

**Recommended Draft for Review**

**FINAL AGREEMENT ON LONG-TERM REFORM  
OF THE FIRST NATIONS CHILD AND FAMILY SERVICES PROGRAM**

This Final Settlement Agreement made on this \_\_\_ day of \_\_\_\_\_, 2024.

AS BETWEEN:

**ASSEMBLY OF FIRST NATIONS**

- and -

**CHIEFS OF ONTARIO**

- and -

**NISHNAWBE ASKI NATION**

- and -

**ATTORNEY GENERAL OF CANADA**

**(representing the Minister of Indigenous Services Canada)**

**TABLE OF CONTENTS**

FINAL AGREEMENT ON LONG-TERM REFORM ..... 1

PREAMBLE..... 1

PART I – PURPOSE ..... 3

PART II – PRINCIPLES ..... 3

PART III – DEFINITIONS ..... 5

PART IV – FUNDING COMMITMENT ..... 13

    A. Initial Five-Year Funding Period (April 1, 2024, to March 31, 2029)..... 13

    B. Second Five-Year Funding Period (April 1, 2029, to March 31, 2034)..... 15

    C. Terms Applicable to Both Funding Periods ..... 15

PART V –THE REFORMED FNCFS FUNDING APPROACH: INITIAL FIVE-YEAR FUNDING PERIOD ..... 16

    A. Methodology..... 16

        Baseline Funding ..... 17

        Top-up Funding for Information Technology, Results, and Emergency ..... 17

        Household Supports Funding..... 18

        Prevention Funding..... 18

        First Nation Representative Services Funding ..... 19

        FNCFS Capital Funding ..... 20

        Post-Majority Support Services Funding ..... 20

        Remoteness Adjustment Funding ..... 21

        Insurance Premiums for FNCFS Service Providers ..... 21

        Inflation ..... 21

        Population ..... 22

    B. Allocation..... 22

    C. First Nations planning..... 26

    D. Discussions on regional modifications ..... 27

    E. FNCFS Funding Mechanism ..... 27

    F. Transition to the Reformed FNCFS Funding Approach..... 28

        April 1, 2024 to March 31, 2025 ..... 28

        April 1, 2025-March 31, 2026..... 30

        From April 1, 2026, Onward ..... 33

**Recommended Draft for Review**

- Support for FNCFS Services Providers in the Transition to the Reformed FNCFS Funding Approach..... 33
- G. Reform of Federal-Provincial and Federal-Yukon Funding Agreements ..... 33
- H. Application of the 1965 Agreement in Ontario..... 35
- I. Information Technology, Results, and Emergency Funding in Ontario ..... 36
- J. Funding for Non-Agency First Nations ..... 37
- K. New FNCFS Agencies and FNCFS Agency Transitions within the Reformed FNCFS Program ..... 38
- PART VI –THE REFORMED FNCFS FUNDING APPROACH: SECOND FIVE-YEAR FUNDING PERIOD ..... 39
- PART VII –THE REFORMED FNCFS FUNDING APPROACH: FOLLOWING THE EXPIRY OF THE TERM OF THIS FINAL SETTLEMENT AGREEMENT ..... 40
- PART VIII – MEASURING THE PERFORMANCE OF THE REFORMED FNCFS PROGRAM..... 40
- PART IX – HOUSING FUNDING ..... 42
- PART X – NATIONAL AND REGIONAL SECRETARIATS ..... 43
  - A. National Secretariat..... 43
    - Function ..... 43
    - Governance..... 44
    - Data Inputs and Management..... 45
  - B. Regional Secretariats..... 45
- PART XI – REMOTENESS RESEARCH AND RELATED ITEMS..... 46
- PART XII – FIRST NATIONS EXERCISING INHERENT JURISDICTION OVER CHILD AND FAMILY SERVICES..... 49
- PART XIII – AGENCY ACCOUNTABILITY TO FIRST NATIONS IN RELATION TO THE REFORMED FNCFS PROGRAM ..... 49
  - Planning ..... 49
  - Community-Wellness Reporting..... 51
  - ISC Reporting on Compliance..... 53
- PART XIV – GOVERNANCE OF THE REFORMED FNCFS PROGRAM..... 54
  - A. Reform Implementation Committee..... 54
  - B. Systemic Review Committee..... 56
  - C. Technical Advisory Committee..... 57
- PART XV – REFORMED FNCFS PROGRAM ASSESSMENTS ..... 58

**Recommended Draft for Review**

- A. Overview and Timeline..... 58
- B. Purposes and Scope of Program Assessments ..... 58
- C. Selection of the Program Assessment Organization ..... 59
- D. Oversight of the Program Assessments ..... 60
- E. Program Assessment Method and Information Sharing ..... 60
- F. Urgent Circumstances During the Program Assessment Process ..... 61
- G. Program Assessment Reports ..... 62
- H. Reform Implementation Committee’s Program Assessment Opinion..... 63
- I. Canada’s Response to the Reform Implementation Committee’s Program Assessment Opinions ..... 64
- PART XVI – SERVICE PROVIDER FUNDING ADJUSTMENT REQUESTS..... 65
- PART XVII – REFORM OF ISC AND SUCCESSOR DEPARTMENTS ..... 66
  - A. Initial Third-Party Evaluation ..... 67
  - B. Work Plan..... 68
  - C. Monitoring ISC Reform..... 69
  - D. Mandatory Training for ISC Employees..... 69
- PART XVIII – INTERIM DISPUTE RESOLUTION..... 71
- PART XIX – DISPUTE RESOLUTION PROCESS..... 72
  - A. Overview ..... 72
    - Types of Disputes ..... 72
    - Jurisdiction of the Dispute Resolution Tribunal ..... 75
    - Principles Applicable to Determination of Disputes ..... 77
    - Nature of Dispute Decisions and Extent of Judicial Intervention and Review ..... 77
    - Enforcement of Dispute Decisions ..... 78
    - Confidentiality..... 78
    - Language ..... 78
    - Communications ..... 78
  - B. Establishment of the Dispute Resolution Tribunal..... 79
    - Establishment of the Dispute Resolution Tribunal..... 79
    - Administration of Dispute Resolution Tribunal..... 79
    - Appointment of Dispute Resolution Tribunal President..... 80
    - Roster of Adjudicators..... 81
    - Mandatory Training- Claimant Dispute Resolution Tribunal ..... 82

**Recommended Draft for Review**

- Dispute Resolution Tribunal Rules of Procedure..... 82
- C. Parties’ Dispute Resolution Process ..... 83
  - Commencement of Parties’ Dispute..... 83
  - Appointment of Adjudication Panel ..... 84
  - Exchange of Parties’ Positions and Documents..... 84
  - Mediation ..... 84
  - Pre-Hearing Meeting and Document Exchange ..... 85
  - Place and Mode of Adjudication..... 86
  - Manner of Proceedings ..... 86
  - Default of a Party ..... 87
  - Settlement..... 87
  - Termination of Proceedings ..... 88
  - Correction of Parties’ Dispute Decision..... 88
- D. Claimant Dispute Process ..... 89
  - Shared Objectives..... 89
  - Navigators ..... 89
  - Commencement of Claimant Dispute..... 90
  - Duty Counsel..... 90
  - Claimant Participation Costs and Legal Fees..... 90
  - Requirement of Written Confirmation ..... 91
  - Appointment of Adjudicator or Adjudication Panel ..... 91
  - Mediation ..... 92
  - Similar Claimant Disputes ..... 92
  - Interim Claimant Dispute Decision ..... 93
  - Place and Mode of Adjudication, Manner of Proceedings, and Role of Cultural Officer ..... 93
  - Scope of Claimant Dispute Adjudication ..... 94
  - Expert Appointed by Adjudicator or Adjudication Panel ..... 95
  - Default of a Party ..... 95
  - Settlement..... 96
  - Claimant Dispute Decisions ..... 96
  - Termination of Proceedings ..... 97
  - Correction and Interpretation of Claimant Dispute Decision..... 97

**Recommended Draft for Review**

Dispute Resolution Tribunal Process – Claimant Feedback ..... 97

PART XX – INFORMATION SHARING AND PRIVACY ..... 97

PART XXI – ENTIRE AGREEMENT ..... 98

PART XXII – CONFIDENTIALITY AND RETENTION ..... 98

PART XXIII – TERMINATION OF AGREEMENT ..... 98

PART XXIV – COOPERATION AND APPROVAL ..... 99

    Cooperation of First Nations Leadership and Tribunal Approval..... 99

    Public Statements and Announcements ..... 99

    Funding of Legal Costs ..... 100

PART XXV – ENFORCEMENT OF FUNDING COMMITMENT ..... 100

PART XXVI – SUPERSEDING TRIBUNAL’S ORDERS ..... 100

PART XXVII – GENERAL PROVISIONS ..... 101

PART XXVIII – APPENDICES ..... 102

APPENDICES

## Recommended Draft for Review

### **FINAL SETTLEMENT AGREEMENT ON LONG-TERM REFORM OF THE FIRST NATIONS CHILD AND FAMILY SERVICES PROGRAM**

*“While we cannot turn back time to undo the harm and abuse that Indigenous youth and children have experienced in Child Welfare, we can use our hindsight to prevent harm and abuse from happening to another generation of Indigenous youth and children.”*

Youth in Care Advisors

*“The way forward is going to be different from the one we had up until this moment. It rests a lot with parents and grandparents and that is why it is important... to mitigate kids being taken away and placing them in other foreign situations or challenging situations.”*

Chief Robert Joseph, testimony before the Canadian Human Rights Tribunal, 2014.

### **PREAMBLE**

**RECOGNIZING** the harms experienced by First Nations citizens in the Indian Residential School system, the Indian Day Schools, and the Sixties Scoop, which had a profound adverse effect on their identities, well-being, health, and, in particular, has damaged their traditional child rearing practices and parenting skills, intergenerationally;

**AND RECOGNIZING** the findings of the Canadian Human Rights Tribunal (the “Tribunal”) in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 (“**2016 CHRT 2**”) that Canada’s underfunding of the First Nations Child and Family Services (“FNCFS”) Program perpetuated the historical disadvantage suffered by First Nation people as a result of the Indian Residential School system; and the Tribunal finding in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2019 CHRT 39, that unnecessarily removing a child from their family and community is a serious harm causing great suffering to that child, family and the community and that the removal of children from their families and communities is traumatic and causes great pain and suffering to them;

**WHEREAS** Canada designed and implemented the First Nations Child and Family Services (“FNCFS”) Program in 1989 to fund the provision of child welfare services to First Nations children, youth, and families ordinarily resident on reserve and in Yukon;

## Recommended Draft for Review

**AND WHEREAS** in 2016 CHRT 2, the Tribunal found that the FNCFS Program's funding model was discriminatory, and in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 16, ordered Canada to reform its discriminatory policies, procedures, and agreements and to prevent the future recurrence of discrimination. The Tribunal also found that Canada's implementation of the 1965 Agreement was discriminatory and ordered Canada to reform the 1965 Agreement in 2016 CHRT 2;

**AND WHEREAS** in 2016 CHRT 2, the Tribunal found that Canada's provision of the FNCFS Program and implementation of the 1965 Agreement were discriminatory with respect to remote First Nation communities. In *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2017 CHRT 7, the Tribunal adopted the terms agreed to by Nishnawbe Aski Nation and Canada for the development of a remoteness quotient that can be used to address deficiencies in remoteness funding;

**AND WHEREAS** in 1965, Canada and Ontario entered into *The Memorandum of Agreement Respecting Welfare Programs for Indians of 1965* (the "**1965 Agreement**") for the provision of child and family services to be extended to First Nations people on reserve in Ontario;

**AND WHEREAS** the Parties commissioned research on funding models and performance measurement frameworks to construct and design the necessary evidence-informed long-term reforms for the FNCFS Program for the purposes of addressing the Tribunal's findings;

**AND WHEREAS** the reforms aim to advance the holistic well-being of First Nations children and families, as well as their connection to their lands, cultures, languages, and communities;

**AND WHEREAS** the reforms are informed by First Nations-led research, are culturally appropriate, and emphasize prevention, substantive equality, and the best interests and needs of First Nations children, youth, young adults, and families. The reforms are designed to take into account the unique circumstances of each First Nation, including their historical, cultural, and geographical needs and circumstances;

**AND WHEREAS** the reforms include the monitoring of well-being and the consideration of the many contextual factors that affect children, families, and communities, such as income, poverty, poor and inadequate housing, racism including systemic racism, and other structural drivers that increase the likelihood of contact with child protection services;

**AND WHEREAS** while the reforms are formulated to be flexible to ensure that discrimination shall not recur, to address the humanitarian crisis of the



## **Recommended Draft for Review**

overrepresentation of First Nations children in care, prevention funding is not intended to be re-allocated by FNCFS Agencies to cover costs related to protection services, except for least disruptive measures;

**AND WHEREAS** the accountability structure built into the FNCFS Program is intended to ensure FNCFS Agencies are accountable to the First Nations governments and communities they serve, while fostering positive First Nation-FNCFS Agency relationships;

**AND WHEREAS** the Parties agree that this Final Settlement Agreement is a comprehensive settlement and a record of the necessary steps and actions, as well as the embodiment of the Parties' best efforts, to eliminate the discrimination found by the Tribunal in relation to the FNCFS Program and prevent its recurrence;

**AND WHEREAS** Canada has committed to fund the Reformed FNCFS Program for a period of ten (10) fiscal years commencing April 1, 2024, and ending March 31, 2034;

**NOW THEREFORE**, in consideration of the mutual covenants set out herein, the Parties have entered into this Final Settlement Agreement as follows:

### **PART I – PURPOSE**

1. The Parties enter into this Final Settlement Agreement to reflect their agreement to long-term reform of the FNCFS Program, which is intended to eliminate the discrimination identified by the Tribunal in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2 and all subsequent rulings by the Tribunal and to prevent its recurrence. This Final Settlement Agreement details the reforms to be made by Canada.

### **PART II – PRINCIPLES**

2. The principles guiding the Reformed FNCFS Program to be implemented by way of this Final Settlement Agreement shall include:
  - (a) the cultural safety and well-being of First Nations children, youth, young adults, and families;
  - (b) substantive equality;

## Recommended Draft for Review

- (c) addressing the needs of First Nations children, youth, young adults, and families;
- (d) the best interests of children;
- (e) prioritizing keeping children in the home;
- (f) holistic and culturally-informed programming, having regard for the current realities of distinct First Nations, including historical and contemporary disadvantage and contextual differences, including remoteness;
- (g) recognition of Indigenous legal traditions and principles, if applicable;
- (h) addressing the Structural Drivers that place First Nations children, youth, and families at higher risk of involvement with the child welfare system;
- (i) respect for the inherent right of self-government, which is recognized and affirmed by section 35 of the *Constitution Act, 1982*, and which includes jurisdiction, in relation to child and family services;
- (j) respect for the right to self-determination of Indigenous peoples, which is a right recognized and affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (the “**Declaration**”);
- (k) that the *United Nations Declaration on the Rights of Indigenous Peoples Act* affirms the *Declaration* as a universal international human rights instrument with application in Canadian law and also provides a framework for the Government of Canada’s implementation of the *Declaration*;
- (l) the rights in the *Declaration*, including the rights of children and youth, and the *United Nations Convention on the Rights of the Child*, including the right to be free from discrimination;
- (m) accountability of FNCFS Service Providers and provincial and Yukon governments to the First Nation governments they serve ; and
- (n) guidance from First Nations-led and/or endorsed evidence.

## Recommended Draft for Review

### PART III – DEFINITIONS

3. The following definitions apply to this Final Settlement Agreement:
- (a) “**1965 Agreement**” means *The Memorandum of Agreement Respecting Welfare Programs for Indians* entered into between Ontario and Canada, as amended.
  - (b) “**Adjudication Panel**” means a panel of three (3) Adjudicators appointed by the Dispute Resolution Tribunal President for the purpose of adjudicating a Dispute.
  - (c) “**Adjudicator**” means an adjudicator selected by the Dispute Resolution Tribunal President and appointed to the Roster of Adjudicators, who serve as adjudicators of all Disputes.
  - (d) “**adjusted for inflation**” has the meaning as set out in paragraph 34.
  - (e) “**Administrative Team**” means an administrative team consisting of employees of ISC and established by ISC in consultation with the President to support the operation of the Transitional Dispute Resolution Tribunal before the enabling Legislation is brought into force.
  - (f) “**Administrative Tribunals Support Service of Canada**” is the portion of the federal public administration established by the *Administrative Tribunals Support Service of Canada Act*.
  - (g) “**AFN**” means the Assembly of First Nations.
  - (h) “**Agreement-in-Principle**” means the Agreement-in-Principle on Long-Term Reform of the First Nations Child and Family Services Program and Jordan’s Principle executed between the AFN, Caring Society, Canada, COO and NAN dated December 31, 2021.
  - (i) “**Baseline Funding**” means the funding component described in paragraphs 16 and 17.
  - (j) “**Canada**” means His Majesty the King in Right of Canada, as represented by the Minister of Indigenous Services.

## Recommended Draft for Review

- (k) "**Caring Society**" means the First Nations Child and Family Caring Society of Canada.
- (l) "**child**" means a First Nations person who, under applicable provincial or territorial law, is under the age at which an individual ceases to be a child.
- (m) "**Claimant**" means a FNCFS Service Provider that commences a Claimant Dispute.
- (n) "**Claimant Dispute**" has the meaning as set out in paragraphs 235 and 236.
- (o) "**Claimant Dispute Decision**" means any decision of an Adjudicator or Adjudication Panel on the substance of a Claimant Dispute submitted to it.
- (p) "**Claimant Dispute Notice**" means the formal, written notice to commence a Claimant Dispute as described at paragraph 329.
- (q) "**Claimant Dispute Resolution Process**" has the meaning given to such term in Part XIX (D).
- (r) "**COO**" means the Chiefs of Ontario.
- (s) "**Cultural Officer**" means the person employed by the Administrative Tribunals Support Service of Canada who is charged with making recommendations to the President, an Adjudicator, or an Adjudication Panel related to aspects of a Claimant Dispute Process with the goal of facilitating the resolution of the Claimant Dispute in a manner that is culturally appropriate, accessible, and in accordance with this Final Settlement Agreement.
- (t) "**days**" means calendar days.
- (u) "**Departmental Results Framework**" means the framework for each federal government department which tracks expected results and indicators related to departmental core responsibilities.
- (v) "**Departmental Results Report**" means the annual report that provides detail on results achieved against each federal government department's plans, priorities, and expected results.

## Recommended Draft for Review

- (w) “**Directive on Transfer Payments**” means a directive of Canada which establishes mandatory operational requirements for the management of federal transfer payments and transfer payment programs.
- (x) “**Dispute**” means a Parties’ Dispute or a Claimant Dispute.
- (y) “**Dispute Resolution Process**” means the Parties’ Dispute Resolution Process or the Claimant Dispute Resolution Process, as the case may be.
- (z) “**Dispute Resolution Tribunal**” is the entity consisting of the President and Adjudicators as assigned individually or in panels to hear disputes, referred to in paragraphs 240 and 241.
- (aa) “**Dispute Resolution Tribunal Rules of Procedure**” or “**Rules of Procedure**” means the rules to be established by the President further to paragraph 281 for the Dispute Resolution Tribunal.
- (bb) “**Eminent First Nations Person**” means the person appointed by the Parties to assist in the interim dispute resolution process.
- (cc) “**enabling Legislation**” means legislation to be enacted by Parliament to establish and enable the Dispute Resolution Tribunal and all supporting mechanisms.
- (dd) “**Expert Advisory Committee**” means the committee described in PART XVII – REFORM OF ISC AND SUCCESSOR DEPARTMENTS.
- (ee) “**Final Settlement Agreement**” means this Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program.
- (ff) “**First Nation**” means a “band” as defined in subsection 2(1) of the *Indian Act*, RSC, 1985, C I-5, as amended.
- (gg) “**First Nations Information Governance Centre**” means the national not-for-profit corporation working in the field of First Nations data sovereignty.
- (hh) “**First Nation Representatives**” (sometimes referred to as Band Representatives in Ontario) are advocates for First Nations in matters relating to the delivery of services to their citizens by a child welfare agency, as further described in paragraph 24.

## Recommended Draft for Review

- (ii) **“First Nation Representative Services”** (sometimes referred to as Band Representative Services in Ontario) means the services delivered by a First Nation Representative, which have been funded by the FNCFS Program in Ontario since 2018 and in all provinces and Yukon since 2022.
- (jj) **“fiscal year”** means Canada’s fiscal year, being a 12-month period beginning on April 1 of one (1) year and ending on March 31 of the following year.
- (kk) **“FNCFS”** means First Nations child and family services.
- (ll) **“FNCFS Agency”** means an agency established by and affiliated with one or more First Nations and delegated or authorized pursuant to provincial or other authorities to provide legislated child welfare services.
- (mm) **“FNCFS Funding Mechanism”** means the manner in which ISC shall provide FNCFS Service Providers with multi-year funding, as further described in Part V (E).
- (nn) **“FNCFS Program”** means the First Nations Child and Family Services Program, provided by the Minister as authorized by the *Department of Indigenous Services Act*, SC 2019, c 29, or any successor legislation, and which provides funding for and direction in the delivery of child and family services to support the safety and well-being of First Nations children, youth, and families ordinarily resident of a reserve, or any successor federal program or policy.
- (oo) **“FNCFS Service Provider”** means a First Nation, an FNCFS Agency, or an entity authorized by a First Nation to deliver services and to receive funding under the Reformed FNCFS Program. For clarity, provincial and Yukon governments are not FNCFS Service Providers.
- (pp) **“Index of Remoteness”** means the Statistics Canada Index of Remoteness that quantifies a community’s remoteness according to: (1) the proximity to all population centers within a given radius that permits daily accessibility; and (2) the population size of each population center, used as a proxy of service availability.

## Recommended Draft for Review

- (qq) “**Indian Registration System**” means the system maintained by Canada that contains the list of persons registered as Indians under the *Indian Act*, RSC, 1985, C I-5, as amended.
- (rr) “**Initial Five-Year Funding Period**” means the period of five (5) fiscal years, beginning on April 1, 2024 and ending on March 31, 2029.
- (ss) “**Initial Program Assessment**” means the process outlined in PART XV – REFORMED FNCFS PROGRAM ASSESSMENTS.
- (tt) “**ISC**” means Indigenous Services Canada and any successor department thereto.
- (uu) “**least disruptive measures**” (sometimes referred to as least intrusive measures or family enhancement services) means actions or services mandated in provincial or Yukon legislation that seek to prevent the separation of children from their families or reunify children with their families and ensure that supports are in place to mitigate risk of child maltreatment or harm.
- (vv) “**Measuring to Thrive Framework**” means the set of indicators developed by the Institute of Fiscal Studies and Democracy (“**IFSD**”) that is intended to capture child, family, and community well-being in First Nations, and introduced by the IFSD in *Funding First Nations child and family services (FNCFS): A performance budget approach to well-being* dated July 2020.
- (ww) “**NAN**” means Nishnawbe Aski Nation.
- (xx) “**NAN-Canada Remoteness Quotient Table**” means the body jointly constituted by NAN and Canada to address remoteness issues, including developing a First Nations-sighted, evidence-based, statistical method to estimate the increased costs associated with remoteness in the funding and provision of child and family services to First Nations.
- (yy) “**NARC**” means the National Assembly of Remote Communities, as established and structured by regional organizations, including NAN, that represent and serve remote communities and that have executed the NARC Mission Statement.

## Recommended Draft for Review

- (zz) **“NARC-Canada Remoteness Table”** means a body to be jointly constituted by NARC and Canada to address remoteness issues, including accounting for the increased costs associated with remoteness, at a national level.
- (aaa) **“National Secretariat”** means the National First Nations Child and Family Services Secretariat, being the First Nations-led, apolitical, not-for-profit corporation **established by the Parties** for the purpose of data collection, synthesis, and best practice development.
- (bbb) **“Non-Agency First Nation”** means a First Nation not affiliated with an FNCFS Agency.
- (ccc) **“Participating Parties”** means the parties to a Parties’ Dispute.
- (ddd) **“Parties”** **means the AFN, Canada, COO, and NAN.**
- (eee) **“Parties’ Dispute”** has the meaning as set out in paragraphs 230 and 231.
- (fff) **“Parties’ Dispute Decision”** means any decision of an Adjudication Panel on the substance of a Parties’ Dispute.
- (ggg) **“Parties’ Dispute Notice”** means the formal, written notice to commence a Parties’ Dispute as described in paragraphs 286 and 288.
- (hhh) **“Parties’ Dispute Resolution Process”** has the meaning given to such term in Part XIX (C).
- (iii) **“President”** means the **Dispute Resolution Tribunal President, being the person appointed by the Governor in Council** who has supervision over and direction of the work of the Transitional Dispute Resolution Tribunal and Dispute Resolution Tribunal.
- (jjj) **“Program Assessment(s)”** means the process outlined in PART XV – REFORMED FNCFS PROGRAM ASSESSMENTS and includes the Initial Program Assessment and Second Program Assessment.
- (kkk) **“Program Assessment Organization”** means the organization(s) **selected by the AFN to conduct the Program Assessments** by way of separate requests for proposals pursuant to paragraph 167.



## Recommended Draft for Review

- (lll) **“Program Assessment Reports”** means the reports outlined in Part XV (G).
- (mmm) **“Reform Implementation Committee”** means the committee composed of representatives from the Parties to oversee the implementation of the Reformed FNCFS Program, as further described in Part XIV (A).
- (nnn) **“Program Assessment Opinions”** has the meaning given to such term in paragraph 185 and includes the **“Initial Program Assessment Opinion”** and the **“Second Program Assessment Opinion”**.
- (ooo) **“Reformed FNCFS Funding Approach”** means the multi-year funding structure which is intended to eliminate the discrimination found by the Tribunal and prevent its recurrence, by addressing the needs of First Nations children, youth, families and communities, as further described in PART V –THE REFORMED FNCFS FUNDING APPROACH: INITIAL FIVE-YEAR FUNDING PERIOD and PART VI –THE REFORMED FNCFS FUNDING APPROACH: SECOND FIVE-YEAR FUNDING PERIOD.
- (ppp) **“Reformed FNCFS Program”** means the FNCFS Program on and after the implementation of the Reformed FNCFS Funding Approach.
- (qqq) **“Regional Secretariats”** means the entities established to support the work of the National Secretariat, as described further in paragraph 117.
- (rrr) **“Registrar”** means the Dispute Resolution Tribunal Registrar or the Chief Administrator of the Administrative Tribunals Support Service of Canada, when the enabling Legislation is in force and if it so provides.
- (sss) **“Remoteness”** means a variable factor measured on a continuum and describes the lived circumstances of First Nations communities for whom issues of access (by road network, by ice road only, by air only, or otherwise), geography and context exacerbate challenges faced by all First Nations, including by increasing the costs associated with child and family services. Remoteness is generally associated with geographic distance from, and access to, service centres (often defined on the basis of population size and density), which affects the costs of

## Recommended Draft for Review

shipping goods as well as costs related to personnel, including travel, and living costs.

- (ttt) **“Roster of Adjudicators”** means the roster of Adjudicators established and maintained by the **President** who are available to adjudicate Disputes.
- (uuu) **“RQAF”** means the Remoteness Quotient Adjustment Factor methodology, being the result **of a statistical regression model**, as developed at the NAN-Canada Remoteness Quotient Table, which estimates the amount of additional funding required to account for the **increased costs incurred by a particular FNCFS Service Provider due to remoteness.**
- (vvv) **“Second Five-Year Funding Period”** means the period of five (5) fiscal years following the Initial Five-Year Funding Period, beginning on April 1, 2029 and ending on March 31, 2034.
- (www) **“Service Provider Funding Adjustment Request”** means a request made by an FNCFS Service Provider to ISC pursuant to paragraphs 191 and 192.
- (xxx) **“small agency costs”** means costs reimbursed pursuant to *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2018 CHRT 4 to small FNCFS Agencies, which are defined as FNCFS Agencies that serve a total on-reserve population aged 0 to 18 years of less than 1,000.
- (yyy) **“Structural Drivers”** means factors that are largely out of a caregiver’s control which contribute to the over-representation of First Nations children and youth in the **child welfare system, including poverty, poor housing, racism – including systemic racism – and intergenerational trauma.**
- (zzz) **“Systemic Review Committee”** means the **subcommittee of the Reform Implementation Committee** formed pursuant to paragraph 153.

## Recommended Draft for Review

- (aaaa) “**Technical Advisory Committee**” means the subcommittee of the Reform Implementation Committee formed pursuant to paragraph 157.
- (bbbb) “**Term**” means the period beginning on April 1, 2024, and ending on March 31, 2034.
- (cccc) “**Terms and Conditions**” means the terms and conditions of the Reformed FNCFS Program, commonly known as the First Nations Child and Family Services **Terms and Conditions**.
- (dddd) “**Transitional Dispute Resolution Tribunal**” means the entity that shall hear Disputes **before the enabling Legislation** comes into in force.
- (eeee) “**Tribunal**” means the Canadian Human Rights Tribunal.

## **PART IV – FUNDING COMMITMENT**

4. Canada shall provide funding in the amount of \$47.823 billion for the Reformed FNCFS Program for a period of ten fiscal years commencing April 1, 2024, and ending March 31, 2034, and for the housing commitment set out in Part IX.

### **A. Initial Five-Year Funding Period (April 1, 2024, to March 31, 2029)**

5. Canada shall provide \$24.477 billion to support the implementation of the Reformed FNCFS Program for the Initial Five-Year Funding Period and the housing commitment set out in Part IX.
6. Canada shall not decrease the total funding commitment under the Reformed FNCFS Funding Approach **within** the Initial Five-Year Funding Period.
7. The Parties agree that Canada’s obligation to fund the Reformed FNCFS Program during the Initial Five-Year Funding Period **shall be limited to the maximum amount set out in paragraph 5**, except for the following obligations to:

## Recommended Draft for Review

- (a) fund approved Service Provider Funding Adjustment Requests, or any Dispute Decisions in relation thereto, subject to judicial review and any appeals thereof;
  - (b) adjust funding for inflation and population, where such adjustment is specified in Part V (A);
  - (c) fund certain activities at their actual costs until March 31, 2025, as specified in subparagraphs 52(a), 52(e)(ii), 52(f) and 52(g);
  - (d) fund the reasonable start-up costs of new FNCFS Agencies, as specified at paragraph 85;
  - (e) fund First Nations that become eligible under the Reformed FNCFS Program; and
  - (f) reimburse provincial and Yukon governments for child and family services expenditures under federal-provincial and federal-Yukon agreements.
8. The amount identified in paragraph 5 consists of funding to support:
- (a) the Reformed FNCFS Funding Approach, including in the transition years of fiscal years 2024-2025 and 2025-2026;
  - (b) the National Secretariat and the Regional Secretariats;
  - (c) the participation of the AFN, COO, and NAN in the Reform Implementation Committee;
  - (d) the Technical Advisory Committee;
  - (e) the monitor of ISC reform;
  - (f) the Remoteness Secretariat;
  - (g) the National Assembly of Remote Communities;
  - (h) the NAN-Canada Remoteness Quotient Table;
  - (i) the establishment, operation, and administration of the Dispute Resolution Process and other costs as provided for in this Final Settlement Agreement for the Dispute Resolution Process, including, but not limited to, costs related to translation and duty counsel;

## Recommended Draft for Review

- (j) research conducted or funded by ISC to advance the purposes and principles of this Final Settlement Agreement, including research related to the cultural humility of ISC employees;
- (k) internal legal costs incurred by ISC in the administration of the FNCFS Program; and
- (l) the housing commitment set out in Part IX.

### B. Second Five-Year Funding Period (April 1, 2029, to March 31, 2034)

9. For the Second Five-Year Funding Period, Canada shall provide annual funding for the Reformed FNCFS Program in an amount not less than the funding provided in the fiscal year 2028-2029, subject to any upward adjustments adopted further to the Initial Program Assessment.
10. Canada agrees that additional investments over and above the funding commitment in paragraph 9 may be required in order to maintain long-term reform of the Reformed FNCFS Program as outlined in this Final Settlement Agreement, informed by measures including but not limited to, the program assessment process, Service Provider Funding Adjustment Requests, and future First Nations-authorized research.

### C. Terms Applicable to Both Funding Periods

11. Canada shall not apply any amount identified in paragraphs 5 or 9 to its own departmental expenses of any kind, except for the departmental expenses identified in paragraphs 8(i), (j) and (k). Departmental expenses include but are not limited to expenses for human resources, administrative costs, internal costs, or other services retained or procured by Canada not expressly provided for in this Final Settlement Agreement.
12. For greater clarity, such departmental expenses include expenses for:
  - (a) Secretariat support for the Reform Implementation Committee;
  - (b) The contract for a Program Assessment Organization(s);
  - (c) The Expert Advisory Committee and the independent expert third-party evaluation, described in paragraphs 204 to 215;

## Recommended Draft for Review

- (d) Cultural humility training, described in paragraph 219; and
  - (e) Legal fees of the AFN, COO, and NAN claimed under paragraph 382.
13. Canada shall not reallocate any of the amounts identified in paragraphs 5 or 9 to any purposes beyond those provided for under the terms of this Final Settlement Agreement, except as provided for expressly herein.
14. ISC shall seek authority to place the funding committed for the Initial Five-Year Funding Period and Second Five-Year Funding Period in one or more special purpose allotments. Each fiscal year, ISC may seek authority to have any such funding that remains unexpended by ISC at the end of the fiscal year carried forward into the following fiscal year, subject to Parliamentary appropriation. For greater clarity, ISC may seek to have any funding for any initiatives that remains unexpended at the end of the Initial Five-Year Funding Period to be carried forward into the Second Five-Year Funding Period.

