

NÍ HADI XA AGREEMENT

THIS AGREEMENT made in the Northwest Territories, as of the ____ day of ____, 2014.

Between

De Beers Canada Inc. (“De Beers”)

and

Deninu Kue First Nation

Lutsel K’e Dené First Nation

North Slave Métis Alliance

Northwest Territory Métis Nation

Tłıchǫ Government

(collectively “Indigenous Parties”)

WHEREAS:

- A. De Beers proposes to establish a mine and related facilities to be located on and adjacent to Kennady Lake, Northwest Territories for the production of rough diamonds known as the Gahcho Kué Diamond Mine;
- B. Each Indigenous Party has expressed concerns that the Gahcho Kué Diamond Mine will adversely affect their rights and will have an effect on their traditional lands, their relationship to the land, water and resources, their social, cultural, economic and spiritual values, their way of life and the environment;
- C. This Agreement is intended to provide mechanisms to address the concerns of the Indigenous Parties to this Agreement about the effects of the Gahcho Kué Diamond Mine on the lands and the environment, such that those lands and the environment is protected for all peoples;
- D. De Beers recognizes and agrees to respect the rights of the Indigenous Parties while engaged in and planning its activities;
- E. De Beers recognizes and respects that Dené and Métis laws will inform the development of a long-term relationship with the Indigenous Parties to this Agreement;
- F. The Indigenous Parties and De Beers jointly proposed the Ní Hadi Xa initiative before the Review Board;
- G. The Parties wish to ensure that the impacts of the Gahcho Kué Diamond Mine on the rights of the Indigenous Parties, their traditional lands, their relationship to the land, water and resources, their social, cultural, economic and spiritual values, their way of life and the environment are avoided or minimized;
- H. The Parties intend to establish a long-term, mutually beneficial, cooperative and respectful relationship based on confidence and trust;
- I. The Parties recognize that formal mechanisms are required to ensure that the mitigation measures outlined in De Beers' Commitments are appropriately implemented and monitored;
- J. The Parties recognize that Ní Hadi Xa is not a legal entity and is not a person under any applicable law, but constitutes an initiative whereby each party contributes expertise, resources, skills and knowledge to further the objectives of this Agreement;

NOW THEREFORE the Parties hereby agree as follows:

ARTICLE 1 – OBJECTIVES

- 1.1 This Ní Hadi Xa Agreement is a legally binding agreement which provides for environmental monitoring and management of the Gahcho Kué Diamond Mine additional to such matters governed by legislation, regulations and Regulatory Instruments and for the establishment of and the identification of roles of the Ní Hadi Xa Governance Committee, in order to achieve the following objectives:
- (a) respecting and protecting land, water, Wildlife, Plants and the land-based economy, essential to the way of life and well-being of the Indigenous Parties and present and future generations;
 - (b) ensuring ongoing review of Environmental Monitoring and Management Plans, activities, and reports of De Beers and the Regulators in relation to the Gahcho Kué Diamond Mine;
 - (c) developing and improving the capacity of the Indigenous Parties to participate in adaptive environmental management;
 - (d) ensuring ongoing review of priority issues and monitoring through provision of technical advisory resources and third party review;
 - (e) making recommendations to De Beers with respect to these objectives;
 - (f) integrating and promoting equal use of traditional knowledge in environmental monitoring and management;
 - (g) wherever possible, promoting efficiency through the reduction of costs and coordination of efforts;
 - (h) providing a formal mechanism to confirm De Beers' Commitments in the case of uncertainty or disputes; and
 - (i) communicating to the Parties and the public on activities and achievements of the above objectives.

ARTICLE 2 – NO PREJUDICE

- 2.1 This Agreement is without prejudice to the positions of the Parties respecting any:
- (a) existing aboriginal or treaty rights of the Indigenous Parties;
 - (b) any on-going or future land claims agreement, self-government, or overlap negotiations involving or affecting the Indigenous Parties;
 - (c) current or future litigation in which any Party is involved;
 - (d) constitutional changes that may occur in the Northwest Territories;

- (e) changes to legislation or regulations resulting from the settlement of land claims and self-government negotiations, or resulting from constitutional changes or devolution;
- (f) existing or future Participation Agreements; or
- (g) the determination of Aboriginal or treaty rights to the lands in which the Project is located.

2.2 Nothing in this Agreement affects, recognizes or provides any Aboriginal or treaty rights to any Indigenous Party.

2.3 Transitional

In the event that jurisdiction or regulatory authority relating to the Project or any aspect of the Project is transferred or devolved as a result of constitutional change, treaty, self-government or land claim agreement, or otherwise, the Parties shall negotiate, in good faith, to amend this Agreement to reflect such transfer or devolution, while maintaining the purposes and objectives of this Agreement.

ARTICLE 3 – DEFINITIONS & INTERPRETATION

3.1 In this Agreement,

“Active Closure” means the phase of the Project that extends two (2) years after cessation of Operations, or as defined in the Closure Plan as may be modified or amended from time to time, and includes such activities as abandonment, habitat restoration, reclamation, and monitoring in accordance with the Closure Plan;

“Agreement” means this Ní Hadi Xa Agreement;

“Annual Meetings” means the Planning Session, Traditional Knowledge Review Session, and Technical Review Session under Article 5;

“Annual Workplan” means the workplan approved by the Governance Committee at the Planning Session;

“Budget Period” means the period where the budget will apply each year between January 1 and December 31;

“Closure Plan” means the plan approved by the applicable Regulator for the permanent closure and reclamation of the Project and post-closure monitoring of the Project and Study Area;

“Commitment” means De Beers’ commitments as referenced in the Review Board Report as well as commitments and measures that are identified in the Land and Water Board regulatory process;

“Community” means the Dené and Métis communities represented by each of the Indigenous Parties;

“Community Engagement Activities” means the Life of Mine activities as described and committed to in the Community Engagement Plan;

“Community Engagement Plan” means the plan submitted to and approved by the Land and Water Board in relation to the Project;

“Community Reporting” means the meetings held by De Beers annually in the Communities, at which the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitors may be requested to attend and report;

“Confidential Material” means materials designated as confidential in accordance with Article 10;

“Consensus” means the unanimous agreement of all Governance Committee members;

“Construction” means the phase of the Project commencing after the Type ‘A’ Water Licence has been issued and De Beers notifies Environment and Natural Resources, Government of the Northwest Territories, in writing the intent to begin construction of the Project during which the Project is prepared for Operations;

“CPI Increase” means the percentage increase in the Consumer Price Index for Yellowknife published annually by Statistics Canada;

“De Beers’ Annual Environmental Report” means the report described in Schedule II;

“Dispute” means a dispute between De Beers and the Indigenous Parties arising out of the interpretation or application of clauses contained in this Agreement;

“Dispute Notice” means the written notice of the Dispute that sets out the material particulars and that is provided by one Party to the other that commences the dispute resolution process in accordance with Article 9;

“Disputing Parties” means any Party to the Agreement that has commenced the dispute resolution process under Article 9 and the Party against which the process has been brought;

“Environmental Effect” means, in respect of the Gahcho Kué Diamond Mine, any change that the Gahcho Kué Diamond Mine causes in the environment, including any effects on air, land, water, Wildlife and Plants; any change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by Indigenous persons, on Heritage Resources, or any other structure, site or thing that is of significance to Indigenous persons, and includes any change to the Gahcho Kué Diamond Mine that may be caused by the environment;

“Environmental Manager” means De Beers’ Environmental and Permitting Manager;

“Environmental Monitor” means an individual Retained by one of the Indigenous Parties pursuant to section 4.15;

“Environmental Monitoring and Management Plans” means plans created by De Beers to monitor Project impact predictions and mitigations as required by Regulators;

“Environmental Monitor Report” means the report described in Schedule II;

“Environmental Reports” means Environmental Monitor Report, Traditional Knowledge Monitor Report, De Beers’ Annual Environmental Report and Ní Hadi Xa Annual Report as described in Schedule II and documents and/or reports from Regulators;

“Family Culture Region” means the infrastructure constructed and maintained near the Gahcho Kué Diamond Mine in accordance with Appendix A;

“Family Travel Program” means the traditional knowledge monitoring program described in Article 5;

“Force Majeure” means an event or occurrence beyond the reasonable control of the Party claiming a suspension of an obligation under this Agreement, such that the Party was unable to prevent or provide against by the exercise of reasonable diligence at a reasonable cost and includes, without limitation, an act of God, war, revolution, act of terrorism, insurrection, blockage, riot, mob violence, malicious act, strike, lockout or other industrial disturbance, fire, lightning, unusually severe weather, storms, floods, explosion, accident, radio-active contamination, delay or failure of essential supplies, breakdown of equipment, machinery or facilities, shortage of labour or materials, or acts or restraints of Regulators and any other similar act, occurrence or cause;

