

**WEENEebAYKO AREA HEALTH  
INTEGRATION FRAMEWORK AGREEMENT**

Made as of the        day of                                , 2007

Between

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

and

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO**  
as represented by the Minister of Health and Long-Term Care

and

**ATTAWAPISKAT FIRST NATION**

**FORT ALBANY FIRST NATION**

**KASHECHEWAN FIRST NATION**

**MOCREEBEC NON-PROFIT DEVELOPMENT CORPORATION**

**MOOSE CREE FIRST NATION**

**WEENUSK FIRST NATION**

**THE CORPORATION OF THE TOWN OF MOOSONEE**

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## **WEENEEBAYKO AREA HEALTH INTEGRATION FRAMEWORK AGREEMENT**

This Agreement is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007 between

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

and

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**MOOSE CREE FIRST NATION**

**WEENUSK FIRST NATION**

**THE CORPORATION OF THE TOWN OF MOOSONEE**

### **RECITALS**

#### **Background**

A. WHEREAS the Weeneebayko Area is comprised of the remote and isolated coastal communities and surrounding areas along the western Ontario shores of the James Bay and Hudson Bay. Its population consists of approximately 10,000 predominantly Cree residents living on and off-Reserve in and around the Communities.

B. WHEREAS the residents of the Weeneebayko Area currently receive Health Care and Related Programs and Services at various facilities, which are funded by Canada or Ontario or both, as follows:

- (i) Canada currently provides or funds the provision of various Health Care and Related Programs and Services in the Weeneebayko Area, including certain

physician and hospital services provided from the Weeneebayko General Hospital located on Moose Factory Island, the Non-Insured Health Benefits Program, and nursing and community health programs in Attawapiskat First Nation, Fort Albany First Nation, Kashechewan First Nation, Moose Cree First Nation and Weenusk First Nation;

- (ii) Ontario currently funds the provision of various Health Care and Related Programs and Services in the Weeneebayko Area, primarily consisting of certain physician, nursing and hospital services and community health programs provided from the James Bay General Hospital located in the Town of Moosonee, the Fort Albany First Nation and the Attawapiskat First Nation and from the Weeneebayko General Hospital; and
- (iii) the Communities currently deliver certain Health Care and Related Programs and Services with funding assistance from Canada and Ontario.

C. WHEREAS as federal and provincial Health Care and Related Programs and Services are currently planned, managed and delivered separately through various providers and facilities, the parties believe there is an opportunity for better coordination of these functions, which can lead to improved quality, accessibility, delivery, effectiveness, efficiency and cultural appropriateness of Health Care and Related Programs and Services in the Weeneebayko Area.

D. WHEREAS this Agreement provides a framework for:

- (i) the creation of WAHA;
- (ii) the merging of hospitals in the Weeneebayko Area, to be operated by WAHA;
- (iii) the planning, management and delivery of Health Care and Related Programs and Services in the Weeneebayko Area by WAHA on an Integrated basis;
- (iv) the funding of Health Care and Related Programs and Services to be delivered by WAHA, whereby Canada will provide contribution funding primarily for nursing and public and community health programs and services for First Nation and Inuit persons, and Ontario will provide funding primarily for physician and hospital services; and
- (v) capital planning for Health Care Infrastructure and the provision of capital funding from Canada and Ontario.

### **Principles of Integration**

E. WHEREAS the following principles are to guide the Integration set out in this Agreement:

- (i) The parties believe that implementing an Integrated approach to health service planning, management and delivery through WAHA represents the best means to seek to improve the quality, accessibility, delivery, effectiveness, efficiency and

cultural appropriateness of Health Care and Related Programs and Services in the Weeneebayko Area.

- (ii) WAHA will be established to provide such Health Care and Related Programs and Services to the residents of the Weeneebayko Area.
- (iii) The parties recognize that the operations of WAHA will be unique because of the remoteness and isolation of the Weeneebayko Area and because WAHA will serve a vast geography with hundreds of miles between the Communities, each Community with its own unique need for health services. The parties will work cooperatively with regard to the funding of WAHA for the purposes of Health Care and Related Programs and Services as more particularly set out in this Agreement.

### **Goals of the Integration**

F. WHEREAS the goals of the Integration are to:

- (i) enhance local control of the planning, management and delivery of the Health Care and Related Programs and Services in a manner that:
  - (a) allows better coordination of federal and provincial programs and services;
  - (b) recognizes the composition, needs and population health gaps of the residents of the Weeneebayko Area; and
  - (c) improves the quality, accessibility, delivery, effectiveness, efficiency and cultural appropriateness of Health Care and Related Programs and Services for the residents of the Weeneebayko Area;
- (ii) improve the utilization of health professionals, facilities and equipment from the federal and provincial systems, reduce duplication and achieve gains in the efficiency of Health Care and Related Programs and Services;
- (iii) promote the ongoing sustainability of the Health Care and Related Programs and Services; and
- (iv) provide new opportunities for excellence and innovation.

### **General**

G. WHEREAS by entering into this Agreement, the parties intend to enter into a long-term arrangement that will evolve over time as patient needs, demographics, performance standards and other factors concerning health care evolve in order to provide residents in the Weeneebayko Area with efficient and effective health care.

H. WHEREAS the relationships between the parties under this Agreement will be based on openness, understanding and mutual respect, including respect for cultural sensitivities of the First Nations of the Weeneebayko Area. The parties intend to make best efforts to build and maintain consensus amongst them in relation to the implementation of this Agreement.

