

## **AGREEMENT TO AMEND THE EDUCATION JURISDICTION FRAMEWORK AGREEMENT**

This Agreement is dated for reference the 11<sup>th</sup> day of August, 2021.

### **BETWEEN:**

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,  
as represented by the Minister of Crown-Indigenous Relations**

(hereinafter referred to as "Canada")

### **AND:**

**FIRST NATIONS EDUCATION STEERING COMMITTEE,  
a society incorporated under the *Societies Act* (British Columbia),  
as represented by its President**

(hereinafter referred to as "FNEESC")

Collectively referred to hereinafter as the "Parties".

### **WHEREAS:**

- A. The Education Jurisdiction Framework Agreement ("EJFA") was signed by Canada, British Columbia and FNEESC on July 5, 2006.
- B. The EJFA was extended by agreement for five years in 2013, for a further three years in 2018 and for one additional year effective June 30, 2021.
- C. Paragraph 7.10 of the EJFA provides that Schedule "B" (the Canada-First Nation Education Jurisdiction Agreement) and Schedule "C" (the Education Jurisdiction Funding Agreement) of that agreement may be amended with the written consent of Canada and FNEESC.
- D. Canada and FNEESC, together with representatives of First Nations that are engaged in negotiations to conclude a Canada-First Nation Education Jurisdiction Agreement and a Canada-First Nation Education Jurisdiction Funding Agreement for their First Nation, have revised Schedule "B" and Schedule "C".
- E. Canada and FNEESC wish to replace Schedule "B" with the revised Canada-First Nation Education Jurisdiction Agreement template and Schedule "C" with the revised Canada-First Nation Education Jurisdiction Funding Agreement template.

- F. Canada has given prior notice to British Columbia of its intention to amend Schedule "B" and the reason for the intended amendments, in accordance with paragraph 7.10 of the EJFA.

**THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. Schedule "B" (the Canada-First Nation Education Jurisdiction Agreement) is hereby replaced with the revised Canada-First Nation Education Jurisdiction Agreement, dated June 18, 2021 and attached as Appendix 1 to this Agreement.
2. Schedule "C" (the Education Jurisdiction Funding Agreement) is hereby replaced with the revised Canada-First Nation Education Jurisdiction Funding Agreement, dated April 20, 2021 and attached as Appendix 2 to this Agreement.
3. The EJFA, as amended by this Agreement, continues in full force and effect.
4. This Agreement may be executed by the Parties in separate counterparts, each of which when signed and delivered shall be an original, and all counterparts may be delivered by electronic or facsimile transmission and such transmission shall be considered an original.
5. This Agreement takes effect on the 11<sup>th</sup> day of August, 2021.

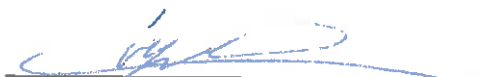
This Agreement has been executed by the duly authorized representatives of Canada and FNEC.

**HER MAJESTY IN RIGHT OF CANADA**, as represented  
by the Minister of Crown-Indigenous Relations



The Honourable Carolyn Bennett, M.D., P.C., M.P.,  
Minister of Crown-Indigenous Relations

**FIRST NATIONS EDUCATION STEERING COMMITTEE**,  
as represented by its President



Tyrone McNeil, President

**CANADA-FIRST NATION EDUCATION  
JURISDICTION AGREEMENT**

Made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

as represented by the Minister of Crown-Indigenous Relations

(hereinafter referred to as "**Canada**")

AND

**THE "X" FIRST NATION**

as represented by its Chief and Council

(hereinafter referred to as the "**Participating First Nation**")

Collectively referred to hereinafter as the "**Parties**"

**WHEREAS:**

- A. Indigenous peoples have the right to establish and control their educational systems and institutions, as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration"), and as a fundamental aspect of their inherent right of self-government, which is recognized by Canada as an existing aboriginal right pursuant to section 35 of the *Constitution Act, 1982*;
- B. The Truth and Reconciliation Commission of Canada has called on the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians;
- C. Canada and the Participating First Nation consider education to be a life-long learning process;

- D. Canada and the Participating First Nation may choose to reflect their understanding of how the Participating First Nation will exercise self-government over early childhood and post-secondary education through other agreements;
- E. Canada, the Province of British Columbia and the First Nations Education Steering Committee signed the Education Jurisdiction Framework Agreement dated July 5, 2006, setting out their responsibilities in supporting the exercise of Jurisdiction over Education;
- F. The Education Jurisdiction Framework Agreement was extended for five years under the "Agreement to Extend the Education Jurisdiction Framework Agreement" dated for reference June 28, 2013 and for a further three years under the "Agreement to Extend the Education Jurisdiction Framework Agreement" dated for reference July 3, 2018;
- G. Canada and the Participating First Nation respect and recognize the diversity among First Nations and support the advancement of First Nations control of First Nations education through the implementation of regional models, such as the exercise of Jurisdiction over Education as initiated by the Education Jurisdiction Framework Agreement;
- H. Canada and the Participating First Nation recognize and support the implementation of regional First Nations education models and regional funding mechanisms to support those models, as represented in two tripartite regional agreements in British Columbia – the Tripartite Education Framework Agreement (2012 to 2018) and the British Columbia Tripartite Education Agreement (2018 to 2023); and
- I. The First Nations Education Authority is an entity constituted by the Federal Enabling Legislation managed by a board of directors and having all necessary powers and capacity to properly perform its functions under this Agreement.

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**PART 1 – DEFINITIONS**

**1.1 In this Agreement:**

**"Agreement"** means this Education Jurisdiction Agreement and, unless otherwise provided in the Agreement, includes its appendices, schedules and attachments;

**"Another First Nation's Reserve"** means a "reserve" within the meaning of the term under the *Indian Act* set apart for a First Nation other than the Participating First Nation, and includes "First Nation land" administered under the *First Nations Land Management Act*;

**"Band List"** means a "Band List" within the meaning of the term under the *Indian Act*;

**"BC Independent School"** means any independent school regulated by the *Independent School Act* (BC), but does not include a First Nation School that is recognized as an "independent school";

**"BC Public School"** means any public school in British Columbia providing kindergarten to grade 12 education, but does not include a BC Independent School or a First Nation School;

**"BCTEA"** means the "BC Tripartite Education Agreement: Supporting First Nation Student Success", entered into by Canada, British Columbia and FNEEC, effective July 1, 2018;

**"British Columbia-First Nation Education Agreement"** means the agreement signed by British Columbia and the First Nations Education Steering Committee on July 5, 2006 or any successor agreement.

**"Business Day"** means any day from Monday to Friday inclusive, except for any day that is a statutory holiday in the place of receipt of a notice or communication;

**"Community Education Authority"** means a legally constituted entity established or identified by the Participating First Nation to operate its Education system;

**"Education"** means education programs and services of a nature generally provided to Students enrolled in kindergarten to grade 12;

**"Education Co-Management Agreement"** means the agreement entered into between the Participating First Nation and the First Nations Education Authority;

**"Education Jurisdiction Funding Agreement"** means a funding agreement entered into between the Participating First Nation and Canada in accordance with this Agreement;

**"Effective Date"** means the date specified in the federal Order-in-Council upon which this Agreement comes into effect;

**"Eligible Student"** means a student who is:

- a) enrolled in a First Nation School, BC Public School or BC Independent School, including e-learning institutions and alternative or outreach schools;
- b) either:

- i. aged 4 to 21 years on December 31 of the school year in which funding support is required and enrolled in Kindergarten 4 through grade 12; or
  - ii. aged 18 and over on December 31 of the school year in which funding support is required and enrolled in an adult Education program that is funded under BCTEA or a successor to that agreement; and
- c) Ordinarily Resident on First Nation Land,

but does not include a student who is Ordinarily Resident on lands developed primarily for commercial purposes such as residential developments and is not registered as an Indian;

**"Federal Enabling Legislation"** means the *First Nations Jurisdiction over Education in British Columbia Act*;

**"First Nation"** means a "band" within the meaning of the term under the *Indian Act* located in British Columbia;

**"First Nation Council"** means the "council of the band", within the meaning of the term under the *Indian Act*, of the Participating First Nation;

**"First Nations Education Authority"** means the legally constituted entity established by Federal Enabling Legislation;

**"First Nation Education Law"** means a law passed by the Participating First Nation with respect to the operation of its Education system in accordance with this Agreement;

**"First Nation Education Law-Making Protocol"** means a protocol adopted by the Participating First Nation in accordance with this Agreement;

**"First Nation Land"** means a "reserve" within the meaning of the term under the *Indian Act* set apart for the Participating First Nation, and includes "First Nation land" administered under the *First Nations Land Management Act*;

**"First Nation School"** means a school operated by or on behalf of the Participating First Nation on First Nation Land;

**"Fiscal Year"** means the period that begins on April 1 in one year and ends on March 31 in the following year;

**"Indian"** means a person who, pursuant to the *Indian Act*, is registered as an Indian or is entitled to be registered as an Indian;

**"Jurisdiction"** means the Participating First Nation's law-making authority, as described in this Agreement;

**"Member"** means an individual whose name appears on a Band List or who is entitled to have his or her name appear on a Band List;

**"Non-Member"** means an individual who is not a Member;

**"Ordinarily Resident"** means in relation to land:

- a) usually living at a civic address on that land;
- b) in the case of a child in joint custody, living on that land for the majority of the time; or
- c) staying on that land with no usual home elsewhere,

and is not impacted by temporary absences such as attending school or working at a summer job elsewhere;

**"Other Inherent Right Implementation Process"** means another process by which a Participating First Nation may negotiate the implementation of all or some of the elements of the inherent right of self-government including the implementation of historic treaties or the negotiation of modern treaties, agreements or other constructive arrangements;

**"Other Participating First Nation"** means a First Nation other than the Participating First Nation that is named in the schedule to the Federal Enabling Legislation;

**"Party"** means a signatory to this Agreement;

**"Schedule"** means a schedule attached to this Agreement;

**"School Certification Process"** means the process and requirements set out and used by the First Nations Education Authority to certify schools operated by the Participating First Nation and Other Participating First Nations;

**"Student"** means an individual attending a school or other Education program operated by the Participating First Nation; and

**"Teacher Certification Process"** means the process and requirements set out and used by the First Nations Education Authority to certify that a teacher has met the standards and competencies established by the First Nations Education Authority.

## **PART 2 - EXERCISE OF JURISDICTION**

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### **Scope of Education Jurisdiction**

- 2.1 The Parties recognize the Participating First Nation's Jurisdiction over Education on First Nation Land.
- 2.2 For greater certainty, the Parties agree that the Participating First Nation's Jurisdiction over Education will extend to all Members, and Non-Members who choose to receive, or have their children receive, Education provided by the Participating First Nation on First Nation Land.

