

**MEMORANDUM OF UNDERSTANDING ON COOPERATION AND FOR THE
SHARING OF INFORMATION BETWEEN HEALTH CANADA AND THE
MOHAWK COUNCIL OF KAHNAWÀ:KE**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is executed as of June 28, 2021 (the “**Effective Date**”)

BETWEEN: The **MOHAWK COUNCIL OF KAHNAWÀ:KE**, the governing body for the Mohawks of Kahnawà:ke, having its head office at P.O. Box 720, Kahnawà:ke, J0L 1B0, represented by Chief Tonya Perron and Chief Michael Delisle Jr. duly authorized pursuant to a Mohawk Council Executive Directive No. 30/2021-2022 adopted at a duly convened meeting held on June 22, 2021

(referred to herein as “**MCK**”)

AND: **HEALTH CANADA**, represented herein by the Assistant Deputy Minister, Controlled Substances and Cannabis Branch and the Assistant Deputy Minister, Regulatory Operations and Enforcement Branch being duly authorized for the purposes herein

(referred to herein as “**Health Canada**”)

(collectively referred to as the “**Parties**”, or individually referred to as a “**Party**” where no specific entity is referenced)

WHEREAS this MOU is in keeping with the Principles respecting the Government of Canada's relationship with Indigenous peoples;

WHEREAS the MCK is the duly elected Indigenous government of the Mohawks of Kahnawà:ke in the Mohawk Territory of Kahnawà:ke (“**Territory**”);

WHEREAS the Parliament of Canada has enacted the *Cannabis Act*, SC 2018, c 16 and regulations creating a strict legal framework for regulating activities involving cannabis, cannabis accessories and services related to cannabis across Canada;

WHEREAS the MCK has adopted the *Kahnawà:ke Cannabis Control Law*, K.R.L. c. C-4 (the “**KCCL**”) via its Community Decision-Making Process in order to regulate cannabis activities in the Territory including the cultivation and processing of cannabis;

WHEREAS the MCK and Health Canada share common goals and objectives in regard to the regulation of cannabis in Canada including, but not limited to:

- Protecting public health and public safety;
- Protecting youth;
- Supporting a quality controlled supply of cannabis; and,
- Deterring criminal activity and keeping profits out of the pockets of organized crime.

WHEREAS the MCK has additional priorities regarding cannabis regulation in its Territory, including, but not limited to:

- Facilitating a strictly-regulated and controlled cannabis industry that will promote and enhance the socio-economic development, fiscal self-sufficiency and tangible benefits for the collective;

- Balancing the interests of community members who are opposed to cannabis with those who are seeking regulated production;
- A community benefit for cannabis related activity in the community; and,
- Limiting the number of production licences, with consideration of a number of factors including that large-scale cannabis operations would be a significant drain on communal resources including, infrastructure, land, water treatment, policing, fire brigade, etc., and that Kahnawà:ke’s water treatment facility cannot sustain multiple large-scale cannabis production facilities.

WHEREAS the purpose of this MOU is to set out the terms and conditions that will govern the sharing of information between the Parties, which are committed to establishing a process for cooperation and information-sharing on a number of cannabis-specific activities, as outlined in this agreement, including the areas of:

1. Licensing, including notification, cooperation, and information-sharing;
2. Inspections, including advance notice and cooperation;
3. Reporting and tracking, including information-sharing; and,
4. Compliance, including information-sharing.

WHEREAS there are additional areas MCK is interested in exploring with the federal government, but are outside of the scope of this MOU, including in the areas of taxation, and partial or full governance of various activities related to cannabis licensing and oversight in the Territory, and that discussions will continue on these matters concurrent to, but outside of, the implementation of this MOU;

WHEREAS this MOU is between Health Canada and MCK and does not address the interaction between Kahnawà:ke law and provincial laws;

WHEREAS the MCK has established a three-person Kahnawà:ke Cannabis Control Board (the “KCCB”) in accordance with the KCCL for the purposes of supporting the regulation of the local cannabis industry, and that MCK prefers that the KCCB be the contact to support the implementation of this MOU, along with MCK where appropriate;

NOW THEREFORE, the Parties agree as follows:

PREAMBLE

- The Preamble constitutes an integral part of this MOU.

