



CONNECTING COMMUNITIES BC PROGRAM

PROVINCIAL FUNDING CONTRIBUTION AGREEMENT <C22CCBC00X>

Between:

**HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, AS
REPRESENTED BY THE MINISTER OF CITIZENS' SERVICES**

And:

[INSERT RECIPIENT'S LEGAL NAME]

SAMPLE FUNDING AGREEMENT

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CONNECTING COMMUNITIES BC PROGRAM

[Insert Project Title] (“Project”)

This Provincial **Funding Agreement** is made:

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by the Minister of Citizens’ Services
3350 Douglas Street, PO Box 9416 Stn Prov Govt
Victoria, BC V8W 9V1

(the “**Province**”)

OF THE FIRST PART

AND:

Insert legal name of recipient,

indicate the legal status of the Recipient:

if a corporation:

a corporation duly incorporated under the law of [jurisdiction], with registration number [registration number], having its offices at [address]

if a partnership, society or not-for-profit corporation

a [partnership/society/not-for-profit corporation] formed under [applicable statute], with registration number [registration number], having its offices at [address]

[if party is an Indigenous entity (as such term is described in the Application Guide) that is neither incorporated nor a registered partnership, society or not-for-profit, please consult LSB as to the appropriate style of cause to be used]

(the “**Recipient**”)

OF THE SECOND PART

Preamble:

WHEREAS the Province has established programs to connect 100% of British Columbians by 2027 to broadband infrastructure, including the Connecting Communities BC Program.

WHEREAS the Connecting Communities BC Program aims to extend and/or enhance high-capacity broadband infrastructure in rural and remote communities to provide access to quality Broadband Services to anchor institutions and households so that they can participate in the digital economy.

WHEREAS the participation and performance of the Recipient plays a critical role in achieving the purposes of the Connecting Communities BC Program.

WHEREAS the Recipient will carry out the Project to support and contribute to the Connecting Communities BC Program objectives and the Province will provide financial support for the Project under the Connecting Communities BC Program.

NOW THEREFORE, in consideration of the foregoing and their respective obligations set out below, the Parties agree as follows:

1. PURPOSE

1.1. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to set out the Parties' respective obligations and the terms and conditions under which the Province will provide funding in support of the Project.

1.2. PURPOSE OF PROVINCIAL CONTRIBUTION

The purpose of the Provincial Contribution is to provide financial assistance to the Recipient solely for the purpose of implementing the Project in accordance with the terms and conditions set out in this Agreement. The Recipient agrees to use the Provincial Contribution solely for this purpose. For greater clarity, the Recipient acknowledges that it is receiving the Provincial Contribution solely as financial assistance to support the Recipient's Project and is not providing goods or services to the Province.

2. INTERPRETATION

2.1. DEFINITIONS

A capitalized term in this Agreement has the meaning given to it in this subsection 2.1.

"Advance Accounting Deadline" has the meaning ascribed to it in subsection 9.2 of this Agreement.

"Advance Payment" has the meaning ascribed to it in subsection 9.2 of this Agreement.

"Agreement" means this Funding Agreement and all schedules attached, as may be amended from time to time.

"Applicable Laws" means all laws, statutes, regulations, and bylaws of any governmental authority having the force of law from time to time, including those affecting, applicable to, or otherwise relating to the Project or either Party.

"Assessment of Risk" means the level of risk determined pursuant to the Province's evaluation of the Recipient's and the Project's risk, which evaluation will be undertaken from time to time using the Province's risk framework.

“Auditor General” means the Auditor General of British Columbia, appointed under the *Auditor General Act*, SBC 2003, c 2.

“Broadband Service” means Residential Broadband Service or Dedicated Broadband Service.

“Business Day” means any day other than a Saturday, Sunday and Canadian statutory holiday to which the Recipient is subject.

“Change of Control” means a change in the identity of the individual or legal entity or group of individuals or legal entities acting in concert that owns fifty-point one percent (50.1%) or more of the outstanding voting shares of the Recipient.

“Claim Period” has the meaning ascribed to it in subsection 9.1 of this Agreement.

“Communications Materials and Products” means any public communications regarding this Agreement, and any public announcement or distribution of outputs or results flowing from this Agreement, including media relations (including news conferences, news releases and other media products), information/advertising campaigns, print/audio-visual/electronic materials, websites and exhibits.

“Community Report” has the meaning ascribed to it under subsection 10.4 of this Agreement.

“Coverage” means the number of Underserved Households to be provided with access to Broadband Service within a specific Coverage Area as set out in Schedule A.

“Coverage Area” means the area in which the Recipient will make available Residential Broadband Service to [insert number only for fixed wireless last-mile projects] Underserved Households.