### **Access to Education Programs and Services**

- 2.3 The Participating First Nation will:
  - a) provide Education to:
    - i. Eligible Students who are enrolled in a First Nation School; and
    - ii. Students residing on Another First Nation's Reserve who attend a First Nation School, subject to receiving funding from or on behalf of that First Nation; and
  - b) purchase Education for Eligible Students who are enrolled in a BC Public School or a BC Independent School.
- 2.4 Subject to receiving funding in accordance with the reciprocal tuition funding provisions of the British Columbia First Nation Education Agreement, the Participating First Nation will provide Education to Students who are:
  - a) not Ordinarily Resident on First Nation Land or Another First Nation's Reserve; or
  - b) Ordinarily Resident on First Nation Land or Another First Nation's Reserve on lands developed primarily for commercial purposes such as residential developments and not registered as Indians.

### **Non-Member Representation**

- 2.5 Non-Members who receive Education, or have their children receive Education, provided by the Participating First Nation on First Nation Land will be provided with mechanisms through which they may have input into any decision with respect to a program or service where that decision directly and significantly affects the rights of Students who are Non-Members or their parents.



### **Supporting Transfer**

- 2.6 The Participating First Nation will provide or make provision for Education that supports the successful transfer of Students to or from another school within the school system of the Province of British Columbia.

### **Legal Status and Capacity of Participating First Nation**

- 2.7 For any purpose related to this Agreement, the Participating First Nation has the capacity, rights, powers, and privileges of a natural person and, without restricting the generality of the foregoing, may:
- a) enter into contracts or agreements;
  - b) acquire, hold or dispose of any property or an interest in property;
  - c) sue or be sued;
  - d) raise, spend, invest or borrow money, and secure or guarantee the repayment of money borrowed;
  - e) apply to form corporations or other legal entities in accordance with federal or provincial laws; and
  - f) do such other things as are ancillary to the exercise of its rights, powers, and privileges under this Agreement.
- 2.8 The capacity, rights, powers and privileges of the Participating First Nation to deal with matters in relation to Education referred to in paragraph 2.7 will be exercised by the First Nation Council in accordance with:
- a) the First Nation Education Law-Making Protocol;
  - b) this Agreement, and
  - c) its First Nation Education Laws.
- 2.9 The Participating First Nation will act through the First Nation Council in exercising its capacity, rights, powers, and privileges and in carrying out its duties, functions and obligations related to the subject matter of Education.
- 2.10 The First Nation Council has the authority to make laws as set out in this Agreement.
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### **First Nation Education Law-Making Protocol**

- 2.11 The Jurisdiction contemplated by this Agreement will be exercised by the First Nation Council following adoption of a First Nation Education Law-Making Protocol, which will provide for the following matters:
- a) procedures for the passage and amendment of First Nation Education Laws;
  - b) procedures for challenging the validity of First Nation Education Laws;
  - c) procedures for amending the First Nation Education Law-Making Protocol;
  - d) conflict of interest rules; and
  - e) other matters, as determined by the Participating First Nation.
- 2.12 The First Nation Education Law-Making Protocol, as approved in accordance with the Ratification Chapter, comes into force on the Effective Date.

### **Education Law-Making Powers**

- 2.13 The Participating First Nation may, through its First Nation Council, and in accordance with the First Nation Education Law-Making Protocol, make and administer laws, applicable on First Nations Land in relation to Education provided by the Participating First Nation.
- 2.14 A First Nation Education Law must include mechanisms through which Non-Members, who receive Education or have their children receive Education provided by the Participating First Nation, will have input into the decisions contemplated in paragraph 2.5.
- 2.15 The Jurisdiction described in paragraph 2.13 includes the power to make laws and to do other things as may be necessarily incidental to the exercise of that Jurisdiction.

### **Delegation**

- 2.16 The Participating First Nation may delegate its Jurisdiction, or part thereof, to the First Nations Education Authority in a manner consistent with this Agreement and its First Nation Law-Making Protocol.

- 2.17 The Participating First Nation may delegate its duties and functions under this Agreement, other than its law-making powers, to a legal entity operating in British Columbia if the delegation and the exercise of the delegated duties and functions is in accordance with this Agreement and the First Nation Education Law-Making Protocol.
- 2.18 Any delegation under paragraph 2.16 or 2.17 will require the written consent of the delegate.
- 2.19 The Participating First Nation may enter into agreements to receive authorities with respect to Education, including law-making authority, by delegation.

### **PART 3 - COMMUNITY EDUCATION AUTHORITY**

- 3.1 Without limiting the generality of paragraph 2.13, the Participating First Nation may make laws establishing a Community Education Authority to operate, administer and manage the Education system for the Participating First Nation and setting out the powers, duties, composition and membership of the Community Education Authority.
- 3.2 Nothing in paragraph 3.1 or 3.6 precludes the Participating First Nation from establishing a Community Education Authority jointly with one or more Other Participating First Nations.
- 3.3 Subject to paragraph 2.17, nothing in this Agreement precludes a Community Education Authority from exercising powers and duties delegated to it from an Other Participating First Nation.
- 3.4 Where the Participating First Nation establishes a Community Education Authority under paragraph 3.1, the Community Education Authority will have the capacity, rights, powers, and privileges of a natural person conferred on it by the First Nation Education Law and will perform the duties and be subject to the liabilities imposed on it by the First Nation Education Law.
- 3.5 A Community Education Authority established under paragraph 3.1 exercises its duties and functions as an agent of the Participating First Nation.
- 3.6 As an alternative to establishing a Community Education Authority under paragraphs 3.1 to 3.5, the Participating First Nation may identify an existing or newly-established legal entity established under federal or provincial law as its Community Education Authority for the purposes of this Agreement. The Participating First Nation may confer additional rights, powers and privileges and impose restrictions on the legal entity that are not inconsistent with the federal or provincial law under which the legal entity was established.

#### **PART 4 – FIRST NATIONS EDUCATION AUTHORITY**

- 4.1 On the Effective Date, the Participating First Nation **will** appoint two directors to sit on the board of directors of the First Nations Education Authority for an initial term of up to two years, and thereafter for terms of appointment to be established by the board of directors.
- 4.2 One of the directors appointed by the Participating First Nation to the board of directors under paragraph 4.1 will be a member of the Participating First Nation.
- 4.3 Subject to paragraph 4.5, the responsibilities of the First Nations Education Authority are to:
- a) assist the Participating First Nation in developing the capacity to provide Education;
  - b) establish standards applicable to Education provided by the Participating First Nation for curriculum and examinations for courses necessary to meet graduation requirements;
  - c) provide a Teacher Certification Process for teachers, other than teachers teaching only the language and culture of the Participating First Nation, who teach in the Education system operated by the Participating First Nation;
  - d) if requested by the Participating First Nation, provide a Teacher Certification Process for teachers who teach only the language and culture of the Participating First Nation in the Education system operated by the Participating First Nation;
  - e) provide for certification of schools operated by the Participating First Nation;
  - f) consult with British Columbia regarding standards applicable to Education provided by the Participating First Nation for curriculum and examination for courses necessary to meet graduation requirements; and
  - g) other matters as agreed by the First Nations Education Authority and the Participating First Nation.
- 4.4 The power of the Participating First Nation under paragraph 2.13 to make laws in relation to:
- a) standards for curriculum and examinations for courses necessary to meet graduation requirements provided by the Participating First Nation on First Nation Land;

b) certification of teachers, other than teachers teaching only the language and culture of the Participating First Nation, who teach in the Education system operated by the Participating First Nation; and

c) certification of schools operated by the Participating First Nation;

can only be exercised following the signing of an Education Co-management Agreement and in a manner consistent with that Agreement.

4.5 The Education Co-management Agreement entered into between the First Nations Education Authority and the Participating First Nation will provide for:

- a) the establishment of standards for curriculum and examinations by the First Nations Education Authority applicable to the courses necessary to meet graduation requirements provided by the Participating First Nation on First Nation Land;
- b) the certification of teachers, other than teachers who teach only the language and culture of the Participating First Nation, teaching in the Education system operated by the Participating First Nation by the First Nations Education Authority;
- c) the certification of schools operated by the Participating First Nation by the First Nations Education Authority;
- d) the incorporation by reference in the First Nation Education Law of the process, standards and requirements regarding the subject matters referred to in subparagraphs (a) through (c) that have been developed by the First Nations Education Authority; and
- e) other matters as agreed by the First Nations Education Authority and the Participating First Nation.

4.6 For greater certainty, the references in paragraphs 4.3, 4.4 and 4.5 to "standards" for curriculum and examinations for courses necessary to meet graduation requirements are intended to be interpreted as referring to both "graduation requirements" and the "process for evaluating locally developed First Nation courses that are required for graduation."

## **PART 5 – REGISTRY, ENFORCEMENT AND ADJUDICATION**

### **Registry of First Nation Education Laws**

5.1 The First Nation Council will:

- a) maintain a public registry of First Nation Education Laws in the English language and, at the discretion of First Nation Council, in the First Nation language, the English version of which will be definitive; and
- b) provide Canada and British Columbia with copies of First Nation Education Laws as soon as practicable after they are enacted.

**Appeal and Review of Administrative Decisions**

- 5.2 The Participating First Nation will establish processes for appeal or review of administrative decisions made by the First Nation Council or the Community Education Authority and if those processes provide for a right of appeal to a court of competent jurisdiction, the Supreme Court of British Columbia will have jurisdiction to hear those appeals.
- 5.3 In addition to any right of appeal or review referred to in paragraph 5.2, the Supreme Court of British Columbia will have jurisdiction to hear applications for judicial review in relation to any exercise, refusal to exercise or purported exercise of a statutory power of decision by the First Nation Council, the Community Education Authority, or the First Nations Education Authority where they are exercising a statutory power of decision on behalf of the Participating First Nation.
- 5.4 The *Judicial Review Procedure Act* (BC) applies to an application for judicial review under paragraph 5.3 and, for the purpose of applying that Act, an "enactment" will mean a "First Nation Education Law."

**Other Matters**

- 5.5 The First Nation Council may adopt federal or provincial laws in respect of matters within the Jurisdiction of the Participating First Nation set out in this Agreement.

**Enforcement of First Nation Education Laws**

- 5.6 First Nation Education Laws made in accordance with paragraph 2.13 may provide for the appointment of enforcement officials to enforce First Nation Education Laws and establish powers of enforcement comparable to those provided by federal or provincial laws for officers enforcing similar laws.
- 5.7 First Nation Jurisdiction does not include:

- a) the authority to establish a police force; or
  - b) the power to authorize the carriage or use of firearms by enforcement officials.
- 5.8 If the First Nation Council appoints officials to enforce its First Nation Education Laws, that First Nation Council will:
- a) ensure that any enforcement officials are appropriately trained to carry out their duties having regard to training requirements for other enforcement officers carrying out similar duties in British Columbia; and
  - b) establish procedures for responding to complaints against enforcement officials.
- 5.9 Notwithstanding the general rule of priority set out in paragraph 6.2, federal or provincial law prevails to the extent of a conflict with a First Nation Education Law with respect to matters set out in paragraph 5.6.

#### **Adjudication of First Nation Education Laws**

- 5.10 The Provincial Court of British Columbia has jurisdiction with respect to violations of First Nation Education Laws.
- 5.11 The summary conviction procedures of part xxvii of the *Criminal Code* apply to prosecutions of offences under First Nation Education Laws.
- 5.12 The Supreme Court of British Columbia has jurisdiction to hear legal disputes arising between individuals under a First Nation Education Law.
- 5.13 For the purpose of prosecuting offences, the Participating First Nation may:
- a) retain its own prosecutor;
  - b) enter into an agreement with Canada to arrange for a federal agent to prosecute these offences; or
  - c) enter into an agreement with Canada and the Province of British Columbia to arrange for a provincial prosecutor.

### **PART 6 – APPLICATION OF LAW**

#### **Relationship of Laws**

- 6.1 Federal laws will continue to apply concurrently with First Nation Education Laws made pursuant to this Agreement.
- 6.2 In the event of a conflict between a First Nation Education Law under paragraph 2.13 and a federal or provincial Law, the First Nation Education Law prevails on First Nation Lands to the extent of a conflict.
- 6.3 Notwithstanding the general rule of priority described in paragraph 6.2, federal law will prevail over a First Nation Education Law that has a double aspect, or an incidental impact, on any area of federal legislative jurisdiction for which the Participating First Nation does not have law-making authority under this Agreement.
- 6.4 Notwithstanding the general rule of priority set out in paragraph 6.2, in the event of a conflict between a federal law in relation to peace, order and good government and other matters of overriding national importance and a First Nation Education Law, the federal law will prevail to the extent of the conflict.
- 6.5 For greater certainty, the power described in paragraph 2.13 does not include the power to make laws in relation to criminal law, labour relations and working conditions that would fall under federal jurisdiction, or the protection of health and safety of Canadians.
- 6.6 First Nation Education Laws do not apply to Canada.
- 6.7 Any First Nation Education Law that is inconsistent with this Agreement will be of no force or effect to the extent of the inconsistency.
- 6.8 This Agreement prevails to the extent of an inconsistency with the First Nation Education Law-Making Protocol.

#### **Application of Federal Laws**

- 6.9 The Federal Enabling Legislation provides that in the event of a conflict between:
  - a) this Agreement and any Act of Parliament, including the Federal Enabling Legislation, this Agreement prevails to the extent of the conflict; and
  - b) the Federal Enabling Legislation and any other Act of Parliament, the Federal Enabling Legislation prevails to the extent of the conflict.
- 6.10 The Federal Enabling Legislation prevails over other federal laws to the extent of any conflict.



### ***Charter of Rights and Freedoms***

- 6.11 The *Canadian Charter of Rights and Freedoms* applies to the Participating First Nation and any body exercising its Jurisdiction and authority over Education pursuant to this Agreement.

### ***Application of Canadian Human Rights Act***

- 6.12 Nothing in this Agreement limits the operation of the *Canadian Human Rights Act*.

### ***Application of the Indian Act***

- 6.13 Sections 114 to 122 of the *Indian Act* will no longer apply to the Participating First Nation after it has passed a First Nation Education Law.

## **PART 7 – FINANCIAL ARRANGEMENTS**

- 7.1 The Parties agree to work together to advance the following goals:
- a) closing social well-being gaps in Education, including achieving and maintaining equity in education outcomes between Members and other British Columbians;
  - b) teaching the culture, language and heritage of the Participating First Nation to present and future generations of Members; and
  - c) Members having access to Education that provides them with at least the same level of services and programs that are generally available to other students in British Columbia, recognizing the need for culturally relevant services and programs, and additional supports designed to support successful educational outcomes.
- 7.2 The Parties will enter into an Education Jurisdiction Funding Agreement, and Canada will continue to meet its obligations through an Education Jurisdiction Funding Agreement or other agreement between the Parties.
- 7.3 Canada's financial support under an agreement referred to in paragraph 7.2 is provided to enable the Participating First Nation to:
- a) exercise the rights and discharge the responsibilities set out in this Agreement; and
  - b) support the advancement of the goals set out in paragraph 7.1.
- 7.4 The financial support to be provided by Canada to the Participating First Nation, under an Education Jurisdiction Funding Agreement or other funding agreement referred to in

paragraph 7.2, shall be determined without taking into consideration the fiscal capacity of the Participating First Nation. For greater certainty, Canada's policy approach to the consideration of own-source revenue in determining funding will not be applied to the calculation of the financial support to be provided by Canada to the Participating First Nation under such agreement.

- 7.5 The recognition of the Participating First Nation's Jurisdiction under this Agreement or the exercise of the Participating First Nation's Jurisdiction does not create or imply any financial obligation or service delivery obligation on the part of either Party, except to the extent that the Parties have agreed to such obligations under this Agreement or under an Education Jurisdiction Funding Agreement or other agreement entered into by the Parties in fulfilment of paragraph 7.2 of this Agreement.
- 7.6 Any funding required for the purposes of meeting Canada's financial obligation under an Education Jurisdiction Funding Agreement or other agreement is subject to the appropriation of funds by the Parliament of Canada.
- 7.7 The obligation of the Participating First Nation to provide Education under paragraph 2.3 of this Agreement or under an Education Jurisdiction Funding Agreement or other agreement referred to in paragraph 7.2 is contingent on the Participating First Nation receiving agreed funding amounts from Canada under such agreement.
- 7.8 The Parties agree that the amount of Education funding to be provided by Canada to the Participating First Nation for Eligible Students, under any Education Jurisdiction Funding Agreement or other agreement under paragraph 7.2, will not be less than the Education funding provided to First Nations in British Columbia that are not Participating First Nations through the mechanisms that are used to fund those other First Nations.
- 7.9 If an Education Jurisdiction Funding Agreement is terminated and the Parties are unable to reach an agreement on a replacement arrangement for Education funding, the Parties agree that:
- a) Canada will provide the Participating First Nation with Education funding consistent with the terms and conditions for providing Education funding for Eligible Students under that agreement prior to termination through an agreement or such other arrangement as may be made available at the time; and
  - b) notwithstanding subparagraph (a), the amount of funding to be provided by Canada following termination of that agreement will not be less than the Education funding provided to First Nations in British Columbia that are not Participating First Nations through the mechanisms that are used to fund those other First Nations.

## **PART 8 – IMPLEMENTATION**

### **Implementation Plan**

- 8.1 The implementation plan for this Agreement will take effect on the Effective Date and has a term of 10 years.
- 8.2 The implementation plan for this Agreement will:
- a) identify the obligations in this Agreement, the activities to be undertaken to fulfill these obligations, the responsible party or parties, and the timeframe for completion of these activities;
  - b) specify how the implementation plan may be amended;
  - c) specify how the implementation plan may be renewed or extended; and
  - d) address other matters agreed to by the Parties.
- 8.3 The implementation plan for this Agreement:
- a) will be appended to this Agreement as Schedule A, but will not form part of this Agreement;
  - b) is not to be used to interpret this Agreement;
  - c) does not create legal obligations; and
  - d) does not alter any rights or obligations set out in this Agreement.

### **Senior Officials**

- 8.4 On the Effective Date, the Parties will each designate a senior official to monitor the implementation of this Agreement.
- 8.5 The senior officials designated under paragraph 8.4 will:
- a) discuss the implementation of this Agreement;
  - b) carry out a review of the implementation plan of this Agreement; and

- c) prior to the expiry of the implementation plan, advise the Parties on the further implementation of this Agreement, including a recommendation as to whether the implementation plan should be amended, renewed or extended.

### **Implementation Working Committee**

- 8.6 If a regional or province-wide implementation working committee is established, the Participating First Nation may designate an individual to participate and represent them in that forum.

## **PART 9 – DISPUTE RESOLUTION**

### **Informal Discussion**

- 9.1 In the event of a dispute between the Parties arising out of or relating to this Agreement, the Parties agree to meet, negotiate in good faith and attempt to resolve the dispute amicably.

### **Invoking the Dispute Resolution Procedure**

- 9.2 If a dispute arises under this Agreement which cannot be resolved by the Parties within thirty (30) Business Days, either Party may invoke this dispute resolution procedure by giving written notice to the other Party.
- 9.3 Within ten Business Days of receiving notice, the senior officials for both Parties will enter into direct, good faith negotiations concerning the dispute.
- 9.4 If within 30 Business Days after the first meeting between the senior officials, the Parties have failed to resolve the dispute and have not agreed to extend the time for senior officials to resolve the dispute, then the Parties agree to use a mediator, in accordance with paragraph 9.5, to assist in resolving the dispute.

### **Mediation**

- 9.5 Where a mediator is required to assist in resolving the dispute, the following rules will apply:
- a) the Parties will jointly select a single mediator. If the Parties are unable to agree upon the choice of a mediator, then a mediator will be chosen, upon application by the Parties, by the ADR Institute of British Columbia;

- b) the Parties agree to participate in good faith in the mediation process and to meet with the mediator as soon as possible; and
- c) each Party will bear the costs of its own participation and representation in the mediation and will pay equally all other costs of mediating the dispute, including the remuneration of the mediator.

#### **Arbitration**

9.6 If the Parties are unable to resolve the dispute within 60 Business Days of the first meeting with the mediator or within such time as the Parties may agree in writing, the Parties may agree in writing to submit the dispute to arbitration, in accordance with paragraph 9.7.

9.7 Where the Parties agree to submit the dispute to arbitration, the following rules will apply:

- a) the dispute will be resolved by a single arbitrator if the Parties agree on one and, otherwise, by three arbitrators, one to be appointed by each Party and a third to be chosen by the two arbitrators appointed by the Parties;
- b) the Parties may agree on the procedure to be followed in the arbitration. If they cannot agree on this procedure within 15 Business Days of the appointment of an arbitrator or arbitrators, the procedure will be determined by the arbitrator or arbitrators;
- c) the arbitrator or arbitrators will issue a written decision within 30 Business Days of the completion of the arbitration process and will provide copies of the written decision to each Party; and
- d) unless otherwise agreed or otherwise ordered in the arbitration decision, each Party will bear the costs of its own participation and representation in the arbitration and will pay equally all other costs of the arbitration, including remuneration of the arbitrator or arbitrators.

#### **Judicial Proceedings**

9.8 The Parties agree not to commence litigation in respect of a dispute under this Agreement until the completion of the mediation process in accordance with paragraph 9.5.

- 9.9 In the event that the Parties have agreed to arbitration, no Party may commence litigation in respect of a dispute under this Agreement until receipt of the arbitration decision.
- 9.10 Where litigation in respect of a dispute under this Agreement is to be commenced by a Party, the Party will give 20 Business Days written notice to the other Party of their intent to commence litigation, unless to do so would result in the loss of a right to commence litigation due to the expiration of a limitation period.

