

## **DRAFT ANISHINABEK NATION FISCAL AGREEMENT**

### ***Plain Language Version***<sup>1</sup>

This document describes the *Anishinabek Nation Fiscal Agreement* (the Fiscal Agreement) in plain language. This is an explanatory tool and does not form part of the legal arrangements proposed between the parties. This is not a legal document and does not serve as a legal interpretation of the *Anishinabek Nation Fiscal Agreement*.

#### **PREAMBLE**

The Preamble contains statements by each Party concerning their intent in entering the *Anishinabek Nation Governance Agreement* (the Governance Agreement) and their intent to maintain a financial relationship for the purposes of the Governance Agreement. The Preamble is not legally enforceable. Everything that is included in the *Anishinabek Nation Fiscal Agreement* after the Preamble is legally enforceable for the Anishinabek Nation and for Canada (the Parties to the Fiscal Agreement).

#### **DEFINITIONS AND INTERPRETATION**

The definitions in the *Anishinabek Nation Governance Agreement* apply in the *Anishinabek Nation Fiscal Agreement*. There are also additional definitions that apply only within the Fiscal Agreement.

This Interpretation section provides guidance to the reader on how to read and interpret the *Anishinabek Nation Fiscal Agreement*.

#### **TERM**

The term of the *Anishinabek Nation Fiscal Agreement* is five (5) years from the date the Fiscal Agreement becomes effective. This Part also explains the process for any subsequent fiscal agreements. This Part also outlines the intent of the Parties to amalgamate the fiscal agreements for the *Anishinabek Nation Governance Agreement* and the *Anishinabek Nation Education Agreement* into a single fiscal agreement.

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<sup>1</sup> DISCLAIMER: This summary of the *Anishinabek Nation Fiscal Agreement* (the Fiscal Agreement) is provided by the Anishinabek Nation (Union of Ontario Indians) to support the *Anishinabek Nation Governance Agreement* ratification process. This is an interpretative tool and does not form part of the legal arrangements proposed between the Anishinabek First Nations and Canada. This is not a legal document and does not serve as a legal interpretation of the *Anishinabek Nation Fiscal Agreement*. If you have specific questions or wish to receive a copy of the *Anishinabek Nation Fiscal Agreement*, please contact the Anishinabek Nation (Union of Ontario Indians) by calling Toll-Free at 1-833-297-9850.

## **AMENDMENT**

This Part describes the process to amend the *Anishinabek Nation Fiscal Agreement*. It can only be amended by the Parties according to the process outlined in this Part and in writing.

## **RESPONSIBILITIES OF THE ANISHINABEK NATION**

This Part describes the responsibility of the Anishinabek Nation to provide Federally Supported Programs and Services in accordance with this *Anishinabek Nation Fiscal Agreement* and the *Anishinabek Nation Governance Agreement*. This Part also describes Anishinabek Nation's responsibilities and entitlements regarding Transfer Payment allocations and expenditures; its responsibility regarding refunds of overpayments to Canada; its responsibility to maintain a system of program and financial accountability; its responsibility to provide certain financial updates on a publicly accessible website; and its responsibility to ensure retention of financial records for seven (7) years and availability of these to Canada upon Canada's request.

## **RESPONSIBILITIES OF CANADA**

This Part describes the responsibilities of Canada regarding Transfer Payments to the Anishinabek Nation and that Canada is not responsible for the delivery of Federally Supported Programs and Services; or any expenditures related to these programs and services in a fiscal year in excess of the Transfer Payment made in that fiscal year.

## **ADDITIONAL PROGRAMS AND SERVICES**

This Part describes that this *Anishinabek Nation Fiscal Agreement* does not affect the ability of the Anishinabek First Nations or their E'Dbendaagzijig (citizens) to participate in or benefit from general federal programs or public services. The Anishinabek Nation is not eligible to participate in or benefit from Band Support Funding and the governance portion of Band Employee Benefits since those are already funded in this Fiscal Agreement.

## **LIABILITIES AND INDEMNITIES**

This Part provides an overview of the general liabilities and indemnifications made by the Parties under the *Anishinabek Nation Fiscal Agreement*. For example, the manner in which the Anishinabek Nation exercises its jurisdiction and authorities under the *Anishinabek Nation Governance Agreement* will not affect Canada's financial obligations as set out in the *Anishinabek Nation Fiscal Agreement*.

## **EXTRAORDINARY CIRCUMSTANCES**

This Part describes what will occur if any exceptional circumstance arises which creates immediate and urgent financial pressures that may impair the ability of the Anishinabek Nation to meet its obligations

under the *Anishinabek Nation Fiscal Agreement*. For example, notice may be sent to Canada and a meeting with Canada will occur to address any financial and other impacts.

