

**THIS MEMORANDUM OF UNDERSTANDING** dated this *12th* day of *June*, 2014.

**BETWEEN:**

**HER MAJESTY THE QUEEN** in Right of the Province of Nova Scotia, as represented by the Minister of Education and Early Childhood Development (herein after referred to as "the Province")

**OF THE FIRST PART**

**-and-**

**MI'KMAW KINA'MATNEWY**, a corporation established pursuant to the Federal *Mi'kmaq Education Act*, S.C. 1998, c. 24

**OF THE SECOND PART**

WHEREAS, there are public school age residents of the Mi'kmaw Kina'matnewey communities, for whom the constituent First Nations receive funding for education from the Government of Canada, and who wish to attend public schools administered by Nova Scotia school boards, and the Mi'kmaw Kina'matnewey, on behalf of the aforesaid First Nations, is prepared to pay fees for the delivery of education programs and services in respect of those students;

AND WHEREAS the Mi'kmaw Kina'matnewey has the jurisdiction and responsibility for the education of residents of their communities and provides education program and services to the public school age residents either through the operation of Mi'kmaw Kina'matnewey schools or through the Nova Scotia public school system;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province wish to enter into an agreement about the provision of education programs and services and the tuition fee for such programs and services;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province wish to raise the educational attainment of the Mi'kmaq students to levels comparable to that of the general Nova Scotia student population;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province wish to develop processes that will improve the reporting of Mi'kmaq students outcomes;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province wish to increase the knowledge and understanding of First nations culture, language, and history;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province wish to provide opportunities for First Nations to participate in decisions affecting Mi'kmaq students;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province wish to work together during the life of this agreement to ensure its successful implementation;

AND WHEREAS the Mi'kmaw Kina'matnewey and the Province acknowledge that this Memorandum of Understanding is not intended to prejudice the Aboriginal or Treaty Rights of the Mi'kmaq of Nova Scotia or lessen the duties and responsibilities of school boards under the *Education Act*;

THEREFORE, the parties agree as follows:

## **1.0 DEFINITIONS**

- 1.1 (a) In this Memorandum of Understanding, terms that are defined terms in the *Education Act* and the *Mi'kmaq Education Act* (Nova Scotia), and the regulations made thereunder, shall have the same meaning as their defined meanings.
- (b) Without limiting the generality of article 1.1(a), the defined terms include: "Mi'kmaq", "parent", "public school", "school board", "community" and "reserve".
- 1.2 In this Memorandum of Understanding,
- (a) "Enhanced Services" means any additional services and programs as agreed to by the parties to support educational outcomes.
- (b) "FDDIP Index" means the Final Domestic Demand Implicit Price Index tracked by Statistics Canada on a quarterly basis.
- (c) "FOIPOP Act" means the Nova Scotia *Freedom of Information and Protection of Privacy Act*.
- (d) "Member Student" means a public school age student
- (i) who is a member of a Mi'kmaw Kina'matnewey community;
  - (ii) who resides on reserve; and
  - (iii) for whom funding has been provided by the Mi'kmaw Kina'matnewey for their attendance at a public school under the terms of this Agreement;
- (e) "Mi'kmaq Student" means a public school age student of Mi'kmaq heritage, other than a Member Student, including without limiting the generality thereof, members of Nova Scotia First Nations that are not Mi'kmaw Kina'matnewey communities;
- (f) "Mi'kmaq Parent" means a parent of a Member Student or a Mi'kmaq Student;
- (g) "PIIDP Act" means the *Personal Information International Disclosure Protection Act*;
- (h) "public school age" means the limiting age for public school as determined by the *Education Act* and the regulations made there under;
- (i) "public school program" means the public school program that may be described, from time to time, by the Minister of Education;
- (j) "school academic year" means the period of time determined pursuant to subsection 71(1) of the *Education Act*.

## **2.0 OBLIGATIONS OF THE PROVINCE**

- 2.1 It is the intention of the Province to provide for the delivery of quality educational programs and services that are accessible and responsive to the needs of Member Students and Mi'kmaq Students attending public schools and to partner with the Mi'kmaw Kina'matnewey to

systematically increase the academic achievement of those students to a level comparable to the general student population and to community expectations.

