

LEASE AMENDING AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 20__.

BETWEEN:

ABC xxxxxxxxxxxx
the Metis Settlements Act,
(hereinafter Referred to as "Lessor")

- and-

THE BOARD OF TRUSTEES OF XYZ
(hereinafter Referred to as "the Lessee")

WHEREAS:

- A. The Lessee is a public school division governed by the *XYZ Division Act*, RSA 2000, c. N-5 and the *School Act*, RSA 2000, C. S-3 and is charged with the management and public education of Aboriginal and other children in the regions of Alberta;
- B. The parties entered into a lease agreement on _____, XXXX ("XXXX Lease Agreement");
- C. The parties wish to amend the XXXX Lease Agreement subject to the terms, conditions and covenants herein set out;
- D. The Lessee has obtained commitments from the Alberta Government for major funding to build a new school ("DEF School") on the lands described at Schedule "A" to replace the current School and when so funded, the Lessee intends to design the DEF School to complement the work of Board of Governors for GHI College ("College") as generally described in the Memorandum of Understanding entered into on January 1, 1900, between the College, the Lessor and the Lessee ("MOU");
- E. The parties entered into the MOU for the purpose of forming a strategic alliance aimed at providing better educational outcomes for the DEF community

through collaborative educational efforts, services of benefit to the community and a cluster of facilities for improved efficiency;

- F. The parties to this Lease Amending Agreement wish to cooperate towards the realization/implementation of the MOU.
- G. To that end the Lessee intends to locate a Day Care and Head Start program, to be operated by the Lessor, at the DEF School building, which is to be implemented by way of a sublease from the Lessee to the Lessor;
- H. The implementation of the MOU in relation to the proposed DEF School is subject to the receipt by the Lessee of sufficient Government funding to build the DEF School. In the event this funding is not provided or not sufficient, the parties understand and agree that they will not proceed with the construction of the DEF School and would instead take steps to renew the 1900 Lease Agreement for the continued provision of education at the current School;
- I. The parties intend to discuss whether they will enter into a Development and / or Construction Agreement for the purpose implementing the MOU;
- J. During the term of this Lease Amending Agreement, the Lessee intends to permit access to the College on the leased lands and premises of the Lessor for the purposes set out in the MOU and in accordance with a sublease to be entered into by the Lessee and the College;
- K. In consideration of the terms, conditions and covenants herein contained, Lessor and Lessee hereby agree to amend the XXXX Lease Agreement in accordance with the terms as set out herein.

NOW THEREFORE: in consideration of the premises and the mutual covenants, agreements and conditions herein contained, the parties agree as follows:

1. The parties acknowledge that the foregoing recitals are true in substance and in fact and that they form part of this Lease Amending Agreement.
2. All words and expressions used in this Lease Amending Agreement, unless there is something in the subject matter or context inconsistent therewith, shall have the same meaning ascribed to them in the XXXX Lease Agreement.
3. The terms, conditions and covenants set out in the XXXX Lease Agreement between the parties continue to apply between the parties subject to the revised / new terms, conditions and covenants set out in this Lease Amending Agreement. In the event of a conflict between this Lease Amending Agreement and the XXXX Lease Agreement, the terms of this Lease Amending Agreement supersede the XXXX Lease Agreement.

Schedule "A" attached to the XXXX Lease Agreement shall be replaced in its entirety by the Schedule "A" attached to this Lease Amending Agreement.

ARTICLE 1 of the xxxx lease agreement shall be deleted in its entirety and replaced with the following:

- A.** The Lessor hereby demises and leases unto the Lessee that parcel of land (together with any and all improvements thereon) situate in the Province of Alberta and being those lands legally described on Schedule "A" hereto (the "Leased Lands"), subject to such interests and restrictions as are noted on the existing certificates of titles therefore, and such interests as may be implied by sections 60 and 61 of the *Land Titles Act* (Alberta), *The Metis Settlements Act* and *The Metis Settlements Land Protection Act*.
- B.** The Lessor acknowledges, agrees and consents that the Lessee may enter into a sublease with the College in relation to the Leased Lands, shall permit College access to the Leased Lands and that the Lessee and the College may make arrangements as between themselves with respect to the providing access or usage rights to the College.
- C.** The Lessor and the Lessee acknowledge and agree that the implementation of the MOU in relation to the proposed DEF School is subject to the receipt by the Lessee of sufficient Government funding and that in the event this funding is not provided, this Lease Amending Agreement is nul and void and the parties agree to negotiate new terms of the renewal of the 1900 Lease Agreement in relation to the current School.

