

ANISHINABEK NATION FISCAL AGREEMENT

WITHOUT PREJUDICE

Any Party may suggest additions or deletions to the draft until the Agreement is initialled.

Anishinabek Nation Fiscal Agreement

BETWEEN

**The Anishinabek Nation, representing itself and the First Nations set out in Schedule A of the
Anishinabek Nation Governance Agreement**

(“Anishinabek Nation”)

OF THE FIRST PART

AND

**Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and
Northern Development**

(“Canada”)

OF THE SECOND PART

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PREAMBLE

WHEREAS:

- A. The Anishinabek Nation Governance Agreement (“Governance Agreement”) was entered into between the Parties on the Effective Date of that Agreement;
- B. Chapter 8 of the Governance Agreement provides that the Parties will enter into and maintain a Fiscal Agreement that will come into effect on the Effective Date, to support the exercise of law-making powers and other authorities within the Governance Agreement;
- C. The Parties have developed this Fiscal Agreement taking into account the principles and purposes contemplated within Chapter 8 of the Governance Agreement.

NOW THEREFORE, the Parties agree as follows:

1.0 DEFINITIONS AND INTERPRETATION

1.1 Words and expressions not defined in this Agreement but defined in the Governance Agreement have the meanings ascribed to them in the Governance Agreement.

1.2 In this Agreement:

“**Agent**” means a person duly authorized to deliver and administer programs and services on behalf of the Anishinabek Nation;

“**Agreement**” means this Anishinabek Nation Fiscal Agreement and all of its Schedules;

“**Chapter**” means a chapter of the Governance Agreement;

“**Effective Date**” means the Effective Date of the Anishinabek Nation Governance Agreement;

“**FDDIPI**” means the Canada Final Domestic Demand Implicit Price Index, series V62307283, third quarter, published regularly by Statistics Canada in Table 380-0066: Price Indexes, Gross Domestic Product, or its replacement series as specified by Statistics Canada;

“**Federally Supported Programs and Services**” means those programs and services described in Schedules A, B and C;

“**First Nations’ Fiscal Contribution**” means the amount deducted from the General Expenditure Base as a contribution by the Anishinabek Nation to the cost of Federally Supported Programs and Services based on the revenues generated by the Anishinabek Nation as determined in accordance with Schedule D;

“**Fiscal Year**” means the period that commences on April 1st of a year and ends on March 31st of the following year;

“**General Expenditure Base**” means the sum of federal funding, as set out in Table 2 of Schedule D, for those Federally Supported Programs and Services identified in Schedule B, and which is a subset of the Transfer Payment;

“**One-Time Implementation Transfer**” means the sum of time-limited federal funding, as set out in Table 3 of Schedule D, in respect of those activities identified in Schedule C, and which is a subset of the Transfer Payment for the Initial Fiscal Year of this Agreement, but which may at the discretion of the Parties be transferred in part prior to the beginning of the Initial Fiscal Year of this Agreement;

“**Parties**” means the parties to this Agreement, “**Party**” means any one of them;

“**Schedule**” means any of the schedules to this Agreement as listed in 22.0 and Schedules means any two or more Schedules;

“Social Transfer” means the sum of federal funding, as set out in Table 1 of Schedule D, for those Federally Supported Programs and Services identified in Schedule A, and which is a subset of the Transfer Payment;

“Transfer Floor” means the minimum amount Canada will provide to the Anishinabek Nation for Federally Supported Programs and Services in any Fiscal Year, determined according to Schedule D;

“Transfer Payment” means payments, determined according to Schedule D, from Canada to the Anishinabek Nation in a Fiscal Year, for expenditure on Federally Supported Programs and Services; and

“Anishinabek Nation Financial Statements” mean audited consolidated financial statements for the Anishinabek Nation, prepared in accordance with Generally Accepted Accounting Principles.

1.3 In this Agreement:

- a) unless it is otherwise clear from the context, “including” means “including, but not limited to”, and “includes” means “includes, but is not limited to”;
- b) the word “will” denotes an obligation that, unless this Agreement provides to the contrary, must be carried out as soon as practicable after the Effective Date or the event that gives rise to the obligation;
- c) the word “or” is used in its inclusive sense, meaning A or B, or both A and B; and the word “and” is used in its joint sense, meaning A and B, but not either alone;
- d) headings and subheadings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- e) all references in this Agreement to matters that may be “agreed to” by Parties will be evidenced by written agreement executed by the Parties;
- f) a reference to a statute includes every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
- g) a reference to an agreement that is included as a schedule to this Agreement includes every amendment to it and every agreement made in substitution for it or in replacement of it;
- h) unless it is otherwise clear from the context, a reference to a Schedule means a Schedule to this Agreement;
- i) unless it is otherwise clear from the context, the use of the singular includes the plural,

and the use of the plural includes the singular;

- j) all accounting terms have the meanings assigned to them under Generally Accepted Accounting Principles; and
- k) unless it is otherwise clear from the context that a reference to the Anishinabek Nation is intended to exclude the signatory First Nations of the Governance Agreement, any reference to the Anishinabek Nation includes one, a few or all of those signatory First Nations as may be appropriate.

2.0 TERM

Initial Term

- 2.1 This Agreement commences as of the Effective Date and remains effective until March 31 in the calendar year five years subsequent to the Effective Date.

Subsequent Fiscal Transfer Agreements

- 2.2 At least 24 months prior to the end of the term of this Agreement, the Parties will discuss and make best efforts to conclude a subsequent Anishinabek Nation Fiscal Agreement.
- 2.3 The subsequent Anishinabek Nation Fiscal Agreement will be approved in the following order:
 - a) by the governing executive of the Anishinabek Nation; and
 - b) by Canada taking all requisite steps.
- 2.4 The Anishinabek Nation will provide a copy of the executive resolution passed pursuant to 2.3a) to Canada within 10 days of its passage.
- 2.5 Upon the securing of approvals pursuant to 2.3, the Grand Council Chief of the Anishinabek Nation will sign the subsequent Anishinabek Nation Fiscal Agreement.
- 2.6 Notwithstanding 2.2, if the Parties do not conclude a subsequent Anishinabek Nation Fiscal Agreement by the end of the term of this Agreement, this Agreement will continue in effect for a period of 2 years or any other period agreed to in writing by the Parties.
- 2.7 The Anishinabek Nation Government will be the sole agent of the First Nations that have ratified the Anishinabek Nation Governance Agreement for the purposes of concluding a subsequent Anishinabek Nation Fiscal Agreement.

Amalgamation

2.8 Notwithstanding 2.1 to 2.6, it is the intent of the Parties:

- a) that the subsequent Anishinabek Nation Fiscal Agreement will amalgamate the fiscal agreements for the Anishinabek Nation Governance Agreement and the Anishinabek Nation Education Agreement into a single fiscal agreement; and
- b) that the term or extension of this Agreement will be determined to allow for said amalgamation.

3.0 AMENDMENT

3.1 Any Party may propose any amendment to this Agreement by notice to the other Party setting out the amendment proposal and the interest of the Party that the proposal is meant to address.

3.2 A Party that has received a notice under 3.1 will provide a response to the Party that provided the notice within 90 days of receipt indicating that:

- a) the Party agrees to engage in discussions on the amendment proposal; or
- b) the Party does not agree to engage in discussion on the amendment proposal.

3.3 Where both Parties agree to engage in discussions on an amendment proposal, the Parties will meet to discuss the amendment proposal within 60 days of the response given under 3.2a).

3.4 For greater certainty, each Party retains the unfettered discretion to agree or refuse to engage in discussions on any amendment proposal put forward by another Party and nothing in 3.2 requires any Party to agree to any proposal to amend this Agreement.