## **PART V –THE REFORMED FNCFS FUNDING APPROACH: INITIAL FIVE-YEAR FUNDING PERIOD**

### **A. Methodology**

15. The Reformed FNCFS Funding Approach for the Initial Five-Year Funding Period beginning on April 1, 2024, and ending on March 31, 2029, shall consist of:
- (a) Baseline Funding;
  - (b) Top-up funding, defined as a percentage of Baseline Funding, for:
    - i. Information technology,
    - ii. Results,
    - iii. Emergency;
  - (c) Household supports funding;
  - (d) Prevention funding;
  - (e) First Nation Representative Services funding;

## **Recommended Draft for Review**

- (f) FNCFS capital funding;
- (g) Post-majority support services funding; and
- (h) Remoteness adjustment funding.

### *Baseline Funding*

16. Baseline Funding, except in Ontario, shall be the sum of:
- (a) Operations and maintenance expenditures reimbursed to provincial and Yukon governments under applicable federal-provincial and federal-Yukon agreements for the purpose of providing child and family services to Non-Agency First Nations; and
  - (b) In fiscal year 2025-2026, expenditures by FNCFS Agencies for operations and maintenance in fiscal year 2022-2023, including actual expenditures for intake and investigations, legal fees, building repairs, and child service purchase. In subsequent years, Baseline Funding for FNCFS Agencies shall be upwardly adjusted for inflation and population growth and shall not be reduced.
17. In Ontario, Baseline Funding shall be the sum of:
- (a) Operations and maintenance expenditures reimbursed to the Government of Ontario by Canada under the 1965 Agreement for the applicable fiscal year, funding for which is provided to FNCFS Agencies by the Government of Ontario; and
  - (b) An additional amount provided directly to FNCFS Agencies by ISC equal to:
    - (i) In fiscal year 2025-2026, actual expenditures by FNCFS Agencies in Ontario for intake and investigation, legal fees, and building repairs for fiscal year 2022-2023; or
    - (ii) In subsequent fiscal years, the amount in (i) upwardly adjusted for inflation and population growth, and not reduced.

### *Top-up Funding for Information Technology, Results, and Emergency*

18. Funding for information technology shall be equal to 6% of annual Baseline Funding. This funding shall support information technology needs related to

## Recommended Draft for Review

the implementation of the Reformed FNCFS Program. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities.

19. Funding for results shall be equal to 5% of annual Baseline Funding. This funding shall support the implementation of the performance measurement framework and related indicators as outlined in paragraph 99 and Appendix 2 and paragraph 139, most notably for capturing and reporting data related to First Nations well-being. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities.
20. Funding for emergency shall be equal to 2% of annual Baseline Funding. This funding shall support responses to unanticipated circumstances affecting or related to the provision of the Reformed FNCFS Program. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities.

### *Household Supports Funding*

21. Funding for household supports shall be \$25.5 million in fiscal year 2024-2025, adjusted for inflation in subsequent years. This funding shall support First Nations in meeting the basic needs of families, particularly those needs that, if left unmet, could lead to children being placed in care. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities.

### *Prevention Funding*

22. Total funding for prevention services in fiscal year 2024-2025 shall be calculated by multiplying the amount of \$2,603.55 by the total population of all First Nations eligible to receive funding under the Reformed FNCFS Program, according to the approach for determining population as set out in paragraph 35, plus the amount necessary to provide to each First Nation a minimum of \$75,000. These amounts shall be adjusted for inflation in



## Recommended Draft for Review

subsequent years. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities, subject to the transition provisions for fiscal year 2024-2025 set out in subparagraph 52(h)(i).

23. The prevention funding attributable to an individual First Nation shall be calculated by multiplying its population as set out in paragraph 35 by the per capita amount for the applicable fiscal year.

### *First Nation Representative Services Funding*

24. First Nation Representatives are advocates for First Nations in matters relating to the delivery of services to their citizens by a child welfare agency. The roles and responsibilities of First Nation Representatives are defined by the First Nation, considering the unique needs of its citizens and the duties of such representatives as provided for in applicable provincial, territorial, and federal child welfare legislation. First Nations Representative Services funding is intended to:

- (a) support the cultural needs of First Nations children, youth, and families;
- (b) support connecting First Nations children, youth, and families with the lands, languages, cultures, practices, customs, traditions, ceremonies and knowledge of their First Nation and helping families access supports;
- (c) support repatriation of children to their communities; and
- (d) ensure that the rights of First Nations children and youth and the rights of First Nations are respected in the child and family services system.

25. For First Nations except those in Ontario, total funding for First Nation Representative Services in fiscal year 2024-2025 shall be calculated by multiplying the amount of \$294.72 by the total population of all First Nations eligible to receive funding under the Reformed FNCFS Program, according to the approach for determining population as set out in paragraph 35, then adding to that product the amount necessary to provide to each First Nation

## Recommended Draft for Review

a minimum of \$75,000. This amount shall be adjusted for inflation in subsequent years. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities, subject to the transition provisions for fiscal year 2024-2025 set out in subparagraph 52(h)(i).

26. In fiscal year 2025-2026, for First Nations in Ontario, ISC shall provide funding such that each First Nation is funded for First Nation Representative Services at its highest annual amount of First Nation Representative Services funding received over four fiscal years, from fiscal year 2019-2020 to fiscal year 2022-2023. In subsequent years of the Initial Five-Year Funding Period, ISC shall provide funding for First Nation Representative Services to each First Nation in Ontario equal to funding in the preceding year, adjusted for inflation and population growth. This funding shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities.

### *FNCFS Capital Funding*

27. In the Initial Five-Year Funding Period, ISC shall provide up to \$1.92 billion to FNCFS Service Providers for capital assets that support the delivery of the Reformed FNCFS Program's funded services and activities. ISC shall make such funding available to support needs assessments and feasibility studies, the purchase and construction of capital assets, the repair and renovation of existing buildings, and the lifecycle costs of owned assets.

### *Post-Majority Support Services Funding*

28. In the Initial Five-Year Funding Period, ISC shall provide \$795.8 million for post-majority support services to support First Nations youth aging out of care and young adults formerly in care in the transition to adulthood and independence.
29. Eligible recipients of these services are those who were ordinarily resident on reserve or in Yukon at the time they were taken into care, regardless of where they have been placed in care, or those who are now ordinarily resident on reserve or in Yukon or are taking active steps to reside on reserve

## **Recommended Draft for Review**

or in Yukon, up to their 26th birthday or to the applicable age as defined in provincial or Yukon legislation, whichever is greater.

30. Canada shall not:
- (a) require First Nations to confirm that an eligible youth or young adult has sought funding or support from other sources before providing post-majority support services to the youth or young adult; or
  - (b) prohibit First Nations from providing funding to an eligible youth or young adult in relation to a particular activity because that youth or young adult is receiving other funding or support in relation to that activity, provided that the sum of the funding provided by the First Nation and the other funding or support is no more than 100% of the activity's total cost.
31. The amount of \$795.8 million includes an amount for inflation and shall not be further adjusted for inflation. However, this amount shall be upwardly adjusted in the manner set out in paragraph 32 and Appendix 12 to account for the increased costs of delivering services in remote communities, subject to the transition provisions for fiscal year 2024-2025 set out in subparagraph 52(h)(iii).

### *Remoteness Adjustment Funding*

32. Where a First Nation's 2021 Index of Remoteness score is 0.40 or greater, ISC shall upwardly adjust the funding of the First Nation and/or its affiliated FNCFS Agency for those components of the Reformed FNCFS Funding Approach that are to be adjusted for remoteness. ISC shall use the RQAF to make that adjustment. The calculation for the adjustment is detailed in Appendix 12.

### *Insurance Premiums for FNCFS Service Providers*

33. In addition to other eligible expenses, insurance premiums for FNCFS Service Providers shall be an eligible expense for funding provided under the Reformed FNCFS Funding Approach.

### *Inflation*

## **Recommended Draft for Review**

34. The components of the Reformed FNCFS Funding Approach which are to be adjusted for inflation shall be upwardly adjusted in November of each year, in accordance with the “All-items Consumer Price Index (CPI)” measured over the twelve-month period ending September 30 of that year. For clarity, the inflation adjustment for a component in any fiscal year shall be made based on the previous fiscal year’s funding for that component, including prior inflation adjustments. In no event shall any such adjustment be less than zero.

### *Population*

35. For the components of the Reformed FNCFS Funding Approach which under this Final Settlement Agreement are to be adjusted for population or to be calculated on a per capita basis, the population of a First Nation shall be the First Nation’s population on-reserve, on Crown land, or in Yukon shall be drawn from the Indian Registration System, as of September 30th of the year preceding the year in respect to which the population adjustment will apply.
36. For the purpose of an FNCFS Agency, population shall be the sum of the populations of the First Nations to which it is affiliated.
37. Where the total population for the entire Reformed FNCFS Program is to be determined, the population shall be the sum of the populations of the First Nations eligible to receive funding under the Reformed FNCFS Program.
38. The approach to calculating population described herein may vary where a First Nation has a self-government agreement or a modern treaty.

## **B. Allocation**

39. ISC shall allocate funding under the Reformed FNCFS Funding Approach between First Nations and FNCFS Agencies in a manner that respects the inherent and constitutional rights of First Nations in relation to child and family services.
40. The Parties intend the allocations set out in this section to encourage collaboration between First Nations and FNCFS Agencies, recognizing that child and family services is a space in which both First Nations and FNCFS Agencies are active and to which each brings unique strengths. Funding shall

## Recommended Draft for Review

be provided with a view to First Nations and FNCFS Agencies working together to promote the holistic well-being of children and families.

41. Allocations to First Nations may be used to support First Nations in developing and delivering programs and services to children, youth, and families, in accordance with the terms of this Final Settlement Agreement.
42. Under the Reformed FNCFS Funding Approach, ISC shall provide funding to FNCFS Service Providers in accordance with the following:

- (a) Baseline funding: ISC shall allocate Baseline Funding to FNCFS Agencies. Notwithstanding subparagraphs 16(b) and 17(b)(ii), an FNCFS Agency's Baseline Funding may be reduced where a First Nation has chosen to transition away from its affiliated FNCFS Agency further to paragraph 84.

Subject to possible reforms to federal-provincial and federal-Yukon agreements following the work outlined in Part V (G), ISC shall also allocate Baseline Funding to provincial and Yukon governments to support their delivery or funding of child and family services to Non-Agency First Nations.

- (b) Top-up funding:
  - (i) ISC shall allocate all information technology funding to First Nations.
  - (ii) ISC shall allocate all results funding to First Nations.
  - (iii) ISC shall allocate 50% of the emergency funding to First Nations and 50% to FNCFS Agencies. For Non-Agency First Nations, the allocation of emergency funding is described in subparagraph 79(b).
  - (iv) For First Nations outside of Ontario that are affiliated with an FNCFS Agency, ISC shall allocate information technology, results, and emergency funding proportionally among the First Nations affiliated with that FNCFS Agency based on their population. ISC shall:

## Recommended Draft for Review

- a. Applying the percentages in paragraphs 18, 19, and 20 to the FNCFS Agency's Baseline Funding, determine the amounts of information technology, results, and emergency funding; and
  - b. On a population-weighted basis, divide all of the information technology and results funding and 50% of the emergency funding in (a.) among the First Nations affiliated with the FNCFS Agency.
- (v) For First Nations in Ontario that are affiliated with an FNCFS Agency, the calculation of information technology, results, and emergency funding is described in paragraphs 77 to 78.
- (vi) For Non-Agency First Nations, the calculation of information technology, results, and emergency funding is described in paragraph 80.
- (c) **Household supports funding:** ISC shall allocate all funding for household supports to First Nations, calculating the amount of an individual First Nation's funding by taking the following steps:
- (i) Multiply the individual First Nation's population, as outlined in paragraph 35, by the percentage of its population below the Low-Income Measure-After Tax (LIM-AT), such percentage being drawn from 2021 Census data. For First Nations that are missing Census data, ISC shall impute the percentage from a nearby First Nation for whom data is available;
  - (ii) Divide (i) by the total population of all First Nations eligible to receive funding under the Reformed FNCFS Program below the LIM-AT;
  - (iii) Multiply (ii) by the total annual funding for household supports.
- (d) Prevention funding:
- (i) As of April 1, 2026, outside of Ontario, ISC shall allocate all prevention funding to First Nations. FNCFS Agencies shall draw from their Baseline Funding to conduct least disruptive

## Recommended Draft for Review

measures as required under provincial legislation. However, a First Nation may decide to have its affiliated FNCFS Agency receive a portion or all of the prevention funding attributable to the First Nation. A First Nation shall provide written notice to ISC advising of such a decision by the December 1<sup>st</sup> prior to the fiscal year to which the prevention funding is applicable. Once written notice is provided by the First Nation, the direction contained therein persists until further notice is given.

- (ii) In Ontario, as of April 1, 2026, a First Nation may give written notice directing ISC on the manner in which ISC shall allocate the prevention funding attributable to the First Nation. A First Nation may elect to receive all of the prevention funding attributable to it or may direct that any or all of its funding be directed to its affiliated FNCFS Agency. Written notice to ISC advising of such a direction must be provided by the First Nation by the September 30th prior to the first fiscal year to which its direction is applicable. Once written notice is provided by the First Nation, the direction contained therein persists until further notice is given.
- (iii) In Ontario, until and unless a First Nation provides written notice as described in (ii), the approach to allocating prevention funding among FNCFS Service Providers for fiscal year 2025-2026 as set out in paragraph 57 shall continue to apply.
- (iv) For Non-Agency First Nations, the allocation of prevention funding is described in subparagraph 79(a).
- (e) FNCFS capital funding: Prior to September 1, 2024, the Parties shall develop an implementation plan for this capital funding that leverages existing or new community capital planning processes. ISC, with the advice of the Reform Implementation Committee, shall also develop guidance documents to support FNCFS Service Providers in seeking capital funding.
- (f) Post-majority support services funding:

## Recommended Draft for Review

- (i) Save for the funding noted in subparagraph 42(f)(ii), ISC shall allocate all post-majority support services funding to First Nations. Prior to September 1, 2024, the Parties shall co-develop the approach by which ISC shall allocate post-majority support services funding among First Nations. That approach shall align with the principles of needs-based funding and recognition of the distinct realities of First Nations.
  - (ii) Canada provided \$1.3 million in fiscal year 2024-2025 to fund a call line initiative intended to support eligible First Nations youth and young adults in accessing information on post-majority support services. Canada shall provide an additional \$6.5 million in the Initial Five-Year Funding Period to fund any similar initiative(s) co-developed by the Parties.
  - (iii) ISC may seek authority to have any funding for such initiatives that remains unexpended at the end of the Initial Five-Year Funding Period to be carried forward into the Second Five-Year Funding Period. The Reform Implementation Committee shall consider any such funding carried forward into the Second Five-Year Funding Period in its Initial Program Assessment Opinion.
- (g) First Nation Representative Services funding: ISC shall allocate all funding for First Nation Representative Services to First Nations.
- (h) Remoteness adjustment funding: ISC shall allocate remoteness adjustment funding proportionately among First Nations and FNCFS Agencies in accordance with the allocation of the funding to which the remoteness adjustment applies.

### C. First Nations planning

- 43. No later than June 30, 2025, First Nations shall be required to provide ISC with a multi-year plan regarding the implementation of services it is funded for under the Reformed FNCFS Funding Approach, with the exception of FNCFS capital. A template plan for this purpose is attached at Appendix 4.
- 44. First Nations shall provide such a plan for the period ending March 31, 2029 and shall provide annual updates, as necessary.



## **Recommended Draft for Review**

### **D. Discussions on regional modifications**

45. The Parties acknowledge that a First Nation or a regional or sub-regional organization may seek to discuss with Canada modifications to the Reformed FNCFS Program and the allocations thereunder, but Canada shall not be obligated to provide any additional funding to that First Nation or regional or sub-regional organization beyond what is provided by the Reformed FNCFS Funding Approach.

### **E. FNCFS Funding Mechanism**

46. ISC shall transfer funding to FNCFS Service Providers through the FNCFS Funding Mechanism where FNCFS Service Providers qualify for use of the FNCFS Funding Mechanism. Where an FNCFS Service Provider does not qualify for the FNCFS Funding Mechanism, ISC shall transfer funding through the most flexible funding mechanism under the Directive on Transfer Payments for which it is eligible. ISC shall work with the affected FNCFS Service Provider to assist them in qualifying for the FNCFS Funding Mechanism.
47. Any risk assessment required to ensure an FNCFS Service Provider qualifies for the FNCFS Funding Mechanism shall be completed in a manner that reflects the principles of this Final Settlement Agreement, emphasizes FNCFS Service Providers' participation, as well as limits administrative and procedural barriers to FNCFS Service Providers transitioning to the FNCFS Funding Mechanism.
48. The FNCFS Funding Mechanism will enable FNCFS Service Providers to re-allocate funds across components of the Reformed FNCFS Program, and to carry forward unexpended funds for use in the following fiscal year, provided that that fiscal year is within the term of the FNCFS Service Provider's funding agreement. If necessary to expend unexpended funds and upon the acceptance of the FNCFS Service Provider's unexpended funding plan, ISC shall extend the term of the FNCFS Service Provider's funding agreement. For those FNCFS Service Providers with unexpended funding from fiscal year 2024-2025 or prior fiscal years, Canada shall amend their funding

## **Recommended Draft for Review**

agreements to allow for the expenditure of unexpended funding in fiscal year 2025-2026 and future fiscal years.

49. Notwithstanding paragraph 48, FNCFS Agencies shall not be permitted to re-allocate funds from prevention funding to protection, except to fund least disruptive measures.
50. In its funding agreements with FNCFS Service Providers, ISC shall enable the transfer of funding provided pursuant to this Final Settlement Agreement between affiliated FNCFS Service Providers, in a manner compliant with the Directive on Transfer Payments. Such transfers shall be for the purpose of supporting activities funded under this Final Settlement Agreement. For greater clarity, ISC's funding agreements with FNCFS Agencies shall enable FNCFS Agencies to transfer funds to First Nations for the purpose of advancing the housing objectives in paragraph 103.
51. Any transfer of funding by a FNCFS Service Provider pursuant to paragraph 48 of this section shall be subject to approval by ISC.

## **F. Transition to the Reformed FNCFS Funding Approach**

*April 1, 2024 to March 31, 2025*

52. For fiscal year 2024-2025, ISC implemented the Reformed FNCFS Funding Approach as follows:
  - (a) Operations and maintenance funding:
    - (i) At the beginning of the fiscal year, FNCFS Agencies received a funding allocation based on the fiscal year 2022-2023 Public Accounts.
    - (ii) FNCFS Agencies, except for in Ontario, continue to have access to actuals for intake and investigations, legal fees, building repairs, and child service purchase for fiscal year 2024-2025. In Ontario, FNCFS Agencies continue to have access to actuals for intake and investigations, legal fees, and building repairs for fiscal year 2024-2025.

## Recommended Draft for Review

- (iii) The deadline for the submission of all claims related to fiscal year 2024-2025 operations and maintenance expenditures is September 20, 2025.
- (b) Top-up funding for information technology, results, and emergency: This funding was not included in FNCFS Service Providers' initial allocations at the beginning of the fiscal year 2024-2025. Top-up funding shall be added to FNCFS Services Providers' funding agreements in or around November 2024 following the adjustment described in (a).
- (c) Household supports funding: This funding was not included in FNCFS Service Providers' initial allocations at the beginning of the fiscal year 2024-2025. Household supports funding shall be added to FNCFS Services Providers' funding agreements in or around November 2024.
- (d) Prevention funding: ISC allocated prevention funding in accordance with the approach determined prior to the coming into effect of this Final Settlement Agreement.
- (e) First Nation Representative Services funding:
  - (i) For First Nations except those in Ontario, ISC has funded First Nation Representative Services in accordance with paragraph 25.
  - (ii) For First Nations in Ontario, ISC has allocated funding for First Nation Representative Services in accordance with an approach determined prior to the coming into effect of this Final Settlement Agreement. Where a First Nation in Ontario has expended 75% of First Nation Representative Services funding received for 2024-2025 and submitted a plan for expenditure of the remaining 25%, it may access funding at actual costs until March 31, 2025. The deadline for the submission of all claims related to 2024-2025 First Nation Representative Services expenditures is September 20, 2025.

## Recommended Draft for Review

- (f) Capital funding: In fiscal year 2024-2025, ISC shall continue to reimburse FNCFS Service Providers for the actual costs of capital projects that are approved by ISC under the 2021 CHRT 41 process.
- (g) Post-majority support services funding: ISC shall continue to reimburse FNCFS Service Providers for the actual costs of post-majority support services until March 31, 2025. The deadline for the submission of all claims for reimbursement of 2024-2025 post-majority support services expenditures is September 20, 2025.
- (h) Remoteness adjustment funding:
  - (i) For fiscal year 2024-2025, ISC has allocated remoteness adjustment funding with respect to First Nation Representative Services funding outside of Ontario and with respect to prevention funding, in accordance with the transitional approach agreed upon by the Parties prior to the coming into effect of this Final Settlement Agreement.
  - (ii) In or around November 2024, ISC shall provide remoteness adjustment funding for fiscal year 2024-2025 with respect to results, information technology, emergency, and household supports funding in accordance with paragraph 32.
  - (iii) Due to the availability of reimbursement at actual costs for fiscal year 2024-2025, ISC shall not provide remoteness adjustment funding with respect to post-majority support services funding or with respect to First Nations Representative Services funding in Ontario for fiscal year 2024-2025.

*April 1, 2025-March 31, 2026*

### 53. Operations and maintenance funding:

- (a) Commencing on April 1, 2025, FNCFS Agencies' access to the reimbursement of their actual costs for intake and investigations, legal fees, building repairs, child service purchase, and small agency costs shall cease.

## Recommended Draft for Review

- (b) Outside Ontario, ISC shall reimburse claims of FNCFS Agencies' actual costs for intake and investigations, legal fees, building repairs, child service purchase, and small agency costs incurred in fiscal year 2024-2025, submitted on or before September 20, 2025.
  - (c) In Ontario, ISC shall reimburse claims of FNCFS Agencies' actual costs for intake and investigations, legal fees, and building repairs incurred in fiscal year 2024-2025, submitted on or before September 20, 2025.
- 54. Baseline funding: FNCFS Agencies shall receive Baseline Funding for fiscal year 2025-2026.
- 55. Top-up funding for information technology, results, and emergency: Top-up funding for 2025-2026 shall be included in FNCFS Service Providers' initial allocations at the beginning of the fiscal year.
- 56. Household supports funding: Household supports funding for fiscal year 2025-2026 shall be included in First Nations' initial allocations at the beginning of the fiscal year.
- 57. Prevention funding:
  - (a) Where a First Nation's affiliated FNCFS Agency is affiliated with more than one First Nation, ISC shall divide the prevention funding attributed to the individual First Nation's population between the individual First Nation and the FNCFS Agency by taking the following steps:
    - (i) Divide the individual First Nation's population by the sum of the populations of all First Nations affiliated to the FNCFS Agency;
    - (ii) Multiply the individual First Nation's population by the per capita amount established in paragraph 22;
    - (iii) Multiply (i) by (ii); and
    - (iv) Provide funding equal to (iii) to the FNCFS Agency and the remainder of (ii) to the individual First Nation.

## Recommended Draft for Review

- (b) Where, following the division described above, a First Nation would receive less than \$75,000 in prevention funding, ISC shall provide that First Nation with \$75,000, adjusted for inflation.
- (c) Where an FNCFS Agency is affiliated with only one First Nation, ISC shall divide the prevention funding attributed to that First Nation's population between the First Nation and the FNCFS Agency in the same proportion as such funding was divided between the First Nation and the FNCFS Agency in fiscal year 2024-2025, except where the First Nation and FNCFS Agency have agreed on a different division by December 1, 2024. For clarity, total prevention funding provided to such a First Nation and FNCFS Agency in fiscal year 2025-2026 shall not be greater than the per capita amount provided for in paragraph 22 multiplied by the First Nation's population.

### 58. First Nation Representative Services funding:

- (a) For First Nations except those in Ontario, First Nation Representative Services funding shall be funded in accordance with paragraph 25.
- (b) Commencing on April 1, 2025, First Nations in Ontario shall no longer have access to reimbursement of their actual costs for First Nation Representative Services. ISC shall provide First Nation Representative Services funding to each First Nation in Ontario in an amount equal to its highest annual amount of First Nation Representative Services funding received over the following four fiscal years, from fiscal year 2019-2020 to fiscal year 2022-2023.

### 59. FNCFS capital funding:

- (a) Commencing on April 1, 2025, ISC shall no longer accept funding requests under the 2021 CHRT 41 process. ISC shall instead provide capital funding in the manner described in subparagraph 42(e).
- (b) For greater clarity, ISC shall continue to process capital funding requests that are received on or before March 31, 2025, and fund those requests that are approved, pursuant to 2021 CHRT 41. Requests received shall include requests that are paused or pending approval from ISC as of March 31, 2025.

## **Recommended Draft for Review**

60. Post-majority support services funding: Commencing on April 1, 2025, FNCFS Service Providers shall no longer have access to reimbursement of their actual costs for post-majority support services. ISC shall instead provide post-majority support services funding in the manner outlined in subparagraph 42(f).
61. Remoteness adjustment funding: Commencing on April 1, 2025, ISC shall apply the remoteness adjustment to all funding components that are to be adjusted for remoteness in Part V (A).

### *From April 1, 2026, Onward*

62. As of April 1, 2026, the transition to the Reformed FNCFS Funding Approach shall be complete.

### *Support for FNCFS Services Providers in the Transition to the Reformed FNCFS Funding Approach*

63. ISC shall support FNCFS Services Providers in the transition to the Reformed FNCFS Funding Approach, including by informing them as soon as reasonably possible about:
  - (a) the Reformed FNCFS Funding Approach and its implementation requirements, including that of a co-developed child and community well-being plan as outlined in paragraphs 134 to 136 and the First Nations plan as outlined at paragraph 43;
  - (b) the changes to the funding agreement as between ISC and FNCFS Service Providers commencing in fiscal year 2025-2026, as provided for in Appendix 6;
  - (c) new and revised external guidelines to support the implementation of the Reformed FNCFS Funding Approach, including but not limited to implementation guides and revised Terms and Conditions; and
  - (d) reporting requirements commencing in fiscal year 2025-2026.

## **G. Reform of Federal-Provincial and Federal-Yukon Funding Agreements**

64. Canada enters into federal-provincial and federal-Yukon agreements to support the provision of child and family services to Non-Agency First

## Recommended Draft for Review

Nations. For the purpose of reforming those agreements, ISC shall engage with provincial and Yukon governments providing child and family services to Non-Agency First Nations. ISC shall make best efforts to ensure that the reformed federal-provincial and federal-Yukon agreements adhere to the principles in PART II – PRINCIPLES of this Final Settlement Agreement, as well as applicable federal, provincial, or Yukon legislation.

65. ISC shall provide opportunities for Non-Agency First Nations to be actively involved in discussions with respect to the reform of federal-provincial and federal-Yukon agreements that enable the implementation of the Reformed FNCFS Program. These discussions will support and inform the negotiation and implementation of such agreements, and ISC shall provide quarterly reports on these discussions to the Reform Implementation Committee.
66. ISC shall make best efforts to work collaboratively with Non-Agency First Nations and provincial and Yukon governments in seeking to co-develop governance and accountability provisions consistent with this Final Settlement Agreement within the federal-provincial and federal-Yukon agreements. Such accountability provisions shall include audits, annual reporting, and funding reviews. ISC shall also make best efforts to include provisions relating to performance data collection, analysis, and reporting methodology to which the provincial or Yukon government shall adhere, as well as provisions to publicly disclose the amount of funding provided under these agreements and the services and activities for which funding is provided.
67. In the event that Canada fails to reach agreement with a province or Yukon, ISC shall refer the matter to the Reform Implementation Committee for discussion with respect to possible solutions.
68. Canada's efforts to reform the federal-provincial and federal-Yukon agreements support the reform of the FNCFS Program and are not intended to impede First Nations seeking to exercise jurisdiction in relation to child and family services on a nation-to-nation basis.
69. COO, NAN, and Canada shall continue to work together on an expedited basis to pursue reform of the 1965 Agreement with the Government of



## **Recommended Draft for Review**

Ontario, recognizing that any change to the 1965 Agreement requires the participation and consent of the Government of Ontario.

70. As the 1965 Agreement outlines federal commitments for reimbursement of eligible services in provincial program areas beyond child and family services, COO, NAN, and Canada have concluded a separate trilateral agreement to guide their approach to 1965 Agreement reform.
71. COO, NAN, and Canada agree to make best efforts to negotiate a reformed 1965 Agreement that, in relation to child and family services, is consistent with the purposes and principles of this Final Settlement Agreement.
72. In the event that Canada fails to reach agreement with the Government of Ontario on a reformed 1965 Agreement as it relates to child and family services, ISC, COO, and NAN shall discuss possible alternatives to reform of the 1965 Agreement, which may include considering whether ISC can fund FNCFS Agencies in Ontario in the same way as FNCFS Agencies outside Ontario. Canada, COO, and NAN recognize that such alternatives may require collaboration with the Government of Ontario.
73. The application of the Reformed FNCFS Funding Approach as it applies to FNCFS Agencies in Ontario may change as a result of the reformed 1965 Agreement. Any such change may require amendment to this Final Settlement Agreement pursuant to paragraph 390.
74. Save for paragraphs 71 and 72 this Final Settlement Agreement does not apply to the process of 1965 Agreement reform or the content of a reformed 1965 Agreement.

### **H. Application of the 1965 Agreement in Ontario**

75. COO, NAN, and Canada do not intend for this Final Settlement Agreement to decrease any Government of Ontario funding for First Nations child and family services on reserve, including prevention. If the Government of Ontario decreases funding for First Nations child and family services, COO, NAN, and Canada shall consider the impact of that decrease as part of the next Program Assessment.

## **Recommended Draft for Review**

76. In the event that the funding made available by the Government of Ontario and Canada to FNCFS Agencies in Ontario is limited in some way by the operation of the 1965 Agreement, that limitation shall be raised with the Government of Ontario in the discussions on 1965 Agreement reform.

### **I. Information Technology, Results, and Emergency Funding in Ontario**

77. For First Nations in Ontario that are affiliated with an FNCFS Agency, ISC shall determine information technology, results, and emergency funding in fiscal year 2024-2025 as follows:
- (a) For each FNCFS Agency, estimate the share of its operations and maintenance funding provided by the Government of Ontario for fiscal year 2024-2025 that ISC will reimburse to the Government of Ontario under the 1965 Agreement;
  - (b) Add to (a) the actuals funding for intake and investigations, legal fees, and building repairs that the FNCFS Agency received directly from ISC in fiscal year 2023-2024;
  - (c) Applying the percentages in paragraphs 18, 19 and 20 to (b), determine the funding for information technology, results, and emergency associated with the FNCFS Agency; and
  - (d) On a population-weighted basis, divide all of the information technology and results funding and 50% of the emergency funding in (c) among the First Nations affiliated with the FNCFS Agency, and allocate the remaining 50% of the emergency funding to the FNCFS Agency.
78. In subsequent years, the information technology, results, and emergency funding of First Nations in Ontario affiliated with an FNCFS Agency and the emergency funding of FNCFS Agencies in Ontario shall be upwardly adjusted for inflation and population growth, and where applicable, remoteness, and shall not be reduced. In addition, in fiscal year 2025-2026, information technology, results, and emergency funding shall be adjusted in or around November 2025 to account for actuals funding for intake and investigations, legal fees, and building repairs provided directly to FNCFS Agencies in Ontario by ISC for fiscal year 2024-2025.

## Recommended Draft for Review

### J. Funding for Non-Agency First Nations

79. ISC provides funding to provincial and Yukon governments to provide protection services for Non-Agency First Nations. With respect to the allocation of funding under the Reformed FNCFS Funding Approach to an individual Non-Agency First Nation, ISC shall:
- (a) Provide all prevention funding attributable to the Non-Agency First Nation to that First Nation;
  - (b) Provide all emergency funding calculated as a percentage of the Non-Agency First Nation's notional Baseline Funding, which shall be determined as outlined in paragraphs 80 and 82, to that First Nation; and
  - (c) Allocate all other funding in the same manner as ISC will use for First Nations affiliated with an FNCFS Agency.
80. For First Nations except those in Ontario, ISC shall determine the information technology, results, and emergency funding for Non-Agency First Nations in fiscal year 2024-2025 as follows:
- (a) Identify the operations and maintenance funding provided in fiscal year 2023-2024 to the applicable provincial or Yukon government;
  - (b) Subtract from (a) any funding used by the provincial or Yukon government for provincial or territorial administrative expenses;
  - (c) Applying the percentages in paragraphs 18, 19 and 20 to (b), determine the total funding for information technology, results, and emergency for Non-Agency First Nations in the province or Yukon; and,
  - (d) Allocate (c) proportionally among Non-Agency First Nations in the province or Yukon according to the population of those First Nations.
81. In subsequent years, a Non-Agency First Nation's information technology, results, and emergency funding shall be upwardly adjusted for inflation and population growth, and where applicable, remoteness, and shall not be reduced.

## **Recommended Draft for Review**

82. For Non-Agency First Nations in Ontario, ISC shall determine the information technology, results, and emergency funding in fiscal year 2024-2025 as follows:
- (a) Identify total operations and maintenance funding provided by the Government of Ontario for fiscal year 2024-2025 to child and family services agencies in Ontario that are not FNCFS Agencies, and estimate the share of that funding that ISC will reimburse to the Government of Ontario under the 1965 Agreement;
  - (b) Applying the percentages in paragraphs 18, 19, and 20 to (a), determine the total funding for information technology, results, and emergency for Non-Agency First Nations in Ontario; and
  - (c) Allocate (b) proportionally among Non-Agency First Nations in Ontario according to the population of those First Nations.
83. In subsequent years, the information technology, results, and emergency funding of Non-Agency First Nations in Ontario shall be upwardly adjusted for inflation and population growth, and where applicable, remoteness, and shall not be reduced.

