

ANISHNAABE GOVERNMENT  
AGREEMENT-IN-PRINCIPLE

UNITED ANISHNAABEG COUNCILS

CHIPPEWA • MISSISSAUGA • POTTAWATOMI

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**UNITED ANISHNAABEG COUNCILS GOVERNMENT  
AGREEMENT-IN-PRINCIPLE**

This Agreement-in-Principle on United Anishnaabeg Councils Government made

BETWEEN:

The Chippewa First Nations of Beausoleil, Georgina Island, and Mnjikaning, and the Mississauga First Nations of Alderville, Curve Lake, Hiawatha and Scugog Island, and the Pottawatomi First Nation of Moose Deer Point, as represented by the UNITED ANISHNAABEG COUNCILS, hereinafter referred to as the "First Nation"

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of Indian Affairs and Northern Development, hereinafter referred to as "Canada"

WHEREAS the First Nations are composed of aboriginal people within the meaning of section 35 of the *Constitution Act, 1982*;

AND WHEREAS the First Nations have a history of decision making, have a long standing relationship with the Crown and have entered into treaties or other arrangements with the Crown;

AND WHEREAS the provisions of this Agreement-in-Principle were negotiated in accordance with a government-to-government relationship within the framework of the Constitution of Canada.

NOW THEREFORE THE FIRST NATIONS AND CANADA AGREE AS FOLLOWS:

## PART 1 - DEFINITIONS

In this Agreement-in-Principle:

“Agreement-in-Principle” means this Agreement.

“Anishnaabemwin” means the aboriginal language of e-dbendaagzijig.

“Canada” or “Crown” means Her Majesty the Queen in Right of Canada.

“Conflict” means operational incompatibility between applicable laws.

“Congress” means the law-making body of a First Nation, established in accordance with gchi-naaknigewin and laws.

“Council” means gimaa and councillors of a First Nation, selected in accordance with gchi-naaknigewin and laws.

“Councillor” means a member of a First Nation Council, other than gimaa, selected in accordance with First Nation gchi-naaknigewin and laws.

“Dbaaknigewin” means a court with lawful authority to interpret and enforce laws and adjudicate disputes in accordance with section 5.11.

“E-dbaaknigejig” (plural) or “e-dbaakniged” (singular) means, respectively, members or member of dbaaknigewin.

“E-dbendaagzijig” (plural) or “e-dbendaagzid” (singular) means, respectively, people who belong or the person who belongs to a First Nation, and identifies and is identified with the land and e-naadziyang of that First Nation. E-dbendaagzijig and e-dbendaagzid are determined in accordance with gchi-naaknigewin and laws of a First Nation.

“E-naadziyang” means the culture, practices and customs of e-dbendaagzijig.

“Environment” for the purposes of section 5.7 means environment as defined in the *Canadian Environmental Assessment Act*.

“Environmental Effect” for the purposes of section 5.7 means environmental effect as defined in the *Canadian Environmental Assessment Act*.

“Final Agreement” means the agreement between Canada and the United Anishnaabeg Councils which will be based on this Agreement.

“First Nation” or “First Nations” means e-dbendaagzijig for whose use and benefit in common, lands the legal title to which is vested in Canada, have been set apart, and means any one of the following First Nations, its predecessor or successor:

Beausoleil First Nation,  
Chippewas of Georgina Island First Nation,  
Curve Lake First Nation,  
Hiawatha First Nation,  
Mississaugas of Alderville First Nation,  
Mississaugas of Scugog Island First Nation,  
Mnjikaning First Nation, and  
Moose Deer Point First Nation.

“First Nation land” means:

- (a) reserve, as defined by the Indian Act; and,
- (b) First Nation land, as defined in the *First Nations Land Management Act*; and,
- (c) lands that are declared by Canada to be set apart for the use and benefit of a First Nation.

“First Nation law” means a law made by the First Nation or the United Anishnaabeg Councils in accordance with the final Agreement.

“Fish” means:

- (a) a fish;
- (b) parts of fish;
- (c) shellfish, crustaceans, and any parts of shellfish or crustaceans; and,
- (d) the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish and crustaceans.

“Gchi-naaknigewin” means constitution.

“Gimaa” means the chief of a First Nation, selected in accordance with gchi-naaknigewin and laws.

“Grand Council” means the governing body of the United Anishnaabeg Councils, composed of gimaa or other First Nation representative selected in accordance with gchi-naaknigewin.

“Interest”, in relation to First Nation land, means any interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land.

“Licence”, in relation to First Nation land, means any right of use or occupation of First Nation land, other than an interest in that land.

"Minister" means the Minister of Indian Affairs and Northern Development.

"Ontario" means Her Majesty the Queen in Right of Ontario.

“Project” for the purposes of section 5.7 means project:

- (a) as defined in the *Canadian Environmental Assessment Act*; and,
- (b) any proposed physical activity not related to a physical work or within a class of physical work that is prescribed pursuant to the First Nation laws enacted in accordance with the final Agreement.

“Proponent” for the purposes of section 5.7 means the proponent as defined in the *Canadian Environmental Assessment Act*.

“Public Official” for the purpose of section 5.1 means a person selected by e-dbendaagzijig for the purposes of governing a First Nation.

“United Anishnaabeg Councils” means that government described in gchi-naaknigewin and set out in section 4.1 of this Agreement.

**PART 2 - PURPOSE**

- 2.0 The purpose of the final Agreement is to set out First Nation government arrangements and to set out certain aspects of the relations between the First Nation and Canada.



**PART 3 - LEGAL STATUS AND CAPACITY**

3.0 The First Nation and the United Anishnaabeg Councils are separate legal entities, each with the capacity, rights, powers and privileges of a natural person, such as to:

- (a) enter into all forms of agreements;
- (b) acquire, hold, sell or exchange real property, and any interest therein;
- (c) acquire, hold, expend, invest and borrow money and securities, or guarantee the repayment of money or securities;
- (d) carry on business;
- (e) sue, or be sued, in its own name; and,
- (f) do other things ancillary to its capacities, rights, powers, and privileges.

**PART 4 - STRUCTURES OF GOVERNMENT****4.0 FIRST NATION**

- 4.0.1 The authority of a First Nation rests with e-dbendaagzijig.
- 4.0.2 Each First Nation shall have gchi-naaknigewin.
- 4.0.3 E-dbendaagzijig may determine the powers and duties of their government in gchi-naaknigewin.
- 4.0.4 The First Nation shall exercise its governing authority through its council and congress which shall be selected in accordance with gchi-naaknigewin.
- 4.0.5 The council shall exercise executive powers, and the congress shall exercise legislative powers. The council shall exercise legislative powers until the congress is established.
- 4.0.6 Gchi-naaknigewin shall provide for, in addition to other specific provisions that may be found in the final Agreement:
- (a) the limits on the exercise of the powers and duties of the council and congress;
  - (b) the establishment, eligibility and method of selection of the council and congress;
  - (c) the procedure for amending gchi-naaknigewin;
  - (d) the procedure for making and publishing laws, and providing access to those laws to any person;
  - (e) public decision making;
  - (f) the system of reporting to e-dbendaagzijig, through which the council shall be financially accountable to them on a basis comparable to standards generally accepted for governments in Canada;
  - (g) the criteria for the determination of e-dbendaagzijig;

- (h) a mechanism for reviewing decisions on the determination of e-dbendaagzijig;
- (i) the rules and procedures required for the delegation of law-making authority to;
  - (i) the United Anishnaabeg Councils; and,
  - (ii) any other entity that has entered into a self-government arrangement with Canada.
- (j) rules and procedures required for the delegation of authority other than law-making authorities to an entity responsible to e-dbendaagzijig and established to carry out governmental functions;
- (k) the eligibility and method of selection of its representative on the grand council;
- (l) the legal description of the First Nation land;
- (m) the land code that shall set out the rules, regulations and procedures with respect to the development, conservation, protection, management, use and possession of First Nation land;
- (n) procedural and administrative matters related to the establishment of dbaaknigewin;
- (o) rules to address conflict of interest of public officials; and,
- (p) any other matter of importance.