“Dedicated Broadband Service” means a dedicated, symmetrical and never oversubscribed internet service provided at or from a Point of Presence without a monthly data cap in download or upload, and without traffic shaping such as bandwidth throttling. (Add this sentence if the Project includes a POP fed by satellite) If the backbone of a Point of Presence uses satellite technology, the service is not required to be dedicated and symmetrical.

“Effective Date” means [insert date], which is the earliest date for which Eligible Costs may be reimbursed.

“Eligible Costs” means those Project costs that meet the criteria set out in Schedule B.

“Execution Date” means the date of the last signature to this Agreement such that this Agreement is signed and dated by all Parties.

“Fair Market Value” means an amount that would be agreed upon in an arm’s length transaction between knowledgeable, willing parties who are under no compulsion to act.

“Final Implementation Report” has the meaning ascribed to it in subsection 10.3 of this Agreement.

“Fiscal Year” means the period beginning April 1st in any year and ending March 31st of the following year.

“Funding Proposal” means the application for the Connecting Communities BC Program funding which was submitted by the Recipient and approved by the Province.

“Government” has the meaning ascribed to it in subsection 7.1 of this Agreement.

“Holdback” has the meaning ascribed to it in subsection 9.6 of this Agreement.

"Indigenous Peoples" has the same meaning as aboriginal peoples in section 35 of the *Constitution Act, 1982*.

"Ineligible Costs" means those costs relating to the Project that are not Eligible Costs, as described in Schedule B.

"Material Change" means a change of any substantive aspect of the Project, including (i) a Change of Control of the Recipient; (ii) a change to the proposed financing of the Project; (iii) a change to the nature or location of the Project; and (iv) a material change in the cost or scope of the Project.

"Milestone Deliverable" means the milestone deliverables as set out in Annex A-3 of Schedule A.

"Milestone Deliverable Completion Dates" means the date on or before which the Recipient is to complete a Milestone Deliverable as set out in Annex A-1 of Schedule A.

"Minister" means the Minister of Citizens' Services and any other person, duly authorized to act on the Minister's behalf.

"Overpayment" means an amount paid by the Province as part of the Provincial Contribution that the Recipient is not entitled to according to the terms of this Agreement, and which is subject to the Overpayment obligations set out in this Agreement.

"Party" means the Province or the Recipient, as the case may be, and **"Parties"** means the Province and the Recipient.

"Payables at Year-End Form" or "PAYE Form" means a form in which the Recipient confirms the Eligible Costs incurred, or to be incurred, from April to March of the current Fiscal Year, and identifies how much they will invoice the Government.

"Point of Presence (POP)" means a Project Site in a network that is an interconnection point to a backbone network from where the Recipient either connects to its local last mile infrastructure or connects to another network, including third party networks.

"Program" means the Connecting Communities BC Program.

"Progress Report" has the meaning ascribed to it under subsection 10.1 of this Agreement.

"Project" means the activities described in Schedule A for which Program funding was approved.

"Project Budget" means the Recipient's financial plan for the Project, as set out in Annex A-5 of Schedule A, which includes all Project Costs and all other sources of funding received or expected to be received by the Recipient for the Project.

"Project Costs" means the aggregate of all Eligible and Ineligible Costs for the Project, as set out in the Project Budget.

"Project Completion" means the point at which all components of the Project are completed and the resulting network is implemented and available to provide Broadband Service, all in accordance with the specifications set out in Schedule A.

"Project Completion Date" means the date stated in Schedule A as the date on or before which Project Completion must occur.

"Province" means His Majesty the King in right of the Province of British Columbia, as represented by the Minister of Citizens' Services.

“Provincial Contribution” means the funding provided by the Province pursuant to the terms and conditions of this Agreement as set out in subsection 6.1 of this Agreement.

“Project Sites” means the structures and facilities constructed or otherwise established by the Recipient through the implementation of the Project, as described in Schedule A.

“Project Start Date” means the date specified in Schedule A, which is the latest date by which the Project must commence.

“Reporting Tool Kit” means the set of documents providing the format in which the recipient must provide proof of disbursement of eligible costs in order to claim reimbursements.

“Residential Broadband Service” means an internet service that supports data transmission at a minimum download speed of 50.0 Mbps (Megabits per second) and upload speed of 10.0 Mbps.

“Term” has the meaning ascribed to it in subsection 3.1 of this Agreement.

“Third Party” means any legal entity, individual, partnership or organization, other than the Parties under this Agreement.

“Third Party Contract” means a party entered into between the Recipient and a Third Party in connection with the Project or resulting Broadband Services, as further described in section 8, paragraphs k) and l).

“Underserved Households” means households with no internet access or access to internet service that does not meet the definition of Residential Broadband Service.

2.2. SINGULAR/PLURAL

Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural.

2.3. HEADINGS

The headings used in the Agreement are inserted for convenience of reference only and shall not affect its interpretation.

2.4. ENTIRETY OF AGREEMENT

Unless amended in writing by the Parties, this Agreement comprises the entire agreement between the Parties in relation to the Project. No prior document, negotiation, provision, undertaking or agreement in relation to the subject matter of this Agreement has legal effect. No representation or warranty, whether express, implied or otherwise, has been made by one Party, to the other Party, except as expressly set out in this Agreement.

2.5. INCONSISTENCY

In case of inconsistency or conflict between a provision contained in the part of this Agreement preceding the signatures and a provision contained in any of the Schedules to this Agreement, the provision contained in the part of the Agreement preceding the signatures will prevail.

2.6. SCHEDULES

This Agreement contains the following Schedules as described below, which form an integral part of this Agreement:

- a) *Schedule A – Statement of Work*

The following Annexes are attached to, and form part of, Schedule A:

Annex A-1 – Detailed Project Description

Annex A-2 – Expected Results

Annex A-3 – Milestone Deliverables

Annex A-4 – Project Schedule

Annex A-5 – Project Budget

Annex A-6 – Eligible and Ineligible Costs

b) *Schedule B – Costing Memorandum and Eligible and Ineligible Costs*

c) *Schedule C – Reporting Requirements*

3. DURATION OF AGREEMENT

3.1. DURATION OF AGREEMENT

This Agreement will commence on the Execution Date and shall remain in effect until five (5) years from the Project Completion Date (the “**Term**”), unless terminated earlier in accordance with the provisions of this Agreement.

3.2. SURVIVAL

Notwithstanding subsection 3.1 above, the rights and obligations described in the following sections or subsections will survive the expiry or early termination of the Agreement:

Section 8, paragraph c)	Maintenance of Services for five (5) years
Subsection 9.7	Overpayment
Subsection 12.1	Compliance with Laws
Subsection 14.1	Recipient Audit
Subsection 14.2	Program Evaluation
Subsection 14.3	Auditor General Rights
Subsection 15.1	Records Retention and Access
Subsection 15.2	Access to Premises
Subsection 15.3	Confidentiality
Subsection 18.1	Indemnification
Subsection 18.2	Liability
Subsection 19.2	Transfer and Assignment
Subsection 19.4	Debt due to the Province

4. EXPECTED RESULTS

The Project is expected to contribute to the Program’s objectives and expected results, namely the enhancement and expansion of Broadband Service to Underserved Households in British Columbia. Specific objectives and expected results of the Program are to extend and/or enhance broadband networks for rural, remote and northern communities to provide access to high quality Broadband Services to Underserved Households.

The Province expects that the Contribution will lead to a measurable positive impact on these expected results, and success in achieving these results will be evaluated. In particular, the Recipient shall make available Broadband Service, on completion of the Project, to not less than the number of Underserved Households specified under section 1 of Schedule A.

5. PROVINCE'S OBLIGATIONS

The Province shall be responsible only for the disbursement of the Provincial Contribution pursuant to the terms and conditions of this Agreement. However, the Province may provide guidance, information and reporting templates, where practical, to assist the Recipient with the preparation of reports required under this Agreement.

The Parties acknowledge that the Province's role with respect to the Project and the Program will be limited to making a financial contribution to the Recipient in respect of the Project, and that the Province shall have no involvement in the management or operation of the Project. The Province is neither a decision-maker nor an advisor in respect of the Project.

6. TERMS APPLICABLE TO PROVINCIAL CONTRIBUTION

6.1. PROVINCIAL CONTRIBUTION

Subject to the terms and conditions of this Agreement the Province will make a non-repayable Provincial Contribution to the Recipient in respect of the Project, of the lesser of:

- a) [insert] percent (XX%) of the Eligible Costs; and
- b) [insert dollar amount] (\$XX)

6.2. FUNDING PERIOD

The Province will not contribute to any Eligible Costs incurred by the Recipient prior to the Effective Date or after the Project Completion Date. The Province will not contribute to Eligible Costs that are incurred between the Effective Date and the Execution Date in an amount that is greater than 30% of the total Eligible Costs as indicated in the Project Budget.

6.3. APPROPRIATIONS

Payment by the Province of amounts due under this Agreement are conditional on there being a legislated appropriation for the Fiscal Year in which the payment is due. The Province has the right to terminate this Agreement or reduce the Provincial Contribution in the event that the amount of the appropriation is reduced or denied by the Legislative Assembly of British Columbia.

6.4. LACK OF APPROPRIATIONS

Without limiting the Province's right to terminate the Agreement pursuant to subsection 6.3, if the amount of the appropriation is reduced or denied by the Legislative Assembly of British Columbia, the Parties will review the effects of such a Provincial Contribution shortfall on the implementation of the Agreement and may adjust, as appropriate, the Project and the Recipient's obligations under this Agreement.

6.5. OVERRUNS

The Recipient is responsible for all costs of the Project, including cost overruns, if any.

6.6. PROJECT BUDGET

The Recipient shall provide the Province a PAYE Form prescribed by the Program that is to be completed, and certified by the Recipient with a year-end estimate of the Eligible Costs incurred or to be incurred up to March 31st of the current Fiscal Year so that funds for that Fiscal Year can be set-aside for the reimbursement of Eligible Costs incurred for that year.

The Recipient shall provide the completed and certified PAYE form to the Province upon request, within five (5) Business Days of such request.

If the Recipient forecasts to incur less Eligible Costs than indicated in the Project Budget, the Province will consider any request to adjust the following Fiscal Year's allocation, but the Province will have no obligation to do so.

The Province may require that a PAYE form be accompanied by additional information, explanations and documents related to the Project and the year-end estimate of the Eligible Costs and/or estimated Fiscal Year's allocation of the Provincial Contribution amount.

6.7. NON-EXCHANGE TRANSACTION

The Recipient acknowledges and agrees that any Contribution made by the Province in accordance with this Funding Agreement represents a government transfer of monetary assets under the Program for which there is a non-exchange transaction and that the Province is not the direct beneficiary of any goods or services.

7. OTHER GOVERNMENT FINANCIAL ASSISTANCE

7.1. NOTIFICATION

The Recipient agrees to advise the Province within five (5) Business Days if financial assistance related to the Project is approved by or received from a federal, provincial/territorial, municipal or other local government (individually or collectively, "**Government**") funding source during the Term of this Agreement. The Recipient acknowledges and agrees that, at the Province's sole discretion, the amount of the Provincial Contribution may be reduced to the extent of any additional Government financial assistance, or the Province may require the Recipient to repay the excess amount of the Provincial Contribution it received, and any such amount will be treated as an Overpayment under this Agreement and shall be recoverable by the Province pursuant to subsection 9.7.

7.2. SCOPE OF GOVERNMENT ASSISTANCE

The Recipient confirms that, for the purposes of this section 7, Government financial assistance includes any grants, contributions, implicit subsidies, forgivable loans, investment tax credits and any other tax credits available to the Recipient in respect of the Project.

7.3. TOTAL GOVERNMENT ASSISTANCE

In no event will the total Government financial assistance towards the total Eligible Costs be allowed to exceed one hundred percent (100%) of the total Eligible Costs.

8. RECIPIENT'S OBLIGATIONS

The Recipient covenants and agrees to complete the Project in accordance with the terms and conditions of this Agreement. Without limiting the generality of the foregoing, the Recipient shall:

- a) commence the Project on or before the Project Start Date;
- b) carry out the activities set out in Schedule A in a diligent, timely and professional manner and in general compliance with the Project Budget;

- c) on completion of the Project, make available and maintain Broadband Service for a minimum of five (5) years from the Project Completion Date, that meets the requirements set out in Annex A-2, section 5 of Schedule A;
- d) complete the Project no later than the Project Completion Date;
- e) subject to the Province's commitment in subsection 6.1 to pay a contribution toward certain Eligible Costs, be responsible for all Project Costs, including costs incurred in excess of the Project Costs specified in the Project Budget, if any;
- f) ensure that all goods and services, the cost of which are being contributed to by the Province under this Agreement, shall be purchased or acquired at competitive prices that are no greater than Fair Market Value after deducting all trade discounts and similar items;
- g) assume full responsibility at all times for the Project and all matters arising therefrom, as per appropriate standards and, without limiting the foregoing, oversee, manage and assume full responsibility for the goods and services provided by any Third Parties and their compliance with the Recipient's obligations under this Agreement;
- h) not alter the scope of the Project without the prior written consent of the Province;
- i) when awarding contracts or hiring personnel for the Project, use a fair and competitive or otherwise justifiable and generally accepted sound business process that results in competent and qualified contractors and/or personnel working on the Project;
- j) provide open access to the resulting broadband network to other service providers in a fair, transparent, timely and non-discriminatory manner in accordance with section 5 of Schedule A and no later than the time at which the Recipient's Broadband Service is available. Any access provided on or before the Project Completion Date shall not reduce the minimum five (5) years requirements set out in section 8, paragraph c) of this Agreement;
- k) if applicable, if the Project assets are to be owned in whole or in part by a Third Party, enter into a Third Party Contract with such Third Party that is consistent with the provisions of this Agreement and include any clauses necessary to ensure the fulfilment of the Recipient's obligations under this Agreement, including the obligations set out in section 8, paragraphs c) and j) and subsections 12.1, 12.2, 12.3, 15.1, 15.2, and 19.3. The Recipient shall retain this Third Party Contract and supporting documents relating to its performance for the duration of this Agreement. At the Province's request, the Recipient shall provide a copy of the Third Party Contract, and any required supporting documents, within five (5) Business Days;
- l) if applicable, when the resulting network and Broadband Service is to be managed and operated by a Third Party, enter into a Third Party Contract with such Third Party that is consistent with the provisions of this Agreement and include any clauses necessary to ensure the fulfilment of the Recipient's obligations under this Agreement, including the obligations set out in section 8, paragraphs c) and j) and subsections 12.1, 15.1, and 15.2. The Recipient will retain this Third Party Contract and supporting documents relating to its performance for the duration of this Agreement. At the Province's request Recipient shall provide a copy of the Third Party Contract, and any required supporting documents, within five (5) Business Days;
- m) ensure compliance with any applicable Canadian national security requirements as defined and/or administered by the Canadian security authorities, and any

applicable Provincial security requirements that may be defined and/or administered by the Province.

- n) submit its claims for reimbursement of Eligible Costs in accordance with the provisions of Schedule B of this Agreement or the Recipient's Reporting Tool Kit, as directed by the Province;
- o) submit Progress Reports in accordance with the provisions of Schedule C of this Agreement or as directed by the Province;
- p) be responsible for any and all costs, expenses and liabilities (other than Eligible Costs which are reimbursed in accordance with the terms of this Agreement) including all Ineligible Costs, unapproved expenditures, and cost overruns;
- q) establish and maintain accounting and administrative records which clearly disclose the nature and amounts of the different items of cost pertaining to the Project, including those that are to be used as the basis for the calculation of the claims by the Recipient for reimbursement of Eligible Costs, and which shall include any and all contracts, invoices, statements, receipts and vouchers entered into, created, or received by the Recipient in relation to the Project;
- r) comply with all Applicable Laws, including all requirements of, and conditions imposed by, regulatory bodies having jurisdiction over the subject matter of the Project; and,
- s) Notify the Province by August 31 each year if the current Fiscal Year's Provincial Contribution will exceed the estimated Provincial Contribution submitted with the April 1 to June 30 Claim Period.

9. CLAIM PAYMENTS

9.1. PAYMENT OF CLAIMS

The Recipient shall submit claims for reimbursement of Eligible Costs and the Province will pay the Provincial Contribution in respect of Eligible Costs incurred, provided that the claims are:

- a) submitted for each of the following quarters ("**Claim Period**"), April 1 to June 30, July 1 to September 30, October 1 to December 31 and January 1 to March 31, except for the first claim which may cover a longer period going back to the Effective Date;
- b) except in the case of the final claim, submitted no later than forty-five (45) days following the end of each Claim Period;
- c) unless otherwise agreed to by both Parties, submitted electronically using forms prescribed by the Program;
- d) accompanied by an itemized summary by cost category of Eligible Costs being claimed which have been incurred by the Recipient and which the Recipient acknowledges may have to be substantiated by such documentation as the Province may require in accordance with the Assessment of Risk;
- e) certified, in a form satisfactory to the Province, by an authorized officer of the Recipient;
- f) adjusted, if necessary, by including a deduction for expenses included in a previous claim which were not for Eligible Costs or which were not paid by the Recipient within three (3) months of the previous claim;

- g) accompanied by a Progress Report pursuant to the requirements set out in Schedule C;
- h) accompanied by details of funding sources in respect of the activities described in Schedule A, including amounts received or receivable, during the period covered by the claim and during the relevant Fiscal Year to date; and
- i) except in the case of the final claim for reimbursement of Eligible Costs, accompanied by updated annual forecasts of Eligible Costs and Provincial Contribution for the balance of the relevant Fiscal Years, and quarterly forecast for the Provincial Contribution for the current Fiscal Year.

9.2. REQUESTS FOR ADVANCE PAYMENT

Upon the request of the Recipient, at the Province's sole discretion, the Province may agree to provide an advance payment of the Provincial Contribution, or a portion of the Provincial Contribution, to the Recipient (an "**Advance Payment**"). If the Province elects to make an Advance Payment to the Recipient, the Province shall determine the amount of the Advance Payment to be paid to the Recipient based on the forecasted expenditures of Eligible Costs submitted by the Recipient for the relevant advance period.

The Province shall determine the relevant advance period prior to making any Advance Payment, using the Assessment of Risk. No Advance Payment shall exceed the immediate cash requirements of the Recipient for that advance period and shall take into account any Holdback that may be applied.

Accounting for Advance Payments, both expended and unspent, shall be provided by the Recipient within thirty (30) days of the end of each advance period (the "**Advance Accounting Deadline**") through the submission of a report detailing the actual amounts of Eligible Costs incurred during the advance period. At no time shall more than one advance period be unaccounted for.

