

**BRITISH COLUMBIA TRIPARTITE FRAMEWORK
AGREEMENT ON FIRST NATION HEALTH GOVERNANCE**

Made as of the 13th day of October, 2011

Between

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Health

and

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA**
as represented by the Minister of Health

and

FIRST NATIONS HEALTH SOCIETY

Endorsed by

FIRST NATIONS HEALTH COUNCIL

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FIRST NATIONS HEALTH SOCIETY

Endorsed by

FIRST NATIONS HEALTH COUNCIL

RECITALS

Whereas:

- A. The Parties wish to build on the *Transformative Change Accord: First Nations Health Plan* (2006), the *First Nations Health Plan MOU* (2006) and the *Tripartite First Nations Health Plan* (2007) to help improve the health and well-being of First Nations people in British Columbia;
- B. The provisions of this Agreement have been guided by the principles established in the document entitled *British Columbia Tripartite First Nations Health – Basis for a Framework Agreement on Health Governance* (2010);
- C. The Parties have agreed to develop a *Health Partnership Accord* that will capture the vision of the Parties for a better, more responsive and integrated health system for First Nations in British Columbia and will build on the *Transformative Change Accord: First Nations Health Plan* (2006), the *First Nations Health Plan MOU* (2006) and the *Tripartite First Nations Health Plan* (2007). The *Health Partnership Accord* will be a non-binding document that will describe the broad and enduring relationship amongst the Parties and their political commitment to pursue their shared vision. It is intended that the *Health Partnership Accord* will become an evergreen

document that keeps pace with changing circumstances respecting First Nations' health and with the evolving nature of the partnership among the Parties;

D. British Columbia funds, administers and delivers health care services to all residents of British Columbia, including Status Indians, guided by the provisions of the *Canada Health Act* (Canada). Health care services include primary care and care in hospitals as provided for under the *BC Medicare Protection Act* and the *BC Hospital Insurance Act*;

E. Canada funds or provides a range of community-based health programs and services and non-insured health benefits to First Nations and Inuit residents of British Columbia;

F. The First Nations Health Council (FNHC) is an unincorporated organization that has a mandate, *inter alia*, to act as an advocate for BC First Nations in health related matters, to implement the commitments in the *Transformative Change Accord: First Nations Health Plan* (2006), the *First Nations Health Plan MOU* (2006) and the *Tripartite First Nations Health Plan* (2007) and, by way of resolutions of the First Nations Summit in assembly and the Union of British Columbia Indian Chiefs, to oversee negotiations for this Agreement on behalf of BC First Nations;

G. The First Nations Health Society (FNHS), is a society with a mandate, *inter alia*, to promote and advance health and health service issues on behalf of First Nations in British Columbia, to implement the commitments in the *Transformative Change Accord: First Nations Health Plan* (2006), the *First Nations Health Plan MOU* (2006) and the *Tripartite First Nations Health Plan* (2007);

H. BC First Nations wish to be fully involved in decision-making regarding the health of their people, and how health services and programs are planned, designed, managed and delivered to better serve their needs;

I. The Parties wish to work together to build:

- (1) a new Health Governance Structure that avoids the creation of separate and parallel First Nation and non-First Nation health systems and in which First Nations will plan, design, manage and deliver certain health programs and services in British Columbia and undertake other health and wellness-related functions;
- (2) a more integrated health system:
 - with stronger linkages among the FNHA, First Nation Health Providers, Health Canada, the BC Ministry of Health and BC Health Authorities, to better coordinate the planning, design, management and delivery of FN Health Programs so as to improve the quality, accessibility, delivery, effectiveness, efficiency, and cultural appropriateness of health care programs and services for First Nations;
 - that reflects the cultures and perspectives of BC First Nations and incorporates First Nations' models of wellness;

- that embraces knowledge and facilitates discussions in respect of determinants of health in order to contribute to the design of First Nation health programs and services;
- in which First Nations in all regions of British Columbia will have access to quality health services at a minimum comparable to those available to other Canadians living in similar geographic locations.

NOW THEREFORE in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

SECTION 1 – DEFINITIONS

1.1 Definitions

In this Agreement, unless the context requires otherwise:

- (1) **Agreement** means this agreement including any schedules to this agreement, as amended from time to time.
- (2) **Annual Federal Amount** has the meaning given in section CF 3 of Schedule 1.
- (3) **Annual Report** means a document to be prepared by the FNHA as set out in section 5.4.
- (4) **BC First Nation** means: (i) a "band" within the meaning of the *Indian Act* (Canada) in British Columbia and (ii) any Self-Governing First Nation, and the plural term **BC First Nations** refers to all or a number of such bands or Self-Governing First Nations as the context requires.
- (5) **BC Health Authority** means a board established under the *BC Health Authorities Act* or the regulations thereto, as amended, and the Provincial Health Services Authority established under the *BC Society Act*.
- (6) **British Columbia** means Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Health.
- (7) **Canada** means Her Majesty the Queen in Right of Canada, as represented by the Minister of Health.
- (8) **Canada CA** means a contribution agreement between Canada and a First Nation Health Provider in British Columbia.
- (9) **Canada Funding Agreement** means the ten (10) year funding agreement as more particularly described in Part 1 of Schedule 1 (Canada Funding Schedule) which may be entered into at once or in stages for all or part of the Annual Federal Amount.

- (10) **FNHA** means the First Nations Health Authority, a non-profit legal entity to be established with the process, powers and mandate set out in s. 4.2.
- (11) **FNHC** means the First Nations Health Council, an unincorporated association described in section 4.4.
- (12) **FNHDA** means the First Nations Health Directors Association, a society under the *BC Society Act*, described in section 4.5.
- (13) **FNHS** means the First Nations Health Society, a society under the *BC Society Act* described in recital G.
- (14) **FN Health Programs** means the health programs and services or benefits and related activities that the FNHA plans, designs, manages and delivers or funds the delivery of pursuant to this Agreement.
- (15) **Federal Health Programs** means the health programs, services or benefits and related activities that are currently funded or delivered by Health Canada in British Columbia through the HC/FNIH Regional Office and set out in Schedule 3.
- (16) **First Nations Community Health and Wellness Plan** means a plan developed by First Nation Health Providers pursuant to funding arrangements with the FNHA.
- (17) **First Nation Health Provider** means any Indian band, Self-Governing First Nation, tribal council, First Nation organization or other person that is funded by the FNHA to provide FN Health Programs.
- (18) **HC/FNIH Regional Office** means those parts of the Regions and Programs Branch of Health Canada (BC Region) which undertake the planning, design, management and delivery of certain Federal Health Programs.
- (19) **HC/FNIHB** means the First Nations and Inuit Health Branch of Health Canada.
- (20) **Health Canada** or **HC** means the federal Department of Health.
- (21) **Health Governance Structure** means the structure described in section 4.
- (22) **Health Partnership Accord** means the accord referenced in recital “C”.
- (23) **Implementation Committee** means the interim body referred to in section 7.1(1).
- (24) **Interim Health Plan** means the plan or plans to be developed by the FNHA in accordance with the process set out in section 5.2.
- (25) **Interim Management Committee** means the committee set out in section 7.3(1).
- (26) **Multi-Year Health Plan** or **MYHP** means the plan to be developed by the FNHA in accordance with the process set out in section 5.3.

- (27) **NIHB Program** means Canada's Non-Insured Health Benefits Program that funds a limited range of medically necessary health-related goods and services for eligible First Nations and Inuit persons which are not provided or insured through provincial or private health insurance programs.
- (28) **Parties** mean Canada, British Columbia and the FNHS.
- (29) **Reciprocal Accountability** has the meaning set out in section 2.2.
- (30) **Self-Governing First Nation** means a First Nation in British Columbia that is recognized as self-governing by Canada as a result of a final self-government, treaty or land claims agreement.
- (31) **Sub-Agreements** means the sub-agreements listed in Schedule 5.
- (32) **TCA:FNHP** means the *Transformative Change Accord: First Nations Health Plan (2006)*.
- (33) **TFNHP** means the *Tripartite First Nations Health Plan (2007)*.
- (34) **Transfer of Federal Health Programs** has the meaning set out in section 6.3(1).
- (35) **Transition Team** has the meaning set out in section 7.2(1).
- (36) **Tripartite Committee** means the committee described in section 4.3.

SECTION 2 – PURPOSE AND NATURE OF THIS AGREEMENT

2.1 Purpose

(1) The purpose of this Agreement is to give legal expression to the Parties' commitment, under the *British Columbia Tripartite First Nations Health – Basis for a Framework Agreement on Health Governance (2010)* to conclude a Framework Agreement, and to their shared goal of improving the health and well-being of First Nations individuals and communities in British Columbia as envisioned in the *Tripartite First Nations Health Plan (2007)* by ensuring that BC First Nations are fully involved in health program and service delivery and decision-making regarding the health of their people in British Columbia. This Agreement sets out the Parties' specific commitments relating to the implementation of that vision, including:

- (a) the Transfer of Federal Health Programs to the FNHA;
- (b) the planning, design, management and delivery of FN Health Programs by the FNHA;
- (c) the building of a more integrated health system for First Nations under the new Health Governance Structure;

- (d) the active participation of Canada and British Columbia in the new Health Governance Structure, as part of the wider health partnership with BC First Nations; and
- (e) the performance and accountability requirements of the Parties.

(2) The Parties acknowledge that Federal Health Programs, other than the NIHB Program, are aimed primarily at Status Indians resident on reserve in BC, with the NIHB Program being aimed at all Status Indians resident in BC. The Parties anticipate that as the FNHA enters into relationships with the BC Ministry of Health and BC Health Authorities, including the provision of funding, such relationships may also benefit other First Nations persons in BC, the wider aboriginal population in BC and potentially the non-aboriginal population.

2.2 Reciprocal Accountability

(1) The actions of the Parties under this Agreement will be based on reciprocal accountability, which means that the Parties will work together in a collaborative manner to achieve the objectives set out in Recital I and section 2.1, respecting both the letter and spirit of the Agreement, and in accordance with their respective obligations hereunder. In the event that implementation challenges are identified which do not constitute default under the terms of the Agreement but which nevertheless compromise its effectiveness or sustainability, the Parties will meet in accordance with processes established hereunder and with appropriate officials, or otherwise as agreed, and strive to develop responses, measures or strategies to meet the challenges identified, where possible. The Parties will also seek to apply the concept of reciprocal accountability at the regional and local level.

2.3 General Nature of the Framework Agreement

(1) The Parties recognize and agree that this Agreement reflects the state of their knowledge and understandings at the time of its drafting. With this Agreement, the Parties intend to enter into a long-term arrangement that will evolve over time. The Parties therefore agree to work together cooperatively in order to address the need, should it arise, for variations or additions to the terms of this Agreement.

2.4 First Nations Health Council Endorsement

(1) The FNHC is an unincorporated political organization, certain of whose members are signing this Agreement to express their support and endorsement of its contents in view of the FNHC mandate to oversee negotiations for this Agreement on behalf of BC First Nations. For greater certainty, the FNHC members shall not, by reason of any of them signing this Agreement:

- a. be personally responsible or liable for any operational matters under this Agreement, including the planning, design, management or delivery of any health programs or services or for the actions or inactions of the FNHS or the FNHA or any person or Party under this Agreement;
- b. admit any responsibility for any actions or inactions of the FNHC under this Agreement; or

c. have any rights or obligations of a "Party" or "Parties" under this Agreement.

