

# MTSA Checklist: Water

A Tool for Preparing Water Agreements

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Names of Service Partners:

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First Nation:

*and* Local Government:

Revision Number:

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Revision Date:

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# How to use this checklist

## What is this checklist?

The MTSA Checklist was created to help First Nations and their service partners make decisions about Municipal Type Service Agreements (MTSAs). The Checklist was designed to build on the information provided in the Pathways to Service Delivery Guide and the MTSA Handbooks found at [www.pathwaysforservice.ca](http://www.pathwaysforservice.ca). Each of the sections in the MTSA Checklist aligns with the sections in the corresponding MTSA Handbook:

- |     |                            |      |                            |
|-----|----------------------------|------|----------------------------|
| 1.0 | Term of Agreement          | 7.0  | Suspension and Termination |
| 2.0 | Renewal Terms              | 8.0  | Notification               |
| 3.0 | Service Area               | 9.0  | Growth and Development     |
| 4.0 | Level of Service           | 10.0 | Dispute Resolution         |
| 5.0 | Roles and Responsibilities | 11.0 | Communication              |
| 6.0 | Rates and Payments         |      |                            |

## Who should use it?

First Nations thinking about, or in the process of, preparing an MTSA. The MTSA Checklist is a great way to quickly introduce the key components of MTSAs to Chief, Council, and staff, while the Pathways to Service Delivery Guidebook and MTSA Handbooks provide the more in-depth information needed to prepare the agreements and negotiate with your service partner.

Share this Checklist with your service partner and work through each section together.

## How should it be used?

- 1 Read through Pathways to Service Delivery Guide and the MTSA Handbook relevant for the service your community needs.
- 2 Collect any background information or conduct any studies that you need to inform decisions about services in your community.
- 3 Use the MTSA Checklist to prepare your MTSA with your service partner. If you get stuck, or need more information, refer to the MTSA Handbook for your service. You may need to complete the MTSA Checklist more than once during the negotiation process.
- 4 Submit the MTSA Checklist to a lawyer to review and prepare a service agreement.

# PREAMBLE

List the parties to the agreement:

First Nation *(include name and address)*:

Local government *(include name and address)*:

Describe how this MTSA arose:

*For example: The First Nation and local government are neighbours. The local government has the only water system in the region, so the First Nation requested that the local government provide water to the Reserve.*

Has each party approved this agreement?

- Yes
- No

If yes, identify the nature of approval:

First Nation *(give date of Band Council Resolution)*:

Local government *(give date of bylaw adoption, if applicable)*:

## 1.0 | TERM OF AGREEMENT

1.1 What is the desired term of this MTSA?

Check one:

- 1 year
- 5 years
- Evergreen
- Other (please specify):

## 2.0 | RENEWAL TERMS

2.1 Should a date be set to negotiate a new MTSA before the current one expires?

Check one:

- Yes
- No

If yes, provide a date:

2.2 Should overholding provisions (month-to-month) be added?

Check one:

- Yes
- No

## 3.0 | SERVICE AREA

3.1 Which Reserves will receive service?

List Reserves:

3.2 Are any areas of these Reserves excluded from service provision?

Check one:

- Yes
- No

If yes, describe:

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### 3.3 Are there any buildings/uses that will not be provided service?

Check one:

- Yes
- No

If yes, list:

### 3.4 What information should the First Nation provide the local government regarding the service area?

Check all that apply:

- Map of service area
- List of buildings receiving services with street addresses
- Other (please specify):

# 4.0 | LEVEL OF SERVICE

## 4.1 What services does the First Nation want from the local government?

Check all that apply:

- Provision of drinking water to the service connection (i.e., to Reserve boundary)
- Provision of drinking water to individual homes on Reserve
- Installation of bulk water meter on Reserve (at service connection)
- O&M of water infrastructure on Reserve
- Emergency repairs to water infrastructure on Reserve
- Inspection and maintenance of the First Nation's service connection
- Water conservation education programs
- Water quality sampling on Reserve
- Other (please specify):

## 4.2 What is the desired quantity and quality of service?

Check all that apply:

- Volume of water (specify: \_\_\_\_\_)
- Pressure (specify: \_\_\_\_\_)
- Quality to meet Guidelines for Canadian Drinking Water Quality
- Aesthetic parameters - odour, colour (specify: \_\_\_\_\_)
- Same as that provided to local government residents
- Other (please specify):

#### 4.3 Under what conditions can the service be interrupted? (Suspension and termination are addressed in Section 7.0.)