### **K. New FNCFS Agencies and FNCFS Agency Transitions within the Reformed FNCFS Program**

84. Upon receipt of written notice from a First Nation of its intention to transition its protection services from a provincial or Yukon government or from its currently affiliated FNCFS Agency to a new or existing FNCFS Agency, ISC shall fund and facilitate such a transition.
85. Where a First Nation transitions to a new FNCFS Agency, ISC's funding shall include reasonable start-up costs as determined by ISC, following discussion amongst ISC, the First Nation, and the provincial or Yukon government, as applicable. ISC shall transfer funding under the Reformed FNCFS Program from the provincial or Yukon government or from the First Nation's currently affiliated FNCFS Agency to the new or existing FNCFS Agency.
86. ISC shall provide an FNCFS Agency with notice as specified in the funding agreement between Canada and the FNCFS Agency prior to changing the FNCFS Agency's funding due to a First Nation's transition away from the

## **Recommended Draft for Review**

FNCFS Agency with respect to protection services. ISC shall meet with the First Nation and the FNCFS Agency from whom the First Nation is transitioning as soon as practical, for the purpose of considering options to minimize disruption to the FNCFS Agency's operations. ISC shall also provide notice to the applicable provincial or Yukon government as specified in the federal-provincial or federal-Yukon agreement where a First Nation transitions away from the provincial or Yukon government with respect to protection services.

### **PART VI –THE REFORMED FNCFS FUNDING APPROACH: SECOND FIVE-YEAR FUNDING PERIOD**

87. ISC shall continue to administer the Reformed FNCFS Program through the Second Five-Year Funding Period.
88. For the Second Five-Year Funding Period, ISC shall provide total annual funding for the Reformed FNCFS Program of at least the amount of funding provided for the Reformed FNCFS Program in fiscal year 2028-2029. Following the Initial Program Assessment, the funding for the Second Five-Year Funding Period may be upwardly adjusted further to the recommendations adopted by Canada or as reviewed by the Dispute Resolution Tribunal further to paragraph 231, as otherwise subject to judicial review and any appeals thereof as set out in this Final Settlement Agreement.
89. ISC shall seek a mandate for the Second Five-Year Funding Period in relation to the recommendations of the Reform Implementation Committee's Initial Program Assessment Opinion that it is prepared to recommend for adoption.
90. In addition to other eligible expenses, insurance premiums for FNCFS Service Providers shall remain an eligible expense for funding provided under the Reformed FNCFS Program in the Second Five-Year Funding Period.
91. For the purpose of the Second Five-Year Funding Period, the Parties recognize the value of the First Nations census to be led by the First Nations

## **Recommended Draft for Review**

Information Governance Centre for potential use in estimating the on-reserve population of First Nations under the Reformed FNCFS Funding Approach.

92. In the Second Five-Year Funding Period, Canada shall provide up to \$1.017 billion to FNCFS Service Providers for capital projects to support the delivery of First Nations child and family services on-reserve and in Yukon. In addition to this amount, ISC may make available for capital projects any remaining uncommitted capital funding from the Initial Five-Year Funding Period, subject to Parliamentary appropriation and relevant authorities.
93. In the Second Five-Year Funding Period, Canada shall provide \$998.4 million for post-majority support services to support First Nations youth aging out of care and young adults formerly in care in the transition to adulthood and independence. The amount of \$998.4 million includes an amount for inflation and shall not be further adjusted for inflation.

### **PART VII –THE REFORMED FNCFS FUNDING APPROACH: FOLLOWING THE EXPIRY OF THE TERM OF THIS FINAL SETTLEMENT AGREEMENT**

94. This Final Settlement Agreement expires on March 31, 2034.
95. Canada acknowledges its ongoing obligation to ensure that the discrimination found by the Tribunal has been eliminated and does not recur.
96. ISC shall engage with the Parties with respect to the recommendations of the Reform Implementation Committee following the Second Program Assessment to inform the design and/or development of the Reformed FNCFS Program, or successor program, which may take effect following the expiry of the Term of this Final Settlement Agreement.
97. In considering the Reform Implementation Committee’s Second Program Assessment Opinion, Canada shall consider the viability of embedding the Reformed FNCFS Funding Approach, and any recommended changes thereto, in legislation.

### **PART VIII – MEASURING THE PERFORMANCE OF THE REFORMED FNCFS PROGRAM**

98. The Parties anticipate the Reformed FNCFS Program will result in an overall reduction of First Nations children coming into care over time. Obtaining

## Recommended Draft for Review

standardized data on the efficacy of the Reformed FNCFS Program, on services provided to First Nations children under the Reformed FNCFS Program, and on the overall well-being of First Nations children, families, and communities will contribute to the reporting to Parliament and Canadians on the outcomes of the Reformed FNCFS Program.

99. For the purpose of reporting to Parliament under the Reformed FNCFS Program, ISC shall analyze internal data to inform relevant immediate outcomes. ISC shall also require FNCFS Service Providers to report on indicators directly related to their activities to advance the Reformed FNCFS Program's outcomes. ISC shall continue to work with its partners to develop and improve the Reformed FNCFS Program's indicators. As a starting point, the indicators in Appendix 2 shall be used for the performance measurement of the Reformed FNCFS Program.
100. Where an FNCFS Service Provider is experiencing extraordinary circumstances beyond their control which adversely affects their ability to report under this Part, ISC shall work with the FNCFS Service Provider to develop a plan to fulfill its reporting requirements as expeditiously as possible.
101. To support monitoring related to Structural Drivers that lead children and families into contact with the child welfare system, Canada shall continue to report publicly through ISC's Departmental Results Report on indicators that are consistent with the Measuring to Thrive Framework. The areas of measurement on which Canada shall report will include rates of and/or access to:
  - (a) Safe and suitable housing;
  - (b) Sufficient and safe water from source to tap;
  - (c) Family reunification;
  - (d) Livable income; and
  - (e) Mental health and specialized services within the community.
102. To support the mandate of the National Secretariat in measuring First Nations child and family well-being in a holistic way, ISC shall make best

## **Recommended Draft for Review**

efforts to conclude an umbrella information-sharing agreement with the National Secretariat in order to facilitate the access to and sharing of departmental data that will contribute to the general knowledge base of child and family well-being. The departmental data available to be shared would include all the service areas as identified in the ISC Departmental Results Framework, which is publicly available.

### **PART IX – HOUSING FUNDING**

103. Canada shall provide funding in the amount of \$1.79 billion over fiscal years 2024-2025, 2025-2026, 2026-2027, and 2027-2028 to First Nations to support the purchase, construction, and renovation of housing units in First Nations for the purposes of preventing First Nations children from being taken into care and of supporting reunification where housing is a barrier.
104. To determine the amount of housing funding to which an individual First Nation is entitled over those four fiscal years, ISC shall:
  - (a) Identify the population of the First Nation (on reserve or in Yukon) as indicated in the Indian Registration System as of December 31, 2023;
  - (b) Multiply the First Nation's population identified in (a) by:
    - (i) One (1) plus the First Nation's 2021 Index of Remoteness score; and by
    - (ii) One (1) plus the percentage of the First Nation's population living in an overcrowded dwelling, drawn from Census 2021 data. For First Nations that are missing Census data, ISC shall impute the percentage living in an overcrowded dwelling from a nearby First Nation for whom data is available;
  - (c) Divide (b) by the total population of First Nations eligible for housing funding as adjusted by the factors in (b);
  - (d) Subtract \$250,000 multiplied by the total number of First Nations eligible for housing funding from \$1.79 billion;
  - (e) Multiply (c) by (d); and
  - (f) Add \$250,000 to (e).



## **Recommended Draft for Review**

For illustrative purposes, an example has been attached at Appendix 11.

105. Within the term of their funding agreements, ISC shall allow First Nations to carry forward unexpended housing funding in a particular fiscal year to the following fiscal year, provided that that fiscal year is within the term of the First Nation's funding agreement. If necessary to expend unexpended housing funding and upon acceptance of the First Nation's unexpended funding plan, ISC shall extend the term of a First Nation's funding agreement.
106. First Nations shall report to ISC on the housing funding through established data collection tools, modified to reflect the purpose of this funding. First Nations shall also report to the National Secretariat on the "safe and suitable housing" area of measurement in support of the Initial Program Assessment.

## **PART X – NATIONAL AND REGIONAL SECRETARIATS**

107. ISC shall provide funding to the National Secretariat in the amount of \$84.1 million over the Term to support the National First Nation Child and Family Services Secretariat and Regional Secretariat(s).

### **A. National Secretariat**

#### *Function*

108. The National Secretariat shall be independent from the Government of Canada. It shall be a First Nations-led, apolitical, not-for-profit corporation.
109. The National Secretariat shall be established with two sectors, a Best Practices and Programming sector and a Data and Evidence sector, the respective roles of which will be delineated by the National Secretariat.
110. The National Secretariat shall be responsible for the following:
  - (a) Making best efforts to procure an existing organization with child and family services and/or data collection expertise from each region to act as a Regional Secretariat and to conclude the necessary bilateral agreements;
  - (b) The development and dissemination of best practice guidelines, tools for child and family services, and other operational supports, ensuring a consistent standard for engagement and messaging;

## Recommended Draft for Review

- (c) The coordination of regional efforts to uphold the integrity of service quality and promote the National Secretariat's strategic goals;
  - (d) Supporting Regional Secretariats should circumstances arise which impact their ability to promote best practice programming;
  - (e) Working collaboratively with the Remoteness Secretariat;
  - (f) Establishing data related priorities for the purposes of its data collection efforts and analysis;
  - (g) Acting as the central hub for all data activities and responsibility for implementing measures to facilitate its receipt of data;
  - (h) Synthesizing regional and other relevant data to develop recommendations in relation to the implementation and efficacy of the Reformed FNCFS Program, as well as evidence-based practices which will inform and refine best practice programming and supports;
  - (i) Overseeing the overall performance of Regional Secretariats; and
  - (j) Reporting findings, concerns, and/or recommendations to the Reform Implementation Committee in relation to the implementation and efficacy of the Reformed FNCFS Program.
111. For clarity, the regions in which Regional Secretariats will be established shall be defined by the National Secretariat.

### *Governance*

112. The membership of the National Secretariat shall consist of the corporations carrying on business as the AFN, COO, and NAN.
113. The National Secretariat shall be governed by a board of directors comprised of six (6) individuals, appointed by the members, who collectively reflect expertise in the fields of child and family services, data collection and analysis, and organizational management. To the extent possible, the board of directors shall reflect regional variation.
114. The AFN shall incorporate the National Secretariat. The draft Articles and Bylaws for the National Secretariat are found at Appendix 9.

## **Recommended Draft for Review**

115. The National Secretariat shall provide an annual written report to the members and make itself available for presentations at their assemblies when requested.

### *Data Inputs and Management*

116. The National Secretariat will receive data directly from FNCFS Agencies and ISC, which shall include, but is not limited to, the following:
- (a) FNCFS Agencies shall provide data collected with respect to the community wellness indicators as provided for in paragraph 139, and may share the community wellness plan as provided for in paragraph 134 upon consent of the affiliated First Nation; and
  - (b) ISC shall provide data received from the provinces and territories further to the agreements as described in paragraph 66, data related to the preparation of ISC's Departmental Results Report and its reporting to Parliament on the indicators described at paragraph 101, and data received from FNCFS Service Providers in relation to the indicators and outcomes as provided in paragraph 99.

## **B. Regional Secretariats**

117. The Regional Secretariats, where established, shall operate further to their bilateral agreements with the National Secretariat and may be responsible for the following:
- (a) Capturing regional data further to the standards established by the National Secretariat, ensuring programming is responsive to the specific cultural and social dynamics of their communities;
  - (b) Implementing and refining best practice programming at the regional level, informed by direct community input and localized evidence;
  - (c) Forwarding regional data and insights to the National Secretariat for the purpose of fostering a two-way flow of information that enhances national programming strategies;
  - (d) Engaging with local organizations and communities to ensure programming is culturally congruent, effective, and endorsed by those it serves; and

## **Recommended Draft for Review**

- (e) Supporting the work of the National Secretariat, executing programs as per the National Secretariat's guidance while providing regional input and insights to inform the ongoing refinement of the national best practices strategies.

## **PART XI – REMOTENESS RESEARCH AND RELATED ITEMS**

### *Purpose*

- 118. The purpose of this Part is to account for remoteness issues, including the increased costs associated with remoteness, and to establish or continue processes for ISC to engage with representatives of remote First Nations for that purpose. The increased costs associated with remoteness impact remote First Nations, the FNCFS Agencies that serve them, and the children, youth, and families of remote First Nations.

### *NARC-Canada Remoteness Table*

- 119. The Parties recognize the unique challenges and increased time and expense required to deliver child welfare services in remote communities. Working collaboratively with NARC, Canada shall establish the NARC-Canada Remoteness Table to address issues of remoteness, including the increased costs associated with remoteness, at a national level.
- 120. Subject to the direction of its members, the NARC-Canada Remoteness Table shall consider the work of the NAN-Canada Remoteness Quotient Table, including the RQAF, and shall adopt and/or develop a First Nations-sighted, evidence-based, statistical approach to estimating the increased child and family services costs associated with remoteness and accounting for those costs in the funding provided under the Reformed FNCFS Program, on a national basis.
- 121. For greater clarity, the work of the NARC-Canada Remoteness Table may include further development of the RQAF for national application, including the development and integration of region-specific data. The NARC-Canada Remoteness Table may also seek to collaborate with Statistics Canada to further develop the Index of Remoteness.

## **Recommended Draft for Review**

122. The NARC-Canada Remoteness Table shall be separate and independent from the NAN-Canada Remoteness Quotient Table, which shall continue unaffected by the creation of the NARC-Canada Remoteness Table.
123. For greater clarity, the NARC-Canada Remoteness Table and the NAN-Canada Remoteness Quotient Table shall inform and consider the work of one another in relation to further development of the RQAF, or any other approaches to adjusting funding to account for remoteness, and in relation to further development of the Index of Remoteness.
124. Canada and NARC may discuss how to model different remoteness adjustment approaches with a sample of remote communities across Canada to assess the ability of those approaches to respond to and address the unique needs of remote communities, including accounting for the increased costs of delivering services in remote communities. For clarity, such modelling shall not involve ISC providing greater remoteness adjustment funding within the Initial Five-Year Funding Period than that provided for in paragraph 32.
125. The Reform Implementation Committee shall consider input from the NARC-Canada Remoteness Table, including any modelling and research undertaken by the NARC-Canada Remoteness Table, with respect to how remoteness issues are addressed under the Reformed FNCFS Program at a national level.

### *NAN-Canada Remoteness Quotient Table*

126. The work of the NAN-Canada Remoteness Quotient Table may include continuing the development and updating of the initial NAN-specific Remoteness Quotient work, the RQAF, and other NAN-specific approaches to addressing remoteness issues and accounting for the increased child and family services costs associated with remoteness that impact NAN First Nations and the FNCFS Agencies that serve them. The NAN-Canada Remoteness Quotient Table may also seek to collaborate with Statistics Canada to further develop the Index of Remoteness. The NAN-Canada Remoteness Quotient Table may also model approaches to addressing remoteness issues, working in collaboration with the NARC-Canada

## Recommended Draft for Review

Remoteness Table. For clarity, such modelling shall not involve ISC providing greater remoteness adjustment funding within the Initial Five-Year Funding Period than that provided for in paragraph 32.

127. The Reform Implementation Committee shall consider input from the NAN-Canada Remoteness Quotient Table, including any modelling and research undertaken by the NAN-Canada Remoteness Quotient Table, with respect to how remoteness issues are addressed under the Reformed FNCFS Program for NAN First Nations and the FNCFS Agencies that serve them.

### *Remoteness Secretariat*

128. In collaboration with NARC, NAN shall establish a Remoteness Secretariat, which will be a centre of expertise on the impacts of remoteness experienced by First Nations and FNCFS Agencies. The Remoteness Secretariat shall provide technical support to the NARC-Canada Remoteness Table. The Remoteness Secretariat shall also work collaboratively with the National Secretariat described in Part X (A).
129. The Remoteness Secretariat shall be responsible for:
  - (a) coordinating and supporting data collection, accumulation, analysis, and research efforts with respect to measurement, implications, and associated costs of remoteness; and
  - (b) sharing best practices and disseminating remoteness-related research and tools among First Nations and FNCFS Agencies.
130. If necessary, ISC shall make best efforts to negotiate an umbrella information-sharing agreement with the Remoteness Secretariat in order to facilitate the access to and sharing of ISC data related to the measurement of and adjustment of funding for remoteness.
131. ISC shall provide \$3 million annually over the Term of this Final Settlement Agreement to support NARC, the NAN Canada Remoteness Quotient Table and the Remoteness Secretariat, the allocation of which shall be determined at a later time.

## Recommended Draft for Review

### **PART XII – FIRST NATIONS EXERCISING INHERENT JURISDICTION OVER CHILD AND FAMILY SERVICES**

132. A First Nation that is funded to exercise jurisdiction in the delivery of some or all aspects of child and family services pursuant to a self-government agreement, a treaty arrangement, a coordination agreement under *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24, or some alternative federal jurisdictional and funding process (“jurisdictional agreement”) shall not be offered less funding than what its entitlement would be for services funded under the Reformed FNCFS Funding Approach and covered by such jurisdictional agreement. Save for this Part, this Final Settlement Agreement shall not apply to these First Nations, except respecting services for which the First Nation continues to be funded under the Reformed FNCFS Program.
133. Where a First Nation receives funding for services pursuant to a jurisdictional agreement, that First Nation and its affiliated FNCFS Service Providers shall not receive funding under the Reformed FNCFS Funding Approach for the services covered by the jurisdictional agreement. ISC shall transfer an amount equal to the funding that would otherwise be provided for such services out of the Reformed FNCFS Program. All funding commitments under this Final Settlement Agreement are subject to adjustment on this basis.

### **PART XIII – AGENCY ACCOUNTABILITY TO FIRST NATIONS IN RELATION TO THE REFORMED FNCFS PROGRAM**

#### *Planning*

134. Accountability of FNCFS Agencies to the First Nations they serve is one of the principles of this Final Settlement Agreement. To uphold this principle, and through its funding agreements with FNCFS Agencies under the Reformed FNCFS Program, ISC shall require FNCFS Agencies to co-develop a single child and community well-being plan with its affiliated First Nation(s). The plan must be submitted by June 30, 2025, and extend until March 31, 2029, subject to annual updates, as necessary.

## Recommended Draft for Review

135. At least 90 days prior to the expiry of its child and community well-being plan, an FNCFS Agency shall submit a subsequent child and community well-being plan, co-developed with the First Nation(s) affiliated with that FNCFS Agency. Where the aforementioned deadlines are not met, ISC shall take any actions available to ensure FNCFS Agency compliance.
136. A child and community well-being plan developed by the FNCFS Agency, in consultation with their affiliated First Nations, must incorporate:
- (a) activities undertaken and associated expenditures of the FNCFS Agency with respect to Baseline Funding, emergency funding, and prevention funding, if any, over the Initial Five-Year Funding Period;
  - (b) multi-year financial forecasts including unexpended funds and how they will be spent;
  - (c) plans for the realization of performance target set by the First Nation;
  - (d) risk management strategies;
  - (e) provisions for regular reporting by the FNCFS Agency to the First Nation which shall include annual numbers of youth who are eligible for or will become eligible for post-majority services funding;
  - (f) mechanisms to facilitate the sharing of information, to assist First Nations in the delivery of services under the Reformed FNCFS Program;
  - (g) provisions that recognize and respect First Nations' delivery of First Nation Representative Services and post-majority support services;
  - (h) an integrated approach to the delivery of prevention services as between the FNCFS Agency and their affiliated First Nations, which delineates their respective roles and ensures support to families and their communities in the provision of holistic wrap-around services; and
  - (i) consideration for the supporting and complementary roles of the FNCFS Agency and their affiliated First Nations in the delivery of services under the Reformed FNCFS Program.



## Recommended Draft for Review

137. Through its funding agreements with FNCFS Agencies under the Reformed FNCFS Program, ISC shall require an FNCFS Agency to:
- (a) fund the co-development of its child and community well-being plans, including providing opportunities for the meaningful participation of its affiliated First Nation(s) in the co-development process; and
  - (b) report to ISC and its affiliated First Nation(s) on the implementation of its child and community well-being plan(s) on an annual basis.
138. A First Nation may inform ISC of any concerns it has with its FNCFS Agency's compliance with the child and community well-being plan. ISC shall make the FNCFS Agency aware of the scope of the concerns and consider appropriate responses, which may include individual FNCFS Agency audits.

### *Community-Wellness Reporting*

139. ISC's funding agreements with FNCFS Agencies under the Reformed FNCFS Program shall require FNCFS Agencies to collect data and report on indicators drawn from the Measuring to Thrive Framework. The intent of this data collection is to provide First Nations and FNCFS Agencies with a holistic vision of the people they serve and the context in which they operate to support enhanced decision-making. The indicators on which FNCFS Agencies shall collect data with respect to children receiving protection services are as follows:
- (a) Knowledge of Indigenous languages;
  - (b) Connection (access) to land;
  - (c) Community-based activities;
  - (d) Spirituality;
  - (e) Family reunification;
  - (f) Placement within community (kin and kith);
  - (g) Stability (i.e. moves in care);
  - (h) Incidence of abuse while child is in care;
  - (i) Reason for entry;

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- (j) Housing factor;
  - (k) Reason for exit;
  - (l) Time to exit;
  - (m) Referrals to specialized services within the community:
    - (i) pre- and post- natal services
    - (ii) medical services
    - (iii) mental health services;
    - (iv) substance misuse services;
    - (v) family violence intervention services;
    - (vi) FNCFS prevention services
  - (n) Education
    - (i) Early learning childhood education
    - (ii) meeting numeracy and literacy targets
    - (iii) Secondary education completion rate
    - (iv) Post-secondary education aspirations
140. Through its funding agreements with FNCFS Agencies under the Reformed FNCFS Program, ISC shall require each FNCFS Agency to report annually to its affiliated First Nations and the National Secretariat on the indicators provided for in paragraph 139.
141. In addition to this mandatory data collection, a First Nation may collaborate with its affiliated FNCFS Agency to collect data on additional well-being indicators to enhance their performance measurement. First Nations are encouraged to consider collecting community-level information in relation to the following indicators:
- (a) Availability of community-based services
    - (i) pre- and post- natal services;
    - (ii) mental health services;
    - (iii) substance misuse services;

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- (iv) family violence intervention services;
  - (v) land-based activities;
  - (vi) cultural and spiritual events
  - (vii) FNCFS prevention services
  - (b) Livable income and affordability;
    - (i) percentage of households below Low Income Measure-After Tax
    - (ii) percentage of households below the Market Basket Measure
  - (c) Education;
    - (i) Availability of early childhood education
    - (ii) Numeracy and literacy target rate (elementary/secondary);
    - (iii) Secondary school completion rate;
    - (iv) Access to post-secondary education.
    - (v) Availability of First Nations language education;
  - (d) Housing and water
    - (i) Housing in need of major repair
    - (ii) Conditions of overcrowding
    - (iii) Homes with potable water from the tap
142. First Nations may request advice and/or direction from the National Secretariat in relation to the collection of information on community level indicators.

### *ISC Reporting on Compliance*

143. ISC's funding agreements with FNCFS Service Providers under the Reformed FNCFS Program shall allow ISC to report to each First Nation on its affiliated FNCFS Agency's compliance with its funding agreement. ISC shall report on such compliance to a First Nation upon its request, or upon ISC's discovery of material non-compliance by its affiliated FNCFS Agency.

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144. ISC's funding agreements shall also allow ISC to report to the Reform Implementation Committee on each FNCFS Agency's compliance with its funding agreements. ISC shall report quarterly to the Reform Implementation Committee on the compliance of FNCFS Agencies with their funding agreements and may consider any recommendations of the Reform Implementation Committee.

## **PART XIV – GOVERNANCE OF THE REFORMED FNCFS PROGRAM**

### **A. Reform Implementation Committee**

145. The Reform Implementation Committee shall oversee and monitor the implementation of the Reformed FNCFS Program. Such oversight and monitoring shall consider all reviews and processes established by this Final Settlement Agreement, including the Program Assessments as described in PART XV – REFORMED FNCFS PROGRAM ASSESSMENTS, to inform the Reform Implementation Committee's recommendations to Canada with respect to changes to the Reformed FNCFS Program.
146. The Reform Implementation Committee can at any time make recommendations in relation to the implementation of the Reformed FNCFS Program, except regarding discipline or removal of ISC employees or officers. The Dispute Resolution Process under this Final Settlement Agreement, as described in PART XIX – DISPUTE RESOLUTION PROCESS, shall not be available with respect to any recommendations of the Reform Implementation Committee requiring amendment to this Final Settlement Agreement or significant structural change to the Reformed FNCFS Program, except where such recommendations are made by way of the Reform Implementation Committee's Initial Program Assessment Opinion further to the requirements of paragraph 231.
147. The Reform Implementation Committee shall receive input, recommendations, and/or observations from the Parties, the following entities listed below, and any successors or additional entities constituted and/or unanimously endorsed by the Parties:

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- (a) Expert Advisory Committee;
  - (b) NAN-Canada Remoteness Quotient Table;
  - (c) NARC–Canada Remoteness Table;
  - (d) National Secretariat;
  - (e) Systemic Review Committee; and
  - (f) Technical Advisory Committee.
148. The Reform Implementation Committee shall consist of twelve (12) members. Each Party shall appoint three (3) members to the Reform Implementation Committee.
149. The Reform Implementation Committee shall operate in accordance with the terms of reference attached to this Final Settlement Agreement as Appendix 8, as updated by the Parties from time to time.
150. The responsibilities of the Reform Implementation Committee include:
- (a) Overseeing and monitoring the implementation of the Reformed FNCFS Program and making related recommendations to Canada;
  - (b) Supporting the oversight of the Program Assessment Organization and preparation of the Program Assessment Opinions and executive summaries for the Parties and the public;
  - (c) Overseeing the Expert Advisory Committee;
  - (d) Appointing an independent monitor responsible for monitoring Canada’s implementation of the accepted recommendations on the reform of ISC and the efficacy of reforms;
  - (e) Discussing possible solutions in the event that Canada fails to reach agreement with a province or Yukon, except Ontario, on governance and accountability provisions within a federal-provincial or federal-Yukon agreement;
  - (f) Receiving reports from the National Secretariat, NAN-Canada Remoteness Quotient Table, NARC-Canada Remoteness Table, ISC, the Systemic Review Committee, and the Technical Advisory

## **Recommended Draft for Review**

Committee in relation to the implementation and efficacy of the Reformed FNCFS Program; and

- (g) Publishing an annual report on the progress of the implementation of this Final Settlement Agreement to be made available to the public, which shall be provided in advance to the Parties prior to being released to the public.

151. Canada shall pay reasonable insurance costs for members of the Reform Implementation Committee in relation to their duties on that committee, and Canada releases and holds harmless the Reform Implementation Committee and its members and counsel from any and all claims, counterclaims, suits, actions, causes of action, demands, damages, penalties, injuries, setoffs, judgments, debts, costs, expenses (including legal fees and expenses), or other liabilities of every character whatsoever by any reason relating to the negotiation and implementation of this Final Settlement Agreement, except arising out of or resulting from fraud, and this Final Settlement Agreement shall be a complete defence.

152. Canada shall provide funding in the amount of \$22.2 million over the Term to the AFN, COO, and NAN to support their participation in the Reform Implementation Committee. The AFN, COO, and NAN agree to provide reasonably detailed invoicing on a quarterly basis setting out the activities with regard to their participation. Canada agrees to pay the reasonable costs of such activities up to the amount of \$22.2 million over the Term. Such funding shall include, but not be limited to, funding for experts from whom the Reform Implementation Committee may decide to seek input, as well as youth engagement. Such funding shall also include, but not be limited to, funding for the monitor of ISC reform, outlined in paragraph 216. This funding is fixed for the Term, subject to review following the Initial Program Assessment. ISC shall provide secretariat support for the operation of the Reformed Implementation Committee over the Term.

### **B. Systemic Review Committee**

153. The Reform Implementation Committee shall establish a Systemic Review Committee as a subcommittee. The Reform Implementation Committee shall

## **Recommended Draft for Review**

establish Terms of Reference for the Systemic Review Committee, reflecting the terms of this Part.

154. The Systemic Review Committee's function is to review and identify trends in:
  - (a) Service Provider Funding Adjustment Requests received by ISC from FNCFS Service Providers pursuant to paragraphs 191 and 192 and ISC's determinations of said requests;
  - (b) Claimant Disputes filed with the Dispute Resolution Tribunal and decisions of the Dispute Resolution Tribunal pursuant to paragraph 362; and
  - (c) Any feedback or commentary from Claimants relating to their experiences moving through the Claimant Dispute Process received by the Registrar through the process described at paragraph 370.
155. ISC and the Registrar shall provide the Systemic Review Committee with the information as set out at paragraph 154 on a quarterly basis.
156. The Systemic Review Committee shall review the information as set out at paragraph 154 and advise the Reform Implementation Committee of any trends of concern it finds and make recommendations to address and remedy any of its findings.

### **C. Technical Advisory Committee**

157. The Reform Implementation Committee shall establish a Technical Advisory Committee as a subcommittee to provide technical advice on implementation of the Reformed FNCFS Program to the Reform Implementation Committee.
158. Canada shall provide up to \$12.0 million over the Term to support the Technical Advisory Committee. The Technical Advisory Committee members shall provide reasonably detailed invoicing on a quarterly basis setting out the activities with regard to their participation. Canada agrees to pay the reasonable costs of such activities up to the amount of \$12.0 million over the Term. This funding is fixed for the Term of this Final Settlement Agreement, subject to review following the Initial Program Assessment.

## **Recommended Draft for Review**

159. The Reform Implementation Committee shall establish Terms of Reference for the Technical Advisory Committee, reflecting the terms of this Part, and shall appoint its membership. Appointees shall possess relevant technical expertise and will reflect, to the extent possible, regional diversity. No member of the Reform Implementation Committee shall serve on the Technical Advisory Committee.
160. The Technical Advisory Committee shall facilitate the participation of First Nations youth currently and formerly in care in opportunities to advise on the implementation of the Reformed FNCFS Program.
161. The Technical Advisory Committee shall engage existing regional tripartite and technical tables as it deems appropriate.

## **PART XV – REFORMED FNCFS PROGRAM ASSESSMENTS**

### **A. Overview and Timeline**

162. The Reformed FNCFS Program shall be the subject of two Program Assessments.
163. The Program Assessments must be completed by the following deadlines:
  - (a) For the Initial Program Assessment, March 31, 2028; and
  - (b) For the Second Program Assessment, March 31, 2033.
164. A summary of the timelines described in this Part is attached at Appendix 3.

### **B. Purposes and Scope of Program Assessments**

165. The purposes of the Program Assessments are:
  - (a) to review, evaluate, and document in reports the extent to which the Reformed FNCFS Program:
    - (i) achieves progress toward the elimination of discrimination and prevention of its recurrence;



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- (ii) provides funding in a sufficient amount and in a manner that is consistent with the purposes and principles of this Final Settlement Agreement;
    - (iii) is effective and advances the outcomes of the Reformed FNCFS Program through analysis of data collected on the indicators detailed in Appendix 2;
    - (iv) improves the well-being and advances the best interests of First Nations children, youth, and families; and
  - (b) to provide the Reform Implementation Committee with reports to consider when formulating its recommendations for program and/or funding changes for the Reformed FNCFS Program in its Program Assessment Opinions.
166. The scope of the Program Assessments shall be defined by the Reform Implementation Committee and shall be consistent with the purposes and principles of this Final Settlement Agreement and shall include review of the entire Reformed FNCFS Program. This shall include, but will not be limited to, the Reformed FNCFS Funding Approach and any related aspects, including funding levels, funding structures, funding allocations, policies, procedures, Terms and Conditions, reporting requirements, funding agreements, and practices.

### **C. Selection of the Program Assessment Organization**

167. The AFN shall initiate a separate request for proposal to select and retain the Program Assessment Organization(s) to conduct each of the Program Assessment(s), on the advice of the Reform Implementation Committee.
168. Each request for proposal shall include requirements that the Program Assessment Organization shall observe relevant and applicable ethical standards and, to the extent reasonably possible and consistent with the terms of this Final Settlement Agreement, respect the First Nations principles of Ownership, Control, Access, and Possession® (“OCAP®”) or similar data sovereignty frameworks.

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169. On the advice of the Reform Implementation Committee, the AFN shall select an organization from among the bidders that:
- (a) has relevant qualifications and demonstrated experience to perform program evaluations;
  - (b) is independent and free of conflicts of interest; and
  - (c) is capable of meeting the budget and timeline requirements.
170. The AFN and the Reform Implementation Committee may prefer qualified bidders that are owned by or directed by First Nations people or that propose to employ First Nations people to conduct the Program Assessments.
171. On selection of a successful bidder by the AFN, Canada shall provide funding to the AFN through a contribution agreement for the proposed contract price, provided that the price of the contract is reasonable and acceptable to Canada. The AFN shall then contract with the successful bidder, subject to the AFN's internal policies.

### **D. Oversight of the Program Assessments**

172. The AFN shall oversee the Program Assessment Organization and, on the advice of the Reform Implementation Committee, may provide guidance on:
- (a) the design and methods of the Program Assessments;
  - (b) relevant information, research, reports, and experts; and
  - (c) the participation of First Nations service providers, knowledge holders, and experts in the Program Assessment process.