“Gahcho Kué Diamond Mine” means the Project and the vicinity of the Project, including the Study Area;

“Governance Committee” means the Ní Hadi Xa Governance Committee established under section 4.1;

“Heritage Resources” means archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records;

“Incident” means any:

- a) event, with potential Environmental Effects for which there has not been a Predicted Wildlife and Plant Harvesting Loss, but which event results in actual present or predicted future Wildlife and Plant Harvesting Losses including, without limitation or restriction:

- i. accident or malfunction of the Project equipment, facilities or infrastructure;
- ii. accidental release of substance or effluent from the Project equipment, facilities, or infrastructure or Project activities;
- iii. accident involving private or common carriers under contract to ship Project equipment, supplies, concentrates or other materials;
- iv. acts or omissions by De Beers, its employees, agents or contractors that contravene the provisions of federal and territorial laws of general application applicable to the Project;

- b) Project activity which results in more significant residual Environmental Effects than were predicted in the environmental impact statement;

“Independent Peer Review” means a review as directed by the Governance Committee on a question pertaining to the Project. This review can be done using methods or experts from western science and/or traditional knowledge in accordance with this Agreement;

“Indigenous” means aboriginal peoples in the Northwest Territories, which includes both Dené and Métis peoples;

“Indigenous Party” means any of the Deninu Kue First Nation, Łutsel K’e Dené First Nation, North Slave Métis Alliance, Northwest Territory Métis Nation, or Tłı̨chǫ Government who are Parties to this Agreement, subject to sections 11.6 and 11.7;

“Land and Water Board” means the Mackenzie Valley Land and Water Board;

“Life of Mine” means Construction, Operations and Active Closure phases of the Project;

“Ní Hadi Xa Annual Report” means the report described in Schedule II;

“Operations” means the phase of the Project commencing after Construction during which ore is mined and rough diamonds are produced;

“Organizational Memory” means the information and knowledge as gained by individual members as they participate in Ní Hadi Xa’s development and as represented in Ní Hadi Xa’s archives;

“Participation Agreements” means those participation agreements, also known as impact benefit agreements or other similar agreement, entered into between De Beers and the Indigenous Parties with respect to the Project and as same may be supplemented, revised, restated or replaced from time to time during the term of this Agreement;

“Parties” means a signatory to this Agreement, subject to sections 11.6 and 11.7;

“Planning Session” means the Annual Meeting of the Governance Committee referred to in section 5.2;

“Plant” includes any species of wild flora;

“Positions” means the positions of the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitors;

“Predicted Wildlife and Plant Harvesting Loss” means any Wildlife and Plant Harvesting Loss which De Beers stated would occur as a direct result of the Project during the environmental impact review;

“Project” means the project as described in section 3.2 of the Review Board Report and includes any phase of the Project;

“Quorum” means a majority of members of the Governance Committee;

“Regulators” means the government of the Northwest Territories, the government of Canada and their agents or representatives, including the Review Board and the Land and Water Board;

“Regulatory Instrument(s)” means any authorization, licence, lease, or permit required under any legislation for the carrying out of the Project;

“Retain” means to employ or contract;

“Review Board” means the Mackenzie Valley Environmental Impact Review Board;

“Review Board Report” means the *Report of Environmental Impact Review and Reasons for Decision* EIR 0607-001, dated 19 July 2013;

“SHEOP” means the Safety Health Environmental Operational Procedures of De Beers;

“Study Area” means the Project and the region around the Project, a map of which is annexed to this Agreement in Schedule III, and includes any modifications or amendments made thereto;

“Technical Coordinator” means the individual Retained pursuant to section 4.15;

“Technical Review Session” means the Annual Meeting of the Governance Committee referred to in section 5.4;

“Traditional Knowledge Monitors” means the individuals Retained by one or more of the Indigenous Parties pursuant to section 4.15;

“Traditional Knowledge Monitor Report” means the report described in Schedule II;

“Traditional Knowledge Review Session” means the Annual Meeting of the Governance Committee referred to in section 5.3;

“Type ‘A’ Water Licence” means the type A licence issued by the Land and Water Board under the *Mackenzie Valley Resource Management Act*, SC 1998, c 25 and the *Waters Act*, SNWT 2014, c 18;

“Wildlife” includes any species of wild fauna;

“Wildlife and Plant Harvesting Losses” mean any:

- (a) loss or damage to property or equipment used in Wildlife or Plant harvesting by an Indigenous person;
- (b) loss or damage to Wildlife or Plants; and
- (c) present and future loss of Wildlife or Plants harvested by an Indigenous person;

“\$” means Canadian dollars.

Extended Meanings

3.2 In this Agreement, where consistent with the context:

- (a) words importing the singular number include the plural and vice versa;
- (b) words importing gender include the masculine, feminine and neutral genders; and
- (c) words importing persons include firms and corporations.

3.3 Words that begin with a capital letter or phrases in which each word begins with a capital letter have the meaning specified in the Agreement.

3.4 Where a word is defined in the Agreement, other parts or speech, and tenses, of the same word that begin with a capital letter have a corresponding meaning.

Business Days

3.5 Whenever a payment to be made or action to be taken under this Agreement is required to be made or taken on a day which is a Saturday, Sunday or statutory holiday in the Northwest Territories, then such payment shall be made or action taken on the next succeeding day that is not a Saturday, Sunday or statutory holiday in the Northwest Territories.

3.6 In the calculation of time under this Agreement, the first day will be excluded and the last day included, and any Saturday, Sunday or statutory holiday in the Northwest Territories shall be excluded.

References

- 3.7 References to an article, section, subsection, paragraph, schedule or appendix shall be construed as references to an article, section, subsection, paragraph, schedule or appendix to this Agreement unless the context otherwise requires and all references to this Agreement mean this Ní Hadi Xa Agreement as it may be amended by the Parties from time to time. Legislation
- 3.8 References to any legislation shall be construed as including any regulations promulgated thereunder, any amendments thereto, and any successor or replacement legislation, including, as applicable successor or replacement legislation pursuant to territorial devolution. References to any Regulatory Instrument shall be construed as including any successor or replacement instruments.

Headings

- 3.9 The division of this Agreement into articles and subsections and the insertion of headings are for convenience of reference only and shall not alter the construction or interpretation of this Agreement.

Schedules

- 3.10 All Schedules to this Agreement are incorporated by reference and are deemed to be part hereof.

Appendices

- 3.11 All Appendices to this Agreement are recommendations that are not deemed to be part of this Agreement but must be formally adopted by the Parties.

ARTICLE 4 – NÍ HADI XA GOVERNANCE COMMITTEE

Establishment

- 4.1 The Parties shall establish the Ní Hadi Xa Governance Committee within six (6) months of:
- (a) the issuance of the Type 'A' Water Licence for the Project; and
 - (b) the date upon which De Beers notifies Environment and Natural Resources, Government of the Northwest Territories, in writing of the intent to begin construction of the Project.
- 4.2 The Governance Committee shall exist until one (1) year past the end of Active Closure.

Mandate

- 4.3 The Governance Committee shall perform its functions consistently in accordance with this Agreement. The mandate of the Governance Committee in respect of the Project shall be to:

- (a) provide an integrated approach to achieve the objectives of this Agreement;
- (b) effectively implement the terms of this Agreement, including the Schedules;
- (c) review and monitor the environmental performance of the Project using western science and traditional knowledge;
- (d) facilitate Communities' participation in monitoring the environmental performance of the Project;
- (e) serve as a technical advisory resource;
- (f) review Environmental Reports in order to make recommendations to the Parties;
- (g) make recommendations to the Parties regarding Project activities and environmental monitoring and management;
- (h) identify the need for Independent Peer Review;
- (i) provide the Ní Hadi Xa Governance Committee Annual Report to the Parties, Communities and the public on the activities of the Governance Committee and the achievement of its mandate;
- (j) provide an accessible and public repository of Environmental Reports; and
- (k) consider the recommendations provided in the Appendices.

Composition

4.4 The Governance Committee shall consist of one (1) member for each Party, including one (1) chairperson, to be appointed as follows:

- (a) the appointment of the Governance Committee shall occur in a staggered fashion to develop and maintain Organizational Memory as follows:
 - (i) at least one (1) member of the first Governance Committee must be appointed for a term of:
 - (A) two (2) years;
 - (B) three (3) years;
 - (C) four (4) years;
 - (ii) if a Governance Committee member appointed pursuant to subsection (a)(i) fails to complete his or her term, another member will be appointed to complete the term;
- (b) subject to subsection (a), each Party shall appoint one (1) member of the Governance Committee for a term not exceeding three (3) years;

- (c) each Party must appoint a person who is involved in lands and/or environment matters and has a general understanding of the regulatory environment; and
 - (d) the members shall select one (1) chairperson from among themselves.
- 4.5 Quorum will consist of a majority of members of the Governance Committee.
- 4.6 Consensus requires the agreement of all Governance Committee members.
- 4.7 Subject to Quorum requirements, in the event of any vacancy or vacancies or absent members, the Governance Committee may conduct its business within the purposes and objectives of this Agreement.
- 4.8 In the event of a vacancy or vacancies or absent members where an action or decision requires Consensus, the Party with the missing member must appoint a proxy.
- 4.9 A member of the Governance Committee may be removed from office prior to the end of the member's term of office by the Party that appointed that member.