ARTICLE 2 of the xxxx lease agreement shall be deleted in its entirety and replaced with the following:

- A. Initial term:** The Lessor and the Lessee hereby agree that the initial term shall consist of a period expiring on the XX day of _____, 20XX.
- B. Extension:** On or before XX day of _____, 20XX the Lessor will submit a by-law to the members of the settlement with a view to extending the initial term of the Lease in accordance with Article 29(2) of the Metis Settlement General Policy to be voted on by the members on or before the xx day of _____, 20XX.

ARTICLE 5 in the 1900 Lease Agreement shall be replaced with the following wording:

- A.** The Lessee may use the Leased Lands for the purpose of establishing, constructing, building and operating an educational facility, including permitting access to the Leased Lands for the operation of a Day Care facility, Head Start and/or a Postsecondary Facility and the Lessor shall cooperate with the Lessee with respect

to obtaining any required building permits and governmental authorizations in relation to the same.

The following shall be added as a new paragraph to ARTICLE 5:

- B. Sublease:** It is agreed that the Lessee shall sublease back to the Lessor a portion of the Leased Lands for purposes of the Day Care / Headstart programs and associated parking and playground ("Sublease") The Sublease shall be at a rent of \$1.00 for its term and on terms similar to the ones contained in this Lease such that the Sublessee shall undertake the obligations owed by the Lessee to the Lessor in respect of the subleased area, including obligations to insure and indemnify the Lessee (in its capacity as Sublessor) in respect of matters occurring on or in respect of the subleased area. The Sublessee shall not assign the Sublease without obtaining the Sublessor's written consent. It is further understood that the Sublease shall end one day prior to the day when this Lease ends.

For purposes of clarity, the parties do not intend the Sublease to constitute a merger (neither in law nor in equity) and agree that the Sublease benefits the parties and conversely agree that the fact that the Sublease does not constitute a merger is to the benefit of both parties.

ARTICLE 6 of the XXXX Lease Agreement shall be deleted in its entirety and replaced with the following:

- A.** In addition to Article 1(A), Article 6 of the XXXX Lease Agreement applies to the extent the Metis Settlements Act, RSA 2000, c. M-14, does not contradict or conflict with the XYZ Division Act, RSA 2000, c-N-5, and the School Act, RSA 2000,. S-3, as amended from time to time, to which the Lessee is statutorily obligated.

ARTICLE 8 The Lessee shall be allowed, acting reasonably, to construct improvements upon the Leased Lands.

ARTICLE 10 of the 1900 Lease Agreement shall be deleted in its entirety and replaced with the following:

- A.** The Lessor and the Lessee shall at all times indemnify and save harmless the other of and from all loss and damage and all actions, claims, costs, demands, expenses, fines, liabilities and suits of any nature whatsoever for which the other shall or may become liable, incur or suffer by reason of a breach, violation or non-performance by the other of any covenant, term or provision hereof.

ARTICLE 11 of the 1900 Lease Agreement shall be deleted in its entirety and replaced with the following:

- A. Public Liability Insurance:** Lessee shall, at Lessee's own cost and expense, secure and maintain during the entire term of this Lease, a broad form comprehensive coverage policy of public liability insurance issued by an Insurance Company authorized to issue Liability Insurance in Alberta, insuring Lessee against loss or liability caused by or connected with Lessee's occupation and use of the premises under this lease in amounts not less than:
- i. Five million dollars for injury to or death of one or more persons as a result of any one accident; and damages to or destruction of any property of others
- B. Casualty Insurance:** Lessee shall carry at his own expense, fire and extended coverage insurance, and shall exercise good faith to review annually such coverage so as to cause the insurance to be maintained at a rate of 90% of the full replacement value of any structure or improvement erected on the Leased Lands (exclusive of the cost of excavation, foundations and footings). For the purposes of this article, it is understood and agreed that the estimated cost of the improvements on the properties on the date of the execution of this Lease is approximately fifteen million dollars (\$15,000,000.00).
- C.** The Lessee agrees to acquire course of construction insurance in the event of any construction occurring.
- D.** The Lessee agrees to provide notice to the Lessor of any cancellation of the above mentioned policies.
- E.** The Lessee agrees to provide, upon request of the Lessor, Certificates of Insurance pertaining to the above mentioned coverages.
- F.** The Lessor shall carry public liability insurance for the matters it is liable for under Article 5 in the amount of Five Million Dollars. Proof of such insurance shall be required, and the access and use rights provided for under Article 5 shall not be in effect until proof of such insurance being in effect and not being cancelled is provided to the Lessee.

