

**LEGACY FUND BY-LAW**

**(formerly known as the Resource Revenue By-law)**

DRAFT

## BY-LAW #2

Upon registration under the *Societies Act* this By-law may be referred to as the

### “KIA Legacy Fund By-Law”

## 1. PURPOSE AND OBJECTIVE

- 1.1 The purpose of the Legacy Fund is to effectively and transparently manage designated revenues to achieve economic self-sufficiency of Kivalliq Inuit through time, in a manner consistent with Inuit social and cultural needs and aspirations.
- 1.2 The Legacy Fund includes a long-term savings objective that invests designated revenues and generates consistent positive investment returns. The Legacy Fund will support Inuit social and cultural needs and aspirations through a spending objective that delivers consistent, predictable and positive benefits to Kivallirmiut year over year by recognizing, prioritizing and addressing community needs and education-related barriers to long-term prosperity.

## 2. DEFINITIONS

2.1 For the purpose of this By-law:

“**Board of Directors**” means the KIA Board of Directors as set out in KIA By-law #1.

“**Communities**” means Arviat, Baker Lake, Chesterfield Inlet, Coral Harbour, Naujaat, Rankin Inlet and Whale Cove.

“**Community Initiatives Fund**” means the fund with that name described in Section 7.

“**Community Initiatives Fund Guidelines**” means a KIA document that further sets out the roles and responsibilities for the management and operation of the Community Initiatives Fund.

“**Education Fund**” means the fund with that name described in Section 6.

“**Education Fund Guidelines**” means a KIA document that further sets out the roles and responsibilities for the management and operation of the Education Fund.

“**Effective Date**” means the date upon which this By-law is approved in accordance with the *Societies Act* (Nunavut).

“**Executive Committee**” means the individuals that form the Executive Committee of KIA’s Board of Directors as set out in KIA By-Law #1.

“**External Auditor**” means a Person external to KIA and qualified under the Laws of Nunavut and applicable laws of Canada to perform audits, selected by the Executive Committee and, for greater certainty, may be the KIA auditor appointed annually at the KIA annual general meeting.

**“Extraordinary Resolution”** means a resolution passed by not less than three-quarters of those persons in attendance at a meeting and entitled to vote on the resolution.

**“Fiscal Year”** means from April 1<sup>st</sup> to March 31<sup>st</sup> of each year, or the portion thereof following the Effective Date.

**“Funds”** means the Legacy Fund, Income Stabilization Fund, Community Initiatives Fund and the Education Fund which, together, comprise the Legacy Fund.

**“Guidelines”** means the Legacy Fund Guidelines, the Community Initiatives Fund Guidelines, the Education Fund Guidelines and the Income Stabilization Fund Guidelines.

**“IBA”** means an Inuit Impact and Benefit Agreement entered into by KIA and a third party in accordance with the Nunavut Agreement.

**“Income”** means revenues received less expenses associated with administrative or operational obligations.

**“Income Stabilization Fund”** means the fund with that name described in Section 8.

**“Income Stabilization Fund Guidelines”** means a KIA document that further sets out the roles and responsibilities for the management and operation of the Income Stabilization Fund.

**“Inuit Owned Lands”** has the meaning set out in Article 1 of the Nunavut Agreement.

**“Investment Advisor”** means the Person retained by the Board of Directors from time to time to invest and manage the Funds in accordance with the Investment Policy.

**“Investment Manager”** means the KIA Director of Finance or other Person designated by the Board of Directors from time to time as responsible to oversee the Investment Advisor and the proper implementation and application of the Investment Policy, who has a professional designation acceptable to KIA but may not be the Investment Advisor.

**“Investment Reviewer”** means the Person retained by KIA from time to time as responsible to assess the performance of the Investment Advisor, who has a professional designation acceptable to KIA but may not be the Investment Manager or the Investment Advisor.

**“Investment Policy”** means the KIA policy approved by the Board of Directors that outlines the objectives and parameters of how any Fund will be invested and incorporates best practices of sovereign wealth funds.

**“Investment Return”** means the amount of investment return earned in any year, averaged over a Fiscal Year.

**“KIA”** means Kivalliq Inuit Association, a not for profit body corporate subsisting pursuant to the Societies Act of Nunavut, and any successor thereto by way of continuation, amalgamation or other means.

**“Legacy Fund”** means the fund with that name established under Section 4.

**“Legacy Fund Guidelines”** means a KIA document that further sets out the roles and responsibilities for the management and operation of the Legacy Fund.

**“Nunavut Agreement”** means the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada, executed on May 25, 1993 and ratified, given effect and declared valid by the *Nunavut Land Claims Agreement Act (Canada)* and entered into force on July 9, 1993, as amended from time to time.