Roles and Responsibilities

- 4.10 Governance Committee members must:
- (a) prepare for and participate in subcommittees to which they are appointed by the Governance Committee;
 - (b) prepare for and participate in the Annual Meetings;
 - (c) create a subcommittee within three (3) months of the Governance Committee being established to establish the Family Culture Region; and
 - (d) create a subcommittee within three (3) months of the Governance Committee being established to fill the Positions of the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitors.
- 4.11 The Governance Committee has the power to:
- (a) establish subcommittees;
 - (b) develop procedural rules and internal policies for the Governance Committee;
 - (c) develop policies for the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitors;
 - (d) develop procedural rules and policies for the Family Travel Program, Independent Peer Review, on-site monitoring and Confidential Material;
 - (e) seek assistance from external contractors or consultants to develop the necessary infrastructure for successful implementation of this Agreement; and

- (f) determine how the infrastructure and equipment used in the Family Travel Program will be disposed of at the end of Ní Hadi Xa operations.
- 4.12 In addition to the responsibilities in section 4.10 the Indigenous Parties' Governance Committee members must:
- (a) report to their respective Indigenous Party in accordance with this Agreement;
 - (b) report to and seek input and guidance from Community members on the activities of Ní Hadi Xa as directed by their respective Indigenous Party;
 - (c) promote understanding of Ní Hadi Xa in the Communities;
 - (d) promote the Family Travel Program; and
 - (e) make recommendations to De Beers in accordance with Article 6 based on:
 - (i) recommendations from Independent Peer Reviewers;
 - (ii) concerns raised by Communities; and
 - (iii) recommendations from Regulators.
- 4.13 In addition to the responsibilities in section 4.10 the De Beers' Governance Committee member must:
- (a) report to De Beers in accordance with this Agreement; and
 - (b) provide the De Beers' Annual Environmental Report to the Governance Committee in accordance with Schedule II.

Financing and Management of Ní Hadi Xa

- 4.14 De Beers will provide funding to support Ní Hadi Xa in accordance with Article 8 and Schedule I.
- 4.15 Unless otherwise determined by the Parties, the Positions will be filled by the Indigenous Parties as follows:
- (a) the Technical Coordinator will be Retained by one (1) of the Indigenous Parties as the Indigenous Parties may determine from time under the direction of the Governance Committee;
 - (b) the Environmental Monitor will be Retained and supervised by one (1) of the Indigenous Parties as the Indigenous Parties may determine from time to time;
 - (c) the full-time Traditional Knowledge Monitor will be Retained and supervised by Łutsel K'e Dené First Nation; and

- (d) the part-time Traditional Knowledge Monitor will be Retained from any of the Communities by one (1) of the Indigenous Parties as the Indigenous Parties may determine from time to time.
- 4.16 Any qualified Community member of an Indigenous Party will have an equal opportunity to compete for Ní Hadi Xa Positions, irrespective of the Indigenous Party Retaining the Position.
- 4.17 For greater certainty, neither De Beers nor the Governance Committee is the employer or contracting party for the Positions outlined above.
- 4.18 For greater certainty, the Governance Committee will determine the scope of work of the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitors and will provide direction to that effect.
- 4.19 The recommended roles and responsibilities of the Positions have been detailed in Appendix B of this Agreement.

ARTICLE 5 – OPERATIONS

Annual Meetings

- 5.1 Subject to sections 5.3 and 5.5 below, the Annual Meetings will take place in Yellowknife, NT.
- 5.2 The Governance Committee shall meet once a year for a Planning Session to develop and approve the Annual Workplan by Quorum, which includes:
 - (a) reviewing Environmental Reports;
 - (b) identifying and approving annual reporting requirements, including Community Reporting;
 - (c) identifying annual Independent Peer Review needs;
 - (d) developing annual travel schedule to the Family Culture Region by the Traditional Knowledge Monitors;
 - (e) identifying and approving annual budget payment schedule and allocations; and
 - (f) developing the scope of work and training schedule for the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitorsin accordance with this Agreement.
- 5.3 The Governance Committee shall meet once a year at the Family Culture Region, or at another location in the Northwest Territories if the Governance Committee so agrees, for a Traditional Knowledge Review Session to:
 - (a) review the Traditional Knowledge Monitors' quarterly and annual reports;

- (b) review traditional knowledge Independent Peer Review reports and identify issues requiring further investigation;
- (c) review Community concerns;
- (d) identify issues to De Beers; and
- (e) develop recommendations for De Beers in accordance with Article 6.

5.4 The Governance Committee shall meet once a year for a Technical Review Session to:

- (a) review Environmental Reports;
- (b) review western science Independent Peer Review reports and identify issues requiring further investigation;
- (c) review Community concerns;
- (d) identify issues to De Beers; and
- (e) develop recommendations for De Beers in accordance with Article 6.

5.5 The Governance Committee may elect to meet:

- (a) more often than the Annual Meetings set out above; and
- (b) in the event of an emergency.

Administration

5.6 Unless agreed otherwise, De Beers shall provide in-kind administrative resources for the following:

- (a) providing travel allowance in accordance with De Beers' Travel Allowance Policy, accommodation, office space and equipment for the Environmental Monitor while on site;
- (b) organizing travel and accommodations for the Annual Meetings;
- (c) preparing materials for the Annual Meetings; and
- (d) subject to section 8.11, administering Ní Hadi Xa finances defined in this Agreement.

5.7 Unless agreed otherwise, the Indigenous Parties shall provide in-kind administrative resources for the following:

- (a) meeting space and related resources;
- (b) office space for Positions; and

- (c) administrative support as needed.

Traditional Knowledge Monitoring

- 5.8 The Traditional Knowledge Monitors will travel to the Family Culture Region for a minimum of twelve (12) weeks per year, or as otherwise determined by the Governance Committee, in seasons as described in the Annual Workplan.
- 5.9 While in the Family Culture Region, the Traditional Knowledge Monitors shall:
 - (a) record traditional knowledge observations using, if available, the data tracking methodology and systems developed under section 1.3 of Appendix A;
 - (b) meet with families and individuals who are participating in the Family Travel Program; and
 - (c) ensure that the infrastructure (e.g., cabin and wall tents) is properly maintained.
- 5.10 The Traditional Knowledge Monitors shall interview families and individuals that have participated in the Family Travel Program regarding their observations and record the data.
- 5.11 In addition to the twelve (12) weeks of travel outlined in section 5.8, the Traditional Knowledge Monitors will travel to the Family Culture Region to host the Traditional Knowledge Review Session as requested.

Family Travel Program

- 5.12 The purpose of the Family Travel Program is to:
 - (a) strengthen and maintain cultural knowledge of the land, water, Wildlife, Plants and resources throughout the Life of the Mine; and
 - (b) provide families and individuals the opportunity to engage in research and monitoring in the region of the Project.
- 5.13 The Family Travel Program will provide support to successful family and individual applicants to travel into the Family Culture Region.
- 5.14 The Family Travel Program shall be promoted in the Communities on a year-round basis.
- 5.15 Applications shall be accepted or rejected in accordance with Governance Committee policies developed pursuant to section 4.11(d).
- 5.16 Any policy developed by the Governance Committee to administer the Family Travel Program shall require successful applicants to:
 - (a) provide such waivers, releases and indemnities as the Governance Committee considers advisable in respect of any losses, damages, injuries or expenses that may result from the Family Travel Program, however caused; and

- (b) agree to participate in an interview with the Traditional Knowledge Monitors during and/or after their visit to the Family Culture Region.

Independent Peer Review

- 5.17 Western science and traditional knowledge Independent Peer Review, as identified in the Planning Session, will be conducted by expertise external to Ní Hadi Xa.
- 5.18 Independent Peer Review will be solicited in the following manner:
 - (a) from an Indigenous Party or such other organization where appropriate and qualified expertise is available on an in-kind basis; and/or
 - (b) from existing recognized traditional knowledge experts or from independent western science experts where available on a contractual basis.

