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Dear Prime Minister Trudeau, National Chief Woodhouse Nepinak, and Minister Hajdu:

Re: Urgent Request for Consultation on Draft Final Agreement for Long-Term Reform of First Nations Child and Family Services

I write with respect to my deep concerns about Canada's failure to consult with the First Nations rightsholders on the Draft Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program released on July 11, 2014 (Draft Agreement). As currently written, our Nation does not agree the Draft Agreement will address the systemic discrimination identified by the Tribunal.

Squamish Nation's Duty to Protect our Children

The Squamish Nation has a sacred duty to love, care for, and protect our children and future generations. Our Nation's interests are inextricably bound to the rights of our children, youth, and families to live fully as Squamish and be free of all forms of discrimination, including that arising from Canada's discrimination in child and family services and Jordan's Principle.

Canada's Failure to Consult on the Draft Agreement

Under the Canadian Human Rights Tribunal Orders, Canada is required to address the systemic discrimination identified by the Tribunal. The Draft Agreement purports to set out the ways in which that discrimination will be addressed in the long term. Therefore, the Draft Agreement directly engages the rights and interests of our Nation as a rightsholding group that exercises its jurisdiction with respect to the care and well-being of First Nations children and families. As such, our Nation must be consulted, and be given the opportunity to provide our free, prior, and informed consent with respect to the Draft Agreement.

I am deeply concerned that Canada did not consult with our Nation or First Nations rightsholding groups generally about how it would address the systemic discrimination identified by the Tribunal. The first time our Nation learned of how Canada intended to address the discrimination in the long term was when the Draft Agreement was released on July 11, 2024. Upon review, we note that significant portions of the Draft Agreement are missing, notably Appendix 10 (First Nations Child and Family Services Terms and Conditions), details on capital funding in paragraph 42 (e) and post-majority funding in paragraph 42 (f). Moreover, a French version of the Draft Agreement is not yet available, placing



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French-speaking First Nations at a serious disadvantage, and we are unable to compare the English and French versions.

I am further concerned that Canada is not releasing the Draft Agreement for meaningful consultation. We understand that the parties to the Draft Agreement - the Assembly of First Nations (AFN), Chiefs of Ontario (COO), and Nishnawbe Aski Nation (NAN) - are required to encourage support for the Draft Agreement. We note paragraphs 379 requiring Canada, AFN, COO, and NAN to “speak publicly in favour of the agreement and make best efforts to procure the endorsement of this Final Settlement Agreement by First Nations leadership and, subject to such endorsement by resolution, to procure the approval of this Final Settlement Agreement by the Tribunal, or as necessary by the Federal Court or further Appellate Court.”

This paragraph does not define “First Nations leadership” nor does it provide particulars on what constitutes “endorsement by resolution.” Moreover, the obligation of the parties, including AFN and Canada, to promote “this” agreement lies in conflict with the jurisprudence on free, prior, and informed consent and duty to consult, requiring that any adverse effects be shared with First Nations.

Paragraph 382 notes that Canada will reimburse the AFN, COO, and NAN for reasonable legal costs related to gaining approval of the Draft Agreement, yet no legal costs were provided to First Nations for their own independent review.

The Draft Agreement was negotiated under settlement privilege, and an incomplete English version was only provided to First Nations on July 11, 2024, and did not fulfill all of the requirements of AFN Resolution 40/2022, which directed regional technicians and the NAC to inform the Draft Agreement and Canada to provide options and supporting financial and other documentation to First Nations in the Assembly.

Finally, AFN has deferred all resolutions put forward by First Nations regarding child and family services and Jordan’s Principle, which should have guided the Draft Agreement content and decision-making timelines, to the September SCA meeting where First Nations will be asked to decide on the Draft Agreement.

It is profoundly concerning that Canada has not initiated contact with our Nation to establish a duty to consult regarding the Draft Agreement, effectively offloading its responsibilities to the AFN “engagement process.” AFN is a political organization and does not represent the rightsholding groups, and, specifically, it



does not represent Squamish Nation. Canada's approach is unacceptable and further exacerbates the issues, necessitating our immediate action.