## **DISPUTE RESOLUTION**

The *Anishinabek Nation Fiscal Agreement* contains a process for addressing any disagreement that may arise in regards to the Fiscal Agreement. Prior to a disagreement going to court, the Parties must first attempt to address the dispute through deliberations by the Implementation Committee, negotiation and arbitration as outlined in this Part of the *Anishinabek Nation Fiscal Agreement*.

## **INFORMATION EXCHANGE**

This Part outlines the Anishinabek Nation's responsibility to compile statistics for each Federally Supported Program and Service it designs in accordance with the Schedules A and B. It also outlines the responsibility of the Parties to share any information required to be shared amongst one another in a timely and reasonable manner, and to ensure confidentiality and compliance within the Parties' laws and the *Anishinabek Nation Governance Agreement* in collecting, sharing and disclosing information.

## **DEFAULT AND REMEDIES**

Where any Party to the *Anishinabek Nation Fiscal Agreement* does not fulfill its responsibilities under the Fiscal Agreement, it is in default. This Part sets out what happens when there is a default. This Part provides for notice that is to be provided between the Parties of an alleged default and how the situation will proceed.

## **NO IMPLIED WAIVER**

This is a standard clause of the *Anishinabek Nation Fiscal Agreement* which intends to ensure that a party to the agreement does not accidentally or informally waive its rights to bring proceedings and recover damages, etc. under the contract in the event of a breach of the contract by the other party.

## **FURTHER ASSURANCES**

This is a standard clauses of the *Anishinabek Nation Fiscal Agreement* which provides that the Parties will execute any other documents or take any other steps needed to carry out the Fiscal Agreement.

## **EFFECT OF THIS AGREEMENT**

This Part of the *Anishinabek Nation Fiscal Agreement* provides that the Fiscal Agreement does not form part of the *Anishinabek Nation Governance Agreement*; that the Fiscal Agreement is not a treaty or a land claim and does not create, recognize or affirm any Aboriginal or treaty rights; and that if there is

any inconsistency between the *Anishinabek Nation Fiscal Agreement* and the *Anishinabek Nation Governance Agreement*, the Governance Agreement will prevail.

## **CONFLICTS OF INTEREST**

This Part provides for any conflict of interest provisions which will apply to the *Anishinabek Nation Fiscal Agreement*. It outlines certain current or former public servants or public office holders who may not derive direct benefits from the Fiscal Agreement unless this is done in compliance with applicable legislation and codes. It outlines that no member of the House of Commons or the Senate of Canada is to share in or benefit from the Fiscal Agreement unless also a citizen of the Anishinabek Nation. Lastly, the Part outlines that any person lobbying on behalf of the Anishinabek Nation to obtain funding shall do so according to the Lobbying Act.

## **ENTIRE AGREEMENT AND SEVERABILITY; DELEGATION; NO ASSIGNMENT; ENUREMENT; & COMMUNICATIONS**

These Parts provide several standard legal clauses for the *Anishinabek Nation Fiscal Agreement*.

## **SCHEDULE A – SOCIAL TRANSFER PROGRAM COMPONENTS**

This Schedule has been inserted as a placeholder. It will list non-governance program components, related to jurisdictions such as health, child well being, lands and resources, and so on, if and when those jurisdictions become the subject of a self-government recognition agreement between the Anishinabek First Nations and Canada in the future. It has been inserted now in acknowledgement of the fact that all such future self-government recognition agreements will be additions to the *Anishinabek Nation Governance Agreement*, because governance is generally recognized as the “head” or “lead” jurisdiction. As such, the fiscal agreement for governance must be capable of being expanded to accommodate funding for any future jurisdictions.

## **SCHEDULE B – GENERAL EXPENDITURE BASE PROGRAM COMPONENTS**

This Schedule sets out the program components for governance. Program components are lists of possible activities that a government may bring together in designing a program or service. Funding provided by Canada, instead of being for any specifically mandated program or service, is directed at program components, leaving Anishinabek First Nations with the choice of which programs to actually design, and in what way, in order to meet their individual needs.

## **SCHEDULE C – ONE-TIME IMPLEMENTATION ACTIVITIES**

This Schedule sets out the activities for which One-Time Implementation funding is being provided. There is no requirement that the activities actually be undertaken since any Anishinabek First Nation government may identify and pursue other priorities. However, funding cannot be sought again for the

implementation activities identified in the Schedule once One-Time Implementation funding has been transferred.

**SCHEDULED D – FUNDING AND ADJUSTMENT FACTORS FOR FEDERALLY SUPPORTED PROGRAMS AND SERVICES**

This Schedule sets out the detailed formula pursuant to which annual, ongoing transfer payments will be made by Canada to the Anishinabek First Nations and the Anishinabek Nation Government pursuant to the *Anishinabek Nation Fiscal Agreement*.