I. WHEREAS the parties adopt as a principle of this Agreement the interpretation/no prejudice provisions of Section 14, including the provision thereof relating to Section 35 of the *Constitution Act, 1982*.

Therefore, the parties agree as follows:

## SECTION 1 – DEFINITIONS

### 1.1 Definitions

In this Agreement:

- (1) **Agreement** means this agreement including any schedules to this agreement as amended from time to time.
- (2) **Canada** means Her Majesty the Queen in Right of Canada, as represented by the Minister of Health.
- (3) **Canada Funding Date** has the meaning set out in Section 6.1(4).
- (4) **Communities** means the seven communities of the Weeneebayko Area, which are represented by the signatories to this Agreement, namely: the Attawapiskat First Nation, the Fort Albany First Nation, the Kashechewan First Nation, the Mocrebec community as represented by the Mocrebec Non-Profit Development Corporation, the Moose Cree First Nation, the Weenusk First Nation and The Corporation of the Town of Moosonee.
- (5) **Federal Hospital Funding** has the meaning set out in Section 6.1(1).
- (6) **Federal Nursing Program** means the FNIHB primary care nursing and public health nursing programs currently provided from the nursing stations and health centres located in the Attawapiskat, Fort Albany, Kashechewan and Weenusk First Nations Communities as well as the supervision of this program in the Weeneebayko Area (zone nursing function).
- (7) **FNIHB** means the First Nations and Inuit Health Branch of Health Canada.
- (8) **Health Care and Related Programs and Services** means any or all programs or services as may from time to time be funded or delivered by Canada through the federal Department of Health and/or Ontario through the Ontario Ministry of Health and Long-Term Care in the Weeneebayko Area or, with reference to WAHA, pursuant to funding or other arrangements to be entered into between WAHA and Canada through the federal Department of Health and/or Ontario through the Ontario Ministry of Health and Long-Term Care, including physician

services, hospital services, mental health programs or services, the Federal Nursing Program, Insured Services and the Non-Insured Health Benefits Program.

(9) **Health Care Infrastructure** means infrastructure used or intended to be used to facilitate access and delivery of the Health Care and Related Programs and Services to be provided by WAHA.

(10) **Insured Services** means the services insured under the *Health Insurance Act* (Ontario) and its regulations.

(11) **Integrate, Integrated and Integration** means or refers to the planning, management and delivery of Health Care and Related Programs and Services by WAHA in the Weeneebayko Area in accordance with this Agreement and with a view to achieving the goals set out in recital F.

(12) **James Bay General Hospital** is a corporation incorporated under the *Corporations Act* (Ontario), with hospital sites approved under the *Public Hospitals Act* (Ontario) and serving the Communities of Attawapiskat and Fort Albany and the Town of Moosonee. It also provides ambulance services to the Communities of Attawapiskat, Fort Albany, Moosonee and Moose Factory Island, and mental health services to the Communities of Peawanuck, Attawapiskat, Fort Albany, Kashechewan, Moosonee and Moose Factory Island.

(13) **Lease** has the meaning set out in Section 3.3(1).

(14) **NELHIN** means the North East Local Health Integration Network or its successor, established under the *Local Health System Integration Act, 2006* (Ontario).

(15) **Non-Insured Health Benefits Program** or **NIHB Program** means Canada's national health benefit program that funds a limited range of medically necessary health-related goods and services for eligible First Nations and Inuit persons which are not provided or insured through provincial or private health insurance programs.

(16) **Ontario** means Her Majesty the Queen in right of the Province of Ontario, as represented by the Minister of Health and Long-Term Care.

(17) **Ontario Capital Planning Process** means Ontario's capital planning process, policies, and procedures applicable to hospital capital projects set out in Ontario's Capital Planning Manual (1996), as may be amended from time to time.

(18) **Reserve** has the meaning ascribed thereto in the *Indian Act* or in any statute enacted in substitution therefore from time to time.

(19) **Special Act** means an Act that if passed by the Legislature of Ontario would establish WAHA.

(20) **Steering Committee** means the interim body composed of one representative from each of the following: Attawapiskat First Nation, Fort Albany First Nation, Kashechewan First Nation, MoCreebec Non-Profit Development Corporation, Moose Cree First Nation,

Mushkegowuk Tribal Council, Weenusk First Nation, The Corporation of the Town of Moosonee, James Bay General Hospital and WHA, which was established to facilitate the establishment of WAHA until the first members of the board of directors of WAHA take office.

- (21) ***Strategic Infrastructure Development Plan*** has the meaning set out in 5.1(1).
- (22) ***Transition Costs*** has the meaning set out in Section 4.2(1).
- (23) ***Transition Period*** has the meaning set out in Section 4.1.
- (24) ***Tri-Party Working Group*** has the meaning set out in Section 11.
- (25) ***\$12 Million Annual Contribution*** means the ongoing annual contribution to be offered by Canada to WAHA in accordance with Section 6.1.
- (26) ***Weeneebayko Area*** means the area described in recital A.
- (27) ***Weeneebayko Area Health Authority*** or ***WAHA*** means a corporation to be established in accordance with Section 3, which will plan, manage and deliver Health Care and Related Programs and Services for the residents of the Weeneebayko Area.
- (28) ***Weeneebayko General Hospital*** or ***WGH*** means the federal hospital lands and buildings including all related residences and support facilities located on Moose Factory Island, which is currently operated by WHA under funding and lease arrangements between Canada and WHA.
- (29) ***Weeneebayko Health Ahtuskaywin*** or ***WHA*** is a non-profit corporation incorporated under the *Canada Corporations Act*, which currently operates WGH and provides hospital services and other health services to the residents of the Weeneebayko Area including physician services, dental services, specialist and consultant services, family medicine clinics, a regional diabetes program and certain aspects of the NIHB Program.

