



## **APPLICATION FEE, RENT AND COMPENSATION POLICY: FOR SURFACE RIGHTS ACCESS OR USE OF INUIT OWNED LAND**

### **1.0 PURPOSE**

Article 21 of the Nunavut Land Claims Agreement (NLCA) provides that the exercise of surface rights by third parties on Inuit Owned Lands (IOL) requires the consent of the Designated Inuit Organization (DIO). QIA is the DIO for ownership of surface rights to Inuit Owned Lands, and all Specified Substances and water on IOL, in the North Baffin, South Baffin and Sanikiluaq Land Use Regions defined in the NLCA. QIA consent to an application for surface rights access (and/or use of Specified Substances and/or water rights if applicable) is subject to the negotiation of suitable compensation to be paid by applicants. The purpose of this policy is to identify QIA's requirements and procedures for applicants to obtain rights in respect of Inuit Owned Lands, and to delineate the appropriate criteria that will be considered when negotiating compensation.

### **2.0 FORMS OF TENURE AND USE**

The permitted forms of access to and use of IOL will vary depending on the type of access and use, and the scope and duration of the applicant's activity. Certificates of Exemption may be issued for minor access across IOL. One or more class of Land Use Licence may be issued for more extensive access and use of IOL. A formal lease of land, for residential or commercial use, may be issued by QIA in one or more classes to grant

leasehold tenure in IOL to an applicant. QIA is the fee simple owner of IOL surface rights (and all Specified Substances and water located on IOL) and may grant interests in IOL to third parties only in conformity with the NLCA. "Specified Substances" is defined in the NLCA and generally means stone, sand, gravel, earth and other non-Mineral substances found in, on or under IOL. As used in this policy the term "IOL" shall mean the fee simple ownership of Inuit Owned Lands, including Specified Substances and water rights, but excluding Minerals, all as defined in the NLCA. Applications for access to IOL shall identify the certificate, license or lease required by the applicant, but are subject to re-classification by QIA following a review of the proposed access or use.

### **3.0 APPLICATION FEES**

All applications for access or use of IOL shall be accompanied by a prescribed application fee. The application fees applicable to an application for IOL shall vary depending on the amount of time and resources required of QIA to process the application. Application fees prescribed by QIA are to cover the costs of accepting, reviewing and processing (including negotiation where required) the application and do not determine or otherwise affect negotiated compensation (i.e. annual rents for lands, quarrying fees, water use fees, etc.). Application fees may be fixed for applications for limited access to IOL, or may be calculated on a full cost recovery basis. All application fees must be submitted with the completed application. In circumstances involving protracted review and/or negotiation of access rights (ie. as for commercial leases), QIA may waive the requirement to pay the application fees at the time of the application, and instead calculate the application fee at the end of the application process (ie. prior to signing a commercial lease). In such event the application fee will be based on the full recovery of all costs incurred by QIA to complete the application and issue the appropriate form of land use instrument. Application fees are non-refundable whether or not QIA and the applicant successfully agree on an access agreement including appropriate compensation. Applications submitted without the appropriate application fee will be returned by QIA to the applicant without further review or consideration.

### **4.0 DETERMINING COMPENSATION**

After an application has been received by QIA, and any requested follow up documents or information have been provided by the applicant, QIA will determine the compensation that is required of the applicant before consent is granted to the proposed access or use. Appendix A of this policy sets out the framework from which basic application and rent fees are established. The form of compensation for a specific project will depend on the application type.

A Certificate of Exemption shall not typically require compensation, but may depending on specific circumstances applicable to the application. A land use Licence may require compensation based upon the criteria set forth in Schedule B and Section 5.0 herein. If compensation is required for a Licence, it shall be paid in a lump sum as agreed by QIA

and the applicant. A residential or commercial Lease granted by QIA shall be subject to compensation structured as rent paid during the term of the Lease, plus any other negotiated direct or indirect costs or amounts due and payable pursuant to the Lease.

## **5.0 CRITERIA FOR DETERMINING COMPENSATION**

In determining the amount of compensation payable to QIA in respect of IOL, QIA shall consider the matters set forth in Article 21.8.3 of the NLCA applicable to an entry order that may be ordered by the Surface Rights Tribunal, as follows:

- (a) the market value of the land,
- (b) the term of the agreement
- (c) loss of use to QIA and Inuit,
- (d) the effect on wildlife harvesting by Inuit,
- (e) the adverse effect of the use or occupancy, upon other Inuit Owned Lands not so used or occupied,
- (f) damage which may be caused to the land used, or occupied,
- (g) nuisance, inconvenience and noise to QIA and Inuit,
- (h) the cultural attachment of Inuit to the land,
- (i) the peculiar and special value of the land to Inuit,
- (j) an amount to cover reasonable costs associated with QIA inspections as deemed appropriate by QIA,
- (k) an amount to cover reasonable costs to QIA associated with the application for the Licence or Lease and its processing, including, without limitation, the cost of QIA consultants and professional advisors,
- (l) such other factors as may be provided for in legislation.