Check all that apply:

- Emergency (other than water shortage)
- Water shortage
- Maintenance or repairs
- Other (please specify):

#### 4.4 Should the First Nation have the same priority for return of service as local government residents?

Check one:

- Yes
- No

#### 4.5 If services are interrupted for a lengthy period of time, what obligation does the local government have?

Check all that apply:

- Make reasonable endeavours to reinstate services
- Provide alternate means of providing the service
- Provide a discount on fees/charges
- Other (please specify):

# 5.0 | ROLES & RESPONSIBILITIES

## 5.1 What are the First Nation's roles and responsibilities (in addition to those identified elsewhere in this checklist)?

- Inspect and maintain the service connection
- Adopt and enforce water conservation regulations consistent with local government bylaws.
- Provide a map of the Service Area with a list of street addresses and (list other information: \_\_\_\_\_)  
by (list date: \_\_\_\_\_).
- Maintain its water infrastructure to prevent leaks/breaks
- Other (please specify):

## 5.2 What are the local government's roles and responsibilities (in addition to those identified elsewhere in this document)?

Check all that apply:

- Maintain local government water system
- Ensure qualifications of water operators
- Implement source protection measures
- Develop an emergency response plan
- Review and approve new connections
- Promote water conservation by all users (both First Nation and local government)
- Provide written record of O&M services and water quality reports on a (insert frequency: \_\_\_\_\_) basis
- Assess its water services at least (insert frequency: \_\_\_\_\_) per term
- Provide an annual report on water services (specify details of reporting requirements: \_\_\_\_\_)
- Other (please specify):

### 5.3 Who owns the water infrastructure on local government land?

Check one:

- First Nation
- Local government

### 5.4 Who owns the water infrastructure on Reserve?

Check one:

- First Nation
- Local government

### 5.5 Under what conditions would local government water operators/maintenance crews be permitted to enter onto Reserve?

Check all that apply:

- For installing/inspecting/maintaining water infrastructure
- Water quality sampling and monitoring
- Other (please specify):

### 5.6 What details should the MTSA include about the service connection?

Check all that apply:

- Location
- Specifications for valve (provide specifications or reference to applicable bylaw/standard in space below)
- Specifications for flow meter (provide specifications or reference to applicable bylaw/standard in space below)

Provide details below:

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5.7 Is the installation and inspection of the connection required to comply with local government bylaws?

Check one:

- Yes
- No

If yes, list applicable bylaws in space below. If no, list alternate standards used.

5.8 Is ongoing maintenance and inspection of the connection required to comply with local government bylaws?

Check one:

- Yes
- No

If yes, list applicable bylaws in the space below. If no, list alternate standards used:

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## 6.0 | RATES & PAYMENT

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6.1 What is the preferred rate structure?

Check one:

- User fee only (e.g., flat rate per house)
- Consumption fee only (volumetric)
- Combination of both (please describe):

## 6.2 What is included in the rate?

Check all that apply:

- O&M costs
- Capital costs
- Conservation education
- Other (please specify):

## 6.3 What is the billing period?

Check one:

- Monthly
- Quarterly
- Annually
- Other (please specify):

## 6.4 Based on your billing period, by which dates will invoices be issued?

List date(s):

## 6.5 How long does the First Nation have to pay the invoice?

Check one:

- 30 days
- Other (please specify):

# 7.0 | SUSPENSION & TERMINATION

## 7.1 Under what conditions could this MTSA be terminated?

Check all that apply:

- Upon the request of the First Nation if they are able to provide the service themselves (specify how much notice would be required: \_\_\_\_\_)
- Only if a judge has ruled that the contract be terminated (based on the dispute resolution process defined in the MTSA)
- Other (please specify):