## **SECTION 2 – PURPOSE OF THIS AGREEMENT**

### **2.1 Purpose**

The parties have entered into this Agreement to establish a framework to implement the Integration, with a view to achieving the goals described in recital F.

## **SECTION 3 – ESTABLISHMENT OF THE WEENEEBAYKO AREA HEALTH AUTHORITY (WAHA)**

### **3.1 Establishment of WAHA**

- (1) Ontario and the Communities shall undertake the necessary steps to seek the establishment of WAHA pursuant to the Special Act.

(2) The parties intend that WAHA will, subject to and in accordance with applicable provincial and federal legislation and funding or other arrangements with Canada and Ontario:

- (a) plan, manage and deliver Health Care and Related Programs and Services to the residents of the Weeneebayko Area, which historically have been served by James Bay General Hospital, the Weeneebayko General Hospital and the Federal Nursing Program;
- (b) ensure its board and membership structures represent the Communities; and
- (c) ensure its programs, services and facilities incorporate Aboriginal beliefs, values and practices *such as traditional healing*.

(3) Until such time as WAHA is established, the Communities shall take all steps reasonably necessary to work with the Steering Committee to advance the planned Integration.

### **3.2 Initial Integration Activities**

(1) The parties intend that the Health Care and Related Programs and Services currently delivered to the residents of the Weeneebayko Area by James Bay General Hospital, WHA and the Federal Nursing Program be consolidated and planned, managed and delivered by WAHA following the steps described below:

- (a) The parties intend that the rights, obligations, assets and liabilities of James Bay General Hospital and of WHA relating to WGH will be transferred to and assumed by WAHA. The parties intend that the transfers should take place by way of the Special Act in respect of James Bay General Hospital and by way of a transfer agreement in respect of WHA.
- (b) Canada shall deliver a lease of the WGH to WAHA in accordance with Section 3.3.
- (c) Canada shall transfer to WAHA, on or before the Canada Funding Date, any patient health records in its possession that are held at WGH. For a period of two years following this transfer of records, WAHA shall return any record(s) to Canada as may be required by Canada to comply with privacy and access to information laws in relation to such records. Canada will return such records to WAHA as soon as possible thereafter.
- (d) The Communities through the Steering Committee shall work with James Bay General Hospital, WHA and WAHA to plan and to the extent appropriate address, in accordance with applicable collective agreements, any workforce adjustment issues of any affected employee of James Bay General Hospital and WHA resulting from the transfers described above to WAHA.
- (e) The Communities intend that all gifts, trusts, bequests, devises and grants of property made to or intended for James Bay General Hospital or WHA shall be

deemed to be gifts, trusts, bequests, devises and grants of property to WAHA for the purpose of carrying out its objects, unless the gift, trust, bequest, devise or grant of property expressly provides otherwise.

- (f) The parties intend that WAHA will attempt to implement the Integration with a view to minimizing potential tax effects on current or future corporate entities, including James Bay General Hospital, WHA and WAHA in accordance with applicable legislation. The parties acknowledge that responsibility to do so must remain with those corporations.
- (g) It is expected that WAHA will develop:
  - (i) a single governance framework, including governance structures, policies and practices reflecting good governance practices, such as those identified in the Ontario Hospital Association's Guide to Good Governance; and
  - (ii) a single management structure and medical staff for its operations.

(2) The parties intend that all Health Care and Related Programs and Services will be provided by WAHA in a manner that is respectful of the languages, cultures and spiritual beliefs of the individuals to be served. Ontario shall take such steps as are within its powers to exempt WAHA from regulatory provisions under the *Health Promotion and Protection Act* (Ontario) and any other provincial Act in order to permit WAHA to provide culturally appropriate care to members of the First Nations. Culturally appropriate care specifically includes provision of traditional First Nations foods.

(3) WAHA may operate Health Care and Related Programs and Services and locate Health Care Infrastructure on lands constituting a Reserve, subject to applicable laws and Canada's and Ontario's usual requirements concerning Canada and Ontario-funded programs and services, including Ontario's Capital Planning Process, where relevant.

### **3.3 Lease of the WGH**

(1) Canada will deliver to WAHA on or before 90 days after WAHA has been established, a lease for execution by WAHA of the WGH for purposes related to Health Care and Related Programs and Services ("**Lease**"). The Lease will be drafted to take effect 120 days after WAHA has been established, will be for a five-year term, for nominal rent and will contain such other terms and conditions as may be acceptable to Canada.