For greater certainty, the list of potential matters and costs within each of the foregoing criteria for which compensation is appropriate shall be open ended as may be necessary or desirable, having regard to the specific nature and scope of the proposed access and use of IOL that is set out in the applicant's proposed plans and activities.

## **6.0 APPLICATION AND NLCA REVIEW COSTS**

The applicant's proposed activities on IOL may require the applicant to also apply to one or more institutions of public government (IPG's) pursuant to the NLCA. QIA's participation in IPG proceedings related to the applicant's proposed plans and activities on IOL may be necessary or desirable pursuant to the NLCA. In determining its reasonable costs associated with processing an application for IOL access and use, QIA may include its reasonable costs, including costs of its consultants and professional advisors, for its preparation for and participation in IPG proceedings or hearings related to the applicant's proposed activities on IOL, including, without limitation:

- (a) review by Nunavut Planning Commission (NPC) of the project proposal or amendment of a Land Use Plan pursuant to the NLCA,
- (b) review by Nunavut Impact Review Board (NIRB) of the project proposal,
- (c) review by Nunavut Water Board (NWB) of the project proposal.

To the extent practicable, QIA will co-ordinate its review and analysis of applications for IOL access and use, including commissioning consultant's reports and studies, with its participation in related IPG proceedings to avoid duplication of process and costs.

## **7.0 RELATION TO INUIT IMPACT BENEFIT AGREEMENTS**

Where the applicant's proposed plans and activities on IOL constitute a "Major Development Project" within the meaning of Article 26 of the NLCA the applicant will also be required to enter into an Inuit Impact Benefit Agreement (IIBA) with a DIO. QIA is also the DIO pursuant to Article 26 of the NLCA for negotiating an IIBA for a Major Development Project on IOL. The compensation required for access and use of IOL is separate and distinct from the benefits to be negotiated by an applicant with QIA pursuant to an IIBA. Applicants for access and use of IOL shall be required to obtain a certificate, licence or lease from QIA irrespective of whether the proposed access and use also constitutes a Major Development Project pursuant to Article 26 of the NLCA conferring upon QIA the right to negotiate benefits for Inuit pursuant to an IIBA with the applicant. In the event that the proposed use of IOL involves a "Major Development Project" to develop or exploit (not including exploration) resources wholly or partly under IOL, then an IIBA is required to be negotiated between QIA and the proponent. A "Major Development Project" will typically require the proponent to also apply for a commercial lease of IOL pursuant to this policy, wherein a default under the IIBA will be deemed to be a default under the commercial lease, and vice versa (ie. cross-default).

## **8.0 DETERMINATION BY SURFACE RIGHTS TRIBUNAL**

Once QIA has determined the compensation to be paid by the applicant for access and use of IOL, it shall notify the applicant of the terms and conditions of any certificate, licence or lease of IOL, including the amount of appropriate fees or rents. The applicant may negotiate the terms and conditions of access and use of IOL with QIA, including, without limitation, all fees, rents, or other compensation required by QIA. Commercial leases can sometimes involve in-depth negotiation if the access and use of IOL is required for a Major Development Project. If the parties cannot agree on appropriate compensation or any other terms of the access offered by QIA, then the matter may be referred to the Surface Rights Tribunal (SRT) for a determination in accordance with the provisions of Article 21 of the NLCA.

**APPENDIX A  
FEES – SURFACE RIGHTS**

Type Of Right	Initial Application, Extension, Renewal, Assignment and Adjustment of a Right	Annual Rent for Lands
Certificate of Exemption	0	0
Class 3 Land Use Licence	\$1000.00	\$50 per hectare
Class 2 Land Use Licence	\$500.00	0
Class 1 Land Use Licence (Inuit)	0	0
Class 1 Land Use Licence (Non-Inuit)	\$250.00	0
Residential or Recreational Lease (Inuit)	0	0
Residential or Recreational Lease (Non-Inuit)	\$250.00	\$250.00
Class 3 Commercial Lease	Full recovery of all QIA Costs for review, processing & negotiation t\$2,000 + legal (or \$3,000) \$500.00 (these fees subject to review)	\$ per hectare to be negotiated
Class 2 Commercial Lease		
Class 1 Commercial Lease (categories subject to review)		
Quarry Licence: Inuit Commercial and Non-Inuit: + Special Admin. Fee (\$/m <sup>3</sup> ) Gravel Royalty (\$/m <sup>3</sup> )	\$20.00  \$1.50 \$1.00	Annual Rents are not applicable
Quarry Concession Special Admin. Fee (\$/m <sup>3</sup> ) Gravel Royalty (\$/m <sup>3</sup> )	\$2000.00	Fees and Royalties are to be negotiated
Easements and Right-of Ways	\$500.00	Annual Rents are to be negotiated

**NOTE:** Fees may be waived for casual users, researchers and government officials as per Article 21 of the Nunavut Land Claims Agreement. There may be additional charges to the applicant if warranted by the size and complexity of a commercial Lease proposal and the complexity and cost of negotiating the Lease.