## 7.2 Under what conditions could this MTSA be suspended temporarily?

Check all that apply:

- Only if a dispute resolution arbitrator has concluded that suspension is appropriate (based on the dispute resolution process defined in the MTSA)
- Only if a judge has ruled that the contract be suspended (based on the dispute resolution process defined in the MTSA)
- Other (please specify):

# 8.0 | NOTIFICATION

## 8.1 What should occur when one party needs to contact the other?

Check all that apply:

- In-person (followed by written notification by mail or email)
- Mail
- Email
- Phone call (followed by written notification by mail or email)

## 8.2 At what point is notice assumed to have been received?

Check one:

- Upon confirmed delivery
- 5 business days after mailing
- Other (please specify):

## 8.3 Under what conditions does the First Nation have to follow the formal notification process?

Check all that apply:

- Changes in service area
- Invoicing issues
- Any issues with the service connection
- Leaks/breaks
- Emergencies
- Renewal of MTSA
- Breach of MTSA
- Request for termination of services (if they are able to provide the services themselves)
- Disputes
- Changes in anticipated growth and development that would impact the service
- Inability to fulfill its roles and responsibilities
- Other (please specify):

## 8.4 Under what conditions does the local government have to follow the formal notification process?

Check all that apply:

- Invoicing issues
- System issues or service interruptions
- Emergencies
- Renewal of MTSA
- Breach of MTSA
- Disputes
- Access and/or inspections
- Inability to fulfill its roles and responsibilities
- Other (please specify):

# 9.0 | GROWTH & DEVELOPMENT

## 9.1 How will growth on Reserve be serviced?

Check one:

- Commitment to discuss development plans to determine if service provision is feasible
- Commitment to provide service to new development
- Limit to service provision - no growth permitted
- Other (please specify):

# 10.0 | DISPUTE RESOLUTION

## 10.1 How will disputes be resolved?

Check one:

- Straight to arbitration
- Alternate dispute resolution approach
- Other (please specify):

## 10.2 What happens if the First Nation fails to meet payment terms?

Check one:

- Notification given and \_\_\_\_\_ days provided to resolve breach. If breach remains unresolved, initiate dispute resolution process identified in 10.1.
- Notification given and time period defined to resolve breach (time defined on a case by case basis). If breach remains unresolved, initiate dispute resolution process identified in 10.1.
- Straight to dispute resolution process identified in 10.1
- Other (please specify):

## 10.3 What happens if the First Nation defaults (not related to payment)?

Check one:

- Notification given and \_\_\_\_\_ days provided to resolve breach. If breach remains unresolved, initiate dispute resolution process identified in 10.1.
- Notification given and time period defined to resolve breach (time defined on a case by case basis). If breach remains unresolved, initiate dispute resolution process identified in 10.1.
- Straight to dispute resolution process identified in 10.1
- Other (please specify):

## 10.4 What happens if the local government defaults?

Check one:

- Notification given and \_\_\_\_\_ days provided to resolve breach. If breach remains unresolved, initiate dispute resolution process identified in 10.1.
- Notification given and time period defined to resolve breach (time defined on a case by case basis). If breach remains unresolved, initiate dispute resolution process identified in 10.1.
- Straight to dispute resolution process identified in 10.1
- Other (please specify):

# 11.0 | COMMUNICATION

## 11.1 What communications elements should be included?

Check all that apply:

- Annual meeting of First Nation, local government and water operator (by a given date each year)
- A representation from each party should be appointed as principal contact
- Agreement to establish a communications protocol
- Other (please specify):

## 11.2 How often should representatives from each party meet?

Check one:

- Once a year
- Twice a year
- More frequently (please specify):

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Please note, this checklist does not address standard MTSA elements such as:

- ↳ Schedules
- ↳ Acknowledgement of Rights
- ↳ Liability and Insurance
- ↳ Indemnity
- ↳ Amendment
- ↳ Assignment
- ↳ Headings
- ↳ Entire Agreement
- ↳ Governing Laws
- ↳ Enurement

Your lawyers will add these pieces in as standard practice.