(2) The Lease will be signed by Canada on or before the date it is to take effect provided that on or before that time:

- (a) the Lease is signed by WAHA;

- (b) Canada has carried out any consultation with, or undertaken any accommodation of, any First Nation or First Nations that in the opinion of Canada is appropriate in the circumstances of the Lease;
  - (c) subject to Section 3.3(2)(d), WHA and WAHA have entered into a binding agreement transferring the assets, rights and obligations of WHA relating to the WGH to WAHA; and
  - (d) WHA has surrendered to Canada, any leasehold interest it has, if any, or any other interest it may have, if any, in the WGH.
- (3) Canada's obligation to deliver the Lease is subject to all applicable law, including without limitation, the *Canadian Environmental Assessment Act* ("CEAA"). In relation to CEAA:
- (a) Canada has entered into a contribution agreement with WHA to fund WHA to undertake an environmental assessment of the proposed operation of the WGH by WAHA; and
  - (b) provided that the environmental assessment referred to in Section 3.3(3)(a) and a report summarizing that assessment which complies with the requirements of CEAA is provided to Canada, Canada intends, within 60 days of receipt of that report, to make a determination under section 20 of CEAA in relation to the granting of the Lease.
- (4) Canada will offer to renew the Lease or enter into a new lease of the WGH from time to time if WAHA continues to require the WGH for purposes related to Health Care and Related Programs and Services and provided that WAHA is not in material breach of its obligations under the Lease or any funding or other agreements with Canada entered into pursuant to or in connection with this Agreement. Any renewal of the Lease or any new lease shall not have a term of more than 10 years. Canada shall not be obliged to grant any renewal of the Lease or enter into a new lease more than 15 years after the commencement of the term of the Lease.

## **SECTION 4 – TRANSITION PERIOD AND FUNDING**

### **4.1 Transition Period**

There shall be a transition period of up to five years following the establishment of WAHA (the "**Transition Period**") during which:

- (1) Canada will reallocate the current Federal Hospital Funding to certain nursing and community based health programs and services to be provided by WAHA in accordance with Section 6.1;
- (2) The parties intend that WAHA will work with Canada and Ontario (and the NELHIN, as applicable) to establish its annual consolidated operating budget, subject to funding arrangements set out in this Agreement;

- (3) The parties intend that WAHA will work with Ontario and others (such as the NELHIN, Ontario Joint Policy and Planning Committee and Small Rural Northern Hospital Council) to improve the recognition of its remote, northern location within the hospital funding formula;
- (4) The parties intend that WAHA will undertake all necessary activities, including planning activities, to integrate the operations of James Bay General Hospital, Weeneebayko General Hospital and Federal Nursing Program activities so as to merge their operations and/or activities into one organization; and
- (5) The parties intend that WAHA will, during the Transition Period, commence work on its Strategic Infrastructure Development Plan, and will submit funding proposals to Canada and Ontario as more particularly set out in Section 5.1.

#### **4.2 Funding for Initial Integration and Transition Activities**

- (1) The parties recognize that WAHA will incur costs in undertaking the initial Integration activities during the Transition Period (“**Transition Costs**”), which costs are expected to include:
  - (a) costs related to planning and implementation activities, including support for the development and implementation of WAHA’s operations, including one set of practices, policies, procedures, protocols, reporting and standards for information technology, human resources, health records, facilities management, materials management and similar matters; and
  - (b) costs related to the transfer or lease of assets from James Bay General Hospital, WHA and Canada to WAHA.
- (2) The parties intend that WAHA will apply for funding for the Transition Costs from all eligible federal and provincial funding sources, including any available federal and provincial Aboriginal health transition program funding.
- (3) Canada intends to contribute toward the Transition Costs through its “Aboriginal Health Transition Fund” program. Any available funding from this program or from any other applicable Canada transition funding sources, which is applied for by WAHA and approved by Canada shall be provided pursuant to contribution agreements to be entered into in accordance with Section 6.5.
- (4) Ontario intends to contribute toward the Transition Costs, provided that the Transition Costs that are funded by Ontario are approved by Ontario in accordance with the policy and process requirements of provincial funding sources, including any available provincial Aboriginal health transition program funding.

## **SECTION 5 – STRATEGIC INFRASTRUCTURE DEVELOPMENT PLAN**

### **5.1 Strategic Infrastructure Development Plan**

(1) The parties intend that the proposed members of the first board of directors of WAHA will begin the process of developing a strategic plan for Health Care Infrastructure (the “**Strategic Infrastructure Development Plan**”) for all of the Communities based on the master service plan (of September 2004) and the facilities review (of November 2004). The Strategic Infrastructure Development Plan is expected to be completed after WAHA is established and will be submitted for review and approval by WAHA’s board of directors. The Strategic Infrastructure Development Plan is expected to:

- (a) provide for phased-in infrastructure development;
- (b) specify WAHA’s priorities;
- (c) be guided by relationships with other providers, the priorities and needs of the Communities, the availability of and access to resources; and
- (d) be based on the Ontario Capital Planning Process.

(2) The parties agree that the development of improved facilities for the Kashechewan community is a priority for WAHA’s Strategic Infrastructure Development Plan.

(3) The parties agree that WAHA may submit, for funding consideration by Canada and Ontario, any proposed Health Care Infrastructure projects identified by the Strategic Infrastructure Development Plan that are supported by WAHA.

## **SECTION 6 – CANADA FUNDING**

### **6.1 Annual Contribution Commitment**

(1) Canada currently provides WHA with approximately \$12 million per year of contribution funding toward the costs of operating the Weeneebayko General Hospital, including certain costs related to physician and nursing services, hospital administration, equipment, operations and maintenance (“**Federal Hospital Funding**”).