DEFINITIONS

- The following definitions apply to this MOU:

“applicant” means the persons or entity that has applied under the federal *Cannabis Act* for a Health Canada licence to conduct activities involving cannabis;

“application” means the process by which an applicant applies under the *Cannabis Act* for a Health Canada licence to conduct activities involving cannabis, including cultivation, processing and sale;

“Health Canada licence” means a licence issued under the federal *Cannabis Act*, but does not include a cannabis drug licence;

“Health Canada inspector” means an individual who is designated as an inspector under section 84 of the federal *Cannabis Act*;

“Health Canada licence holder” means a person or entity, which is the holder of a Health Canada licence issued under the federal *Cannabis Act*;

“Kahnawà:ke Cannabis Control Board” or **“KCCB”** means the local board appointed pursuant to the KCCL in order to administer the KCCL and its regulations with regard to cannabis activities within the Territory;

“Kahnawà:ke licence” means a cannabis licence issued by the KCCB as per the KCCL;

“Kahnawà:ke licence holder” means a person or entity, which is the holder of a licence issued by the KCCB;

“KCCB applicant” means the persons or entity that has applied to the KCCB for a licence to conduct activities involving cannabis;

“KCCB inspector” means an individual who is designated as an inspector by the KCCB;

“Minister” means the federal Minister of Health;

“Personal Information” means information about an individual, including the types of information specifically described in the *Privacy Act* R.S.C. 1985, c. P-21;

“Territory” means the Mohawk Territory of Kahnawà:ke also known Kahnawà:ke Indian Reserve No. 14;

MUTUAL COMMITMENT

The Parties recognize the need to cooperate and to combine their efforts to achieve the purposes of this MOU.

The Parties undertake to make reasonable efforts to adhere to the terms of the MOU and to cooperate on all matters relating to the licensing and regulation of activities involving cannabis in the Territory even where such matters have not been contemplated specifically in this MOU.

1. LICENSING

- A. Prior to submitting an application in the Cannabis Tracking and Licensing System (CTLS), applicants for licences to cultivate, process and sell must provide a written notice to local government, including a *band* as defined in subsection 2(1) of the *Indian Act* or a First Nation government that is given effect by an Act of Parliament, or a First Nation government established under a provincial Act. This includes prior notification to MCK for applications within the Territory. The content of this notice must include:
 - i. the name of the applicant;
 - ii. the expected date on which the applicant will submit the application to Health Canada;
 - iii. the class and subclass of licence, if applicable, that will be sought, the activity that the applicant expects to conduct under the licence and an indication that the activity will be conducted in relation to cannabis; and,
 - iv. the site address (and address of each building within the site, if applicable) at which the applicant is expecting to conduct cannabis-related activities.
- B. A process between Health Canada and KCCB will be established, in accordance with federal legislation, for Health Canada to share information with the KCCB on the application for a Health Canada licence where the intended site is located within the Territory. This information could include:
 - i. Site details;
 - ii. Site personnel;
 - iii. Site ownership details;
 - iv. Physical security plans;
 - v. Organizational chart; and,
 - vi. Security clearances (specific to status only).
- C. Where a KCCB applicant meets the requirements under the KCCL and its regulations, the KCCB will issue a Kahnawà:ke licence to a KCCB applicant insofar as the applicant receives

a Health Canada licence. Within forty-five (45) days of receiving the information referred to in Art. 1B, the KCCB will inform Health Canada whether it plans to issue a licence to the KCCB applicant, if that applicant also receives a licence from Health Canada to conduct cannabis activities.