### **E. Program Assessment Method and Information Sharing**

173. The Program Assessment Organization shall solicit and consider input from the following groups:
- (a) FNCFS Service Providers;
  - (b) provincial and Yukon governments providing child and family services for Non-Agency First Nations;

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- (c) the National Secretariat; and
- (d) other groups identified by the AFN, on the advice of the Reform Implementation Committee.

174. The Program Assessment Organization may also consider:

- (a) First Nations-defined indicators of poverty developed by the AFN;
- (b) research by the Remoteness Secretariat, Statistics Canada, and others on measuring remoteness and adjusting funding for remoteness, including research on measuring the remoteness of communities connected to the main road network by ferry;
- (c) any available results of the First Nations Information Governance Centre's planned longitudinal survey on the development and well-being of First Nations children, recognizing that significant results will not likely be available until the Second Program Assessment;
- (d) the progress of the First Nations Information Governance Centre with respect to the development of the First Nations census referred to in paragraph 91 and the merit of using that census within the Second Five-Year Funding Period to estimate the on-reserve population of First Nations; and
- (e) unexpended funds held by the FNCFS Service Providers.

175. Upon request by the Program Assessment Organization, the relevant Party or the Reform Implementation Committee shall provide the Program Assessment Organization with timely access to all relevant data, information, reports, agreements, and other information in their possession, power, and control, as reasonably required to complete the Program Assessment.

## **F. Urgent Circumstances During the Program Assessment Process**

176. During the Program Assessment process, the Program Assessment Organization shall notify the AFN, who shall in turn notify the Reform Implementation Committee, if an urgent need arises to address an aspect of the Reformed FNCFS Program that is adversely affecting the delivery of

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services to First Nations children, youth, and families and may provide a recommendation to address it.

### **G. Program Assessment Reports**

177. The Program Assessment Organization shall deliver the Program Assessment Reports to the AFN according to the timelines found at Appendix 3.
178. Each Program Assessment Report shall provide the deliverables as set out in the request for proposals, but at a minimum shall:
  - (a) include an environmental scan of any relevant factors influencing the Reformed FNCFS Program, such as emerging evidence, legislation, the Structural Drivers, significant events, and technology;
  - (b) include a description of the Program Assessment design, methodology, and any limitations;
  - (c) where sufficient evidence is available, provide evidence-based recommendations about how Canada can improve the Reformed FNCFS Program and remediate any shortcomings;
  - (d) identify recommendations supported by and flowing from associated findings and conclusions;
  - (e) identify if there are any priority recommendations that should be implemented immediately; and
  - (f) highlight any region-specific approaches or variations which may be required to achieve consistency with the purposes and principles of this Final Settlement Agreement.
179. The Program Assessment Organization shall also deliver to the AFN an executive summary of each Program Assessment Report, that shall include a summary of the recommendations.
180. The AFN may translate the executive summaries into any number of Indigenous languages on the advice of the Reform Implementation Committee, subject to available funding.

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181. The AFN shall make the Program Assessment Reports and the executive summaries public.

### **H. Reform Implementation Committee's Program Assessment Opinion**

182. The AFN shall distribute the Program Assessment Reports to the Reform Implementation Committee and to the Parties within fifteen (15) days of receipt from the Program Assessment Organization.
183. The Parties may provide any comments on the Program Assessment Reports to the Reform Implementation Committee within forty-five (45) days of receipt. The Reform Implementation Committee shall consider all such comments in formulating its recommendations to Canada.
184. The Reform Implementation Committee must deliver its Program Assessment Opinions to Canada and the other Parties by the following deadlines:
- (a) For its Initial Program Assessment Opinion, June 30, 2028; and
  - (b) For its Second Program Assessment Opinion, June 30, 2033.
185. The Reform Implementation Committee's Program Assessment Opinions shall contain recommendations on the Reformed FNCFS Program that are consistent with the purposes and principles of this Final Settlement Agreement. Such recommendations shall include, but not be limited to, those related to the Program Assessment Reports.
186. The Reform Implementation Committee's Program Assessment Opinion and any recommendations contained therein, including any recommendations to increase funding for subsequent fiscal years, shall be:
- (a) consistent with the purposes and principles of this Final Agreement;
  - (b) informed by and derived from the findings and recommendations in the Initial Program Assessment Report, and
  - (c) reasonable and prudent in light of the evidence and the findings of the Program Assessment Opinion.

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187. The Reform Implementation Committee shall make its Program Assessment Opinions and executive summaries thereof public, following receipt of Canada's response to the Program Assessment Opinions.

### **I. Canada's Response to the Reform Implementation Committee's Program Assessment Opinions**

188. Within one-hundred and twenty (120) days of receiving the Reform Implementation Committee's Program Assessment Opinions, ISC shall:

- (a) review and consider the Program Assessment Report and the Program Assessment Opinion;
- (b) in the spirit of a renewed nation-to-nation relationship, work with the Parties to co-develop policy recommendations that shall inform the options that ISC will bring forward for Canada's consideration; and
- (c) provide the following to each Party and to the Reform Implementation Committee:
  - (i) written confirmation as to which of the recommendations of the Program Assessment Opinions Canada will accept and implement;
  - (ii) the timeline and anticipated implementation date for the recommendations of the Program Assessment Opinions accepted by Canada; and
  - (iii) reasonably detailed written reasons in respect of any recommendation that Canada determines it shall not implement or any variation from a recommendation that Canada proposes to implement.

189. Canada shall make its responses to the Program Assessment Opinions public.

190. With respect to the Reform Implementation Committee's Initial Program Assessment Opinion, recommendations related to funding levels accepted by Canada shall be implemented no later than April 1, 2029. Canada shall

## **Recommended Draft for Review**

implement other recommendations it has accepted as soon as practicable and appropriate in the circumstances, acting diligently and in good faith.

### **PART XVI – SERVICE PROVIDER FUNDING ADJUSTMENT REQUESTS**

191. An FNCFS Service Provider may bring a Service Provider Funding Adjustment Request if it is unable within its current funding, for reasons beyond its reasonable control, to deliver services required by law and eligible to be funded by the Reformed FNCFS Program.
192. A First Nation may bring a Service Provider Funding Adjustment Request if it is unable within its current funding, to provide prevention services which are adequate to respond to a prevention need created by an unforeseen event(s), beyond its reasonable control, not including reasonably foreseeable natural events or circumstances covered by other government programs or policies.
193. In order to avoid the duplication of least disruptive measures and prevention funding, where Service Provider Funding Adjustment Requests have been received in relation to the same event(s), such requests by First Nations shall be prioritized.
194. “Current funding” in this Part includes unexpended funding from prior years with respect to which the FNCFS Service Provider has not submitted a spending plan to ISC but excludes prevention funding not available to be reallocated pursuant to paragraph 49. For clarity, an FNCFS Agency shall be required to expend their prevention funding before making a Service Provider Funding Adjustment Request for funding to deliver least disruptive measures.
195. An FNCFS Service Provider initiates a Service Provider Funding Adjustment Request by sending written notice to ISC of the total amount of additional funding required by the FNCFS Service Provider, the reason(s) the additional funding is required, the time(s) by which the additional funding is anticipated to be needed, and whether the funding is requested for one year or multiple years. In the case of a request by an FNCFS Agency, the request must be

## **Recommended Draft for Review**

accompanied by evidence of written support of the leadership of the FNCFS Agency's affiliated First Nation(s) that are affected.

196. Where an FNCFS Service Provider requests additional funding through a channel other than the process outlined in this Part, ISC shall refer the requestor to the Service Provider Funding Adjustment Request process.
197. Within fifteen (15) days of ISC's receipt of a Service Provider Funding Adjustment Request, ISC shall meet with the FNCFS Service Provider regarding the request.
198. Within thirty (30) days of ISC meeting with the FNCFS Service Provider and obtaining supporting documentation, ISC shall make a determination with respect to the Service Provider Funding Adjustment Request. If ISC has not made such a determination within the thirty (30) day period, the request shall be deemed to have been denied and the FNCFS Service Provider may access the Claimant Dispute Tribunal.
199. An FNCFS Service Provider may request a funding adjustment on an urgent basis, if any delay in receiving a response would significantly impact on the health or safety of identified children, youth, and/or families. ISC shall take measures necessary to ensure the safety and well-being of the identified children, youth, and/or families within five (5) days of receipt of such a request. If ISC has not made a determination with respect to the request within ten (10) days of receipt of the urgent request, the request shall be deemed to have been denied and the FNCFS Service Provider may access the Claimant Dispute Tribunal.

## **PART XVII – REFORM OF ISC AND SUCCESSOR DEPARTMENTS**

200. The Parties agree that reform of ISC is required to address systemic discrimination within the FNCFS Program and prevent its recurrence within the administration of the Reformed FNCFS Program.
201. The AFN, Caring Society, Canada, COO, and NAN obtained a consent order in *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern*



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*Affairs Canada*), 2022 CHRT 8 (“2022 CHRT 8”) which provided for the creation of an Expert Advisory Committee to provide advice and guidance on the reform of ISC.

202. The Reform Implementation Committee shall oversee the Expert Advisory Committee, including providing direction and guidance as required. The terms of reference of the Expert Advisory Committee are attached at Appendix 7, which may be updated by the Reform Implementation Committee.
203. Canada shall continue to facilitate the work and to fund the reasonable costs of the Expert Advisory Committee for work performed within its mandate.

### **A. Initial Third-Party Evaluation**

204. The Expert Advisory Committee shall support the development and implementation of an independent expert third-party evaluation of ISC, to be completed within two years following the approval of this Final Settlement Agreement by the Tribunal or, as necessary, the Federal Court or further Appellate Court. Canada shall provide reasonable funding for the independent expert third-party evaluation.
205. This evaluation shall be conducted to identify and provide recommendations to the Expert Advisory Committee related to the reform of internal departmental processes, procedures, and practices that contributed to the discrimination found by the Tribunal, as well as the elimination of the ‘old mindset’ it identified and the prevention of its recurrence.
206. The Expert Advisory Committee shall provide advice to the independent evaluators in the design, focus, and implementation of their assessment.
207. The evaluation shall include, but not be limited to, the following:
  - (a) Policy and decision-making structures and processes;
  - (b) Cultural norms and attitudes, including response to external critique;
  - (c) Human resource policies, procedures and agreements, including values and ethics, training (including regarding anti-racism, cultural competency and the impact of child and family services discrimination

## **Recommended Draft for Review**

- on First Nations families and communities), executive and staff performance commitments, and guidance documents;
- (d) Development of organizational competency and capacity to comprehend and respond to evidence-informed evaluations;
  - (e) Internal accountability mechanisms; and
  - (f) Consideration of proposals for external accountability measures.
208. The evaluation may draw on existing historical reports and resource materials, including those commissioned by some of the Parties, and include consultation conducted in an iterative way with ISC officials, First Nations youth in care and young adults formerly in care, First Nations leadership, FNCFS Agencies, and experts such as provincial and territorial child advocates. It may also include consultation with provinces and Yukon.
209. This evaluation shall be made accessible to the public.

### **B. Work Plan**

210. Upon completion of and based upon the independent expert third-party evaluation, the Expert Advisory Committee shall develop a work plan as contemplated in 2022 CHRT 8.
211. The work plan shall include advice to the Reform Implementation Committee as to whether and when future complementary departmental evaluations to support ISC reform should be undertaken.
212. The Expert Advisory Committee shall deliver the workplan to the Reform Implementation Committee, who shall consider the advice therein and make recommendations to Canada on the reform of ISC.
213. ISC shall take reasonable measures to begin implementing the recommendations of the Reform Implementation Committee, recognizing that certain recommendations may require ISC to seek new authorities or may not be acceptable to Canada.
214. The work plan and the Reform Implementation Committee's recommendations shall be made accessible to the public.

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215. The Expert Advisory Committee's mandate shall be fulfilled as of the delivery of the work plan to the Reform Implementation Committee.

### **C. Monitoring ISC Reform**

216. Upon adoption by ISC of the recommendations of the Reform Implementation Committee, the Reform Implementation Committee shall appoint an independent monitor who shall be responsible for monitoring Canada's implementation of the accepted recommendations and the efficacy of the reforms.

217. The monitor shall report to the Reform Implementation Committee as needed, but no less than on an annual basis.

218. The Reform Implementation Committee may consider a continued or future role, if any, of an advisory committee to advise on the reform of ISC.

### **D. Mandatory Training for ISC Employees**

219. ISC shall continue to require mandatory cultural humility training for all ISC employees of at least fifteen (15) hours annually, and up to thirty (30) hours annually for those occupying management and executive level positions or those whose responsibilities require regular interactions with First Nations and their citizens. ISC shall make best efforts to encourage similar training for the employees of other Government of Canada entities that are engaged in or intersect with the implementation of the Reformed FNCFS Program.

220. Within ninety (90) days following the approval of this Final Settlement Agreement by the Tribunal or, as necessary, the Federal Court or further Appellate Court, ISC shall develop and implement a trauma-informed and appropriate cultural humility training program for employees that includes, but is not limited to, the following topics:

- (a) Truth-telling component on how Canada's past and contemporary actions impact First Nations children, youth, and families;
- (b) The *United Nations Declaration on the Rights of Indigenous Peoples*;
- (c) The reports of the Truth and Reconciliation Commission of Canada;
- (d) The *United Nations Convention on the Rights of the Child*;

## Recommended Draft for Review

- (e) First Nations' culture, worldview, and history;
  - (f) Factors causing over-representation of First Nations children in the child welfare system, including the intergenerational impacts of the Indian Residential School system, the Indian Day Schools, and the Sixties Scoop;
  - (g) The findings of the Missing and Murdered Indigenous Women, Girls, and Two Spirit Inquiry, including impacts on First Nation families;
  - (h) Social movements such as Idle No More and Families of Sisters in Spirit;
  - (i) The history of the FNFCS Program, including the reviews and evaluations conducted from 2000 to 2011 and the Tribunal findings in the *First Nations Child & Family Caring Society of Canada et al. v. Attorney General of Canada (representing the Minister of Indigenous and Northern Affairs Canada)* proceedings; and
  - (j) The historical and contemporary social and economic conditions of remote First Nations.
221. Cultural humility training made available to ISC employees may include experiential learning, such as:
- (a) Elders' teachings and ceremonies;
  - (b) First Nations-led workshops, such as the *Touchstones of Hope* dialogue sessions;
  - (c) First Nations research seminars;
  - (d) Elders gatherings and First Nations assemblies; and
  - (e) Visiting communities, including learning about the lived realities of remote communities.
222. ISC shall track mandatory training for all employees and include training commitments in the performance management agreements of all employees.
223. ISC shall report the results of its internal tracking to the independent monitor as referenced in paragraph 216 annually.

## Recommended Draft for Review

### **PART XVIII – INTERIM DISPUTE RESOLUTION**

224. For the purpose of this interim dispute resolution process, the Parties agree to be bound by the *Arbitration Act*, 1991, S.O. 1991, c. 17.
225. The Parties acknowledge that Parties' Disputes may arise before the Dispute Resolution Tribunal is established. The process within this Part shall govern disputes between the Parties until the President is appointed by Order-in-Council and determines that the Transitional Dispute Resolution Tribunal is operational and implemented pursuant to paragraph 258.
226. Existing adjudication processes under the FNCFS Program shall continue to determine appeals until the President is appointed by Order-in-Council and determines that the Transitional Dispute Resolution Tribunal is operational and implemented pursuant to paragraph 258.
227. Upon the President providing written notice to the Parties of its determination that the Transitional Dispute Resolution Tribunal is operational and implemented pursuant to paragraph 258, this Part shall no longer govern disputes between the Parties, save for those pending before the President's notice.
228. The Parties agree to engage in the interim dispute resolution process outlined below:
- (a) if a Parties' Dispute arises, the Parties with an interest in the identified dispute shall engage the Eminent First Nations Person to resolve the dispute in accordance with the terms of this Final Settlement Agreement. Prior to the Eminent First Nations Person completing his role as the Eminent First Nations Person, the Parties are to agree on a new Eminent First Nations Person;
  - (b) the Eminent First Nations Person may, prior to commencing the interim dispute resolution process, engage the Parties in an informal discussion with a view to proposing a wide range of resolution alternatives, including traditional First Nations dispute resolution procedures;

## **Recommended Draft for Review**

- (c) the Eminent First Nations Person shall, in consultation with the Parties, set out the processes to be used, which may include determining items such as the relevant and applicable law to the issue in dispute, evidence, witnesses, document production, and the form and timing of written and oral representations;
- (d) the Eminent First Nations Person shall have full authority to issue a direction, order, or award, resolving the dispute between the Parties, in keeping with the relevant and applicable law in relation to the issue in dispute. Such direction, order, or award shall not be subject to an appeal or a right of review, except on grounds of exceeding jurisdiction, errors of law, or procedural fairness;
- (e) the Eminent First Nations Person shall determine the scope of the interim dispute resolution process, and may request submissions from the Parties prior to making any such determination; and
- (f) the Parties acknowledge and agree that any appeals or reviews of any direction, order or award made by the Eminent First Nation Person shall be governed by the laws of Ontario.

## **PART XIX – DISPUTE RESOLUTION PROCESS**

### **A. Overview**

#### *Types of Disputes*

229. The Dispute Resolution Process is intended to resolve two types of disputes, as set out in this Article: Parties' Disputes and Claimant Disputes.
230. A Parties' Dispute is a dispute, controversy, disagreement, or claim of a Party that arises out of, relates to, or is in connection with:
- (a) this Final Settlement Agreement, including any question regarding its existence, validity, termination, implementation, application, and interpretation and/or breach, other than a Claimant Dispute;
  - (b) a decision by Canada as to whether or how any recommendations of the Reform Implementation Committee will be implemented.

## Recommended Draft for Review

231. In a Parties' Dispute concerning Canada's decision about whether or how any recommendations contained in the Initial Program Assessment Opinion will be implemented, the Dispute Resolution Tribunal shall assess the reasonableness of Canada's decision and may order any remedy that could at common law be awarded on judicial review, subject to the limitations contained in paragraph 241. In conducting its review, the Dispute Resolution Tribunal shall consider, among other factors:
- (a) whether the recommendations contained in the Initial Program Assessment Opinion are consistent with the principles and limitations in paragraph 186;
  - (b) whether the recommendations contained in the Initial Program Assessment Opinion require an amendment to this Final Settlement Agreement;
  - (c) the Program Assessment Report; and
  - (d) Canada's reasons for its decision, if any.
232. A Parties' Dispute does not include:
- (a) a dispute concerning Canada's decision about whether or how any recommendations contained in the Second Program Assessment Opinion will be implemented;
  - (b) a claim that Canada has failed to obtain or advance the Funding Commitment set out in PART IV – FUNDING COMMITMENT, or any claim for breach of contract, action in tort or other claim that Canada has breached this Final Settlement Agreement by failing to approve the Final Settlement Agreement or by failing to obtain, appropriate, or make available to FNCFS Service Providers the funding provided for in PART IV – FUNDING COMMITMENT of this Final Settlement Agreement; or
  - (c) a dispute concerning Canada's decision about whether or how to implement any recommendations from the Reform Implementation Committee that require an amendment to this Final Agreement.

## Recommended Draft for Review

233. The Parties' Dispute Resolution Process is the exclusive procedure for resolving Parties' Disputes, save for the interim dispute resolution process in PART XVIII – INTERIM DISPUTE RESOLUTION.
234. Parties' Disputes shall be resolved pursuant to the procedures set forth in Article C of this Part.
235. A Claimant Dispute is a dispute, controversy, disagreement, or claim of an FNCFS Service Provider which arises out of, relates to, or is in connection with:
- (a) the failure to advance the allocation of a particular FNCFS Service Provider as set out in this Final Settlement Agreement;
  - (b) the accuracy of an FNCFS Service Provider's funding allocation provided under this Final Settlement Agreement;
  - (c) the entitlement of an FNCFS Service Provider to be funded for any amount under this Final Settlement Agreement;
  - (d) ISC's decision to deny (in whole or part) an FNCFS Service Provider's Service Provider Funding Adjustment Request; or
  - (e) ISC's decision to deny (in whole or part) an FNCFS Service Provider's FNCFS capital funding request.
236. A Claimant Dispute does not include a dispute, controversy, disagreement or claim of an FNCFS Service Provider, including one of the nature listed above, where general damages, damages for discrimination, or punitive damages are sought, or where the FNCFS Service Provider has not consented to resolve the Claimant Dispute by way of the Claimant Dispute Process.
237. The Claimant Dispute Resolution Process described in this Final Settlement Agreement is not intended to abrogate or derogate from a Claimant's rights provided for under the *Canadian Human Rights Act*, RSC, 1985, c H-6.
238. An FNCFS Service Provider is not obligated to resolve matters described in paragraph 235 by way of the Claimant Dispute Resolution Process and may seek remedies to which it may be entitled for such matters in any way it



## Recommended Draft for Review

chooses, including by pursuing a claim in a court of competent jurisdiction or under the *Canadian Human Rights Act*, RSC, 1985, c H-6.

239. Claimant Disputes shall be resolved pursuant to the procedures set forth in Article D of this Part, which shall be the exclusive procedure for resolving a Claimant Dispute for any Claimant who has consented to the use of the Claimant Dispute Resolution Process, save for the interim dispute resolution process in PART XVIII – INTERIM DISPUTE RESOLUTION.

### *Jurisdiction of the Dispute Resolution Tribunal*

240. The Dispute Resolution Tribunal has jurisdiction to:
- (a) process, adjudicate, and resolve Disputes, including by making procedural and substantive decisions;
  - (b) on request of a party to a Dispute, order any party to a Dispute to take any reasonable interim measure in relation to the health or safety of a child as the Dispute Resolution Tribunal may consider necessary in respect of the subject matter of a Dispute;
  - (c) order such remedies as are permitted under this Final Settlement Agreement, having regard to the parameters of the Parties' Dispute Process and Claimant Dispute Process and the limitations and remedies set out at paragraphs 231 and 241;
  - (d) order funding to a particular FNCFS Service Provider as set out in this Final Settlement Agreement;
  - (e) order that interest be paid on amounts ordered to be paid on the same basis as in the *Federal Courts Act*, RSC, 1985, c F-7; and
  - (f) order Canada to pay the legal costs of any party to a Dispute on such terms as are just and in accordance with rates for counsel funded by Canada at the rates provided for by the Department of Justice's external agent counsel rates.
241. The Dispute Resolution Tribunal does not have jurisdiction to:
- (a) amend any provision of this Final Settlement Agreement;

## Recommended Draft for Review

- (b) award general damages, punitive damages, or damages for discrimination;
- (c) determine a claim as described in paragraph 384;
- (d) expand the jurisdiction of the Dispute Resolution Tribunal;
- (e) reduce the existing funding of any FNCFS Service Provider or the funding entitlement of an FNCFS Service Provider under this Final Settlement Agreement;
- (f) reduce the level of the overall funding commitment provided for in paragraphs 5 and 9 of this Final Settlement Agreement;
- (g) make orders in the Claimant Dispute Process that requires or results in systemic change;
- (h) order Canada to fund new components of the Reformed FNCFS Funding Approach or increase funding for existing components of the Reformed FNCFS Funding Approach, unless otherwise set out in this Final Settlement Agreement; or
- (i) introduce additional indexation factors (for example, new methods of calculation of population growth or inflation).

242. An Adjudicator or Adjudication Panel may,

- (a) upon the enabling Legislation coming into force, in the same manner and to the same extent as a superior court of record, summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce any documents and things that the Adjudicator or Adjudication Panel considers necessary for the full hearing and consideration of the complaint;
- (b) administer oaths;
- (c) receive and accept any evidence and other information, whether on oath or by affidavit or otherwise, that the Adjudicator or Adjudication Panel sees fit, whether or not that evidence or information is or would be admissible in a court of law;

## Recommended Draft for Review

- (d) lengthen or shorten any time limit established by the rules of procedure; and
  - (e) decide any procedural or evidentiary question arising during the hearing.
243. An Adjudicator or Adjudication Panel may not admit or accept as evidence anything that would be inadmissible in a court by reason of any privilege recognized by the common law or legislation.
244. The Parties agree that where applicable, evidence can be taken in a manner that is guided by the Federal Court's *Practice Guidelines For Aboriginal Law Proceedings April 2016*, section D on Elder Evidence.

### *Principles Applicable to Determination of Disputes*

245. The Dispute Resolution Tribunal shall decide all Disputes in accordance with this Final Settlement Agreement and in particular its purposes and principles.
246. The Dispute Resolution Tribunal shall, in considering procedure for resolving a dispute, take the procedure that shall result in the just, most expeditious, and cost-effective manner, having regard to cultural appropriateness and as is appropriate in all the circumstances of the case.

### *Disputes Filed Prior to Expiry of Agreement*

247. Any Parties' Dispute or Claimant Dispute filed with the Dispute Resolution Tribunal prior to March 31, 2034, shall be decided by the Dispute Resolution Tribunal. The Dispute Resolution Tribunal shall continue to operate only with regard to concluding pending claims and shall be funded to do so for a period of six (6) months from the conclusion of any hearings that are properly filed with the Dispute Resolution Tribunal.

### *Nature of Dispute Decisions and Extent of Judicial Intervention and Review*

248. A Parties' Dispute Decision shall be binding on all Parties, regardless of whether the party chose to be a Participating Party.
249. A Claimant Dispute Decision shall be binding on the Claimant and ISC.

## **Recommended Draft for Review**

250. Parties' Disputes shall be governed by the *Arbitration Act*, 1991, S.O. 1991, c. 17 and Claimant disputes shall be governed by the provincial or territorial arbitration act where the Claimant is located.
251. If the enabling Legislation so provides when in force, Dispute Decisions made after such legislation is brought into force shall be final and binding and subject to review by the Federal Court of Canada only in accordance with the *Federal Courts Act* on the grounds referred to in paragraph 18.1 (4) of that Act.

### *Enforcement of Dispute Decisions*

252. If the legislation establishing the Dispute Resolution Tribunal so provides when in force, a party to any Dispute may register a Dispute Decision in the Federal Court of Canada, and a Dispute Decision may be enforceable as a decision of the Federal Court.
253. The Dispute Resolution Tribunal shall take whatever steps as are required to ensure that a party to a Dispute may register a Dispute Decision in the Federal Court of Canada.

### *Confidentiality*

254. On application of a party to any Dispute, the Dispute Resolution Tribunal may order that all or some of the Dispute Resolution Tribunal's procedures, hearings, and documents or interim orders and decisions shall remain strictly confidential between the parties to the Dispute.

### *Language*

255. The language of the Parties' Dispute Resolution Process, including the hearings, documentation, and Dispute Decision, shall be English or French as selected by the Participating Party who commenced the dispute.
256. The language of the Claimant Dispute Resolution Process, including the hearings, documentation, and Dispute Decision, shall be English, French, or an Indigenous language, where ordered by an Adjudicator or Adjudication Panel, as the case may be.

### *Communications*

## **Recommended Draft for Review**

257. The parties to any Dispute shall not communicate with the Adjudicator or Adjudication Panel, as the case may be:
- (a) orally, except in the presence of the other party to the Dispute; or
  - (b) in writing, without simultaneously sending a copy of that communication to the other party to the Dispute.

## **B. Establishment of the Dispute Resolution Tribunal**

### *Establishment of the Dispute Resolution Tribunal*

258. As soon as reasonable after the approval of this Final Settlement Agreement by the Tribunal or, as necessary, the Federal Court or further Appellate Court, the President of the Dispute Resolution Tribunal shall be appointed by Order-in-Council further to paragraph 266. The President, with the support of the Administrative Team, shall establish a Transitional Dispute Resolution Tribunal which will be in effect until the enabling Legislation is passed and in force.
259. Canada shall use its best efforts to propose to Parliament any legislation required to establish the Dispute Resolution Tribunal, to replace the processes referred to in Articles C and D of this Part, and otherwise to implement this Part. Canada shall use its best efforts within existing authorities to implement this Part, pending consideration of legislation by Parliament.
260. Before the enabling Legislation is brought into force, the President shall take such steps as are necessary to ensure that the Transitional Dispute Resolution Tribunal can function as intended and be binding and enforceable on all Parties and Claimants.
261. Before the enabling Legislation is brought into force, ISC shall agree to pay any costs or expenditures ordered by the Transitional Dispute Resolution Tribunal as set out in this Part in respect of a claim brought before it.

### *Administration of Dispute Resolution Tribunal*

262. If the enabling Legislation so provides when in force, the work of the Dispute Resolution Tribunal shall be supported by the following roles within it:

## Recommended Draft for Review

- (a) Cultural Officers;
  - (b) Dispute Resolution Tribunal President;
  - (c) Dispute Resolution Tribunal Registrar;
  - (d) Duty counsel; and
  - (e) Navigators.
263. If the enabling Legislation so provides when in force, the Registrar shall be responsible for the provision of the support services and the facilities that are needed by the Dispute Resolution Tribunal to exercise its powers and perform its duties and functions.
264. As an interim measure, the Administrative Team shall work with the President to establish support services and facilities necessary to enable the proper functioning of the Transitional Dispute Resolution Tribunal based on the recommendations of the President.

### *Appointment of Dispute Resolution Tribunal President*

265. The Dispute Resolution Tribunal shall consist of the President and Adjudicators.
266. The President shall be appointed by the Governor in Council, on the recommendation of the Minister of ISC following consultation with the Parties. The President may be appointed for a second term.
267. The President is to hold office during good behaviour for a term not exceeding five (5) years, but may be removed at any time by the Governor in Council for cause.
268. The President shall be paid a salary to be fixed by the Governor in Council. The President is entitled to be paid reasonable travel and living expenses incurred while absent in the course of their duties from, in the case of a full-time appointee, their ordinary place of work and, in the case of a part-time appointee, their ordinary place of residence.
269. In the event of the absence or incapacity of the President, or if the Office of the President is vacant, the Minister may, after consultations with the Parties, authorize a person to act as President. A person may not act as President

## Recommended Draft for Review

for a period of more than 90 days without the approval of the Governor in Council.

270. Subject to any restrictions or limitations the President may specify, the President may authorize any person referred to in paragraph 271 to exercise or perform any of the powers, duties or functions of the President under this FSA except for the power to delegate.

### *Roster of Adjudicators*

271. The President shall, as soon as reasonably possible, select and maintain a Roster of Adjudicators who shall serve as Adjudicators of all Disputes. The President shall be responsible for establishing and implementing the procedure for selection of Adjudicators.
272. The Roster of Adjudicators shall be comprised of the President and the number of Adjudicators necessary to ensure the timely adjudication of disputes. The Adjudicators shall be selected for staggered terms of either two (2) or three (3) years subject to renewal and subject to removal for cause by the President.
273. The President shall select Adjudicators who:
- (a) shall be persons who have expertise in the matters addressed by this Final Settlement Agreement; or
  - (b) shall have experience with First Nations government social programs, child welfare, and child well-being; or
  - (c) shall be practicing lawyers in good standing with a provincial or territorial governing body, or shall be retired judges; and
  - (d) shall be persons who have demonstrated objectivity, reliability, and sound judgment.
274. Within the Roster of Adjudicators, there shall be sufficient Adjudicators to reflect an appropriate amount of legal expertise to provide for the effective and timely resolution of disputes requiring such expertise.
275. The President shall aspire to gender parity and regional representation in the composition of the Roster of Adjudicators.

## **Recommended Draft for Review**

276. The President shall select Adjudicators with a preference in favour of Adjudicators who are persons recognized as citizens or members of a First Nation.
277. If a selected Adjudicator resigns or becomes unable to serve, a replacement shall be selected by the President as soon as reasonably possible.
278. A vacancy in the Roster of Adjudicators occurs when an Adjudicator:
- (a) reaches the end of their term;
  - (b) withdraws from office;
  - (c) is no longer able to serve for any reason; or
  - (d) is removed by the President for cause.
279. If an Adjudicator becomes incapable of serving while seized of a Dispute, the timeframes applicable to that Adjudicator's proceedings in respect of any Dispute shall be suspended until a replacement Adjudicator is appointed to the panel by the President. If a Dispute requires immediate attention, the President may preside over proceedings in respect of the Dispute until a replacement Adjudicator is appointed.

### *Mandatory Training- Claimant Dispute Resolution Tribunal*

280. If the enabling Legislation so provides, Administrative Tribunals Support Service of Canada shall ensure that all employees, appointees, agents, or representatives of the Dispute Resolution Tribunal (including lawyers and civil servants) involved in the Claimant Dispute Resolution Process receives or has received specialized training to ensure that Claimant Disputes are dealt with in a respectful and culturally appropriate manner. As an interim measure, the Administrative Team shall work with the President to establish such specialized training, based on the recommendations of the President, to ensure the proper functioning of the Dispute Resolution Tribunal.

### *Dispute Resolution Tribunal Rules of Procedure*

281. The President shall establish Rules of Procedure for the Dispute Resolution Tribunal's intake, processing, and determination of Disputes to effect the purposes and principles of this Final Settlement Agreement and to promote



## **Recommended Draft for Review**

the just, expeditious, and efficient resolution of Disputes having regard to cultural appropriateness.

282. The Rules of Procedure shall provide for the mechanisms by which the Cultural Officer shall make recommendations about the procedure of a Dispute in accordance with this Final Settlement Agreement.
283. The Rules of Procedure for the Dispute Resolution Tribunal must be established prior to the President determining that the Transitional Dispute Resolution Tribunal is operational and implemented.
284. Subject to this Final Settlement Agreement, the Adjudicator or Adjudication Panel shall interpret the Rules of Procedure liberally to resolve the Dispute in the most just, expeditious, and cost-effective manner on its merits, having regard to cultural appropriateness and as is appropriate in all the circumstances of the case.
285. The President shall, on an annual basis, consider the number of Disputes, the process applied to resolve such Disputes, and the amount of time and resources required to resolve such Disputes and may amend the Rules of Procedure accordingly.