(2) The parties agree that on the Canada Funding Date the Federal Hospital Funding agreement will be terminated and Canada shall offer to enter into a new contribution agreement with WAHA in accordance with Section 6.5 for the amount of \$12 million per year. This contribution shall be for the matters set out in Section 6.1(5) and subject to adjustment as a result of any payments to Ontario made on behalf of WAHA under Section 6.6(2). If the initial period of this contribution agreement covers only part of a federal fiscal year (April 1 to March 31), the funding amount for this initial period will be proportionately reduced.

(3) Following the initial contribution agreement referred to in Section 6.1(2), Canada shall offer to enter into further contribution agreements with WAHA in accordance with Section 6.5 in

the amount of \$12 million per year on an ongoing basis provided that WAHA is not in material breach of its obligations under any prior funding or other agreements with Canada entered into pursuant to or in connection with this Agreement. This contribution shall be for the matters set out in Sections 6.1(5) and 6.1(6) and subject to adjustment as a result of any payments to Ontario made on behalf of WAHA under Section 6.6(2).

(4) The “**Canada Funding Date**” means the date by which all of the following have occurred:

- (a) 120 days has elapsed since the establishment of WAHA;
- (b) WAHA has provided evidence to Canada that it has, in accordance with Section 3.2(1)(a), entered into a binding agreement assuming the rights, obligations, assets and liabilities of WHA relating to WGH;
- (c) WHA has taken all necessary steps to terminate, on consent with Canada, the contribution agreement for Federal Hospital Funding; and
- (d) Canada and WAHA have entered into a binding lease agreement in accordance with Section 3.3 and WAHA has taken possession of the premises.

(5) Contribution agreements for the \$12 Million Annual Contribution will, subject to any payments to Ontario made on behalf of WAHA under Section 6.6(2), provide that the funding shall be used by WAHA for the following matters and based on the following funding ceilings and conditions:

- (a) funding for primary care nursing services currently funded by Ontario at the Attawapiskat site and the Fort Albany site of James Bay General Hospital (up to \$5 million per year);
- (b) ongoing ancillary costs of family physician services for the Communities (up to \$1.5 million per year);
- (c) hospital operating funding during the Transition Period (up to \$6.5 million per year);
- (d) funding for enhanced community health contribution programs available from FNIHB from time to time (up to \$5.5 million per year); and
- (e) capital costs for new or improved Health Care Infrastructure in accordance with Section 6.6.

(6) For the purpose of further contribution agreements referred to in Section 6.1(3), Canada may adjust the list of funded programs or activities and their various funding ceilings and conditions set out in Sections 6.1(5)(a) through 6.1(5)(d) if necessary to meet new or evolving federal health programs, changes to those programs, as well as health needs identified by WAHA. Such adjustments may be effected by way of introducing new or varied terms to

contribution agreements between Canada and WAHA and shall not require an amendment to this Agreement.

## **6.2 Funding Adjustments (Annual Contribution Commitment)**

- (1) The amount of the \$12 Million Annual Contribution is not intended to be subject to an annual adjustment.
- (2) There will be a review of Canada's annual contribution commitment under Section 6.1 every ten years following the Canada Funding Date.

## **6.3 Additional Funding**

WAHA shall be eligible to receive contributions from Canada in addition to the \$12 Million Annual Contribution. Such additional contributions may include funding for the following programs, services, activities or costs where agreed to by Canada and WAHA:

- (1) Transition Costs, in accordance with Section 4.2;
- (2) the Federal Nursing Program, in accordance with Section 10;
- (3) the NIHB Program, in accordance with Section 8;
- (4) health facility operations funding (including capital equipment purchases, operations and maintenance) for any nursing stations or health centres and support facilities in the Weeneebayko Area;
- (5) CARC funding, in accordance with Section 6.7;
- (6) local or regional health program and service supervision, coordination and support functions and any activities recognized by FNIHB as zone activities; and
- (7) any other new or expanded health contribution programs introduced by Canada from time to time.

## **6.4 Funding Adjustments (Additional Funding)**

WAHA will be eligible for any annual adjustments for additional funding programs described in Section 6.3 introduced by Canada from time to time in accordance with regional and national FNIHB contribution policies.

## **6.5 Funding Terms and Conditions**

- (1) Canada shall provide the \$12 Million Annual Contribution and any additional funding agreed to by Canada and WAHA under Section 6.3 subject to and conditional upon contribution or transfer agreements to be entered into between Canada and WAHA. Such agreements may require a planning phase and shall require the development of a plan by WAHA to be approved by Canada. Contribution agreements shall be prepared in accordance with Canada's then-

existing standard national and regional First Nation and Aboriginal health contribution agreement formats and program terms and conditions as administered by the federal Department of Health, including funding conditions, funding levels (except where this Agreement establishes funding levels) and eligible expense guidelines. The parties acknowledge that Canada contribution agreements for health matters are based on an April 1 to March 31 fiscal year, contain a description of funded programs or services and typically carry a term of between one and five fiscal years.

(2) Notwithstanding any other provision of this Agreement, any payment by Canada under this Agreement, or any funding agreement to implement Canada's obligations under this Agreement, is subject to there being a sufficient unencumbered balance of an appropriation made by the Parliament of Canada, which appropriation has to constitute lawful authority for making the said payment during the fiscal year in which the payment becomes due.