On-Site Monitoring

- 5.19 Upon being Retained by one of the Indigenous Parties, the Environmental Monitor will monitor De Beers' activities and the impacts of those activities at the Gahcho Kué Diamond Mine on a shift schedule as determined by the Governance Committee.
- 5.20 The Environmental Manager or designate will brief the Environmental Monitor at the beginning of every shift.
- 5.21 If an Environmental Monitor becomes aware of an Incident at the Gahcho Kué Diamond Mine, the Environmental Monitor shall inform the Environmental Manager or designate and the Technical Coordinator immediately.
- 5.22 The Environmental Monitor shall continue to monitor the Incident and report to the Environmental Manager or designate and the Technical Coordinator until the Incident has been resolved to the satisfaction of the Environmental Monitor.
- 5.23 If an Environmental Monitor becomes aware of the discovery or potential discovery of Heritage Resources at the Gahcho Kué Diamond Mine at any time, the Environmental Monitor shall inform the Governance Committee immediately and the Environmental Manager or designate in accordance with SHEOP and this Agreement.

ARTICLE 6 – RECOMMENDATIONS

- 6.1 The Indigenous Parties may provide written recommendations to De Beers at any time during the Life of Mine in accordance with this Agreement.
- 6.2 De Beers shall within thirty (30) days of receipt of any written recommendation of one or more Indigenous Parties directed to it, give consideration to the written recommendation, and shall either:
 - (a) accept for implementation a written recommendation of the Indigenous Parties that is determined by De Beers to be appropriate and report to the Indigenous Parties to that effect in writing; or

- (b) provide the Indigenous Parties with written reasons where it has been determined by De Beers that the recommendation is not appropriate and will not be implemented.
- 6.3 If a De Beers' response to a written recommendation of the Indigenous Parties is deemed unsuitable or insufficient by the Indigenous Parties, the Governance Committee may initiate a workshop with Independent Peer Reviewers by Quorum.
- 6.4 If the workshop in section 6.3 does not resolve the issue, the Indigenous Parties may commence dispute resolution proceeding in accordance with Article 9.
- 6.5 If the non-binding mediation process is commenced pursuant to section 9.5, the mediator selected shall access the relevant expertise as required to consider the issue.

ARTICLE 7 – CULTURAL HERITAGE PROTECTION

- 7.1 De Beers shall incorporate all aspects of this Article into its SHEOP.
- 7.2 The objectives of the SHEOP shall include:
 - (a) maximizing Indigenous Party participation in archaeological site clearance and Heritage Resources management processes;
 - (b) enhancing Indigenous Party general capacity for cultural heritage protection; and
 - (c) reporting mechanisms to support cultural heritage identification and management for the Gahcho Kué Diamond Mine.
- 7.3 In addition to complying with requirements of applicable territorial and federal laws, the SHEOP shall:
 - (a) upon potential discovery of Heritage Resources at the Gahcho Kué Diamond Mine at any time during the Life of Mine:
 - (i) require that De Beers notify the Environmental Monitor immediately; or
 - (ii) if the Environmental Monitor is not on site or is otherwise unavailable, require that De Beers notify the Technical Coordinator immediately;
 - (b) require that if the Environmental Monitor suspects the potential discovery of Heritage Resources, the Environmental Monitor will contact the Environmental Manager or designate in order to initiate the heritage and resource protection provisions of SHEOP, which may include a suspension of De Beers' activities in accordance with applicable laws;
 - (c) ensure that any traditional knowledge provided by the Indigenous Parties is treated in accordance with Article 10; and

- (d) require that De Beers provide full reports to the Indigenous Parties as soon as practicable following any potential discovery of Heritage Resources in the Gahcho Kué Diamond Mine at any time during the Life of Mine.

7.4 De Beers agrees to:

- (a) engage Ní Hadi Xa in the development of the heritage and resource protection provisions of SHEOP and any amendments made thereto with the Governance Committee;
- (b) ensure its Project employees and contractors and the Environmental Monitor is trained and familiar with the heritage and resource protection provisions of SHEOP;
- (c) ensure that the heritage and resource protection provisions of SHEOP are enforced and monitored;
- (d) report to the Governance Committee annually in accordance with Schedule II for the Life of Mine; and
- (e) support the participation of the Indigenous Parties in the long-term care, management and documentation of Heritage Resources.

7.5 The Indigenous Parties agree to:

- (a) ensure the Positions are trained and familiar with the heritage and resource protection provisions of SHEOP; and
- (b) report to the Communities annually in accordance with policies developed by the Governance Committee under section 5.2(b) and this Agreement.

ARTICLE 8 – BUDGET

- 8.1 During the term of this Agreement and upon the establishment of the Governance Committee, De Beers shall provide funding for Ní Hadi Xa in accordance with this Agreement and Schedule I.
- 8.2 The Ní Hadi Xa budgets for Budget Periods in Years 1 and 2 contain start-up costs that are non-recurring and do not reflect full operational costs and accordingly shall not be considered a base amount for future years. The budgets for Years 1 and 2 are also dependent on the date of implementation of this Agreement and may require adjustment accordingly.
- 8.3 The Ní Hadi Xa annual budget for the Budget Period in Year 1 may be \$192,500 and is detailed in Schedule I.
- 8.4 The Ní Hadi Xa annual budget for the Budget Period in Year 2 may be \$526,025 and is detailed in Schedule I.

- 8.5 The Ní Hadi Xa annual budget for the Budget Period in Year 3, and for each subsequent year until a review has been conducted under section 11.18, shall be a maximum of \$550,925 plus the CPI Increase and is detailed in Schedule I.

Reviewing the Annual Budget

- 8.6 For each review under section 11.20, the Ní Hadi Xa budget until the next review shall be determined by the Governance Committee by Consensus based on the Annual Workplan and a review of past year capital expenditures, operating costs and expenses and will include the CPI Increase.

Annual Budget Disputes

- 8.7 Subsequent to the review conducted pursuant to section 11.20, in the event that the Governance Committee cannot agree on the annual budget, any Party may refer the issue to dispute resolution in accordance with Article 9.
- 8.8 If the dispute resolution process is initiated pursuant to section 8.7, within thirty (30) days De Beers shall provide the budget amount of the previous Budget Period plus the CPI Increase over that one year period to ensure that Ní Hadi Xa continues to operate while the Dispute is ongoing. If the dispute resolution process is initiated in Years 1, 2 or 3, De Beers shall provide the budget amount allocated in Schedule I.

Surplus

- 8.9 If a surplus occurs in a Budget Period, the surplus amount may be reallocated by the Governance Committee to other Ní Hadi Xa capital and operating expenditures within that same Budget Period or for the succeeding Budget Period, provided that the reallocation is approved within the initial Budget Period.
- 8.10 Unless the Parties agree otherwise, any surplus that is not expended pursuant to section 8.9 shall be ceded back to De Beers for that Budget Period.

Administration

- 8.11 De Beers will administer the funds for Ní Hadi Xa until the Governance Committee agrees by Quorum to transfer administration of the funds to an Indigenous Party or an independent third party.
- 8.12 Invoices submitted to De Beers for Ní Hadi Xa expenditures will be paid within thirty (30) days of the date of the invoice in accordance with this Agreement.
- 8.13 If a transfer occurs under section 8.11 above, De Beers will provide an additional \$10,000 in administration fees plus the CPI Increase from the date this Agreement comes into effect until the year the transfer occurs.

Potential Additional Expenditures

- 8.14 In addition to the annual budget, De Beers may provide additional funding to the Governance Committee for research and monitoring activities or unforeseen

circumstances, based on proposals submitted to De Beers by the Governance Committee for which funding is not available in the budget. De Beers shall in good faith review and consider proposals submitted by the Governance Committee for additional funding and shall provide written reasons to the Governance Committee if any request for funding is not accepted by De Beers. If the request for funding is not accepted by De Beers, the Governance Committee may consider other research funding opportunities, including NWT Cumulative Impact Monitoring Program or surplus reallocation under section 8.9.

ARTICLE 9 – DISPUTE RESOLUTION

General Principles

- 9.1 This dispute resolution process is only to be used if De Beers is one of the Disputing Parties; if an issue arises between Indigenous Parties to the exclusion of De Beers, the Indigenous Parties must resolve the issue outside of this Agreement.
- 9.2 If an issue arises that could lead to a formal Dispute, the Disputing Parties shall first make best efforts to try to reach resolution on the issue through a meeting of the Governance Committee.
- 9.3 The Disputing Parties may resolve a Dispute by mutual agreement at any time and all such agreements will be recorded in writing and will be signed by the authorized representatives of the Disputing Parties.
- 9.4 Ní Hadi Xa will continue to operate despite the commencement of dispute resolution under this Article in accordance with section 8.8.