3.5 All amendments to this Agreement, including amendments to any Schedule, must be in writing, executed by both Parties, and conform to any additional requirements under this Agreement or the applicable Schedule.

4.0 RESPONSIBILITIES OF THE ANISHINABEK NATION

4.1 The Anishinabek Nation is responsible for providing Federally Supported Programs and Services in accordance with this Agreement.

4.2 The Anishinabek Nation may allocate and expend each Transfer Payment as the Anishinabek Nation, in its discretion, determines.

4.3 The Anishinabek Nation is entitled to retain any unexpended balance from a Transfer Payment under this Agreement.

4.4 If the Anishinabek Nation uses the services of an agent or third party service provider in order

to deliver a Federally Supported Program or Service, the Anishinabek Nation remains responsible for the delivery of that program or service.

- 4.5 The Anishinabek Nation will maintain a system of program and financial accountability that is consistent with standards of program and financial accountability generally accepted for governments and public institutions in Canada.
- 4.6 The Anishinabek Nation will make available, on a publicly accessible website:
- a) the audited consolidated financial statements of the Anishinabek Nation, prepared in accordance with Generally Accepted Accounting Principles, within 180 days following the end of each Fiscal Year;
 - b) related expenditures by an Agent, in the audited financial statements as may be appropriate, in the event the Anishinabek Nation delegates any part of its responsibilities regarding Federally Supported Programs and Services to that Agent; and
 - c) annual budget estimates of revenues and expenditures pertaining to the Transfer Payment for a Fiscal Year, by each major category, for the upcoming Fiscal Year, within one week of tabling.
- 4.7 The Anishinabek Nation's financial records for each Fiscal Year will be:
- a) retained by the Anishinabek Nation for 7 Fiscal Years; and
 - b) made available to Canada, on a confidential basis, within 90 days of the receipt of a request, with reasons, from Canada.

5.0 RESPONSIBILITIES OF CANADA

- 5.1 Subject to the terms and conditions of this Agreement, Canada will make a Transfer Payment to the Anishinabek Nation for each Fiscal Year that commences during the term of this Agreement.
- 5.2 The Transfer Payment for each Fiscal Year will be the greater of:
- a) the sum of any Social Transfer, the sum of the One-Time Implementation Transfer in the case of any such payments to be made for the Initial Fiscal Year of this Agreement, and the amount by which the General Expenditure Base exceeds the First Nations' Fiscal Contribution; or,
 - b) the Transfer Floor.
- 5.3 For greater certainty, Canada is not responsible for:

- a) the delivery of Federally Supported Programs and Services; or
- b) any expenditures related to Federally Supported Programs and Services in a Fiscal Year in excess of the Transfer Payment made in that Fiscal Year.

5.4 Notwithstanding any other provision of this Agreement, the amount of the Transfer Payment in any Fiscal Year under this Agreement is subject to the appropriation of funds by the Parliament of Canada.

6.0 ADDITIONAL PROGRAMS AND SERVICES

6.1 Subject to 6.2, this Agreement does not affect the ability of the Anishinabek Nation or its E'Dbendaagzijig:

- a) to participate in or benefit from any federal program for registered Indians, other Indians or aboriginal people in accordance with the general criteria established for that program in effect from time to time; or
- b) to participate in or benefit from any federal program, other than a program referred to in (a) above, or to receive any public service from Canada in accordance with the general criteria established for that program or public service in effect from time to time.

6.2 The Anishinabek Nation is not eligible to participate in or benefit from any federal program or to receive any public service from Canada to the extent that the program or public service has been listed in provision 2 of Schedule B of this Agreement or included in another funding arrangement between the Parties.

7.0 LIABILITIES AND INDEMNITIES

7.1 This Agreement does not create any agency, association, joint venture or employer-employee relationship between the Anishinabek Nation and Canada.

7.2 The Anishinabek Nation will indemnify Canada, and officers, employees, agents, servants and successors of Canada from any claims, demands and liabilities arising from:

- a) any breach of this Agreement by the Anishinabek Nation; and
- b) acts, omissions or negligence of the Anishinabek Nation or any Agent.

7.3 Canada will indemnify the Anishinabek Nation, and officers, employees, agents, servants and successors of the Anishinabek Nation from any claims, demands and liabilities arising from:

- a) any breach of this Agreement by Canada; and

- b) acts, omissions or negligence of Canada or any agent acting for Canada.

8.0 EXTRAORDINARY CIRCUMSTANCES

- 8.1 An extraordinary circumstance is a circumstance which creates immediate and urgent financial pressures that may significantly impair the ability of the Anishinabek Nation to meet its obligations under this Agreement relating to Federally Supported Programs and Services.
- 8.2 Where an extraordinary circumstance occurs, the Implementation Committee will, at the request of the Anishinabek Nation,
 - a) meet as soon as practicable to review the extraordinary circumstance and its impact;
 - b) review other assistance or potential funding sources available to enable the Anishinabek Nation to meet its obligations; and
 - c) determine any steps that may be required to address the extraordinary circumstance and ensure that the Anishinabek Nation will continue to meet its obligations under the Governance Agreement and this Agreement.
- 8.3 Nothing in 8.2 will be construed as preventing the Anishinabek Nation from responding, financially or otherwise, to an extraordinary circumstance in order to meet its obligations, before requesting a meeting of the Implementation Committee.
- 8.4 Nothing in this Agreement affects any other agreements or plans related to emergencies, including extraordinary circumstances, within the Anishinabek Nation, or between any or all of the Anishinabek Nation, Ontario and Canada.
- 8.5 For greater certainty, 8.2 is intended to address circumstances which:
 - a) were not reasonably foreseeable at the time this Agreement was entered into or amended;
 - b) are beyond the control of the Anishinabek Nation, and
 - c) could have a significant impact on the performance of the obligations of the Anishinabek Nation under this Agreement.

9.0 DISPUTE RESOLUTION

- 9.1 The Parties will seek to resolve a dispute arising from this Agreement by informal discussion between the disputing Parties.
- 9.2 If the dispute is not resolved by informal discussion, a Party directly engaged in the dispute may refer the dispute to the Implementation Committee by notice to the other Party providing a concise summary of the matter in dispute.

- 9.3 The deliberations of the Implementation Committee in 10.2 will be considered to be “collaborative negotiations” for the purpose of Chapter 17 of the Governance Agreement, and will be deemed to fully satisfy the requirements set out in clause 17.10 of that Chapter.
- 9.4 If the Implementation Committee fails to resolve the dispute within 30 days of the dispute being referred to it, or a longer period if the Parties agree in writing, the dispute will be dealt with in accordance with clauses 17.11 to 17.14 of the Governance Agreement.
- 9.5 Disputes arising under this Agreement may not be referred to and finally resolved by arbitration.
- 9.6 For greater certainty the following are not disputes that can be referred for resolution under the Dispute Resolution process of this Agreement:
- a) the decision made by a Party not to agree to an amendment proposed by another Party; and
 - b) the failure of the Parties to reach agreement on renewal terms prior to the expiration of the funding period.

10.0 INFORMATION EXCHANGE

- 10.1 The Anishinabek Nation will observe any applicable statistical reporting requirements for each Federally Supported Program and Service it designs pursuant to Schedules A and B of this Agreement.
- 10.2 Subject to 10.3 the Parties will share, in a timely manner, information reasonably required from time to time for the purposes of implementing, monitoring, amending, renewing or replacing this Agreement at no cost to each other, which may include reports prepared by the Anishinabek Nation, or its Agent, in relation to Federally Supported Programs and Services.
- 10.3 Each Party will collect, share and disclose information under this Agreement in a manner that:
- a) ensures the confidentiality of that information to the same extent as applies generally to other governments exchanging information in Ontario on the provision of programs and services similar to those provided for in this Agreement;
 - b) is in accordance with the laws of that Party; and
 - c) is in keeping with Chapter 9 of the Governance Agreement.