- 2.2 The Province will encourage and support school boards in the development of policies and procedures that are inclusive of Mi'kmaq Parents and their school age children.
- 2.3 The Province is committed to a bias free education to all students attending public schools.
- 2.4 Subject to Article 12, the Province will:
  - (a) monitor and report to the Mi'kmaw Kina'matnewey on the progress of Member Students as set out in Schedule "B"; and
  - (b) monitor the progress of Mi'kmaq Students, including Member Students and non-Member Students who self-identify, relative to the general school population.
- 2.5 The Province will coordinate any funding for Enhanced Services in conjunction with other education partners to:
  - (a) increase the achievement of all Member Students and Mi'kmaq Students;
  - (b) increase the number of Member Students and Mi'kmaq Students successfully completing grade twelve;
  - (c) enhance Member Students' and Mi'kmaq Students' understanding of their heritage, sense of belonging, and personal belief that they can be successful; and,
  - (d) ensure that all students in public schools have a knowledge, appreciation, and understanding of the Mi'kmaq language and culture of all Aboriginal groups.

### **3.0 OBLIGATIONS OF THE MI'KMAW KINA'MATNEWEY**

- 3.1 It is the intention of the Mi'kmaw Kina'matnewey to pay fair funding to the Province for the cost of Member Students to attend public schools in Nova Scotia while insisting on a quality education program that meets the needs of Member Students and recognizes and celebrates the culture, language and history of the Mi'kmaq of Nova Scotia.
- 3.2 The Mi'kmaw Kina'matnewey will, in a timely manner, provide advice to the Province on the cultural appropriateness of materials used in the public schools program.
- 3.3 The Mi'kmaw Kina'matnewey shall pay to the Province the costs referred to in Article 5.0 of this Memorandum of Understanding.
- 3.4 The Mi'kmaw Kina'matnewey will develop a list of resources and share it as well as other educational materials and information with the Province and the public school being attended by Member Students and Mi'kmaq Students.
- 3.5 The Mi'kmaw Kina'matnewey will identify First Nation contacts for each public school being attended by Member Students and Mi'kmaq Students.
- 3.6 The Mi'kmaw Kina'matnewey will provide the Province with a list of resource people having expertise in Mi'kmaq culture, education and governance who can be used as resource people in public schools.

- 3.7 The Mi'kmaw Kina'matnewey will support and enhance school readiness and preparedness programs.
- 3.8 The Mi'kmaw Kina'matnewey will support the Mi'kmaw Kina'matnewey communities in their efforts to enhance capacity development for and governance in education in their territory.
- 3.9 The Mi'kmaw Kina'matnewey will be solely responsible for any discussions or funding requests to the Province or Aboriginal Affairs and Northern Development Canada in relation to Enhanced Services and Aboriginal Language programs.

#### **4.0 JOINT OBLIGATIONS**

- 4.1 The Province the Mi'kmaw Kina'matnewey will collaborate:
- (a) to identify and develop learning resources to be integrated into the public school program for the purpose of promoting an understanding of and appreciation for the history, culture and the language of the Mi'kmaq of Nova Scotia;
  - (b) to develop Mi'kmaq language program components for use in the public school program; and
  - (c) to develop culturally appropriate programs and learning resources designed to meet the needs of Member Students and Mi'kmaq Students attending at public schools; and
  - (d) to identify, develop and support the use of programs that aim to provide Mi'kmaq Parents with opportunities to become meaningfully involved in and to foster the importance of education for their school age children attending public schools.

#### **5.0 FUNDING OF PUBLIC SCHOOL EDUCATION**

- 5.1 The Mi'kmaw Kina'matnewey shall, in respect of each Member Student attending at a public school, pay to the Province
- (a) for the 2012-13 school academic year, the annual tuition fee of Eight Thousand and Sixty-Two dollars (\$8,062.00); and
  - (b) for the 2013-14, 2014-15, 2015-16 and 2016-17 school academic years, the annual tuition fee referred to in paragraph (a) increased annually for inflation at a rate determined by the FDDIP Index.
- 5.2 For the purposes of Article 5.1, the Mi'kmaw Kina'matnewey shall enumerate or cause to be enumerated the Member Students attending at public schools on September 10 and February 28 of each school academic year.
- 5.3 The Mi'kmaw Kina'matnewey shall provide to the Province the enumeration information referred to in Article 5.2 on September 10<sup>th</sup> and February 28<sup>th</sup> for each year of this Agreement.
- 5.4 The Mi'kmaw Kina'matnewey shall pay to the Province any other costs not specified in Article 5.1 that may be agreed to by the parties, including the costs of Enhanced Services.
- 5.5 Nothing in this Agreement is intended to limit the ability of the Mi'kmaw Kina'matnewey to contract with school boards for other services not referred to in this Agreement.