(2) This provision shall not modify or limit any rights, obligations, responsibilities or liabilities of the FNHC members which may exist or arise at law independent of their signing this Agreement.

SECTION 3 - NO PREJUDICE

3.1 No Prejudice

(1) This Agreement shall not have the effect of, or be interpreted as:

- (a) recognizing, affirming or denying, any aboriginal or treaty rights of First Nations;
- (b) abrogating or derogating from (i) any existing aboriginal and treaty rights of First Nations; or (ii) the application and operation of section 35 of the *Constitution Act, 1982* to such rights;
- (c) ending or altering the evolving fiduciary relationship between the Crown and BC First Nations;
- (d) altering any responsibilities of Canada and British Columbia for First Nations health, except to the extent that the means of discharge of any such responsibility may change, in accordance with the law, in respect of the planning, design, management and delivery of health care programs and services on behalf of BC First Nations people under or as a result of this Agreement;
- (e) modifying any treaty or creating a new treaty within the meaning of the *Constitution Act, 1982*;
- (f) being prejudicial to any applications, court actions, negotiations or settlements with respect to land claims or land entitlements involving any of the BC First Nations; or
- (g) being prejudicial to the implementation of any inherent right of self-government or any agreements that may be negotiated with respect to self-government with and of BC First Nations.

(2) The Parties acknowledge that the arrangements entered into under this Agreement are not intended to determine, delineate, or define:

- (a) the distribution of powers between Canada and British Columbia in relation to health; or
- (b) the scope of federal jurisdiction under section 91(24) of the *Constitution Act, 1867*.

SECTION 4 – NEW HEALTH GOVERNANCE STRUCTURE

4.1 General

- (1) The new Health Governance Structure shall be composed of the following elements:
 - (a) a First Nations Health Authority (FNHA);
 - (b) a Tripartite Committee on First Nations Health (Tripartite Committee);
 - (c) a First Nations Health Council (FNHC);
 - (d) a First Nations Health Directors Association (FNHDA).

4.2 First Nations Health Authority (FNHA)

- (1) The FNHA shall, as soon as possible after execution of this Agreement, take the necessary steps to establish the FNHA, a non-profit legal entity, representative of and accountable to BC First Nations that will reflect a structure to be developed by BC First Nations through a community engagement exercise. It shall be constituted with the good governance, accountability, transparency and openness standards which are set out in Schedule 4 or such other standards as are consistent with or exceed those standards.
- (2) The FNHA shall, among other things:
 - (a) plan, design, manage, deliver and fund the delivery of FN Health Programs;
 - (b) receive federal, provincial and other health funding for or to support the planning, design, management and delivery of FN Health Programs and to carry out other health and wellness related functions;
 - (c) collaborate with the BC Ministry of Health and BC Health Authorities to coordinate and integrate their respective health programs and services to achieve better health outcomes for First Nations in British Columbia;
 - (d) incorporate and promote First Nations knowledge, beliefs, values, practices, medicines and models of health and healing into the FN Health Programs, recognizing that these may be reflected differently in different regions of BC;
 - (e) establish standards for the FN Health Programs that meet or exceed generally accepted standards;
 - (f) collect and maintain clinical information and patient records and develop protocols with the BC Ministry of Health and the BC Health Authorities for sharing of patient records and patient information, consistent with law;
 - (g) over time, modify and redesign health programs and services that replace Federal Health Programs through a collaborative and transparent process with BC First Nations to better meet health and wellness needs;

- (h) design and implement mechanisms to engage BC First Nations with regard to community interests and health care needs;
- (i) enhance collaboration among First Nations Health Providers and other health providers to address economies of scale service delivery issues to improve efficiencies and access to health care;
- (j) carry out research and policy development in the area of First Nations health and wellness;
- (k) maintain financial records and prepare financial statements in accordance with generally accepted accounting standards in the province of BC;
- (l) be audited on an annual basis by an independent auditor recognized in the province of BC; and
- (m) make its accounting records and audit reports available to its members, Canada and British Columbia and the Auditor General of Canada and the Auditor General of British Columbia upon request to conduct or cause to be conducted a financial or performance audit.

(3) The FNHA may undertake other functions, roles and responsibilities connected to health and wellness of First Nations and other aboriginal people in BC.

(4) The FNHS shall act as the interim FNHA provided that the FNHS meets the minimum criteria set out in subsections 4.2(1) and (2) prior to undertaking that role.

(5) Following community consultation the FNHC may conclude that the FNHS shall act as the FNHA on a permanent basis or that for operational reasons a different legal entity should be constituted as the FNHA. In this latter case, the Parties undertake to take all steps necessary to ensure a seamless successorship from the FNHS to the new entity. These steps shall include such new entity becoming a Party to this Agreement or otherwise taking legally binding steps to adopt the obligations that are set out for the FNHA in this Agreement and the consequent release of the FNHS from such obligations.

(6) Successorship under subsection 4.2(5) is restricted to a successor legal entity that itself meets the minimum criteria established under subsections 4.2(1) and (2) and may include a statutory body.

4.3 Tripartite Committee on First Nations Health

(1) A Tripartite Committee shall be established which will be co-chaired by the following: Deputy Minister of the BC Ministry of Health, the Assistant Deputy Minister of HC/FNIHB and the Chairperson of the board of the FNHA. The membership of the Tripartite Committee will also include the following persons or their delegates:

- (a) the President/ Chief Executive Officers of each of the BC Health Authorities;

- (b) the Provincial Health Officer under the BC *Public Health Act* and the Aboriginal Health Physician Advisor;
- (c) the Chairperson and Deputy Chairperson of the FNHC;
- (d) one representative from each of the 5 First Nations regional tables;
- (e) the Chief Executive Officer of the FNHA;
- (f) the President of the FNHDA;
- (g) the appropriate Associate Deputy Minister and Assistant Deputy Minister of the BC Ministry of Health; and,
- (h) any other non-voting, observer or full members as agreed to by the Tripartite Committee.

(2) The Parties shall ensure that the Tripartite Committee performs the following functions:

- (a) meets at least twice per year;
- (b) coordinates and aligns planning, programming, and service delivery between the FNHA, BC Health Authorities and the BC Ministry of Health, including the review of their respective FNHA MYHP and BC Regional Health Authorities' Aboriginal Health Plans consistent with the purposes of this Agreement;
- (c) facilitates discussions and coordinates planning and programming among BC First Nations, British Columbia and Canada on all matters relating to First Nations health and wellness;
- (d) provides a forum for discussion on the progress and implementation of this Agreement and other health arrangements including the *Transformative Change Accord: First Nations Health Plan* (2006), the *First Nations Health Plan MOU* (2006), the *Tripartite First Nations Health Plan* (2007) and the Health Partnership Accord;
- (e) prepares and makes public an annual progress report for the Minister of Health (BC), the Minister of Health (Canada) and the FNHC on the progress of the integration and the improvement of health services for First Nations in British Columbia; and
- (f) undertakes such other functions as the Tripartite Committee members may from time to time agree, and which are consistent with the purposes and intent of this Agreement and its terms of reference.

4.4 First Nations Health Council (FNHC)

(1) The FNHC is an unincorporated association composed of fifteen (15) members. It is a political and advocacy organization, representative of and accountable to BC First Nations, with a mandate to serve as the advocacy voice of BC First Nations in achieving their health priorities and objectives.

(2) The FNHC undertakes the following support and advocacy functions for and on behalf of BC First Nations consistent with its mandate, including:

- (a) supporting and assisting BC First Nations in achieving their health priorities and objectives;
- (b) advocacy on health issues and health services for First Nations people in BC;
- (c) providing a BC First Nations leadership perspective to research, policy and program planning processes related to First Nations health in BC; and
- (d) providing continued leadership for the implementation of the *Transformative Change Accord: First Nations Health Plan (2006)*, the *First Nations Health Plan MOU (2006)* and the *Tripartite First Nations Health Plan (2007)*.

(3) The FNHC may, with the approval of BC First Nations, alter its structure and mandate without the consent of the Parties, provided that it continues to fulfill the roles and functions set out in subsections 4.4 (1) and (2).

4.5 First Nations Health Directors Association (FNHDA)

(1) The FNHDA is a society under the BC *Society Act* with members representing the Vancouver Coastal, Vancouver Island, Fraser, Interior and North regions of British Columbia.

(2) The FNHDA has a mandate, *inter alia*, to:

- (a) represent health directors and managers working in First Nation communities;
- (b) support education, knowledge transfer, professional development and best practices for health directors and managers of First Nation Health Providers; and
- (c) act as an advisory body to the FNHC and FNHA on research, policy, program planning and design related to administration and operation of health services in First Nation communities.

4.6 Operation of the Health Governance Structure

(1) The FNHC may advise the FNHA in a manner consistent with the FNHC's mandate but shall not direct or purport to direct the FNHA.

(2) Members of the FNHA shall act in accordance with the FNHA constitution and by-laws of the FNHA and shall not participate in the day-to-day decision-making and operations of the FNHA.

(3) The FNHDA may advise the FNHA in regard to matters which are consistent with its mandate but it shall not direct or purport to direct the FNHA.

(4) The Tripartite Committee may advise each of the Parties and the FNHA in regard to matters which are consistent with its mandate, but it shall not direct or purport to direct the Parties or the FNHA.

SECTION 5 - FNHA – OPERATION AND PROVISION OF FN HEALTH PROGRAMS

5.1 Operations

The FNHA shall:

(1) commence negotiations with Canada immediately following the signing of this Agreement, and make best efforts to conclude within two (2) years of the signing of this Agreement or such later time as the FNHA and Canada agree, the Sub-Agreements and the Canada Funding Agreement in order to effect, facilitate and support the Transfer of Federal Health Programs; and

(2) negotiate any funding agreements that may be offered by British Columbia.

5.2 Interim Health Plan

(1) The FNHA shall prepare an annual Interim Health Plan that sets out its start-up plans, goals, priorities, program plans and services, health performance standards, anticipated allocation of resources and the use of funding to be provided by Canada and British Columbia. This Plan shall be provided by the FNHA to its members, Canada and British Columbia.

(2) The Interim Health Plan shall be prepared taking into account such advice and inputs set out in section 5.3(4) as are available at the time of drafting and shall reflect that the Transfer of Federal Health Programs may occur in stages.

(3) The Interim Health Plan shall be prepared on an annual basis until such time as the Transfer of Federal Health Programs is substantially complete.

5.3 Multi-Year Health Plan

(1) Upon expiry of the final Interim Health Plan, the FNHA shall present a five (5) year MYHP that sets out its goals, priorities, program plans and services, health performance standards, anticipated allocation of resources and use of funding to be provided by Canada and British Columbia.

(2) The MYHP shall be updated yearly and may be amended from time to time. A copy of the update and any amendments shall be provided by the FNHA to its members, Canada, and

British Columbia. Canada or British Columbia may disclose the MYHP in accordance with applicable freedom of information or access to information legislation and will inform the FNHA of any request for access to the MYHP and give the FNHA the opportunity to propose limits to the disclosure in accordance with the relevant legislation.