### **C. Parties' Dispute Resolution Process**

#### *Commencement of Parties' Dispute*

286. A Party commences a Parties' Dispute by delivering a Parties' Dispute Notice to all other Parties and thereafter filing the Parties' Dispute Notice with the Dispute Resolution Tribunal, in the form and method prescribed by the Rules of Procedure.
287. A Party shall commence a Parties' Dispute within sixty (60) days of the Party becoming aware of the circumstances giving rise to the Parties' Dispute. Otherwise, the Party shall be deemed to have waived their right to have the Parties' Dispute heard.
288. A Parties' Dispute Notice shall be in writing and shall contain the following information:
  - (a) a statement of the subject matter or issues of the Parties' Dispute and a summary of the underlying facts; and

## **Recommended Draft for Review**

- (b) a statement of the remedy sought.

### *Appointment of Adjudication Panel*

- 289. The President shall appoint a three (3)-person Adjudication Panel from among the Roster of Adjudicators within twenty (20) days of receiving a Parties' Dispute Notice.
- 290. An Adjudication Panel shall be chaired by an Adjudicator from among the Roster of Adjudicators who is a lawyer or a retired judge.
- 291. In appointing the Adjudicators to the Adjudication Panel, the President shall have due regard to any request of a Participating Party with respect to any qualifications or expertise of Adjudicators which may be desirable given the issues set out in the Parties' Dispute Notice or as otherwise agreed in writing by the Participating Parties.

### *Exchange of Parties' Positions and Documents*

- 292. Within thirty (30) days after receipt of the Parties' Dispute Notice described in paragraph 286, each other Party shall deliver a written statement of its response in respect of the Parties' Dispute or may indicate that it will not be participating in the Parties' Dispute.
- 293. After a Party has given notice that it will not be a Participating Party, it is no longer entitled to notice of the steps in the Parties' Dispute, nor to take part in any of the proceedings thereafter without leave of the Adjudication Panel.
- 294. Each Participating Party shall attach to its written statement a list of documents upon which it intends to rely and which describes each document by kind, date, author, addressee, and subject matter.
- 295. The Adjudication Panel may allow the Participating Parties to amend or supplement their statements, including the list of documents, having regard to:
  - (a) any delay caused by making the amendment or supplement; and
  - (b) any prejudice suffered by the other Participating Parties.

### *Mediation*

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296. Participating Parties may agree to enter into mediation at any time.
297. On request of all Participating Parties, the President shall appoint a mediator to mediate the dispute from among the Roster of Adjudicators.
298. A mediation shall continue until resolution or until at least one (1) Participating Party terminates its involvement, after which the President shall direct the appointed Adjudication Panel to continue to resolve the Dispute.
299. Nothing in this section prevents the President or the Adjudication Panel from recommending mediation to the parties to a Parties' Dispute.

### *Pre-Hearing Meeting and Document Exchange*

300. Within twenty (20) days after the delivery of the Participating Parties responses, the Adjudication Panel shall convene a pre-hearing meeting of the Participating Parties in the hopes of reaching agreement on procedure, and to make any necessary procedural orders, including:
  - (a) the timelines for taking steps in the Dispute Resolution Process;
  - (b) the sharing of documents;
  - (c) agreement on a joint book of documents, if any;
  - (d) the timelines for the delivery of expert reports, if any;
  - (e) the scheduling of hearings or meetings, if any;
  - (f) any preliminary applications or objections; and
  - (g) any other matter which will assist the adjudication to proceed in a just, expeditious, and cost-effective manner on its merits, having regard to cultural appropriateness.
301. The chair of the Adjudication Panel shall prepare and distribute any directions and orders made at the pre-hearing meeting to the Participating Parties.
302. On motion of any Participating Party, the Adjudication Panel may order a Participating Party to produce, within a specified time and manner, any documents that:
  - (a) have not been listed in accordance with paragraph 294;

## **Recommended Draft for Review**

- (b) the Participating Party has in its care, custody, or control;
  - (c) the Adjudication Panel considers to be relevant; and
  - (d) are not subject to privilege.
303. The Participating Parties shall make best efforts to prepare and send to the Adjudication Panel an agreed statement of facts within the time specified by the Adjudication Panel.
304. Where a Participating Party intends to rely on an expert witness, it shall produce a written statement or report prepared by the expert witness.
305. Not later than thirty (30) days before a hearing commences, the Participating Parties shall exchange:
- (a) a list of all documents each Participating Party will introduce at the hearing, and furnish copies of any documents not already produced; and
  - (b) the name and contact information of any witness and a written summary or statement of the witness's evidence.

### *Place and Mode of Adjudication*

306. An Adjudication Panel may:
- (a) Having due regard to the recommendation of the Participating Parties, the Cultural Officer, and other relevant factors, conduct its proceedings at any place it considers appropriate for hearing witnesses and/or experts of the Participating Parties, including by videoconference or teleconference; and
  - (b) attend any place for inspection of documents, goods, or other personal property, or for viewing physical locations.

### *Manner of Proceedings*

307. Unless the Participating Parties have agreed to proceed by way of written argument, the Adjudication Panel shall convene an oral hearing.

## **Recommended Draft for Review**

308. Parties' Disputes are presumptively open to public attendance; however, an Adjudication Panel may order that all or part of a hearing be closed to the public.
309. The Adjudication Panel shall strive to schedule hearings to be held on consecutive days until completion, taking into account Participating Parties' schedules, witness availability, and need for preparation time.
310. An Adjudication Panel may depart from the Rules of Procedure on consent of the parties to a Dispute, or as ordered by the Adjudication Panel, taking into account the submissions of the parties to the Dispute.

### *Default of a Party*

311. If, without explanation, any Participating Party fails to meet a timeline established by the Rules of Procedure or by the Adjudication Panel for taking a step in the Dispute Resolution Process, the Adjudication Panel may make an order that the Party has foregone their opportunity to proceed in the Parties' Dispute and may make such order as it deems fit.
312. Before making an order further to a default of a Party, the Adjudication Panel shall give all Participating Parties written notice providing an opportunity to provide an explanation and may permit a Participating Party to cure its default on such terms as are just.
313. If, without showing sufficient cause or confirming that it will not tender evidence, a Participating Party fails to appear at the hearing or to produce documentary evidence, the Adjudication Panel may continue the proceedings and make the Parties' Dispute Decision on the evidence before it.

### *Settlement*

314. If, during a Parties' Dispute Resolution Process, the Participating Parties settle the Parties' Dispute, the Adjudication Panel shall terminate the proceedings and, if unanimously requested, shall record the settlement in the form of a Parties' Dispute Decision on agreed terms.
315. Where the Participating Parties request that the settlement be recorded as a Parties' Dispute Decision, that decision shall:

## **Recommended Draft for Review**

- (a) be made in accordance with paragraphs 316 to 318;
- (b) state that it is a Parties' Dispute Decision; and
- (c) have the same status and effect as any other Parties' Dispute Decision.

### *Parties' Dispute Decisions*

316. An Adjudication Panel shall make its decisions by majority.
317. An Adjudication Panel shall make its final Parties' Dispute Decision as soon as possible and, in any event, not later than sixty (60) days after the conclusion of the Parties' Dispute hearing. The period of sixty (60) days may be extended by order of the President.
318. A Parties' Dispute Decision shall be made in writing and shall state the reasons upon which it is based. However, where a Parties' Dispute Decision is recording the Participating Parties' settlement on agreed terms, no reasons shall be required.
319. The Registrar shall deliver a copy of a Parties' Dispute Decision to each Party.

### *Termination of Proceedings*

320. A Parties' Dispute Decision terminates the Parties' Dispute proceedings.
321. An Adjudication Panel shall issue an order for the termination of the Parties' Dispute proceedings where the Participating Parties unanimously agree to the termination of the proceedings, regardless of whether the matter has resulted in a Parties' Dispute Decision.

### *Correction of Parties' Dispute Decision*

322. Within thirty (30) days after receipt of a Parties' Dispute Decision, the Participating Parties shall settle the form of the order arising from the Parties' Dispute Decision. In the absence of agreement, the Participating Parties shall contact the Registrar and shall appear before the Adjudication Panel to settle the order.

## **Recommended Draft for Review**

323. The Adjudication Panel may, on its own initiative, correct any clerical error, typographical error, or make a similar amendment to a Parties' Dispute Decision, within thirty (30) days after the date of the Parties' Dispute Decision.

### **D. Claimant Dispute Process**

#### *Shared Objectives*

324. To the greatest extent possible, the Parties recognize the following principles:

- (a) that Claimant Disputes should be resolved in a reasonable, collaborative, and informal atmosphere;
- (b) that Claimant Disputes should be heard in a location and manner that is convenient for the Claimant, including online or within the community of the Claimant;
- (c) that Claimant Disputes should be resolved in a manner that is respectful of the Claimant's community and culture;
- (d) that the Claimant Dispute Resolution Process should be accessible to Claimants;
- (e) that First Nations legal traditions and principles may inform the resolution of Claimant Disputes, recognizing and respecting the diversity among First Nations; and
- (f) that the Dispute Resolution Tribunal should have sufficient resources to aid Claimants in commencing and resolving Claimant Disputes and to endeavour to ensure their legal rights are protected.

#### *Navigators*

325. The President with the support of the Administrative Team, or the Registrar if the enabling Legislation so provides, shall ensure that sufficient Navigators are available to provide information to assist Claimants in filing Claimant Disputes and understanding the Rules of Procedure. Navigators shall not provide legal advice.

## **Recommended Draft for Review**

326. Navigators are independent from ISC and Canada and shall assist Claimants with understanding and accessing the Claimant Dispute Resolution Process and bringing their case before the Dispute Resolution Tribunal, including helping Claimants complete forms, collect documents for their hearings, prepare to answer questions from the Adjudicator or Adjudication Panel, understand their right to seek judicial review, and such other tasks or support as required to assist the Claimant (other than legal representation).

### *Commencement of Claimant Dispute*

327. A Claimant commences a Claimant Dispute by submitting a Claimant Dispute Notice to the Dispute Resolution Tribunal in the form and method prescribed by the Rules of Procedure.
328. A Claimant must submit a Claimant Dispute Notice within ninety (90) days of the receipt of the notification from ISC of the action that gives rise to the Claimant Dispute. Otherwise, the Claimant shall be deemed to have waived their right to have the Claimant Dispute heard.
329. A Claimant Dispute Notice shall be in writing and shall contain the following information:
- (a) a statement of the subject matter or issues of the Claimant Dispute and a summary of the underlying facts; and
  - (b) a statement of the remedy sought.

### *Duty Counsel*

330. The President with the support of the Administrative Team, or the Registrar if the enabling Legislation so provides, shall establish the necessary roster of duty counsel to ensure the just and expeditious resolution of Claimant Disputes. Any Claimant can avail themselves of duty counsel.

### *Claimant Participation Costs and Legal Fees*

331. Where an Adjudicator so directs, Canada shall pay the reasonable costs of a Claimant's participation in the Claimant Dispute Resolution Process, including reasonable legal fees paid at the rates provided for by the Department of Justice external agent counsel rates.



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### *Requirement of Written Confirmation*

332. On receipt of a Claimant Dispute Notice, the President shall recommend to the Claimant in writing that they seek independent legal advice from Duty Counsel or from other legal counsel about the implications of filing a Claimant Dispute.
333. After receiving independent legal advice either from Duty Counsel or other legal counsel, or after signing a waiver of independent legal advice, the Claimant may provide written confirmation to the President or the Registrar indicating their consent to:
- (a) proceeding with a Claimant Dispute; and
  - (b) not filing a complaint with the Canadian Human Rights Commission with respect to the substance of such Claimant Dispute and/or bringing the substance of such Claimant Dispute before the Court, as applicable.
334. Upon receiving written confirmation as described in paragraph 333, the President or Registrar shall promptly deliver the Claimant Dispute Notice to ISC.
335. ISC shall deliver its response to the Claimant Dispute Notice within thirty (30) days of the delivery of the Claimant Dispute Notice.

### *Appointment of Adjudicator or Adjudication Panel*

336. Within twenty (20) days of the Claimant providing written confirmation that they want to proceed with a Claimant Dispute, the President shall appoint a single Adjudicator with due regard to the nature of the Claimant Dispute and the expertise of the Adjudicator.
337. The President may, in their sole discretion, appoint an Adjudication Panel where the circumstances, magnitude, or importance of the Claimant Dispute warrants it.
338. If the President appoints an Adjudication Panel, it shall be chaired by an Adjudicator from among the Roster of Adjudicators who is a lawyer or retired judge.

## **Recommended Draft for Review**

### *Mediation*

339. All parties to a Claimant Dispute may agree to enter into mediation at any time.
340. On request of all parties to a Claimant Dispute, the President shall appoint a mediator to mediate the Claimant Dispute from among the Roster of Adjudicators.
341. A mediation under this Part shall continue until resolution or until at least one party to a Claimant Dispute terminates its involvement, after which the President shall direct the appointed Adjudicator or Adjudication Panel to continue to resolve the Claimant Dispute.
342. Nothing in this section prevents the President or the Adjudicator or Adjudication Panel from recommending mediation to the parties to a Claimant Dispute.

### *Similar Claimant Disputes*

343. In the case of multiple Claimant Disputes which are filed at similar times and which share a similar factual basis, the President may, after hearing from the Claimants and Canada, decide to consolidate, join, or have the Claimant Disputes heard together.

### *Party Participation*

344. A Party may bring a motion to intervene in a Claimant Dispute, and the Adjudicator or Adjudication Panel shall determine whether the intervention will be allowed, after hearing submissions from the Claimant, ISC, and the proposed intervenor on such terms as are just.

### *Pre-Hearing Meeting*

345. Within twenty (20) days after the delivery of Canada's response, the Adjudicator or Adjudication Panel shall convene a pre-hearing meeting of the parties to the Claimant Dispute in the hopes of reaching agreement on procedure, and to make any necessary procedural orders, including:
  - (a) the timelines for taking steps in the Claimant Dispute Resolution Process;

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- (b) the sharing of documents;
- (c) the timelines for the delivery of expert reports, if any;
- (d) the scheduling of hearings or meetings, if any;
- (e) any preliminary applications or objections; and
- (f) any other matter which will assist the adjudication to proceed in a just, expeditious, and cost-effective manner on its merits, having regard to cultural appropriateness.

346. The Adjudicator or Adjudication Panel shall decide whether the hearing will proceed orally or in writing, and the level of confidentiality of the proceedings, taking into account any advice provided by the Cultural Officer.

### *Interim Claimant Dispute Decision*

347. At any time during the Claimant Dispute Resolution Process, the Adjudicator(s) may make an interim Claimant Dispute Decision on any matter with respect to which it may make a final Claimant Dispute Decision.

### *Place and Mode of Adjudication, Manner of Proceedings, and Role of Cultural Officer*

348. The Cultural Officer's role is to make recommendations to the Adjudicator or Adjudication Panel related to aspects of a Claimant Dispute Process with the goal of facilitating the resolution of the Claimant Dispute in a manner that promotes resolution in a just, most expeditious, and cost-effective manner, having regard to cultural appropriateness and as is appropriate in all the circumstances of the case.

349. The Cultural Officer shall make their recommendations in advance of the pre-hearing and may make further recommendations at any other time.

350. The Cultural Officer may consider, among other things,

- (a) the Rules of Procedure;
- (b) any requests of the Claimant;
- (c) the Indigenous legal traditions and protocols identified by the Claimant; and

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- (d) any culturally rooted procedures that may promote access to justice for the Claimant and ensure substantive equality and fairness.

351. The Claimant and/or any associated First Nation(s) may:

- (a) recommend that a representative knowledge keeper or elder sit with the Adjudicator or Adjudication Panel to provide guidance on legal traditions and protocols without the need to qualify them as an expert witness;
- (b) recommend procedures for use by the Adjudicator or Adjudication Panel to incorporate legal traditions and protocols for use during the hearing of the Claimant Dispute;
- (c) request that the Claimant be permitted to bring a Party or other support person to attend at any aspect of the Claimant Dispute Resolution Process;
- (d) request that proceedings be conducted in an Indigenous language;
- (e) request that proceedings be conducted orally or in writing; and
- (f) request that proceedings be open or closed to the public and that aspects of the proceeding be anonymized or confidential.

352. Any such recommendations or requests in paragraph 351 are subject to the discretion of the Adjudicator or Adjudication Panel.

### *Scope of Claimant Dispute Adjudication*

353. The Adjudicator or Adjudication Panel shall conduct a review of Canada's decision giving rise to the Claimant Dispute, considering only the materials that were before Canada's decision maker.

354. Notwithstanding paragraph 353, the Adjudicator or Adjudication Panel may consider, as applicable:

- (a) the views of the Claimant and any associated First Nations;
- (b) the legal traditions and protocols of the relevant First Nation;
- (c) the circumstances of the individual First Nation;

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- (d) the urgency of the funding that is the subject of the Claimant Dispute; and
- (e) any evidence not before the decision maker tendered by the parties to the Claimant Dispute that the Adjudicator or Adjudication Panel finds relevant and appropriate in the circumstances.

### *Expert Appointed by Adjudicator or Adjudication Panel*

355. On its own initiative, the Adjudicator or Adjudication Panel may seek representations from the Claimant and from ISC concerning:

- (a) A proposal by the Adjudicator or Adjudication Panel to appoint one or more independent experts to report to it on specific issues to be determined by the Adjudicator(s); and
- (b) A proposal by the Adjudicator or Adjudication Panel to require a Claimant to provide the expert with any relevant information or to produce, or to provide access to, any relevant documents, goods or other personal property or land for inspection or viewing.

356. The Adjudicator or Adjudication Panel shall give a copy of an expert's report to the Claimant and ISC who shall have an opportunity to reply to it and cross-examine the expert.

357. The expert shall, on the request of the Claimant or ISC:

- (a) make available to the requestor all documents, goods, or other property in the expert's possession and provided to the expert in order to prepare a report; and
- (b) provide the requestor with a list of all documents, goods, or other personal property or land not in the expert's possession but which were provided to or given access to the expert, and a description of the location of those documents, goods, or other personal property or lands.

### *Default of a Party*

358. If, without explanation, a Claimant or ISC fails to meet a timeline established by the Rules of Procedure or by the Adjudicator or Adjudication Panel for

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taking a step in the Dispute Resolution Process, the Adjudicator or Adjudication Panel may make an order that such party has foregone their opportunity to proceed in the Claimant Dispute and may make such order as it deems fit.

359. Before making an order further to a default of a Claimant or ISC, the Adjudicator or Adjudication Panel shall give the Claimant and ISC written notice providing an opportunity to provide an explanation and may permit the defaulting party to cure its default on such terms as are just.
360. If, without showing sufficient cause or confirming that it will not tender evidence, a party to a Claimant fails to appear at the hearing or to produce documentary evidence, the Adjudicator or Adjudication Panel may continue the proceedings and make the Claimant Dispute Decision on the evidence before it.

### *Settlement*

361. If the parties to a Claimant Dispute settle the Claimant Dispute, the Adjudicator or Adjudication Panel shall terminate the proceedings and, if unanimously requested, shall record the settlement in the form of a Claimant Dispute Decision on agreed terms.

### *Claimant Dispute Decisions*

362. The Adjudicator or Adjudication Panel shall make its Claimant Dispute Decision as soon as possible and, in any event, not later than sixty (60) days after the conclusion of the Claimant Dispute hearings. The period of sixty (60) days may be extended by order of the President.
363. A Claimant Dispute Decision shall be made in writing and state the reasons upon which it is based, unless it is an award on consent.
364. If the enabling Legislation so provides, a copy of a Claimant Dispute Decision shall be delivered by the Administrative Team or the Registrar to each party to the Claimant Dispute.
365. A copy of a Claimant Dispute Decision shall be delivered by the Administrative Team or the Registrar, if the legislation so provides, to the Claimant, Canada, and the Systemic Review Committee.

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366. Canada shall maintain a public registry of Claimant Dispute Decisions. The registry shall be subject to any confidentiality orders made by the Adjudicator or Adjudication Panel.

### *Termination of Proceedings*

367. A Claimant Dispute Decision terminates the Claimant Dispute proceedings.
368. An Adjudicator or Adjudication Panel shall issue an order for the termination of a Claimant Dispute Proceeding where the Claimant and ISC unanimously agree to the termination of the proceedings, regardless of whether the matter has resulted in a Claimant Dispute Decision.

### *Correction and Interpretation of Claimant Dispute Decision*

369. The Adjudication Panel may, on its own initiative, correct any clerical error, typographical error, or make a similar amendment to a Claimant Dispute Decision, within thirty (30) days after the date of the Claimant Dispute Decision.

### *Dispute Resolution Tribunal Process – Claimant Feedback*

370. The Administration Team or Registrar, if the legislation so provides, shall establish a process to enable Claimants to share feedback and commentary relating to their experiences with the Claimant Dispute Process.
371. The Administration Team or Registrar, if the legislation so provides, shall share this feedback and commentary with the Systemic Review Committee and Canada.

## **PART XX – INFORMATION SHARING AND PRIVACY**

372. The Parties and this Final Settlement Agreement are subject to federal, provincial, and regional laws and regulations, including privacy laws. Each Party shall be required to perform its obligations under this Final Settlement Agreement related to information sharing only to the extent permitted by such laws and only to the extent that the disclosure of said information is not protected by legislation or relevant privileges or otherwise prohibited by a legal, contractual, or fiduciary obligation.

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### **PART XXI – ENTIRE AGREEMENT**

373. This Final Settlement Agreement, including all appendices, constitutes the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any prior or other understandings and agreements, including the Agreement-in-Principle and the Terms of Reference for the Consultation Committee on First Nations Child Welfare, between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings, covenants, or collateral agreements, express, implied, or statutory between the Parties with respect to the subject matter hereof other than as expressly set forth or referred to in this Final Settlement Agreement.

### **PART XXII – CONFIDENTIALITY AND RETENTION**

374. Any information provided, created, or obtained in the course of implementing this Final Settlement Agreement shall be kept confidential and shall not be used for any purpose other than as set out in this Final Settlement Agreement, unless otherwise agreed by the Parties or as required by law.

375. The Parties shall determine whether and how to retain documents beyond the expiry date of this Final Settlement Agreement where documents are produced or created by a committee established under this Final Settlement Agreement or held by the Dispute Resolution Tribunal where such documents are not subject to the *Library and Archives of Canada Act* or other such applicable legislation.

376. Save as may otherwise be agreed between the Parties, the undertaking of confidentiality as to the discussions and all communications, whether written or oral, made in and surrounding the negotiations leading to the Agreement-in-Principle and this Final Settlement Agreement continues in force. The Parties expressly agree that the Agreement-in-Principle and the materials and discussions related to it are inadmissible as evidence to determine the meaning and scope of this Final Settlement Agreement, which supersedes the Agreement-in-Principle.

### **PART XXIII – TERMINATION OF AGREEMENT**



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377. This Final Settlement Agreement shall continue in full force and effect until expiry of the Term on March 31, 2034.
378. Notwithstanding any other provision in this Final Settlement Agreement, the following provisions shall survive the termination of this Final Settlement Agreement:
- (a) paragraphs 95 to 97 of PART VII –THE REFORMED FNCFS FUNDING APPROACH: FOLLOWING THE EXPIRY OF THE TERM OF THIS FINAL SETTLEMENT AGREEMENT;
  - (b) PART XIX – DISPUTE RESOLUTION PROCESS in so far as it is required to continue to operate and be funded to do so pursuant to paragraph 247, which details the determination of Disputes filed prior to the expiry of this Final Settlement Agreement; and
  - (c) PART XXII – CONFIDENTIALITY AND RETENTION.

## **PART XXIV – COOPERATION AND APPROVAL**

### *Cooperation of First Nations Leadership and Tribunal Approval*

379. The Parties shall speak publicly in favour of this Final Settlement Agreement and shall make best efforts to procure the endorsement of this Final Settlement Agreement by First Nations leadership and, subject to such endorsement by way of resolution, to procure the approval of this Final Settlement Agreement by the Tribunal or, as necessary, the Federal Court or further Appellate Court.
380. For clarity, the coming into force of this Final Settlement Agreement is contingent on the endorsement of First Nations leadership and approval by the Tribunal or, as necessary, the Federal Court or further Appellate Court, and shall be of no force and effect should such endorsement and approval not be obtained.

### *Public Statements and Announcements*

381. The Parties shall cooperate with respect to the release of joint public statements announcing this Final Settlement Agreement and shall make public announcements in support of the Final Settlement Agreement.

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### *Funding of Legal Costs*

382. Until this Final Settlement Agreement is approved by the Tribunal or, as necessary, the Federal Court or further Appellate Court, ISC shall reimburse the AFN, COO, and NAN for reasonable legal costs related to supporting that approval. Following such approval, ISC shall no longer reimburse the AFN, COO, and NAN for legal costs in relation to this Final Settlement Agreement.

### **PART XXV – ENFORCEMENT OF FUNDING COMMITMENT**

383. Any and all funding commitments by Canada or amendments agreed to by the Parties in this Final Settlement Agreement remain subject to annual appropriation by the Parliament of Canada, or other necessary approval processes required by the Government of Canada.
384. Notwithstanding paragraph 383, if the Parliament of Canada does not appropriate sufficient funding to satisfy Canada's commitment in PART IV – FUNDING COMMITMENT of this Final Settlement Agreement, a Party may seek an order from a court of competent jurisdiction that the Parties are substantially deprived of the benefit of the FSA. The Party seeking such an order need not have suffered monetary loss nor shall it be necessary for a Party to prove that it is unable to perform its obligations under this Final Settlement Agreement as a result of Parliament's decision not to appropriate sufficient funding. If a court makes such an order, a Party may seek to re-open the complaint at the Canadian Human Rights Tribunal bearing file number T1340/7008, or to initiate a new complaint at the Canadian Human Rights Tribunal. For clarity, nothing in this clause is intended to foreclose any other cause of action or remedy which may be available to the Parties.

### **PART XXVI – SUPERSEDING TRIBUNAL'S ORDERS**

385. Within 30 days following the signing of the Final Settlement Agreement, the Parties shall file a joint Notice of Motion with the Tribunal in which they shall seek an order from the Tribunal that the Final Settlement Agreement is approved and that the Tribunal's jurisdiction over the complaint and all associated proceedings has ended save for those relating to Jordan's

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Principle, and that the terms of the Final Settlement Agreement supersede and replace all orders of the Tribunal related to the discrimination found by the Tribunal concerning the FNCFS Program and the 1965 Agreement.

386. For clarity, the terms of this Final Settlement Agreement shall supersede and render void all previous orders of the Tribunal concerning the 1965 Agreement and the FNCFS Program provided by Canada through ISC and any previous entities, unless an Order or part of an Order of the Tribunal is specifically identified as surviving and still in force following this Final Settlement Agreement.

## **PART XXVII – GENERAL PROVISIONS**

387. This Final Settlement 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 abrogating or derogating from them.
388. This Final Settlement Agreement shall not be construed as an assumption by the AFN, COO, or NAN of any liability to any person(s) or First Nation(s) in respect of this Final Settlement Agreement or its subject matter.
389. For further clarity, on execution of the Final Settlement Agreement, the Parties shall be bound by the Dispute Resolution Process agreed to under this Final Settlement Agreement and shall not return to the Tribunal for any purpose other than to obtain a final consent order resolving the complaint and ending the Tribunal's jurisdiction or as set out in paragraph 384.
390. The terms of this Final Settlement Agreement may only be amended by the Parties upon their unanimous consent in writing.
391. No Party shall be added to this Final Settlement Agreement once it has been signed except with the unanimous consent of the Parties.
392. Where the context or construction requires, all words applied in the plural shall be deemed to have been used in the singular, and vice versa; and the masculine shall include the feminine and neuter, and vice versa.
393. Unless the context otherwise requires, references herein to:

## **Recommended Draft for Review**

- (a) parts, articles, sections, paragraphs, and appendices mean the parts, articles, sections, and paragraphs of, and appendices attached to, this Final Settlement Agreement;
- (b) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof;
- (c) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder; and
- (d) words applied in the plural shall be deemed to have been used in the singular, and vice versa; and the masculine shall include the feminine and neuter, and vice versa.

394. All funding provided to First Nations and FNCFS Agencies pursuant to this Final Settlement Agreement shall be provided as a transfer payment and in accordance with the Policy on Transfer Payments, the Directive on Transfer Payments, and the terms and conditions of the FNCFS Program, as set out in Appendix 10 and revised from time to time in the manner outlined in paragraph 399. For greater clarity, it shall be a requirement of such funding that First Nations and FNCFS Agencies complete the planning and reporting requirements set out in paragraphs 43, 99, 106, 134 and 137(b) of this Final Settlement Agreement and the terms and conditions of the FNCFS Program.

395. All amounts in this Final Settlement Agreement have been rounded. The precise financial commitments are as set out in the financial chart attached as Appendix 1. In case of any conflict, the Parties agree that the amounts in the financial chart prevail.

396. This Final Settlement Agreement may be signed electronically and in counterpart.

## **PART XXVIII – APPENDICES**

397. No term of this Final Settlement Agreement can be amended except as provided for in paragraph 390. However, certain appendices to this Final

## **Recommended Draft for Review**

Settlement Agreement may be revised in accordance with this Part, except where a revision to those appendices would have the effect of amending this Final Settlement Agreement, being inconsistent with its terms, or significantly departing from the principles and purposes therein.

398. ISC may revise the following appendices to this Final Settlement Agreement on the approval of the Reform Implementation Committee:

- (a) Appendix 4: First Nations Planning Template;
- (b) Appendix 5: Agency Accountability Co-Development Planning Template;
- (c) Appendix 6: Reformed FNCFS Program Schedules for Contribution Funding Agreements;
- (d) Appendix 3: Program Assessment Timelines;
- (e) Appendix 7: Expert Advisory Committee Terms of Reference; and
- (f) Appendix 12: Remoteness Quotient Adjustment Factor (RQAF) Methodology.

399. ISC can revise the following appendices in consultation with the Parties and may take into account the recommendations of the Reform Implementation Committee in doing so:

- (a) Appendix 10: First Nations Child and Family Services Terms and Conditions; and
- (b) Appendix 2: Performance Measurement Indicators and Outcomes Chart.

**The Parties have signed this Final Settlement Agreement this [X].**

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### **APPENDICES**

1. Financial Chart
2. Performance Measurement Indicators and Outcomes Chart
3. Program Assessment Timelines
4. First Nations Planning Template
5. Agency Accountability Co-Development Planning Template Agency Accountability co-developed plan template
6. Reformed FNCFS Program Schedules for Contribution Funding Agreements
7. Expert Advisory Committee Terms of Reference
8. Reform Implementation Committee Terms of Reference
9. Articles of Incorporation and Bylaws for the National Secretariat
10. First Nations Child and Family Services Terms and Conditions
11. Housing Funding Allocation Example
12. Remoteness Quotient Adjustment Factor (RQAF) Methodology

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## Appendix 1: Financial Chart

Funding allocated to the Final Agreement over 10 years (2024-25 to 2033-34)											
(in Million \$)	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33	2033-34	10 Year Total
Baseline Funding	1,276.2	1,315.5	1,357.1	1,401.6	1,449.5			7,247.7			14,047.8
Prevention	1,423.1	1,476.0	1,532.9	1,594.6	1,666.3			8,326.1			16,019.0
IT, Results, Emergency and Household Support Funding	204.4	210.4	216.4	222.6	229.1			1,145.3			2,228.2
Remoteness	589.2	590.2	611.6	635.8	661.8			3,308.9			6,397.5
First Nation Representative Services outside Ontario	127.3	131.2	135.4	139.6	144.0			719.9			1,397.3
First Nations Representative Services in Ontario	84.3	86.9	89.6	92.3	95.2			476.0			924.2
\$75K Floor for Prevention and First Nation Representative Services	6.1	6.1	6.1	6.1	6.2			30.8			61.5
National and Regional Secretariats	8.2	8.3	8.3	8.4	8.5			42.3			84.0
Remoteness Research (Remoteness Secretariat, National Assembly of Remote Communities and NAN-Canada Remoteness Quotient Table)	3.0	3.0	3.0	3.0	3.0			15.0			30.0
Reform Implementation Committee, Independent Monitor and Other Governance	3.4	3.4	3.4	3.5	3.5			17.3			34.3
Alternate Dispute Resolution and Internal Federal Legal Costs <sup>1</sup>	11.1	10.2	10.3	10.5	10.7			-			52.8
First Nations Child Wellbeing Survey	2.7	2.7	2.7	10.3	-			-			18.4
Cultural Competency Survey	0.6	0.6	0.6	0.6	-			-			2.2
Other Research	0.3	0.8	0.3	0.8	0.3			1.7			4.3
Post-Majority Support Services	120.7	139.3	157.7	178.4	199.7			998.4			1,794.2
FNCFS Capital	424.2	473.0	399.2	371.1	252.4	188.5	195.6	203.1	210.8	218.8	2,936.6
<b>Total Reformed FNCFS Program</b>	<b>4,284.9</b>	<b>4,457.6</b>	<b>4,534.6</b>	<b>4,679.1</b>	<b>4,730.0</b>			<b>23,346.2</b>			<b>46,032.5</b>
<b>Housing</b>											
Housing	413.1	438.1	464.0	475.4	-	-	-	-	-	-	1,790.6
<b>Total Housing</b>	<b>413.1</b>	<b>438.1</b>	<b>464.0</b>	<b>475.4</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,790.6</b>
<b>Total</b>	<b>4,698.0</b>	<b>4,895.7</b>	<b>4,998.6</b>	<b>5,154.5</b>	<b>4,730.0</b>			<b>23,346.2</b>			<b>47,823.1</b>
<i>Totals may not add up due to rounding.</i>											
Note 1: This amount is made up of both a) the costs of administering the FSA's ADR mechanism, including the cost of duty counsel, and b) internal Department of Justice costs incurred by ISC in the administration of the FNCFS Program.											