ARTICLE 19: The following shall be added to the XXXX Lease Agreement:

- A. Termination**
- i. This Lease may be terminated at any time, without cause, by either party on two year's written notice to the other party.
 - ii. Upon such termination, the Lessee may, after consultation with the Lessor, remove any buildings and other improvements and personal property of the Lessee from the Leased Lands provided the Lessee leaves the Leased Lands in clean condition.

ARTICLE 20: The following shall be added to the XXXX Lease Agreement:

A. Access by the lessor

The Lessee agrees to permit the Lessor access to the DEF School for purposes related to the Day Care and/or Head Start in accordance with the XYZ Division Facilities Access Policy, but in so doing the Lessee shall act reasonably and the Lessor will not unreasonably disturb or interfere with the Lessee's use of the Leased Lands.

ARTICLE 21: The following shall be added to the XXXX Lease Agreement:

B. No partnership

Each of the parties hereto acknowledge that this Lease Amending Agreement is not intended to create, nor shall it be construed as creating, expressly or by implication, any partnership, joint venture, or agency relationship whatsoever between the parties and neither party shall have, nor represent itself to have, any authority or power to enter into any contract, assume any obligations or make any warranties or representations on behalf of the other or to act for or to undertake any obligation or responsibility on behalf of the other party, except as may herein be expressly provided.

IN WITNESS WHEREOF the parties hereto have duly executed this Lease Amending Agreement as of the day and year first above written.

ABC METIS SETTLEMENT

By signing this document, the signatory confirms that they have the necessary authority to sign this document for and on behalf of _____XXXXXXXXXXXXX_____

Per: _____
.....Name
.....Title

BOARD OF TRUSTEES XYZ

By signing this document, the signatory confirms that they have the necessary authority to sign this document for and on behalf of _____XXXXXXXXXXXXX_____

Per: _____
Name
.....Title

Schedule A

- 1 Schedule "A" attached to and forming part of this Amended Lease between:
ABC Settlement ("Lessor") and the Board of the XYZ Division ("Lessee")
- 2 The Leased Lands and improvements are described as that Leased Lands and
improvements located at: **(LOT and BLOCK description)**

LEASE

THIS LEASE is entered into this ____ day of _____, 20xx

BETWEEN

ABC Settlement

a body corporate incorporated pursuant
to the *Metis Settlements Act*
(hereinafter called the "Lessor")

OF THE FIRST PART -and-

**THE BOARD OF THE
XYZ SCHOOL DIVISION**

(hereinafter called "Lessee")

OF THE SECOND PART

WHEREAS:

- A. Her Majesty, Queen Elizabeth II, in Right of the Province of Alberta and XYZ School Division entered Into an Indenture on the ____ day of _____, 20xx
- B. Her Majesty, Queen Elizabeth II, in Right of the Province of Alberta transferred Metis Title to ABC Metis Settlement on or about _____, 20xx
- C. Both parties wish to enter into an Agreement reflecting the interests of each of the parties and wish to concurrently with the execution of this Lease cancel the old Indenture

NOW THEREFORE in consideration of the covenants contained Lessor and Lessee hereby agree as follows

- 1. Lessor hereby (eases to Lessee those certain lands and all improvements located in the Hamlet of ABC as more particularly described In Schedule A attached hereto together with all rights, privileges, easements and appurtenances ("property-)

2. TERM

(a) *Initial Term*

The initial term shall consist of a period of 10 (ten) years commencing on the 1st day of January 1900.

(b) *Extension*

Upon the expiration of the ninth (9) year the Lessor will submit a bylaw to the members of the Settlement with a view to extending the term of the Lease in accordance with Article 2 9(2) of the Metis Settlements General Council Land Policy.

(c) The Lessor reserves the right to enter into negotiations at any time during the period of the lease in order to acquire the assets of the Lessee either in whole or in part

3. RENT

The Lessee covenants and agrees to pay the Lessor an annual rent for the property described in Scheduled A in the sum of One (\$1.00) dollar during the term of this Agreement

4. TAXES

The Lessee shall pay any and all taxes, assessments and other charges of any description levied or assessed by the Lessor on or against the property and any Improvements located thereon.

5 USE OF PREMISES

The property may be used by the Lessee for educational purposes only including the leasing of the teacher ages to XYZ School Division employee and any activities which necessarily result from educational purpose. The Lessee shall not use or permit the property or any portion thereof to be improved, developed, used or occupied in any manner or for any purpose that violates any settlement bylaw. The Lessee shall not permit on the property any nuisance or other disruptive activity. The Lessee will permit the Lessor's and the Lessor's members use of the property upon reasonable notice having been provided by the Lessor to the Lessee provided such use does not infringe on any of the rights of the Lessee and is approved by the Lessee.

6 COMPLIANCE

The Lessee covenants and agrees to comply with the Metis Settlement Act and any bylaws

7 CONSTRUCTION OF IMPROVEMENTS

No structure or other improvements of any kind shall be erected on the property unless and until preliminary plans such as site plans and elevations and proposed location of

such structure or improvement have been approved in writing by the Lessor within fifteen (15) days after having been received Lessor's approval shall not be unreasonably withheld

8 CONSTRUCTION OF IMPROVEMENTS

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9 REPAIRS AND MAINTENANCE

At all times during the term of this Lease Lessee shall keep and maintain at Lessee s. own costs end expense the property and all improvements now or hereafter erected and all facilities appurtenant to the property in good order and repair and in a safe and dean condition and in any event the Lessee agrees to keep the premises neat and tidy

10 INDEMNITY

Lessee shall indemnify and hold Lessor harmless from any and all liabilities claims loss, damages, or expenses resulting from Lessees occupation and use of the property. Including without limitation any liability claim, loss, damage or expense arising by reason of

- (a) The death or injury of any person including students or any person who is an employee, agent or invitee of the Lessee or by reason of the damage to or destruction of any property Including property owned by the Lessee or any person who Is an employee agent or invitee of the Lessee arising out of any act or omission of the Lessee while such person or property is in or on the property or in any way connected with the property or with any of the improvements or personal property on the property
- (b) Any work performed by the Lessee on the property or materials furnished to the property at the request of Lessee or any person or entity acting for or on behalf of the Lessee

11 INSURANCE

MAY 20 2005 13 28 4260003 ACKROYD C COMPANY #6082 P 005

- (a) *Public Liability Insurance*

Lessee shall at Lessee's own cost and expanse secure and maintain during the entire term of this Lease a broad form comprehensive coverage policy of public liability insurance issued by an insurance Company authorized to issue Liability Insurance In Alberta insuring Lessee against loss or liability caused by or connected with Lessees occupation and use of the premises under this Lease in

amounts not less than 1 Four (4) Million Dollars for injury to or death of one or more persons as a result of any one accident, and damages to or destruction of any property of others

(b) *Casualty insurance*

Lessee shall carry at his own expense fire and extended coverage insurance and shall exercise good faith to review annually such coverage so as to cause the insurance to be maintained at a rate of ninety (90%) per cent of the full replacement value of any structure or Improvement erected on the property (exclusive of the cost of excavation foundations and footings) For the purposes of this article it is understood and agreed that the estimated cost of the Improvements on the properties on the date of the execution of this Lease is approximately Four (4) Million Dollars

(c) The Lessee agrees to acquire course of construction Insurance in the event of any construction occurring

(d) The Lessee agrees to provide notice to the Lessor of any cancellation of the above mentioned policies

(e) The Lessee agrees to provide upon request of the Lessor Certificates of insurance pertaining to the above mentioned coverages

12 ASSIGNMENT

Lessee should not assign this Lease or any interest contained within this Lease without the prior written consent of the Lessor which consent shall not be unreasonably withheld

13 DEFAULT AND REMEDIES

In the event that the Lessee is In default of any of its obligations within the terms of this Lease then the Lessor shall provide seven (7) days written notice of the default at which time the Lessee will have thirty(30)days in order to rectify the default. In the event that the default has not been rectified the thirty (30) day time then the parties shall negotiate for a further seven (7) day period in order to complete the matter in the event that the parties negotiations fall then the matter shad be referred to the Metis Settlement Appeals Tribunal In the event that the Tribunal does not or cannot attain Jurisdiction on the matter then the matter will be referred to the Court of Queen s Bench of Alberta

14 NOTICE

Notices pursuant to this Lease may be given personally, by telecommunication or registered letter. When mailed such notice will be considered as received by the addressee seven (7) days after mailing (postage prepaid) and when delivered personally or by telecommunication such notice will be considered as received by the addressee on the same business day on which such delivery or telecommunication was made

(a) NOTICE TO SETTLEMENT COUNCIL-is to be delivered via mail or sent

by telecommunication to:

ABC Settlement

POSTAL ADDRESS

(b) NOTICE TO LESSEE - is to be delivered, mailed or sent by telecommunication to

XYZ School Division

POSTAL ADDRESS

15 ENTIRE AGREEMENT

This Agreement sets forth the entire agreement between the parties hereto and shall be deemed to have superseded any and all previous agreements and understandings whether written or oral between the parties

16 AMENDMENT

The parties may amend the terms and conditions of the Lease with the agreement of the other party

17 INCORPORATION OF SCHEDULES

Schedules "A" and B" which is attached to this Agreement are incorporated herein as fully as if their terms and provisions were set out in full ? Agreement

18 HEADINGS

The captions headings paragraph or section numbers appearing in this Agreement are inserted only as a matter of convenience and in no way define limit or describe the scope or Intent of this Agreement or any part thereof

IN WITNESS WHEREOF the parties hereto have duly executed this Lease Amending Agreement as of the day and year first above written.

ABC METIS SETTLEMENT

By signing this document, the signatory confirms that they have the necessary authority to sign this document for and on behalf of

_____XXXXXXXXXXXXXX_____

Per:

.....Name
.....Title

By signing this document, the signatory confirms that they have the necessary authority to sign this document for and on behalf of

_____XXXXXXXXXXXXX_____

BOARD OF TRUSTEES XYZ

Per:

Name

.....Title

Schedule A

Schedule "A" attached to and forming part of a lease dated as of the 1st day of January, 1900 between :

ABC Metis Settlement ("Lessor*")

and

XYZ School Division ("Lessee")

The property and improvements are described as:

- 1) Located at:
SECTION, LOT and BLOCK description
DEF School and playground area
Teacherage (mobile home)
Teacherage (mobile home),
Teacherage (mobile home)
Teacherage (mobile home)

and

- 2) Located at:
SECTION, LOT and BLOCK description
Teacherage (house)
Teacherage (house)

and

Located at
SECTION, LOT and BLOCK description
Teacherage (house)

SCHEDULE B

Schedule B” attached to and forming part of a lease dated as of the 1st day of January 1900, between ABC Metis Settlement and the Board of XYZ School Division (Lessee”)

A The annual rates are as follows effective January 1, 1900

- 1 Garbage removal and disposal to all teacherages and garbage removal and disposal for DEF School from transfer station to Landfill
\$5 000.00 per year payable annually in April of each year
- 2 Water and sewer services for DEF School and all teacherages
\$8 000.00 per year payable annually

These annual rates may be changed by the Lessor and must be approved in writing by each Party with an effective date of September 1

B The total payment of \$35 000 for the provision of Natural Gas lines to the properties as described in Schedule "A" payable in annual installments in accordance with the following payment schedule

| | | |
|---|------------------------|--------------------------|
| 1 | December 1 1900 | \$3,500.00 |
| 2 | December 1 1901 | \$3500.00 |
| 3 | December 1 1902 | \$3,500.00 |
| 4 | December 1 1903 | \$3500.00 |
| 5 | <i>December 1</i> 1904 | \$3500.00 |
| 6 | December 1 1905 | \$3,500.00 |
| 7 | December 1 1906 | \$3 500.00 Final payment |