## **PART 10 – RATIFICATION**

### **Participating First Nation**

- 10.1 Prior to the ratification vote being conducted in accordance with paragraph 10.2, the Participating First Nation will take reasonable steps to inform its Members of:
- a) their right to participate in the approval process and the manner in which that right can be exercised;
  - b) the content of the First Nation Education Law-Making Protocol; and
  - c) the content of this Agreement.
- 10.2 Ratification of this Agreement and the First Nation Education Law-Making Protocol by the Participating First Nation requires:
- a) the conduct of a vote, by way of secret ballot, on a day or days to be determined by resolution of the First Nation Council, indicating that at least 50% percent plus one of Members who cast a ballot have voted in favour of entering into this Agreement, and have voted to adopt the First Nation Education Law-Making Protocol; and
  - b) that this Agreement and the First Nation Law-Making Protocol be signed by an authorized representative of the Participating First Nation.
- 10.3 The Participating First Nation, by resolution of the First Nation Council:
- a) will determine the minimum age of Members who are entitled to vote under paragraph 10.2 (a); and
  - b) may increase the minimum percentage required for approval otherwise required under paragraph 10.2 (a).

## Canada

10.4 Ratification of this Agreement by Canada requires that:

- a) this Agreement be signed by a Minister, authorized by the Federal Cabinet; and
- b) the Federal Cabinet pass an Order in Council adding the Participating First Nation to a Schedule of the Federal Enabling Legislation.

10.5 Canada will undertake the process set out in paragraph 10.4 following the ratification by the Participating First Nation in accordance with paragraph 10.2.

## PART 11 – GENERAL PROVISIONS

### Nature of Agreement

11.1 This Agreement is an "individual agreement" within the meaning of the Federal Enabling Legislation, which provides that:

- a) this Agreement will, upon coming into effect, have the force of law, be binding and relied on by all persons, have priority over other federal laws in the event of a conflict; and
- b) persons and bodies will have the powers, rights, privileges and benefits conferred on them by this Agreement and are subject to any obligations and liabilities imposed on them.

11.2 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

11.3 The purposes of this Agreement are to:

- a) set out how the Participating First Nation will exercise Jurisdiction over Education and the Parties' respective roles and responsibilities; and
- b) implement elements of the inherent right of self-government recognized and affirmed by section 35 of the *Constitution Act, 1982* relating to Jurisdiction over Education.

11.4 This Agreement is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as:

- a) creating, amending, defining the nature and scope of, or abrogating or derogating from those rights;
- b) prejudicing, limiting or restricting the position that the Participating First Nation or Canada may take at any time with respect to the aboriginal or treaty rights of the Participating First Nation or the exercise of those rights; or
- c) restricting or limiting the Participating First Nation from entering into other agreements with Canada or other parties with respect to any matter, including those matters covered under this Agreement.

11.5 Nothing in this Agreement will be construed so as to affect in any manner the Constitution of Canada.

#### **Other Inherent Right Implementation Processes**

11.6 The Parties acknowledge that:

- a) the Participating First Nation may choose to pursue the implementation of the inherent right of self-government including Education through an Other Inherent Right Implementation Process or on its own initiative; and
- b) the Participating First Nation may adopt a governance structure that would bring it outside the scope of the Federal Enabling Legislation and this Agreement.

11.7 If the Parties have initiated discussions under an Other Inherent Right Implementation Process, they will meet and discuss whether there is a need to transition from the exercise of Jurisdiction over Education under this Agreement to the exercise of Jurisdiction over Education under the Other Inherent Right Implementation Process, recognizing that it is in the interest of both Parties that any transition be smooth.

11.8 The discussions described in paragraph 11.7 will:

- a) take place under the Other Inherent Right Implementation Process or such other process as may be agreed to by the Parties;
- b) consider whether the Federal Enabling Legislation will continue to apply to the Participating First Nation or its successor;
- c) consider whether this Agreement needs to be amended, replaced or terminated;
- d) address fiscal support for:



- i. Education taking into account the commitments to provide Education funding for Eligible Students set out in the Education Jurisdiction Funding Agreement; and
  - ii. the exercise of governance responsibilities in aggregate related to Education and additional self-government authorities contemplated under the Other Inherent Right Implementation Process taking into account the Participating First Nation's expenditure needs; and
- e) address such other matters as may be agreed to by the Parties.

**11.9** If the Participating First Nation initiates the implementation of the inherent right of self-government on its own initiative in a manner that could affect the application of this Agreement or result in an arrangement that would be inconsistent with the Federal Enabling Legislation, the Parties will meet to discuss whether this Agreement will need to be amended, replaced or terminated depending on the circumstances.

#### **Education Jurisdiction Agreement is Binding**

**11.10** This Agreement is binding on the Parties from the Effective Date.

**11.11** This Agreement is binding on, and can be relied on by, all persons from the Effective Date.

#### **Access to Other Programs**

**11.12** Members of the Participating First Nation who are Canadian citizens or permanent residents of Canada continue to be entitled to all the rights and benefits of other Canadian citizens or permanent residents of Canada, applicable to them from time to time.

**11.13** Subject to paragraph 11.12, nothing in this Agreement will affect the ability of the Participating First Nation, or its Members, to participate in, or benefit from, programs established by Canada for Indians, Bands or aboriginal people, in accordance with criteria established for those programs from time to time.

**11.14** Members of the Participating First Nation will be eligible to participate in educational programs or services established by Canada or British Columbia and to receive services from Canada or British Columbia, in accordance with criteria established for those programs and services from time to time, to the extent that the Participating First Nation has not assumed responsibility for those educational programs and services under an Education Jurisdiction Funding Agreement or other funding agreement.

### **Liability**

- 11.15 The Participating First Nation will from time to time and at all times be indemnified and saved harmless from and against claims, liabilities and demands arising directly or indirectly from the acts or omissions of Canada, its officers, employees and agents in the exercise of their powers, duties and functions with respect to this Agreement.
- 11.16 Canada will from time to time and at all times be indemnified and saved harmless from and against claims, liabilities and demands arising directly or indirectly from the acts or omissions of the Participating First Nation, the Community Education Authority, and their officers, employees and agents in the exercise of their powers, duties and functions with respect to this Agreement.

### **Amendments**

- 11.17 This Agreement may be amended where consent in writing of each Party is obtained. Canada's consent to any amendment may require an Order in Council. The Participating First Nation's consent to any amendment will require a resolution of the First Nation Council.
- 11.18 An amendment to this Agreement takes effect on a date agreed to by the Parties to the amendment, but if no date is agreed to, on the date that the last Party gives its consent.
- 11.19 If federal legislation is required to give effect to an amendment to this Agreement, Canada will take all reasonable steps to enact the legislation.

### **Access to Information and Protection of Privacy**

- 11.20 The Participating First Nation may enter into agreements with Canada in respect of any one or more of the following issues: collection, protection, retention, use, disclosure, and confidentiality of personal, general or other information necessary for the Participating First Nation to exercise its Jurisdiction under this Agreement consistent with applicable federal laws, including federal access to information and privacy legislation.
- 11.21 For the purposes of federal access to information and privacy legislation, information that the Participating First Nation provides to Canada in confidence is deemed to be information received or obtained in confidence from another government.
- 11.22 Canada may provide information necessary for the exercise of the Jurisdiction under this Agreement to the Participating First Nation in confidence if the Participating First Nation has entered into an agreement with Canada under which the confidentiality of the information will be protected.

**11.23 Notwithstanding any other provision of this Agreement:**

- a) Canada is not required to disclose any information that it is required to withhold under any federal law, including sections 37 to 39 of the *Canada Evidence Act*;
- b) if federal legislation allows the disclosure of certain information only if specified conditions for disclosure are satisfied, Canada is not required to disclose that information unless those conditions are satisfied; and
- c) the Parties are not required to disclose any information that may be withheld under privilege at law.

**International Legal Obligations**

**11.24** The Participating First Nation agrees to exercise the powers set out in this Agreement in a manner consistent with the international obligations binding on Canada under international law, including those obligations that are in force before, on or after the Effective Date.

**Entire Agreement**

**11.25** This Agreement is the entire agreement among the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right, or obligation affecting this Agreement.

**No Implied Waiver**

**11.26** A provision of this Agreement, or the performance by a Party of an obligation under this Agreement, may not be waived unless the waiver is in writing and signed by the Party or Parties giving the waiver.

**11.27** No written waiver of a provision of this Agreement, of performance by a Party of an obligation under this Agreement, or of default by a Party of an obligation under this Agreement, will be a waiver of any other provision, obligation, or subsequent default.

**Interpretation**

**11.28** In this Agreement:

- a) unless it is otherwise clear from the context, a reference to a "Part" or "paragraph" means a Part or paragraph of this Agreement;
- b) headings and sub-headings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- c) unless otherwise provided, a reference to a statute includes every amendment to it, every regulation made under it and amendment made to such regulation, and any successor legislation; and
- d) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of the plural includes the singular.

#### **Computation of Time**

**11.29** Sections 26 to 28 of the *Interpretation Act (Canada)* apply to the computation of time for the purposes of this Agreement.

#### **Execution of Document**

**11.30** Each Party will, at the request of and at no cost to the other Party, execute and deliver to the requesting Party any instrument or document or will do anything that may reasonably be required to carry out its obligations under this Agreement, or to complete any transaction contemplated by this Agreement.

#### **Severability**

**11.31** Unless otherwise determined by a court of competent jurisdiction, if any provision contained in this Agreement is rendered invalid, illegal or unenforceable by a court of competent jurisdiction in any respect:

- a) the Parties will make best efforts to remedy or amend the provision; and
- b) the validity, legality or enforceability of the remaining provisions will not in any way be considered by the Parties to be affected or impaired.

#### **Notices and Communications**

**11.32** Where in this Agreement any notice or other communication is required to be given or made by either Party, it will be in writing and will be effective if delivered by hand, transmitted by email or facsimile transmission or sent by registered mail to the addresses

set out below. The address of either Party may be changed by notice in the manner set out in this paragraph.

CANADA:

Minister  
Crown-Indigenous Relations  
10 Wellington Street  
OTTAWA ONTARIO K1A 0H4

Fax: (819) 953-4941  
Email: aadnc.infopubs.aandc@canada.ca

PARTICIPATING FIRST NATION:

[to be inserted]

Fax: (xxx) xxx-xxxx  
Email: \_\_\_\_\_

**11.33 A notice or communication will be considered to have been received if:**

- a) delivered personally or by courier during business hours on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next Business Day;
- b) sent by facsimile transmission during business hours on a Business Day, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business on the next Business Day;
- c) sent by email during business hours on a Business Day, upon the sender receiving confirmation of receipt from the recipient, and if not transmitted during business hours, upon the commencement of business on the next Business Day; or
- d) mailed by registered post in Canada, five Business Days after posting, except that, in the case of a disruption or an impending or threatened disruption in postal services, every notice or communication will be delivered by hand or sent by email or facsimile transmission.