## **6.0 SCHEDULE OF PAYMENTS**

6.1 The Mi'kmaw Kina'matnewey shall pay the Province the costs referred to in Article 5.1 in accordance with the following schedule:

(a) on or before November 30<sup>th</sup>:

- an installment of 50% of the total annual tuition fee representing the period of September through January, with calculation based on the September 10<sup>th</sup> enumeration;

(b) on or before March 31<sup>st</sup>:

- an installment of 20% of the total annual tuition fee representing the period of February and March, with calculation based on the February 28<sup>th</sup> enumeration; and

(c) on or before July 31<sup>st</sup>:

- an installment of 30% of the total annual tuition fee representing the period of April through June, with calculation also based on the February 28<sup>th</sup> enumeration.

6.2 The Mi'kmaw Kina'matnewey shall pay to the Province any other amounts agreed to by the Parties under Article 5.4 in accordance with the terms of invoices issued by the Province.

6.3 All overdue amounts payable by the Mi'kmaw Kina'matnewey shall be subject to simple interest at the prime rate in effect at the Bank of Canada during the overdue period. Any overpayment by the Mi'kmaw Kina'matnewey will be reimbursed on the same terms and conditions as overdue interest.

6.4 The Province shall provide to the Mi'kmaw Kina'matnewey a copy of the audited school board financial statement from the previous fiscal year within ninety (90) days of its receipt by the Province, and the Province will review with the Mi'kmaw Kina'matnewey the information contained therein.

## **7.0 PROJECTED ENROLLMENT TO FACILITATE PLANNING**

7.1 By no later than May 15 of any school academic year during the term of this Memorandum of Understanding, the Mi'kmaw Kina'matnewey shall prepare as accurately as possible and provide to the Province a report of:

(a) the total number of Member Students who intend to enroll at a public school on or before September 10<sup>th</sup> in respect of the following academic year;

(b) a list of each student's name and provincial student number; and

(c) the public school where each Member Student referred to in paragraph 7.1(a) intends to enroll.

7.2 The Mi'kmaw Kina'matnewey acknowledges and affirms that the Province is not obligated to require school boards and school boards are not obliged to accept the enrollment, at a public school referred to in paragraph 7.1(c) of more than twenty per cent (20%) of the projected enrollment numbers of Member Students referred to in Article 7.1.

7.3 Despite Article 7.2 and subject always to the availability of staff and space at a public school, the Province will use its best efforts to facilitate enrollment and placement by September 30 of any Member Students whose number exceeds the projected enrollment referred to in Article 7.1.

7.4 In accepting the enrollment of Member Students at a public school, the Province will assume responsibility for the provision of an education program for those Member Students for the balance of the school academic year.

## **8.0 ENROLLMENT AND TRANSFER**

8.1 The Mi'kmaw Kina'matnewey will use its best efforts to ensure that the Member Students referred to in Article 7.1 enroll in public schools by no later than September 10<sup>th</sup>, for full year or first-semester programs, or by February 28 for second-semester programs in respect of a school academic year.

8.2 Subject to the availability of staff and space at a public school, a Member Student will be accepted for enrollment in a public school after September 10<sup>th</sup> in accordance with the policies of the school board where the student intends to enroll.

8.3 The Mi'kmaw Kina'matnewey acknowledges and affirms that after September 10<sup>th</sup> for full-year or first-semester programs or February 28 for second-semester programs in respect of a school academic year, a Member Student may not transfer into or out of a public school unless the Education Coordinator from the Mi'kmaw Kina'matnewey community and the Director of Programs of a school board agree it is in the best interests of the student and the public school for the transfer to take place, and all appropriate adjustments and reconciliation of the cost therefor have been agreed upon.