## **6.6 Canada Capital Funding**

(1) Subject to the entry into one or more contribution agreements with WAHA, Canada shall provide funding equal to 45 percent of provincially approved Health Care Infrastructure project costs as determined under the Ontario Capital Planning Manual and 100 percent of non-shareable expenses, provided such non-shareable expenses are approved by Canada and eligible for reimbursement under Canada's capital facilities funding authorities. Canada's contribution for new or improved Health Care Infrastructure shall be paid to or on behalf of WAHA from the portion of the \$12 Million Annual Contribution to be dedicated to capital costs for Health Care Infrastructure under Section 6.1(5)(e) and paid subject to either Section 6.6(2) or 6.6(3).

(2) Canada's 45 percent and 100 percent shares described in Section 6.6(1) may, subject to Ontario's agreement, be flowed by Canada to Ontario by way of contribution agreement. In this case, the amount of the \$12 Million Annual Contribution to be paid directly to WAHA will be reduced by the same amount. Such amounts will be held by Ontario, together with interest thereon, until such time as required by WAHA for the costs of Health Care Infrastructure, at which time the Canada amount shall be released by Ontario (rateably with the Ontario contribution in relation to the 45 percent share). The full terms and conditions of the contribution agreement to flow such funding to Ontario, and for Ontario's management and release of that funding, shall be acceptable to Canada, Ontario and WAHA. The amount to be flowed to Ontario by Canada under this provision will be determined in accordance with the planning process to be undertaken by WAHA set out in Section 6.5.

(3) Canada's 45 percent and 100 percent shares described in Section 6.6(1) may, where such funding is for current Health Care Infrastructure projects and will be expended during the term of the contribution agreement under which it is paid, be flowed by Canada directly to WAHA pursuant to contribution agreements to be entered into between them in accordance with Section 6.5.

## **6.7 CARC**

(1) WAHA may, subject to Section 6.7(2), participate in Canada's Capital Allocation Review Committee ("CARC") process for capital improvements and upgrades to health facilities in the

Weeneebayko Area that are currently owned by Canada, such as the WGH, or which have been constructed or maintained in whole or in part with funding from Canada, such as nursing stations or health centres in the Weeneebayko Area.

- (2) The CARC process and associated funding shall:
  - (a) be available for the WGH for a period of ten years following the execution of this Agreement, after which time funding for capital repairs, improvements and upgrades for these facilities will be paid pursuant to arrangements to be made between WAHA and Ontario;
  - (b) not apply to new or replacement hospital facilities; and
  - (c) not apply to those portions or percentages of any Health Care Infrastructure funded by Ontario (for greater certainty, portions or percentages paid by Ontario do not include any Canada funding held and released by Ontario under Section 6.6(2)).
- (3) Any funding to be offered for capital upgrades and improvements agreed to by Canada and WAHA through the CARC process will be offered by Canada pursuant to contribution agreements to be entered into in accordance with Section 6.5.

## **SECTION 7 – ONTARIO FUNDING**

### **7.1 General**

- (1) Ontario's obligations to fund WAHA under this Agreement are subject to:
  - (a) WAHA having complied with all planning, operating, reporting and other requirements of Ontario applicable to public hospitals in Ontario, including the Ontario Capital Planning Process; and
  - (b) the availability of an appropriation of the Legislature of Ontario for the fiscal year in which the payment is to be made by Ontario or the payment having been charged to an appropriation for a previous fiscal year.
- (2) Once established, it is intended that WAHA will prepare an integrated multi-year operating plan in accordance with Ontario's process and the *Commitment to the Future of Medicare Act, 2004* (Ontario), with the goal of establishing a hospital accountability agreement between WAHA and Ontario or the NELHIN, as applicable.

### **7.2 Funding Commitment to WAHA**

- (1) For the purpose of this Section, "**Base Funding**" shall mean the total of all approved annualized funding from Ontario for the fiscal year 2007/2008 to:
  - (a) James Bay General Hospital under its accountability agreement; and

(b) WHA and Canada in respect of the Weeneebayko General Hospital.

(2) Subject to the *Public Hospitals Act* (Ontario), the *Commitment to the Future of Medicare Act, 2004* (Ontario) and the *Local Health System Integration Act, 2006* (Ontario), Ontario agrees to provide WAHA with funding in an amount not less than Base Funding on an annual basis.

### **7.3 Adjustments to WAHA Funding**

(1) Ontario will provide new operating funding to WAHA early in the Transition Period with a view to replacing the current federal funding of hospital operations as follows:

- (a) \$2.5 million annual increase to Base Funding starting in 2008/2009; and a further
- (b) \$3.5 million annual increase to Base Funding starting in 2009/2010.

(2) WAHA shall be eligible for annual adjustments in accordance with hospital and program operating adjustments made periodically by Ontario.

(3) WAHA shall be eligible for additional funding for new or expanded programs and services as is any other public hospital in Ontario.

### **7.4 Ontario Capital Planning Process**

(1) Ontario will provide funding up to 55 percent of project costs as determined by the Ontario Capital Planning Process for approved Health Care Infrastructure projects.

(2) Ontario will pay its capital contribution in instalments in accordance with Ontario's Capital Planning Manual.

(3) Ontario's capital funding obligations are subject to Canada funding its capital contribution in accordance with this Agreement.

### **7.5 Funding Commitment to the Weeneebayko Area**

In addition to any other Ontario funding commitments under this Agreement, Ontario commits to continue to provide annual funding for non-hospital based health services in the Weeneebayko Area in an amount that is not less than the total amount Ontario funded such services in the fiscal year 2006/2007 (Ontario).