## 4.0.7

In relation to the breakdown of a marriage as it affects First Nation land:

- (a) a First Nation shall establish a community process to develop rules and procedures, applicable on the breakdown of a marriage, to the use, occupancy and possession of First Nation land and the division of interests in that land;
- (b) for greater certainty, the rules and procedures referred to in clause (a) shall not discriminate on the basis of gender; and,
- (c) any dispute between Canada and a First Nation in respect of this section shall be subject to Dispute Resolution as set out in the final Agreement.

4.1 **UNITED ANISHNAABEG COUNCILS**

- 4.1.1 The authority of the United Anishnaabeg Councils rests with e-dbendaagzijig.
- 4.1.2 The United Anishnaabeg Councils shall have gchi-naaknigewin.
- 4.1.3 E-dbendaagzijig may determine the powers and duties of the United Anishnaabeg Councils in gchi-naaknigewin.
- 4.1.4 The United Anishnaabeg Councils shall exercise its authority through the grand council.
- 4.1.5 The United Anishnaabeg Councils shall exercise only law-making authority or other authority delegated or authorized by a First Nation according to gchi-naaknigewin.
- 4.1.6 Any authority of the United Anishnaabeg Councils shall be exercised by the grand council as provided in gchi-naaknigewin.
- 4.1.7 The grand council may appoint an executive as provided in gchi-naaknigewin.
- 4.1.8 Gchi-naaknigewin shall provide for:
- (a) the administration, operation and internal management of the United Anishnaabeg Councils;
  - (b) rules to address conflict of interest of public officials;
  - (c) the procedure by which gchi-naaknigewin may be amended;
  - (d) the procedures for making and publishing any laws, and providing access to those laws to any person;
  - (e) the system of reporting, including financial accountability, through which the United Anishnaabeg Councils shall be accountable to First Nation and e-dbendaagzijig on a basis comparable to standards generally accepted for governments in Canada;
  - (f) procedural and administrative matters related to the establishment of the dbaaknigewin; and,
  - (g) any other matter of importance.

4.2 **GENERAL**

4.2.1 The final Agreement shall clarify the structure of government of the First Nation.

## **PART 5 - LAW-MAKING AUTHORITY**

### **5.0 EXERCISE OF LAW-MAKING AUTHORITY**

5.0.1 The exercise of law-making authority by the First Nation shall be in accordance with gchi-naaknigewin and the final Agreement.

5.0.2 Under this Part, the First Nation laws may:

- (a) provide for the creation of offences and for the imposition of penalties, including fines, restitution and imprisonment for the violation of First Nation laws, within the monetary and temporal limits set forth for summary conviction offences in the Criminal Code of Canada; and,
- (b) provide for the use of alternative sentencing and diversion, including community service orders, for the violation of First Nation laws.

5.0.3 The First Nation may make laws or do such other things as may be necessarily incidental to the exercise of their law-making authority or to enable the First Nation to carry out their responsibilities pursuant to the final Agreement.

5.0.4 The First Nation may delegate the authority to make laws to:

- (a) the United Anishnaabeg Councils; and,
- (b) any other entity that has entered into a self-government arrangement with Canada.

5.1 **SELECTION OF PUBLIC OFFICIALS**

5.1.1 The First Nation may make laws with respect to the selection of public officials.

5.1.2 Public officials selected by e-dbendaagzijig shall have immunity from:

- (a) personal liability for actions of the First Nation and United Anishnaabeg Councils governments; and,
- (b) personal liability for actions carried out in the course of their duties, absent dishonesty, gross negligence, or malicious or wilful misconduct.

5.1.3 In the event of a conflict between First Nation laws made pursuant to section 5.1 and federal laws, First Nation laws shall prevail to the extent of the conflict.

5.2 **E-DBENDAAGZIIG**

5.2.1 The First Nation may make laws with respect to e-dbendaagzijig.

5.2.2 E-dbendaagzijig shall be named on the First Nation list and such list shall include:

- (a) a person whose name is on a Band List maintained by a First Nation or the Registrar as defined by the *Indian Act* immediately prior to the coming into force of the final Agreement; and,
- (b) a person who is entitled to have his or her name appear on a band list noted in clause 5.2.2(a).

5.2.3 For greater certainty, a First Nation law with respect to e-dbendaagzijig may not deprive any person, who had the right to have his or her name entered on a Band List maintained in accordance with the *Indian Act* prior to the coming into force of the final Agreement and the First Nation laws, of the right to have his or her name so entered by reason only of a situation that existed or an action taken before the law came into force.

5.2.4 The *Canadian Citizenship and Immigration Acts* and any other federal legislation containing provisions dealing with citizenship and immigration shall continue to apply on First Nation land and in the event of conflict with First Nation laws, shall prevail.

5.2.5 Subject to clause 5.2.4, in the event of a conflict between First Nation laws made pursuant to section 5.2 and federal laws, First Nation laws shall prevail to the extent of the conflict.



5.3 **E-NAADZIYANG AND ANISHNAABEMWIN**

- 5.3.1 The First Nation may make laws with respect to e-naadziyang and anishnaabemwin on First Nation land.
- 5.3.2 Services provided by a federal institution, as defined in the *Official Languages Act*, shall be provided in accordance with that Act.
- 5.3.3 For greater certainty, the *Official Languages Act* does not apply to any First Nation, council, congress, grand council or other body established to perform a governmental function in relation to a First Nation or other group of aboriginal people.
- 5.3.4 Subject to 5.3.2, in the event of a conflict between First Nation laws made pursuant to section 5.3 and federal laws, First Nation laws shall prevail to the extent of the conflict.

5.4 **EDUCATION**

5.4.1 The First Nation may make laws with respect to primary and secondary education on First Nation land for e-dbendaagzijig.

5.4.2 The First Nation education system shall be designed to permit transfers between education systems without academic penalty to the same extent as transfers are effected between other education jurisdictions in Canada.

5.4.3 In the event of a conflict between First Nation laws made pursuant to section 5.4 and federal laws, First Nation laws shall prevail to the extent of the conflict.

5.5 **LAND**

5.5.1 **Law-Making Authority**

5.5.1.1 The First Nation may make laws with respect to the development, conservation, protection, management, use, possession, and disposition of First Nation land.

5.5.2 **Rights, Powers, Privileges and Authority**

5.5.2.1 Subject to the provisions of the final Agreement, the First Nation has:

- (a) all the rights, powers and privileges of an owner in relation to First Nation land; and,
- (b) the authority to grant interests and licences in relation to First Nation land, and to manage its natural resources.

5.5.3 **Assets**

5.5.3.1 Fixed assets of Canada on First Nation land shall be transferred to the First Nation subject to the provisions of the final Agreement and the Implementation Agreement.

5.5.4 **Revenues**

5.5.4.1 Revenues, royalties, profits and fees in respect of First Nation land shall be managed by the First Nation for the use and benefit of e-dbendaagzijig.

5.5.4.2 The First Nation has the right to receive and use all moneys acquired by or on behalf of the First Nation in accordance with gchi-naaknigewin.

5.5.5 **Title to and Protection of First Nation Land**

5.5.5.1 Title to First Nation land shall continue to be held by Canada for the use and benefit of the First Nation.

5.5.5.2 First Nation land shall continue to be lands reserved for Indians within the meaning of section 91(24) of the *Constitution Act, 1867*.

5.5.5.3 First Nation land shall not be sold, but First Nation land may be exchanged or conveyed in accordance with clauses 5.5.6.1 to 5.5.6.9.