(3) The MYHP shall:

- (a) include planning for the design, management and delivery of FN Health Programs, services and operations in order to best serve the health and wellness needs of First Nations in British Columbia;
- (b) separately identify and budget for funding to be provided by Canada under the Canada Funding Agreement and by British Columbia under Schedule 2 of this Agreement;
- (c) describe the FNHA's capital planning process for the construction, renovation and operation and maintenance of community-based health facilities in the province of BC and describe its systems for managing funding arrangements with First Nation Health Providers;
- (d) address any requirements of the Sub-Agreements or funding arrangements entered into with Canada and British Columbia; and
- (e) contain sufficient information and planning to assist the fulfillment of sections 4.3, 6.1 and 6.2.

(4) The MYHP shall take into account:

- (a) the health needs of the First Nation population in BC, and input and feedback from BC First Nations and the five (5) First Nation regional tables;
- (b) the advice from the governance structure members (the Tripartite Committee, the FNHC and the FNHDA);
- (c) the results of the discussions between the FNHA and BC Health Authorities in section 6.2(2)(a); and
- (d) the available resources of the FNHA.

5.4 Annual Reports

The FNHA shall prepare a summary service plan that will reflect the current health plan as outlined in section 5.2 or 5.3 and an Annual Report for its members on all of its activities, revenues, expenditures, achievements, and challenges for each fiscal year and its planning for the same matters for the following fiscal year. The summary service plan and Annual Report shall be provided to Canada and British Columbia and made available to the public.

5.5 Changes

The requirements for Interim Health Plans, the MYHP, summary service plan and the Annual Report may be further specified or varied on the consent of all Parties by way of terms to be contained in funding agreements entered into between the FNHA and Canada or the FNHA and British Columbia, and shall not require an amendment to this Agreement.

SECTION 6 - NEW ROLES AND RELATIONSHIPS

The Parties are committed to establishing a new and enduring relationship, based on respect, Reciprocal Accountability, collaboration, and innovation, that is conducive to the pursuit of improved health and wellness for First Nations in BC. Within this new relationship, the Parties have distinct but interrelated roles as described below.

6.1 FNHA – Collaboration and Integration

(1) The FNHA shall:

- (a) establish working relationships with Health Canada, the BC Ministry of Health, BC Health Authorities and other health and health-related organizations as necessary;
- (b) support a regional structure which allows First Nations to collaborate amongst themselves, with BC Health Authorities and with the FNHA;
- (c) work collaboratively with the BC Ministry of Health and BC Health Authorities on the design and delivery of provincial health services available to First Nations in BC, to address gaps in health services and to better coordinate such services with FN Health Programs so as to improve efficiency and effectiveness of health care for First Nations in BC;
- (d) work with the BC Health Authorities to examine and supplement health data collection, health status monitoring, and reporting systems used by the BC Health Authorities which include First Nations-determined indicators of health and wellness;
- (e) work with the BC Ministry of Health and BC Health Authorities to integrate First Nation models of wellness into the health care system, to improve health outcomes and wellness for First Nations in BC;
- (f) develop clinical information and patient record systems and protocols with the BC Ministry of Health and BC Health Authorities for the sharing of patient records, consistent with the law, to better serve First Nations patients and to enable greater First Nations control over the use, collection and access to health data relevant for the improvement of health services and to better monitor and report on First Nations health in BC;

- (g) provide First Nations health program and policy advice to Canada, the BC Ministry of Health, BC Health Authorities, service providers, and agencies and seek to enhance the BC First Nations' opportunities to work with relevant government departments and agencies to improve the health outcomes of First Nations in BC; and
- (h) enhance its ability to build multi-sectoral partnerships to better address the social determinants affecting the health status of First Nations.

6.2 British Columbia Ministry of Health and BC Health Authorities

- (1) British Columbia shall create and support the operations of the Tripartite Committee forthwith after execution of this Agreement in accordance with section 4.3 and will direct all BC Health Authorities to participate on this Committee.
- (2) British Columbia shall, as soon as practicable following creation of the FNHA:
 - (a) consistent with the *BC Health Authorities Act*, direct BC Health Authorities to work collaboratively with BC First Nations in their respective regions to:
 - (i) develop and review their respective Aboriginal Health Plans and First Nations Community Health and Wellness Plans with the goal of achieving better coordination in health planning. Such plans should identify needs that are unique or specific to each region;
 - (ii) collaborate regarding the delivery of health care services for aboriginal people; and
 - (iii) discuss innovative arrangements for service delivery where appropriate, and, where appropriate, establish funding arrangements at a time mutually agreed upon. These arrangements shall be planned and determined at a local and regional level between the FNHA, regional tables, and BC Health Authorities;
 - (b) direct BC Health Authorities to work with the BC Ministry of Health and the FNHA to explore options for entering into agreements with the FNHA on record and patient information sharing, in keeping with applicable privacy legislation;
 - (c) work with the Provincial Health Officer to change the role of the Provincial Aboriginal Health Physician Advisor to that of a Deputy Provincial Health Officer so as to work with the FNHA to improve, among other things, the quality of data being collected and the health indicators available for First Nations health and wellness; and
 - (d) enter into a funding agreement with the FNHA for the funding agreed to, on terms and conditions as outlined in Schedule 2.

6.3 Canada and the FNHA - the Transfer of Federal Health Programs

(1) Canada shall, under the Canada Funding Agreement, provide funding to the FNHA to support the Transfer of Federal Health Programs. The Transfer of Federal Health Programs shall occur in phases or blocks as the FNHA and Canada agree and shall be completed within two (2) years of the signing of this Agreement, or such later time as both Canada and the FNHA agree. In this Agreement, a “Transfer of Federal Health Programs” means:

- (a) with respect to the FNHA, the assumption of responsibility for:
 - (i) the planning, design, management and delivery of one or more FN Health Programs to replace Federal Health Programs, subject to and in accordance with the terms of this Agreement, and the Canada Funding Agreement; and
 - (ii) all administrative, policy and other support functions required to plan, design, manage and deliver or fund the delivery of FN Health Programs;
- (b) with reference to Canada, the cessation of:
 - (i) the planning, design, management and delivery, or the funding of the delivery of Federal Health Programs replaced under paragraph (a); and
 - (ii) all administrative, policy and other support functions required to plan, design, manage and deliver or fund the delivery of such Federal Health Programs; and
- (c) the provision of funding by Canada under the Canada Funding Agreement in order to fund or assist in funding the FN Health Programs and related administrative, policy and other support functions.

(2) Canada shall negotiate and make best efforts to conclude the Canada Funding Agreement for any Transfer of Federal Health Programs, and to amend the Canada Funding Agreement as necessary for any subsequent Transfer or Transfers of Federal Health Programs, provided that:

- (a) the FNHA has been established and is operating in accordance with section 4.2 of this Agreement;
- (b) the FNHA has developed a satisfactory Interim Health Plan or Multi-Year Health Plan, as the case may be, for its operations in accordance with sections 5.2 and 5.3;
- (c) the implementation and transition steps in section 7 relevant to any Transfer of Federal Health Programs have been completed; and

- (d) the Sub-Agreements required for any Transfer of Federal Health Programs have been completed, Canada agreeing that it will use best efforts to conclude such Sub-Agreements.
- (3) Canada shall, during the period of time from the signing of this Agreement until the date or dates for the Transfer of Federal Health Programs to the FNHA, maintain the budget allocation to the HC/FNIH Regional Office for the First Nations and Inuit Health program at a level no less than that of the allocation in the fiscal year of the signing of this Agreement.
- (4) Canada shall establish the Interim Management Committee and undertake the functions set out for the HC/FNIH Regional Office as part of that committee in section 7.3.
- (5) Canada shall provide funding to the FNHA subject to and in accordance with sections CF 10, CF 11 and CF 12 of Schedule 1.

SECTION 7 - IMPLEMENTATION

7.1 Implementation Committee and Plan

- (1) As soon as practicable after the signing of this Agreement, the Parties shall establish an Implementation Committee with the mandate to provide general planning and coordination, as directed by the Parties, for the implementation of this Agreement over a five (5) year period. Canada, British Columbia, the FNHC and the FNHS shall each appoint a representative to the Committee. This Committee shall act on consensus and may establish sub-committees and add members as it deems necessary.
- (2) The Parties intend that the Implementation Committee will take all steps reasonably necessary to advance the planned transfer and integration process set out in this Agreement based on the consensus of the committee members, including but not limited to:
 - (a) development of an implementation plan and monitoring the implementation of this Agreement;
 - (b) identifying timelines for the Transfer of Federal Health Programs from Canada and the assumption of all operational functions and responsibilities by the FNHA for that purpose;
 - (c) identifying timelines and implementation plans for the transfer of any agreed upon provincial programs, services and functions to the FNHA;
 - (d) establishment of Transition Team referred to in section 7.2; and
 - (e) engaging and communicating with First Nations and other stakeholders on implementation.

7.2 Transition Team and Plan

(1) The Implementation Committee shall establish a Transition Team to develop a transition plan for the Transfer of Federal Health Programs. The Transition Team will include a senior officer of the FNHS or FNHA, and of the HC/FNIH Regional Office. The Transition Team shall coordinate activities associated with the Transfer of Federal Health Programs and may modify the transition plan as necessary.

(2) The Transition Team will dissolve on the date of the completion of the Transfer of Federal Health Programs.

7.3 Interim Management Committee

(1) Following the signing of this Agreement, an Interim Management Committee will be formed consisting of the Regional Director of the HC/FNIH Regional Office and an individual designated by the FNHS. This Committee will review and discuss all significant and strategic level management, program or policy issues that would be decided on by the Regional Director of the HC/FNIH Regional Office and attempt to reach agreement thereon. These discussions will happen, where possible, prior to the Regional Director making a decision. The Interim Management Committee will meet as frequently as required but no less than two times per month.

(2) The Interim Management Committee will also establish a senior management team made up of the senior managers of the HC/FNIH Regional Office and the new senior managers of the FNHA. This senior management team will facilitate transition and learning by FNHA managers of the functions, operations and procedures of the HC/FNIH Regional Office to be assumed by the FNHA. Such transition and learning shall include opportunities to meet with representatives of HC/FNIHB in Ottawa. The senior management team will also work closely with the Transition Team and support the implementation of the transition plan.

(3) The Interim Management Committee will dissolve on the date of the completion of the Transfer of Federal Health Programs.

7.4 Confidentiality

(1) Members of the Implementation Committee, Transition Team, the Interim Management Committee and the senior management team who are not officers of Canada shall be required to sign any confidentiality and non-disclosure agreements reasonably required by Canada.

7.5 Implementation Funding

(1) Canada will contribute funding support for the implementation and transition costs of the FNHS required to establish the FNHA and its operations and to transition programs, services, and functions to its management. Canada will provide a one-time payment or payments of up to \$17 million to the FNHS to contribute to such costs upon the signing of this Agreement and pursuant to a funding agreement or agreements to be negotiated by Canada and the FNHS in accordance with section CF 13 of Schedule 1.

7.6 Capacity Support

(1) Canada agrees that the FNHA may have access to administrative, program and professional officers and specialists of Health Canada for the purposes of their providing advice or other support to the FNHA in a manner to be agreed between the FNHA and Canada.