9.3. FINAL CLAIM FOR REIMBURSEMENT OF ELIGIBLE COSTS

The Recipient shall submit its final claim for reimbursement of Eligible Costs incurred by the Recipient, no later than sixty (60) days following the Project Completion Date. The final claim shall, in addition to the requirements set out in subsection 9.1, be accompanied by the following documents, and prepared to the Province's satisfaction:

- a) a claim for Eligible Costs incurred during the final claim period by the Recipient;
- b) a final accounting for total Project Costs and total amounts received with respect to the activities described in Schedule A, in addition to the Provincial Contribution;
- c) certification by an authorized official of the Recipient satisfactory to the Province, that:
 - i) all Eligible Costs claimed have been incurred and paid;
 - ii) all Eligible Costs are related to the activities described in Schedule A;
 - iii) all Eligible Costs are in compliance with the requirements described in Schedule B; and
 - iv) the Recipient has complied with all terms and conditions of this Agreement;
- d) if applicable, any Milestone Deliverables due under this Agreement; and
- e) a Final Implementation Report of the Project, as per the requirements outlined in Schedule C, and prepared to the Province's satisfaction.

9.4. PAYMENT PROCEDURE

- a) The Province shall review and approve the documentation submitted by the Recipient following the receipt of the Recipient's claim and/or in support of any request for an Advance Payment, or will notify the Recipient of any deficiency in the documentation submitted which the Recipient shall immediately take action to address and rectify.
- b) Subject to the maximum Provincial Contribution amount set forth in paragraph 6.1a) and all other conditions set forth in this Agreement, the Province shall use reasonable efforts to pay to the Recipient the Province's portion of the Eligible Costs supported by the Provincial Contribution set forth in the Recipient's claim, or make a decision regarding the Recipient's request for an Advance Payment, within sixty (60) days of receipt of a complete and proper claim or request for Advance Payment.
- c) Payment of the Provincial Contribution shall be made at the Province's discretion, which shall not be unreasonably withheld, and shall be subject to all terms and conditions of this Agreement, the submission of Progress Reports, Community Reports, Milestone Deliverables, and advance period accounting, where applicable, by the Recipient.
- d) All requests for payment by the Recipient shall be accompanied by any other information, explanations and/or documentation related to the Project and/or in support of the claim or request for Advance Payment as may be requested by the Province, from time to time.
- e) The Province may require that any claim submitted for payment of any amount of the Provincial Contribution be certified by the Recipient's external auditors or by an auditor approved by the Province.
- f) The Province, at the Province's sole discretion, may make individual payments of the Provincial Contribution that represent a higher percentage than that specified in paragraph 6.1b) provided that the overall percentage of the Provincial Contribution paid in support of the total Eligible Costs does not exceed [insert % from subsection 6.1b)]

9.5. FINAL ADJUSTMENTS

After the final claim has been received, to the Province's satisfaction, the Province will carry out a final review and reconciliation of all claims and payments made in respect of the Project and, at the Province's sole discretion, the Province may conduct an audit as permitted by subsection 14.1. Upon completion of such review and/or audit to the Province's satisfaction, the Province will make any final adjustments that may be required. If the amount of the Provincial Contribution that has been paid to the Recipient exceeds the total amount which the Recipient is entitled to receive under this Agreement, the Province shall so advise the Recipient and the Recipient shall forthwith repay the Province the amount of any such Overpayment.

9.6. HOLDBACK

Notwithstanding any other provision of this Agreement the Province may, at the Province's discretion, withhold an amount of the Provincial Contribution from the total amount of Eligible Costs claimed at any point in time ("**Holdback**"). The Province shall have no obligation to pay more than ninety (90) percent of the Provincial Contribution prior to completion of the Project and any audit being conducted pursuant to section 14. The Province shall determine the percentage of the Holdback based on the amounts of the Provincial Contribution set out in the Project Budget and in accordance with the Assessment of Risk. The Province may adjust the percentage of Holdback during the Term of the Agreement. The Province will release the Holdback upon the Recipient's submission

and the Province's acceptance of any deliverables and reports required under this Agreement or after the final review, reconciliation and adjustment under subsection 9.5 have been completed to the Province's satisfaction.

9.7. OVERPAYMENT

Any amount which constitutes an Overpayment shall be repayable to the Province and until repaid constitutes a debt due to the Province. At the Province's discretion, the Province shall deduct any Overpayment from subsequent payments of the Provincial Contribution, from the Holdback or, if the Overpayment is determined after the Project Completion Date, the Recipient shall repay the amount within thirty (30) days of receiving written notification by the Province. Interest on the Overpayment shall be due and payable upon any amount of the Overpayment not repaid after thirty (30) days of receipt of written notice in accordance with the *Interest on Overdue Accounts Receivable Regulation* issued under the *Financial Administration Act* (British Columbia).