- D. If, for any reason, the KCCB determines that it will not or is unlikely to issue a Kahnawà:ke licence to a KCCB applicant that has also applied for a Health Canada licence, it will provide its grounds for refusal to Health Canada and the KCCB applicant in writing.
- E. Where the KCCB informs Health Canada of its refusal to issue a Kahnawà:ke licence to a KCCB applicant, information collected may be shared with Health Canada for the purposes of consideration in the Minister's decision-making with respect to an application for a Health Canada licence, where relevant and appropriate.
- F. In accordance with the federal *Cannabis Act*, the Minister may refuse to issue, renew or amend a licence for a variety of reasons, including if:
 - i. the issuance, the renewal or the amendment is likely to create a risk to public health or public safety, including the risk of cannabis being diverted to an illicit market or activity;
 - ii. a security clearance in respect of the application has been refused or cancelled;
 - iii. the Minister is of the opinion that it is in the public interest to do so; or
 - iv. prescribed grounds for refusal exist, such as those set out in the federal *Cannabis Regulations* or *Industrial Hemp Regulations*.
- G. Where permitted by federal legislation, Health Canada will promptly inform the KCCB of the Minister's intent to refuse and, if applicable, decision to not issue a Health Canada licence along with the reasons for the decision.
- H. Where permitted by federal legislation, Health Canada will inform the KCCB of any Health Canada licence application withdrawals, within five (5) business days.
- I. Where permitted by federal legislation, Health Canada will inform the KCCB of relevant information or activities that may arise after a Health Canada licence is issued, which could include:
 - i. The issuance of a sales amendment;
 - ii. Addition of new buildings;
 - iii. Change of Responsible Person under the Health Canada licence; and
 - iv. The issuance of permits for import or export.

2. INSPECTIONS

- A. A Health Canada inspector will notify the KCCB prior to entering the Territory for the purposes of an inspection under the federal *Cannabis Act*.
- B. The notification shall be provided by means of an email that clearly states that a Health Canada inspector will be entering the Territory for the purposes of an inspection under the *Cannabis Act* and, in addition, shall include the following information:
 - i. The name and title of the Health Canada inspector(s);
 - ii. The expected date and time of the inspection; and,
 - iii. Whether the inspection is considered announced or unannounced.
- C. The Health Canada inspector shall ensure that the notification is sent up to two weeks, and no less than 24 hours, prior to the arrival of the inspector for announced inspections, and no less than 24 hours prior to unannounced inspections.

- D. When the inspection is unannounced, representatives of KCCB will not notify any employees or representatives of the place to be inspected, and will treat all information related to the inspection as confidential, unless Health Canada states the information is public.
- E. Identified person(s) from KCCB will be able to accompany the Health Canada inspector as an observer on the inspection, with the consent of the person to be inspected.
- F. Identified person(s) from KCCB, which may include a KCCB inspector, will be required to follow the appropriate Health and Safety protocols, including with respect to personal protective equipment.
- G. A discussion between the identified person and Health Canada inspection team may be arranged subsequent to the inspection for the purposes of general knowledge transfer and sharing of subject-matter expertise in various areas of oversight of the cannabis supply chain as required under the federal *Cannabis Act*.
- H. The KCCB will report any concerns or suspicious activities to Health Canada regarding the activities of applicants and licence holders on the Territory where such activities may be contrary to the KCCL or the federal *Cannabis Act*.

3. REPORTING AND TRACKING

- A. Health Canada, in accordance with federal legislation, will share data specific to the amounts of cannabis coming into and leaving a Health Canada license holder on the Territory, including the quantity, in kilograms, of unpackaged cannabis and the number of cannabis products, by cannabis class.
- B. Information will be shared quarterly.
- C. Information shall be provided by a secure method of communication.