## **9.0 PROVINCIAL JOINT PLANNING COMMITTEE**

9.1 The Mi'kmaw Kina'matnewey and the Province each acknowledge and affirm that it is essential that they work together in a spirit of cooperation and that they maintain an open and ongoing dialogue.

9.2 In order to accomplish the goals referred to in Article 9.1, the Province and the Mi'kmaw Kina'matnewey will work together through a Provincial Joint Planning Committee.

9.3 The mandate of the Provincial Joint Planning Committee is outlined in Schedule "A".

## **10.0 REPORTING**

10.1 Subject to Article 12, the Province will provide to the Mi'kmaw Kina'matnewey the data reports referred to in Schedule "B".

## **11.0 TRANSPORTATION OF MEMBER STUDENTS**

11.1 The Mi'kmaw Kina'matnewey acknowledges and affirms that the Province and the school boards are not liable for the transportation of Member Students to and from public schools.

11.2 The Mi'kmaw Kina'matnewey shall make any necessary arrangements for and pay for the costs associated with the transportation of Member Students to and from public schools.

## **12.0 CONFIDENTIALITY AND PROTECTION OF PRIVACY**

- 12.1 The Mi'kmaw Kina'matnewey acknowledges that the Province is subject to the FOIPOP Act and the PIIDP Act and that it must comply with its statutory obligations with respect to personal information.
- 12.2 The Mi'kmaw Kina'matnewey shall comply with all security and privacy procedures and policies of the Province at the direction of the Province.

## **13.0 ARBITRATION OF DISPUTES**

- 13.1 Without limiting the rights of the parties under this Agreement, either party may provide written notice to the other regarding a dispute about the meaning, interpretation or application of this Agreement.
- 13.2 The written notice referred to in Article 13.1 shall include sufficient documentation of all of the specifics and facts regarding the dispute.
- 13.3 The parties agree to use their best efforts to resolve a dispute referred to in Article 13.1 within fifteen (15) business days of the service of notice.
- 13.4 Where the parties fail to resolve a dispute pursuant to Article 13.3, the parties agree to develop a formal dispute resolution process.

## **14.0 DURATION OF MEMORANDUM OF UNDERSTANDING**

- 14.1 This Memorandum of Understanding will commence on August 1, 2012, and continue in force until July 31, 2017.
- 14.2 This Memorandum of Understanding may be terminated by either party upon written notice by March 31 of any school academic year to take effect on August 1 in any subsequent school academic year.
- 14.3 The parties agree to commence negotiations of a new Memorandum of Understanding by August 1, 2016.

## **15.0 AMENDMENTS OF THE MEMORANDUM OF UNDERSTANDING**

- 15.1 This Memorandum of Understanding may be amended at any time by mutual consent of the parties.
- 15.2 Any amendment to this Memorandum of Understanding must be in writing and signed by all parties to the Agreement.
- 15.3 The parties agree that amendments will be discussed at the Provincial Joint Planning Committee and all parties will make their best efforts to make any amendments to this Memorandum of Understanding prior to March 1, preceding the school year in which the amendments are to take effect.

## **16.0 NOTICES**

- 16.1 Any requests or notices to be made or sent under this Memorandum of Understanding shall be deemed to be sufficiently given or sent to the other party by registered mail to the following address:

Mi'kmaw Kina'matnewey  
47 Maillard Street  
Membertou, Nova Scotia B1S 2P5

Nova Scotia Department of Education and Early  
Childhood Development  
P.O. Box 578  
2021 Brunswick Street  
Halifax, Nova Scotia B3J 2S9

## **17.0 AGREEMENT BINDING ON ALL PARTIES**

- 17.1 This Memorandum of Understanding will be binding on the parties, their heirs, executors, assigns and successors in office.

## **18.0 ASSIGNMENT**

- 18.1 This Memorandum of Understanding may not be assigned by either party without the prior written consent of the other party.

## **19.0 HEADINGS**

- 19.1 The headings used in this Memorandum of Understanding are for the convenience of reference only and shall not affect the interpretation or construction of this agreement.

## **20.0 AUTHORITY**

- 20.1 The signatories of this Memorandum of Understanding personally warrant that they have full power and authority to enter into this Agreement on behalf of their respective principals and the persons signing this agreement on behalf of each of them has been properly authorized and empowered. Each party further acknowledges that it has read this Agreement, understands it and agrees to be bound by it.