11.0 DEFAULT AND REMEDIES

- 11.1 A Party will be in default of this Agreement in the event:

- a) that Party breaches any provision of this Agreement or fails to fulfill any of its obligations set out in this Agreement; or
 - b) that Party gives or makes a representation, statement or report, required under this Agreement, that it knows or reasonably ought to know is false in a material way.
- 11.2 If there is an alleged default of this Agreement by a Party, the Party alleging the default will notify the other Party of the alleged default and the circumstances giving rise to the alleged default.
- 11.3 A Party in alleged default that receives a notice of default under 11.2 will, within 30 days of receipt of the notice, notify the other Party, of one of the following:
- a) that it has remedied the default, including a description of the remedial action taken or being taken; or
 - b) that it disagrees that a default has occurred, in which case the issue shall be referred to the dispute resolution provisions set out in Chapter 9, or
 - c) seek an extension and provide reasons for that request.
- 11.4 A Party that gives notice of a default under 11.2 may at any time waive the default by notice to the other Party.

12.0 NO IMPLIED WAIVER

- 12.1 No provision of this Agreement, or performance by a Party of an obligation under this Agreement, is deemed to have been waived unless the waiver is in writing and signed by the Party giving the waiver.
- 12.2 No written waiver of a provision of this Agreement, of performance by a Party of an obligation under this Agreement, or of default by a Party of a covenant under this Agreement, is deemed to be a waiver of any other provision, obligation, or default.

13.0 FURTHER ASSURANCES

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

14.0 EFFECT OF THIS AGREEMENT

- 14.1 This Agreement does not form part of the Governance Agreement.
- 14.2 This Agreement is not a treaty or a land claims agreement, and does not create, recognize or

affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

- 14.3 Where there is any inconsistency between the provisions of this Agreement and the provisions of the Governance Agreement, the provisions of the Governance Agreement shall prevail to the extent of the inconsistency.

15.0 CONFLICTS OF INTEREST

- 15.1 No current or former public servant or public office holder to whom the Conflict of Interest Act, the Conflict of Interest and Post-Employment Code for Public Office Holders or the Values and Ethics Code for the Public Service applies shall derive any direct benefit from this Agreement unless the provision or receipt of such benefits is in compliance with that legislation and those codes.
- 15.2 No member of the House of Commons or the Senate of Canada is to be admitted to any share or part of this Agreement or to any benefit arising from it not otherwise available to the general public, unless such a member is also a citizen of the Anishinabek Nation.
- 15.3 The Anishinabek Nation acknowledges that any person lobbying on behalf of the Anishinabek Nation to obtain funding shall only do so in compliance with the Lobbying Act.

16.0 ENTIRE AGREEMENT AND SEVERABILITY

- 16.1 This Agreement is the entire agreement between the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Agreement.
- 16.2 The Schedules to this Agreement form part of this Agreement.
- 16.3 If any part of this Agreement is declared invalid by a court of law for any reason, the invalidity of that part will not affect the validity of the remainder which will continue in full force and effect.
- 16.4 As soon as possible after the declaration of invalidity of a part of this Agreement, the Parties will meet and discuss the effect of that invalidity on the remainder of this Agreement.

17.0 DELEGATION

- 17.1 The Anishinabek Nation may delegate any or all of its obligations under this Agreement to a duly authorized representative or Agent by an agreement in writing.
- 17.2 Where the Anishinabek Nation has delegated any or all of its obligations pursuant to 17.1, the Anishinabek Nation will remain responsible for the performance of all of its obligations under this Agreement, unless otherwise agreed to by the Parties.

18.0 NO ASSIGNMENT

18.1 Unless otherwise agreed by the Parties, this Agreement may not be assigned, either in whole or in part, by any Party to it.

19.0 ENUREMENT

19.1 This Agreement enures to the benefit of and binds the Parties and their respective administrators and other legally appointed representatives, successors, and permitted assigns.

20.0 COMMUNICATIONS

20.1 Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement will be in writing and will be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent prepaid by fax or other similar means of electronic communication, in each case to the applicable address set out below.

For Canada:

Minister of Indian Affairs and Northern Development
10 Wellington Street
Gatineau, Quebec, K1A 0H4
Fax Number: (819) 953-4941

For Anishinabek Nation:

Office of the Grand Council Chief, Anishinabek Nation
Union of Ontario Indians
Nipissing First Nation
P.O. Box 711
North Bay, Ontario, P1B 8J8
Fax Number: (705) 497-9135

20.2 A Party may change its address or facsimile number by giving a notice of the change to the other Party in the manner set out above.

20.3 This Agreement may be executed in counterparts and by electronic transmission. Each signature shall be deemed to be an original signature and all executed documents together shall constitute one and the same document.

20.4 The Parties may agree to abridge or extend any deadline or time limitation set out in this Agreement, including any term or notice period.

20.5 Meetings contemplated by this Agreement may be held in person or by other means as the Parties may agree.

SCHEDULE A
SOCIAL TRANSFER

[Note: Schedule A will be completed as future sectoral agreements are merged into the Anishinabek Nation Governance Agreement.]

SCHEDULE B

GENERAL EXPENDITURE BASE

1. The General Expenditure Base is intended to support the provision of the following ongoing governance functions of the Anishinabek Nation:
 - a. legislative and executive functions;
 - b. general government administration and services;
 - c. financial and human resources management;
 - d. legal and professional advice;
 - e. insurance;
 - f. elections;
 - g. participation in inter-governmental activities;
 - h. the maintenance of public registries of laws;
 - i. public reporting and communication; and
 - j. the maintenance of E'Dbendaagzijig registries.
2. The General Expenditure Base replaces funding for the following programs and services, which for the purposes of this Agreement are similar to Federally Supported Programs and Services:
 - a. Band Support Funding;
 - b. that portion of Band Employee Benefits that supports governance employees; and
 - c. Indian Government Support, which is a combination of Band Support Funding and that portion of Band Employee Benefits that supports governance employees.
3. For greater certainty, the Anishinabek Nation may change, alter, merge or re-profile the programs and services set out in provision 2 above, and may create new ones, in order to fulfill the intention set out in provision 1 above.

SCHEDULE C

ONE-TIME IMPLEMENTATION TRANSFER

1. The One-Time Implementation Transfer is intended to support the following transitional expenditures related to the exercise of governance jurisdiction:
 - a. the preparation and passage of an initial body of core laws, such as laws related to elections, citizenship, financial administration, constitution and procedures of government, conflict of interest, internal dispute resolution, and public services;
 - b. public communication and consultation with E'Dbendaagzijig of the Anishinabek Nation and residents of neighboring communities;
 - c. orientation training activities, such as the development and delivery of training workshops on new government structures, financial and human resource management, public reporting and jurisdictional responsibilities;
 - d. transitional planning which includes the finalization of the formal organizational structure of the Anishinabek Nation;
 - e. the development or acquisition of an information management and accountability system; and
 - f. the development of performance indicators and other statistical metrics to measure the progress of the socio-economic well-being of E'Dbendaagzijig of the Anishinabek Nation.