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### Appendix 2: Performance Measurement Indicators and Outcomes Chart

The performance measurement elements of the Reformed FNCFS Program, such as outcomes and indicators, are subject to approval and data availability.

Outcomes and indicators may evolve as part of the implementation of the Reformed FNCFS Program. As a starting point, the following indicators will be used to measure the performance of the Reformed FNCFS Program.

Outcomes	Indicators	Data Provider (data to be used by ISC to calculate percentages and averages of indicators)
FNCFS Service Providers are informed of current and upcoming service possibilities and associated delivery requirements, including roles and responsibilities.	Number of regional engagements, consultations, and workshops	ISC
	Number of attendees by affiliation (such as First Nation or FNCFS Agency) per engagement, consultation, or workshop delivered by ISC	ISC
	Number of communications and bulletins	ISC
	Percentage of attendees who indicate that they are better informed of service possibilities and delivery requirements following an engagement, consultation, or workshop delivered by ISC	ISC
FNCFS Service Providers have the resources to plan for and deliver culturally appropriate services to First Nations children, youth, young adults, and families.	Percentage of main programming funding agreements with FNCFS Service Providers that are in place before the start of the fiscal year	ISC
	Percentage of FNCFS Service Providers that have accessed or built new infrastructure to support service delivery	FNCFS Service Providers
FNCFS Service Providers are aware of the different roles and responsibilities of First Nations and FNCFS Agencies.	Number of FNCFS training and guidance documents which are available and up to date	ISC
	Number of times FNCFS training and guidance documents have been accessed.	ISC
	Percentage of FNCFS Service Providers with multi-year plans	FNCFS Service Providers



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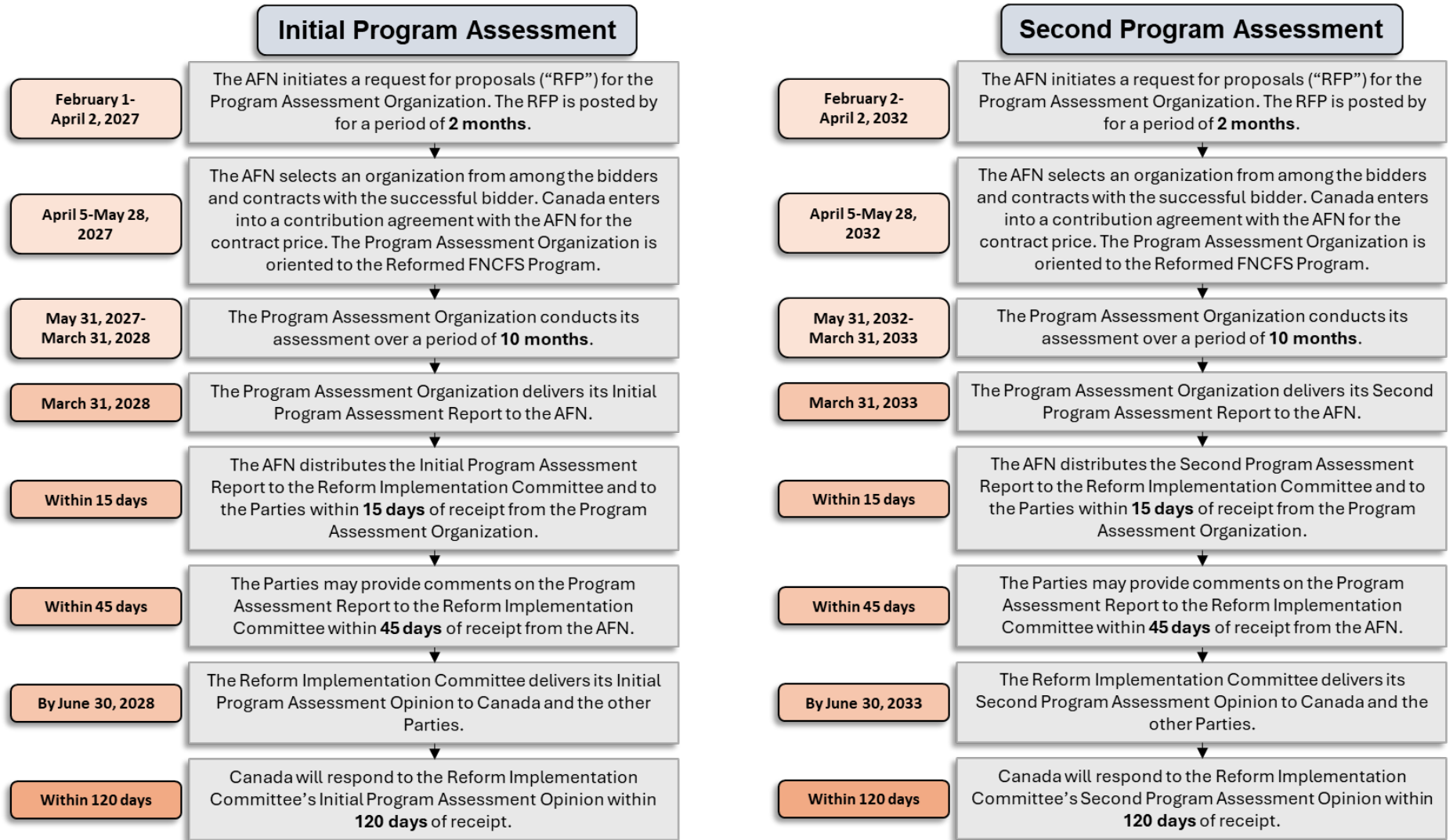
	or child and community well-being plans	
First Nations children have access to culturally adapted prevention services.	Percentage of First Nations more than two and a half hours of travel by road from the nearest office of the First Nation's affiliated FNCFS Agency or not connected to any office of that FNCFS Agency by road	ISC and FNCFS Agencies
	Number of First Nations children who are referred by an FNCFS Agency to a prevention service which, in order to access, requires more than two and a half hours of travel by road or requires travel by air or ferry	FNCFS Agencies
	Percentage of First Nations directly providing prevention services for their communities	First Nations
	Percentage of First Nations children who have access to a culturally adapted prevention service provider	FNCFS Service Providers
First Nations children and youth have access to a and culturally appropriate environment	Percentage of children in care who are placed with a family member (kinship care)	FNCFS Agencies
	Percentage of First Nations children on reserve in care where at least one of the caregivers is a First Nation individual	FNCFS Agencies
First Nations children and families have access to First Nation Representative Services.	Percentage of First Nations offering First Nation Representative Services to families	First Nations
First Nations youth aging out of care and young adults formerly in care have access to post-majority support services.	Percentage of eligible First Nations youth aging out of care and young adults formerly in care served by post-majority support services	First Nations
FNCFS Service Providers are working collaboratively toward service delivery.	Percentage of FNCFS Agencies with a child and community wellbeing plan that has been co-developed with the First Nation(s) affiliated with the FNCFS Agency	FNCFS Agencies

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FNCFS Service Providers are working collaboratively as a network of support for children and families.	Percentage of FNCFS Service Providers that produce and publicly share an annual report on the progress of their multi-year plans or child and community well-being plans	FNCFS Service Providers
Protective factors are built, and risk factors are identified and addressed within families and communities	Percentage of First Nations children on-reserve in care	FNCFS Agencies
	Percentage of First Nations children and youth on reserve in care who came into care for the first time	FNCFS Agencies
	Percentage of First Nations children and youth re-entering care	FNCFS Agencies
	Number of reported cases of child maltreatment for First Nations on reserve	FNCFS Agencies
	Number of culturally appropriate prevention activities that have been provided to First Nations families on reserve	FNCFS Service Providers
First Nations children and youth in care remain connected to their family, community, and culture	Percentage of First Nations children in care who are reunified with their families	FNCFS Agencies
	Percentage of First Nations children and youth on reserve in care who achieved permanency	FNCFS Agencies
	Average number of days in care	FNCFS Agencies
	Average number of changes in placement type	FNCFS Agencies
Post-majority support services are provided routinely to First Nations youth aging out of care and young adults formerly in care.	Average expenditures per First Nation on post-majority support services	First Nations
Thriving children and families are supported by First Nation community-driven child and family services.	ISC will use all indicators listed above to inform this outcome.	

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## Appendix 3: Program Assessment Timelines



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### Appendix 4: First Nations Planning Template

First Nation: \_\_\_\_\_

Served by (FNCFS Agency or province/territory): \_\_\_\_\_

Date: \_\_\_\_\_

Update for (if required): [insert fiscal year]

#### OVERVIEW

The Overview is intended to complement the information on specific initiatives and activities detailed below under the headings of Prevention, First Nation Representative Services and Post-Majority Support Services.

May include the following:

- key child and family well-being priorities
- service priorities for the planning period
- strategic priorities for the planning period

#### PREVENTION

Initiatives and Activities	Link to FNCFS Agency Initiatives (if applicable)	Timeframes

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FIRST NATION REPRESENTATIVE SERVICES		
Initiatives and Activities	Link to FNCFS Agency Initiatives (if applicable)	Timeframes

POST-MAJORITY SUPPORT SERVICES		
Initiatives and Activities	Link to FNCFS Agency Initiatives (if applicable)	Timeframes

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FINANCIAL FORECAST				
Funding Component	FY 2025-2026	FY 2026-2027	FY 2027-2028	FY 2028-2029
	Planned Expenditures	Planned Expenditures	Planned Expenditures	Planned Expenditures
• Prevention				
• First Nations Representative Services				
• Post Majority Support Services				
• Household Supports				
• Information Technology				
• Results				

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UNEXPENDED FUNDING PLAN (if applicable)

Total Amount of Unexpended FNCFS Program Funds to March 31, 2025: \$

Reformed FNCFS Funding Component	Unexpended Funding	Description of Planned Activities	Fiscal Year Activities Will Be Conducted

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**SIGNATURES**

First Nation Declaration and Signatures:

I declare that (First Nation name) has developed this FNCFS Multi-Year Plan.

Name	Title/Position	Signature(s)	Date



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**Appendix 5: Agency Accountability Co-Development Planning Template**

CHILD AND COMMUNITY WELLBEING PLAN	
<b>Planning Period:</b> 2025-26 to 2028-2029	<b>Update for</b> (insert fiscal year):
ORGANIZATION INFORMATION	
<b>FNCFS Agency Name:</b>	<b>FNCFS Agreement Number:</b>
<b>Recipient Contact Name:</b>	<b>First Nation(s) Served:</b>
ENVIRONMENTAL SCAN FOR EACH COMMUNITY SERVED	
<p>Environmental scan would be based on data that would include information, insights, perspectives, etc. from the First Nation community or communities served.</p> <p>Topics must include the following:</p> <ul style="list-style-type: none"><li>• circumstances affecting the well-being of children, youth, young adults and families, as well as the delivery of services</li><li>• key child and family well-being priorities</li><li>• child and family service priorities</li></ul>	

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### COLLABORATION WITH FIRST NATIONS

Must describe how the agency collaborated with the First Nations to co-develop the plan, and how the agency will work with the First Nations as the plan is implemented.

Topics must include:

- information sharing mechanisms and protocols, to assist First Nations in the delivery of services under the reformed FNCFS program
- identify any supporting and/or complementary roles to affiliated First Nations in the delivery of services under the reformed FNCFS program
- approach to the delivery of Prevention that defines and reflects the agency's and First Nations' respective roles, ensuring that services address needs in a holistic manner
- how the agency will recognize and respect First Nations' delivery of First Nation Representative Services and Post-majority Support Services
- how the agency will notify the First Nation, in a manner that meets the standards set out in provincial / territorial and federal law, of a child's involvement with the agency
- process for reporting to First Nations (at least annually) on delivery of the agency's planned activities and achievement of performance targets
- timeline and process for working with First Nations to update the plan as required, including process for seeking approval of updates by each affiliated First Nation community.
- process for the agency to work with First Nations to identify potential risks, develop risk management strategies, and modify plans accordingly
- approval requirements and protocols for co-developed plan

### AGENCY PLAN SUMMARY

The broad overview in the Agency Plan Summary is intended to complement the specific activities detailed in the Activity Plan below. Content, co-developed with affiliated First Nations, must include the following:

- vision, priority, key operational and service initiatives
- service needs on which the agency will focus during the planning period
- governance structure, full-time staff qualifications, salary grid
- linkages and alignment with First Nations' service initiatives
- potential risks identified
- strategies to manage financial, operational, governance or other risks

**Recommended Draft for Review**

- budget considerations and usage

ACTIVITY PLAN			
Activity #1			
Timeframe		Budget (Source and Amount)	
Desired Outcome		Indicators	1) ...
Activity #2			
Timeframe		Budget (Source and Amount)	
Desired Outcome		Indicators	1) ...
Activity #3			
Timeframe		Budget (Source and Amount)	
Desired Outcome		Indicators	1) ...
Activity #4			
Timeframe		Budget (Source and Amount)	
Desired Outcome		Indicators	1) ...
Activity #5			
Timeframe		Budget (Source and Amount)	
Desired Outcome		Indicators	1) ...

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COMMUNITY-WELLNESS REPORTING INDICATORS	
Community Data and Reporting Requirements in Relation to Children Receiving Protection Services	Goals and Targets (to be discussed with First Nation community or communities)
Knowledge of Indigenous languages	
Connection (access) to land	
Community-based activities	
Spirituality	
Family reunification	
Placement within community (kin and kith)	
Stability (i.e. moves in care)	
Incidence of abuse while child is in care	
Reason for entry	
Housing	
Reason for exit	
Time to exit	
Referrals to pre- and post- natal services	
Referrals to medical services	
Referrals to mental health services	
Referrals to substance misuse services	
Referrals to family violence intervention services	
Referrals to FNCFS prevention services	
Early learning childhood education	
Numeracy and literacy targets	
Secondary education completion rate	
Post-secondary education aspirations	
Optional Additional Well-being Indicators	Goals and Targets

**Recommended Draft for Review**

COMMUNITY-WELLNESS REPORTING INDICATORS	
List additional well-being indicators co-developed with affiliated First Nations	

FINANCIAL FORECAST				
Funding Component	FY 2025-2026	FY 2026-2027	FY 2027-2028	FY 2028-2029
	Planned Expenditures	Planned Expenditures	Planned Expenditures	Planned Expenditures
• Baseline (i.e., maintenance and operations)				
• Prevention (applicable if the FNCFS Agency is receiving prevention funding)				
• Post-Majority Support Services (applicable if post-majority support services funding is provided to the FNCFS Agency by its affiliated First Nations)				

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UNEXPENDED FUNDING PLAN (if applicable)

Total Amount of Unexpended FNCFS Program Funds to March 31, 2025: \$

Reformed FNCFS Funding Component	Unexpended Funding	Description of Planned Activities	Fiscal Year Activities Will Be Conducted

**Recommended Draft for Review**

**SIGNATURES**

FNCFS Agency Declaration and Signature:

On behalf of (name of FNCFS Agency), I declare that this Child and Community Wellbeing plan has been informed by and co-developed with (list participating First Nations).

Name	Title/Position	Signature(s)	Date

First Nation Declaration and Signatures:

I declare that (First Nation name) has informed and co-developed this Child and Community Wellbeing Plan with (name of FNCFS Agency).

Name	Title/Position	Signature(s)	Date

(Add additional signature blocks as required for each participating First Nation.)

## **Appendix 6: Reformed FNCFS Program Schedules for Contribution Funding Agreements**

In order to implement the provisions of the Final Settlement Agreement on Long-Term Reform of the First Nations Child and Family Services Program (the “FSA”), a number of flexibilities and requirements are to be incorporated into ISC’s funding agreements with FNCFS Service Providers.

A new funding mechanism has been created to provide for both reallocation and carry-forward of funding to FNCFS Service Providers pursuant to the Reformed FNCFS Funding Approach (“FNCFS funding”), as outlined below. This mechanism is referred to as the FNCFS Funding Mechanism. Clauses related to this mechanism have been drafted for inclusion in the funding mechanism Schedule of the FNCFS Service Provider funding agreements.

- **Reallocation** – The FNCFS Funding Mechanism permits reallocation of FNCFS funding within the various streams of the Reformed FNCFS Program, with the following exceptions:
  - **Prevention funding for FNCFS Agencies** – Reallocation of prevention funding to protection is not permitted, except to fund least disruptive measures.
  - **Capital projects** – Reallocation of funding provided for capital projects is only permitted upon submission of a plan and its approval by ISC.
- **Carry-forward** – The FNCFS Funding Mechanism permits the carry-forward of unexpended FNCFS funding to the following fiscal year to ensure any unspent funds remain available to support the delivery of services funded by the Reformed FNCFS Program. ISC will align the duration of funding agreements to the greatest extent possible to the 10-year duration of the FSA, with the funding for the initial five-year funding period added upon initial implementation, and the funding for the second five-year funding period following completion of the Initial Program Assessment in year 4 of the FSA. Carry-forward is permitted until the end date of the agreement, which may be extended prior to its expiry should the FNCFS Service Provider identify a longer duration in its annual unexpended funding plan.

New provisions for FNCFS Agencies have been added to the Program Delivery Requirements Schedule in the areas of accountability, reporting, and the ability for FNCFS Agencies to redirect FNCFS funding to First Nations.

The sections of ISC’s funding agreements detailing the funding mechanism and service delivery requirements can be found below.

**Part A** – FNCFS Agency Funding Agreement Model (Funding Agreement – Other) and First Nation Funding Agreement Model (Comprehensive Funding Agreement) – Funding Mechanisms and Preamble



**Part B** – FNCFS Agency Funding Agreement Model (Funding Agreement – Other) – Reformed FNCFS Program Delivery Requirements

**Part C** – First Nation Funding Agreement Model (Comprehensive Funding Agreement) – Reformed FNCFS Program Delivery Requirements

ISC National Funding Agreement Models: <https://www.sac-isc.gc.ca/eng/1545169431029/1545169495474>

Part A – FNCFS Agency Funding Agreement Model (Funding Agreement – Other) and First Nation Funding Agreement Model (Comprehensive Funding Agreement) – Funding Mechanisms (Schedule 2 of national models)

**Funding under the FNCFS Funding Mechanism**

1.1 [/:Name] may only expend Funding under the FNCFS Funding Mechanism:

- a. for each of the Activities for which it is allocated in Schedule 3 [Schedule 4 for First Nation agreements] under the heading FNCFS Funding Mechanism or reallocated in accordance with this section; and
- b. in accordance with the terms and conditions of this Agreement for those Activities, including those set out in the Delivery Requirements.

1.2 Subject to Schedule 4 [This cross-reference only required in FNCFS Agency model], [/:Name] may reallocate any Funding under the FNCFS Funding Mechanism as follows, provided that all Activities, funded by Funding under the FNCFS Funding Mechanism, are delivered in that Fiscal Year:

- a. funding other than FNCFS capital project funding may be reallocated among any Activities listed under the FNCFS Funding Mechanism according to Schedule 3 [Schedule 4 for First Nation agreements];
- b. FNCFS capital project funding may be reallocated only as per a plan submitted to and approved by Canada.

1.3 Subject to paragraph 30.2(c) [paragraph 20.2 for First Nation agreements] of the main body of this Agreement, if at the end of a Fiscal Year [/:Name] has not expended all Funding under the FNCFS Funding Mechanism for that Fiscal Year, [/:Name] may retain the unspent amount for expenditure in the following Fiscal Year where [/:Name]:

- a. [/:Name] expends the unexpended Funding under the FNCFS Funding Mechanism:
  - i. for purposes consistent with the Activities funded by Funding under the FNCFS Funding Mechanism; and
  - ii. in accordance with the plan for unexpended funding included in [/:Name]'s annual report on their Child and Community Wellbeing Plan [FNCFS Multi-Year Plan for First Nation agreements] accepted by Canada;
- b. expends the unexpended Funding under the FNCFS Funding Mechanism before the expiry or termination of this Agreement, including any extensions to this Agreement; and
- c. [/:Name] reports on its expenditure of the unexpended Funding under the FNCFS Funding Mechanism in accordance with the *Reporting Guide* and Reformed FNCFS Program guidance.

Part B – FNCFS Agency Funding Agreement Model (Funding Agreement – Other) – Reformed FNCFS Program Delivery Requirements (Schedule 4 of national model)

**Reformed First Nations Child and Family Services (FNCFS) Program Activities**

**7. Definitions**

In this Schedule, the following terms have the following meanings. These definitions apply equally to the singular and plural forms of the terms defined:

“Child and Community Wellbeing Plan” means a multi-year plan developed jointly between FNCFS Agencies and the First Nation(s) they serve as described in Reformed FNCFS Program guidance.

“National Secretariat” means the First Nations-led, apolitical, not-for-profit corporation established by the Assembly of First Nations, the Chiefs of Ontario and Nishnawbe Aski Nation for the purpose of data collection, synthesis, and best practice development.

“Reform Implementation Committee” means a committee composed of appointees from the Parties to the Final Settlement Agreement on Long-Term Reform of the First Nations Child and Family Services Program to oversee the implementation of the Reformed FNCFS Program.

**8. Purpose and Application**

8.1 The purpose of the Reformed FNCFS Program is to provide resources and funding to support the holistic and culturally appropriate delivery of child and family services to meet the needs of children, youth and families ordinarily resident on reserve or in the Yukon. The Reformed FNCFS Program funds eligible recipients to provide services that account for the distinct needs of First Nations children, youth and families, including cultural, historical and geographical circumstances.

**9. Delivery Requirements for FNCFS Activities**

9.1 [/:Name] shall administer the Reformed FNCFS Program in accordance with provincial/territorial legislation, the Reformed FNCFS Program's Terms and Conditions and any other current approved program documentation issued by ISC as amended from time to time.

9.2 Where full funding is not required for the delivery of Provincial/Territorial delegated services, Funding provided to [/:Name] for the delivery of the Reformed FNCFS Program may be transferred from [/:Name] to one or more of the First Nations it serves to support Activities from Section 9.1 of this Schedule, including housing for the purposes of preventing First Nations children from being taken into care and of supporting reunification where housing is a barrier. Any transfer of Funding under this Section is subject to approval by Canada.

9.3 [/:Name] shall not reallocate for FNCFS prevention funding to protection Activities, unless those Activities are least disruptive measures.

## 10. Accountability to First Nations

10.1 [/:Name] shall co-develop a Child and Community Wellbeing Plan with the First Nation(s) it serves that will guide [/:Name]'s planning, design and undertaking of Activities to support the delivery of the Reformed FNCFS Program. The Child and Community Wellbeing Plan should be consistent with any existing relationship agreement between [/:Name] and the First Nation(s) it serves. [/:Name] shall fund co-development of the Child and Community Wellbeing Plan. The Child and Community Wellbeing Plan must include, as outlined in Reformed FNCFS Program guidance:

- a. activities undertaken and associated expenditures of the FNCFS Agency with respect to Baseline Funding, emergency funding, and prevention funding, if any, over the Initial Five-Year Funding Period;
- b. multi-year financial forecasts including unexpended funds and how they will be spent;
- c. plans for the realization of performance target set by the First Nation;
- d. risk management strategies;
- e. provisions for regular reporting by the FNCFS Agency to the First Nation;
- f. mechanisms to facilitate the sharing of information, to assist First Nations in the delivery of services under the Reformed FNCFS Program;
- g. provisions that recognize and respect First Nations' delivery of First Nation Representative Services and post-majority support services;
- h. an integrated approach to the delivery of prevention services as between the FNCFS Agency and their affiliated First Nations, which delineates their respective roles and ensures support to families and their communities in the provision of holistic wrap-around services;
- i. consideration for the supporting and complementary roles of the FNCFS Agency and their affiliated First Nations in the delivery of services under the Reformed FNCFS Program; and
- j. provisions which provide for notification of First Nations of a child's involvement with [/:Name], in a manner that meets the standards set out in provincial / territorial and federal law.

10.2 [/:Name] must deliver services in alignment with the Child and Community Wellbeing Plan. Failure to establish or respect the requirements of the Child and Community Wellbeing Plan may impact the eligibility of [/:Name] to receive Funding through the FNCFS Mechanism, result in a program audit or the implementation of default remedies as outlined in Section 24 of this Agreement.

10.3 [/:Name] may update its Child and Community Wellbeing Plan annually, in partnership with the First Nation(s) it serves, to accommodate changes to its priorities and financial planning.

10.4 [/:Name] shall report to Canada and the First Nation(s) it serves annually on its Child and Community Wellbeing Plan.

10.5 [/:Name] shall report annually to the First Nation(s) it serves and to the National Secretariat on the following indicators, as outlined in Reformed FNCFS Program guidance:

- a. Knowledge of Indigenous languages
- b. Connection (access) to land
- c. Community-based activities
- d. Spirituality
- e. Family reunification
- f. Placement within community (kin and kith)
- g. Stability (i.e. moves in care)
- h. Incidence of abuse while child is in care
- i. Reason for entry
- j. Housing
- k. Reason for exit
- l. Time to exit
- m. Referrals to pre- and post- natal services
- n. Referrals to medical services
- o. Referrals to mental health services
- p. Referrals to substance misuse services
- q. Referrals to family violence intervention services
- r. Referrals to FNCFS prevention services
- s. Early learning childhood education
- t. Numeracy and literacy targets
- u. Secondary education completion rate
- v. Post-secondary education aspirations

10.6 Canada may share reports produced under this Agreement with the First Nation(s) served by [/:Name].

10.7 Canada may report to the First Nation(s) served by [/:Name] and the Reform Implementation Committee on [/:Name]'s compliance with the terms of this Agreement.

## **11. Adjustments to Funding**

11.1 Where a First Nation being served by [/:Name]:

- a. notifies Canada in writing that it intends to transition to an entity other than [/:Name] for the delivery of protection services,
- b. notifies Canada in writing of a new manner in which ISC shall allocate the prevention funding attributable to the First Nation, or
- c. begins to be funded to exercise jurisdiction in the delivery of some or all aspects of child and family services pursuant to a self-government agreement, a treaty arrangement, a coordination agreement under *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24, or an alternative federal jurisdictional and funding process,

Canada may reduce or cancel [/:Name]'s Reformed FNCFS Program Funding by providing at least 60 days prior notice to [/:Name]. This notice will specify the Fiscal Year(s) and amounts in respect of which any such Reformed FNCFS Program Funding will be reduced or cancelled.

Part C – First Nation Funding Agreement Model (Comprehensive Funding Agreement) – Reformed FNCFS Program Delivery Requirements (Schedule 5 of national model)

**8. Activities Funded by Set, Fixed, Flexible, FNCFS Mechanism or Grant Funding for ISC**

<b>ACTIVITY DELIVERY REQUIREMENTS, COST- SHARING AND ADJUSTMENT FACTORS</b>			
<b>ACTIVITY</b>	<b>DELIVERY REQUIREMENTS</b>	<b>COST-SHARING</b>	<b>ADJUSTMENT FACTOR</b>
Reformed First Nations Child and Family Services Program	[:Name] shall administer the First Nations Child and Family Services Program in accordance with Provincial/Territorial legislation, the First Nation Child and Family Services Program’s Terms and Conditions and any other current approved program documentation issued by ISC as amended from time to time.		insert an Adjustment Factor when applicable

## **Appendix 7: Expert Advisory Committee Terms of Reference**

### **Part I: Background**

In 2007, the Assembly of First Nations (the “AFN”) and the First Nations Child and Family Caring Society (the “Caring Society”) filed a complaint before the Canadian Human Rights Commission alleging that pursuant to section 5 of the *Canadian Human Rights Act*, Indian and Northern Affairs Canada discriminated in the provision of child and family services to First Nations on reserve and in the Yukon, on the basis of race and/or national or ethnic origin, by providing inequitable and insufficient funding for those services. The Chiefs of Ontario (“COO”) and Nishnawbe Aski Nation (“NAN”) were subsequently intervened in the proceedings.

On January 26, 2016, the Canadian Human Rights Tribunal (CHRT) in 2016 CHRT 2 found Canada’s First Nations Child and Family Services Program (the “FNCFS Program”) to be discriminatory in its funding and ordered Canada to reform the FNCFS Program and cease applying a narrow definition of Jordan’s Principle by immediately implementing its full meaning and scope. The CHRT clarified in 2016 CHRT 16 that its decision in 2016 CHRT 2 included a positive onus on Canada to update its policies, procedures and agreements to comply with the CHRT’s findings.

On December 31, 2021, the AFN, the Caring Society, Canada, COO, and NAN reached an Agreement-in-Principle on the long-term reform of the FNCFS Program and Jordan’s Principle (the “AIP”). The AIP committed the parties to jointly establishing an expert advisory committee that would support the design of an independent expert evaluation of Indigenous Services Canada (“ISC”)’s policies, processes, culture, accountability mechanisms, procedures and practices to identify and provide recommendations to redress the discrimination identified by the CHRT. These measures will be complemented by mandatory staff training, revisions in performance metrics for staff that affirm non-discrimination, and other reforms recommended by the evaluation.

On March 24, 2022, the parties to the AIP obtained a consent order, 2022 CHRT 8, which provided for the creation of an expert advisory committee to provide advice and guidance on the reform of ISC. Accordingly, the Expert Advisory Committee (the “EAC”) was established in April of 2022.

The Final Agreement on the Long-term Reform of the FNCFS Program (the “Final Settlement Agreement”) was concluded by the AFN, Canada, COO, and NAN on XX. If approved by the CHRT or the courts, it will supersede all previous agreements (including the AIP), Terms of Reference for the EAC, and orders of the CHRT.

These Terms of Reference detail the mandate of the EAC as provided for in the Final Settlement Agreement.

### **Part II: Mandate, Roles and Responsibilities of the EAC**

#### **(1) Initial Third-Party Evaluation**

The EAC will provide advice and guidance on the design and implementation of an independent third-party evaluation to support the reform of ISC, as well as provide recommendations to the Reform Implementation Committee on reforms based on the evaluation, so as to remedy the mindset that gave rise to the discrimination that has been repeatedly cited by the CHRT as

problematic. The expected result is the culturally based safety and wellbeing of First Nations children, youth, and families, and the safeguarding against the recurrence of discrimination.

The focus of the evaluation, which is to be completed within two years following the approval of the FSA, will be to identify and provide recommendations related to the reform of ISC and successor departments as part of the multifaceted approach toward redressing discrimination identified by the Tribunal, and to prevent its recurrence. It will draw on all relevant reports, evaluations, and research that may include but not limited to decision-making and policy development processes; cultural norms and attitudes; human resource policies, procedures, and agreements; and internal and external accountability measures.

It is intended that the EAC will:

- advise ISC on the solicitation of the Third-Party evaluation team by way of a request-for-proposal;
- provide advice to the Third-Party evaluation team in the design, focus, and implementation of its assessment;
- receive updates on the status of the report of the Third-Party evaluation team;
- receive the report of the Third-Party evaluation team;
- provide status updates to the Reform Implementation Committee as requested in relation to the Third-Party evaluation; and
- provide the Reform Implementation Committee with the third-party evaluation team report as well as a workplan containing any recommendations on reformed based on the evaluation and advice as to whether and when future complementary departmental evaluations to support ISC reform should be undertaken.

## **(2) Interim Recommendations**

In its role to support the independent third-party evaluation, the EAC may draw on existing evidence and its collective expertise to provide interim recommendations to the Reform Implementation Committee on the following:

1. Current practices and work supporting the ISC Indigenous Cultural Competency Learning Policy and providing advice on cultural competency/humility materials, courses, and activities, including on the design and roll out of a survey and metrics to assess cultural competency/humility in the Department and on how this information from this process could be shared with other Departments.
2. Other relevant departmental trainings currently in use or in development for ISC staff working on programs related to child and family well-being.
3. The performance commitments for all ISC's Executives that speak to their obligations in complying with CHRT orders which have been in effect since 2018.
4. General staff performance measures and incentive programs.
5. Other reforms as directed by the Reform Implementation Committee.

All interim recommendations of the EAC are to be submitted to the Reform Implementation Committee on or before delivery of the EAC's work plan.

## **(3) Information and Presentations to Support EAC Recommendations**



In order to inform and provide meaningful recommendations to the Reform Implementation Committee, the EAC may request information based on existing evidence and presentations on matters relating to the reform of ISC, within the confines of its mandate and ISC's obligations regarding confidential, privileged, private, and protected information.

### **Part III: Appointment Provisions**

#### **(1) Appointment Mechanism**

The membership of the EAC was decided jointly by the parties to the AIP with the aim of representing areas of expertise relating to First Nations child and family services; childhood and intergenerational trauma and Indigenous health; Government of Canada expertise; Indigenous law; Indigenous culture and heritage; Indigenous history in Canada; participatory and culturally sensitive evaluation; Indigenous research and ways of knowing; and the Indigenous youth perspective.

The Deputy Minister of ISC is charged with making appointments to the EAC based on the recommendations made by the parties to the AIP.

#### **(2) Number of Members**

The EAC will at all times consist of a minimum of 8 and a maximum of 12 members.

#### **(3) Tenure of EAC and of Members**

EAC members will serve on the EAC until its mandate is fulfilled pursuant to the Final Settlement Agreement, as of the delivery of the work plan to the Reform Implementation Committee, subject to the resignation and termination provisions below.

#### **(4) Resignation**

In the event that a situation arises that causes a member to be unable to perform their duties, the member shall resign by submitting a letter of resignation to the Deputy Minister of ISC and the EAC Co-Chairs and terminate their contract in accordance with the terms of their contract. Members will provide a 14-day notice of their intent to resign and the letter should state the effective date of resignation.

#### **(5) Termination**

The Reform Implementation Committee may terminate an EAC member's membership and make a recommendation for a replacement to the Co-chairs who will ask the Deputy Minister of ISC to appoint.