To this end, Squamish Nation has the following questions of Canada:

1. Does Canada agree the duty to consult is triggered when it develops long term solutions for addressing discrimination in the First Nations Child and Family Services Program?
2. Does Canada agree that Squamish Nation is a rightsholding group to whom consultation is owed?
3. Does Canada agree that the AFN, being a political and advocacy body, cannot consult on behalf of First Nations rightsholders, and specifically Squamish Nation?
4. Does Canada agree that it is the right of First Nations rightsholders, and specifically Squamish Nation, to provide their free, prior and informed consent to the terms of the Draft Agreement?
5. Will Canada consult directly with First Nations rightsholders, and specifically Squamish Nation, about the Draft Agreement? If so, how will Canada consult with us?
6. With respect to paragraph 379 of the Draft Agreement – what is meant by “First Nation leadership”? What constitutes “endorsement by resolution”?
7. Will Canada consider alternative proposals for long-term reform of the First Nations Child and Family Services Program?
8. Will Canada provide time for a process to ensure our community input is incorporated into our feedback? Will Canada provide funding to support such a process?

The Draft Agreement Does Not Address the Systemic Discrimination Identified by the Tribunal

The Squamish Nation is undertaking due diligence in reviewing the Draft Agreement in preparation for Canada to discharge its duty to consult. To be clear, we will require amendments to the current Draft Agreement text. However, even a preliminary review, raises the following concerns / questions:

1. Has Canada determined Agency baselines in BC? If so, what are they, and what information has Canada relied on to define them?



2. How does the calculation of the Agency baseline, if it does, impact the value given to the immediate measure allocation?
3. For the period 2024-2025 – how is prevention funding divided between the Agencies and First Nations, and on what basis is that division justified?
4. For the period 2026-2027 – will Squamish Nation receive prevention funding? If not, why is that funding not available?
5. Did Canada assume that FNCFA agencies are fully funded when determining the allocations for prevention, information technology, and top-ups to First Nations?
6. How does the Draft Agreement consider and account for the capacity needs of First Nations to deliver services?
7. What recommendations of the IFSD did Canada accept? What recommendations did Canada reject and why were those recommendations rejected?
8. What is the basis for the governance model selected (i.e., Reform Implementation Committee)? What experience do the members of the RIC have in the field and understanding this complex crisis with multiple roots and changing social and economic conditions? Why is the RIC administration composed entirely of Canada’s employees?
9. What is the basis for removing the Tribunal from its oversight role? What mechanisms are in place to ensure that discrimination won’t happen again without First Nations having to engage in costly legal disputes?
10. Why does the Alternative Dispute Resolution Tribunal not have the authority to address systemic issues and order Canada to provide more funding to meet the needs of children and families?
11. Why does the Draft Agreement end after 10 years without any binding mechanism to ensure Canada will not discriminate against our children again?

Requested Action of Canada

We firmly believe that Canada must discharge its duty to consult First Nations on the Draft Agreement before any decision is made, as the current AFN’s engagement, approval process, and related timelines do not enable free, prior, and informed consent, likely leading to a breach of First Nations’ rights.



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Please accept this as our official request for Canada to advise us in writing if Canada will discharge its duty to consult with the Squamish Nation before any decision-making by First Nations Leadership on the Draft Agreement within five business days of receiving this letter. Please also provide answers to the questions set out above.

The lack of a response, or if Canada defers to the AFN 's proposed engagement process, will force the Squamish Nation to undertake further measures to affirm and safeguard the rights of our children and our Nation.

Requested Action of AFN

We further request that National Chief Woodhouse Nepinak confirm in writing within five business days that the AFN will defer decision-making on the Draft Agreement until after Canada discharges its duty to consult with all First Nations governments and First Nations have adequate time to review a complete version the Draft Agreement in both French and English with their experts and have sufficient access to decision-making processes.

We also note that the AFN proposal to approve the Draft Agreement on September 17, 18, and 19, 2024, falls far short of the 120 days the National Chief told CTV news that First Nations would be provided.

On behalf of the Squamish Nation Council,

Chairperson Khelsilem

Squamish Nation Council

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**CC: Minister Patty Haidju - Minister of Indigenous Services, National Chief
Cindy Woodhouse Nepinak – Assembly of First Nations, AFN Executive
Committee**