10. PROGRESS AND FINANCIAL REPORTING

10.1. PROGRESS REPORTING

At the time of submission of each Claim Period, and using forms approved by the Province, the Recipient shall provide the Province, to the Province's satisfaction, with a report on the progress of the Project (a "**Progress Report**") pursuant to the requirements as outlined in Schedule C.

The reports in Schedule C are the minimum reporting requirements established by the Province for the Program. The Province may request additional information from the Recipient where the Province deems necessary for the purposes of the Program at the Province's sole discretion, acting reasonably.

10.2. MILESTONE DELIVERABLES

The Recipient shall provide to the Province, to the Province's satisfaction, the Milestone Deliverables as set out in Annex A-3 of Schedule A. Any Milestone Deliverable with a Milestone Completion Date occurring during a Claim Period must be submitted at the time of the claim. Milestone Deliverables will conform with the requirements and specifications set out in Annex A-3 of Schedule A.

10.3. FINAL IMPLEMENTATION REPORT

At the time of submitting the final claim, the Recipient shall provide to the Province, and using forms approved by the Province, a final report on the Project (a "**Final Implementation Report**") pursuant to the requirements as outlined in Schedule C.

10.4. COMMUNITY REPORT

The Recipient shall track the progress of the Project, and using forms approved by the Province, shall provide the Province, to the Province's satisfaction, with a report on the Project's progress by community and households (a "**Community Report**") pursuant to the requirements as outlined in Schedule C.

The Recipient acknowledges that the requirement to submit Community Reports by the dates set out in Schedule C is a material term of this Agreement. Without limiting any remedies available to the Province upon default, the failure to provide a Community Report to the Province by the dates set out in Schedule C may result in the Province posting a notice on the Program's website disclosing that the Recipient is not in compliance with its community reporting obligations under this Agreement. Prior to posting of any notice of non-compliance, the Province will advise the Recipient that a Community Report is past due and the Recipient must submit the Community Report within three (3) Business Days.

10.5. FINANCIAL STATEMENTS

The Province may request that a copy of the Recipient's independently prepared annual financial statements be forwarded to the Province within one hundred and twenty (120) days of each Recipient fiscal year end or within such longer period as may be authorized by the Province.

10.6. SUPPLEMENTARY INFORMATION

The Province may at any time request supplementary information relating to any aspect of the Project, including but not limited to financial management, expenditures, funding and investments, performance measurement, photos for communications purposes and reporting.

11. SPECIAL CONDITIONS

11.1. N/A

12. COMPLIANCE WITH LEGISLATION, POLICIES AND REGULATIONS

12.1. COMPLIANCE WITH LAWS

The Recipient shall comply with all federal, provincial, territorial, municipal and other Applicable Laws governing the Recipient and the Project, including but not limited to, statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements under the *Environmental Assessment Act* (British Columbia), the *Impact Assessment Act* (Canada), the *Telecommunications Act* (Canada), the *Radiocommunication Act* (Canada) and *Radiocommunication Regulations* (Canada), and all applicable Canadian Radio-television and Telecommunications Commission ("CRTC") rules, regulations, policies and decisions applicable to the Project.

12.2. ENVIRONMENTAL ASSESSMENT

Option A - if the proposed Project is neither a "reviewable project" or a "project" under the *Environmental Assessment Act* (British Columbia) nor is it being carried out on federal lands

- a) The Recipient represents and warrants that the Project is neither a "reviewable project" or a "project" under the *Environmental Assessment Act* (British Columbia) nor is it a "designated project" or a "project" under the applicable federal environmental and impact assessment legislation.

Option B - if the proposed Project is a "reviewable project" or a "project" under the *Environmental Assessment Act* (British Columbia)

- a) The Recipient confirms that the Project is a "reviewable project" or a "project" under the *Environmental Assessment Act* (British Columbia). The Recipient agrees that the construction or any other physical activity that is carried out in relation to the Project, including site preparation, will not be undertaken or will be suspended and no funds or additional funds will be payable by the Province to the Recipient for the Project unless and until the requirements under the *Environmental Assessment Act* (British Columbia) and any other applicable British Columbia environmental assessment legislation are met and continue to be met, as follows:
 - i) where the Project is a "reviewable project" under the *Environmental Assessment Act* (British Columbia),

- (1) an order is issued pursuant to that legislation indicating that the Project is exempt from the requirement to obtain an environmental assessment certificate; or
 - (2) an environmental assessment certificate is issued to the Recipient pursuant to that legislation.
- ii) where the Project is a “project” under the Environmental Assessment Act (British Columbia), a determination is made that the Project is not a “reviewable” project” for the purposes of that Act; and
 - iii) the requirements under the common law or any applicable agreements between His Majesty the King in Right of Canada and in Right of the Province of British Columbia and Indigenous People’s groups are met and continue to be met.