## **SECTION 8 – NON-INSURED HEALTH BENEFITS (NIHB) PROGRAM**

Canada and the Communities intend that WAHA will provide certain NIHB services currently provided by WHA (certain medical transportation, dental and audiology components) subject to contribution agreements to be entered into in accordance with Section 6.5.

## **SECTION 9 – LONG-TERM CARE**

Ontario commits to work with the Communities, through WAHA, to determine the long-term care needs of the residents of the Weeneebayko Area. A special coordination process for long-term care should be put into place to work with the Communities to develop and strengthen the existing long-term care services in the Weeneebayko Area and to assist in their future development.

## **SECTION 10 – FEDERAL NURSING PROGRAM TRANSFER**

- (1) Canada and the Communities intend that WAHA will provide the Federal Nursing Program, subject to transfer arrangements to be entered into in accordance with Section 6.5.
- (2) Canada commits to facilitate such transfer arrangements. Canada and the Communities intend that WAHA will: (a) undertake all necessary planning activities for this transfer; and (b) apply to Canada for funding to undertake the necessary planning to prepare for this transfer.
- (3) Initial transfer funding levels for the Federal Nursing Program shall be in accordance with FNIHB nursing transfer policies and based on the full actual costs of the Federal Nursing Program at the date of transfer.
- (4) Transfer of the Federal Nursing Program will be conditional upon WAHA obtaining band council resolutions, permits and any other rights or authorizations as may be required to use and occupy nursing and/or other health facilities necessary for delivering the Federal Nursing Program in the Communities.

## **SECTION 11 – PUBLIC HEALTH**

- (1) The parties acknowledge that a tri-party group, comprised of representatives of the Steering Committee and representatives of Canada and Ontario, has been established to report on opportunities for improving public health in the Weeneebayko Area (the “**Tri-Party Working Group**”).
- (2) To build on the work of the Tri-Party Working Group, the parties agree to continue to investigate and support the improvement of public health in the Weeneebayko Area by establishing a task force.
- (3) The task force will review the integration and improvement of public health care delivery in the Weeneebayko Area as part of a process separate from the Integration contemplated by this Agreement. As part of its work, the task force will include in its review, the final report of the Tri-Party Working Group.
- (4) The parties agree to review the results of the task force’s work and to subject this work to community consultation.

## **SECTION 12 – DISCUSSIONS AND EVALUATION**

### **12.1 Annual Tri-Party Discussions**

Canada and Ontario will discuss the implementation of this Agreement, progress with Integration and issues or changes in the operating environment for WAHA with WAHA, and such other persons as may be agreed to from time to time, on an annual basis or at such other times as agreed.

### **12.2 Five-Year Evaluations**

- (1) The parties intend that WAHA, in consultation with Canada and Ontario, shall evaluate the implementation of this Agreement and the effectiveness of the Integration every five years.
- (2) The parties intend that WAHA will, as soon as practicable after it is established, establish and maintain such data collection and other measurement and reporting systems as may be reasonably necessary for future evaluations.

## **SECTION 13 – DISPUTES**

### **13.1 Informal Resolution**

The parties acknowledge that, notwithstanding their intention to work together in good faith, disputes might arise relating to the rights or obligations of any party to this Agreement. The parties agree to minimize, if not prevent, such disputes by clearly articulating expectations and establishing clear lines of communication. The parties shall make all reasonable efforts to resolve any disputes that might arise by negotiation, through normal practices, between the duly appointed representatives of each party.

### **13.2 Formal Resolution**

If any party determines in good faith that a dispute relating to the rights or obligations of any party to this Agreement cannot be resolved informally, the dispute may be submitted to a court of competent jurisdiction.

## **SECTION 14 – INTERPRETATION / NO PREJUDICE**

### **14.1 Interpretation**

In this Section, “**Aboriginal Communities**” means the Attawapiskat First Nation, the Fort Albany First Nation, the Kashechewan First Nation, the Moose Cree First Nation, the Weenusk First Nation and the Mocrebec community as represented in this Agreement by the Mocrebec Non-Profit Development Corporation.

### **14.2 No Prejudice**

- (1) This Agreement is not intended to have the effect of, or be interpreted as:

- (a) abrogating or derogating from: (i) existing aboriginal and treaty rights of the Aboriginal Communities as recognized and affirmed by section 35 of the *Constitution Act, 1982*; or (ii) the application and operation of section 35 to such rights;
  - (b) altering the fiduciary relationship between the Crown and the First Nations of the Weeneebayko Area;
  - (c) altering any responsibilities of the federal and provincial governments for Aboriginal health care (except to the extent that any such responsibilities may change in accordance with the laws of Canada and/or Ontario in respect of WAHA planning, managing and delivering Health Care and Related Programs and Services for or on behalf of the Communities under or as a result of this Agreement); or
  - (d) modifying any treaty or creating a new treaty within the meaning of the *Constitution Act, 1982*.
- (2) This Agreement is without prejudice to:
- (a) any applications, court actions, negotiations or settlements with respect to land claims or land entitlements involving any of the Aboriginal Communities including any claims to or any rights that might be recognized and affirmed arising from the Rupert's Land and North-Western Territory Order, the Schedules thereto, and any related statutes and laws; and
  - (b) the implementation of any inherent right of self-government or any agreements that may be negotiated with respect to self-government with any of the Aboriginal Communities.
- (3) The parties acknowledge that the arrangements entered into under this Agreement are not intended to determine, delineate or define:
- (a) the distribution of powers between Canada and Ontario in relation to health; or
  - (b) the scope of federal jurisdiction over Indians, and Lands reserved for the Indians under section 91(24) of the *Constitution Act, 1867*.