SECTION 8 - ONGOING COMMITMENTS OF THE PARTIES

8.1 Meetings

(1) In order to support the functioning and implementation of this Agreement, the Parties agree to convene the following meetings:

- (a) A biennial meeting of the political representatives of the Parties as represented by the Chair of the First Nations Health Council, the Minister of Health (Canada), and the Minister of Health (British Columbia), or their designates.
- (b) A governance partnership meeting to be held at least every eighteen (18) months, with senior representatives of the Parties to discuss the implementation of this Agreement and the overall functioning of the new relationship. This could include the formation of multi-party working groups to study and address any issues related to the implementation of this Agreement or any Sub-Agreements.
- (c) Meetings at least once every eighteen (18) months between the FNHC and representatives of BC First Nations and First Nation Health Providers to discuss the implementation of this Agreement and the operation of the new Health Governance Structure.
- (d) An annual meeting of the ADM HC/FNIHB and the CEO of the FNHA to discuss their respective policies, priorities and planning.
- (e) Twice annual meetings of the HC/FNIHB Branch Director Generals with responsibility for community programs, primary care, public health and NIHB with senior officials of the FNHA to share information and experiences.
- (f) Annual meetings between Canada (Aboriginal Affairs and Northern Development Canada) and the FNHC at the AANDC quality of life table and at the federal interdepartmental committee on aboriginal issues to discuss health and issues related to the social determinants of health.
- (g) Annual meetings between the Deputy Minister of Health of British Columbia and the FNHA and mutually agreed-upon fellow Deputy Ministers will be scheduled to discuss policies and activities which may impact on the health of First Nations persons.

(2) The commitments made in this section may be amended and varied from time to time with the consent of the affected Parties.

8.2 Unforeseen Circumstances

(1) In the event of an unforeseen circumstance of a health emergency or natural disaster which would have a significant capacity or financial impact on the FNHA, Canada and British Columbia shall, with the FNHA, jointly assess the impact and required measures to address the situation. Any agreement to provide new funding or other assistance to the FNHA will be made by the Parties in writing.

SECTION 9 – OTHER

9.1 Legislation

(1) British Columbia commits to engage in a tripartite collaborative process to assess whether there is a need to enshrine any authorities and powers for the FNHA in provincial legislation or regulation. If all of the Parties agree that such a need exists, the BC Ministry of Health will seek to obtain the necessary legislative or regulatory changes.

(2) Canada commits to explore ways to acknowledge and express support for implementation of this Agreement through federal legislation.

9.2 Population and Public Health

(1) The BC Ministry of Health and the FNHA shall explore and identify measures, including possible legislative and regulatory mechanisms that might be of assistance to address matters of population and public health for the purposes of this Agreement consistent with the goal of this Agreement to build a more integrated health system that serves to help improve the health and well-being of First Nations and their communities in British Columbia.

9.3 Medical Service Plan (MSP) Premiums

(1) The Parties have agreed, pursuant to a separate letter of understanding to be reached by December 30, 2011, to enter into a discussion process regarding MSP premiums established under the *Medicare Protection Act* paid on behalf of Status Indian people in British Columbia.

SECTION 10 – TRIPARTITE EVALUATION

(1) The Parties shall jointly evaluate the implementation of this Agreement every five (5) years. This evaluation shall consider the purpose and intent of this Agreement as set out in the Recitals and section 2 and be carried out within the wider context of the health partnership with BC First Nations.

(2) The Parties shall, within eighteen (18) months of the signing of this Agreement, prepare an evaluation plan and begin collecting data and reports to track at least the following:

- (a) Health indicators:
 - (i) life expectancy at birth;

- (ii) mortality rates (deaths due to all causes);
 - (iii) Status Indian youth suicide rates;
 - (iv) infant mortality rates;
 - (v) diabetes rates;
 - (vi) childhood obesity rates;
 - (vii) the number of practicing First Nations health care professionals who are registered or otherwise accepted members of recognized health professions under the *BC Health Professions Act*; and
 - (viii) any other additional indicators, including wellness indicators supported by the governance stakeholders; namely the Tripartite Committee, the FNHC and the FNHDA.
- (b) Governance, tripartite relationships and integration:
- (i) the effectiveness of the new Health Governance Structure described in section 4; and
 - (ii) the effectiveness of the new federal, provincial and First Nation relationships set out in section 6.
- (3) A tripartite evaluation report will be finalized within one year following the first five year period of the Transfer of Federal Health Programs. The report shall be made public.

SECTION 11 – DISPUTES

11.1 Informal Resolution

- (1) The Parties are committed to working collaboratively to develop harmonious working relationships and to prevent, or alternatively, to minimize disputes about their respective rights or obligations under this Agreement. To that end, the Parties will:
- (a) establish clear lines of communication and articulate their expectations about the interpretation of this Agreement, and
 - (b) seek to address anticipated disputes in the most expeditious and cost-effective manner possible.
- (2) The Parties nevertheless acknowledge that disputes may arise about their respective rights or obligations under this Agreement and agree that they will strive to resolve any such disputes in a non-adversarial, collaborative and informal atmosphere.

(3) If a dispute arises in relation to the respective rights and obligations of any Party under this Agreement, the Parties to that dispute shall each nominate a representative who shall promptly and diligently make all reasonable, good faith efforts to resolve the dispute.

(4) Where a dispute is between fewer than all of the Parties, those Parties involved in the dispute will inform the other Party and may ask the other Party to assist them in attempting to resolve the dispute. Any Party asked to assist may accept or decline such a role in its sole discretion.

(5) Nothing prevents the Parties, at any stage of a dispute, from agreeing to refer the dispute to mediation on such terms as they may agree. In the event that a dispute is referred to mediation, the Parties will share equally in the fees and expenses of the mediator and will otherwise bear their own costs of participation in the mediation.

(6) All information exchanged during this dispute resolution process shall be regarded as "without prejudice" communications for the purpose of settlement negotiations and shall be treated as confidential by the Parties and their representatives, unless otherwise required by law. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during the dispute resolution process.

(7) Before a dispute is submitted to a court of competent jurisdiction, the principals of the Parties shall be notified of the dispute and given a final opportunity to consider a resolution thereof.

11.2 Formal Resolution

(1) Subject to subsection 11.1(7), if any Party to the dispute determines that the dispute cannot be resolved under section 11.1, the dispute may be submitted by that Party to a court of competent jurisdiction.

SECTION 12 - TERMINATION

12.1 Termination Notice

(1) The Parties intend this Agreement to be a long term arrangement which may be updated and amended from time to time. However, any Party may terminate this Agreement by providing at least eighteen (18) months written notice to the other Parties.

(2) Upon delivery of a termination notice by any Party under section 12.1(1), the Party providing notice shall offer to host a meeting with the other Parties within one month, at which time all Parties shall attend with an appropriate official to consider whether there is any basis to continue with this Agreement in whole or in part, and with what changes or amendments as may be necessary for that purpose.

(3) The Parties, or any two of them, together with such other persons or parties as may be deemed appropriate by the participating Parties, may also meet as necessary to consider whether any parts of the arrangements put in place under or as a result of this Agreement may be

continued under new or alternative arrangements between all or some of the Parties and with any new parties, as the case may be, and on what terms.

- (4) At any time following the delivery of a termination notice, the Party serving it may, with the consent of all of the other Parties:
- (a) extend or reduce the eighteen (18) month notice period for the termination;
 - (b) enter into a dispute resolution process with the other Parties or any one of them on terms to be agreed between the participating Parties, and the Party providing the termination notice may agree to suspend that notice during such process; or
 - (c) withdraw the termination notice.

12.2 Termination Process

- (1) In the event that there is no agreement within six (6) months or such further time as all Parties agree following the delivery of a termination notice under s. 12.1(1):
- (a) between all Parties to continue with this Agreement on the same or amended terms under s. 12.1(2); or
 - (b) between all or any two of the Parties and any new parties to new or alternative arrangements under s. 12.1(3),

the Parties shall notify the principals of the Parties of the pending termination so as to provide them with a final opportunity to consider whether there is any basis to continue with this Agreement or to develop alternative arrangements.

(2) In the absence of any agreement by the principals of the Parties to continue with this Agreement or to new or alternative arrangements under 12.2(1), the Minister of Health (Canada) shall, subject to obtaining appropriate authority and consistent with section 12.3, provide or fund the provision of such health programs and services for First Nations in British Columbia as are consistent with Canada's First Nations health programs and policies in existence at the time of termination of this Agreement and from time to time thereafter.

(3) For greater certainty, if this Agreement is terminated, British Columbia shall not therefore be responsible for programs and payments transferred by Canada to the FNHA.

12.3 Transition

Following the provision of a notice of termination under section 12.1(1) and up to the time that any new arrangements are put in place under sections 12.1 or 12.2, the Parties shall:

- (1) abide by the terms of this Agreement;
- (2) engage in a process with appropriate officials who shall meet as frequently as is reasonable and necessary to make plans for the smooth transitioning of health programs

and services that are the subject of this Agreement, with the intent of ensuring that there is no disruption to those programs and services; and

(3) take such steps as are reasonable, necessary and commensurate with their respective roles and responsibilities herein to ensure a smooth transition and minimal disruption to the delivery of the health programs and services that are the subject of this Agreement.

12.4 Effect of Termination on other Accords

For greater certainty, termination of this Agreement alone shall not cause or result in the termination of the *Transformative Change Accord: First Nations Health Plan (2006)*, the *First Nations Health Plan MOU (2006)* or the *Tripartite First Nations Health Plan (2007)*.

SECTION 13 – GENERAL PROVISIONS

13.1 Interpretation – Nature of Agreement

(1) This Agreement is intended to provide BC First Nations, through the FNHA, with a framework for undertaking the planning, design, management and delivery, and funding the delivery, of FN Health Programs in accordance with its terms and subject to the laws of British Columbia and Canada.

(2) This Agreement is not a self-government agreement and does not transfer or confer any law-making powers from or to any Party or to the FNHA.

13.2 Entire Agreement

(1) This Agreement is legally binding in accordance with its terms and represents the entire legal agreement among the Parties in respect of its subject matter.

13.3 Amendment

(1) This Agreement may be amended in writing signed by duly authorized representatives of each of the Parties.

(2) An amendment to this Agreement takes effect on a date agreed to by the Parties to the amendment, but if no date is agreed to, on the date that the last Party required to consent to the amendment gives its consent.

13.4 Waiver

(1) No provision of this Agreement, and no performance obligations by a Party under this Agreement, may be waived unless the waiver is in writing and signed by the Party or Parties giving the waiver.

(2) No waiver referred to in subsection (1) shall be deemed to constitute a waiver of any other provision, obligation or default.

13.5 Governing Laws

(1) This Agreement shall be construed in accordance with the laws of the Province of British Columbia and all federal laws applicable therein. All actions or activities of the Parties undertaken pursuant to this Agreement shall be subject to the laws of the Province of British Columbia and all federal laws applicable therein.

(2) For greater certainty, the Parties recognize that neither Canada nor British Columbia has the authority, through this Agreement, to bind Parliament or the Legislature from amending federal or provincial legislation or regulations, respectively, with the possible effect of superseding this Agreement in part, or in its entirety.

13.6 Statutory References

Each reference to an enactment is deemed to be a reference to that enactment, and to the regulations made under that enactment, as amended or re-enacted from time to time.

13.7 Interpretation – references to certain organizations

It is understood that certain of the statutory, corporate, government or other bodies or organizations, including government branches, agencies or titled positions referred to in this Agreement may undergo changes to their names, functions or mandates from time to time or may cease to operate or exist. In these circumstances, the Parties agree to work cooperatively to amend this Agreement as necessary to keep this Agreement current and relevant in the face of such change, and otherwise agree that this Agreement should be given a contextual interpretation, so that such changes do not frustrate the purpose and intent of this Agreement if they are non-material or if the Parties can easily adapt their procedures to suit the new circumstances and without prejudice to any Party.

13.8 Other References

The insertion of headings and the division of this Agreement into sections are for convenience of reference only and shall not affect the interpretation thereof. In this Agreement, words importing the singular include the plural and vice versa and words importing gender include all genders. All references to the word “including” shall mean “including without limitation”. All references in this Agreement to either “Canada” or “British Columbia” shall be interpreted so as to include, where appropriate, its duly authorized representative.

13.9 Further Assurances

Each of the Parties shall from time to time and within a reasonable time execute and deliver all such further documents and instruments and do all acts and things as the other Parties may reasonably require to effectively carry out or to better evidence or perfect the full intent and meaning of this Agreement.

13.10 Assignment

A Party may not assign this Agreement without the prior written consent of the other Parties. This Agreement shall enure to the benefit of and shall be binding upon the Parties and their respective successors and permitted assigns. This provision is without prejudice to the provisions of section 4.2(5).

13.11 Relationship of Parties

(1) Subject to subsection (3), nothing in this Agreement shall be deemed to constitute any Party, or the FNHA, a legal partner or agent of any other Party. Each Party will act on its own behalf and not on behalf of any other Party and at no time will any Party or the FNHA hold itself out to be the legal agent, employee or partner of any other Party. No Party hereto shall have the express or implied right or authority to assume or create any obligation on behalf of or in the name of any other Party, or to bind any other Party to any contract, agreement or undertaking with any other person.

(2) For greater certainty, none of the Parties to this Agreement shall be responsible or liable for:

- (a) the actions or inactions of another Party, the FNHA or any First Nation Health Provider under or pursuant to this Agreement except to the extent they may have caused or contributed to such actions or inactions and are liable for the consequences according to applicable laws;
- (b) any loss including economic loss or injury suffered by another Party, the FNHA or any First Nation Health Provider, or their respective employees, officers, agents, contractors or voluntary workers, resulting from or in any way related to carrying out activities under or pursuant to this Agreement, except to the extent that a Party may have caused or contributed to such actions or inactions and are liable for the consequences according to applicable laws; or,
- (c) any loans, capital leases or other long term obligations of any Party or of the FNHA or any First Nation Health Provider resulting from or in any way related to carrying out activities under or pursuant to this Agreement.

(3) Nothing in this Agreement shall prevent any Party or the FNHA from acting as a legal partner or agent of another for any purpose connected to this Agreement where they expressly agree, or for any purposes unrelated to this Agreement.

13.12 Non Severability

If any provision of this Agreement is determined to be legally invalid or unenforceable by a court of competent jurisdiction, in whole or in part, that provision will be severed from this Agreement to the extent only of the invalidity or unenforceability and the Parties will negotiate in good faith to agree on a substitute provision that will remedy or replace the invalid or unenforceable provision and any related provisions that may be affected by the invalidity or unenforceability.

13.13 Notices

Any notice or other communication to be given to a Party under this Agreement shall be given in writing, and shall be sufficiently given if delivered personally or if sent by prepaid registered mail or fax to such Party as follows:

To Canada:

Name: Assistant Deputy Minister, First Nations and Inuit Health Branch, Health Canada

Address: 200 Eglantine Driveway, Tunney's Pasture, Ottawa, Ontario K1A 0K9

Attention: Assistant Deputy Minister, First Nations and Inuit Health Branch, Health Canada

Facsimile: 613-957-1118

To British Columbia:

Name: Assistant Deputy Minister, Population and Public Health, Ministry of Health

Address: 4-2, 1515 Blanshard St, Victoria BC, V8W 3C8

Attention: Assistant Deputy Minister, Population and Public Health, Ministry of Health

Facsimile: 250-952-1713

To the FNHS:

Name: Chief Executive Officer

Address: 1205-100 Park Royal South, West Vancouver BC V7T 1A2

Attention: Chief Executive Officer

Facsimile: 604-913-2081

or at such other address as the Party to whom such notice is to be given shall have last notified to the Party giving the same in the manner provided in this section. Any notice personally delivered to a Party shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed to a Party shall be deemed to have been given and received on the fifth business day next following the date of its mailing provided no postal strike is then in effect or comes into effect within five business days after such mailing. Any notice transmitted by fax shall be deemed to be given and received on the day of its transmission.

13.14 Warranty of Authority

- (1) Each Party represents and warrants that it has the necessary power, authority and capacity to enter into this Agreement and that its signatory has been duly authorized to sign this Agreement on its behalf.
- (2) Following the initialling of this Agreement, BC First Nations will participate in a nation-based ratification process for the governance structure, functions, and relationships of a new First Nations health governance structure. This process will require a resolution of support ratifying this Agreement at a First Nations Health Council Assembly.

SECTION 14 - SCHEDULES

The Schedules to this Agreement consist of:

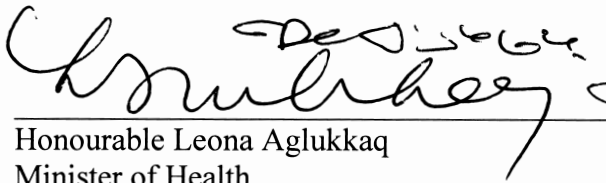
- (1) Schedule 1 - Canada Funding
- (2) Schedule 2 - British Columbia Funding
- (3) Schedule 3 - List of Federal Health Programs
- (4) Schedule 4 - FNHA Corporate Governance Requirements
- (5) Schedule 5 – Operational Sub-Agreements to be negotiated

SECTION 15- EXECUTION

This Agreement may be executed and delivered by fax and in counterparts, and each counterpart when so executed and delivered shall be deemed original.

The Parties have executed this Agreement.

**HER MAJESTY THE QUEEN IN RIGHT
OF CANADA, as represented by the
Minister of Health**



Honourable Leona Aglukkaq
Minister of Health
Government of Canada



Ian Potter, Witness
Chief Federal Negotiator
Government of Canada

**THE FIRST NATIONS HEALTH
SOCIETY**

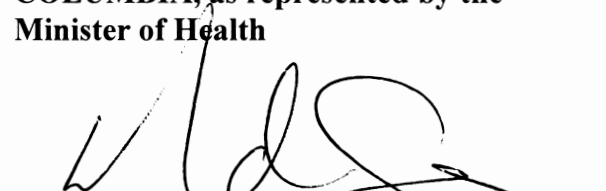


Norman Joseph ("Joe") Gallagher
CEO, First Nations Health Society



Pierre Leduc, Witness
Chair, First Nations Health Society

**HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF BRITISH
COLUMBIA, as represented by the
Minister of Health**



Honourable Michael de Jong
Minister of Health
Province of British Columbia



Graham Whitmarsh, Witness
Deputy Minister of Health
Province of British Columbia

Endorsed by
THE FIRST NATIONS HEALTH COUNCIL



Grand Chief Douglas Colin ("Doug") Kelly
Chair, First Nations Health Council



Shawn A-in-chut Aleo, Witness
National Chief, Assembly of First Nations

SCHEDULE 1 – CANADA FUNDING

Part 1 - Ten (10) Year Canada Funding Agreement

CF 1. General: Canada will transfer an “Annual Federal Amount” to the FNHA under a Canada Funding Agreement to be negotiated in accordance with the terms of this Schedule. The Annual Federal Amount will be calculated in accordance with section CF 3 and be transferred for the purposes set out in the Interim Health Plan or Multi-Year Health Plan. The Annual Federal Amount will be paid toward all of the costs to be incurred by the FNHA for the delivery of its Interim Health Plan or Multi-Year Health Plan, inclusive of all related corporate and administrative expenses of any kind including employee pay and benefits, policy and program costs.

CF 2. Term: The Canada Funding Agreement will have a term of 10 (ten) years with funding amounts, program delivery and reporting functions organized on an April 1-March 31 “fiscal year” basis. The Canada Funding Agreement may be entered into at once or in stages for all or part of the Annual Federal Amount.

CF 3. The Annual Federal Amount: The Annual Federal Amount shall be calculated as follows:

- (a) In the initial fiscal year of the Canada Funding Agreement, the Annual Federal Amount will be equal to the Base Year Amount set out in section CF 4 as adjusted under section CF 5 and as adjusted for those program components set out in tables 2 to 5 of Annex A to this Schedule which are transferred to the FNHA, from the date of transfer, bearing in mind that the Transfer of Federal Health Programs may occur in stages or blocks.
- (b) In fiscal years two (2) three (3), four (4) and five (5) of the Canada Funding Agreement, the Annual Federal Amount will be the prior year’s Annual Federal Amount (expressed on an annualized basis in the event of prior partial fiscal years) multiplied by the Annual Escalator set out in section CF 6 plus any additional program components set out in tables 2 to 5 of Annex A to this Schedule which are transferred to the FNHA during these fiscal years, bearing in mind that the Transfer of Federal Health Programs may occur in stages or blocks.
- (c) In fiscal years six (6) through ten (10) of the Canada Funding Agreement, the Annual Federal Amount will be the prior year’s Annual Federal Amount multiplied by a new Annual Escalator to be determined by Canada and the FNHA. If negotiations for a new Annual Escalator for fiscal years six (6) through ten (10) are not concluded before the fifth anniversary of that agreement, the FNHA will receive an Annual Federal Amount for the sixth fiscal year and subsequent fiscal years that it is equivalent to the fiscal year five (5) Annual Federal Amount. Canada and the FNHA may continue negotiations on the escalator until the expiry of the Canada Funding Agreement and if negotiations are concluded before then, a retroactive adjustment will be made for each of the fiscal years six (6) through ten (10) of the Canada Funding Agreement to pay the

FNHA any differences, without interest, resulting from application of the new Annual Escalator.

(d) If the Canada Funding Agreement takes effect on a date other than April 1, it will have partial initial and final fiscal years. The Annual Federal Amount for any partial fiscal years will be the amount that otherwise applies under this subsection and proportionally reduced by multiplying it by the number of days it will be paid in that fiscal year and dividing by 365.

CF 4. Base Year Amount: The “Base Year Amount”, which has been calculated with reference to the total direct, indirect, support and administrative costs of Canada for funding, providing and administering all Federal Health Programs, is the “2008/9 amount” of \$318,832,400 as set out in Annex A, Table 1, plus the Adjustment Factor set out in section CF 5.

CF 5. Adjustment Factor: The 2008-09 amount in section CF 4 will be adjusted to the effective date or dates of the transfer of funding for Federal Health Programs to the FNHA to become the Base Year Amount by way of the following adjustment factor (“Adjustment Factor”):

(a) the portion of the 2008/9 amount representing NIHB expenditures (\$139,077,700) will be replaced by: (i) \$163,455,600 if the transfer occurs in fiscal year 2011-12 or (ii) \$172,511,700 if the transfer occurs in fiscal year 2012-13 or (iii) \$182,079,200 if the transfer occurs in fiscal year 2013-14; plus

(b) the portion of the 2008/9 amount representing Regional Community Program Expenditures (\$169,413,900) will be replaced by: (i) \$178,234,900 if the transfer occurs in fiscal year 2011-12 or (ii) \$181,378,300 if the transfer occurs in fiscal year 2012-13 or (iii) \$184,596,800 if the transfer occurs in fiscal year 2013-14; plus

(c) the portion of the 2008/9 amount representing Capital expenditures (\$10,340,800) will be replaced by: (i) \$10,829,800 if the transfer occurs in fiscal year 2011-12 or (ii) \$10,998,000 if the transfer occurs in fiscal year 2012-13 or (iii) \$11,168,700 if the transfer occurs in fiscal year 2013-14.

If any of the programs referred to in (a) to (c) above are transferred in parts and in separate years, the funding for each part will be based on the funding level for the relevant year of transfer set out above.

CF 6. Annual Escalator: The Canada Funding Agreement will provide for fixed annual increases (“Annual Escalator”) of 5.5% to the prior fiscal year’s Annual Federal Amount (annualized) in fiscal years two (2), three (3), four (4) and five (5) of the Canada Funding Agreement provided that, and during the time that, the NIHB Program is included in the programs transferred to the FNHA pursuant to this Agreement. For any period of time during the above-noted fiscal years that the NIHB Program is not included in the programs transferred to the FNHA, the Canada Funding Agreement will provide for fixed annual increases of 4.5% to the prior year’s Annual Federal Amount (annualized). Canada and the FNHA will commit to negotiate an Annual Escalator for the remaining fiscal years of the Canada Funding Agreement in accordance with subsections CF 3(c) and CF 9(a).

CF 7 Funding Flexibility: The Canada Funding Agreement will provide for flexibility in the allocation of resources and in the design and prioritization of programs. The Annual Federal Amount will not be reduced by any of the following:

- (a) **Surplus funds / Carry-over:** The FNHA may retain and carry-over surpluses from any fiscal year for use in any subsequent fiscal year during the term of the Canada Funding Agreement for health programs and services in accordance with the FNHA's Interim Health Plan or Multi-Year Health Plan;
- (b) **Block Funding / Sun-setting:** The Annual Federal Amount shall be provided as block funding. The FNHA may re-design, re-prioritize or cancel any programs within this block. In the event an ongoing program or service set out in Schedule 3 terminates or is cancelled by Canada nationally or regionally, there will be no deduction to the funding provided to the FNHA; and any related funds may be retained by the FNHA for investment in health programs and services in accordance with its Interim Health Plan or Multi-Year Health Plan (recognizing that the funding referred to in sections CF 11 and CF 12 are not part of the Annual Federal Amount and may sunset and will continue only to the end of the program or as set out herein); and
- (c) **Funding from Other Sources:** The Annual Federal Amount will not be reduced if the FNHA obtains from other sources, including British Columbia or other federal government departments, additional funding for any of the FN Health Programs. The FNHA will in such cases use the related funding from the Annual Federal Amount as originally intended to enhance the programs or services in question or it may invest this amount in other FN Health Programs.

CF 8. Reporting: The FNHA will:

- (a) Prepare an Annual Report in accordance with section 5.4 of this Agreement.
- (b) Provide for the preparation of an independent evaluation every five (5) years that includes review of the FNHA's:
 - (i) plans and programs;
 - (ii) organizational structure and organizational effectiveness; and
 - (iii) management of First Nation Health Provider relationships and health benefit (former FNIHB) provider relationships.

This evaluation will be available to the FNHA members, Canada, British Columbia and the public.

CF 9. Renewal Procedures: Canada and the FNHA will review the funding and other provisions of the Canada Funding Agreement during its term as part of their regular review of that agreement and will plan for the update and renewal of that agreement as follows:

(a) Initial Five (5) Year Review: Canada and the FNHA will review the general and specific provisions of the Canada Funding Agreement and will hold discussions to negotiate the value of the Annual Escalator for the fiscal years six (6) through ten (10) of the Canada Funding Agreement during the fourth fiscal year of the initial Canada Funding Agreement.

(b) Ten (10) Year Reviews: For successor agreements to the initial Canada Funding Agreement, renewal negotiations will commence no later than one year prior to the expiry date of the initial or then current Canada Funding Agreement. If negotiations on the new agreement including its funding provisions are not concluded before the prior Canada Funding Agreement expires, Canada and the FNHA agree that for a period of two years they will enter into a new funding agreement, to be negotiated in accordance with section CF 13, with substantially the same terms and conditions as the prior agreement and at a funding level that matches the Annual Federal Amount for the last fiscal year of the prior agreement (expressed on an annualized basis in the event that the final fiscal year is partial).

Part 2 - Other Canada Funding Commitments

CF 10. New Programs and Services Funding

(1) The FNHA and Canada shall enter into discussions with respect to accessing any available federal funding for any new health or related programs, including any environmental remediation programs, and services which may be introduced by Canada from time to time on a national or regional basis.

(2) Additional funding will not be provided in respect of: (a) new federal health programs, services or operations which substantially replace any Federal Health Programs set out in Schedule 3 or for which funding has already been provided under an agreement between Canada and the FNHA; (b) national or regional funding changes for Federal Health Programs set out in Schedule 3 or substantially similar programs or their operations.

(3) Notwithstanding subsection CF.10(2), in the event that Canada introduces expanded beneficiary eligibility and associated funding for any federal health programs and services set out in Schedule 3 as a result of possible legislative amendments to the *Indian Act* (Canada) or decisions of the courts that result in an increased number of persons eligible to be registered as an Indian under that Act, Canada and the FNHA will work together to determine impacts and approaches to address such change. The FNHA and Canada shall enter into discussions with respect to accessing any federal funding that is made available nationally for any new or expanded programs or services to address such eligibility matters.

CF 11. Indian Residential Schools Program (IRS Program) Funding: Canada will provide funding to be paid on a time limited basis (not to exceed the duration of the IRS Program) pursuant to a funding agreement or agreements to be negotiated between Canada and the FNHA for the purpose of delivering the IRS Program. Such funding will be provided pursuant to a funding agreement or agreements to be negotiated by Canada and the FNHA in accordance with section CF.13.

CF 12. Top-Up Funding for the TFNHP: Canada will provide an additional annual contribution to the FNHA to be paid on a time limited basis, and if required, to ensure that the value of the federal contribution to the TFNHP in each full fiscal year of the Canada Funding Agreement is \$10 million. The base amount for the TFNHP which is included in the Base Year Amount, is \$6 million in 2008-9 fiscal year funds. When that amount, as adjusted by the applicable Adjustment Factor in section CF 5 and the Annual Escalator in section CF 6, reaches \$10 million, the top-up will cease. Such top-up funding will be provided pursuant to a funding agreement or agreements to be negotiated by Canada and the FNHA in accordance with section CF 13.

Part 3 – Federal Funding Agreements

CF 13. General Terms and Conditions:

(1) Each funding agreement to be entered into by Canada and the FNHA or the FNHS pursuant to this Agreement shall contain such terms and conditions as the two Parties may negotiate provided that such terms and conditions, and the manner of payments to be made under the agreement, are consistent with federal Treasury Board policy and applicable laws, including the following:

- (a) terms for the preparation by the FNHA or the FNHS of a health plan for the funding (including the Interim Health Plan or Multi-Year Health Plan for the Canada Funding Agreement);
- (b) audit and financial reporting provisions specific to the funding provided by Canada;
- (c) reporting provisions to members and Canada;
- (d) if applicable, provisions for distributed payments to First Nation Health Providers in accordance with section CF 14;
- (e) default and remedial powers for Canada up to and including the institution of third party management and suspension of funding in the event of a breach of the funding agreement by the FNHA or the FNHS; and
- (f) provisions that the funding provided is subject to there being a sufficient unencumbered balance of an appropriation made by the Parliament of Canada, which appropriation must constitute a lawful authority for making the said payment during the fiscal year in which the payment becomes due.

CF 14. Funding Role of the FNHA – Funding First Nation Health Providers:

(1) The Canada Funding Agreement shall provide that where the FNHA acts as a funder of First Nation Health Providers in respect of FN Health Programs it shall:

- (a) honour the terms of existing Canada CA's which may be assigned to the FNHA in accordance with the sub-agreement referred to in Schedule 5, section 7. Where a new funding agreement is required with a First Nation Health Provider, and for a period of two years following the implementation of this Agreement, the FNHA will enter into such new funding arrangements on terms which match the material terms of Canada CA's used with those Providers on the last day prior to implementation of this Agreement, and may thereafter revise its funding processes in a manner which best serves health needs and the requirements of this Agreement;
- (b) use an open and transparent decision-making process, based on consultation with affected BC First Nations, regarding the selection of First Nation Health Providers and the programs and services they will be funded to receive;
- (c) employ the use of written funding agreements with First Nation Health Providers which contain, at a minimum, program descriptions, flexibilities, performance standards, reporting, evaluation, audit, enforcement and recovery processes;
- (d) support First Nation Health Providers to plan, manage, organize and otherwise carry out their responsibilities to deliver FN Health Programs to their communities, including the development of their Community Health and Wellness Plans; and
- (e) have audit and enforcement policies and procedures sufficient to ensure full accountability of funding provided to First Nation Health Providers.

CF 15. Self-Governing First Nations:

- (1) The FNHA may provide FN Health Programs to Self-Governing First Nations and may conclude arrangements including funding agreements to deliver such programs and services to any Self-Governing First Nation in whole or in part.
- (2) Notwithstanding any other provision of this Schedule if:
 - (a) a Self-Governing First Nation that is receiving FN Health Programs from the FNHA for its members chooses to terminate such arrangements in whole or in part in order to provide any health programs or services for its members or others by itself or by means other than the FNHA; and
 - (b) Canada enters into funding arrangements with the Self-Governing First Nation for any health functions described in (a),

then the Annual Federal Amount shall be reduced by the value of the terminated FN Health Programs described in (a) as determined by Canada in consultation with the FNHA and the affected Self-Governing First Nation.

Annex A (Details of Canada Funding)

Annex A (Details of Canada Funding) contains certain 2008/9 budget information for Federal Health Programs. It is attached to this Schedule for use with reference to CF 3, CF 4 and CF 5

and for reference purposes only. In the event of a conflict or inconsistency between Annex A and this Agreement or Schedule, the terms of this Agreement and the Schedule, in that order, shall prevail.

Annex A

**to Schedule 1 (Canada Funding) of the British Columbia Tripartite Framework Agreement
on First Nation Health Governance**

DETAILS OF CANADA FUNDING

Table 1: SUMMARY, BASE YEAR 2008-2009 AMOUNTS

| PROGRAM/SERVICE | FUNDING |
|--|----------------------|
| Regional Community Programs | \$127,656,800 |
| | |
| Tripartite First Nations Health Plan | \$6,000,000 |
| | |
| Regional Sun-setting Programs | \$16,807,800 |
| | |
| Non-Insured Health Benefits Program | \$135,520,700 |
| | |
| Capital | \$10,340,800 |
| | |
| Policy and Program Leadership (FNIHB HQ) | \$7,819,300 |
| | |
| Corporate and Management Services (includes EBP) | \$12,839,900 |
| | |
| Accommodations | \$1,847,100 |
| | |
| TOTAL BASE YEAR AMOUNT | \$318,832,400 |

| | |
|--|---------------------|
| | |
| IMPLEMENTATION FUNDING (one-time funding) | \$17,000,000 |
| | |
| ANNUAL ESCALATOR | |
| All programs transferred | 5.5% |
| NIHB not transferred | 4.5% |
| | |
| Tripartite Health Plan Top Up (in 2008-09 value) | \$4,000,000 * |
| * Payment starting in transfer year to top up amount to \$10,000,000 | |

Table 2 – Details of Federal Funding for Program Transfer, Fiscal Year 2008-09 Amount

| PROGRAM COMPONENTS | ADJUSTMENT FACTOR | | | |
|--|------------------------------|------------------|-----------------|------------------|
| | SUMMARY ELEMENTS FOR 2008-09 | | | |
| | (\$ 000 thousands) | | | |
| | COMMUNITY | NIHB | CAPITAL | TOTAL |
| Regional Community Programs + Tripartite Health Plan | 133,656.8 | 0 | 0 | 133,656.8 |
| Regional Sunsetters | 16,807.8 | 0 | 0 | 16,807.8 |
| Non-Insured Health Benefits (NIHB) | 0 | 135,520.7 | 0 | 135,520.7 |
| FNIHB HQ Policy and Programs | 5,158.0 | 2,661.3 | 0 | 7,819.3 |
| Corporate and Management | 7,705.6 | 596.1 | 0 | 8,301.7 |
| Employee Benefit Plan | 4,238.6 | 299.6 | 0 | 4,538.2 |
| Capital | 0 | 0 | 10,340.8 | 10,340.8 |
| Accommodations | 1,847.1 | 0 | 0 | 1,847.1 |
| TOTAL | 169,413.9 | 139,077.7 | 10,340.8 | 318,832.4 |

Table 3 – Fiscal Year 2010-11 Amount

| PROGRAM COMPONENTS | ADJUSTMENT FACTOR | | | |
|--|------------------------------|------------------|-----------------|------------------|
| | SUMMARY ELEMENTS FOR 2010-11 | | | |
| | (\$ 000 thousands) | | | |
| | COMMUNITY | NIHB | CAPITAL | TOTAL |
| Regional Community Programs + Tripartite Health Plan | 139,061.3 | 0 | 0 | 139,061.3 |
| Regional Sunsetters | 16,838.6 | 0 | 0 | 16,838.6 |
| Non-Insured Health Benefits (NIHB) | 0 | 151,264.3 | 0 | 151,264.3 |
| FNIHB HQ Policy and Programs | 5,246.9 | 2,681.5 | 0 | 7,928.4 |
| Corporate and Management | 7,843.0 | 608.5 | 0 | 8,451.5 |
| Employee Benefit Plan | 4,375.9 | 326.9 | 0 | 4,702.8 |
| Capital | 0 | 0 | 10,662.0 | 10,662.0 |
| Accommodations | 1,847.1 | 0 | 0 | 1,847.1 |
| TOTAL | 175,212.8 | 154,881.2 | 10,662.0 | 340,756.0 |

Table 4 – Fiscal Year 2011-12 Amount

| PROGRAM COMPONENTS | ADJUSTMENT FACTOR | | | |
|--|------------------------------|------------------|-----------------|------------------|
| | SUMMARY ELEMENTS FOR 2011-12 | | | |
| | (\$ 000 thousands) | | | |
| | COMMUNITY | NIHB | CAPITAL | TOTAL |
| Regional Community Programs + Tripartite Health Plan | 141,881.8 | 0 | 0 | 141,881.8 |
| Regional Sunsetters | 16,854.4 | 0 | 0 | 16,854.4 |
| Non-Insured Health Benefits (NIHB) | 0 | 159,807.8 | 0 | 159,807.8 |
| FNIHB HQ Policy and Programs | 5,292.4 | 2,691.8 | 0 | 7,984.2 |
| Corporate and Management | 7,913.1 | 614.9 | 0 | 8,528.0 |
| Employee Benefit Plan | 4,446.1 | 341.1 | 0 | 4,787.2 |
| Capital | 0 | 0 | 10,829.8 | 10,829.8 |
| Accommodations | 1,847.1 | 0 | 0 | 1,847.1 |
| TOTAL | 178,234.9 | 163,455.6 | 10,829.8 | 352,520.3 |

Table 5 – Fiscal Year 2012-13 Amount

| PROGRAM COMPONENTS | ADJUSTMENT FACTOR | | | |
|--|------------------------------|------------------|-----------------|------------------|
| | SUMMARY ELEMENTS FOR 2012-13 | | | |
| | (\$ 000 thousands) | | | |
| | COMMUNITY | NIHB | CAPITAL | TOTAL |
| Regional Community Programs + Tripartite Health Plan | 144,784.2 | 0 | 0 | 144,784.2 |
| Regional Sunsetters | 16,870.4 | 0 | 0 | 16,870.4 |
| Non-Insured Health Benefits (NIHB) | 0 | 168,832.5 | 0 | 168,832.5 |
| FNIHB HQ Policy and Programs | 5,338.5 | 2,702.3 | 0 | 8,040.8 |
| Corporate and Management | 8,020.8 | 621.4 | 0 | 8,642.2 |
| Employee Benefit Plan | 4,517.3 | 355.5 | 0 | 4,872.8 |
| Capital | 0 | 0 | 10,998.0 | 10,998.0 |
| Accommodations | 1,847.1 | 0 | 0 | 1,847.1 |
| TOTAL | 181,378.3 | 172,511.7 | 10,998.0 | 364,888.0 |

Table 6 – Fiscal Year 2013-14 Amount

| PROGRAM COMPONENTS | ADJUSTMENT FACTOR | | | |
|--|------------------------------|------------------|-----------------|------------------|
| | SUMMARY ELEMENTS FOR 2013-14 | | | |
| | (\$ 000 thousands) | | | |
| | COMMUNITY | NIHB | CAPITAL | TOTAL |
| Regional Community Programs + Tripartite Health Plan | 147,770.9 | 0 | 0 | 147,770.9 |
| Regional Sunsetters | 16,886.6 | 0 | 0 | 16,886.6 |
| Non-Insured Health Benefits (NIHB) | 0 | 178,367.6 | 0 | 178,367.6 |
| FNIHB HQ Policy and Programs | 5,385.4 | 2,712.9 | 0 | 8,098.3 |
| Corporate and Management | 8,117.2 | 628.0 | 0 | 8,745.2 |
| Employee Benefit Plan | 4,589.6 | 370.6 | 0 | 4,960.2 |
| Capital | 0 | 0 | 11,168.7 | 11,168.7 |
| Accommodations | 1,847.1 | 0 | 0 | 1,847.1 |
| TOTAL | 184,596.8 | 182,079.2 | 11,168.7 | 377,844.7 |

SCHEDULE 2 – BRITISH COLUMBIA FUNDING

(1) British Columbia will provide funding to the First Nations Health Society (FNHS) to implement the commitments in the Transformative Change Accord: First Nations Health Plan (TCA:FNHP) and the Tripartite First Nations Health Plan (TFNHP), as described below:

| Fiscal Year | Annual Funding Amount |
|--------------------|------------------------------|
| 2011/12 | \$ 4,000,000 |
| 2012/13 | 6,500,000 |
| 2013/14 | 8,000,000 |
| 2014/15 | 10,000,000 |
| 2015/16 | 11,000,000 |
| 2016/17 | 11,000,000 |
| 2017/18 | 11,000,000 |
| 2018/19 | 11,000,000 |
| 2019/20 | 11,000,000 |
| | \$ 83,500,000 |

(2) British Columbia's obligation to provide funding under this Agreement is subject to the BC *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the Province of BC during which payment becomes due.

(3) This funding will be re-directed to the FNHA upon its creation and the same conditions will apply.

(4) In the event of termination of this Agreement, the BC Ministry of Health will pay the amounts described above to the FNHS or other agency. The conditions of payment shall be governed instead by the principles of the TCA:FNHP and the TFNHP. The FNHS and the BC Ministry of Health will enter into good faith negotiations during the eighteen (18) month notice period to enter interim and final agreements in respect of the deliverables, funding and other matters respecting the goals of the funding as described in the above documents and this schedule. There will be no payments until an agreement is reached.

Reporting

(5) The FNHS will provide to British Columbia the following reports, in the form and manner proscribed by British Columbia:

- (a) By June 30, 2011, an annual spending plan for the 2011-12 fiscal year commencing April 1, clearly identifying the planned expenditures (and cash flow by month) required to support the planned activities, initiatives and health care services being delivered through the Interim Health Plan (IHP) and/or the Multi-Year Health Plan (MYHP) as identified in section 5.2 and 5.3 of this Agreement, and not to exceed the total annual funding amount described above;

- (b) By March 15 of each year, an annual spending plan for the upcoming fiscal year commencing April 1, clearly identifying the planned expenditures (and cash flow by month) required to support the planned activities, initiatives and health care services being delivered through the IHP and/or MYHP as identified in section 5.2 and 5.3 of this Agreement and not to exceed the total annual funding amount;
- (c) During the fiscal year, quarterly reports showing the expenditure of funds, variance explanations against the spending plan, commitments against the spending plan to fiscal year-end and explanations showing how expenditures relate to accountabilities and health care outcomes/deliverables contemplated under the annual IHP and/or the MYHP;
- (d) Annual audited financial statements of the FNHS within 120 days of year end; and,
- (e) Other reporting as British Columbia may reasonably require from time to time.

Annual Funding Letter and Payment Schedule

(6) Each year British Columbia shall review the updated IHP and the MYHP as identified in section 5.2 and 5.3 of this Agreement and the annual spending plan identified above. Upon completion of this review, British Columbia shall issue to the FNHS an annual funding letter that will include a payment schedule showing how the annual funding amount will be paid by British Columbia to the FNHS.

SCHEDULE 3 – LIST OF FEDERAL HEALTH PROGRAMS

1. Federal Health Programs as of the date of this Agreement comprise the following which are more particularly described in the *Health Canada First Nations and Inuit Health Compendium (2007)*:
 - (1) Children and youth programs (Fetal Alcohol Spectrum Disorder, Canada Prenatal Nutrition Program, Aboriginal Head Start on Reserve, Maternal and Child Health);
 - (2) Chronic Disease Programs and Injury Prevention (Aboriginal Diabetes Initiative, Injury Prevention);
 - (3) Primary Care (Community Primary Health Care and Nursing Services, Oral Health Care, First Nations Home and Community Care);
 - (4) Communicable disease control programs (Vaccine Preventable Diseases (Immunization), Blood Borne Disease and Sexually Transmitted Infections (HIV/AIDS), Respiratory Infections (Tuberculosis, Pandemic Influenza));
 - (5) Mental Health and Addictions Programs (Building Healthy Communities, Brighter Futures, National Native Alcohol and Drug Abuse);
 - (6) Environmental Health and Research Programs;
 - (7) Health Governance/Infrastructure Support (E-health solutions, Aboriginal Health Human Resources Initiative, Aboriginal Health Transition Fund (as replaced by the Health Services Integration Fund in 2010), Health Careers Program);
 - (8) Health facilities and capital maintenance;
 - (9) Youth Solvent Abuse Program, National Aboriginal Youth Suicide Prevention Program;
 - (10) Indian Residential Schools Resolution Health Support; and
 - (11) The NIHB Program.
2. Only those programs listed in section 1 are Federal Health Programs for the purposes of this Agreement. The Parties acknowledge that certain of the health programs and services or components thereof which are listed in the *Health Canada First Nations and Inuit Health Compendium (2007)* are not included in the Transfer of Federal Health Programs under this Agreement. In particular, programs and services set out in the Compendium which are excluded from the purview of this Agreement include:
 - a. All programs and services or aspects of programs and services for Métis or Inuit persons;

- b. All programs and services that are application-based or not managed by the HC/FNIH Regional Office (such as the Métis, Off-reserve Aboriginal and Urban Inuit Prevention and Promotion program); and
- c. All programs and services which are not relevant to British Columbia (including the Labrador Innu Comprehensive Healing Strategy).

SCHEDULE 4 – FNHA CORPORATE GOVERNANCE REQUIREMENTS

The FNHA shall ensure that its constitution, by-laws, policies and procedures will be based on standards that are at least consistent with, and otherwise exceed those set out below, subject to applicable incorporation legislation:

FNHA Corporate organization and separation of functions

- (1) The FNHA shall have at least the following corporate and organizational elements and characteristics:
 - (a) The membership structure shall be representative of and approved by BC First Nations;
 - (b) The board of directors shall reflect a broad range of skills and experience to enable it to act effectively to fulfill the mandate of the FNHA and shall be chosen by the members pursuant to a formal and transparent nomination and or selection process;
 - (c) FNHC members may not sit on the FNHA board of directors, though they may be members of the FNHA;
 - (d) It shall be a condition of directorship on FNHA's board (and as part of the code of conduct of such board), that FNHA directors must act independently and solely in the best interests of FNHA, and that no director may serve the interests of his or her affiliated groups, including, without limitation, the FNHC, unless, in doing so, such director is also acting in the best interests of FNHA and the fulfilment of its mandate on behalf of First Nations in BC;
 - (e) There shall be public disclosure of directors' per diem allowances, travel expenses and any other remuneration;
 - (f) Its employees shall be chosen pursuant to a selection process targeting most qualified candidates, and shall be paid reasonable remuneration that is reflective of experience, position and duties fulfilled;
 - (g) There shall be a clear separation of functions and roles. No one person may simultaneously act as more than one of (i) member (ii) director and (iii) employee; and
 - (h) The following persons may not serve as directors of the FNHA:
 - (i) Elected federal, provincial or municipal officials; and
 - (ii) First Nations health directors.

Planning/Performance/Evaluation

(2) The FNHA shall operate according to the following characteristics and principles regarding its planning, performance and evaluation processes:

- (a) The directors shall act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the organization and its members and stakeholders;
- (b) The directors shall approve corporate and operational plans and strategic vision;
- (c) Organizational and operational (health) performance goals shall be set and updated; and
- (d) There will be an objective evaluation of performance of the directors and monitoring the effectiveness of the FNHA's governance practices.

Budgets / strong financial control / monitoring and audit systems

(3) The FNHA shall have strong internal controls systems, budgeting and allocation processes including as set out in s. 4.2(2) (k) (l) and (m) of the main body of this Agreement.

Conflicts of interest / ethics

(4) The FNHA shall have strong internal conflict of interest and ethical standards, with the following minimums:

- (a) a written code of conduct for board of directors and employees (ethics);
- (b) a written conflict of interest policy and procedures that ensure that a director does not vote and an employee does not make a decision on a matter in which they have a personal interest; and
- (c) policies and mechanisms to monitor compliance.

Accountability and reporting

(5) The FNHA shall have strong internal accountability processes, with the following minimums:

- (a) the directors shall be accountable to members; and
- (b) all members shall be provided with timely access to relevant information, and, upon request, copies of financial reports, audit findings and a copy of the Canada Funding Agreement.

Risk Management

- (6) The FNHA shall institute risk management policies, at least consisting of:
 - (a) systems for identification and mitigation of risk; and
 - (b) systems to require and monitor compliance with the law and generally accepted business practices and standards.

SCHEDULE 5 – LIST OF CANADA / FNHA SUB-AGREEMENTS TO BE NEGOTIATED

Canada and the FNHA (for the purposes of this Schedule, the “parties”) shall enter into discussions immediately following the signing of this Agreement and the creation of the FNHA with the objective of entering into all further agreements necessary to effect and support the Transfer of Federal Health Programs and the implementation of this Agreement.

The Sub-Agreements will include those set out below and such other agreements as the parties may agree. The Sub-Agreements shall contain at least the terms set out below and such other terms and conditions as the parties agree and which are consistent with law. The Sub-Agreements may also be entered into simultaneously or over time to suit the pace of transfer as may be agreed by the FNHA and Canada.

1 - Human Resources

A human resources agreement or agreements to facilitate the hiring of HC/FNIH Regional Office staff by the FNHA in order to support a smooth transition of operations from Canada to the FNHA in respect of the Transfer of Federal Health Programs.

This agreement will set out provisions for, among other things, a reasonable job offer to full-time and part-time indeterminate employees as per the National Joint Council Work Force Adjustment Directive, where referenced in or incorporated into a collective agreement or a collective agreement itself contains comparable reasonable job offer provisions, or under the applicable Directive on Terms and Conditions of Employment as applicable to the employee.

2 – Health Benefits

A health benefits agreement to provide that the FNHA will design, plan, manage and deliver a health benefits program that replaces the NIHB Program and that includes the actions and commitments required for a smooth transition and to maintain continuity of health benefits services to clients. The health benefits agreement or agreements shall also include provision for:

- the health benefits program of the FNHA to cover all Status Indians who are residents of BC within the meaning of the BC Medical Services Plan, excluding persons who receive health benefits by way of another agreement with Canada;
- the provision by the FNHA of health benefits in the following category areas, in a manner designed by the FNHA that best serves the health needs of Status Indians resident in BC:
 - (a) pharmaceuticals;
 - (b) dental care services;
 - (c) vision care services;

- (d) medical transportation, and
- (e) medical supplies and equipment health benefits;
- HC and the FNHA to share information on eligible clients and other activities as necessary and in accordance with law in order to manage their respective responsibilities, and for the FNHA and British Columbia to work together to coordinate benefits; and
- the ability of the FNHA, as a transitional measure (and subject to HC obtaining the appropriate authority), to enter into an agreement with Canada whereby Canada would provide health benefits on behalf of the FNHA on a cost recovery basis agreed to by the parties.

3 - Records Transfer, Information Management and Information Sharing

A records transfer and information management and sharing agreement or agreements to facilitate the Transfer of Federal Health Programs. Such agreements shall be subject to and in accordance with applicable laws and privacy impact and threat risk assessments. Such agreements shall include provision for:

- prior to any Transfer of Federal Health Programs to the FNHA, the loan, provision of copies, transfer, or sharing of federal information and records to the FNHA that is consistent with federal legislation prior to the Transfer of Federal Health Programs to the FNHA;
- as part of the Transfer of Federal Health Programs to the FNHA, the loan, provision of copies or transfer of federal information and records to the FNHA and for the management of this information and records by the FNHA in accordance with applicable laws;
- the sharing of information between Canada and the FNHA of personal and non-personal information that is required for the purposes of this Agreement and or the provision of health services to First Nations by Canada and the FNHA in accordance with applicable laws; and
- the FNHA to develop the necessary administrative, technical and physical safeguards for ongoing housing and storage of records as set out in recommendations from Privacy Impact and Threat Risk Assessments prior to entering into the above agreements.

4 - Assets and Software

Asset, software and IP agreements for the assets used by the HC/FNIH Regional Office for the provision of Federal Health Programs and which are owned, leased or licensed by Canada. The parties shall identify and agree on all assets to be transferred (if transferable by Canada). Such transfers shall be subject to applicable laws including the *Financial Administration Act* (Canada) and the *Surplus Crown Assets Act* (Canada). Asset transfer agreements shall include provision for:

- the transfer of computer hardware and software and related supplies and equipment which the parties identify and agree to transfer and where transfer is permitted by applicable lease or licensing arrangements without significant cost or penalty to Canada. Canada will

continue to maintain and replace hardware and software according to established schedules until the effective date of transfer;

- the transfer of other assets including office furniture and supplies, fleet vehicles, and medical equipment located in nursing stations that the parties identify and agree to transfer which Canada can transfer without significant cost or penalty;
- Canada to maintain such assets in good condition, subject to normal usage, wear and tear during the period prior to and until the transfer of the assets to the FNHA. All transfers shall be on an “as is” and “where is” basis without warranty as to fitness. The FNHA shall be responsible for all such assets and their repair or replacement following transfer from Canada; and
- Canada shall remove any assets located in nursing stations or otherwise in buildings to be used by the FNHA which are not to be transferred to the FNHA.

5 - Accommodation

An accommodation agreement or agreements for the subletting or assumption by the FNHA of Crown-owned or leased office space currently occupied by the HC/FNIH Regional Office and used for the delivery of Federal Health Programs (“FNIH Office Space”) that the FNHA wishes to assume. Such agreements shall be in accordance with law and shall include provision for:

- the FNHA to be entitled to rent any Crown-owned FNIH Office Space at market rates (space and operating costs) for up to three years, subject to earlier termination within eighteen (18) months notice by either party;
- the FNHA to be entitled to sublet, where possible, any FNIH Office Space that is rented or leased by the Crown;
- consultation by Canada with the FNHA prior to Canada renewing, extending, terminating or otherwise changing an accommodation arrangement for any FNIH Office Space during the period between the signing of this Agreement and the completion of the Transfer of Federal Health Programs;
- leasing or subletting by Canada to the FNHA to be effected on an “as is” basis without warranty as to fitness. However, Canada shall make best efforts to provide the FNHA with information in its possession as soon as possible as to any known and material problems with any lease arrangements to be taken over by the FNHA in view of the likely use of the leased premises by the FNHA, such as pending rent increases or lease termination; and
- the FNHA to be responsible for the FNIH Office Space, and all necessary repairs and renovations, if any, following transfer of these premises to the FNHA via lease or subletting arrangements.

6 - Capital Planning / First Nations Health Facilities:

Agreement on the responsibilities associated with funding the construction, renovation, repair, operation and maintenance of First Nations health facilities including nursing stations, health centres, nurse residences and other health support facilities located on reserve or in or near First Nation communities. Such an agreement shall include provision for:

- the FNHA to develop a health facilities capital plan or planning process which, among other things will allocate resources for current and future facility needs;
- process and procedures of the FNHA to conduct audits of such health facilities for environmental and health and safety issues;
- Canada to provide a copy of the HC/FNIH Regional Office's existing capital plans and a complete list of all current capital contribution projects funded by Canada and associated Canada CA's; and
- Canada to provide the FNHA with a report on the status of any hazardous materials surveys or environmental site assessments completed at any First Nation health facilities, including any such surveys or assessments conducted, their results and any remediation processes funded or undertaken by Canada. In the event of any significant adverse findings in the report, the parties will meet to discuss the matter.

7 - Assignment or Termination of Canada CA's

Agreement between the parties, in respect of the Transfer of Federal Health Programs which involve the funding of First Nation Health Providers, for Canada to assign or novate affected Canada CA's with those providers to the FNHA that would otherwise be in effect on the date of such transfer. Where such assignments or novations are not possible, Canada shall terminate the affected Canada CA's on ninety (90) days notice, so that new contribution agreements can be concluded between the FNHA and First Nation Health Providers.