- 5.5.5.4 Existing third-party interests and licences in First Nation land, that is, interests and licences other than those of e-dbendaagzijig, shall, at the time the final Agreement comes into force, continue in force according to their terms and conditions.
- 5.5.5.5 Despite clause 5.5.5.4 any rights of e-dbendaagzid, in lawful possession of land as defined under the *Indian Act*, to transfer or lease those rights and to share in revenues generated by such rights shall be set out in gchi-naaknigewin or First Nation laws.
- 5.5.5.6 When the final Agreement takes effect, no interest or licence in relation to First Nation land may be acquired or granted except in accordance with gchi-naaknigewin or First Nation laws.
- 5.5.6 **Voluntary Exchange of First Nation Land**
- 5.5.6.1 The First Nation may exchange a parcel of First Nation land for another parcel of land, on the condition that the other parcel of land becomes First Nation land. A land exchange may provide for additional compensation, including land that may not become First Nation land, and may be subject to other terms and conditions.
- 5.5.6.2 Any exchange of First Nation land shall require approval by e-dbendaagzijig in accordance with the process established in First Nation gchi-naaknigewin.
- 5.5.6.3 First Nation land shall only be exchanged for land that Canada consents to set apart as First Nation land. In addition, the agreement of Canada shall be required on the technical aspects of the exchange.
- 5.5.6.4 Where an exchange of First Nation land is approved by a First Nation, the First Nation may execute an authorization and direction to Canada to transfer title to the land.
- 5.5.6.5 Further to clause 5.5.6.4, Canada shall transfer title to the land in accordance with the First Nation authorization and direction and the applicable terms and conditions of the exchange.
- 5.5.6.6 Canada may effect the exchange of land in complete reliance on the authorization and direction, and, without limiting the generality of the foregoing, Canada is under no obligation to:

- (a) look into the procedures used by the First Nation leading to the issuance of the authorization and direction;
- (b) look into the adequacy of consideration agreed to by the First Nation; or,
- (c) consider whether it is in the interests of the First Nation to effect the exchange.

5.5.6.7 A copy of the instrument transferring title to First Nation land shall be registered in the First Nation land register.

5.5.6.8 Land received in exchange for First Nation land shall become both a reserve and First Nation land as of the date of the exchange, or such later date as the First Nation may specify. This does not apply to land that is received by the First Nation as additional compensation and that is not intended to become First Nation land.

5.5.6.9 Where an exchange of First Nation land is approved by a First Nation in accordance with gchi-naaknigewin, the description of First Nation land in gchi-naaknigewin shall be deemed to be amended to delete the description of the First Nation land that was exchanged and amended to add the description of the land received in exchange.

#### 5.5.7 **Immunity from Seizure**

- 5.5.7.1
- (a) First Nation land is not subject to seizure under legal process.
  - (b) The real and personal property of e-dbendaagzid or a First Nation situated on First Nation land is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution in favour or at the instance of any person other than e-dbendaagzid or a First Nation.
  - (c) A person who sells to a First Nation or e-dbendaagzid a chattel under an agreement whereby the right of property or right of possession thereto remains wholly or in part in the seller, may exercise those rights under the agreement notwithstanding that the chattel is situated on First Nation land.

5.5.7.2 A leasehold interest in First Nation land that was designated before the final Agreement is in effect, is subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution.

5.5.7.3 First Nation gchi-naaknigewin may provide that other leasehold interests in any of the First Nation land are subject to charge, pledge, mortgage, attachment, levy, seizure, distress and execution.

5.5.8 **Expropriation by a First Nation**

5.5.8.1 Based on the principle of fair compensation, a First Nation may expropriate interests in its First Nation land if deemed by the First Nation as necessary for community works or other First Nation purposes.

5.5.8.2 A First Nation's power of expropriation shall be exercised in accordance with the rules and procedures specified in its gchi-naaknigewin and laws, which shall include a mechanism to resolve disputes over compensation for expropriation.

5.5.8.3 Any interest in First Nation land that was obtained pursuant to section 35 of the *Indian Act* or any interest that has been acquired by Canada, or that is acquired after the final Agreement comes into force by Canada in accordance with the final Agreement, is not subject to First Nation expropriation.

5.5.9 **Expropriation by Canada**

5.5.9.1 It is of fundamental importance to maintain the amount and integrity of First Nation land, and Canada agrees that, as a general principle, First Nation land shall not be expropriated.

5.5.9.2 Notwithstanding clause 5.5.9.1, First Nation land may be expropriated only by Canada with the consent of the Governor in Council; and, only by and for the use of a federal department or agency.

5.5.9.3 The Governor in Council shall only consent to an expropriation of First Nation land if the expropriation is justifiable and necessary for a federal public purpose that serves the national interest.

5.5.9.4 When making a decision to expropriate First Nation land, the Governor in Council, in addition to other steps that may be required before making such a decision, shall at a minimum follow these steps:

- (a) consider using means other than expropriation and shall use those other means where reasonably feasible;

- (b) use non-First Nation land, where such land is reasonably available;
- (c) make reasonable efforts to acquire the land through agreement with the First Nation, rather than expropriation;
- (d) expropriate only the smallest interest necessary and for the shortest time required; and,
- (e) provide the First Nation with information relevant to the expropriation.

5.5.9.5 Prior to the Governor in Council consenting to the expropriation of First Nation land, Canada shall make public a report on the reasons justifying the expropriation and steps taken in satisfaction of clauses 5.5.9.2 to 5.5.9.4.

5.5.9.6 Where a First Nation objects to a proposed expropriation then it may refer the issue for a neutral evaluation under Dispute Resolution of the final Agreement within 60 days of receiving a copy of the report referred to in clause 5.5.9.5.

5.5.9.7 An order of the Governor in Council consenting to the expropriation shall not be issued earlier than:

- (a) the end of the 60 day period referred to in clause 5.5.9.6; and,
- (b) the day the opinion or recommendation of an independent third party is released, where the First Nation referred the proposed expropriation to a neutral evaluator under clause 5.5.9.6.

#### 5.5.10 **Compensation by Canada**

5.5.10.1 In the event of the expropriation of First Nation land, Canada shall provide compensation to the First Nation.

5.5.10.2 The compensation shall include alternate land of equal or greater size or of comparable value. If the alternate land is of less than comparable value, then additional compensation shall be provided. The alternate land may be smaller than the land being expropriated only if that does not result in the First Nation having less land area than when it adopted gchi-naaknigewin.

5.5.10.3 The total value of the compensation provided by Canada shall be based on the combined total of:

- (a) the market value of the land or interest that is acquired;
- (b) the replacement value of any improvement to the land that is acquired;
- (c) the damages attributable to the disturbance;
- (d) the value of any special economic advantage arising out of or incidental to the occupation or use of the affected First Nation land to the extent that this value is not otherwise compensated;
- (e) damages for any reduction in the value of a remaining interest; and,
- (f) damages for any adverse effect on any cultural or other special value of the land.

5.5.10.4 If the nature or value of the compensation cannot be agreed upon by the First Nation and Canada then either party may refer the issue to arbitration under Dispute Resolution.

5.5.10.5 Any claim or encumbrance in respect of the interest expropriated by Canada may only be claimed against the amount of compensation that is otherwise payable to the person or entity whose interest is being expropriated.

5.5.10.6 Interest on the compensation is payable from the date the expropriation takes effect, at the same rate as for prejudgment interest in the superior court of Ontario.

5.5.11 **Status of Expropriated First Nation Land**

5.5.11.1 Where less than the full interest of a First Nation in its First Nation land is expropriated by Canada:

- (a) the land retains its status as First Nation land;
- (b) the land remains subject to gchi-naaknigewin and to any First Nation law that is otherwise applicable, except to the extent gchi-naaknigewin or the First Nation law is inconsistent with the expropriation; and,
- (c) the First Nation may continue to use and occupy the land, except to the extent the use or occupation is inconsistent with the expropriation.

5.5.11.2 Alternate lands accepted by a First Nation as part of the compensation shall be set apart by Canada as First Nation land.



5.5.12 **Reversion or Return of Interest in First Nation Land**

5.5.12.1 Where an expropriated interest in First Nation land, which is less than the full interest of the First Nation in the land, is no longer required by Canada for the purpose for which it was expropriated, the interest in land shall revert to the First Nation.

5.5.12.2 Where the full interest of a First Nation in its First Nation land was expropriated, but is no longer required by Canada for the purpose for which it was expropriated, the land shall be returned to the First Nation on terms negotiated by the First Nation and Canada at the time of the expropriation or at a later date as agreed to by the parties.

5.5.12.3 Where the terms and conditions of the return cannot be agreed upon by the First Nation and Canada then either party may refer the issue to arbitration under Dispute Resolution.

5.5.12.4 The minister responsible for the expropriating federal department or agency, without the consent of the Governor in Council, may decide that the land is no longer required and determine the disposition of any improvements.

5.5.13 **Application of the Federal Expropriation Act**

5.5.13.1 Any provisions of the *Expropriation Act* (Canada) that are applicable to an expropriation of First Nation land by Canada shall continue to apply unless inconsistent with the final Agreement.

5.5.14 **Liability**

5.5.14.1 A First Nation shall not be liable for acts or omissions of Canada or any person authorized by Canada to act in relation to its First Nation land, that occurred before the final Agreement takes effect.

5.5.14.2 Canada shall not be liable for acts or omissions of the First Nation or any person authorized by the First Nation to act in relation to its First Nation land, that occur after the final Agreement takes effect.

5.5.14.3 Canada shall indemnify a First Nation for any loss arising from any acts or

omissions by Canada, or any person or entity acting on behalf of Canada in respect of First Nation land, that occurred before the final Agreement takes effect.

5.5.14.4 A First Nation shall indemnify Canada for any loss arising from any acts or omissions by a First Nation, or any person or entity acting on behalf of a First Nation in respect of First Nation land, that occur after the final Agreement takes effect.

5.5.15 **First Nation Land Register**

5.5.15.1 Until such time as the First Nation exercises the jurisdiction to establish a land register at least equivalent to the sub-register of the Reserve Land Register, interests in First Nation land are to be registered in a register as a sub-register of the Reserve Land Register.

5.5.15.2 A separate register shall be maintained for each First Nation.

5.5.15.3 The Governor in Council shall be authorized to make regulations respecting the First Nation land register, which are in form and substance the same as the regulations made under the *First Nations Land Management Act*.

5.5.16 **Laws**

5.5.16.1 Notwithstanding any other provision of the final Agreement, the *Canadian Environmental Protection Act* and any other federal legislation containing provisions dealing with environmental protection shall apply to and prevail on First Nation land.

5.5.16.2 Subject to clauses 5.5.16.1 and 5.6.5, in the event of a conflict between First Nation laws made pursuant to section 5.5 and federal laws, First Nation laws shall prevail to the extent of the conflict.

5.6 **NATURAL RESOURCES**

- 5.6.1 The First Nation may make laws with respect to natural resources, both renewable and non-renewable, and respecting the preservation, protection, use, management, development and control of those natural resources, to the extent that these resources are under the jurisdiction of Canada and are part of First Nation land.
- 5.6.2 Without limiting the generality of clause 5.6.1, a First Nation may exercise its authority in relation to the following kinds of activities relating to natural resources, to the extent that these resources are under the jurisdiction of Canada and are part of First Nation land, including:
- (a) the development of an inventory and natural resource use plan, with provisions for harvesting rights and responsibilities;
  - (b) the disposition of rights and interests in natural resources;
  - (c) subject to clause 5.6.5, the preservation harvesting renewal and management of wildlife, including game, birds, fur bearing animals and their natural habitat;
  - (d) the preservation, harvesting and management of forest resources; and,
  - (e) the management, exploration, exploitation, development and disposition of the surface and sub-surface resources.
- 5.6.3 Nothing in the final Agreement provides law-making authority to either party, nor shall affect or extend any rights of either party, related to fish or fish habitat or navigable waters.
- 5.6.4 Federal legislation enacting international agreements including the *Migratory Birds Convention Act*, federal legislation over prospecting for uranium mining, refining and handling; and, federal legislation relating to endangered species or setting out obligations with respect to the collection of statistics and reporting of natural resources in Canada shall prevail in the event of conflict with First Nation laws to the extent of the conflict.
- 5.6.5 Subject to clauses 5.5.16.1 and 5.6.4, in the event of a conflict between First Nation laws made pursuant to section 5.6 and federal laws, First Nation laws prevail to the extent of the conflict.

5.7 **ENVIRONMENTAL ASSESSMENT**

- 5.7.1 The First Nation may make laws with respect to environmental assessment on First Nation land.
- 5.7.2 The First Nation environmental assessment process shall provide that all projects subject to an environmental assessment as determined under the laws made in accordance with clause 5.7.1, cannot be authorized until an environmental assessment is conducted and the proper authorization is obtained by the proponent.
- 5.7.3 Any laws made in accordance with clause 5.7.1 establishing an environmental assessment process shall maintain or exceed the requirements of the *Canadian Environmental Assessment Act*.
- 5.7.4 First Nation laws with respect to environmental assessment shall provide for a determination of projects on First Nation land that are subject to an environmental assessment, provided that such a determination does not lead to the exclusion of projects that would otherwise be subject to an environmental assessment under the *Canadian Environmental Assessment Act*.
- 5.7.5 The First Nation environmental assessment process shall be structured to promote the implementation of the proponent pays principle, which establishes that proponents are responsible for costs associated with the environmental assessment process including the preparation of the environmental impact statement, mitigation measures, follow-up programs and public consultation.
- 5.7.6 For greater certainty, the First Nation environmental assessment process shall provide:
- (a) that the following factors are taken into consideration in the environmental assessment process:
    - i. the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or shall be carried out;
    - ii. the significance of the environmental effects;

- iii. comments received from the public in accordance with laws made in accordance with clause 5.7.1;
  - iv. measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project; and,
  - v. where projects are likely to have significant adverse environmental effects, provide for the consideration of the following additional factors:
    - o the purpose of the project;
    - o alternative means of carrying out the project that are technically feasible and the environmental effects of any such alternative means;
    - o the need for, and the requirements of, any follow-up program in respect of the project; and,
    - o the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future.
- (b) an opportunity for public participation and public access to the environmental assessment information;
  - (c) an opportunity for a full public review where a project is likely to have significant adverse environmental effects; and,
  - (d) for a requirement that decision makers take the environmental assessment report, and where applicable the implementation of the mitigation measures, into consideration prior to taking any action or making any decision that would enable the project to be carried out in whole or in part.

5.7.7 The First Nation shall enact laws in accordance with clause 5.7.1 within 90 days, or such further time as the parties may agree to, after the First Nation exercises law-making authority with respect to First Nation land.

- 5.7.8 The parties agree that appropriate measures shall be taken in order to avoid unnecessary overlap and duplication in the conduct of the environmental assessment where a project on the First Nation land is subject to more than one environmental assessment process. Efforts to harmonize environmental assessment requirements shall be premised on the objective of achieving a single environmental assessment per project, resulting in increased certainty, accountability and predictability in environmental assessment.
- 5.7.9 Until the First Nation makes laws pursuant to clause 5.7.1, the First Nation shall ensure that:
- (a) projects on First Nation land that would otherwise be subject to an environmental assessment under the *Canadian Environmental Assessment Act* are assessed before they are authorized by the First Nation;
  - (b) the environmental assessment reflects those elements contained in paragraphs 5.7.6 (a), (b), (c) and (d);
  - (c) proposed projects that are likely to have significant adverse effects are not authorized before they are subject to public review; and,
  - (d) where a project is subject to public review, the factors outlined in paragraph 5.7.6 (a) are taken into consideration and the public shall be given full opportunity to participate in the review.
- 5.7.10 The *Canadian Environmental Assessment Act* shall continue to apply on First Nation land subject to any agreement that may be reached pursuant to clause 5.7.8.
- 5.7.11 In the event of a conflict between First Nation laws made pursuant to section 5.7 and federal laws, federal laws shall prevail to the extent of the conflict.