## **SECTION 15 – GENERAL CONTRACT PROVISIONS**

### **15.1 Agreement**

This Agreement is intended to be legally binding in accordance with its terms and supersedes all discussions and negotiations that preceded the signing of this Agreement.

## **15.2 Governing Laws**

This Agreement shall be construed in accordance with the laws of the Province of Ontario and all federal laws applicable therein.

## **15.3 Statutory References**

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

## **15.4 Other References**

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

## **15.5 Amendment**

This Agreement cannot be amended except in writing signed by duly authorized representatives of each of the parties. Notwithstanding the foregoing, the parties recognize the powers of Canada and Ontario to make changes to legislation and regulation that would supersede this Agreement partially or in its entirety.

## **15.6 Further Assurances**

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

## **15.7 Assignment**

(1) Subject to Section 15.7(2), a party may not assign this Agreement without the prior written consent of the other parties. This Agreement shall enure to the benefit of and shall be binding upon the parties and their respective successors and permitted assigns.

(2) Ontario may assign any or all of its rights or obligations under any provision of this Agreement, save and except for Section 14, to the NELHIN concerning matters that the NELHIN is responsible for under Ontario policy or the *Local Health System Integration Act, 2006* (Ontario). Upon such assignment, Ontario is released of its obligations for the matters that are assigned, and the NELHIN shall assume those obligations and rights.

### **15.8 Relationship of Parties**

Nothing in this Agreement shall be deemed to constitute any party a partner or agent of any other party and each party will act on its own behalf and not on behalf of any other party. At no time will any party hold itself out to be the agent, employee or partner of any other party. No party hereto shall have the express or implied right or authority to assume or create any obligation on behalf of or in the name of any other party, or to bind any other party to any contract, agreement or undertaking with any other person.

### **15.9 Severability**

Each of the provisions contained in this Agreement is distinct and severable. Any declaration by a court of competent jurisdiction of the invalidity or unenforceability of any provision or part of a provision will not affect the validity or enforceability of any other provision of this Agreement.

### **15.10 Notices**

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

#### **To Canada:**

Name: Health Canada  
Address: A.L. 0900C2  
Ottawa, ON K1A 0K9  
Attention: ●  
Fax No: ●

#### **To Ontario:**

Name: Ministry of Health and Long-Term Care  
Address: 80 Grosvenor Street  
10<sup>th</sup> Floor, Hepburn Block  
Toronto, ON M7A 2C4  
Attention: ●  
Fax No: ●

#### **To the Communities of the Weeneebayko Area:**

Name: Attawapiskat First Nation  
Address: ●  
Attawapiskat, ON P0L 1A0  
Attention: Chief and Council  
Fax No: 705-997-2116

Name: Fort Albany First Nation  
Address: ●  
Fort Albany, ON P0L 1H0  
Attention: Chief and Council  
Fax No: 705-278-1193

Name: Kashechewan First Nation  
Address: ●  
Kashechewan, ON P0L 1S0  
Attention: Chief and Council  
Fax No: 705-275-1023

Name: Mocreebec Non-Profit Development Corporation  
Address: P.O. Box 4  
Moose Factory, ON P0L 1W0  
Attention: Chief and Council  
Fax No: 905-658-4487

Name: Moose Cree First Nation  
Address: P.O. Box 190  
Moose Factory, ON P0L 1W0  
Attention: Chief and Council  
Fax No: 705-658-4734

Name: Weenusk First Nation  
Address: ●  
Peawanuck, ON P0L 2H0  
Attention: Chief and Council  
Fax No: 705-473-2503

Name: The Corporation of the Town of Moosonee  
Address: P.O. Box 727  
Moosonee, ON P0L 1Y0  
Attention: Mayor and Council  
Fax No: 705-336-2426

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

**15.11 Warranty of Authority**

Each party represents and warrants that it has the necessary power, authority and capacity to enter into this Agreement and that its signatory has been duly authorized to sign this Agreement on its behalf.

**15.12 Execution**

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

The parties have executed this Agreement.

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

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF ONTARIO, as represented by the  
Minister of Health and Long-Term Care**

By: \_\_\_\_\_

Name:

Title:

By: \_\_\_\_\_

Name:

Title:

**ATTAWAPISKAT FIRST NATION, as represented by  
their duly elected Chief and Council**

By: \_\_\_\_\_  
Name:  
Title:

**FORT ALBANY FIRST NATION, as represented by their  
duly elected Chief and Council**

By: \_\_\_\_\_  
Name:  
Title:

**KASHECHEWAN FIRST NATION, as represented by  
their duly elected Chief and Council**

By: \_\_\_\_\_  
Name:  
Title:

**MOCREEBEC NON-PROFIT DEVELOPMENT  
CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**MOOSE CREE FIRST NATION, as represented by their  
duly elected Chief and Council**

By: \_\_\_\_\_  
Name:  
Title:

**WEENUSK FIRST NATION, as represented by their duly  
elected Chief and Council**

By: \_\_\_\_\_  
Name:  
Title:

**THE CORPORATION OF THE TOWN OF  
MOOSONEE, as represented by the Mayor and Council  
of Moosonee**

By: \_\_\_\_\_  
Name:  
Title: