot.

Warranties/Representations: means undertaking as to the ownership or quality of something.

Will: a written document that provides instructions on what is to be done with the property of a deceased person and identifying who is to manage the property until it has been distributed.

Zoning: the act of defining particular areas for specific purposes or uses.