5.8 **PUBLIC WORKS AND INFRASTRUCTURE**

- 5.8.1 Subject to clause 5.8.4, the First Nation may make laws with respect to public works and community infrastructure on First Nation land.
- 5.8.2 Law-making authority shall extend over the design, construction, renovation, acquisition, operation and maintenance of facilities, networks or structures related to, among other things:
- (a) water and sanitation systems;
  - (b) waste disposal;
  - (c) energy supply and distribution;
  - (d) fire protection;
  - (e) transportation infrastructure; and,
  - (f) community services.
- 5.8.3 The First Nation may enter into agreements with any other government, public agency, or private corporation for the planning and/or delivery or any other aspect of public works and infrastructure.
- 5.8.4 First Nation codes, regulations, standards and policies in respect of public works and infrastructure on First Nation land shall meet or exceed federal or provincial standards.
- 5.8.5 In the event of a conflict between First Nation laws made pursuant to section 5.8 and federal laws, First Nation laws shall prevail to the extent of the conflict.

5.9 **TRAFFIC AND TRANSPORTATION**

5.9.1 The First Nation may make laws with respect to traffic and transportation on First Nation land.

5.9.2 First Nation laws which provide for health and safety standards and technical codes regarding traffic or transportation shall have at least equivalent effect to those health and safety standards and technical codes generally prevailing in Ontario.

5.9.3 In the event of a conflict between First Nation laws made pursuant to section 5.9 and federal laws, federal laws shall prevail in relation to transportation, and First Nation laws shall prevail in relation to control or prohibition, and operation and use of vehicles on First Nation land.



5.10 **ECONOMIC DEVELOPMENT AND OPERATION OF BUSINESS**

5.10.1 The First Nation may make laws with respect to First Nation economic development and business on First Nation land, to the extent of the law-making authorities set out in the final Agreement, including:

- (a) institutions to increase opportunity for economic development on First Nation land and to enhance the growth of earned income and employment opportunities on First Nation land;
- (b) regulation, licensing and prohibition of the operation of business; and,
- (c) establishment and operation of affirmative action initiatives.

5.10.2 If there is a conflict between the provisions of federal laws with respect to economic development and the provision of laws pursuant to law-making authorities set out in the final Agreement, the parties shall attempt to resolve the conflict in the prescribed manner as set out in the relevant part of the final Agreement.

## 5.11 **ADMINISTRATION OF JUSTICE**

### 5.11.1 **General**

5.11.1.1 The First Nation may make laws with respect to the constitution, maintenance and organization of dbaaknigewin for the administration of First Nation laws.

5.11.1.2 Dbaaknigewin may exercise all the powers and perform all the duties conferred on it by gchi-naaknigewin or under a First Nation law, and in particular may adjudicate in respect of:

- (a) review, as set out in gchi-naaknigewin, of decisions of any executive or administrative institutions of First Nation government;
- (b) offences established under First Nation laws; and,
- (c) disputes between e-dbendaagzijig or between e-dbendaagzijig and First Nation government institutions with the consent of all the parties to the dispute.

### 5.11.2 **Appeals of Decisions of Dbaaknigewin**

5.11.2.1 A decision of dbaaknigewin made pursuant to clause 5.11.1.2(a) may be taken to the Federal Court (Trial Division) for judicial review as set out in section 18.1 of the *Federal Court Act*.

5.11.2.2 An appeal from a decision of dbaaknigewin in respect of offences established in First Nation laws pursuant to paragraph 5.11.1.2(b) may be taken to the Ontario Court (General Division) on the same basis as summary conviction appeals pursuant to the *Criminal Code of Canada*.

5.11.2.3 Dbaaknigewin shall have the authority to establish its own rules of procedure, having due regard for the principles of natural justice and procedural fairness.

### 5.11.3 **First Nations Policing Agreements**

5.11.3.1 Nothing in the final Agreement affects any First Nation policing agreement or arrangement that has been or may be entered into for the enforcement of First Nation, federal or provincial laws on First Nation land.

5.11.4 **Enforcement**

5.11.4.1 The First Nation may make laws with respect to the appointment of persons, who are not police officers, to enforce First Nation laws. A First Nation law may authorize persons who are First Nations police officers to enforce First Nation laws under the agreements or arrangements cited in clause 5.11.3.1.

5.11.4.2 The summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences created under First Nation laws.

5.11.5 **Appointment of E-dbaaknigejig**

5.11.5.1 The United Anishnaabeg Councils shall appoint e-dbaaknigejig in accordance with gchi-naaknigewin.

5.11.5.2 United Anishnaabeg Councils gchi-naaknigewin shall provide for the independence of any e-dbaakniged appointed and, more particularly, shall ensure that the following matters reflect that independence:

- (a) security of tenure;
- (b) financial security; and,
- (c) institutional independence.

5.11.5.3 The First Nation and Canada may enter into an agreement for the appointment, training, supervision and administrative support for any e-dbaakniged appointed in accordance with this section. Ontario shall be invited to be a party to the negotiation of such an agreement.

5.11.5.4 For the purpose of prosecuting offences under First Nation laws, the First Nation may retain its own prosecutor.

5.11.5.5 Until such time as e-dbaakniged is appointed to dbaaknigewin, First Nation laws shall be enforced by a court with lawful authority to interpret and enforce laws and adjudicate disputes in accordance with section 5.11.

5.11.5.6 The First Nation may enter into an agreement with Ontario for the use of the Ontario court system and related services.

5.11.5.7 In the event of a conflict between First Nation laws made pursuant to section 5.11 and federal laws, First Nation laws shall prevail to the extent of the conflict.

5.12 **TAXATION**

5.12.1 **Law-Making Authority**

5.12.1.1 From time to time, Canada and the First Nation may negotiate and attempt to reach agreement on:

- (a) the extent to which Canada shall provide the First Nation direct taxation authority over persons on First Nation land;
- (b) the manner in which First Nation taxation shall be coordinated with the existing federal taxation system, including the extent, if any, to which Canada may agree to vacate federal tax room; and,
- (c) such other matters as may be agreed upon between Canada and a First Nation relating to taxation matters.

5.12.1.2 Further to clause 5.12.1.1, the First Nation may make laws with respect to implementation of any taxation agreement entered into between it and Canada.

5.12.1.3 Any laws enacted by the First Nation shall be subject to the relevant obligations of Canada under international treaties, conventions and protocols respecting taxation.

5.13 **PUBLIC ORDER, PEACE AND SAFETY**

5.13.1 The First Nation may make laws with respect to the control or prohibition of any actions, activities or undertakings on First Nation land that constitute, or may constitute, a threat to public order, peace or safety or a danger to public health.

5.13.2 In the event of a conflict between First Nation laws made pursuant to section 5.13 and federal laws, federal laws shall prevail to the extent of the conflict.

5.14 **FUTURE DISCUSSIONS**

5.14.1 Canada shall participate in discussions with the First Nation and Ontario, with respect to the following subject areas to the extent that these subject areas are not provided for in any other provision of the final Agreement:

- (a) administration of justice;
- (b) agriculture;
- (c) communications;
- (d) education;
- (e) emergency preparedness and emergency response;
- (f) environmental protection;
- (g) fish and fish habitat;
- (h) gaming;
- (i) health;
- (j) labour relations;
- (k) social services;
- (l) training; and,
- (m) wills and estates.

5.14.2 Discussions shall be conducted in accordance with an agreed upon process between Canada, First Nations and Ontario.

5.14.3 Indian status shall be considered at a future date in a context of change of Canada policy or legislation.

**PART 6 - CAPITAL AND REVENUE MONEYS**

- 6.1 Once the federal legislation and First Nation gchi-naaknigewin are in effect, all capital and revenue moneys collected, received or held by Canada for the use and benefit of the First Nation before that date shall cease to be Indian moneys under the *Indian Act* and shall be transferred by Canada to the First Nation.
- 6.2 Canada shall not thereafter be responsible for the collection or management of capital and revenue moneys payable to or for the benefit of the First Nation except as may be expressly provided in the Implementation Agreement.
- 6.3 Canada shall be liable for any errors or omissions that occurred while the capital and revenue moneys were under Canada's administration.
- 6.4 Canada shall not be liable for any errors or omissions in the administration of capital and revenue moneys held for the use and benefit of the First Nation that occur subsequent to the transfer of capital and revenue moneys from Canada to the First Nation.

## PART 7 - APPLICATION OF LAWS

- 7.1 Except as expressly provided for in the final Agreement, federal laws continue to apply to the First Nation and First Nation land, including all persons residing or present on First Nation land.
- 7.2 The specific rules set out in Part 5 for resolving conflicts between First Nation laws and federal laws are subject to the final Agreement, which shall set out general rules to resolve conflicts and to clarify the relationship between and application of First Nation laws and federal laws.
- 7.3 Further to clause 7.2, the final Agreement shall address indirect First Nation law-making authority over matters not dealt with in the final Agreement and laws of overriding national importance.
- 7.4 The parties shall address in the final Agreement the application of provincial laws and the possible continuation of section 88 of the *Indian Act*.
- 7.5 **APPLICATION OF INDIAN ACT**
- 7.5.1 On the coming into force of gchi-naaknigewin the *Indian Act* no longer applies except:
- (a) Sections 5 to 7;
  - (b) Sections 14.1, 14.2 and 14.3 as they apply to the Indian Register;
  - (c) Sections 73(1)(f), (g) and (h) and section 73(2);
  - (d) Sections 42 to 52.5;
  - (e) Sections 83(1)(a), (e), (e.1), (f), (g) and 83(3), (4), (5), (6); and,
  - (f) Sections 87 and 90.
- 7.5.2 Section 88 of the *Indian Act* shall continue to apply to those *Indian Act* provisions set out in clause 7.5.1. (a), (b), (c), (d), (e) and (f).



7.6 **CONTINUING EFFECT OF EXISTING BY-LAWS**

7.6.1 Where a band by-law made pursuant to the *Indian Act* is in force immediately before the coming into force of the final Agreement and federal legislation enacted to implement it, any such by-law shall:

- (a) be deemed to be a law of the successor First Nation where the provisions of the by-law could be enacted as a law of a First Nation according to the terms of the final Agreement; and,
- (b) continue to be a by-law made under the *Indian Act* and enforceable as such where the provisions of the by-law could not be enacted as a law of the First Nation according to the terms of the final Agreement, but such by-law may only be amended and repealed according to the law-making processes of the First Nation established under its *gchi-naaknigewin* and laws.

7.7 **INDIAN OIL AND GAS ACT**

7.7.1 The *Indian Oil and Gas Act* and regulations made thereunder shall not apply to the First Nation upon the coming into force of the final Agreement and federal legislation enacted to implement it.

**PART 8 - TRANSITIONAL PROVISIONS**

- 8.1 The parties shall negotiate transitional provisions from the *Indian Act* to First Nation government to be set out in the final Agreement and the Implementation Agreement.

**PART 9 - GENERAL PROVISIONS**

- 9.1 The final Agreement is not a treaty.
- 9.2 Nothing in the final Agreement shall be construed so as to abrogate or derogate from any aboriginal or treaty rights of the First Nation or e-dbendaagzijig, including any right of First Nation government, recognized and affirmed by section 35 of the *Constitution Act, 1982*.
- 9.3 Nothing in the final Agreement shall affect the ability of the First Nation or e-dbendaagzijig to enjoy or exercise any existing or future constitutional rights of aboriginal peoples of Canada, or to benefit from any other arrangements or agreements that may be applicable.
- 9.4 The recitals shall form part of the final Agreement.
- 9.5 The parties shall use good faith in the implementation of the final Agreement.
- 9.6 The parties may agree to enter negotiations for the exercise of First Nation authority or jurisdiction on federal lands.
- 9.7 E-dbendaagzijig who are Canadian citizens, or permanent residents of Canada as defined in the *Canadian Citizenship and Immigration Acts*, shall continue to be entitled to all the rights and benefits of all other Canadian citizens or permanent residents of Canada.
- 9.8 Nothing in the final Agreement affects any existing or future administrative arrangements specific to any of the First Nation concerning the delivery of services to e-dbendaagzijig not resident on First Nation land.
- 9.9 The First Nation and e-dbendaagzijig shall be eligible to participate in and benefit from federal programs or federally-sponsored government programs in accordance with general criteria established from time to time, to the extent that there is no duplication of First Nation program responsibility.
- 9.10 Nothing in the final Agreement shall affect the ability of persons acting in an official capacity pursuant to lawful authority to have access to First Nation land. Such access shall be without charge except as provided under lawful authority. Such persons shall comply with First Nation laws enacted pursuant to clause 5.5.1 where such compliance does not interfere with the carrying out of their lawful duties. Canada and Ontario shall give prior notice of such access to the First Nation government, when it is reasonable to do so.

- 9.11 The Constitution of Canada, including the Canadian Charter of Rights and Freedoms shall apply to the First Nation and institutions.
- 9.12 The *Statutory Instruments Act* shall not apply to gchi-naaknigewin or First Nation laws.
- 9.13 Current procedures and responsibilities in relation to emergency preparedness and emergency response, as set out in the *Emergency Preparedness Act* shall continue to apply unless a subsequent agreement is reached with the First Nation, Canada and Ontario.
- 9.14 In the final Agreement, the parties shall consider the application of the *Canadian Human Rights Act* to the final Agreement or federal legislation enacted to implement it.
- 9.15 This Agreement shall be interpreted according to the *Interpretation Act*, R.S.C. 1985, c. 1-21, with such modifications as the circumstances require.
- 9.16 Upon the coming into force of the self-government legislation and gchi-naaknigewin, all the rights, titles, interest, assets, obligations and liabilities of the Bands known as Beausoleil First Nation, Chippewas of Georgina Island First Nation, Curve Lake First Nation, Hiawatha First Nation, Mississaugas of Alderville First Nation, Mississaugas of Scugog Island First Nation, Mnjikaning First Nation, and Moose Deer Point First Nation shall be vested in the respective First Nations.
- 9.17 (a) For the purposes of the continuing application of certain provisions of the *Indian Act*, as set out in the final Agreement, a First Nation shall be deemed to be a “band”, First Nation land shall be deemed to be “reserve” except as set out in clause 9.17(b), the First Nation Council shall be deemed to be the “council of the band” and e-dbendaagzid shall be deemed to be a “member of a band” within the meaning of these terms as they are defined in the *Indian Act*.
- (b) For the purposes of section 87 of the *Indian Act*, First Nation land that is deemed to be “reserve” as set out in clause 9.17(a) shall only be those lands defined as reserves in the *Indian Act* or First Nation lands, defined by the *First Nation Land Management Act*.

**PART 10 - DISPUTE RESOLUTION**

- 10.1 The parties shall at all times endeavour to agree on the interpretation, application and implementation of the final Agreement and shall make every attempt through co-operation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of the final Agreement.
- 10.2 Immediately following the onset of the dispute concerning any matter referred to in clause 10.1, a meeting shall be held between the parties to attempt in good faith to negotiate a resolution.
- 10.3 If the parties fail to resolve the dispute within thirty (30) days from that meeting, they agree to use a mediator to assist in resolving the dispute.
- In such cases:
- (a) the parties shall jointly select a mediator. If after thirty (30) days the parties are unable to agree upon the choice of mediator, then a mediator shall be chosen by the Arbitration and Mediation Institute of Ontario or similar institute; and,
  - (b) the parties agree to participate in good faith in the mediation process.
- 10.4 Subject to clause 10.6, if the parties are unable to resolve the dispute within sixty (60) days of the selection of a mediator the parties shall submit the dispute to arbitration.
- 10.5 Prior to selecting an arbitrator and referring the dispute to arbitration, the parties shall decide whether the decision of the arbitrator shall be binding or non-binding.
- 10.6 Any dispute concerning the value of compensation relating to an interest in First Nation land expropriated by Canada shall be determined by binding arbitration.
- 10.7 Where the parties are unable to agree upon the selection of an arbitrator, after having considered the selection for a period of fifteen (15) days, the parties shall refer the matter of selection to the Arbitration and Mediation Institute of Ontario for a decision.