Commencement

- 9.5 If at any time during the term of this Agreement any Dispute arises between the Parties that the Parties have been unable to resolve amicably, then the following shall apply:
 - (a) any Party to the Dispute may, by Dispute Notice, require the Parties to meet to attempt to resolve the Dispute;
 - (b) the Dispute Notice shall state the nature and subject matter of the Dispute and set a time, date not to be later than ten (10) days from the date of the Dispute Notice and location for the Parties to meet to attempt to resolve the Dispute;
 - (c) the Parties shall with due care, diligence and skill use all reasonable endeavours to attempt to resolve the Dispute;
 - (d) if the Parties fail to resolve the Dispute pursuant to clause 9.5(c) within fifteen (15) days of the Dispute Notice, then any relevant disputing Party may, by written notice to the other, refer the Dispute to mediation.
- 9.6 If a Dispute has been referred to mediation, then the Disputing Parties shall endeavour to agree on a mediator and shall submit the matter in dispute to the mediator. The mediator shall discuss the matter with the relevant Parties and endeavour to resolve it by agreement

between the Parties. All discussions in mediation shall be without prejudice to, and shall not be referred to in, any later proceedings.

9.7 Unless the Disputing Parties agree otherwise, the Disputing Parties shall bear their own costs of mediation. The costs of the mediator shall be paid by De Beers.

9.8 The place of mediation shall be Yellowknife, Northwest Territories.

9.9 If:

- (a) mediation has taken place and no agreement has been reached; or
- (b) the Dispute remains unresolved for two (2) months after the Dispute Notice

then, but not otherwise, the Dispute may be submitted to arbitration in accordance with the provisions of the *Arbitration Act*, RSNWT 1988, c A-5 as modified by this Agreement.

9.10 In respect of any arbitration the following provisions shall apply:

- (a) the arbitration committee shall be a committee of three, one appointed by each Disputing Party and the third selected by the other two appointees. The Parties shall select appointees who are independent and impartial and have expertise with respect to the type of issue in dispute and to the conduct of arbitration;
- (b) the arbitration committee may take such advice and assistance from professional advisers or other third parties as it reasonably considers appropriate to enable it to reach a determination;
- (c) the language to be used in the arbitration shall be English;
- (d) the place of arbitration shall be Yellowknife, Northwest Territories;
- (e) the costs of any adviser(s) and the arbitrators shall be borne by the Disputing Parties equally, unless the arbitration committee otherwise determines;
- (f) the decision or award of the arbitration committee is final and binding on all of the Parties to the reference and the persons claiming under them and may be entered in any court of competent jurisdiction; and
- (g) the Parties further undertake to carry out without delay the provisions of any decision of the arbitrator.

9.11 Where the Dispute has previously been referred to mediation, the mediator shall not be called by any Disputing Party as a witness and no reference shall be made to the determination (if any) by the mediator in respect of the Dispute during any subsequent arbitration on the Dispute.

9.12 The provisions of this clause:

- (a) constitute an irrevocable consent by the Disputing Parties to any proceedings described in sections 9.1 – 9.13 of this Agreement and no Disputing Party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by those provisions; and
- (b) are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement.

9.13 The dispute resolution provisions of this Agreement shall not preclude any Party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

ARTICLE 10 – CONFIDENTIALITY

- 10.1 The intention of this Article is to ensure that traditional knowledge provided by any of the Indigenous Parties is protected.
- 10.2 The Parties may request that the Governance Committee designate data, information, reports or records as Confidential Material.
- 10.3 Confidential Material will be maintained in accordance with this Article and policies developed by the Governance Committee under section 4.11(d).
- 10.4 Any Party may make a request to the Governance Committee to review Confidential Material for the purposes of carrying out this Agreement.
- 10.5 By Quorum, the Governance Committee may grant a request under section 10.4 in accordance with this Article and the policies established pursuant to section 4.11(d).
- 10.6 The Parties agree that all Confidential Material of the disclosing Party, whether factual or interpretative, shall be kept in strict confidence by the recipient Party and shall not be used for any purpose other than as necessary to implement the terms of this Agreement except:
 - (a) as may be required by law;
 - (b) where such information becomes generally known or available in the public domain, without a breach of this Agreement; or
 - (c) as otherwise consented to in advance by the Party providing the Confidential Material.
- 10.7 Confidential Material will be available for review when required by the Governance Committee for the purposes of this Agreement.
- 10.8 No reproductions of Confidential Material generated from traditional knowledge in any form will be permitted without the express written consent of the Indigenous Party whose Community is the source of the traditional knowledge.

ARTICLE 11 – GENERAL

- 11.1 This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.
- 11.2 A provision of the Agreement, or the performance by a Party of an obligation under the Agreement, may not be waived unless the waiver is in writing and signed by the Party or Parties giving the waiver.
- 11.3 No written waiver of a provision of the Agreement, of performance by a Party of an obligation under the Agreement, or of default by a Party of an obligation under the Agreement, shall be a waiver of any other provision, obligation or subsequent default.
- 11.4 If any provision of the Agreement is found to be void, voidable, invalid, illegal or unenforceable for whatever reason, then the particular provisions shall be deemed to be severed from the remainder of the Agreement and all other provisions of this Agreement shall remain in full force and effect.
- 11.5 If a severance occurs under section 11.4 the Parties shall use their best efforts to negotiate in good faith an enforceable replacement provision that to the greatest extent possible captures the intent or serves the purpose of the severed provision.
- 11.6 This Agreement shall continue in the event of a withdrawal of an Indigenous Party from Ní Hadi Xa, or in circumstances of legal incapacity on the part of any Party. The remaining Parties in the event of a withdrawal, or the Parties and the legal representatives or the successors in interest of a legally incapacitated Party, will negotiate in good faith any amendments that to the greatest extent possible enable the Agreement to continue in accordance with its terms and to fulfill its objectives.
- 11.7 In the event that the Yellowknives Dené First Nation chooses to become a signatory to this Agreement and notifies the Parties of such intention in writing, all Parties will execute an amendment to this Agreement within thirty (30) days of such notification in accordance with this Agreement.
- 11.8 The rights and remedies of any Party under this Agreement are cumulative and in addition to, and not in substitution for, any rights, powers or remedies provided at law or inequity including, without limitation, pursuant to applicable environmental legislation.
- 11.9 Nothing in this Agreement shall limit any Parties' right to:
 - (a) take any position contrary to or different from the position of any other Party with respect to any permits, licenses or other regulatory matters and any proposed activity in respect of the Project; or
 - (b) approach the Regulators to make inquiries, express concerns or submit recommendations regarding the Project.

- 11.10 The Agreement may be signed in counterparts with the same effect as if the Parties had all signed the same document. All counterparts shall be construed together and constitute one and the same document.
- 11.11 This Agreement and De Beers' obligations thereunder do not constitute and do not replace De Beers' Community Engagement Activities.
- 11.12 This Agreement is governed by and is to be construed in accordance with the laws of the Northwest Territories, and the laws of Canada applicable therein.
- 11.13 The Parties shall with reasonable diligence do all things and provide such further documents or instruments as may be reasonably necessary or desirable to give effect to this Agreement and to carry out its provisions.
- 11.14 Ní Hadi Xa can carry on business under such name as may be determined from time to time by the Parties.

Assignment

- 11.15 De Beers shall not assign this Agreement or any part of it, nor be released from its obligations or covenants under this Agreement, unless:
 - (a) De Beers has first provided the Indigenous Parties with notice of the intended assignment and such proof of capacity regarding the proposed assignee's ability to fulfill the obligations and covenants to be assigned in accordance with the Agreement as any Indigenous Party may reasonably request;
 - (b) the proposed assignee enters into an agreement in writing in which the assignee assumes all or a portion of De Beers' obligations and liabilities under this Agreement that incorporates terms to mitigate any concerns of an Indigenous Party; and
 - (c) the proposed assignee is also the assignee of De Beers' obligations under the Regulatory Instruments and the Participation Agreements.
- 11.16 Upon fulfillment of the conditions under section 11.15, De Beers shall be released from all covenants and obligations under this Agreement that are assumed by the assignee to the extent to which they are assigned and assumed by the assignee.
- 11.17 This Agreement in no way limits the obligations of De Beers with respect to any environmental matter relating to the Project including, without limitation, the legal obligation to undertake full mine site reclamation and post closure water treatment in respect of the Project and any other potential development within the bounds of the Project.
- 11.18 For greater certainty, nothing in this Agreement shall lessen or otherwise remove any of De Beers' Commitments.

- 11.19 De Beers represents and warrants that it is the operator of the Project and that it is entitled to enter into this Agreement and carry out its obligations hereunder.

Review and Amend

- 11.20 The Governance Committee will arrange for an assessment of Ní Hadi Xa by an independent third party four (4) years after the establishment of the Governance Committee, and every four years thereafter, or as otherwise determined by Governance Committee, and funding for which will be provided by De Beers to a maximum of \$30,000 per review.
- 11.21 This Agreement may be amended at any time by written agreement among all of the Parties.
- 11.22 Except in respect of matters of a serious and imminent threat to the environment in which case this provision will not apply, if the Parties are prevented or delayed by an event of Force Majeure from fulfilling an obligation under this Agreement, then that obligation shall be suspended while the Force Majeure continues to prevent or delay the performance of that obligation, and for that time thereafter as the Parties may reasonably require to subsequently fulfill that obligation.
- 11.23 The Agreement is the entire agreement and there is no representation, warranty, collateral agreement or condition affecting the Agreement unless otherwise provided in the Agreement.
- 11.24 Nothing in this Agreement affects a Party's ability to respond to any emergency situation.