SCHEDULE D

FUNDING AND ADJUSTMENT FACTORS FOR FEDERALLY SUPPORTED PROGRAMS AND SERVICES

PART 1: DEFINITIONS

D.1 In this Schedule the following definitions shall apply:

“Anishinabek Nation” means the collectivity of First Nations set out in Schedule A of the Anishinabek Nation Governance Agreement, as well as the Anishinabek Nation Government;

“Anishinabek Nation Lands” means lands over which the Anishinabek Nation has general governance jurisdiction;

“Avoidance Transaction” means any transaction that would result directly or indirectly in a reduction of the First Nations’ Fiscal Contribution of the Anishinabek Nation in a Reference Year, unless the transaction may reasonably be considered to have been undertaken or arranged primarily for *bona fide* purposes other than to reduce the First Nations’ Fiscal Contribution;

“Eligible Recipients” mean individuals who are eligible under the specific eligibility criteria established within the programs and services created pursuant to Schedules A, B and C;

“Eligible Revenues” means the sum of all revenues from the sources listed in D.13;

“Excluded Revenues” means the revenues of the Anishinabek Nation from sources identified in paragraph D.27 of this Schedule;

“Government Business Enterprise” means a government business enterprise as defined in the Public Sector Accounting Standards;

“Government Business Entity Deemed Capacity Rate” means, for a Government Business Enterprise in respect of a Reference Year, the net federal tax rate on income that would qualify for the small business deduction determined in accordance with the *Income Tax Act (Canada)* for that Reference Year,;

“Government Business Partnership” means a government business partnership as defined in the Public Sector Accounting Standards;

“Government Partnership” means a government partnership as defined in the Public Sector Accounting Standards;

“Governmental Unit” means a governmental unit as defined in the Public Sector Accounting Standards;

“Net Eligible Revenues” means the amount calculated annually in accordance with paragraphs D.31 and D.32 of this Schedule;

“Fiscal Contribution Report” means the report for a Reference Year prepared in accordance with Part 9 of this Schedule;

“Portfolio Investment” means a portfolio investment as defined in the Public Sector Accounting Standards;

“Portfolio Investment Income” means income of the Anishinabek Nation from any Portfolio Investment or Portfolio Investment Entity;

“Portfolio Investment Entity” means a corporation or trust that earned not less than 90% of its revenue from Portfolio Investments for the fiscal period of the entity with an end date within a Reference Year;

“Proportionate Share” means:

- a) in respect of a Government Business Partnership, the proportion that the interests in the partnership owned directly or indirectly by the Anishinabek Nation is of all issued and outstanding interests in the partnership;
- b) in respect of a Government Business Enterprise, the proportion that the shares in the corporation owned directly or indirectly by the Anishinabek Nation is of all issued and outstanding shares of the corporation;
- c) in respect of Government Business Enterprise that is a trust in which the beneficial interests of the Anishinabek Nation are fixed, non-discretionary or in units, the proportion that the Anishinabek Nation’s beneficial interests or units in the trust is of all beneficial interests or units in the trust;
- d) in respect of a Government Business Enterprise that is a trust in which the trustee or trustees have discretion over the allocation of income or capital amongst different beneficiaries: 100%;

“Reference Year” means, in respect of the calculation the First Nations’ Fiscal Contribution, the Fiscal Year commencing 24 months prior to the first day of the Fiscal Year for which the First Nation’s Fiscal Contribution is being calculated;

"Resource" means natural resources including minerals, wildlife, water and the environment generally;

“Resource Royalty” means:

- a) an amount paid in respect of a Resource produced from Anishinabek Nation Lands that is a royalty, rent, fee, (excluding a fee levied for administrative purposes) or

other payment in the nature of a royalty; and

- b) any other amount that is payable for a right to explore for or exploit a Resource on or under Anishinabek Nation Lands or a right of entry or use relating to a right to explore for or exploit a Resource on or under Anishinabek Nation Lands.

“Rights Claim Settlement” means a payment made by the Crown in cash or in kind pursuant to a court order or a settlement agreement relating to a claim for past, ongoing or potential infringement of any Section 35 rights of the Anishinabek Nation.

PART 2: FUNDING AMOUNTS

D.2 Table 1 sets out:

- a) the base funding amounts for the Social Transfer;
- b) the adjustments that will be made to those base funding amounts to calculate of the Transfer Payment for the Initial Fiscal Year; and
- c) the adjustments that will be made to the funding amounts for the Initial Fiscal Year to aid in the calculation of the Transfer Payment for the Subsequent Fiscal Years while this Agreement is in effect,

with the understanding that the funding amounts for each Subsequent Fiscal Year will be calculated and inserted in Table 1 once an appropriate adjustment factor applicable to that Subsequent Fiscal Year becomes available.

Table 1 - Social Transfer: Base Funding and Adjustments

Column 1	Column 2	Column 3	Column 4	Column 5
Description of Funding	Base Funding Amounts (20xx/20yy)	Pre-Initial Fiscal Year Adjuster	Initial Fiscal Year Funding Amounts (20xx/20yy)	First Subsequent Fiscal Year Adjuster
Total = Social Transfer				
Column 6	Column 7	Column 8	Column 9	Column 10
First Subsequent Fiscal Year Funding Amounts (20xx/20yy)	Second Subsequent Fiscal Year Adjuster	Second Subsequent Fiscal Year Funding Amounts (20xx/20yy)	Third Subsequent Fiscal Year Adjuster	Third Subsequent Fiscal Year Funding Amounts (20xx/20yy)

Column 11	Column 12	Column 13	Column 14	
Fourth Subsequent Fiscal Year Adjuster	Fourth Subsequent Fiscal Year Funding Amounts (20xx/20yy)	Fifth Subsequent Fiscal Year Adjuster	Fifth Subsequent Fiscal Year Funding Amounts (20xx/20yy)	

D.3 Table 2 sets out:

- a) the base funding amounts for the General Expenditure Base;
- b) the adjustments that will be made to those base funding amounts to calculate of the Transfer Payment for the Initial Fiscal Year; and
- c) the adjustments that will be made to the funding amounts for the Initial Fiscal Year to aid in the calculation of the Transfer Payment for the Subsequent Fiscal Years while this Agreement is in effect,

with the understanding that the funding amounts for each Subsequent Fiscal Year will be calculated and inserted in Table 2 once the FDIPPI figures applicable to that Subsequent Fiscal Year becomes available.

Table 2 - General Expenditure Base: Base Funding and Adjustments

Column 1	Column 2	Column 3	Column 4	Column 5
Description of Funding	Base Funding Amounts (20xx/20yy)	Pre-Initial Fiscal Year Adjuster	Initial Fiscal Year Funding Amounts (20xx/20yy)	First Subsequent Fiscal Year Adjuster
General Expenditure Base	\$X.XX	FDDIPI	\$X.XX+	FDIPPI
Total = General Expenditure Base				
Column 6	Column 7	Column 8	Column 9	Column 10
First Subsequent Fiscal Year Funding Amounts (20xx/20yy)	Second Subsequent Fiscal Year Adjuster	Second Subsequent Fiscal Year Funding Amounts (20xx/20yy)	Third Subsequent Fiscal Year Adjuster	Third Subsequent Fiscal Year Funding Amounts (20xx/20yy)
	FDIPPI		FDIPPI	

Column 11	Column 12			
Fourth Subsequent Fiscal Year Adjuster	Fourth Subsequent Fiscal Year Funding Amounts (20xx/20yy)			
FDIPPI				

D.4 Table 3 sets out One-Time Implementation Transfer amounts, with the understanding that those amounts are to form part of the Transfer Payment for the Initial Fiscal Year only. At the discretion of the Parties, a portion of these amounts may be transferred to the Anishinabek Nation prior to the Initial Fiscal Year.