- 10.8 The arbitration procedure to be used shall be:
- 10.8.1 The Commercial Arbitration Code, which is a schedule to the *Commercial Arbitration Act*.
- 10.8.2 If no appropriate procedural provision is in that Code, the parties in dispute may adopt the Commercial Arbitration Rules in force from time to time in some other jurisdiction.
- 10.8.3 Except as may be agreed to by the Parties, the arbitrator shall issue a written decision within thirty (30) days of completion of the arbitration hearing.
- 10.9 Subject to clause 10.8, the arbitrator shall establish the procedures of the arbitration.
- 10.10 Any objection by a First Nation to a proposed expropriation under clause 5.5.9.6, that has been referred to neutral evaluation shall be evaluated and a report submitted by the neutral evaluator to the First Nation and Canada within 60 days of the referral to the neutral evaluator.
- 10.11 If a dispute is referred to neutral evaluation, the evaluator shall where appropriate:
- (a) identify the issues in the dispute;
  - (b) assess the strengths of each party's case;
  - (c) structure a plan for the progress of the case;
  - (d) encourage settlement of the dispute; and,
  - (e) provide the parties with a non-binding opinion or recommendation to resolve the dispute.
- 10.12 Individuals appointed to act as mediators, arbitrators or neutral evaluators must be unbiased and free from any conflict of interest relative to the matter in issue and have knowledge or experience to act in the appointed capacity.
- 10.13 The parties agree that they shall each be responsible for the costs of their own legal counsel, expert reports, and personal travel. Fees and expenses of the mediator (or arbitrator or third party neutral) and all administrative costs of the dispute resolution process, such as the cost of the hearing room, if any, shall be borne equally by the parties.

- 10.14 Any person whose interests shall be adversely affected by a dispute that is referred to a dispute resolution process may participate in the process, if
- (a) all parties to the process consent; and,
  - (b) the person pays the costs of his or her participation, unless otherwise agreed by the other parties to the dispute.
- 10.15 In the event that the parties have agreed that an arbitration decision is to be binding, the decision or award of an arbitrator shall be final and binding on the participating parties.
- 10.16 It is agreed that the mediator, arbitrator, or neutral evaluator shall neither represent nor testify on behalf of any party of the parties in any subsequent proceeding between the parties. It is further agreed that the personal notes and written opinions of the mediator, arbitrator or neutral evaluator made in relation to this mediation, arbitration, or neutral evaluation may not be used in any subsequent proceeding between the parties.
- 10.17 The parties agree that they shall indemnify and save harmless the mediator, arbitrator, or neutral evaluator from all costs, claims, causes of action or proceedings which they have, may now have, or might have in future, respecting and arising from this mediation, arbitration, or neutral evaluation.

**PART 11 - PRINCIPLES OF IMPLEMENTATION**

- 11.1 The parties shall, prior to the ratification of the final Agreement, prepare an Implementation Agreement which shall set out the actions required by the parties to execute the final Agreement as follows:
- (a) identify the respective obligations, activities and timeframes;
  - (b) identify the respective financial and human resources required to discharge obligations;
  - (c) identify processes and procedures for monitoring and amending the Implementation Agreement and the final Agreement including the provision for annual reports;
  - (d) provide for a regulatory impact assessment by Canada;
  - (e) identify the employment opportunities and training needs of the First Nation to reflect a shared objective to provide governmental services at levels reasonably comparable to those prevailing in southern Ontario in jurisdictions with similar responsibilities;
  - (f) include a communication strategy to inform interested parties about the final Agreement; and,
  - (g) address other matters agreed to by the parties.
- 11.2 The Implementation Agreement shall take the form of a contract between the parties, except as set out in that Agreement.
- 11.3 The Implementation Agreement shall be appended to, but shall not be part of, the final Agreement.



**PART 12 - AMENDMENT AND REVIEW**

- 12.1 After ratification of the final Agreement by the First Nation and Canada, but prior to the coming into force of the federal legislation giving effect to the final Agreement, the parties may agree to technical amendments to the final Agreement without it being resubmitted for ratification.
- 12.2 Unless the parties otherwise agree, the parties shall review the final Agreement within five years of the ratification by the First Nation to consider the following:
- (a) whether the final Agreement has been implemented in accordance with the Implementation Agreement;
  - (b) whether any transfer of programs, responsibilities and resources pursuant to the final Agreement has been successfully implemented; and,
  - (c) whether any amendments shall be considered.
- 12.3 Further to clause 12.2, the parties agree to address issues with a view to resolution.
- 12.4 Once the final Agreement is in force and effect, it may be amended by agreement in writing by Canada and the First Nation. Any amendment procedures shall to be agreed upon prior to the final Agreement.

## PART 13 - INTERGOVERNMENTAL TRANSFER AGREEMENT

- 13.1 The parties shall, prior to the ratification of the final Agreement, prepare an Intergovernmental Transfer Agreement.
- 13.2 **PRINCIPLES**
- 13.2.1 The fiscal relationship between Canada and the First Nation shall be based on government-to-government transfers.
- 13.2.2 The funding for the First Nation government shall be a shared responsibility of the parties and it is the shared objective of the parties that, where feasible and as set out in the final Agreement, First Nation government reliance on transfers shall be reduced over time.
- 13.2.3 The parties shall negotiate an Intergovernmental Transfer Agreement by which funding shall be provided to the First Nation government in order to enable the provision of agreed-upon public services and programs to e-dbendaagzijig and, where applicable, non-edbendaagzijig.
- 13.2.4 The Intergovernmental Transfer Agreement shall incorporate the principle of reasonably comparable levels of agreed-upon public services and programs prevailing in southern Ontario in jurisdictions with similar responsibilities, subject to the principles agreed to as a result of clause 13.4.2.
- 13.2.5 The Intergovernmental Transfer Agreement shall reflect reasonable stability, predictability and flexibility.
- 13.2.6 The First Nation shall have a system of financial administration that is comparable with standards generally accepted in Canada for public sector accountability through which the First Nation government shall be fiscally accountable to e-dbendaagzijig and, as appropriate, other governments.
- 13.2.7 The Intergovernmental Transfer Agreement shall not be part of the final Agreement.

13.3 **MATTERS TO BE TAKEN INTO ACCOUNT**

13.3.1 In negotiating Intergovernmental Transfer agreements the parties shall take into account the following matters:

- (a) the Purpose as set out in Part 2;
- (b) financial resources necessary to establish First Nation government institutions;
- (c) financial resources necessary to operate First Nation government institutions;
- (d) population and demographic characteristics of persons receiving public services and benefits from First Nation government;
- (e) levels of support provided by other governments;
- (f) necessary training requirements for agreed-upon services and programs;
- (g) the exercise of jurisdiction, authorities, obligations, programs and services assumed, or to be assumed by the First Nation government; acknowledging that the recognition of any First Nation legislative authority in the final Agreement does not in itself create or imply any financial obligations for either party;
- (h) the First Nation own-source revenues and other resources available to it;
- (i) the efficiency and cost-effectiveness of the Intergovernmental Transfer Agreement, including issues related to the size, location and accessibility of the First Nation; and,
- (j) economies of scale including the potential for cooperative or joint arrangements among the First Nation or at the United Anishnaabeg Councils.

13.4 **OWN SOURCE REVENUES**

13.4.1 First Nation own-source revenues shall not be a factor in the initial Intergovernmental Transfer Agreement.

13.4.2 The final Agreement shall set out the principles by which First Nation own source revenue shall be taken into account in future Intergovernmental Transfer Agreements.

13.4.3 The negotiations referred to in 13.4.2 shall consider the following:

- (a) First Nation own source revenue capacity shall not be taken into account so as to unreasonably reduce First Nation incentive to raise revenues; and,
- (b) First Nation own source revenue capacity shall be phased in on a staged and incremental basis over an agreed upon period of time after the effective date.

13.5 **PROVISIONS RESPECTING THE INTERGOVERNMENTAL TRANSFER AGREEMENT**

13.5.1 Intergovernmental Transfer Agreement shall be negotiated every five years or for such other periods of time as the parties may agree.

13.5.2 Intergovernmental Transfer Agreement shall be in the form of a contract.

13.5.3 Intergovernmental Transfer Agreement shall set out the manner in which the funding levels shall be calculated during the period of the Intergovernmental Transfer Agreement.

13.5.4 Intergovernmental Transfer Agreement shall provide financial resources subject to terms and conditions that permit flexibility to allocate and reallocate.

13.5.5 Intergovernmental Transfer Agreement shall include provisions which enable Ministers to fulfill accountability requirements to the Parliament of Canada with respect to federal transfers under the Agreement.

13.5.6 Intergovernmental Transfer Agreement may consolidate federal program funding for the First Nation.

13.5.7 By mutual consent, the parties may enter into a new fiscal agreement based on new mechanisms that may be developed.

## **PART 14 - RATIFICATION**

- 14.0 For the purpose of Part 14, e-dbendaagzijig, gimaa, council and First Nation means respectively, member of a band, chief, council of the band and band, as those terms are set out in the *Indian Act*.
- 14.1 **GENERAL**
- 14.1.1 The Agreement-in-Principle shall form the basis for concluding the final Agreement.
- 14.1.2 The Agreement-in-Principle shall not create legal obligations binding on the parties. The legal obligations of the parties are created upon ratification of the final Agreement.
- 14.1.3 Notwithstanding clause 14.1.2, the parties agree that the ratification processes and requirements described herein shall be legally binding on the parties.
- 14.2 **AGREEMENT-IN-PRINCIPLE**
- 14.2.1 The Agreement-in-Principle shall be submitted to the parties for ratification after initialling by the negotiators for the parties.
- 14.2.2 The First Nation shall have ratified the Agreement-in-Principle when it is signed by gimaa, authorized by Council.
- 14.2.3 Canada shall have ratified the Agreement-in-Principle when it is signed by the Minister, authorized by Cabinet.
- 14.2.4 Once the Agreement-in-Principle is ratified by the parties, they shall jointly make it public.
- 14.2.5 Negotiations shall continue toward a final Agreement based on the Agreement-in-Principle.
- 14.3 **FINAL AGREEMENT**
- 14.3.1 The final Agreement shall be submitted to the parties for ratification after initialling by the negotiators for the parties.

- 14.3.2 A final Agreement shall be ratified
- (a) by the First Nation by approval of e-dbendaagzijig according to the process set out in the final Agreement; and,
  - (b) by Canada by the Minister as authorized by the Cabinet and legislation giving effect by Parliament and comes into force.
- 14.3.3 The First Nation agree to send the final Agreement to e-dbendaagzijig for ratification after it has been discussed and a consensus reached at a special assembly of the First Nation.
- 14.3.4 The final Agreement shall be considered approved by the community if:
- (a) a majority of eligible voters participate in the vote and at least a majority of the participating voters vote to approve them; or,
  - (b) the First Nation registers, in a manner to be determined by the First Nation, all eligible voters who signify their intention to vote, and a majority of the registered voters vote to approve them; or,
  - (c) the community approves them in such other manner as the First Nation and Canada may agree upon.
- 14.3.5 The parties shall agree on a ratification process which shall be appended to the final Agreement and at a minimum shall provide for:
- (a) definition of eligible voters;
  - (b) adequate notice of the vote;
  - (c) adequate time between posting of the notice of the vote and information meetings;
  - (d) holding at least one information meeting;
  - (e) posting notices;
  - (f) advertising;
  - (g) advance voting;
  - (h) use of ballot box in the ratification;

- (i) mailing list of all eligible voters and mailing out information to them; and,
- (j) minimum voting requirements for ratification.

14.4 **CONSEQUENCES OF FAILURE TO RATIFY BY ONE OR MORE OF THE FIRST NATIONS**

14.4.1 Subject to clause 14.4.2, the final Agreement shall not be considered ratified unless all of the First Nations approve of the final Agreement in a referendum.

14.4.2 Where a First Nation has not approved the final Agreement in a referendum, the First Nation shall decide whether to hold a second referendum in accordance with the process set out in the final Agreement.

14.4.3 In the event that not all First Nations have ratified the final Agreement, the parties agree to meet to discuss the implications.

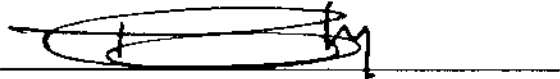
14.5 **COSTS OF RATIFICATION**

14.5.1 Canada agrees to bear the costs incurred by the First Nations in seeking ratification of the final Agreement, in an amount to be agreed to by the parties prior to such a process being commenced.

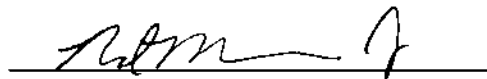
**ANISHNAABE GOVERNMENT AGREEMENT-IN-PRINCIPLE**

Signed at Georgina Island, Ontario, the 21 day of June 1998.

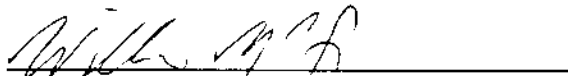
The following eight (8) gimaag form the Grand Council of the United Anishnaabeg Councils.



Gimaa Paul C. Sandy  
Beausoleil First Nation




Witness



Gimaa William (Bill) McCue  
Chippewas of Georgina Island First Nation



Witness



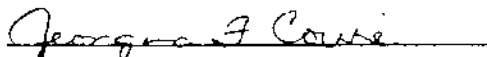
Gimaa Gary Emerson Williams  
Curve Lake First Nation



Witness




Gimaa Greg Cowie  
Hiawatha First Nation

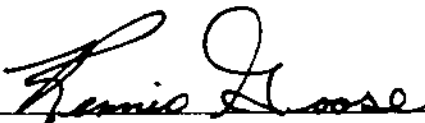


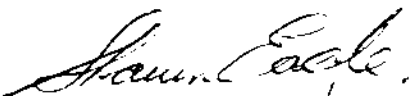
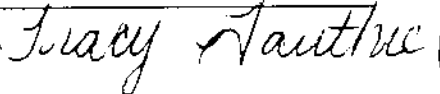
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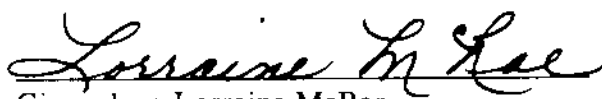


  
Gimaa Wesley Marsden, LL.B.  
Mississaugas of Alderville First Nation

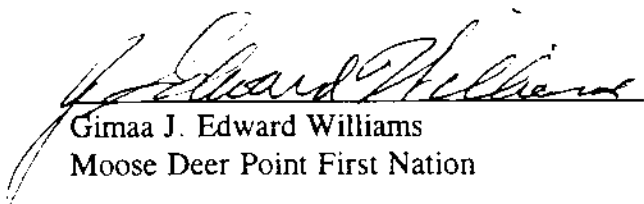
  
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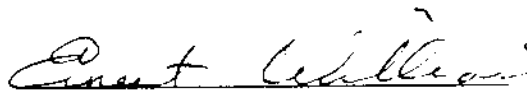
  
Gimaa Rennie Goose  
Mississaugas of Scugog Island First Nation

  
Witness 

  
Gimaa-kwe Lorraine McRae  
Mnjikaning First Nation

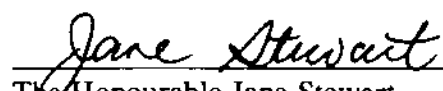
  
Witness


  
Gimaa J. Edward Williams  
Moose Deer Point First Nation

  
Witness

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

**On behalf of the Government of Canada**

  
The Honourable Jane Stewart  
Minister of Indian Affairs  
and Northern Development

  
Witness