Notices

- 11.25 Any notices or communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally or by courier, during normal business hours, to, or mailed by prepaid registered post, transmitted by confirmed facsimile, or transmitted by electronic mail, addressed as follows:

(a) De Beers

DE BEERS CANADA INC.
Suite 300, 5120 49th Street
NWT Communication Centre
Yellowknife, NT X1A 1P8

Attention: Gahcho Kué Permitting Manager

Telephone: (867) 688-8701

Facsimile: (867) 766-7347

(b) Deninu Kue First Nation

DENINU KUE FIRST NATION
P.O. Box 1899
Fort Resolution, NT X0E 0M0

Attention: Resource Management Coordinator

Telephone: (867) 394-4335
Facsimile: (867) 394-5122

(c) Łutsel K'e Dené First Nation

ŁUTSEL K'E DENÉ FIRST NATION
P.O. Box 28
Łutsel K'e, NT X0E 1A0

Attention: Wildlife, Lands and Environmental Manager

Telephone: (867) 370-3197
Facsimile: (867) 370-3010

(d) North Slave Métis Alliance

NORTH SLAVE MÉTIS ALLIANCE
P.O. Box 2301
32 Melville Drive
Yellowknife, NT X1A 2P7

Attention: Regulatory Analyst

Telephone: (867) 873-6762
Facsimile: (867) 669-7442

(e) Northwest Territory Métis Nation

NORTHWEST TERRITORY MÉTIS NATION
P.O. Box 720
Fort Smith, NT X0E 0P0

Attention: Executive Director

Telephone: (867) 872-2770
Facsimile: (867) 872-2772

(f) Tłı̨chq Government

TŁİCHQ GOVERNMENT
2nd Floor, Complex

Bag 5
Behchokò, NT X0E 0Y0

Attention: Tìchq Executive Officer

Telephone: (867) 766-4003

Facsimile: (867) 392-3001

- (g) To the chairperson of the Governance Committee at an address to be provided to the Parties upon the establishment of the Governance Committee

or at such other address as any Party may from time to time advise the others by notice in writing.

11.26 A written communication shall be deemed to have been received:

- (a) if delivered personally or by courier at the delivery location, on the day it was delivered;
- (b) if mailed by prepaid registered post, on the day the postal receipt is acknowledged by the addressee;
- (c) if transmitted by facsimile and the sender received the confirmation of the transmission before 4 p.m. at the delivery location, on the date of receipt; or
- (d) if sent by electronic mail and the sender received a delivery or a 'read' receipt or an electronic mail acknowledgment of receipt before 4 p.m. at the delivery location, on the date of receipt.

ARTICLE 12 – TERM OF AGREEMENT

12.1 This Agreement shall come into effect on a date specified by the Parties, but no later than six (6) months after the issuance of the Type 'A' Water Licence and De Beers has notified Environment and Natural Resources, Government of the Northwest Territories, in writing of the intent to begin construction of the Project.

12.2 This Agreement shall terminate at one (1) year past the end of Active Closure.

ARTICLE 13 - DISSOLUTION

13.1 Prior to termination of the Agreement, the Governance Committee shall:

- (a) dispose of any remaining assets or liabilities arising from Ní Hadi Xa;
- (b) return Confidential Material to the Party that is the owner or source of that Confidential Material; and
- (c) determine how rights in Ní Hadi Xa intellectual property will be held or distributed among the Parties.

IN WITNESS WHEREOF each of the Parties have caused this Agreement to be executed by the duly authorized signing officers of the Parties.

Witness

De Beers Canada Inc.

Per:

Glen Koropchuk, Chief Operating
Officer

Per: Steve Thomas, Chief Financial Officer

Witness

Deninu Kue First Nation

Per:

Chief Louis Balsillie

Councillor Robert Sayine

Witness

Lutsel K'e Dené First Nation

Per:

Chief Felix Lockhart

Per:

Councillor

Witness

North Slave Métis Alliance

Per:

William Enge, President

Witness

Northwest Territory Métis Nation

Per:

Garry Bailey, President

Witness

Tłıchǫ Government

Per:

Grand Chief Edward Erasmus

SCHEDULE I – BUDGET

Year 1

| Budget Item | Amount |
|--|------------------|
| Annual Meetings – Travel/Accommodation/Per Diem/Miscellaneous | \$6,500 |
| Annual Meeting – On the Land | \$0 |
| Indigenous Party Governance Committee Salary Supplement | \$18,000 |
| Traditional Knowledge Monitoring – capital expenditures for Family Culture Region (infrastructure, snowmobiles, supplies, etc.) and travel to/from Family Culture Region | \$106,000 |
| Independent Peer Review | \$20,000 |
| Dispute Resolution | \$0 |
| Implementation – Training/Policy Development | \$25,000 |
| Implementation – Infrastructure development (e.g., website and database) | \$15,000 |
| Other | 2,000 |
| TOTAL | \$192,500 |

Year 2

| Budget Item | Amount |
|---|---|
| Annual Meetings – Travel/Accommodation/Per Diem/Miscellaneous | \$19,200 |
| Annual Meeting – On the Land | \$25,000 |
| Indigenous Party Governance Committee Salary Supplement | \$36,925 (20 days x \$307/day x 6) |
| Salaries and Benefits – Full-time Traditional Knowledge Monitor | \$67,200 ¹ (\$70,000 base + 20% benefits package) |
| Salaries – Part-time Traditional Knowledge Monitor | \$24,000 ² (\$30,000 base) |
| Salaries and Benefits – Technical Coordinator | \$96,000 ³ (\$100,000 + 20% benefit package) |
| Salaries and Benefits – Environmental Monitor | \$67,200 ⁴ (\$70,000 base + 20% benefits package) |
| Training of Positions | \$7,500 |
| Traditional Knowledge Monitoring – travel and supplies for TK Monitors to visit Family Culture Region | \$20,000 |
| Independent Peer Review | \$40,000 |
| Dispute Resolution | \$20,000 |
| Implementation – Training/Policy/Infrastructure Development | \$100,000 |
| Other | \$3,000 |
| TOTAL | \$526,025 |

¹ Assumed that the position will be filled partway through 2015; therefore, amount reflects a maximum of 80% of a years' salary and benefits prorated to the time of hire.

² Assumed that the position will be filled partway through 2015; therefore, amount reflects a maximum of 80% of a years' salary prorated to the time of hire.

³ Assumed that the position will be filled partway through 2015; therefore, amount reflects a maximum of 80% of a years' salary and benefits prorated to the time of hire.

⁴ Assumed that the position will be filled partway through 2015; therefore, amount reflects a maximum of 80% of a years' salary and benefits prorated to the time of hire.

Year 3

| Budget Item | Amount |
|---|---|
| Annual Meetings – Travel/Accommodation/Per Diem/Miscellaneous | \$19,200 |
| Annual Meeting – On the Land | \$25,000 |
| Indigenous Party Governance Committee Salary Supplement | \$36,925 (20 days x \$307/day x 6) |
| Salaries and Benefits – Full-time Traditional Knowledge Monitor | \$84,000 (\$70,000 base + 20% benefits package) |
| Salaries – Part-time Traditional Knowledge Monitor | \$30,000 |
| Salaries and Benefits – Technical Coordinator | \$120,000 (\$100,000 + 20% benefit package) |
| Salaries and Benefits – Environmental Monitor | \$84,000 (\$70,000 base + 20% benefits package) |
| Training of Positions | \$7,500 |
| Traditional Knowledge Monitoring – Family Travel Program; Traditional Knowledge Monitoring; maintenance and equipment | \$80,300 |
| Independent Peer Review | \$40,000 |
| Dispute Resolution | \$20,000 |
| Other | \$4,000 |
| TOTAL | \$550,925 |

SCHEDULE II – REPORTING

Environmental Reports will be prepared and distributed by different individuals and Parties and will include:

- Environmental Monitor Report by the Environmental Monitor;
- Traditional Knowledge Monitor Report by the Traditional Knowledge Monitors;
- De Beers' Annual Environmental Report by De Beers; and
- Ní Hadi Xa Annual Report by the Technical Coordinator.

The Environmental Monitor Report, Traditional Knowledge Monitor Report and De Beers' Annual Environmental Report must be submitted in advance in order to inform the Ní Hadi Xa Annual Report. It is anticipated that the De Beers' Annual Environmental Report will be released in April every year for the Life of Mine.

Pursuant to section 4.3(j) of the Agreement, all Environmental Reports will be made available to the public.