## **21.0 PARTIAL INVALIDITY**

- 21.1 If any terms of this Memorandum of Understanding shall be found to be illegal or unenforceable, notwithstanding, the Agreement may, at the Province's option, remain in full force and effect and such terms or provisions shall be deemed removed from the Agreement.

## **22.0 LIABILITY AND INDEMNITY**

- 22.1 The Province shall not be liable for any injury or damage to the person or for the loss of damage to property of the Mi'kmaw Kina'matnewey in any manner based upon, occasioned by, or in any attributable way to the Mi'kmaw Kina'matnewey performing its obligations under this Memorandum of Understanding unless such injury, loss or damage is caused solely and directly by the negligence of an officer or servant of the Province's Department of Education and Early Childhood Development while acting within the scope of his employment.
- 22.2 The Mi'kmaw Kina'matnewey shall use due care in performing its obligations under this Agreement. It shall not be liable for any indirect or consequential damages related to its obligations unless caused by its negligence.



22.3 The Mi'kmaw Kina'matnewey shall at all times indemnify and save harmless the Province, its Ministers, officers, employees and agents from and against all claims, demands, losses, damages, actions, suits and other proceedings of any kind based upon injury, including death, to any person, or damages to or loss of property arising from any willful or negligent act, omission, or delay on the part of Mi'kmaw Kina'matnewey in carrying out its obligations.

**23.0 CONSENT TO BREACH, NOT WAIVER**

23.1 No terms of this Memorandum of Understanding shall be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or a waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, a waiver of, or excuse for any different or subsequent or a continuation of the same breach unless expressly stated.

**24.0 EFFECTIVE DATE**

24.1 This Memorandum of Understanding shall take effect as if it had been executed by both parties on August 1, 2012.

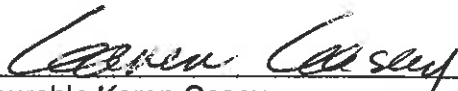
**IN WITNESS WHEREOF** the Province and the MI'KMAW KINA'MATNEWEY have caused this Memorandum of Understanding to be executed by their respective officers duly authorized in that behalf on the day and year first written above.

**SIGNED, SEALED & DELIVERED** )  
in the presence of: )

  
WITNESS )

  
WITNESS )

**HER MAJESTY THE QUEEN IN RIGHT**  
**OF THE PROVINCE OF NOVA SCOTIA**  
as represented by the Minister of Education  
and Early Childhood Development

  
Honourable Karen Casey  
Minister of Education and Early Childhood Development

**MI'KMAW KINA'MATNEWEY**

  
Chief Leroy Denny  
Chair, MI'KMAW KINA'MATNEWEY

## Schedule "A"

### THE PROVINCIAL JOINT PLANNING COMMITTEE

The Provincial Joint Planning Committee is established pursuant to Article 9 of this Memorandum of Understanding.

**Purpose:** The overall purpose of the Committee is to provide a forum for the dialogue between and the cooperative action of the parties in the implementation of the memorandum of Understanding.

**Mandate:** The Provincial Planning Committee will meet a minimum of three (3) times annually.

**The Committee is responsible for:**

- providing general oversight of the implementation of the Agreement including the monitoring of and publically reporting on the achievements of the Agreement;
- working with appropriate partners to support the successful implementation of Schedule "B"
- sharing successful practices from each of the respective jurisdictions;
- addressing issues arising at the community-school board level; and,
- reviewing applications for Enhanced Services Program funding.

**Membership:** Each party will name a minimum of three (3) representatives to the committee.

## **Schedule "B"**

### **MONITORING AND REPORTING**

Subject to Article 12 of this Agreement, the Province, through the respective school boards, will provide to the Mi'kmaw Kina'matnewey the information listed below for Member Students under this Agreement attending public schools.

1. Student attendance rates
2. Student retention rates
3. Student suspension rates
4. Provincial Literacy Assessment results
5. Provincial Numeracy Assessment results
6. Graduation rates, including a comparison of Member Students to a boards' total student population.
7. Number of Mi'kmaq language courses and number of students participating
8. Number of students take Mi'kmaq Studies 10
9. Parent satisfaction survey (to be developed)