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**CANADA-FIRST NATION  
EDUCATION JURISDICTION FUNDING AGREEMENT**

Made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

BETWEEN:

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
as represented by the Minister of Crown-Indigenous Relations

(hereinafter referred to as "**Canada**")

AND

**THE "X" FIRST NATION**

as represented by its Chief and Council

(hereinafter referred to as the "**Participating First Nation**")

Collectively referred to hereinafter as the "**Parties**"

**WHEREAS:**

- A. The Participating First Nation and Canada entered into the Education Jurisdiction Agreement on \_\_\_\_\_ *[insert the Effective Date of Education Jurisdiction Agreement]*;
- B. The Education Jurisdiction Agreement provides that the Parties will enter into an Education Jurisdiction Funding Agreement to carry out the responsibilities and obligations under the Education Jurisdiction Agreement;
- C. This Agreement is an Education Jurisdiction Funding Agreement under paragraph 7.2 of the Education Jurisdiction Agreement;
- D. At the time this Agreement is being signed, funding to build, make major repairs to or replace infrastructure for a First Nation School is being provided through funding arrangements outside of this Agreement; and

- E. The Participating First Nation has received one-time implementation funding from Canada to carry out the implementation activities described in Schedule F (One-Time Implementation Activities).

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**PART 1 - DEFINITIONS**

- 1.1 In this Agreement, the definitions in the Education Jurisdiction Agreement apply, unless otherwise stated herein.
- 1.2 Further to paragraph 1.1, the following definitions in the Education Jurisdiction Agreement are hereby modified for purposes of this Agreement:
- a) **"Agreement"** means this Canada-First Nation Education Jurisdiction Funding Agreement and all of its Schedules;
  - b) **"Effective Date"** means the effective date of this Agreement;
  - c) **"Party"** means a signatory to this Agreement; and
  - d) **"Schedule"** means a schedule attached to this Agreement.
- 1.3 Further to paragraph 1.1, the following additional definitions apply to this Agreement:
- a) **"Canada's Collaborative Fiscal Policy"** means *Canada's Collaborative Self-Government Fiscal Policy*;
  - b) **"Centralized Education Services"** means those services described as Second and Third Level Services in BCTEA and any other services offered by FNEEC to First Nations or First Nation Schools under any other funding agreement with Canada, British Columbia or another funder, including for greater clarity "Special Education supports" and "Language and Culture programming supports," but not including "School assessment and improvement planning assistance programs;"
  - c) **"Education Jurisdiction Agreement"** means the Canada-First Nation Education Jurisdiction Agreement between the Participating First Nation and Canada entered on \_\_\_\_ *[insert date]*;



- d) **"First Nations Education Steering Committee" or "FNESC"** means the society incorporated under the *Societies Act* (British Columbia), with a mandate to advance First Nations education in British Columbia at the direction of First Nations;
- e) **"Generally Accepted Accounting Principles"** means the accounting principles generally accepted in Canada from time to time, and, where the Chartered Professional Accountants of Canada or its successor publishes a statement of a principle or an accounting guideline, including the CPA Canada Public Sector Accounting Handbook, that statement or guideline will be considered conclusively to be an accounting principle or guideline generally accepted in Canada;
- f) **"Initial School Year"** means the period from the Effective Date of this Agreement to June 30 of the following year;
- g) **"ISC Funding Agreement"** means the funding agreement entered into between the Participating First Nation and the Minister of Indigenous Services on behalf of Canada effective *[insert date]* and any replacement agreement or arrangement;
- h) **"School Year"** means the period beginning on July 1 and ending on June 30 the following year; and
- i) **"Second and Third Level Services"** means aggregate services provided by FNESC to First Nations and First Nation Schools, similar to services provided by the British Columbia Ministry of Education and by provincial school boards to BC Public Schools, with specific adaptations to meet First Nations' unique circumstances, in order to improve efficiency and achieve economies of scale, as set out in Schedule B (Centralized Education Services).

## PART 2 - TERM

- 2.1 This Agreement will commence on the Effective Date and may be terminated by agreement of the Parties at any time or by any Party through the process described in paragraphs 2.2 to 2.12.
- 2.2 Where Canada or the Participating First Nation is of the view that there are reasonable grounds to terminate this Agreement, it will provide the other Party with a notice of intent to terminate that will include:
- a) the grounds for the proposed termination; and
  - b) a proposal for a replacement agreement for implementing paragraphs 7.2 and 7.3 of the Education Jurisdiction Agreement.
- 2.3 Upon receiving a notification under paragraph 2.2, the receiving Party may:
- a) accept the termination and proposal referred to in paragraph 2.2(b); or
  - b) provide a notice to the other Party that it wishes to engage in negotiations on the proposed agreement referred to in paragraph 2.2(b).
- 2.4 If the receiving Party accepts the proposed termination under paragraph 2.3(a), this Agreement will terminate on the date agreed to by the Parties.
- 2.5 If either Party provides a notice to the other Party under paragraph 2.3(b), the Parties shall, within three months of receiving such notice, commence negotiations and attempt to reach agreement on a replacement agreement that will address the Participating First Nation's responsibilities and obligations under the Education Jurisdiction Agreement in respect of Education and the associated governance responsibilities as outlined in paragraphs 7.2 and 7.3 of the Education Jurisdiction Agreement.
- 2.6 The negotiations under paragraph 2.5 will terminate on the earlier of:
- a) the date a replacement agreement comes into effect;
  - b) the date the Party that provided notice under paragraph 2.2 withdraws such notice; or
  - c) twelve months following the date of the notice provided under paragraph 2.3(b), unless the Parties extend the negotiations by agreement.

- 2.7 Prior to the termination of the negotiation period contemplated by paragraph 2.6, the Parties will make best efforts to conclude any dispute resolution process initiated prior to the provision of a notice under paragraph 2.2 up to and including mediation under paragraph 9.5 of the Education Jurisdiction Agreement.
- 2.8 If the Parties are unable to reach an agreement to replace this Agreement and the notice to terminate the Agreement has not been withdrawn prior to the termination of the negotiation period set out in paragraph 2.6:
- a) where notice under paragraph 2.2 was provided by Canada, officials for Canada will refer the decision on terminating this Agreement to the Minister of Crown-Indigenous Relations; or
  - b) where notice under paragraph 2.2 was provided by the Participating First Nation, officials for the Participating First Nation will refer the decision on terminating this Agreement to Chief and Council.
- 2.9 On referral of the matter under paragraph 2.8(a) and subject to paragraph 2.11, the Minister of Crown-Indigenous Relations may direct that:
- a) this Agreement be terminated, subject to paragraph 2.12; or
  - b) Canada seek to extend the negotiation period under paragraph 2.6(b) and return to negotiations under paragraph 2.5.
- 2.10 On referral of the matter under paragraph 2.8(b), Chief and Council may direct that:
- a) this Agreement be terminated, subject to paragraph 2.12; or
  - b) the Participating First Nation seek to extend the negotiation period under paragraph 2.6(b) and return to negotiations under paragraph 2.5.
- 2.11 Before the matter is referred to the Minister for authorization to terminate under paragraph 2.8(a), Canada will, at the request of the Participating First Nation:

- a) provide a report outlining the basis for the proposed termination, including an explanation of why Canada's concerns are best addressed through termination rather than extending negotiations under paragraph 2.6(b);
  - b) schedule a meeting between officials for Canada and the Participating First Nation within thirty (30) days of receipt of the report to discuss the report; and
  - c) provide an opportunity for the Participating First Nation to meet with and provide written submissions to the Minister of Crown-Indigenous Relations.
- 2.12 Where the Minister of Crown-Indigenous Relations under paragraph 2.9(a) or Chief and Council under paragraph 2.10(a) direct that this Agreement be terminated, the termination may not take effect until at least one full school year has been completed following the decision to terminate the Agreement, unless the Parties agree to an earlier termination date.
- 2.13 For greater certainty, the Participating First Nation's obligations under Part 6 (Accountability) survive the termination of this Agreement in respect of a Fiscal Year during which this Agreement was in effect.

### **PART 3 - PARTICIPATING FIRST NATION'S RESPONSIBILITIES**

- 3.1 The Participating First Nation is responsible for providing or purchasing Education in accordance with paragraphs 2.3 and 2.4 of the Education Jurisdiction Agreement.

### **PART 4 - CANADA'S RESPONSIBILITIES**

- 4.1 Canada will make transfer payments to the Participating First Nation as follows:
- a) subject to paragraph 4.1(b), the transfer payments for Education will be the amount generated by the funding methodology set out in Schedule A (Education Funding for Eligible Students), Schedule C (Funding for First Nation Sectoral Education Governance Activities) and Schedule D (Methodology for Governance Funding); and
  - b) if the Effective Date is not July 1 of the Initial School Year, then the amount of the transfer payment referenced in paragraph 4.1(a) will be adjusted as required.
- 4.2 Canada will make transfer payments for Centralized Education Services in accordance with Schedule B (Centralized Education Services).
- 4.3 The transfer payments for Education to the Participating First Nation referenced in paragraph 4.1 will be made by Canada in the following manner:
-

- a) for the Initial School Year, within 10 Business Days of the Effective Date; and
- b) in even monthly amounts [or as agreed], subject to adjustments based on the implementation of the funding methodology and changes to the funding methodology itself.

4.4 The Participating First Nation:

- a) is entitled to retain any unexpended transfer payments received under this Agreement; and
- b) is responsible for any expenditures that exceed the transfer payments provided to the Participating First Nation under this Agreement.

**PART 5 - PERIODIC REVIEW AND COLLECTIVE ENGAGEMENT**

5.1 The Parties will commence their first periodic review of this Agreement, including the Schedules, no later than three years after the Effective Date and will conduct subsequent periodic reviews every five years after the conclusion of the first periodic review, or sooner at the request of either Party.

5.2 The Parties will meet:

- a) at least six months before the commencement of a scheduled periodic review; or
- b) as soon as practicable where a periodic review has been requested by either Party

to confirm the process and conduct of the review.

5.3 The purposes of the periodic review referred to in paragraph 5.1 are to:

- a) ensure that the Participating First Nation has the funding required to meet its obligations under this Agreement and the Education Jurisdiction Agreement;
- b) ensure that the Participating First Nation is receiving no less funding than the amount that it would receive if it had not entered an Education Jurisdiction Agreement;

- c) ensure that this Agreement is amended to incorporate any changes made to the funding arrangements that support the building, major repair or replacement of infrastructure for schools operated by First Nations;
  - d) consider whether the transfer payments under this Agreement advance the goals set out in paragraph 7.1 of the Education Jurisdiction Agreement, and are consistent with the "fiscal principles for the renewed fiscal relationship" set out in Canada's Collaborative Fiscal Policy;
  - e) consider whether funding amounts under BCTEA continue to be relevant and workable in support of the Education Jurisdiction Agreement;
  - f) determine how new categories of funding under BCTEA or any successor agreement will be made available to the Participating First Nation;
  - g) ensure comparability with increases in funding for governance-related activities provided to other Indigenous groups with sectoral self-government agreements in Education; and
  - h) address other funding issues as agreed by the Parties.
- 5.4 If BCTEA expires or is terminated, the Parties will meet to determine whether the funding methodology set out in Schedules A, B, C and D should be continued or renegotiated.
- 5.5 At least 18 months prior to the expiry of BCTEA, the Parties will meet to consider the implications of the possible expiry, extension or renewal of BCTEA.
- 5.6 If a dispute arises between the Parties in the course of a periodic review under paragraphs 5.1 to 5.3, or their meetings under paragraphs 5.4 and 5.5, they will seek to resolve their disagreement in accordance with the dispute resolution process set out in Part 8 (Dispute Resolution).
- 5.7 At the request of the Participating First Nation, Canada will undertake the reviews contemplated in paragraphs 5.1 to 5.5 on a collective basis with the Participating First Nation and Other Participating First Nations that wish to engage in that collective review process.
- 5.8 At the request of the Participating First Nation, Canada will undertake the negotiation of a replacement of this Agreement under Part 2 or an amendment of this Agreement on a collective basis with the Participating First Nation and Other Participating First Nations
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that are under the same form of agreement and wish to engage in that collective negotiation process.

- 5.9 If an Other Participating First Nation requests that Canada undertake the reviews contemplated in paragraphs 5.1 to 5.5 or the negotiations referred to in paragraph 5.8 on a collective basis, the Participating First Nation may choose to participate in that collective review process.
- 5.10 Canada acknowledges that the Participating First Nation has an interest in, and may be impacted by, any review of BCTEA by the parties to BCTEA that may result in changes to BCTEA or its implementation and, therefore, Canada will provide at least 30 days prior notice to the Participating First Nation of any review to ensure the Participating First Nation may meaningfully participate and be consulted in such review.
- 5.11 Canada acknowledges that the Participating First Nation has an interest in, and may be impacted by, any review of Canada's Collaborative Fiscal Policy that may result in changes to support governance activities or other expenditure needs and, therefore, Canada will give prior notice to the Participating First Nation and provide for the Participating First Nation's participation in any review in which those interests or impacts are relevant.

#### **Exceptional Circumstances**

- 5.12 Where exceptional circumstances arise, which create pressures that would significantly impair the ability of the Participating First Nation to meet its obligations set out in this Agreement, the Parties will, at the request of the Participating First Nation:
- a) meet within two weeks of the Participating First Nation's request, to review the exceptional circumstances and the impact on ability of the Participating First Nation to meet its obligations;
  - b) review potential funding sources or other assistance available to the Participating First Nation to meet its obligations;
  - c) determine what steps, if any, are required by the Parties to address the impact of the exceptional circumstances on the ability of the Participating First Nation to meet its obligations; and
  - d) make best efforts to take the identified steps to remedy the impact of the exceptional circumstances on the ability of the Participating First Nation to meet its obligations.

- 5.13 The Parties agree that nothing in this Agreement affects any agreements or plans related to emergencies, including extraordinary circumstances, between or among the Participating First Nation, Other Participating First Nations, Canada and BC.

## **PART 6 - ACCOUNTABILITY**

- 6.1 The Participating First Nation is accountable to its Members for the delivery of Education.
- 6.2 The Participating First Nation will provide reports to Canada as set out in Schedule E (Reporting) to this Agreement.
- 6.3 The Participating First Nation agrees that, where it engages an agent or authorizes a contractor to deliver Education on its behalf, the Participating First Nation will remain responsible for performing its obligations under this Agreement.
- 6.4 The Parties agree that all accounts and financial statements required to be prepared under this Agreement will be maintained and prepared in accordance with Generally Accepted Accounting Principles.
- 6.5 The Participating First Nation will:
- a) within one hundred and twenty (120) days following the end of each Fiscal Year provide Canada with consolidated audited financial statements for the Fiscal Year; and
  - b) where the Participating First Nation transfers funds to an agent or contractor under paragraph 6.3 to deliver Education, the Participating First Nation will ensure that adequate procedures are in place with that agent or contractor to establish program and financial accountability for those funds, including the provision of a financial audit, as appropriate.
- 6.6 Paragraphs 6.3 and 6.5(b) do not apply in respect of Eligible Students attending BC Public Schools or BC Independent Schools.

## **PART 7 - INFORMATION EXCHANGE**

- 7.1 The Parties will share, at no cost to each other and in a timely manner, information that is reasonably required from time to time for purposes of implementation, monitoring, and periodic review of this Agreement. The sharing of this information is in addition to the reporting set out in Schedule E (Reporting).



- 7.2 The Parties will collect, share and disclose information under this Agreement in a manner that ensures the confidentiality of that information to the same extent as applies generally to other governments exchanging similar types of information in Canada.

## **PART 8 - DISPUTE RESOLUTION**

- 8.1 The Parties will use best efforts to prevent or minimize disputes in relation to the interpretation, application or implementation of this Agreement.
- 8.2 In the event that a dispute arises between the Parties regarding the interpretation, implementation, or fulfillment of a provision of this Agreement, the Parties agree to participate in good faith in the dispute resolution process set out in this Part 8.
- 8.3 In the event a Party is of the reasonable view that a dispute exists between it and the other Party, that Party may invoke the dispute resolution process provided for in this Agreement by giving the other Party notice setting out:
- a) that the Party giving notice wishes to refer the dispute to the dispute resolution process provided for in this Agreement; and
  - b) a concise summary of the nature of the dispute and documents relied upon.
- 8.4 Upon receiving the notice under paragraph 8.3, the other Party may provide a response to the notice and will participate in informal discussions and attempt to resolve the dispute.
- 8.5 As a general principle, the Parties desire and expect that a dispute arising from this Agreement will be resolved by informal discussion between them.
- 8.6 Subject to paragraph 8.7, where the Parties are unable to resolve the dispute through informal discussion within forty-five (45) days of the notice being sent under paragraph 8.3, or a longer period if the Parties agree in writing, the Parties may refer the dispute for resolution in accordance with Part 9 (Dispute Resolution) of the Education Jurisdiction Agreement and, for greater certainty, the dispute will be considered to be a dispute for the purposes of those provisions.
- 8.7 For greater certainty, disputes arising under this Agreement may not be referred to and finally resolved by arbitration under paragraphs 9.6 and 9.7 of the Education Jurisdiction Agreement.

- 8.8 Nothing in this Agreement prevents a Party from commencing judicial proceedings at any time to prevent the loss of a right to commence proceedings due to the expiration of a limitation period, or to obtain interlocutory or interim relief that is otherwise available pending resolution of the dispute under this Agreement.

## **PART 9 - DEFAULT AND REMEDIES**

- 9.1 A Party will be in default of this Agreement in the event that the Party:
- a) breaches any provisions of this Agreement or fails to fulfill any of its obligations as set out in this Agreement; or
  - b) gives or makes a representation, statement or report, required under this Agreement, that it knows or reasonably ought to know, is false in any material way.
- 9.2 Where there is an alleged default of this Agreement, the Party alleging the default shall notify the other Party in writing of the alleged default, the circumstances giving rise to the alleged default and, where appropriate, proposed steps to remedy the alleged default.
- 9.3 A Party that receives a notice of default under paragraph 9.2 shall, within thirty (30) days of receipt of the notice, notify the other Party, of one of the following:
- a) that it has remedied the default or, if the default is not amenable to remedy within the 30-day period, that it has commenced and will diligently continue to remedy the default, including a description of the remedial action taken, being taken, or set to be taken; or
  - b) that it disagrees, with reasons, that a default has occurred, in which case the issue shall be referred to the dispute resolution process set out in Part 8 (Dispute Resolution).
- 9.4 A Party that gives notice of an alleged default under paragraph 9.2 may at any time waive the default, if it is found to exist, by providing waiver to the other Party, in which case the default is waived for both Parties for all purposes.

## **PART 10 - GENERAL PROVISIONS**

### **Schedules to Agreement**

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10.1 The following Schedules are attached to and form part of this Agreement:

Schedule	Description
A	Education Funding for Eligible Students
B	Centralized Education Services
C	Funding for First Nation Sectoral Education Governance Activities
D	Methodology for Governance Funding
E	Reporting
F	One-Time Implementation Activities

#### **Amendment**

10.2 Any amendment to this Agreement must be in writing and be executed by Canada and the Participating First Nation.

#### **No Implied Waiver**

10.3 No term or condition of this Agreement, performance of an obligation by a Party, or default by a Party, under in this Agreement will be deemed to have been waived unless the waiver is in writing and signed by the Party giving the waiver.

10.4 No waiver of a term or condition of this Agreement, of performance by a Party of an obligation in this Agreement, or of default by a Party of an obligation under this Agreement, will be deemed to be a waiver of any other covenant, term or condition, or of any subsequent default.

#### **Interpretation of Agreement**

10.5 In this Agreement:

- a) unless it is otherwise clear from the context, "including" means "including, but not limited to", and "includes" means "includes, but is not limited to";
- b) headings and subheadings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- c) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;

- d) a reference to an agreement that is included as a Schedule to this Agreement includes every amendment to it and every agreement made in substitution for it or in replacement of it;
- e) unless it is otherwise clear from the context, a reference to a Schedule means a Schedule to this Agreement;
- f) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular;
- g) all accounting terms have the meanings assigned to them under Generally Accepted Accounting Principles;
- h) unless otherwise specified, a reference to "agreed to" means by written agreement.

#### **Nature of Agreement**

- 10.6 This Agreement is not a treaty or a land claims agreement, within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 10.7 This Agreement is not intended to:
- a) create, amend, define, abrogate or derogate from the nature and scope of the Participating First Nation's aboriginal or treaty rights recognized and affirmed under section 35 of the *Constitution Act, 1982*, or the exercise of those rights;
  - b) prejudice, limit or restrict the position that the Participating First Nation may take at any time with respect to the aboriginal or treaty rights of the Participating First Nation or the exercise of those rights; or
  - c) restrict or limit the Participating First Nation from entering into other agreements with Canada or other parties with respect to any matter, including those matters covered under this Agreement.
- 10.8 The Parties agree that Canada's payment obligations under paragraph 4.1 will be implemented through the ISC Funding Agreement and that:
- a) this Agreement will be incorporated into the ISC Funding Agreement as a funding annex;
  - b) the provisions of the ISC Funding Agreement relating to Education (including responsibilities to provide or purchase Education, accountability, information
-

exchange, dispute resolution and default and remedies) and related matters are superseded by the provisions of this Agreement and will be of no force and effect; and

- c) the use of the ISC Funding Agreement as an implementation measure does not affect the Parties' rights and obligations under this Agreement and the responsibility of the Minister of Crown-Indigenous Relations to act on behalf of Canada under this Agreement.

#### **Further Assurances**

- 10.9 The Parties will execute any other documents and do any other things that may be necessary to carry out the intent of this Agreement.

#### **Severability**

- 10.10 Unless otherwise determined by a court of competent jurisdiction, if any provision contained in this Agreement is rendered invalid, illegal or unenforceable by a court of competent jurisdiction in any respect:
- a) the Parties will make best efforts to remedy or amend the provision; and
  - b) the validity, legality or enforceability of the remaining provisions will not in any way be considered by the Parties to be affected or impaired.

#### **Enurement**

- 10.11 This Agreement will enure to the benefit of and be binding upon the Parties and their respective permitted assigns and successors.

#### **Appropriation by Parliament**

- 10.12 Any funding to be provided by Canada pursuant to the Agreement is subject to the appropriation of funds by the Parliament of Canada.

#### **No Assignment**

- 10.13 Unless otherwise agreed by the Parties, this Agreement may not be assigned, either in whole or in part, by either Party.

#### **No Partnership or Joint Venture**

- 10.14 This Agreement does not create any partnership, agency, association, joint venture or employer-employee relationship between the Participating First Nation and Canada.

#### **Lobbying Act**

- 10.15 The Participating First Nation acknowledges the obligation of those who are bound by the Lobbying Act to comply with that legislation.

#### **Current or former office holders**

- 10.16 No member of the House of Commons or the Senate of Canada is to be admitted to any share or part of this Agreement or to any benefit arising from it not otherwise available to the general public, unless such a member is also a member of the Participating First Nation.
- 10.17 The Participating First Nation acknowledges that current or former public servants or public office holders are bound by the *Conflict of Interest Act*, the *Conflict of Interest and Post-Employment Code for Public Office Holders* and the *Values and Ethics Code for the Public Service* and may not derive any direct benefit from this Agreement unless the provision or receipt of such benefits is in compliance with such legislation and codes.

#### **Notices and Communications**

- 10.18 Unless it is otherwise clear from the context, references in this Agreement to any notice, communication, response, waiver or agreement between the Parties is a reference to a written notice, communication, response, waiver or agreement.
- 10.19 A notice or communication will be considered to have been received if:
- a) delivered personally or by courier during business hours on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next Business Day;
  - b) sent by facsimile transmission during business hours on a Business Day, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business on the next Business Day;
  - c) sent by email during business hours on a Business Day, upon the sender receiving confirmation of receipt from the recipient, and if not transmitted during business hours, upon the commencement of business on the next Business Day; or
  - d) mailed by registered post in Canada, five Business Days after posting, except that, in the case of a disruption or an impending or threatened disruption in postal services,

every notice or communication will be delivered by hand or sent by email or facsimile transmission.

- 10.20 A communication must be delivered, transmitted to the facsimile number or mailed to the address of the intended recipient set out below:

For: Canada  
Attention: Minister of Crown-Indigenous Relations  
House of Commons  
Room 583, Confederation Building  
OTTAWA, ONTARIO K1A 0A6  
Fax Number: (819) 953-4941  
Email: aadnc.infopubs.aandc@canada.ca

For: Participating First Nation  
Attention: title  
Address XXX  
BRITISH COLUMBIA, Postal Code  
Fax Number: \_\_\_\_\_  
Email: \_\_\_\_\_

THIS AGREEMENT HAS BEEN EXECUTED as of the day and year first above written.  
EXECUTED in the presence of:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented  
by the Minister of Crown-Indigenous Relations

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Hon. Minister Carolyn Bennett, P.C., M.P.

\_\_\_\_\_ PARTICIPATING FIRST NATION, as represented by

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[NAME, TITLE]



**SCHEDULE A**  
**EDUCATION FUNDING FOR ELIGIBLE STUDENTS**

1. Unless otherwise agreed to by the Parties, the amount to be provided to the First Nation for its Eligible Students attending:

- a) a First Nation School; or
- b) a BC Public School or BC Independent School

will be determined by the funding approach and process set out in BCTEA, as amended from time to time, for so long as that agreement is in force.

2. For greater clarity, funding under section 1 is the amount calculated using the approach and process set out in BCTEA, with the exception of Second and Third Level Services, as defined in BCTEA, which will be addressed as set out in Schedule B (Centralized Education Services).
3. The amounts set out in Table 1 are the amounts that were payable under the BCTEA as of September 30, 2018. This table has been prepared for illustrative purposes and will be amended and replaced from time to time.
4. Consistent with paragraph 5.3(b) of the Agreement, the Parties agree that, if the implementation of the funding approach set out in this Schedule will result in less funding than the amount that the First Nation would have received had it not entered into an Education Jurisdiction Agreement, they will work in a timely manner to remedy this reduction of funding.
5. Canada will ensure that the First Nation has access to any additional funding provided by Canada outside BCTEA that may be made available for BC First Nations or BC First Nation students in relation to Education and/or supporting First Nation student success. This does not include additional funding provided by Canada outside BCTEA to BC First Nations in relation to activities included within the scope of Schedule C (Funding for First Nation Sectoral Education Governance Activities).
6. If BCTEA is terminated and is not replaced by a successor agreement, the Parties will meet to develop a new approach to determining funding amounts to be provided to support the implementation of the Education Jurisdiction Agreement.
7. If BCTEA is replaced by a successor agreement, the Parties will meet to determine whether funding amounts to be provided to support the implementation of the Education Jurisdiction Agreement should be determined based on the successor agreement or a different approach.

8. If this Agreement is terminated and no replacement agreement is reached, in accordance with paragraph 7.9 of the Education Jurisdiction Agreement, Canada will continue to provide the Participating First Nation with funding for Education consistent with the commitments set out in this Schedule.

TABLE 1 (\*Still being refined)

First Nation School Funding			
	Factor	Amount	Allocation
1 Basic Amount		\$7,560	
2 Adult Education		\$7,560	
3 Enrolment Decline			
4 FTEs 1 year previous			
5 FTEs 3 years previous			
6 ELL		22.6% * \$1,520	
7 Aboriginal Education		\$1,500	
8 Vulnerable Students		\$63.08	
9 Salary Differential		\$180.33	
10 Small Community Supplement			
11 Elementary			
12 Secondary			
13 Grade 11 & 12			
14 Low Enrolment			
15 FTEs		\$1,530	
16 schools		\$38,246	
17 Rural Supplement	[local SD factor]	Line 1 * Factor * 20%	
18 Climate Supplement	[local SD factor]	Line 1 * Factor * 5%	
19 Student Location Factor		[Local SD Rate]	
20 Curriculum and Learning Support		\$9	
21 Non-OGM Funding	Total Rows 1-20	13.71%	
22 Technology Support			
23 BCeSIS Funding		\$20	
24 Technology Funding		[FN School Amount]	
25 Education Minor Capital		\$120	
26 Language and Culture		\$1,195	
27 Transportation	Weighted Enrolment	[See note]	
28 Funding Protection			
29 Total First Nation School Funding			

Provincial / Independent Tuition

	Factor	Billing Rate	Allocation
30 Independent		[Local SD Rate]	
31 Provincial		[Local SD Rate]	
32 Total Provincial/Independent School Funding			

Student Support Services

	Factor	Rate	Allocation
33 Accommodation		\$6,480	
34 Ancillary Services		\$287	
35 CISS		\$221	
36 Guidance and Counselling		\$179	

CANADA-FIRST NATION EDUCATION JURISDICTION FUNDING AGREEMENT  
Schedule "C" to Education Jurisdiction Framework Agreement  
Approved by NFNs on April 20, 2021

37	G&C (Accommodation)		\$1,094	
38	Financial Assistance			
39	Grades 8-10, SS		\$144	
40	Grade 11		\$287	
41	Grade 12		\$431	
42	Total Student Support Funding			
43	TOTAL FUNDING			

Notes to Table 1

Line 1	Factor = school aged FTEs
Line 2	Factor = adult FTEs
Line 4	Allocation = 1 year decline > 1% and <= 4%, 50% of Basic Amount, plus 1 year decline > 4%, 75% of Basic Amount
Line 5	Allocation = 3 year decline > 7%, 50% of Basic Amount
Line 6	Factor = school aged enrolments
Line 7	Factor = school aged enrolments
Line 8	Factor = sum of school aged and adult FTEs
Line 9	Factor = sum of school aged and adult FTEs
Line 11	Allocation as follows Elementary FTEs <= 8: \$101,800 Elementary FTEs 9 to 110: \$213,640 Elementary FTEs 111 to 250: \$213,640 minus (\$1,526 for each FTE over 110)
	OR
	For schools more than 40km from nearest school by paved road (or 5 km by other means) Elementary FTEs <= 15: \$217,000 Elementary FTEs 16 to 75: \$244,000
Line 12	Allocation as follows School aged secondary FTEs <= 100: \$6,147.15 per school aged secondary FTE School aged secondary FTEs 101 to 635: \$614,715 minus (\$1,149 per school aged secondary FTE over 100)
Line 13	For schools qualifying for funding under line 12 Grade 11 & 12 FTEs <= 15: \$16,590 per school aged grade 11 or 12 FTE Grade 11 & 12 FTEs 16-215: \$248,850 minus (\$1,244.25 per school aged grade 11 or 12 FTE over 15)
Line 15	Factor = sum of school aged and adult FTEs
Line 16	Factor = number of First Nation schools operated by the Participating First Nation
Line 19	Factor = school aged FTEs. Amount = local school district amount determined pursuant to BCTEA
Line 20	Factor = sum of school aged and adult FTEs
Line 23	Factor = sum of school aged and adult enrolments
Line 24	Amount of internet connectivity funding determined pursuant to BCTEA

Line 25	Factor = sum of school aged and adult FTEs
Line 26	Factor = school aged enrolments
Line 27	Factor = sum of 100% of K4-Grade 3 school aged enrolments, 80% of other school aged enrolments and 50% of adult enrolments. Amount = \$993.50 for Factor <=23, \$864.60 for Factor >23 and <=35, \$713.80 for Factor >35 and <=47, and \$547.30 for Factor >47
Line 28	Allocation = If the year-over-year total operating grants (Lines 1 through 27) drops significantly, this is an additional amount to ensure the decline is no greater than 1.5% of last year's amount
Line 30	Factor = total school aged FTEs enrolled in independent schools
Line 31	Factor = total school aged FTEs enrolled in provincial schools
Line 33	Factor = number of school aged enrolments requiring accommodation
Line 34	Factor = sum of factors for lines 30 and 31
Line 35	Factor = total school aged enrolments in schools of all types
Line 36	Factor = total school aged enrolments in schools of all types
Line 37	Factor = factor for Line 33
Line 39	Factor = total number of school aged enrolments in grades 8 through 10 or secondary ungraded
Line 40	Factor = total number of school aged enrolments in grade 11
Line 41	Factor = total number of school aged enrolments in grade 12

**SCHEDULE B**  
**CENTRALIZED EDUCATION SERVICES**

1. Subject to section 2, funds will continue to be provided to FNEC to provide Centralized Education Services to the Participating First Nation.
2. If the Participating First Nation wishes to take responsibility for providing some or all of the Centralized Education Services, it will give notice to FNEC of its intention to do so at least 12 months in advance of the start of the following School Year.
3. Where requested by the Participating First Nation, the Participating First Nation and Canada will engage with FNEC to negotiate and attempt to reach an agreement on the calculation of the amount that will be provided to the Participating First Nation to provide Centralized Education Services, a description of those services that will be provided by the Participating First Nation and those services, if any, that will continue to be provided by FNEC.
4. The Participating First Nation acknowledges that, in determining the calculation under section 3, Canada will not seek to draw down core funds from FNEC.
5. The Parties acknowledge that Canada will provide funding to the First Nations Education Authority to support the School Certification Process, including funding to support the Participating First Nation's participation in that process.
6. It is understood that, where the Participating First Nation provides Centralized Education Services, the Participating First Nation is responsible for ensuring the delivery of Centralized Education Services and paragraph 4.4 of the Agreement applies with respect to any surplus or deficit the Participating First Nation may incur.
7. A Participating First Nation that has assumed responsibility for providing some or all of the Centralized Education Services may provide notice to FNEC that it wishes to return responsibility for some or all of these Centralized Services at least 12 months in advance of the start of the following School Year.
8. Where requested by the Participating First Nation, the Participating First Nation and Canada will engage with FNEC to negotiate and attempt to reach an agreement on the calculation of the amount that will be returned to FNEC to enable FNEC to reassume responsibility for providing Centralized Education Services, a description of those services that will be provided by FNEC and those services, if any, that will continue to be provided by the Participating First Nation.