Table 3 - One-Time Implementation Transfer:

Column 1	Column 2
Description of Funding	Value
[implementation activity A] [implementation activity B] [implementation activity C] [implementation activity D]	
Total = One-Time Implementation Transfer	

PART 3 ADJUSTMENT FACTORS

Pre-Initial Fiscal Year Adjuster

D.5 The Pre-Initial Fiscal Year Adjuster, as set out in Column 3 of Table 2, is the FDIPPI value for the calendar year preceding the Initial Fiscal Year divided by the FDIPPI value for the year preceding the 2018-2019 Fiscal Year, or as a formula:

$$FDIPPI (Initial Fiscal Year - 1) / FDIPPI (2018-2019 Fiscal Year - 1).$$

Initial Fiscal Year Transfer Payment (if the Effective Date is 1 April)

D.6 The Transfer Payment for the Initial Fiscal Year is the greater of:

- a) the sum of

- i. the Social Transfer in Column 4 of Table 1, which is the result of the Base Funding Amounts in Column 2 of Table 1 multiplied by any Pre-Initial Fiscal Year Adjuster in Column 3 of Table 1,
 - ii. the totality of those One-Time Implementation Transfer amounts, as set out in Column 2 of Table 3, which have not been transferred prior to the Initial Fiscal Year, and
 - iii. the General Expenditure Base in Column 4 of Table 2, which is the result of the Base Funding Amounts in Column 2 of Table 2 multiplied by the Pre-Initial Fiscal Year Adjuster in Column 3 of Table 2 as set out in D.5, less the First Nations' Fiscal Contribution as determined pursuant to Part 6 of this Schedule; or
- b) the Transfer Floor as determined pursuant to D.11.

Initial Fiscal Year Transfer Payment (if the Effective Date is not 1 April)

D.7 In the event that the Effective Date does not fall on 1 April, the Initial Fiscal Year will begin on the Effective Date and end on 31 March of the subsequent year, and in place of D.6 the Transfer Payment for the Initial Fiscal Year will be calculated as the greater of:

- a) the sum of
 - i. the Social Transfer in Column 4 of Table 1, divided by 365 and multiplied by the number of days between the Effective Date and 31 March of the subsequent year,
 - ii. the totality of those One-Time Implementation Transfer amounts, as set out in Column 2 of Table 3, which have not been transferred prior to the Initial Fiscal Year, and
 - iii. the General Expenditure Base in Column 4 of Table 2 less the First Nations' Fiscal Contribution as determined pursuant to Part 6 of this Schedule, divided by 365 and multiplied by the number of days between the Effective Date and 31 March of the subsequent year; or
- b) the Transfer Floor as determined pursuant to D.11, divided by 365 and multiplied by the number of days between the Effective Date and 31 March of the subsequent year.

Subsequent Fiscal Year Adjusters

D.8 Other than for the Initial Fiscal Year, the Price Adjuster (PA) for a Fiscal Year for which the Transfer Payment is being calculated is equal to $FDDIPI$ for the year immediately preceding that Fiscal Year ($FDDIPI_{FY-1}$) divided by $FDDIPI$ for the year two years prior to that Fiscal

Year (FDDIPI_{FY-2}), or as a formula:

$$PA = FDDIPI_{FY-1} / FDDIPI_{FY-2}$$

D.9 Where it is determined that the Anishinabek Nation has under-reported or over-reported its First Nations' Fiscal Contribution for a previous Fiscal Year, the Transfer Payment for the current Fiscal Year may be adjusted to account for the error.

Subsequent Fiscal Years Transfer Payments

D.10 The Transfer Payment for each Fiscal Year following the Initial Fiscal Year will be calculated as the greater of:

- a) the sum of
 - i. the Social Transfer for the previous Fiscal Year as set out in Table 1 multiplied by the Adjuster for the Fiscal Year of the Transfer Payment as determined pursuant to D.8, and
 - ii. the General Expenditure Base for the previous Fiscal Year as set out in Table 2 multiplied by the Adjuster for the Fiscal Year of the Transfer Payment as determined pursuant to D.8, less the First Nations' Fiscal Contribution as determined pursuant to Part 6 of this Schedule; or
- b) the Transfer Floor as determined pursuant to D.11.

PART 4: TRANSFER FLOOR

D.11 Notwithstanding any other provision in this Agreement, the Transfer Payment for a Fiscal Year will not be less than \$1250 adjusted by FDDIPI to the year of calculation from 2014 dollars, multiplied by the sectoral factor, and then multiplied by the total registered status population of each First Nation set out in Schedule A of the Governance Agreement as of December 31 of the calendar year immediately preceding the Fiscal Year for which the Transfer Payment is being calculated.

PART 5: FEDERAL TRANSFER PAYMENT SCHEDULE

D.12 For each Fiscal Year, Canada will make payments on account of the Transfer Payment as follows, with amounts to be rounded to the nearest dollar:

Table 4 - Federal Transfer Payment Schedule

Month	Corresponding Percentage	Cumulative Percentage Received	Transfer Payment Installment
1 April	55%	55%	\$
1 July	15%	70%	\$

1 October	15%	85%	\$
1 January	15%	100%	\$
TOTALS	100%		\$

PART 6: FIRST NATIONS' FISCAL CONTRIBUTION - ELIGIBLE REVENUES

D.13 The Eligible Revenues of the Anishinabek Nation for a Reference Year will be the sum of revenues of those First Nations set out in Schedule A of the Governance Agreement and of the Anishinabek Nation Government, from the following sources established and calculated in accordance with D.14 to D.25:

- i. Tax Revenues;
- ii. Resource Revenues;
- iii. Business Entity Profits;
- iv. Business and Property Income;
- v. Fees and Charges; and
- vi. Miscellaneous Revenues.

D.14 For greater certainty, if an amount from any source listed in D.13 for a Reference Year is a negative number, that amount will be deemed to be zero.

D.15 No amount shall be:

- i. included in computing the Eligible Revenues of the Anishinabek Nation for a Reference Year from one of the revenue sources in D.13 to the extent the amount has been included in computing the Eligible Revenues of the Anishinabek Nation from another revenue source in D.13; or
- ii. deducted in computing the Eligible Revenues of the Anishinabek Nation for a Reference Year from one of the revenue sources in D.13 to the extent the amount has been deducted in computing the Eligible Revenues of the Anishinabek Nation from another revenue source in D.13.

D.16 For greater certainty, revenue sources listed in D.13 include revenues of Government Units and Government Partnerships.

Tax Revenues

D.17 The Tax Revenues of the Anishinabek Nation for a Reference Year will be equal to the sum of:

- i. all taxes derived by the Anishinabek Nation in that Reference Year pursuant to any agreement with Canada to share tax room or tax revenues;
- ii. all taxes derived by the Anishinabek Nation in that Reference Year pursuant to any law enacted by the Anishinabek Nation other than as a result of an agreement with Canada as set out in D.17i; and
- iii. all fines, interests or penalties received by the Anishinabek Nation in respect of any tax referred to in D.17i or D.17ii.

D.18 If the Anishinabek Nation, wherever it has instituted a property tax regime, exempts E'Dbendaagzijig from property taxes on real property in a Reference Year, the Tax Revenues for that Reference Year will include a notional amount equal to the property taxes that the Anishinabek Nation would have generated but for the exemption, net of any grant of general application.

Resource Revenues

D.19 The Resource Revenues of the Anishinabek Nation for a Reference Year will be equal to the sum of the gross amount of all Resource Royalties raised by the Anishinabek Nation in that Reference Year.

Business Entity Profits

D.20 The Business Entity Profits of the Anishinabek Nation for a Reference Year will be the sum of:

- i. the Anishinabek Nation's Proportionate Share of the earnings generated in that Reference Year by all Government Business Enterprises in which the Anishinabek Nation owns shares, whether or not such earnings are retained, multiplied by the Government Business Entity Deemed Capacity Rate for that Reference Year; and
- ii. the Anishinabek Nation's Proportionate Share of the earnings generated in that Reference Year by all Government Business Partnerships in which the Anishinabek Nation possesses interests, whether or not such earnings are retained, multiplied by the Government Business Entity Deemed Capacity Rate for that Reference Year.

D.21 For the purposes of calculating Business Entity Profits revenues as set out in D.20:

- i. "earnings generated in that Reference Year by all Government Business Enterprises in which the Anishinabek Nation owns shares" means the earnings of those Government Business Enterprises including any earnings after discontinued operations and extraordinary items;
- ii. "earnings generated in that Reference Year by all Government Business Partnerships in which the Anishinabek Nation possesses interests" means the earnings of those Government Business Partnerships including any earnings after discontinued

- operations and extraordinary items;
- iii. earnings of a Government Business Enterprise earned in a Reference Year or any part of a Reference Year in which the Government Business Enterprise was a corporation that was not exempt under section 149 of the *Income Tax Act (Canada)* from tax under Part 1 of the *Income Tax Act (Canada)* will be excluded from the calculation of Business Entity Profits;
 - iv. where the financial period of a Government Business Enterprise or a Government Business Partnership does not coincide with a Reference Year, the Parties will use the financial period with an end date within the Reference Year;
 - v. where a Government Business Enterprise makes a loan to the Anishinabek Nation, or to an entity that provides public services to E'Dbendaagzijig on behalf of the Anishinabek Nation, the amount of that loan shall be deemed to be Miscellaneous Revenues received by the Anishinabek Nation in the Reference Year in which the loan is made, except where there are bona fide repayment terms which provide for a market value interest rate, and also provide for a repayment schedule set for a reasonable period of time taking into account the purpose of the loan; and
 - vi. where a Government Business Enterprise or Government Business Partnership provides public services to E'Dbendaagzijig, the amount so expended by the Government Business Enterprise or Government Business Partnership will be deemed to be Miscellaneous Revenues received by the Anishinabek Nation in the Reference Year in which it was expended.

Business & Property Income

- D.22 The Business and Property Income of the Anishinabek Nation in a Reference Year will be calculated as the sum of all:
- i. net income or losses of the Anishinabek Nation in the Reference Year from each business carried on by the Anishinabek Nation, other than a Government Business Enterprise or a Government Business Partnership;
 - ii. net income or losses of the Anishinabek Nation in the Reference Year from each tangible capital property of the Anishinabek Nation; and
 - iii. net gains or losses of the Anishinabek Nation in the Reference Year from each disposition of tangible capital property.
- D.23 Losses from businesses or property cannot be carried forward or backward to other Fiscal Years.

Fees and Charges

- D.24 The Fees and Charges of the Anishinabek Nation for a Reference Year will be calculated as the

aggregate gross amount of all fees and charges levied by the Anishinabek Nation in the Reference Year in respect of:

- i. Federally Supported Programs and Services;
- ii. other programs and services, other than user fees constituting a recovery of cost only; and
- iii. the permitting or authorization of activities.

Miscellaneous Revenues

D.25 The Miscellaneous Revenues of the Anishinabek Nation will be calculated as the sum of all revenues reported in the audited financial statements of the Anishinabek Nation in a Reference Year, other than those listed in D.17 to D.24.

Avoidance Transactions

D.26 Where the Eligible Revenues of the Anishinabek Nation for a Reference Year are reduced as a result of an Avoidance Transaction, the First Nations' Fiscal Contribution calculation shall be determined as is reasonable in the circumstances in order to deny the benefit of that Avoidance Transaction.

PART 7: FIRST NATIONS' FISCAL CONTRIBUTION - EXCLUDED REVENUES

D.27 Notwithstanding any other paragraph of this Schedule, the Anishinabek Nation's Eligible Revenues for a Reference Year as defined in D.13 will not include any of the following Excluded Revenues:

- i. payments made to the Anishinabek Nation in a Reference Year in respect of actual or potential impacts on the Anishinabek Nation or its E'Dbendaagzijig arising from projects located off Anishinabek Nation Lands, except for payments made in respect of the purchase of goods or services provided by the Anishinabek Nation or by an entity controlled by the Anishinabek Nation in connection with such projects;
- ii. amounts paid to the Anishinabek Nation in the Reference Year as accommodation for, or in settlement of:
 - a. Rights Claim Settlement; or
 - b. specific claims under Canada's Specific Claims Policy.
- iii. amounts paid to the Anishinabek Nation in the Reference Year as accommodation for, or in settlement of:
 - a. the loss of property; or

- b. damages,
except for amounts that replace revenues that qualify as Eligible Revenues.
- iv. program transfers paid by Canada or any other government to the Anishinabek Nation in the Reference Year either directly or through a third party;
- v. Provincial/Territorial Transfers as defined in D.28 to D.30 of this Schedule;
- vi. proceeds from the sale or expropriation of Anishinabek Nation Lands realized in the Reference Year;
- vii. Portfolio Investment Income; and
- viii. gifts and donations received by the Anishinabek Nation for charitable purposes from individuals or entities other than Anishinabek Nation Government Business Enterprises, Government Business Partnerships, partnerships or joint ventures, and for which a receipt is issued qualifying the donor for the same tax treatment as a donation to a registered charity under the *Income Tax Act*.

Provincial/Territorial Transfers

D.28 Provincial/Territorial Transfers are defined as:

- i. Anishinabek Nation revenues derived from the decision of a province or territory, or its agent, to vacate tax room in favour of the Anishinabek Nation, transfer tax authority to the Anishinabek Nation, or transfer revenue or revenue capacity to the Anishinabek Nation;
- ii. payments from a province or territory, or its agent, in support of programs or services; or
- iii. payments from a province or territory, or its agent, in respect of compensation or accommodation for access to or impacts on Anishinabek Nation Lands.

D.29 In addition, the exemption for Provincial/Territorial Transfers includes transfers of natural resource revenues earned by a province or territory, transfers of revenues of a lottery corporation, or agreements to permit the Anishinabek Nation, or its agent, to operate a casino or other gambling activity within a province or territory.

D.30 For greater clarity, payments or other transfers from any provincial or territorial government to the Anishinabek Nation will be considered for the purpose of calculating the First Nations' Fiscal Contribution where:

- i. such payments are made in respect of a transaction that is commercial in nature, such as the purchase of goods or services provided by the Anishinabek Nation; or

- ii. the transfers from the provincial or territorial government to the Anishinabek Nation that result in a commensurate increase in transfers from Canada to the relevant provincial or territorial government.

PART 8: FIRST NATIONS' FISCAL CONTRIBUTION - CALCULATION

Basic Exemption and Net Eligible Revenues

D.31 To determine Net Eligible Revenues, a Basic Exemption is subtracted from Eligible Revenues. The Basic Exemption is the greater of:

- i. the sum of:
 - a. a fixed amount of \$125,000 adjusted by FDDIPI to the year of calculation from 2014 dollars, multiplied by the number of First Nations set out in Schedule A of the Governance Agreement plus the Anishinabek Nation Government, and
 - b. a per capita amount of \$125 adjusted by FDDIPI to the year of calculation from 2014 dollars, and then multiplied by the total registered status population of each First Nation set out in Schedule A of the Governance Agreement as of December 31 of the calendar year immediately preceding the Fiscal Year for which the exemption is being calculated, or
- ii. for the first nine fiscal years after the Effective Date, an amount equal to the average of the Eligible Revenues of the First Nations set out in Schedule A of the Governance Agreement plus the Anishinabek Nation Government for those three Fiscal Years that immediately precede the Effective Date.

D.32 Where the Eligible Revenues are less than or equal to the Basic Exemption, the First Nations' Fiscal Contribution for the Fiscal Year at issue will be zero.

Rates and Factors

D.33 To determine the First Nations' Fiscal Contribution, Net Eligible Revenues are multiplied by the Inclusion Rate, the Phase-in Factor, and a Sectoral Factor, where

- i. **Inclusion Rate:** the Inclusion Rate is 50%;
- ii. **Phase-in Factor:** the Phase-in Factor is that percentage which corresponds with the Fiscal Year for which the First Nation's Fiscal Contribution is being calculated. The Phase-in Factor is set at zero for the first 5 years, 6.6% in the sixth year, and then increases evenly over the remaining 15 years until it reaches 100% in the twentieth year. It stays at 100% from the twentieth year onwards.

- iii. **Sectoral Factor:** the Sectoral Factor applicable for the term of this Agreement, to the First Nations set out in Schedule A of the Governance Agreement, is a percentage to be calculated using figures for the Initial Fiscal Year of this Agreement and of the Anishinabek Nation Education Fiscal Transfer Agreement as may be applicable:

$$(Ed + GEB) / TF = SF (\%)$$

with the understanding that $(GEFNET / EFNET) \times EFNETA = Ed$

where

GEFNET = ANGA signatory amounts in Table 6 of Appendix 3 of ANEFTA
[or, the education transfers to Anishinabek First Nations that are signatories to both education and governance self-government agreements]

EFNET = all education amounts in ANEFTA

[or, the education transfers to Anishinabek First Nations that are signatories to the education self-government agreement]

EFNETA = all education (Table 2 of Appendix 3) and education-related governance (first line item in Table 1 of Appendix 3) amounts in ANEFTA

[or, the education and education-related governance transfers to Anishinabek First Nations that are signatories to the education self-government agreement]

Ed = overall ANEFTA transfers made to ANGA signatories

GEB = Gross Expenditure Base (Column 4 of Table 2) in ANGA

[or, the governance transfers to Anishinabek First Nations that are signatories to the governance self-government agreement]

TF = total federal funding to ANGA signatory First Nations

[or, the total federal transfers to Anishinabek First Nations that are signatories to the governance self-government agreement]

SF = Sectoral Factor, expressed as a percentage

with the understanding that ANEFTA refers to the Anishinabek Nation Education Fiscal Transfer Agreement and ANGA refers to the Anishinabek Nation Governance Agreement, and

with the additional understanding that GEFNET, EFNET and EFNETA are to be adjusted by FDIPPI and Student Enrollment from the effective date of the ANEFTA to the Initial Fiscal Year of this Agreement.

Fiscal Contribution

- D.34 The amount arrived upon pursuant to D.31 to D.33 of this Schedule is the First Nations' Fiscal Contribution, to be used as specified in 5.2a) of this Agreement and replicated in D.6, D.7 and D.10, in the calculation of the Transfer Payment for a Fiscal Year. It can be depicted as a formula as follows:

$$NER \times IR \times PI \times SF = \text{First Nations' Fiscal Contribution}$$

where:

NER: Net Eligible Revenues (ER – BE);

ER: Eligible Revenues;

BE: Basic Exemption;

IR: Inclusion Rate (%);

PI: Phase-in Percentage (%); and

SF: Sectoral Factor (%).

Shared Allocation

D.35 The collectivity of First Nations set out in Schedule A of the Anishinabek Nation Governance Agreement, as well as the Anishinabek Nation Government, will establish and implement an internal distribution model with regard to the shared allocation of the First Nations' Fiscal Contribution.

Moratorium

D.36 As set out in Canada's Collaborative Self-Government Fiscal Policy booklet, Canada's interim policy is that "Indigenous Government fiscal capacity will not be taken into account in the calculation of fiscal transfers to Indigenous Governments until completion of the Expenditure Needs Assessment and implementation of the resulting funding methodologies in a fiscal agreement between Canada and a particular Indigenous Government."

D.37 While the provisions in this Schedule D continue, including the provisions in D.39 whereby the Anishinabek Nation shall provide to Canada a Fiscal Contribution Report after each Fiscal Year, the First Nation's Fiscal Contribution will not be deducted from the Gross Expenditure Base of the Anishinabek Nation until this Agreement is amended as described in D.36.

D.38 For greater certainty, for the purposes of the calculation set out in 5.2a) of this Agreement and replicated in D.6, D.7 and D.10, zero will be used in place of the First Nations' Fiscal Contribution until the amendment of this Agreement as contemplated in D.37 above.

PART 9: FISCAL CONTRIBUTION REPORT & FINANCIAL RECORDS

D.39 On or before each September 30 within the term of this Agreement, the Anishinabek Nation will:

- i. produce a Fiscal Contribution Report, for the Reference Year pertaining to the upcoming Fiscal Year, substantially in the form set out in the Annex to this Schedule; and

- ii. provide Canada with a copy of the Fiscal Contribution Report along with either an auditor's report or a review engagement report addressing the Fiscal Contribution Report.

D.40 The Fiscal Contribution Report will:

- i. contain information in accordance with and derived from the Anishinabek Nation's audited financial statements for that Fiscal Year, and a statement reconciling the Fiscal Contribution Report with the Anishinabek Nation's financial statements;
- ii. be prepared in accordance with Generally Accepted Accounting Principles, except to the extent that the requirements of this Agreement in relation to the Fiscal Contribution Report prevent strict adherence to those Generally Accepted Accounting Principles; and
- iii. detail Eligible Revenues for the Reference Year and calculate the First Nation's Fiscal Contribution for the upcoming Fiscal Year.

D.41 Canada may, within 30 days of receiving a Fiscal Contribution Report, provide the Anishinabek Nation with a review notice:

- i. describing possible errors in the Fiscal Contribution Report, including errors arising out of inconsistencies with the Anishinabek Nation's financial statements, errors in the data used, categorization or revenues or calculations; and
- ii. setting out proposed corrections to the possible errors and the rationale for the corrections.

D.42 Within 15 days of the provision of the notice the notice set out in D.41, the Parties will meet to engage in informal discussions to determine what corrections, if any, should be made to the Fiscal Contribution Report.

D.43 If the Parties fail to resolve the disagreement about the Fiscal Contribution Report through the meetings contemplated in D.42 before January 1 of the Fiscal Year in which the Fiscal Contribution Report is due, then for the purposes of determining the Transfer Payment for the upcoming Fiscal Year, the Fiscal Contribution Report will be deemed to have been amended as set out in the notice provided by Canada pursuant to D.41, and the Anishinabek Nation may refer the matter to Federal Court as contemplated in 17.21 of the Governance Agreement.

D.44 If Anishinabek Nation has not submitted a Fiscal Contribution Report by December 1, Canada will determine an amount that it will deem to be the Anishinabek Nation's Fiscal Contribution for that Fiscal Year.

D.45 In the event that a Party discovers an error in the Fiscal Contribution Report following the date set out in D.39, the Transfer Payment for the upcoming Fiscal Year will be based on the Fiscal Contribution Report without any corrections, and the Parties will make reasonable efforts to

reach agreement to correct the error. Failing an agreement to correct the error, the Parties may proceed as set out in D.43 with regard to their distinct interests.

- D.46 In the event that the Federal Court subsequently determines that a Fiscal Contribution Report used to determine a Transfer Payment requires corrections, Canada will take those corrections into account in the calculation of the Transfer Payment for the Fiscal Year that commences more than six months following the determination.

PART 10: FISCAL CONTRIBUTION ADMINISTRATION

- D.47 The Parties will share, in a timely manner and in a manner ensuring confidentiality, information reasonably required for the purposes of the administration, review and renewal of this Schedule.
- D.48 The annex to this Schedule forms part of this Schedule.

Annex to Schedule D

Sample Fiscal Contribution Report

**ANISHINABEK NATION FISCAL CONTRIBUTION REPORT
FOR THE YEAR ENDED MARCH 31 20XX**

[This is a sample report showing a limited number of lines per revenue category. Actual reports prepared for submission will include as many lines per revenue category as required.]