**“Person”** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative.

**“Quarry Permit”** means an agreement entered into between KIA and a third party setting forth the terms, conditions and fees for the quarrying of materials sourced from Inuit Owned Lands in the Kivalliq Region.

**“Legacy Fund”** means the fund of that name established under Section 3.

**“Royalty”** means any Income received by KIA pursuant to an IIBA or a Royalty Agreement which is not, pursuant to the terms of the IIBA or Royalty Agreement, dedicated to another use or purpose and, for the sake of clarity, includes any payment received “in kind”, any advance payment, milestone payment, bonus payment, contribution or deferred payment required to be made pursuant to an IIBA or a Royalty Agreement.

**“Royalty Agreement”** means any agreement which provides for the payment to KIA of royalties for a Major Development Project as defined in the Nunavut Agreement, entered into between KIA and a third party.

**“Voting Members”** means those persons entitled to be voting members as set out in KIA By-law #1.

**“Water Compensation Agreement”** means an agreement entered into between KIA and a third party setting forth the terms, conditions and fee structures for the taking, use and/or diversion of water, and the compensation for any loss or damage which may be caused by changes in quality, quantity or flow of water on, in, or flowing through Inuit Owned Lands.

### **3. ESTABLISHMENT OF LEGACY FUND**

3.1 The Legacy Fund is hereby established and shall be comprised of the Funds.

3.2 Within ninety days of the Effective Date, KIA shall cause an account for each of the Funds to be established at one or more financial institutions approved by the Board of Directors.

3.3 Each of the accounts described in Section 3.2 shall be established as a segregated bank, trust company or other investment account for the exclusive use of the respective Fund.

## **4. CONTRIBUTIONS TO FUNDS**

### **Initial Fund Contributions**

4.1 As soon as practical following the Effective Date, KIA shall contribute from the accounts maintained as “deferred revenues and/or reserves” by KIA and designated as:

Ukkusiksalik National Park Community Initiatives Fund

Meliadine Milestone

Meadowbank IIBA

Whale Tail Milestone

Whale Tail Community Initiatives Fund

Inuit employment target contribution funds

Water compensation

Royalties

Nunavut Inuit Resource Revenue Trust

the following amounts:

- a) to the Income Stabilization Fund, the sum of \$5,000,000.00; and
- b) the balance to the Legacy Fund.

### **Legacy Fund**

4.2 Following the initial contribution, KIA shall cause contributions to be made to the Legacy Fund as set out in Section 4.4.

### **Income Stabilization Fund**

4.3 Subject to Section 4.4, KIA will cause to be contributed to the Income Stabilization Fund:

- a) Royalties received by KIA;
- b) Income received from Nunavut Tunngavik Incorporated as a distribution from the Nunavut Inuit Resource Revenue Fund;
- c) Income received from Quarry Permits;
- d) Income received from Sakku Investment Corporation and Nunasi Corporation; and
- e) Income received pursuant to any Water Compensation Agreement.

4.4 Any amount received by KIA under Section 4.3 which would result in a balance in the Income Stabilization Fund in excess of \$5,000,000.00 shall be contributed to the Legacy Fund.

### **Additional Contributions**

4.5 KIA may, at any time and at the discretion of the Board of Directors, contribute additional amounts from any source to a Fund, provided that any such amounts shall, once contributed, be treated in the same manner as other contributions made by KIA in accordance with this By-law.

4.6 The Income Stabilization Fund shall be managed in accordance with the Income Stabilization Fund Guidelines.

### **Investment Policy**

4.6 Contributions made under Section 4.1, and any contributions made under Sections 4.2, 4.3 or 4.5 within the nine month period following the Effective Date, shall be governed by the investment policy and direction given by KIA to the Investment Advisor prior to the Effective Date.

4.7 The Board of Directors shall, within nine months following the Effective Date, in consultation with the Investment Manager and the Investment Advisor, develop and approve the Investment Policy. Following approval of the Investment Policy:

- a) contributions made prior to such approval shall, at such time or times as may be appropriate given the nature and duration of each investment, be re-invested in accordance with the Investment Policy, as determined by the Investment Advisor in consultation with the Investment Manager; and
- b) future contributions to any Fund shall be invested in accordance with the Investment Policy.

## **5. LEGACY FUND**

5.1 Where the amount of the Investment Return on the Legacy Fund is equal to or less than four percent per annum in any Fiscal Year, such amount shall be disbursed to:

- i) the Education Fund, in an amount equal to ten percent of the Investment Return available to be disbursed; and
- ii) the Community Initiatives Fund, in an amount equal to ninety percent of the Investment Return available to be disbursed.

5.2 Should the Investment Return on the Legacy Fund be greater than four percent per annum in any Fiscal Year, the amount which exceeds four percent shall be retained in the Legacy Fund.

5.3 The amount available to be disbursed in accordance with Section 5.1 shall be calculated by the Investment Manager.

5.4 Except as set out in Section 5.1, no disbursements shall be made from the Legacy Fund.

## 6. EDUCATION FUND

6.1 The Education Fund shall be distributed annually to applicants in accordance with the Education Fund Guidelines.

6.2 In the event that the amount available for distribution from the Education Fund in any Fiscal Year exceeds the amount required for payment to successful applicants, the excess shall be invested for the benefit of the Education Fund in accordance with the Investment Policy, to be available for distribution in a subsequent Fiscal Year.

6.3 Except as set out in Section 6.1, no disbursements shall be made from the Education Fund.

## 7. COMMUNITY INITIATIVES FUND

7.1 The Community Initiatives Fund shall be available for distribution within the Communities. The amount actually distributed within any Community in a Fiscal Year will be subject to compliance with the Community Initiatives Fund Guidelines, up to a maximum amount determined based on:

- a) fifty percent of the amount available to be distributed in a Fiscal Year, divided equally amongst the Communities; and
- b) fifty percent of the amount available to be distributed in a Fiscal Year, divided amongst the Communities in accordance with the following formula:

Inuit enrollment per Community based on the prior calendar year average number of enrolled Inuit per Community, as shown on the Nunavut Tunngavik Incorporated “Living in the Community” and “Associated Community” lists.

*As an example only:*

*NTI Associated Community = 2021 Inuit*

*NTI Living in the Community = 1752 Inuit*

*Average = (2021+1752)/2 = 1887 Inuit*

7.2 Except as set out in Section 7.1, no disbursements shall be made from the Community Initiatives Fund.

## 8. INCOME STABILIZATION FUND

8.1 Subject to Section 8.2, if in any Fiscal Year the Investment Return on the Legacy Fund is less than four percent per annum, KIA shall cause to be distributed from the Income

Stabilization Fund an amount which will result in the equivalent of four percent per annum being distributed, as contemplated by Section 5.1.

8.2 Notwithstanding Section 8.1:

- a) a maximum of \$1.0 Million may be distributed from the Income Stabilization Fund in any Fiscal year; and
- b) no amount shall be distributed under Section 8.1 if such distribution shall cause the balance in the Income Stabilization Fund to be less than \$1.0 million.

8.3 All costs of the administration, management and operation of the Funds pursuant to this By-Law and the Guidelines shall be paid from the Income Stabilization Fund.

8.4 Except as set out in this Article 8, no disbursements shall be made from the Income Stabilization Fund.

## **9. GUIDELINES**

9.1 The Executive Committee shall ensure that the Guidelines, and all related documents as necessary to give effect to the Guidelines, are prepared and approved by the Executive Committee within nine months following the Effective Date.

9.2 Notwithstanding any other provision of this By-law, no amounts shall be distributed from a Fund until such time as all Guidelines have been approved by the Executive Committee.

## **10. GOVERNANCE**

10.1 All Funds shall be managed in accordance with this By-law.

10.2 Except as otherwise stated in this By-law or the Guidelines, the Executive Committee will provide final decisions on all administrative and operational matters of the Funds.

10.3 Overseeing compliance with the provisions of this By-law will be the responsibility of the Executive Committee.

10.4 Each Person exercising a role or authority under this By-law shall act honestly, in good faith and with the degree of care and prudence that a reasonable person of their similar skill and knowledge would exercise. Unless a Person fails to exercise the foregoing standard of care, s/he shall be entitled to the same protection and indemnity available to the Board of Directors as set forth in KIA By-law #1. For greater certainty, unless a Person fails to exercise the foregoing standard of care, no Person is personally responsible or liable for failure or depreciation in the value of any Fund.

10.5 Each Person exercising a role or authority under this By-law or the Guidelines shall comply with KIA's Conflict of Interest Policy.



## 11. REPORTING

11.1 An Annual Report shall be prepared by KIA for each Fiscal Year, detailing the affairs and accounts of the Legacy Fund, for approval by the Board of Directors, and shall be presented to the Voting Members at KIA's Annual General Meeting and released to the public on KIA's website and any other means deemed to be necessary or desirable by the Board of Directors.

11.2 The Annual Report shall be written in easily understandable language to the greatest extent possible. It shall ensure overall transparency and accountability with respect to the Legacy Fund and shall include but not be limited to:

- a) Financial statements audited by the External Auditor;
- b) A statement of the amount of money or other assets received by each of the Funds;
- c) A statement of investments of each of the Funds, including the cost and market value of each investment at the beginning and at the end of the Fiscal Year;
- d) A description of investment activity for each Fund during the Fiscal Year;
- e) A statement of disbursements from each of the Funds;
- f) A report of the Investment Manager describing:
  - i) the performance of the Funds, compared with the goals of the Investment Policy;
  - ii) the effect of the investment criteria in the Investment Policy on the Funds' investment portfolio;
  - iii) recommendations for any changes to the Investment Policy; and
  - iv) the recommendations and advice of the Investment Reviewer;
- g) A statement of the Executive Committee regarding the effectiveness of the Guidelines and a summary of any amendments made to the Guidelines;
- h) A summary of any reports to be prepared in accordance with the Guidelines and Investment Policy;
- i) A report of the Investment Advisor; and
- j) Any other information relating to the Legacy Fund which the KIA Board believes would be of interest to the Voting Members.

11.3 The Board of Directors shall ensure that all necessary books and records of the Funds are properly kept, including proper books of account with respect to all sums of money received and expended, all sales and purchases of securities and other property, the assets and liabilities of the

Funds, distributions made pursuant to this By-law, and all other transactions affecting the financial position of the Funds. All books and records shall be kept at such place in Nunavut as the Executive Committee directs and shall be open for inspection by any Voting Member.

11.4 An External Auditor for the Legacy Fund shall be appointed. The Executive Committee may at any time change the External Auditor as it deems necessary.

## **12. REVIEW**

12.1 The Executive Committee shall review this By-law not less than once every 4 years and may make recommendations for amendment to the Board of Directors.

12.2 The Investment Policy shall be reviewed periodically, at such times as the Executive Committee shall determine, in consultation with the Investment Manager. If the Executive Committee considers it advisable, the Executive Committee shall recommend amendments to the Investment Policy to the Board of Directors and, upon approval, such revised Investment Policy shall, for the purposes of this By-law, become the Investment Policy.

12.3 The Executive Committee shall, at least annually, review each of the Guidelines and may make recommendations for improvement to the Board of Directors.

## **13. BY-LAW PASSAGE, AMENDMENT OR REPEAL**

13.1 Notwithstanding the provisions of KIA By-law #1, this By-law shall be enacted, amended or repealed in accordance with this Section 13.

13.2 This By-law shall be enacted as a KIA by-law upon:

- a) passage of an Extraordinary Resolution of the Board of Directors at a meeting for which notice of the intent to pass this By-law has been given;
- b) passage of an Extraordinary Resolution of the Voting Members at an annual general or special meeting of the members of KIA held in accordance with KIA By-law #1. Notice of intent to enact this By-law shall be included in the notice of meeting and shall include notice that a draft copy of this By-Law is available for review on the KIA website; and
- c) registration in accordance with the *Societies Act*.

13.3 This By-law may be amended or repealed only upon:

- a) passage of an Extraordinary Resolution of the KIA Board of Directors at a meeting for which notice of the intent to amend or repeal this By-law has been given;
- b) passage of an Extraordinary Resolution of the Voting Members at an annual general or special meeting of the members of KIA held in accordance with KIA By-law #1, for which notice was given in strict compliance with Section 13.4; and
- c) registration in accordance with the *Societies Act*.

13.4 Notice of intent to amend or repeal this By-law must be in strict compliance with the following:

- a) Notice of the place, date and time of the meeting of Voting Members must be publicly distributed not less than six months prior to the meeting date:
  - i) on KIA’s website;
  - ii) on at least one social media platform or site;
  - iii) in the Hamlet office, Hunters and Trappers Organization office and KIA office in each Community, as well as any other public place as determined by KIA’s Community Liaison Officer in each Community; and
  - iv) in at least two newspapers having a general circulation in the Kivalliq region, not less than two times within the six-month period.
  
- b) The notice of meeting shall include:
  - i) notice of the intention to amend or repeal this By-law; and
  - ii) the name and contact information of a KIA staff person who may be contacted prior to the meeting to discuss the proposed amendment or repeal, who shall, upon request by any Voting Member, provide details of the proposed amendment or reasons for repeal and the text of any proposed resolution.
  
- c) The President of KIA shall give one community radio station presentation and hold one community meeting in each Community within the six month period prior to the meeting of Voting Members, discussing the reasons for the proposed amendment or repeal.
  
- d) The meeting of Voting Members shall be open to all Voting Members, the Investment Manager, the Investment Advisor and other professional advisors of KIA, all of whom shall be given the opportunity to be heard.

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_  
President