4. COMPLIANCE

- A. Health Canada carries out various actions to assess and verify compliance with the applicable requirements of the federal *Cannabis Act* and its associated regulations. Health Canada may take enforcement action to address non-compliance or mitigate risks to public health and safety, including, but not limited to issuing warning letters and/or public advisories, seizures and detention, and/or refusing, suspending, or revoking an authorization, including a licence or permit.
- B. In accordance with federal legislation, KCCB will be notified of the identity of any Health Canada licence holder, including any licences on the Territory, on whose licence the Minister has conducted the following actions: revocation; suspension; and reinstatement. This information will be shared via email.
- C. KCCB will notify Health Canada on plans to revoke or suspend a Kahnawà:ke licence in writing. The Minister will assess the information provided by KCCB to determine whether there are appropriate grounds to revoke or suspend a licence issued under the federal *Cannabis Act*.

D. Prior to the Minister making a decision, Health Canada will endeavor to initiate discussions with relevant parties, including KCCB, who may have information that may be relevant to making a compliance decision to suspend or revoke a federal licence.

5. INFORMATION SHARING WITH LAW ENFORCEMENT SPECIFIC TO PERSONAL AND DESIGNATED PRODUCTION

A. As per Section 329 of the federal *Cannabis Regulations*, the Minister may disclose specific information in the context of personal and designated cultivation of cannabis for medical purposes, “to a Canadian police force, or a member of a Canadian police force, that requests the information in the course of an investigation under the [*Cannabis Act*], on condition that the information is used only for the purposes of the investigation or the administration and enforcement of the Act or these Regulations”.

B. In accordance with Section 329 of the federal *Cannabis Regulations*, the Kahnawà:ke Peacekeepers may request specific information from Health Canada in the context of personal and designated cultivation for medical purposes, as appropriate.

6. TRANSFER OF KNOWLEDGE

A. Health Canada will assist the MCK and KCCB and any of its personnel in gaining subject-matter expertise in various areas of oversight of the cannabis supply chain. This could include information-sharing by way of sharing online tools and guidelines, participation in seminars hosted by Health Canada, etc.

7. CONFIDENTIALITY,

A. The Parties, including the KCCB, agree to treat personal information that they receive pursuant to this MOU in confidence and to take all reasonable measures to preserve its confidentiality and integrity and to safeguard the information against accidental or unauthorized access, use or disclosure.

8. IMPLEMENTATION

A. The Parties will each designate a contact person, which may be amended from time to time, in order to act as the point of contact between the Parties.

B. The Parties undertake to diligently and expeditiously respond to any requests or enquiries made by the other Party.

9. TERM OF MOU

A. This MOU comes into effect on the date upon which it is signed by the duly authorized representative of both Parties, which shall be deemed to be the Effective Date.

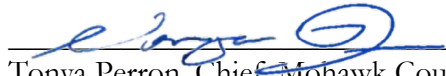
B. Either Party may unilaterally terminate this MOU, subject to providing thirty (30) days written notice to the other.

10. AMENDMENT

A. This MOU may be amended at any time, with the mutual consent of Health Canada and the MCK by an exchange of letters between the persons occupying the positions of the signatories to this MOU.

**MOHAWK COUNCIL OF
KAHNAWÀ:KE**

Per:

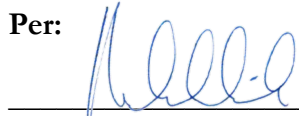


Tonya Perron, Chief, Mohawk Council of
Kahnawà:ke

July 16, 2021

Date

Per:




Michael Delisle Jr, Chief, Mohawk Council
of Kahnawà:ke

July 16, 2021

Date

HEALTH CANADA

Per:

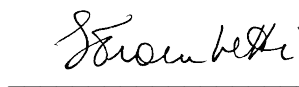


Jacqueline Bogden, Assistant Deputy Minister,
Controlled Substances and Cannabis Branch

2021-07-29

Date

Per:



Stefania Trombetti, Assistant Deputy Minister,
Regulatory Operations and Enforcement
Branch

2021-07-22

Date