1. Environmental Monitor Report

1.1 Environmental Monitor Reporting will consist of shift and annual reports.

1.2 Shift reports will be provided to the Technical Coordinator and Environmental Manager at the end of every shift and will include:

- (a) details of Environmental Monitor activities undertaken at the Gahcho Kué Diamond Mine and the Family Culture Region;
- (b) the discovery or potential discovery of Heritage Resources;
- (c) concerns, Incidents and associated resolutions; and
- (d) observations documented using, if available, the data tracking methodology, systems and database developed pursuant to section 1.3 of Appendix A.

1.3 Annual reports will be provided to the Technical Coordinator and will include:

- (a) a high level summary of Environmental Monitor activities;
- (b) key observations regarding environmental change;
- (c) a summary of concerns, Incidents and resolutions;
- (d) recommendations for further investigation; and
- (e) such other matters as directed by the Governance Committee.

2. Traditional Knowledge Monitor Report

2.1 Traditional Knowledge Monitor reporting will consist of quarterly and annual reports and will be provided to the Governance Committee.

2.2 Quarterly reports will include:

- (a)** details of Traditional Knowledge Monitor activities undertaken in the Family Culture Region and in the Communities;
- (b)** observations recorded using, if available, the data tracking methodology, systems and database developed pursuant to section 1.3 of Appendix A;
- (c)** details of participation in the Family Travel Program including:
 - (i)** the number of applicants;
 - (ii)** the number of participants; and
 - (iii)** summaries of interviews conducted with participants.

2.3 Annual reports will include:

- (a)** a high level summary of Traditional Knowledge Monitor activities;
- (b)** an analysis of the key findings based on traditional knowledge Independent Peer Review;
- (c)** key observations regarding environmental change;
- (d)** recommendations for further investigation; and
- (e)** such other matters as directed by the Governance Committee.

3. De Beers' Annual Environmental Report

3.1 De Beers will submit to the Governance Committee an annual report and will include environmental reporting requirements consistent with the annual Type 'A' Water Licence as well as annual reporting on Wildlife and Air. The reporting will include results from the following Environmental Monitoring and Management Plans:

- (a)** Monitoring Plans
 - (i)** Aquatic Effects Monitoring Program;
 - (ii)** Surveillance Network Program;
 - (iii)** Wildlife Effects Monitoring Program;
 - (iv)** Vegetation and Soils Monitoring Program;

- (v) Air Quality and Emissions Monitoring and Management Plan;
- (vi) Groundwater Monitoring Program;
- (vii) Geochemistry Characterization Plan; and
- (viii) Fisheries Authorization Plan (i.e., Fish Out Plan and Fish Compensation Plan).

(b) Management Plans

- (i) Processed Kimberlite and Mine Rock Management Plan;
- (ii) Wildlife and Wildlife Habitat Protection Plan;
- (iii) Water Management Plan;
- (iv) Sediment and Erosion Management Plan;
- (v) Incinerator Management Plan;
- (vi) Non-hazardous Solid Waste Management Plan;
- (vii) Hazardous Materials and Waste Management Plan;
- (viii) Landfarm Management Plan (as required); and
- (ix) Reclamation and Closure Plan (updates on progressive reclamation or updates to plan).

(c) Other Environmental Monitoring and Management Plans and research as they occur.

3.2 In addition to reporting on the above Environmental Monitoring and Management Plans, De Beers will include an annual summary of:

- (a) Spill Reporting and Inspections;
- (b) all potential and real discoveries of Heritage Resources at the Gahcho Kué Diamond Mine in accordance with section 7.3(d);
- (c) Community Reporting; and
- (d) financial statements of Ní Hadi Xa if De Beers administered the funds during that Budget Period.

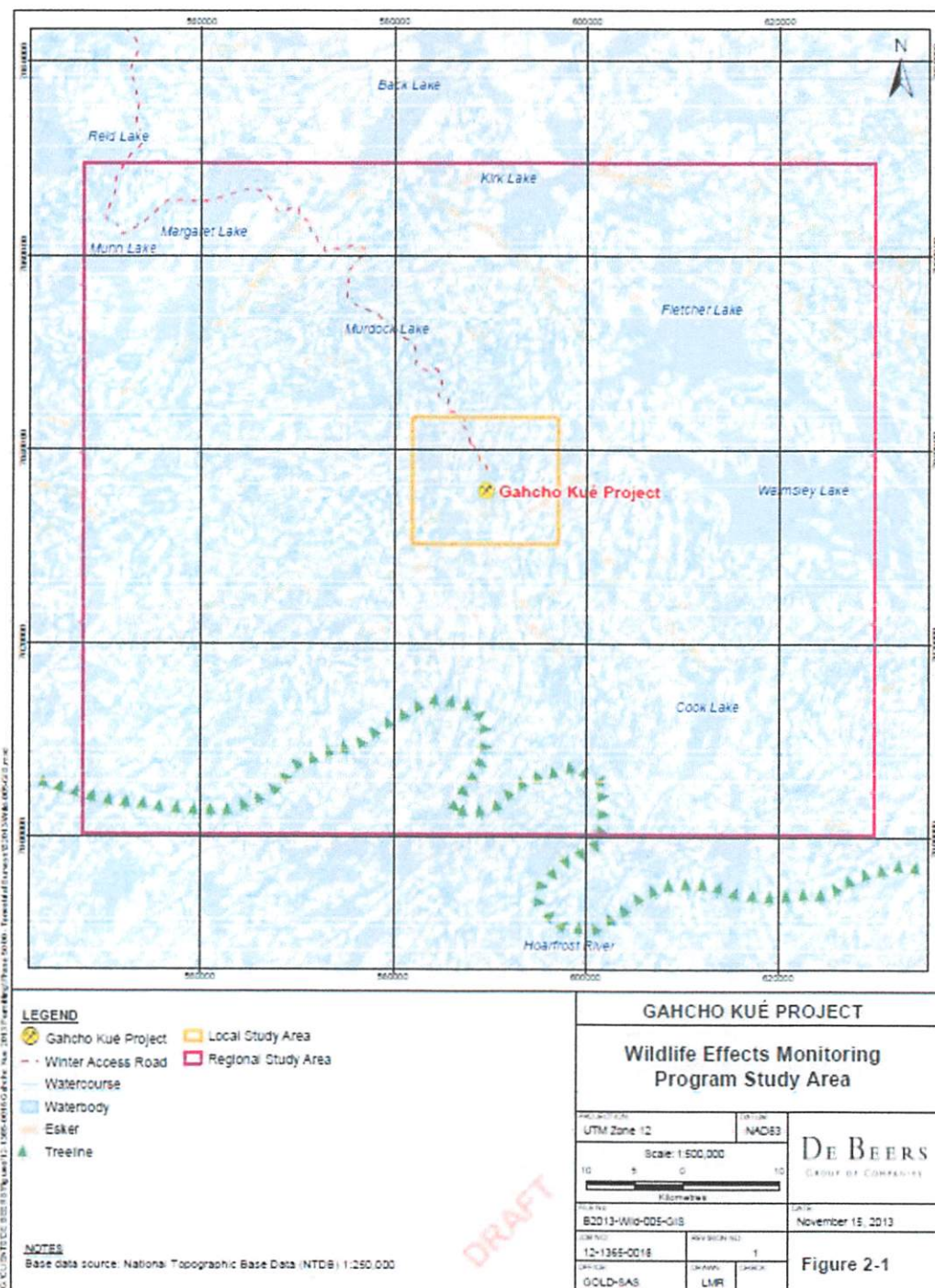
3.3 Monitoring programs will vary based on Project timelines (i.e., monitoring scope will vary during Construction, Operations and Active Closure).

4. Ní Hadi Xa Annual Report

4.1 The Ní Hadi Xa Annual Report will be prepared by the Technical Coordinator and will include summaries of:

- (a) Environmental Monitor Reports;**
- (b) Traditional Knowledge Monitor Reports;**
- (c) Independent Peer Review reports;**
- (d) Ní Hadi Xa activities, including summaries of financial statements;**
- (e) all recommendations and any actions taken in response; and**
- (f) such other matters as directed by the Governance Committee.**

SCHEDULE III – MAP OF GAHCHO KUÉ DIAMOND MINE



APPENDIX A – IMPLEMENTATION PLAN

1. It is recommended that the Governance Committee undertake the following implementation plan within the Year 1 and 2 Budget Periods:
 - 1.1 Create subcommittees in accordance with section 4.11(a) for the purposes of fulfilling the objectives of Ní Hadi Xa, including reporting and implementation. While this implementation plan addresses the first year of Ní Hadi Xa operations, it is intended that subcommittees will continue to operate throughout the Life of Mine. For example, an implementation subcommittee could develop Annual Workplans.
 - 1.2 The reporting subcommittee will review the reporting needs for the Governance Committee and provide guidance, support and review in advance of recommendations to be submitted to the Governance Committee.
 - 1.3 The implementation subcommittee may seek assistance from external resources to develop the necessary infrastructure for successful implementation, including:
 - (a) data tracking methodology and systems for the Environmental Monitor;
 - (b) data tracking methodology and systems for the Traditional Knowledge Monitors;
 - (c) a database to manage data from both the Environmental Monitor and Traditional Knowledge Monitors;
 - (d) the Ní Hadi Xa website;
 - (e) a training needs program for the Technical Coordinator, Environmental Monitor and Traditional Knowledge Monitors; and
 - (f) other requirements as identified by the Governance Committee.
 - 1.4 The Family Culture Region subcommittee established under section 4.10(c) will:
 - (a) select a location for the cabin and two (2) wall tents;
 - (b) create guidelines, forms, waivers and policies for the Family Travel Program; and
 - (c) develop a support mechanism to enable participation in the Family Travel Program, which may consist of a gas and oil credit distribution program.
 - 1.5 The Positions subcommittee established under s. 4.10(d) will manage the process of writing job descriptions, advertising, accepting resumes, prioritizing candidates and creating a short list of candidates for the Positions.