### **Part IV: Meetings**

#### **(1) EAC Meetings**

There will be regular meetings of the EAC, further to the following:

##### **(a) Frequency**

Two in-person EAC meetings will be planned each year. In-person attendance at the in-person meetings is optional and videoconference and teleconference capabilities will remain available for those unable to travel.

Additionally, no fewer than two virtual meetings shall be planned each year. When deemed necessary and approved by the Co-Chairs, additional meetings may be scheduled, as required, to discuss emerging issues.

The ISC Secretariat shall consult with the EAC members in scheduling EAC meetings.

The EAC members may caucus in-camera during the course of EAC meetings.

**(b) Designation of the Chair**

EAC Meetings will be co-chaired by a representative of each of the AFN and ISC.

**(b) Quorum and attendance**

One half of the EAC's membership, plus one, constitutes quorum. COO and NAN will attend meetings as ex-officio members.

The ISC Secretariat will attend all meetings, take meeting minutes and forward minutes and agendas to EAC members in advance of scheduled meetings.

The EAC may invite outside experts to present on a particular subject within their expertise to support the work of the EAC further to its mandate.

ISC departmental staff may be invited to participate in meetings as required based on knowledge area. EAC members will be notified in advance of additional ISC departmental staff participating in meetings.

Members may not delegate their meeting attendance to others.

**(d) Agenda**

EAC Meetings should include clear agenda items, carry forwards, and timelines that are agreed upon by the Co-Chairs.

The Co-Chairs will determine in advance of any meeting whether outside meeting facilitation is necessary.

**(e) Schedule for EAC Meetings**

In September of each year, the Co-Chairs will agree on a schedule of meetings in the coming year to advance the mandate of the EAC. The schedule will be reviewed and updated each May, or from time to time, at the discretion of the Co-Chairs.

**(f) Subcommittees**

Should an occasion arise and be deemed necessary by the EAC, the Co-Chairs may approve the striking of a sub-committee.

Subcommittees are comprised of EAC members, and there must be a minimum of three on a subcommittee. Subcommittees shall meet as an independent group, reporting to the EAC on specified meeting dates, or as deemed necessary by the Co-Chairs, and will report back to the EAC on their work and discussions.

#### **(g) Deliberations, decision making and reports**

Meeting notes highlighting the key discussions and decisions will be prepared by the ISC Secretariat and circulated for review and final approval by the Co-Chairs. Meeting notes will effectively summarize the proceedings to reflect deliberations and any associated recommendations made to the Reform Implementation Committee.

The Co-Chairs will strive to reach consensus on necessary decisions. If consensus is not possible, the matter will be put to a vote of the EAC and will be considered adopted if a simple majority of members vote in favour at a duly convened meeting where there is quorum. In the event of a tie, the matter will be considered defeated.

With respect to recommendations to the Reform Implementation Committee, the EAC will strive to reach consensus. If consensus is not possible, the matter will be put to a vote and will be considered adopted if a simple majority of members vote in favour at a duly convened meeting where there is quorum. In the event of a tie, the matter will be deferred to the next meeting of the EAC for reconsideration. Should the tie persist, the matter will be considered defeated.

Where consensus is not possible, and a recommendation is made to the Reform Implementation Committee, the record of recommendations shared with the Reform Implementation Committee will reflect the diversity of opinions.

Recommendations to the Reform Implementation Committee will be non-attributable: there will be no references to comments made by individual members unless an individual member requests to be identified for the record.

#### **(h) EAC as a product of the Final Settlement Agreement**

The EAC acknowledges that its mandate is derived from the terms of the Final Settlement Agreement, which replaces all existing directions and mandates in relation to the role of the EAC. The mandate remains subject to the oversight of the Reform Implementation Committee.

### **Part VI: Administration**

#### **(1) Confidentiality and Security**

EAC members acknowledge and respect that all documents and materials provided to them or developed by the EAC are of a confidential nature, and have agreed to execute the Confidentiality Agreement attached as **Schedule A** as a condition of their membership. In addition, members will be required to adhere to guidelines concerning the protection of information and safe-guarding of assets per the Treasury Board Secretariat.

#### **(2) Media and communications**

Media and communications will be handled by the Reform Implementation Committee. This would include any external announcement or communication, media or public enquiries. Should members of the EAC receive media or public inquiries directly, related to the work of the EAC, they will respect the confidentiality obligations as noted in the Confidentiality Agreement and will consult with the Reform Implementation Committee regarding the inquiry and their capacity to respond.

### **(3) Disclosure of Information and Conflict of Interest**

While recognizing the importance of the EAC members' experience and knowledge, Co-Chairs and members shall organize their affairs and their participation on the EAC to avoid any real, apparent or potential conflict of interest. Should a member feel that a real or perceived conflict of interest is present when discussing certain topics, they will make that known to the Co-Chairs who will decide whether it is appropriate that the member declaring a conflict shall recuse themselves from the meeting during those discussions. Should a member feel that a real or perceived conflict of interest is present with another EAC member, the concern will be brought to the Co-Chairs for decision.

All EAC members are required to avoid any inappropriate sharing or disclosure of information, and avoid using membership on the EAC in a way that could give rise to a real, perceived or potential conflict of interest. As such, all members are expected to commit to the principles of confidentiality, further to the terms of the Confidentiality Agreement.

### **(4) Remuneration**

Each EAC member will be paid a per diem of \$1500 for each day they carry out work within these Terms of Reference. Each scheduled meeting is estimated to require approximately 1 day of work for preparation, feedback, and to prepare any required submissions to the meeting. A member will be remunerated at the per diem rate for each day they attend the meeting.

### **(5) Basis for payment**

ISC will reimburse an EAC member with convenience cheques until a separate sole source contract is in place for that member. The contracts will be for a minimum of three years.

### **(6) Travel Expenses**

Any travel costs associated with the work of the EAC will be reimbursed based on the Federal Government [National Joint Council Travel Directive](#) "employee" provisions, except for Part V, which pertains to emergencies, illnesses, injuries and death while in travel status. Travel expenses that are properly incurred will be reimbursed in accordance with the rates and allowances specified in Appendices B, C and D of the National Joint Council Travel Directive upon submission of a duly completed travel claim. All travel must be pre-approved by ISC.

## **Part VII: The ISC Secretariat**

Officials employed in the Evaluation Branch of ISC will carry out the secretariat function to the EAC (called the "ISC Secretariat"). They will carry out tasks such as organizing meetings and preparing agendas; drafting meeting notes with a format that tracks identified next steps, timelines, and records the proposed recommendations to the Reform Implementation Committee; establishing contracts with members; ensuring members receive their remuneration.

The ISC Secretariat will carry out other administrative tasks to ensure the proper operation of the EAC. The ISC Secretariat may also be called upon by the EAC to complete *ad hoc* tasks in support of the EAC's mandate, as appropriate. ISC may consult the Reform Implementation Committee in the event that the EAC has made a request of the ISC Secretariat that it feels is unreasonable or beyond the mandate of the EAC.

#### **Part VIII: Terms of Reference May Be Extended**

Where, in the future, further entities or mechanisms are established by the Reform Implementation Committee further to paragraph 218 of the Final Settlement Agreement, the authority, mandate, jurisdiction and functions of such further entities or mechanisms shall prevail over and displace any similar or duplicative authorities, mandates, jurisdictions, and functions of the EAC that are set out by these Terms of Reference, and these Terms of Reference shall be interpreted in accordance with such prevalence and/or displacement.

**SCHEDULE A**  
**CONFIDENTIALITY AGREEMENT:**  
**MEMBERS AND ATTENDEES OF THE EXPERT ADVISORY COMMITTEE**

**WHEREAS** the Assembly of First Nations, Chiefs of Ontario, Nishnawbe Aski Nation and Canada (the “Parties”) entered into a settlement agreement that resolves all outstanding issues in the *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada* File No. T1340/7008 proceedings related to the reform of the FNCFS Program, resulting in the Final Settlement Agreement on the Long-Term Reform of the FNCFS Program dated XX, 2024, and the related consent order, XX;

**AND WHEREAS** the Parties to the Final Settlement Agreement on the Long-term Reform of the FNCFS Program require Members of the EAC (“**Members**”) and non-Member attendees at EAC meetings (“**Attendees**”) to preserve the confidentiality of the information which is disclosed to them for the purposes of fulfilling the EAC’s mandate and wish to set out in this agreement the rights obligations, and sanctions with respect to the disclosure and use of their confidential information (this “**Confidentiality Agreement**”);

**NOW THEREFORE**, the below signatories hereby agree as follows:

1. This Confidentiality Agreement reflects the requirements of the Parties to the Final Settlement Agreement on the Long-term Reform of the FNCFS Program and the ongoing commitments of Members and Attendees to confidentiality.
2. The content of the discussions of the EAC or information shared during its meetings, including but not limited to any proposals, documents and/or suggestions, shall be kept confidential.
3. Members and Attendees shall not share any information or content obtained during meetings of the EAC or related discussions with the public, third parties, or the media. Without limiting the generality of this provision, this includes the dissemination of information by way of live streaming, social media, electronic means, or by way of the physical sharing of documents.
4. Members and Attendees are permitted to share information with their political leaders, officials, and technical staff to the extent necessary to assist in the reform of Indigenous Services Canada. These additional political leaders, officials, and technical staff are to be made aware of, execute, and to abide by the provisions of this Confidentiality Agreement.
5. Members and Attendees are free to publicly share their own aspirational views on the reform of Indigenous Services Canada, provided that nothing is shared in relation to the discussions, meetings or other interactions of the EAC.

6. Members and Attendees shall promptly return any information provided to them in the context of their role as a Member or Attendee upon request of the Parties, upon their replacement, or upon the termination of their participation.
7. Members and Attendees shall keep all information or documents in their control and possession secure, accept full responsibility for the confidentiality of the information and take every reasonable step to prevent unauthorized persons from examining and/or copying this information.
8. The terms of this Confidentiality Agreement survive the resignation or termination of each Member's membership and each Attendees' participation.

By executing this Agreement, the signatory represents their ongoing commitment to confidentiality and that any infringement by them of these provisions may be grounds for legal action. They further understand and accept the ongoing responsibilities and commitments set out above relating to confidential and/or settlement privileged information.

Signatories:

Date:

\_\_\_\_\_

Name:

Date:

\_\_\_\_\_

Name:

Date:

\_\_\_\_\_

Name:

Date:

\_\_\_\_\_

Name:

Date:

\_\_\_\_\_

Name:

Date:

\_\_\_\_\_

Name:

## Appendix 8: Reform Implementation Committee Terms of Reference

### 1. Establishment, Purpose, and Term

- 1.1 The Reform Implementation Committee (the “**Committee**”) is established, as described in the Final Settlement Agreement on Long-Term Reform of the First Nations Child and Family Services Program (the “**FSA**”).
- 1.2 The Committee shall oversee and monitor the implementation of the Reformed First Nations Child and Family Services (“**FNCFS**”) Program.
- 1.3 The term of the Committee will be the same duration as the term of the FSA.
- 1.4 Capitalized terms used herein but not defined shall have the meaning ascribed to such term in the FSA.

### 2. Recommending Power

- 2.1 The Committee is the sole entity charged by the FSA with making recommendations to Canada in regard to the Reformed FNCFS Program.
- 2.2 The Committee can make recommendations in relation to the implementation of the Reformed FNCFS Program, as provided for in the FSA.
- 2.3 The Committee will receive input, recommendations, and/or observations from the Parties to the FSA (the “**Parties**”), the following entities listed below, and any successors or additional entities constituted and/or endorsed by the Parties:
  - (a) Expert Advisory Committee;
  - (b) NAN-Canada Remoteness Quotient Table;
  - (c) NARC-Canada Remoteness Table;
  - (d) National Secretariat;
  - (e) Systemic Review Committee; and
  - (f) Technical Advisory Committee.

### 3. Membership

- 3.1 The Committee shall consist of twelve (12) members (each, a “**Member**”). Each Party shall appoint three Members to the Committee.
- 3.2 A Member may be removed at any time by (a) the Party which appointed said member; or (b) a super majority of the Members of the Committee present at a meeting duly convened for such purposes. A super majority consists of no less than 75% of those present at the meeting, with any fractional number being rounded up to the next whole number. Only the Party that appointed the removed Member shall appoint a replacement member.



- 3.3 There is no limit on the length of time for which a Member may serve on the Committee, subject to a Member being removed pursuant to paragraph 3.2.
- 3.4 Each Member will execute the confidentiality agreement appended to these Terms of Reference as **Schedule A** prior to being appointed as a Member.

#### *Chair of the Committee*

- 3.5 The Committee shall have one (1) Chair (the “**Chair**”) with additional responsibilities in organizing the affairs of the Committee. The responsibilities of the Chair are described in 6.3.
- 3.6 The term of the Chair shall be for one (1) year.
- 3.7 The Chair shall be an AFN Member and shall be one (1) of the AFN’s three (3) Members permitted to be appointed pursuant to paragraph 3.1, and shall be appointed as follows:
- (a) The first Chair shall be determined by the Members present at the first meeting of the Committee; and
  - (b) subsequent AFN Chairs shall be determined by the Committee at least one (1) month prior to the expiry of the active Chair’s term.

#### **4. Meetings**

- 4.1 The Committee shall meet monthly, either in-person or virtually, unless the Committee determines that more or less frequent meetings are required.
- 4.2 The Administrative Team (defined below) shall provide notice to all Members regarding the date, time, and location of a Committee meeting at least two (2) weeks prior to such meeting. The notice period may be shortened to address circumstances which require less notice, as determined by the Chair.
- 4.3 Where possible, the Chair shall be responsible for ensuring that meeting materials are provided to all Members at least one (1) week prior to the scheduled meeting to which the materials are relevant. Meeting records and other materials that result from a Committee meeting shall be provided to all Members within two (2) weeks following the meeting.
- 4.4 A quorum at a Committee meeting shall be seven (7) Members.
- 4.5 Decisions by the Members shall be made by consensus. If consensus is not possible, decisions will be put to a vote and will be considered adopted if a simple majority of members vote in favour at a duly convened meeting where there is quorum. In the event of a tie, decisions will be deferred to the next subsequent meeting of the Committee for reconsideration. Should the tie persist, the matter will be considered defeated.
- 4.6 A decision made by the Committee does not necessarily reflect the view of any one Member or Party.

4.7 At the request of any Party, non-Members may attend meetings subject to the following terms:

- (a) the attendance of non-Members at meetings is subject to approval by a decision of the Committee;
- (b) non-Members approved to attend Committee meetings pursuant to (a) may participate in discussions when called upon by the Chair; however, they are not entitled to a vote and cannot participate in the decision-making process of the Members described in 4.5;
- (c) non-Members approved to attend Committee meetings pursuant to (a) will attend at their own expense; and
- (d) prior to attending a Committee meeting, non-Members shall execute the confidentiality agreement appended to these Terms of Reference as **Schedule A**.

## 5. Administrative Team

5.1 An administrative team consisting of employees of Indigenous Services Canada (the "**Administrative Team**") shall be established to support the operation of the Committee and the Chair in conducting the affairs of the Committee.

## 6. Responsibilities

6.1 The responsibilities of the Committee include:

- (a) Overseeing and monitoring the implementation of the Reformed FNCFS Funding Approach and recommending adjustments to the Reformed FNCFS Program to Canada as provided for in the FSA;
- (b) Advising on the selection of and supporting the work of the Program Assessment Organization;
- (c) Receiving and reviewing Program Assessment Reports from the Program Assessment Organization, preparing its Program Assessment Opinions and executive summaries, and providing its Program Assessment Opinions and executive summaries to the Parties and the public;
- (d) Advising on the development of guidance documents to support FNCFS Service Providers in seeking capital funding;
- (e) Overseeing the Expert Advisory Committee and reviewing its work plan and providing recommendations in respect thereof;
- (f) Appointing an independent monitor responsible for monitoring Canada's implementation of the accepted recommendations from (e) and the efficacy of the reforms;
- (g) Receiving reports from ISC on discussions with respect to the reform of federal-provincial and federal-Yukon agreements and discussing possible solutions in the event that Canada fails to reach agreement with a province or Yukon on governance and accountability provisions within a federal-provincial or federal-Yukon agreement, except in relation to the reform of the 1965 Agreement in Ontario;

- (h) Receiving reports from the National Secretariat in relation to the implementation and efficacy of the Reformed FNCFS Program;
- (i) Receiving reports from the NAN-Canada Remoteness Quotient Table and NARC-Canada Remoteness Table;
- (j) Receiving reports from ISC on the compliance of FNCFS Agencies with their funding agreements, including compliance with child and community wellbeing plans;
- (k) Establishing a Systemic Review Committee as a subcommittee and establishing its terms of reference;
- (l) Receiving advice from the Systemic Review Committee of any trends of concern it finds and recommendations to address and remedy any of its findings;
- (m) Establishing a Technical Advisory Committee as a subcommittee and establishing its terms of reference;
- (n) Receiving technical advice from the Technical Advisory Committee on implementation of the Reformed FNCFS Program; and
- (o) Publishing an annual report on the progress of the implementation of this Final Settlement Agreement to be made available to the public, which will be provided in advance to the Parties prior to being released to the public.

6.2 The responsibilities of the Members include:

- (a) making all reasonable efforts to attend meetings of the Committee. In the event that a member is unable to attend a meeting, they must advise the Chair of such;
- (b) acting in accordance with these Terms of Reference and other applicable protocols and guidance of the Committee;
- (c) in the event of a personal conflict of interest, to disclose such conflict to the Committee and to recuse themselves from any discussion, decision, debate, or vote on any matter in respect of which they would be in such a personal conflict of interest; and
- (d) participating in the activities of the Committee and its decision-making.

6.3 The responsibilities of the Chair include:

- (a) the responsibilities of members as outlined in paragraph 6.2;
- (b) developing the meeting agenda in consultation with the Committee and presiding over meetings;
- (c) ensuring that the Terms of Reference and other applicable protocols and guidance of the Committee are respected;
- (d) ensuring that meetings are carried out effectively, including by encouraging participation from all members, and that all relevant matters are addressed; and
- (e) liaising with the Administrative Team to ensure that meetings are adequately supported.

6.4 The administrative Team's responsibilities include:

- (a) preparing and distributing meeting materials and records before and after meetings;
- (b) maintaining a repository of Committee documents including meeting records, presentations, and reports;
- (c) providing logistical and administrative support to the Chair and Members; and
- (d) providing other support as determined by the Chair or the Committee.

6.5 In addition to the Systemic Review Committee and the Technical Advisory Committee, the Committee may form one or more sub-committees as it deems necessary to carry out its responsibilities.

## **7. Other Matters**

7.1 These Terms of Reference complement the provisions of the FSA on the mandate, membership and other aspects of the Committee. If there is a conflict between these Terms of Reference and the FSA, the FSA shall prevail.

7.2 Additional operational protocols or guidance may be developed by the Committee, as appropriate. If there is a conflict between an additional protocol or guidance and these Terms of Reference, the Terms of Reference shall prevail.

7.3 The Terms of Reference may be amended at any time on the unanimous agreement of the Parties.

## SCHEDULE A

### CONFIDENTIALITY AGREEMENT:

#### **MEMBERS AND ATTENDEES OF THE REFORM IMPLEMENTATION COMMITTEE**

**WHEREAS** the Assembly of First Nations, Chiefs of Ontario, Nishnawbe Aski Nation, and Canada (the “Parties”) entered into a settlement agreement that resolves all outstanding issues in the *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada* File No. T1340/7008 proceedings related to the reform of the FNCFS Program, resulting in the Final Agreement on the Long-Term Reform of the FNCFS Program dated XX, and the related order, XX;

**AND WHEREAS** the Parties to the Final Settlement Agreement on the Long-term Reform of the FNCFS Program require Members of the Reform Implementation Committee and non-Member attendees at Reform Implementation Committee meetings (“**Members and Attendees**”) to preserve the confidentiality of the information which is disclosed to them for the purposes of fulfilling the Reform Implementation Committee’s mandate and wish to set out in this agreement the rights, obligations, and sanctions with respect to the disclosure and use of their confidential information (this “**Confidentiality Agreement**”);

**NOW THEREFORE**, the below signatories hereby agree as follows:

9. This Confidentiality Agreement reflects the requirements of the Parties to the Final Settlement Agreement on the Long-term Reform of the FNCFS Program and the ongoing commitments of Members and Attendees to confidentiality.
10. The content of the discussions of the Reform Implementation Committee or information shared during its meetings, including but not limited to any proposals, documents, and/or suggestions, shall be kept confidential.
11. Members and Attendees shall not share any information or content obtained during meetings of the Reform Implementation Committee or related discussions with the public, third parties, or the media. Without limiting the generality of this provision, this includes the dissemination of information by way of live streaming, social media, electronic means, or by way of the physical sharing of documents.
12. Members are permitted to share information with the political leaders, officials, technical staff, advisors, and counsel of the Party that appointed them, and such other persons as agreed upon by the Committee, to the extent necessary to fulfill the mandate of the Reform Implementation Committee. These additional people must be made aware of and agree to abide by the provisions of this Confidentiality Agreement.
13. Members and Attendees are free to publicly share their own aspirational views on the long-term reform of the FNCFS Program, provided that nothing is shared in relation to the discussions, meetings, decisions, or other interactions of the Reform Implementation Committee.

14. Members and Attendees shall promptly return any information provided to them in the context of their role as a Member or attendee upon request of the Parties, upon their replacement, or upon the termination of their participation.

15. Members and Attendees shall keep all information or documents in their control and possession secure, accept full responsibility for the confidentiality of the information, and take every reasonable step to prevent unauthorized persons from examining and/or copying this information.

16. The terms of this Confidentiality Agreement survive the termination of each Member's membership and each attendee's participation.

By executing this Agreement, the signatory represents their ongoing commitment to confidentiality and that any infringement by them of these provisions may be grounds for legal action. They further understand and accept their ongoing responsibilities and commitments set out above relating to confidential information.

Signatories:

Date:

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Name:

Date:

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Name:

Date:

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Name:

Date:

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Name:

Date:

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Name:

Date:

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Name:

## **Appendix 9: Articles of Incorporation and Bylaws for the National Secretariat**

### ***Canada Not-for-profit Corporations Act (NFP Act)***

#### **Form 4001 - Articles of Incorporation**

##### **1.a Corporate name**

National First Nations Child and Family Services Secretariat

##### **2. The province or territory in Canada where the registered office is situated**

Ontario

##### **3. Minimum and maximum number of directors (for a fixed number, indicate the same number in both boxes)**

Minimum number 3

Maximum number 6

##### **4. Statement of the purpose of the corporation**

The purpose of the Corporation is as follows:

1. procuring an existing organization with child and family service and/or data collection expertise from each region to act as a Regional Secretariat and concluding the necessary bilateral agreements;
2. developing and disseminating best practice guidelines, tools for child and family services, and other operational supports;
3. ensuring a consistent standard for engagement and messaging from the Regional Secretariats to First Nations Child and Family Service Providers;
4. coordinating regional efforts to uphold the integrity of service quality and promote the Corporation's strategic goals;
5. supporting Regional Secretariats should circumstances arise which impact their ability to promote best practice programming;
6. working collaboratively with the Remoteness Secretariat;
7. establishing data related priorities for the purposes of its data collection efforts and analysis;
8. acting as the central hub for all data activities and responsibility for implementing measures to facilitate its receipt of data;
9. synthesizing regional and other relevant data to develop recommendations in relation to the implementation and efficacy of the Reformed First Nations Child and Family Services Program, as well as evidence-based practices which will inform and refine best practices programming and supports;
10. overseeing the overall performance of Regional Secretariats;
11. reporting findings, concerns, and/or recommendations to the Reform Implementation Committee, established under the Final Settlement Agreement on Long-term Reform of the First Nations Child and Family Services Program, in relation to the implementation and efficacy of the Reformed First Nations Child and Family Services Program; and

12. carrying out all other activities related to or necessary to support the foregoing purposes.

**5. Restrictions on the activities that the corporation may carry on, if any**

The Corporation shall be carried on without the purpose of gain for its Members and any profits or other accretions to the Corporation shall be used in promoting its purposes. For greater certainty:

- (a) The Corporation may deal with any type of property.
- (b) The Corporation may deal with property acquired by any means.
- (c) The Corporation may dispose of acquired property.

**6. The classes, or regional or other groups, of members that the corporation is authorized to establish**

The Corporation is authorized to establish one class of members. Each member shall be entitled to receive notice of, attend, and vote at all meetings of the members of the Corporation.

**7. Statement regarding the distribution of property remaining on liquidation**

Any property remaining on liquidation of the Corporation, after discharge of all liabilities, shall be distributed to a First Nations organization or other qualified donee(s) as defined under the *Income Tax Act (Canada)*, as determined by the Board of Directors in office at the time of dissolution.

**8. Additional provisions, if any**

Membership in the Corporation shall be available to the corporations acting as the following organizations: the Assembly of First Nations, Chiefs of Ontario, and *Nishnawbe Aski Nation*.

**9. Declaration**

I hereby certify that I am an incorporator of the Corporation.

Certification



**BY-LAW NO. 1**

**THE NATIONAL FIRST NATIONS CHILD AND FAMILY SERVICES SECRETARIAT**

## TABLE OF CONTENTS

Article 1 DEFINITIONS .....	1
1.1 Definitions.....	1
1.2 Interpretation.....	2
Article 2 GENERAL.....	3
2.1 Registered Office .....	3
2.2 Financial Year.....	3
2.3 Books and Records.....	3
Article 3 MEMBERS.....	3
3.1 Membership.....	3
3.2 Transferability and Termination of Membership.....	3
3.3 Dues .....	3
Article 4 MEMBERS' MEETINGS.....	3
4.1 Annual Meetings of Members.....	3
4.2 Special Meetings of Members.....	4
4.3 Calling of Meetings .....	4
4.4 Notice of Members' Meetings.....	4
4.5 Waiver of Notice.....	5
4.6 Chairing Meetings.....	5
4.7 Persons Entitled to be Present.....	5
4.8 Quorum.....	5
4.9 Voting .....	5
4.10 Votes to Govern.....	5
4.11 Voting By Show of Hands .....	5
4.12 Ballot.....	6
4.13 Absentee Voting.....	6
4.14 Attending by Teleconference, Videoconference and Other Electronic Means .....	6
4.15 Voting While Participating Electronically .....	6
4.16 Casting Vote .....	7
4.17 Written Resolution in Lieu of Meeting.....	7
Article 5 DIRECTORS.....	7
5.1 Authority and Responsibility.....	7
5.2 Number of Directors.....	7
5.3 Qualifications .....	7

5.4	Election and Term.....	7
5.5	Consent to Serve .....	8
5.6	Vacation of Office.....	8
5.7	Vacancies .....	8
5.8	Committees.....	<b>Error! Bookmark not defined.</b>
Article 6	DIRECTORS' MEETINGS.....	8
6.1	Place of Meetings .....	8
6.2	Calling of Meetings .....	8
6.3	Number of Meetings.....	8
6.4	Regular Meetings.....	9
6.5	Notice of Directors' Meetings .....	9
6.6	Content of Notice .....	9
6.7	Meetings without Notice.....	9
6.8	Attending by Teleconference, Videoconference and Other Electronic Means .....	9
6.9	Voting While Participating Electronically .....	10
6.10	Chairing Meetings.....	10
6.11	Quorum.....	10
6.12	Written Resolution in Lieu of Meeting.....	10
6.13	Voting .....	10
6.14	Casting Vote .....	10
6.15	Persons Entitled to be Present.....	10
6.16	Rules of Order .....	11
Article 7	OFFICERS.....	11
7.1	Appointment.....	11
7.2	Duties of Officers .....	11
7.3	Variations of Powers and Duties .....	12
7.4	Term of Office .....	12
7.5	Agents and Attorneys.....	12
Article 8	PROTECTION OF DIRECTORS AND OFFICERS.....	13
8.1	Limitation of Liability.....	13
8.2	Indemnity .....	13
8.3	Advance of Costs.....	14
8.4	Insurance .....	14
8.5	Indemnities Not Limiting.....	14
Article 9	DISCLOSURE OF INTEREST.....	14

9.1	Disclosure of Interest .....	14
9.2	Time of Disclosure for Director.....	<b>Error! Bookmark not defined.</b>
9.3	Time of Disclosure for Officer.....	<b>Error! Bookmark not defined.</b>
9.4	Time of Disclosure for Director or Officer .....	<b>Error! Bookmark not defined.</b>
9.5	Voting .....	<b>Error! Bookmark not defined.</b>
9.6	Continuing Disclosure .....	<b>Error! Bookmark not defined.</b>
9.7	Access to Disclosures.....	<b>Error! Bookmark not defined.</b>
9.8	Avoidance Standards.....	<b>Error! Bookmark not defined.</b>
Article 10	EXECUTION OF DOCUMENTS, BANKING AND BORROWING.....	14
10.1	Signatories.....	14
10.2	Facsimile Signatures.....	15
10.3	Banking.....	15
10.4	Board Delegation .....	15
Article 11	NOTICE .....	15
11.1	Procedure for Sending Notices .....	15
11.2	Undelivered Notices.....	15
11.3	Computation of Time.....	16
11.4	Waiver of Notice.....	16
11.5	Error or Omission in Notice .....	16
11.6	Certification re: Delivery .....	16
Article 12	PUBLIC ACCOUNTANT.....	16
12.1	Public Accountant.....	16
12.2	Qualification .....	16
12.3	Remuneration .....	17
Article 13	ANNUAL FINANCIAL STATEMENTS .....	17
13.1	Statutory Requirements .....	17
Article 14	BY-LAWS.....	17
14.1	By-laws, Amendment or Repeal.....	17
14.2	Effect of Repeal of By-laws .....	17
14.3	Enactment.....	17

## BY-LAW NUMBER 1

### A by-law relating generally to the transaction of the affairs of The National First Nations Child and Family Services Secretariat

#### ARTICLE 1 DEFINITIONS

##### 1.1 Definitions

In this by-law and in all other by-laws of the Corporation hereafter passed, unless the context otherwise requires:

- (a) “**Act**” means the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. C-23 including the regulations made pursuant thereto, and any statute or regulations that may be substituted therefor, as amended from time to time;
- (b) “**Annual Financial Statements**” means the comparative financial statements of the Corporation, as prescribed by the Act, the report of the Public Accountant, if any, and any further information respecting the financial position of the Corporation and the results of its operations required by the Articles or the By-laws;
- (c) “**Annual Meeting**” means an annual meeting of the Members of the nature described in Section 4.1;
- (d) “**Annual Organizational Meeting**” means the first meeting of the Board held immediately following each Annual Meeting;
- (e) “**Articles**” means the articles of incorporation of the Corporation and any articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation from time to time in force and effect;
- (f) “**Board**” means the board of directors of the Corporation;
- (g) “**By-laws**” means this by-law and all other by-laws of the Corporation from time to time in force and effect;
- (h) “**Chair**” means the chair of the Board, as described in section 7.2(a);
- (i) “**Committee**” means a committee established by the Board pursuant to Section 5.11 or, where the context permits, a subcommittee of such committee;
- (j) “**Corporation**” means “**The National First Nations Child and Family Services Secretariat**”, a corporation incorporated as a corporation without share capital under the Act;
- (k) “**Director**” means a director of the Corporation;

- (l) **"Incapable"** has the meaning given to such term under the Act;
- (m) **"Members"** means the members of the Corporation, comprised of the corporations acting as the Assembly of First Nations, Chiefs of Ontario, and Nishnawbe Aski Nation;
- (n) **"meeting of Members"** means a meeting of Members and includes an Annual Meeting or Special Meeting;
- (o) **"Officer"** means an officer of the Corporation;
- (p) **"Ordinary Resolution"** means a resolution passed by a majority of the votes cast on that resolution;
- (q) **"persons"** includes individuals, sole proprietorships, partnerships, associations, organizations, trusts, firms, and corporations;
- (r) **"Public Accountant"** means the person from time to time appointed pursuant to Section 12.1;
- (s) **"Secretary"** means the secretary of the Corporation as described in section 7.2(c);
- (t) **"Settlement Agreement"** means the Final Settlement Agreement on Long-Term Reform of the First Nations Child and Family Services Program dated XX, 2024;
- (u) **"Special Meeting"** means a meeting of Members other than an Annual Meeting;
- (v) **"Special Resolution"** means a resolution passed by a majority of not less than two-thirds of the votes cast on that resolution;
- (w) **"Specified Number of Directors"** has the meaning ascribed thereto in Section 5.2.
- (x) **"Vice-Chair"** means the vice-chair of the Corporation, as described in section 7.2(b).

## 1.2 Interpretation

In the By-laws, unless the context otherwise requires, words importing the singular number shall include the plural number, as the case may be, and *vice versa*. The pronouns "they, them, and their" shall denote all genders. The division of this By-law into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof. Unless otherwise provided, each reference to an Article or a Section is to the corresponding article or section hereof. Whenever the words **"include"**, **"includes"**, or **"including"** are used in this By-law and in all other By-laws hereafter passed, unless the context otherwise requires, such words shall be deemed in each instance to be followed by the words "without limitation."

## **ARTICLE 2 GENERAL**

### **2.1 Registered Office**

Until changed in accordance with the Act, the registered office of the Corporation shall be in the Province of Ontario.

### **2.2 Financial Year**

Unless otherwise approved by the Board, the financial year of the Corporation shall end on the 31<sup>st</sup> day of December in each year.

### **2.3 Books and Records**

The Board shall see that all necessary books and records of the Corporation required by the By-laws or by any applicable statute or law are regularly and properly kept.

## **ARTICLE 3 MEMBERS**

### **3.1 Membership**

The Members of the Corporation shall be comprised of the corporations operating as the Assembly of First Nations, Chiefs of Ontario, and Nishnawbe Aski Nation, as required by the Settlement Agreement at Part X.

### **3.2 Transferability and Termination of Membership**

Membership is solely transferable in the context of a re-organization of a member, and/or to a successor corporation.

Membership in the Corporation may be terminated where a Member resigns by delivering a written resignation to the Chair, in which case such resignation shall be effective on the date specified in the resignation. In such circumstances, the Member may be replaced by the remaining Members.

### **3.3 Dues**

There shall be no dues or fees payable by the Members.

## **ARTICLE 4 MEMBERS' MEETINGS**

### **4.1 Annual Meetings of Members**

An Annual Meeting shall be held not later than 18 months after the incorporation of the Corporation, and thereafter, not later than 15 months after the holding of the preceding Annual Meeting but no later than six (6) months after the end of the Corporation's preceding financial year, at such place within or outside Canada, if permitted by the Articles, on such day and at such time as the Board may determine. At every Annual Meeting, in addition to any other business that may be transacted:

- (a) the Annual Financial Statements for the preceding financial year shall be presented;
- (b) vacancies on the Board shall be filled;
- (c) the Public Accountant for the ensuing year shall be appointed; and
- (d) the remuneration of the Public Accountant shall be fixed, or provision shall be made for such remuneration to be fixed by the Board, as contemplated by Section 12.3.

A copy of the Annual Financial Statements shall be sent to the Director appointed by the Minister to exercise the powers of the Director under the Act at least 21 days before the date fixed for the Annual Meeting.

#### **4.2 Special Meetings of Members**

A Special Meeting may be held from time to time as required to address matters that are appropriate to come before the Members, as determined by the Members, the Board, or by the application of the Act, the Articles, or the By-laws. Such meetings shall be held at such place within or outside Canada on such day and at such time as the Members may determine, in consultation with the Board should the Board request same.

#### **4.3 Calling of Meetings**

Any Member shall have power to call, at any time, a meeting of Members.

#### **4.4 Notice of Members' Meetings**

- (a) Written notice of the time and place of all meetings of Members shall be given to each Director, the Public Accountant, and each Member entitled to vote at such meetings and whose name is entered in the register of Members at the close of business on the record date for notice (which shall be 21 to 60 days before the date of the meeting) or, if no record date for notice is fixed, at the close of business on the day preceding the day on which notice is given.
- (b) For the purpose of this Section 4.4, notice shall be given as follows:
  - (i) by mail, courier, or personal delivery to each person entitled to attend such meeting, during a period of 21 to 60 days before the day on which the meeting is to be held; or
  - (ii) by telephonic, electronic, or other communication facility to each person entitled to attend such meeting, during a period of 21 to 35 days before the day on which the meeting is to be held; provided that a Member may request that the notice be given to such Member by non-electronic means.
- (c) Notice of a meeting of Members shall state the nature of the business to be transacted thereat in sufficient detail to permit a Member to form a reasoned



judgment thereon and shall state the text of any Special Resolution to be submitted to the meeting.

#### **4.5 Waiver of Notice**

Any person who is entitled to notice of a meeting of Members may waive notice either before or after the meeting, and attendance of the person at the meeting is a waiver of notice of the meeting, unless the person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

#### **4.6 Chairing Meetings**

The annual Member's meeting, and all Member meetings, special or otherwise, shall be chaired by the Chair. If no such officer is present within 15 minutes from the time fixed for holding the meeting, the Members present and entitled to vote shall choose one of their number to be the chair of the meeting.

#### **4.7 Persons Entitled to be Present**

The only persons entitled to attend meetings of Members shall be the Members, the Directors, the Officers, the Public Accountant, and any other persons who are entitled or required under any provision of the Act or the Articles or By-laws to be present at the meeting. Any other persons may be admitted only on the invitation of the chair of the meeting or with the consent of the Members entitled to vote thereat. For greater certainty, only Members will have the right to speak at such meetings although others present at such meetings in accordance with the Act or the Articles or the By-laws shall be allowed to speak with the consent of the chair of the meeting or by Ordinary Resolution of the Members.

#### **4.8 Quorum**

A majority of Members present in person or by proxy shall constitute a quorum at any meeting of Members. No business shall be transacted at any meeting of Members unless a quorum is present.

#### **4.9 Voting**

Each Member having the right to vote on a question shall be entitled to one vote on such question.

#### **4.10 Votes to Govern**

At any meeting of Members, every question shall, unless otherwise required by the Act, the Articles, or the By-laws, be determined by the majority of the votes of Members duly cast on the question.

#### **4.11 Voting By Show of Hands**

Every question at a meeting of Members shall be decided in the first instance by a show of hands unless prior to or following a show of hands, the chair of the meeting

determines, or a majority of Members present and entitled to vote thereat resolve, to vote on the matter by ballot, in which case Section 4.12 shall apply. Whenever a vote by show of hands or a ballot in accordance with Section 4.12 shall have been held upon a question, a declaration by the chair of the meeting that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact without proof of the number or proportion of votes recorded in favour of or against any resolution or other proceeding in respect of the said question, and the results of the vote so taken shall be the decision of Members upon the said question.

#### **4.12 Ballot**

If a ballot is required or demanded, the ballot shall be held in such manner as the chair of the meeting shall direct. A demand for a ballot may be withdrawn at any time prior to the holding of the ballot.

#### **4.13 Absentee Voting**

Subject to compliance with the Act, in addition to voting in person in accordance with Sections 4.11 and 4.12, the following shall apply:

(a) Mailed-in Ballot

A Member may, if the written notice of the applicable meeting of Members so permits, vote by mailed-in ballot, if the Corporation makes such means of voting available.

A Member participating in the meeting by any of the foregoing means set out in Sections 4.13(a) is deemed for the purposes of the By-laws and the Act to be present at the meeting.

#### **4.14 Attending by Teleconference, Videoconference and Other Electronic Means**

If the notice of meeting of the Members so permits, any person entitled to attend a meeting of the Members may participate in such meeting by teleconference, videoconference, or any other electronic means that permit all participants to communicate adequately with each other during the meeting if the Corporation makes such means available. A Member so participating in a meeting is deemed for the purposes of the By-laws and the Act to be present at the meeting.

#### **4.15 Voting While Participating Electronically**

A Member participating in the meeting by any of the means set out in Section 4.14 may vote, and that vote may be held by teleconference, videoconference, or any other electronic means that the Corporation has made available for that purpose. A Member so participating in a meeting shall be provided with an opportunity to vote on all questions put before the Members in a manner that:

- (a) permits their subsequent verification; and

- (b) permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how the Member voted.

#### **4.16 Casting Vote**

In the case of an equality of votes on any question presented to the Members, the question shall be deemed to be decided in the negative. For greater certainty, neither the Chair nor the chair of the meeting shall have a second or casting vote.

#### **4.17 Written Resolution in Lieu of Meeting**

Subject to the provisions of the Act, a resolution in writing signed by all of the Members entitled to vote on that resolution at a meeting of Members is as valid as if it had been passed at a meeting of Members. Resolutions in writing may be signed in counterpart and satisfy all the requirements of this By-law relating to meetings of Members.

### **ARTICLE 5 DIRECTORS**

#### **5.1 Authority and Responsibility**

Subject to the Act, the Articles and the By-laws, the Board shall manage or supervise the management of the activities and affairs of the Corporation.

#### **5.2 Number of Directors**

Pursuant to the Articles, the number of Directors shall be six (6) and is referred to as the "Specified Number of Directors". Each Member will appoint two (2) Directors.

#### **5.3 Qualifications**

In order to serve as a Director, an individual must:

- (a) be 18 years of age or older;
- (b) not be Incapable; and
- (c) not have the status of bankrupt.

The Directors are to reflect expertise in the field of child and family services, data collection and analysis, or organizational management, further to Part X of the Settlement Agreement.

#### **5.4 Election and Term**

At the first meeting of the Members following incorporation, each Director shall be elected to hold office on an indefinite basis. Subject to the Articles and the By-laws, the Members shall consider the ongoing term of the Directors at each Annual Meeting.

## **5.5 Consent to Serve**

An individual who is elected to hold office as a Director is not a Director, and is deemed not to have been elected to hold office as a Director, unless:

- (a) the individual was present at the meeting when the election took place and did not refuse to hold office as a Director; or
- (b) the individual was not present at the meeting when the election took place and:
  - (i) consented to hold office as a Director in writing before the election or within ten (10) days after the day on which the election took place; or
  - (ii) has acted as a Director after the election.

## **5.6 Vacation of Office**

The office of a Director shall automatically be vacated when such Director:

- (a) withdraws from the office or is no longer able to serve for any reason;
- (b) is removed by the Members by way of an Ordinary Resolution; or
- (c) ceases to meet the qualifications for being a Director set out in Section 5.3.

## **5.7 Vacancies**

The vacancies on the Board shall be filled by the Members, ensuring that each Member maintains two (2) appointees.

# **ARTICLE 6 DIRECTORS' MEETINGS**

## **6.1 Place of Meetings**

Except as otherwise required herein or by law, the Board may hold its meetings at any place within Canada (or if the Board determines that it is in the best interests of the Corporation, at any place outside Canada) as it may from time to time determine.

## **6.2 Calling of Meetings**

Board meetings may be formally called by the Chair, the Secretary, or by any two Directors.

## **6.3 Number of Meetings**

There shall be a minimum of one meeting of the Board per year or such greater number of meetings as is determined, from time to time, by the Board.

#### **6.4 Regular Meetings**

The Board may, by resolution, establish the date, time, and place of regular meetings of the Board (“**Regularly Scheduled Meetings**”). A copy of such resolution or a list of such dates, time, and places shall be sent to each Director immediately following the passage of such resolution. With the exception of meetings at which the matters referred to in Section 6.6 are to be discussed, thereafter no other notice in respect of a Regularly Scheduled Meeting will be required to be sent.

#### **6.5 Notice of Directors’ Meetings**

Subject to the provisions of Section 6.4, notice of meetings of the Board shall be given by telephone, fax, e-mail, or other means of recorded electronic communication to each Director not less than two days before the meeting is to take place or shall be sent by mail or pre-paid delivery to each Director not less than ten (10) days before the meeting is to take place.

#### **6.6 Content of Notice**

A notice of the meeting of the Board need not specify the purpose of or the business to be transacted at the meeting, except that a notice of a meeting of Directors shall provide notice of any matter referred to in subsection 138(2) of the Act that is to be dealt with at the meeting.

#### **6.7 Meetings without Notice**

A meeting of the Board may be held at any time and place without notice if all Directors who are present, and all those who are not present, either before or after the meeting, waive notice thereof, and the attendance of a Director at a meeting of Directors is a waiver of notice of the meeting, except if the Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. No notice is required to be given in order to conduct business at each Annual Organizational Meeting, provided that a quorum is present, except if notice is required to be given because a matter referred to in subsection 138(2) of the Act is to be dealt with at the meeting.

#### **6.8 Attending by Teleconference, Videoconference and Other Electronic Means**

If all of the Directors present at or participating in the meeting consent, any Director may attend a meeting of the Board by teleconference, videoconference, and other electronic means as permit all persons participating in the meeting to communicate adequately with each other during the meeting, and a Director participating in the meeting by those means is deemed to be present at the meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Board and of the Committee held while a Director holds office.

## **6.9 Voting While Participating Electronically**

A Director participating in the meeting by any of the means set out in Section 6.8 may vote, and that vote may be held by teleconference, videoconference, or any other electronic means that the Corporation has made available for that purpose.

## **6.10 Chairing Meetings**

The Chair (or, in the Chair's absence, the Vice-Chair) shall be the chair at all meetings of the Directors. If no such Officer is present within 15 minutes from the time fixed for holding the meeting, the Directors present and entitled to vote shall choose one of their number to be the chair of the meeting.

## **6.11 Quorum**

The presence of a majority of the Specified Number of Directors shall be necessary to constitute a quorum for the transaction of business at meetings of the Board. No business shall be transacted at any meeting of the Board unless a quorum is present.

## **6.12 Written Resolution in Lieu of Meeting**

A resolution in writing signed by all Directors entitled to vote on that resolution at a meeting of the Directors, is as valid as if it had been passed at a meeting of the Directors.

## **6.13 Voting**

Subject to the Act, the Articles, and the By-laws, any question arising at any meeting of the Board shall be decided by a majority of votes. Each Director (including for greater certainty, the chair of the meeting) is entitled to exercise one vote. All votes at any such meeting shall be taken by show of hands in the usual manner of assent or dissent. Whenever a vote by show of hands shall be taken upon a question, a declaration by the chair of the meeting that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution, and the result of the vote so taken shall be the decision of the Board upon the said question.

## **6.14 Casting Vote**

In the case of an equality of votes at any Board meeting, the chair of the meeting shall not have a second or casting vote and the question shall be deemed to be decided in the negative.

## **6.15 Persons Entitled to be Present**

The only persons entitled to attend meetings of the Directors shall be the Directors and others who are entitled or required under any provision of the Act, the Articles, or the By-laws to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or with the consent of the meeting. Only the Directors will have the right to speak at such meetings although others duly

present at such meetings shall be allowed to speak with the consent of the Chair or by majority vote of the Directors present.

#### **6.16 Rules of Order**

The Board shall be entitled to adopt, from time to time, such rules of order as it deems appropriate to govern the conduct of each Board meeting; provided that, in the event of a conflict between such rules of order and one or more provisions of the Act, the Articles or the By-laws, the provisions of the Act, the Articles, or the By-laws shall prevail.

### **ARTICLE 7 OFFICERS**

#### **7.1 Appointment**

The Directors shall appoint from time to time, a Chair, a Vice-Chair, and a Secretary, each of whom shall be a Director. In addition, the Board may appoint from time to time, such other Officers as the Directors may determine, including one or more assistants to any of the Officers so appointed. Except as otherwise provided herein or determined by the Board, an Officer may but need not be a Director and one person may hold more than one office.

#### **7.2 Duties of Officers**

Subject to the provisions of the Act, the offices of the Corporation, if designated and if Officers are appointed thereto, shall have the following duties and powers associated therewith:

- (a) **Chair** - The Chair, when present, shall preside at all meetings of Members and the Board and shall sign all contracts, documents, or instruments in writing which require the Chair's signature and shall possess and may exercise such powers and shall perform such other duties as may from time to time be assigned to the Chair by the Board.
- (b) **Vice-Chair** - The Vice-Chair shall be vested with and may exercise all of the powers and perform all of the duties of the Chair where the Chair is absent or unable or unwilling to act. The Vice-Chair shall also perform other duties as are determined by the Board from time to time.
- (c) **Secretary** - The Secretary shall attend all meetings of the Members and the Board except where the chair of the meeting determines that it is inappropriate for the Secretary to attend due to the nature of the matter being discussed, provided that at all such meetings not attended by the Secretary, an individual in attendance at the meeting shall be appointed to fulfil the duties of the Secretary at such meeting as are hereinafter described. The Secretary shall record all proceedings and prepare minutes of all proceedings in the books kept for that purpose. The Secretary shall give or cause to be given all notices required to be given to the Members, Directors, the Public Accountant, and members of Committees. The Secretary shall sign such documents, contracts, or instruments in writing as require the Secretary's signature and

shall perform such other duties as may from time to time be determined by the Board or as are incidental to the office of the Secretary.

- (d) **Treasurer** - The Treasurer shall keep or cause to be kept full and accurate accounts of all receipts and disbursements of the Corporation in proper books of account. The Treasurer shall deposit or cause to be deposited all money or other valuable effects in the name and to the credit of the Corporation in the bank or banks from time to time designated by the Board and shall disburse or cause to be disbursed funds of the Corporation under the direction of the Board or in compliance with its policies. The Treasurer shall render to the Board, whenever required, an account of all financial transactions of the Corporation and of the financial position of the Corporation and shall cooperate with the Public Accountant during any audit of the accounts of the Corporation and perform any other duties prescribed by the Board.
- (e) **Other Officers** - The powers and duties of all other Officers appointed by the Board shall be such as the terms of their engagement call for or the Board prescribes.
- (f) **Assistants** - The Board may appoint an assistant to any Officer to assist such Officer in the discharge of that Officer's duties and powers, and any of the duties and powers of an Officer to whom an assistant has been appointed may be exercised and performed by such assistant unless the Board of Directors otherwise directs.

### 7.3 Variations of Powers and Duties

The Board may, from time to time, and subject to the provisions of the Act, vary, add to, or limit the powers and duties of any Officer.

### 7.4 Term of Office

- (a) Officers who are Directors shall be appointed at an Annual Organizational Meeting and shall serve until the conclusion of the first Annual Organizational Meeting next following their appointment as an Officer or until such Officer: (i) resigns by delivering a written resignation to the Chair or the Secretary, which resignation shall be effective at the time it is received by the Chair or the Secretary, or at the time specified in the resignation, whichever is later; (ii) is removed by the Board; or (iii) ceases to be a Director, whichever first occurs.
- (b) Officers who are not Directors shall hold office until such Officer's successor is appointed, or until such Officer's earlier resignation or removal.
- (c) The Board, in its discretion, may remove any Officer, without prejudice to such Officer's rights under any employment contract or at law.

### 7.5 Agents and Attorneys

The Corporation, by or under the authority of the Board, shall have power from time to time to appoint agents or attorneys for the Corporation in or outside Canada with



such powers (including the power to sub-delegate) of management, administration, or otherwise as may be thought fit.

## **ARTICLE 8 PROTECTION OF DIRECTORS AND OFFICERS**

### **8.1 Limitation of Liability**

Every Director and Officer in exercising his powers and discharging their duties shall act honestly and in good faith with a view to the best interests of the Corporation and exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances. Subject thereto, no Director or Officer shall be liable for the acts, receipts, neglects, or defaults of any other Director or Officer or other individual acting in a similar capacity, or for joining in any receipt or other act for conformity, or for any loss, damage, or expense to the Corporation arising from the insufficiency or deficiency of title to any property acquired by or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Corporation are invested, or for any loss, damage, or expense arising from the bankruptcy, insolvency, act or omission of any person, firm, or corporation with whom or which any monies, securities, or other property of the Corporation are lodged or deposited, or for any loss, damage, or expense occasioned by any error of judgment or oversight on such Director's, Officer's, or other individual's part, or for any other loss, damage, or expense related to the performance or non-performance of the duties of their respective office or in relation thereto unless the same shall happen by or through their own wrongful and wilful act or through their own wrongful or wilful neglect or default.

### **8.2 Indemnity**

Subject to the limitations contained in the Act, but without limiting the right of the Corporation to indemnify any individual under the Act or otherwise to the full extent permitted by law, the Corporation shall, from time to time and at all times, indemnify each Director or Officer or former Director or Officer (and each such Director's, Officer's or other individual's respective heirs, executors, administrators, or other legal personal representatives and their estate and effects), or another individual who acts or acted at the Corporation's request as a Director or an Officer or in a similar capacity of another entity), against all costs, charges, and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative, or other proceeding in which the individual is involved because of that association with the Corporation or other entity, provided that the individual to be indemnified:

- (a) acted honestly and in good faith with a view to the best interests of the Corporation or, as the case may be, to the best interests of the other entity for which the individual acted as Director or Officer or in a similar capacity at the Corporation's request; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that the individual's conduct was lawful.

### **8.3 Advance of Costs**

The Corporation may advance money to a Director, an Officer or other individual for the costs, charges, and expenses relating to a proceeding referred to in Section 8.2. The individual shall repay the money if the individual does not fulfil the conditions of Sections 8.2(a) and (b).

### **8.4 Insurance**

The Corporation shall purchase and maintain insurance for the benefit of an individual referred to in Section 8.2 against any liability incurred by the individual in the individual's capacity as a Director or an Officer, or in the individual's capacity as a director or an officer, or in a similar capacity, of another entity, if the individual acts or acted in that capacity at the Corporation's request.

### **8.5 Indemnities Not Limiting**

The provisions of this Article 8 shall be in addition to and not in substitution for or limitation of any rights, immunities, and protections to which an individual is otherwise entitled.

## **ARTICLE 9 DISCLOSURE OF INTEREST**

### **9.1 Disclosure of Interest**

A Director or an Officer shall disclose to the Corporation, in writing or by requesting to have it entered into the minutes of meetings of the Directors or of Committees, the nature and extent of any interest that the Director or Officer has in the material contract or material transaction, whether made or proposed, with the Corporation, in accordance with the manner and timing provided in section 141 of the Act.

## **ARTICLE 10 EXECUTION OF DOCUMENTS, BANKING AND BORROWING**

### **10.1 Signatories**

Except for documents executed in the usual and ordinary course of the Corporation's business, which may be signed by the Chair, the following are the only persons authorized to sign any document on behalf of the Corporation:

- (a) any two Directors or any one Officer with any one Director, provided that no individual shall execute, acknowledge or verify any instrument in more than one capacity; or
- (b) any individual or individuals appointed by Ordinary Resolution of the Board to sign a specific document or specific type of document or generally on behalf of the Corporation.

Any document so signed may, but need not, have the corporate seal applied, if there is one.

## **10.2 Facsimile Signatures**

The signatures of any person authorized to sign on behalf of the Corporation, may, if specifically authorized by resolution of the Board, be written, printed, stamped, engraved, lithographed, or otherwise mechanically reproduced. Anything so signed shall be as valid as if it had been signed manually, even if that person has ceased to hold office when anything so signed is issued or delivered, until revoked by resolution of the Board.

## **10.3 Banking**

The banking business of the Corporation shall be transacted with such banks, trust companies, or other firms or corporations carrying on a banking business in Canada, or elsewhere as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof shall be transacted under such agreements, instructions, and delegations of power as the Board may, from time to time, prescribe or authorize.

## **10.4 Board Delegation**

From time to time the Board may authorize any Director, Officer, or Committee, to make arrangements with reference to the monies borrowed or to be borrowed as aforesaid and as to the terms and conditions of the loan thereof, and as to the security to be given therefor, with power to vary or modify such arrangements, terms, and conditions and to give such additional security for any monies borrowed or remaining due by the Corporation as the Board may authorize, and generally to manage, transact, and settle the borrowing of money by the Corporation.

## **ARTICLE 11 NOTICE**

### **11.1 Procedure for Sending Notices**

Any notice (which term includes any communication or document) to be given sent, delivered, or served pursuant to the Act, the By-laws, or otherwise, to a Member, Director, or Public Accountant shall be sufficiently given if sent to the principal address of the applicable person as last shown in the Corporation's records. A notice so delivered shall be deemed to have been received when it is delivered. A notice so mailed shall be deemed to have been received on the fifth day after mailing (excluding each day during which there exists any general interruption of postal services due to strike, lockout, or other cause). A notice sent by means of electronic, transmitted, or recorded communication shall be deemed to have been received when so sent. The Chair may change or cause to be changed the recorded address of any Member, Director, or Public Accountant in accordance with the information believed by them to be reliable.

### **11.2 Undelivered Notices**

If any notice given to a Member pursuant to Section 11.1 is returned on two consecutive occasions because such Member cannot be found, the Corporation shall

not be required to give any further notice to such Member until such Member informs the Corporation in writing of such Member's new address.

### **11.3 Computation of Time**

In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the date of giving the notice shall be excluded and the day of the meeting or other event shall be included.

### **11.4 Waiver of Notice**

Any Member, Director, member of a Committee, or Public Accountant may waive any notice required to be given to such person under any provision of the Act, the By-laws, or otherwise, and such waiver, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in giving such notice.

### **11.5 Error or Omission in Notice**

No error or omission in giving notice of any meeting or adjourned meeting of Members, Directors or Committee to any Member, Director, member of any Committee, or the Public Accountant, no non-receipt of the notice by any such person where the Corporation has provided notice in accordance with the By-laws, and no error in any notice not affecting its substance, shall invalidate any meeting to which the notice pertained or otherwise founded on such notice or make void any resolutions passed or proceedings taken thereat, and any Member or Director may ratify, approve, and confirm any or all proceedings taken thereat.

### **11.6 Certification re: Delivery**

The statutory declaration of the Secretary or the Chair or of any other person authorized to give notice of a meeting that notice has been given pursuant to this By-law shall be sufficient and conclusive evidence of the giving of such notice.

## **ARTICLE 12 PUBLIC ACCOUNTANT**

### **12.1 Public Accountant**

The Members shall, by Ordinary Resolution, at each Annual Meeting appoint a Public Accountant to hold office until the next Annual Meeting, and if an appointment is not so made, the Public Accountant in office will continue in office until a successor is appointed. The Directors may, if a quorum of the Directors is then in office, fill any vacancy in the office of Public Accountant arising between Annual Meetings.

### **12.2 Qualification**

The person or firm appointed as a Public Accountant shall not be a Director, an Officer, or an employee of the Corporation, or a business partner or employee of any such person, but shall: (a) be a member in good standing of an institute or association of accountants incorporated by or under an Act of the legislature of a province of

Canada; (b) meet any qualifications under an enactment of a province for performing any duty that the person is required to perform under the relevant sections of the Act; and (c) be independent, within the meaning of the Act, of the Corporation, its affiliates, the Directors and Officers, and the directors and officers of the affiliates.

### **12.3 Remuneration**

The remuneration of the Public Accountant shall be fixed by Ordinary Resolution of the Members or, by the Board if it is authorized to do so by the Members. The remuneration of a Public Accountant appointed by the Board shall be fixed by the Board.

## **ARTICLE 13 ANNUAL FINANCIAL STATEMENTS**

### **13.1 Statutory Requirements**

The Corporation may, instead of sending copies or a summary of the Annual Financial Statements to the Members, notify the Members that the Annual Financial Statements are available at the registered office of the Corporation and any Member may, on request, obtain a copy free of charge at the registered office or by prepaid mail.

## **ARTICLE 14 BY-LAWS**

### **14.1 By-laws, Amendment or Repeal**

Unless the Act, the Articles or the By-laws otherwise provide, the Directors may, by resolution, make, amend, or repeal any By-law and any such By-law or amendment or repeal shall be effective when approved by the Board. If the By-law amendment or repeal is so confirmed, or confirmed as amended, by the Members entitled to vote thereon, it remains effective in the form in which it was confirmed. The By-law amendment or repeal ceases to have effect if it is not submitted by the Directors to the Members at or before the next Annual or Special Meeting or if it is so presented but rejected by the Members entitled to vote thereon. If a By-law, amendment, or repeal ceases to have effect, a subsequent resolution of the Directors that has substantially the same purpose or effect is not effective until it is confirmed, or confirmed as amended, by the Members entitled to vote thereon.

### **14.2 Effect of Repeal of By-laws**

The repeal of any By-law in whole or part shall not in any way affect the validity of any act done or right, privilege, obligation, or liability acquired or incurred thereunder prior to such repeal.

### **14.3 Enactment-** This By-law No. 1 shall come into force and effect upon its execution by the Chair following its confirmation by the Members.

**MADE** by the Board on the                      day of                      , 2024.

\_\_\_\_\_

Chair

**CONFIRMED** by the Members pursuant to a resolution on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_

Chair

## **Appendix 10: First Nations Child and Family Services Terms and Conditions**

[Under development. To be inserted once completed.]

## Appendix 11: Housing Allocation Example

### Illustrative Example of How ISC will Calculate a First Nation's Four-Year Housing Funding Allocation

The example below illustrates how ISC will determine the amount of a First Nation's housing funding under Part X of this Final Settlement Agreement.

#### **First Nation A's Housing Funding Allocation**

*Please note that First Nation A is not a real First Nation*

**First Nation A's Population:** 2,721 (on reserve and in Yukon, as recorded in the Indian Registration System as of December 31, 2023)

**First Nation A's 2021 Index of Remoteness Score (Census 2021):** 0.47

**First Nation A's Percentage of Population in an Overcrowded Dwelling (Community Well-Being Index 2021):** 16%

*Calculation:* Multiply First Nation A's population by its remoteness score and its overcrowded percentage:  $2,721 \times (1 + 0.47) \times (1 + 0.16) = 4,639.8$ . This is First Nation A's housing score.

**Total Population of First Nations Eligible for Housing Funding:** 492,151 (on reserve and in Yukon, as recorded in the Indian Registration System as of December 31, 2023)

**Sum of the Calculated Housing Scores of All First Nations Eligible for Housing Funding:** 889,932. This is the total population of 492,151 multiplied by the respective remoteness scores and the overcrowded percentages of all First Nations eligible for housing funding.

*Calculation:* Divide First Nation A's housing score by the sum of the housing scores of all First Nations eligible for housing funding:  $4,639.8 / 889,932 = 0.00521$

**Total Housing Funding Available:** \$1,790,000,000

**Base Housing Funding Per First Nation:** \$250,000

**Number of First Nations Eligible for Housing Funding:** 575

*Calculations:*

- From the total housing funding available, subtract the total amount required to provide base housing funding to each eligible First Nation:  
 $\$1,790,000,000 - (\$250,000 \times 575) = \$1,646,250,000$ .
- Multiply the remaining housing funding of \$1,646,250,000 by the ratio between First Nation A's housing score and the sum of all housing scores:  
 $\$1,646,250,000 \times 0.00521 = \$8,576,963$
- Add the base housing funding to that amount:  $\$8,576,963 + \$250,000 = \$8,826,963$ .

In this example, First Nation A would receive \$8,826,963 in housing funding over 2024-2025 to 2028-2029.



## **Appendix 12: Remoteness Quotient Adjustment Factor Methodology**

This appendix explains how ISC will calculate the RQAF of First Nations and FNCFS Agencies for the purpose of adjusting Reformed FNCFS Program funding to account for the increased costs of delivering child and family services in remote First Nations.

The RQAF combines features of two approaches for estimating increased costs due to remoteness – NAN's Remoteness Quotient and ISC's Cost Adjustment Factor. The Remoteness Quotient uses specific cost data from FNCFS Agencies in Ontario. The Cost Adjustment Factor uses generic shipping cost data from Canada Post and estimates of labour costs based on the National Joint Council - Isolated Post and Government Housing Directive. The RQAF aims to combine the subject- and region-specific data of the Remoteness Quotient and the Canada-wide application of the Cost Adjustment Factor.

The appropriate RQAF calculation for a First Nation depends on data quality and availability. The Remoteness Quotient's data from FNCFS Agencies serving NAN First Nations allows ISC and NAN to calculate a more accurate estimate of remoteness costs – a more accurate RQAF – with respect to child and family services for a subset of NAN First Nations (specifically, those connected by all-weather road to the main road network). The data show that, to arrive at RQAF values for those First Nations, the First Nation's Cost Adjustment Factor should be multiplied by 1.089.

The RQAF does not benefit from comparable data for other First Nations, which necessitates a more general approach for those First Nations. ISC and NAN compared estimates of remoteness costs for First Nations in Ontario using child and family services data and estimates of the same costs using the Cost Adjustment Factor. That comparison indicates that, in general and in contrast to the situation for road-connected NAN First Nations, the Cost Adjustment Factor's cost estimates are slightly too high when applied to child and family services. The data show that, to arrive at RQAF values for all First Nations except for road-connected NAN First Nations, the First Nation's Cost Adjustment Factor should be multiplied by 0.879.

The formula for the Cost Adjustment Factor is as follows:

$(0.709 * \text{a community's 2021 Index of Remoteness score}) + (0.704 * 1 \text{ if the community is not connected by road to Canada's main road network, and } 0 \text{ if the community is connected})$

The NAN-Canada Remoteness Quotient Table and the NARC-Canada Remoteness Table, with the support of the Remoteness Secretariat, may continue to develop the RQAF, including by collecting child and family services cost data from other areas of the country.

### **Calculation of the Reformed FNCFS Program's Remoteness Adjustment**

- 1) To determine the adjustment of a First Nation's funding for remoteness, Canada shall take the following steps:
  - a. Using the Index of Remoteness based on 2021 Census data, produce a list of the 2021 Index of Remoteness scores of all First Nations eligible to receive funding under the FNCFS Program;

- b. For First Nations with a 2021 Index of Remoteness score at or above 0.40 (“Remoteness-Eligible First Nations”), determine if the First Nation is connected to Canada’s main road network by an all-weather road;
  - c. Calculate the RQAF of each Remoteness-Eligible First Nation by the formula:
    - i. if the First Nation is a member of NAN and is connected by all-weather road to Canada’s main road network:  $(0.709 * \text{the First Nation’s 2021 Index of Remoteness score}) * 1.089$ ; or
    - ii. if the First Nation is any other First Nation:  $[(0.709 * \text{the First Nation’s 2021 Index of Remoteness score}) + (0.704 * 1 \text{ if the First Nation is not connected by all-weather road to Canada’s main road network, and } 0 \text{ if the First Nation is connected})] * 0.879$ , and
  - d. Multiply the Remoteness-Eligible First Nation’s RQAF by its funding for prevention, First Nations Representative Services, information technology, results, emergency, household supports, and post-majority support services.
- 2) To determine the adjustment of an FNCFS Agency’s funding for remoteness, Canada shall take the following steps:
- a. Calculate the population-weighted average RQAF of all First Nations affiliated with the FNCFS Agency, assigning an RQAF of 0 where an affiliated First Nation’s 2021 Index of Remoteness score is less than 0.40; and
  - b. Multiply (a) by the FNCFS Agency’s funding for prevention and emergency.

### Illustrative Examples of the RQAF Calculation

The table below illustrates the calculation of the RQAF for four fictional First Nations and for a fictional FNCFS Agency affiliated with those four First Nations.

	Population	2021 Index of Remoteness	Road Connected	NAN First Nation	Calculation	RQAF
First Nation A	500	0.55	Yes	Yes	$(0.709 * 0.55) * 1.089$	42%
First Nation B	1,000	0.67	No	No	$[(0.709 * 0.67) + (0.704 * 1)] * 0.879$	104%
First Nation C	2,000	0.45	Yes	No	$(0.709 * 0.45) * 0.879$	28%
First Nation D	1,200	0.28	Yes	No	N/A	0%
FNCFS Agency X	4,700 (total of First Nation population)	N/A	N/A	N/A	$43\% * (500/4,700) + 104\% * (1,000/4,700) + 28\% * (2,000/4,700) + 0\% * (1,200/4,700)$	39%