Summary

	<u>Line</u>	<u>Amount</u>	<u>Reference</u>
Total Eligible Revenues	A	_____	Line 13
Total Excluded Revenues	B	_____	Line 15
Total Financial Capacity	C	_____	Sum lines A and B
First Nations' Fiscal Contribution	D	_____	Line 24

Part 1: Anishinabek Nation Financial Capacity

	<u>Line</u>	<u>Amount</u>	<u>Reference</u>
Tax Revenues			
Tax Agreement with Canada A [Anishinabek Nation]	1a	_____	Provision D.17
Tax Agreement with Canada B [Named First Nation]	1b	_____	Provision D.17
Tax Agreement with Canada C [Named First Nation]	1c	_____	Provision D.17
Other taxes A [Anishinabek Nation]	1d	_____	Provision D.17
Other taxes B [Named First Nation]	1e	_____	Provision D.17
Other taxes C [Named First Nation]	1f	_____	Provision D.17
Property Taxes A [Anishinabek Nation]	1g	_____	Provision D.17
Property Taxes B [Named First Nation]	1h	_____	Provision D.17
Property Taxes C [Named First Nation]	1i	_____	Provision D.17
Sum of fines, interest, or penalties on above taxes	1j	_____	Provision D.17
Total Tax Revenues	2	_____	Sum 1a to 1j
Resource Revenues			
Revenues from Source A [Anishinabek Nation]	3a	_____	Provision D.19
Revenues from Source B [Named First Nation]	3b	_____	Provision D.19
Revenues from Source C [Named First Nation]	3c	_____	Provision D.19
Total Resource Revenues	4	_____	Sum 3a to 3c
Business Entity Profits			
Net Income: non-taxable GBE or GBP A [Anishinabek Nation]	5a₁	_____	Provision D.20

DRAFT FOR CIRCULATION AND DISCUSSION

Share of GBE A owned by Anishinabek Nation (%)	5a ₂	_____	Provision D.20
Government Business Entity Deemed Capacity Rate (%)	5a ₃	_____	Provision D.20
Revenue from GBE or GBP A [Anishinabek Nation]	5a	_____	Multiply 5a ₁ by 5a ₂ and 5a ₃
Net Income: non-taxable GBE or GBP A [Named First Nation]	5b ₁	_____	Provision D.20
Share of GBE A owned by Named First Nation (%)	5b ₂	_____	Provision D.20
Government Business Entity Deemed Capacity Rate (%)	5b ₃	_____	Provision D.20
Revenue from GBE or GBP A [Named First Nation]	5b	_____	Multiply 5b ₁ by 5b ₂ and 5b ₃
Net Income: non-taxable GBE or GBP A [Named First Nation]	5c ₁	_____	Provision D.20
Share of GBE A owned by Named First Nation (%)	5c ₂	_____	Provision D.20
Government Business Entity Deemed Capacity Rate (%)	5c ₃	_____	Provision D.20
Revenue from GBE or GBP A [Named First Nation]	5c	_____	Multiply 5c ₁ by 5c ₂ and 5c ₃
Total Business Entity Profits (minimum \$0)	6	_____	Sum 5a to 5c

Business and Property Income

Net Income (Loss) from Business A [Anishinabek Nation]	7a	_____	Provision D.22
Net Income (Loss) from Business B [Named First Nation]	7b	_____	Provision D.22
Net Income (Loss) from Business C [Named First Nation]	7c	_____	Provision D.22
Net Income (Loss) from Property A [Anishinabek Nation]	7d	_____	Provision D.22
Net Income (Loss) from Property B [Named First Nation]	7e	_____	Provision D.22
Net Income (Loss) from Property C [Named First Nation]	7f	_____	Provision D.22
Net Gain (Loss): Property Disposition A [Anishinabek Nation]	7g	_____	Provision D.22
Net Gain (Loss): Property Disposition B [Named First Nation]	7h	_____	Provision D.22
Net Gain (Loss): Property Disposition C [Named First Nation]	7i	_____	Provision D.22
Total Business and Property Income (minimum \$0)	8	_____	Sum 7a to 7i

Fees and Charges Revenues

Fees, Charges, Licenses, Permits [Anishinabek Nation]	9a	_____	Provision D.24
Fees, Charges, Licenses, Permits [Named First Nation]	9b	_____	Provision D.24
Fees, Charges, Licenses, Permits [Named First Nation]	9c	_____	Provision D.24
Total Fees and Charges Revenues	10	_____	Sum 9a to 9c

Miscellaneous Revenues

Other Revenue A: Identification [Anishinabek Nation]	11a	_____	Provision D.25
Other Revenue B: Identification [Named First Nation]	11b	_____	Provision D.25
Other Revenue C: Identification [Named First Nation]	11c	_____	Provision D.25
Deemed Revenue A: Identification [Anishinabek Nation]	11d	_____	Provision D.21(v) & (vi)
Deemed Revenue B: Identification [Named First Nation]	11e	_____	Provision D.21(v) & (vi)
Deemed Revenue C: Identification [Named First Nation]	11f	_____	Provision D.21(v) & (vi)
Total Miscellaneous Revenues	12	_____	Sum 11a to 11f

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Total Eligible Revenues	13	_____	Sum lines 2 + 4 + 6 + 8 + 10 + 12
Excluded Revenues			
All Off-Reserve Impact Payments	14a	_____	Provision D.27(i)
All Claims Settlement Amounts	14b	_____	Provision D.27(ii)
All Loss or Damage Payments	14c	_____	Provision D.27(iii)
All Program Transfers from Canada or Another Government	14d	_____	Provision D.27(iv)
All Provincial/Territorial Transfers	14e	_____	Provision D.27(v)
All Proceeds from the Sale or Expropriation of Lands	14f	_____	Provision D.27(vi)
All Portfolio Investment Income	14g	_____	Provision D.27(vii)
All Received Gifts and Donations	14h	_____	Provision D.27(viii)
Total Excluded Revenues	15	_____	Sum 14a to 14h

Part 2: First Nations' Fiscal Contribution

	<u>Line</u>	<u>Amount</u>	<u>Reference</u>
Total Eligible Revenues	16	_____	Line 13
Basic Exemption Calculation			
\$125,000 Adjusted by FDDIPI from 2014 Dollars	17a	_____	Provision D.31(i)
Number of Governance First Nations + ANG	17b	_____	Provision D.31(i)
\$125 Adjusted by FDDIPI from 2014 Dollars	17c	_____	Provision D.31(i)
Registered Status Population: Governance First Nations (FY-1)	17d	_____	Provision D.31(i)
Basic Exemption Option 1	18	_____	Sum (17a x 17b) + (17c x 17d)
Eligible Revenues: Governance First Nations + ANG (EDFY-1)	19a	_____	Provision D.31(ii)
Eligible Revenues: Governance First Nations + ANG (EDFY-2)	19b	_____	Provision D.31(ii)
Eligible Revenues: Governance First Nations + ANG (EDFY-3)	19c	_____	Provision D.31(ii)
Basic Exemption Option 2	20	_____	Sum (19a + 19b + 19c) / 3
Within First 9 Fiscal Years: Greater of Line 18 and Line 20 From 10th Fiscal Year: Indicate Line 18	21	_____	Provision D.31
Net Eligible Revenues (if zero or a negative number, enter 0)	22	_____	Sum: Line 16 - Line 21
Inclusion Rate (%)	23a	50%	Provision D.33(i)
Phase-in Percentage for the Fiscal Year (%)	23b	_____	Provision D.33(ii)
Sectoral Factor (%)	23c	_____	Provision D.33(iii)
First Nations' Fiscal Contribution	24	_____	Sum: Line 22 x Line 23a x Line 23b x Line 23c