2. Family Culture Region

- 2.1 The Traditional Knowledge Monitors if Retained will travel to the Family Culture Region within six (6) months of the establishment of the Governance Committee:**
 - (a) to select potential location sites of the cabin and two (2) wall tents; and**
 - (b) make recommendations to the Family Culture Region subcommittee regarding location sites of the cabin and wall tents.**
- 2.2 The Traditional Knowledge Monitors will travel to the Family Culture Region to oversee the construction of the cabin and wall tents and collect traditional knowledge data in accordance with direction from the Governance Committee.**
- 2.3 The cabin will be used on a seasonal basis by the Traditional Knowledge Monitors for monitoring and storage purposes.**
- 2.4 When the Traditional Knowledge Monitors are not in the Family Culture Region, the cabin will be maintained on a year-round basis by:**
 - (a) the Environmental Monitor; and**
 - (b) De Beers on a financial basis in accordance with this Agreement and Schedule I.**
- 2.5 The wall tents may be used on a seasonal basis as a shelter by:**
 - (a) the Traditional Knowledge Monitors for monitoring purposes;**
 - (b) families and individuals participating in the Family Travel Program; and**
 - (c) participants in the Traditional Knowledge Review Session.**

3. Independent Peer Review

- 3.1 As defined in the Annual Workplan, Independent Peer Reviewers will:**
 - (a) if the query is based in western science, conduct a study or review technical materials under the direction of the Technical Coordinator;**
 - (b) if the query is based in traditional knowledge, conduct a study or review traditional knowledge materials under the direction of the full-time Traditional Knowledge Monitor;**
 - (c) prepare a report of the study or review;**
 - (d) prepare a briefing note with recommendations;**

- (e) participate in meetings with the Technical Coordinator or full-time Traditional Knowledge Monitor and the Governance Committee as requested; and
 - (f) conduct follow-up studies and/or reviews and modify the report and briefing note as required by the Governance Committee and as directed by the Technical Coordinator or full-time Traditional Knowledge Monitor.
- 3.2 Traditional knowledge studies will be undertaken to bring forward topics and issues of relevance to the Project identified by:
 - (a) Communities during Community Reporting and on an ongoing basis;
 - (b) the Indigenous Parties through their Governance Committee member;
 - (c) the Traditional Knowledge Monitors; and
 - (d) the Environmental Monitor.

APPENDIX B – ROLES AND RESPONSIBILITIES

1. Technical Coordinator

- 1.1 One (1) Technical Coordinator will be contracted by one of the Indigenous Parties in accordance with section 4.15 for a term of three (3) years or as otherwise agreed and will execute a scope of work defined in the Annual Workplan.**
- 1.2 The Technical Coordinator will be responsible for:**
 - (a) document control and communications;**
 - (b) high level review of regulatory documents related to the Project;**
 - (c) coordinating the commissioning of western science Independent Peer Reviews in accordance with section 5.18 and Appendix A;**
 - (d) providing summaries of the Independent Peer Reviews to the Governance Committee;**
 - (e) reviewing Environmental Reports and alerting the Governance Committee to unresolved issues;**
 - (f) managing the Ní Hadi Xa website;**
 - (g) participating in Community Reporting as requested;**
 - (h) participating in training as required;**
 - (i) participating in Community caucus meetings as directed by the Governance Committee;**
 - (j) participating in meetings with De Beers as directed by the Governance Committee;**
 - (k) participating in Governance Committee or subcommittee meetings as requested;**
 - (l) reporting to the Governance Committee;**
 - (m) drafting the Ní Hadi Xa Annual Report in accordance with Schedule II;**
 - (n) promoting understanding of Ní Hadi Xa in the Communities;**
 - (o) promoting the Family Travel Program; and**
 - (p) acting as otherwise directed by the Governance Committee.**

2. Environmental Monitor

2.1 One (1) Environmental Monitor will be Retained by one of the Indigenous Parties in accordance with section 4.15.

2.2 The Environmental Monitor will be responsible for:

- (a) on-site monitoring of the Gahcho Kué Diamond Mine in accordance with policies developed under section 4.11(c);**
- (b) monitoring Environmental Effects of the Project and providing the Technical Coordinator with up-to-date information on De Beers' activities;**
- (c) providing a shift report to the Environmental Manager and the Technical Coordinator in accordance with section 1.2 of Schedule II;**
- (d) providing an annual report to the Technical Coordinator in accordance with section 1.3 of Schedule II;**
- (e) complying with SHEOP requirements and Article 7 of the Agreement in the event of discovery or potential discovery of Heritage Resources at the Gahcho Kué Diamond Mine;**
- (f) recording observations using, if available, the data tracking methodology, systems and database as developed in accordance with section 1.3 of Appendix A;**
- (g) participating in Community Reporting as requested;**
- (h) participating in Community caucus meetings as directed by the Governance Committee;**
- (i) participating in meetings with De Beers as directed by the Governance Committee;**
- (j) inspecting the Family Culture Region on an as-needed basis when the Traditional Knowledge Monitors are away from the region;**
- (k) participating in training as required;**
- (l) participating in Governance Committee or subcommittee meetings as requested; and**
- (m) acting as otherwise directed by the Governance Committee.**

3. Traditional Knowledge Monitors

(d) One (1) Traditional Knowledge Monitor will be Retained on a full-time basis by Łutsel K'e Dené First Nation in accordance with section 4.15.

3.1 The full-time Traditional Knowledge Monitor will be responsible for:

- (a) promoting the Family Travel Program in the Communities and accepting applications;**
- (b) compiling and forwarding Family Travel Program applications to the Governance Committee in accordance with policies developed under section 4.11(d);**
- (c) managing the support mechanism developed by the Governance Committee in accordance with section 5.13 and Appendix A for participants in the Family Travel Program;**
- (d) document control and communications with families and individuals who participate in the Family Travel Program;**
- (e) interviewing families and individuals who participate in the Family Travel Program;**
- (f) coordinating the commissioning of traditional knowledge Independent Peer Review in accordance with section 5.18 and Appendix A;**
- (g) developing a travel schedule and budget in preparation for the Planning Session;**
- (h) traveling to the Family Culture Region to make traditional knowledge observations in accordance with Article 5;**
- (i) recording observations using, if available, the data tracking methodology, systems and database developed in accordance with section 1.3 of Appendix A;**
- (j) analyzing traditional knowledge data and preparing quarterly and annual reports for the Technical Coordinator in accordance with Schedule II;**
- (k) participating in training as required;**
- (l) participating in Community Reporting as requested;**
- (m) participating in Community caucus meetings as directed by the Governance Committee;**
- (n) participating in meetings with De Beers as directed by the Governance Committee;**
- (o) participating in Governance Committee or subcommittee meetings as requested; and**
- (p) acting as otherwise directed by the Governance Committee.**

- 3.2 One (1) Traditional Knowledge Monitor must be Retained on a part-time basis by one of the Indigenous Parties in accordance with sections 4.15.
- 3.3 The part-time Traditional Knowledge Monitor will be responsible for:
- (a) acting as a traditional knowledge mentor to the full-time Traditional Knowledge Monitor;
 - (b) assisting in developing a travel schedule and budget in preparation for the Planning Session;
 - (c) accompanying the full-time Traditional Knowledge Monitor to the Family Culture Region to make traditional knowledge observations;
 - (d) assisting in interviewing families and individuals who participate in the Family Travel Program;
 - (e) participating in training as required;
 - (f) participating in Community Reporting as requested;
 - (g) participating in Community caucus meetings as directed by the Governance Committee;
 - (h) participating in meetings with De Beers as directed by the Governance Committee;
 - (i) participating in Governance Committee or subcommittee meetings as requested; and
 - (j) acting as otherwise directed by the Governance Committee.