9. Where Canada makes new funding available relation to Centralized Education Services or other collective programs or services for BC First Nations or BC First Nation students, Canada will ensure that such funding is provided for the benefit of the Participating First Nation.

**SCHEDULE C**  
**FUNDING FOR FIRST NATION SECTORAL EDUCATION GOVERNANCE ACTIVITIES**

1. Canada will provide \$\_\_\_\_\_ to the Participating First Nation to carry out Education governance responsibilities and activities in the Initial School Year.
2. In subsequent School Years, the transfer payment from Canada to the Participating First Nation will include funding to carry out Education governance responsibilities and activities determined in accordance with the funding methodology set out in Schedule D (Methodology for Governance Funding).
3. Education governance responsibilities activities include, among others:
  - a) exercising legislative jurisdiction, including implementing and updating First Nation Education Laws;
  - b) developing, implementing and updating regulatory frameworks;
  - c) developing, implementing and updating policy;
  - d) legislative and executive decision-making;
  - e) oversight and evaluation of Education;
  - f) governance training;
  - g) legal;
  - h) intergovernmental relations;
  - i) appeals and reviews;
  - j) financial management and reporting;
  - k) information sharing; and
  - l) general administrative services.

## SCHEDULE D METHODOLOGY FOR GOVERNANCE FUNDING

"Person Day Amount" in reference to a number of person days at a salary level means that salary amount divided by 260.89 multiplied by the number of person days.

"Percentage of an FTE" in respect of a number of person days means that number multiplied by 0.3833%.

### Part I – Ongoing Governance Amounts

Table 1

Salary Band	Person Days	Salary on April 14, 2019	Person Day Amount	Wage Related Costs @ 25.41%	Non-wage Cost Amount	Percentage of an FTE	Non-wage Amount	Total
MCCF06	36	\$133,750	\$18,456	\$4,690	\$9,869	13.80%	\$1,362	\$24,508
MCCF04	183	\$104,650	\$73,406	\$18,653	\$12,401	70.14%	\$8,699	\$100,757
MCCF04	30	\$104,650	\$12,034	\$3,058	\$9,869	11.50%	\$1,135	\$16,226
AOR32	12	\$87,056	\$4,004	\$1,017	\$9,869	4.60%	\$454	\$5,476
AOR29	6	\$79,470	\$1,828	\$464	\$8,776	2.30%	\$202	\$2,494
Chief	30	\$111,708	\$12,845	\$3,264	\$18,428	11.50%	\$2,119	\$18,228
Councillor	120	\$55,854	\$25,691	\$6,528	\$7,621	46.00%	\$3,505	\$35,724
TOTAL								\$203,414

D.1 Canada shall pay to the Participating First Nation the amount set out in the total calculated in Table 1.

D.2 The salaries set out in column 3 are calculated by using the mean of the highest and lowest salary increments associated with the relevant salary band in the British Columbia public service in the case of provincial salary bands, and by using the methodology provided for in Canada's Collaborative Fiscal Policy for Chief and Councillor salary amounts. These shall be updated annually, using the most recently published salary bands applicable at the start of the following School Year.

D.3 Wage related costs include amounts for benefits (20%), workers compensation premiums (1.91%), professional development (2%) and provision for severance (1.5%).



D.4 Non-wage cost amounts include provisions for travel, communication, materials, supplies and the annualized cost of office equipment as developed in Canada's Collaborative Fiscal Policy.

D.5 In the event that there are no current reference data, the Parties may meet to discuss amendments to Table 1 as part of the process provided for in paragraph 5.1 of this Agreement.

Part II – Incremental Governance Amounts

Table 2  
Incremental Governance Activities

Purpose	Salary Band	Person Days	Salary on April 14, 2019	Person Day Amount
Additional Travel	MCCFO4	6	\$104,650	\$3,018
Secondary Grades	MCCFO4	12	\$104,650	\$6,037
Enrolments from Another First Nation's Reserve	MCCFO4	1	\$104,650	\$503
Total				\$9,558

D.6 Canada shall provide additional Person Day Amounts as set out in Table 2 to reflect:

D.6.1 The additional travel time required for the Participating First Nation's representatives in the governance activities taking place in the Lower Mainland (Vancouver and surrounding areas) or the Capital Region (Victoria and surrounding areas). *[Applicable where travel by the most efficient means from the Community to the Lower Mainland or to the Capital Region exceed 3.75 hours and these amounts can stack.]*

D.6.2 The additional governance activities associated with the delivery of secondary grades, or an adult high school graduation program related to curriculum standards. *[Applicable where the Participating First Nation provides, in its own school, enrolment in Grade 9 or higher (including secondary ungraded), or courses leading to adult high school graduation.]*

D.6.3 The additional governance activities associated with enrolments from another First Nation's reserve. *[Applicable at a rate of one person day for each reserve from which there are enrolments in the First Nation School, other than the Participating First Nation's reserves and these amounts can stack].*

Table 3  
Geographic Amounts\*

Governance Amount	\$203,414
Incremental Amounts	\$9,558
Subtotal	\$212,972
Remoteness Index	0.08
Environmental Index	0.40
Adjustment Rate	5.60%
Geographic Amount	\$11,926

*\* Note: These are examples. Actual indices will vary from one PFN to another. The Incremental Amounts as well as the Remoteness and Environmental Indices will be included for the specific Participating First Nation.*

D.7 Canada shall provide incremental governance funding to reflect geographic circumstances as set out in Table 3, where the Remoteness Index and the Environmental Index are the numbers set out for the Participating First Nation in the latest version of the *Band Classification Manual* of Indigenous Services Canada, and the Adjustment rate is 20% of the Remoteness index, plus 10% of the Environmental Index.

D.8 Where Canada develops a new methodology to reflect funding increments for governance programs for Indigenous groups, the Parties may meet and discuss replacing the methodology reflected in Table 3.

## **SCHEDULE E REPORTING**

1. The Participating First Nation will ensure that data is collected, or provided to it by an agent or contractor delivering Education, and that this data is provided to Canada in accordance with the reports and reporting dates as follows:
  - a) enrolment by grade/level (K-12), broken down by type of school (band operated/independent etc.) and gender; and
  - b) completion rate and number, by type of school and gender.

## EDUCATION REPORTING FOR FISCAL 20XX

### Part I: Eligible Students

EDUCATIONAL INSTITUTION	Enrolment (Headcount)							Enrolment (FTE)						
	First Nation School		BC Independent School		BC Public School		Total	First Nation School		BC Independent School		BC Public School		Total
	Male	Female	Male	Female	Male	Female		Male	Female	Male	Female	Male	Female	
K4 – GRADE 12														
ADULT GRADUATION PROGRAM														

- Complete the Part I table for both the number of students (headcount) and the number of full-time equivalent students (FTE) enrolled from K4 through Grade 12, and in an adult graduation program.
- Students enrolled in K4 programs offered by First Nations should be counted as "K4 – Grade 12" under "First Nation School."
- Students who are not in a specific elementary or secondary grade ("ungraded") and who are not enrolled in an adult graduation program should be counted as K4 – Grade 12.

### Part II: Reciprocal Tuition Students

EDUCATIONAL INSTITUTION	Enrolment (Headcount)			Enrolment (FTE)		
	First Nation School		Total	First Nation School		Total
	Male	Female		Male	Female	
K5 – GRADE 12						

- Complete the Part II table for both the number of students (headcount) and the number of full-time equivalent students (FTE) enrolled from K5 through Grade 12.
- Students who are not in a specific elementary or secondary grade ("ungraded") and who are not enrolled in an adult graduation program should be counted as K5 – Grade 12.

### Part III: Students Residing on Another First Nation's Reserve

Enrolment ([name of other First Nation],) Headcount)			Enrolment ([name of other First Nation], FTE)		
EDUCATIONAL INSTITUTION	First Nation School		Total	First Nation School	
	Male	Female		Male	Female
K4 – GRADE 12					
ADULT GRADUATION PROGRAM					

- Complete the Part III table for both the number of students (headcount) and the number of full-time equivalent students (FTE) enrolled from K4 through Grade 12, and in an adult graduation program.
- Students enrolled in K4 programs offered by First Nations should be counted as "K4 – Grade 12" under "First Nation School."
- Complete the Part III table for each other First Nation that has on-reserve students enrolled at the First Nation School.

### Part IV: Completion Rate

Completion Number and Rate				
EDUCATIONAL INSTITUTION	First Nation School		First Nation School	
	Male (#)	Female (#)	Male (%)	Female (%)
DOGWOOD or FN SCHOOL EQUIVALENT				
ADULT DOGWOOD or FN SCHOOL EQUIVALENT				
SCHOOL LEAVING CERTIFICATE or FN SCHOOL EQUIVALENT				

- The completion rate (%) for the Dogwood is calculated by dividing the number (headcount) of Dogwood completions by the number (headcount) of Grade 12 students and multiplying the result by 100.
- The completion rate (%) for the Adult Dogwood is calculated by dividing the number (headcount) of Adult Dogwood completions by the number (headcount) of students enrolled in the adult graduation program and multiplying the result by 100.
- The completion rate (%) for the School Leaving Certificate is calculated by dividing the number (headcount) of School Completion Certificates received by the number (headcount) of Grade 12 students and multiplying the result by 100.

**SCHEDULE F**  
**ONE-TIME IMPLEMENTATION ACTIVITIES**

1. One-time implementation activities, which may be carried out before or after the Effective Date, include the following:

***Pre-ratification of Education Jurisdiction Agreement***

- a) development of a First Nation Education Law-Making Protocol;
- b) ratification of the Education Jurisdiction Agreement;
- c) development of an Education Law (or Laws) to be enacted on or after the Effective Date; and
- d) communication and engagement on the Education Jurisdiction Agreement and its implementation, including discussion among the leadership of the Participating First Nation and design of the Community Education Authority.

***Following ratification of Education Jurisdiction Agreement***

- e) creation of a registry of the Participating First Nation's laws;
- f) development of processes for input from non-Member students or parents;
- g) establishment of policy;
- h) appointment of officials;
- i) establishment of enforcement processes;
- j) development of Education Co-Management Agreement with the First Nations Education Authority;
- k) establishment and start-up of a Community Education Authority or adaptation of the structure of a Community Education Authority in preparation for transition to jurisdiction;
- l) inter-governmental relations;

- m) implementation of this Agreement and the Education Jurisdiction Agreement, including the development of information systems and systems transition; and
- n) other matters agreed to by the Parties.