Option C – if the proposed Project is located on federal lands and the Project is unlikely to cause significant adverse environmental effects.

- a) The Recipient confirms that the Project is a “designated project” or a “project” under the applicable federal environmental and impact assessment legislation. The Recipient agrees that the construction or any other physical activity that is carried out in relation to the Project, including site preparation, will not be undertaken or will be suspended and no funds or additional funds will be payable by the Province to the Recipient for the Project unless and until the requirements under applicable federal environmental or impact assessment legislation are met and continue to be met, as follows:
 - i) where the Project is a “designated project” under the applicable federal environmental or impact assessment legislation,
 - (1) a decision pursuant to that legislation is made indicating that no environmental or impact assessment is required for the Project; or
 - (2) a decision statement in respect of the Project is issued to the Recipient indicating that:
 - (a) the Project is not likely to cause significant adverse environmental effects;
 - (b) the Project is likely to cause significant adverse environmental effects that the Governor in Council decides are justified in the circumstances, which decision statement may contain conditions in respect of the Project; or
 - (c) the adverse effects with respect to the impact assessment of the Project are in the public interest.
 - ii) where the Project is a “project” under the applicable federal environmental or impact assessment legislation, a determination that the carrying out of the Project:
 - (1) is not likely to cause significant adverse environmental effects; or
 - (2) is likely to cause significant adverse environmental effects and the Governor in Council decides that those effects are justified in the circumstances, and
 - iii) the requirements under the common law or any applicable agreements between His Majesty the King in Right of Canada and in Right of the Province of British Columbia and Indigenous Peoples’ groups are met and continue to be met.

End of options

- b) The Recipient agrees to comply with all federal, provincial, territorial, municipal and other Applicable Laws governing the Recipient and the Project, including without limitation, statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements and regulations relating to environmental protection and the successful implementation of and adherence to any mitigation measures, monitoring or follow-up program, which may be prescribed by federal, provincial, territorial, municipal bodies. The Recipient will certify to the Province that it has done so.
- c) The Recipient will provide the Province with reasonable access to any Project site for the purpose of ensuring that the terms and conditions of any environmental approval (where applicable) are met, and that any mitigation, monitoring or follow-up measure required has been carried out.
- d) If, as a result of changes to the Project or otherwise, the Province is of the opinion that an environmental assessment or other determination under the *Environmental Assessment Act* (British Columbia) or the *Impact Assessment Act* (Canada) is required for the Project, the Recipient agrees that construction of the Project or any other physical activity that is carried out in relation to the Project, including site preparation, will not be undertaken or will be suspended and no funds or additional funds will become or will be payable by the Province to the Recipient for the Project unless and until:
 - i) where the Project is a “reviewable project” under the *Environmental Assessment Act* (British Columbia):
 - (1) an order is issued pursuant to that legislation indicating that the Project is exempt from the requirement to obtain an environmental assessment certificate; or
 - (2) an environmental assessment certificate for the Project is issued to the Recipient pursuant to that legislation.
 - ii) where the Project is a “project” under *Environmental Assessment Act* (British Columbia), a determination is made that the Project is not a “reviewable project” for the purposes of that Act;
 - iii) where the Project is a “designated project” under the applicable federal environmental or impact assessment legislation:
 - (1) a decision pursuant to that legislation is made indicating that no environmental or impact assessment is required for the Project; or
 - (2) a decision statement in respect of the Project is issued to the Recipient indicating that:
 - (a) the Project is not likely to cause significant adverse environmental effects;
 - (b) the Project is likely to cause significant adverse environmental effects that the Governor in Council decides are justified in the circumstances, which decision statement may contain conditions in respect of the Project; or
 - (c) the adverse effects with respect to the impact assessment of the Project are in the public interest.

- iv) where the Project is a “project” under the applicable federal environmental or impact assessment legislation, a determination that the carrying out of the Project;
 - (1) is not likely to cause significant adverse environmental effects; or
 - (2) is likely to cause significant adverse environmental effects and the Governor in Council decides that those effects are justified in the circumstances; and
- v) the requirements under the common law or any applicable agreements between His Majesty the King in Right of Canada and in Right of the Province of British Columbia and Indigenous Peoples’ groups are met and continue to be met.

12.3. **INDIGENOUS PEOPLES’ CONSULTATION**

The Recipient agrees that:

- a) no construction of the Project will occur and the Province has no obligation to pay the Provincial Contribution until the Province is satisfied that any legal duty to consult with, and where appropriate, to accommodate Indigenous Peoples’ groups has been met and continues to be met;
- b) if information becomes available or a change is proposed for, or made to the Project or otherwise, which would trigger consultation, the Recipient will work with the Province to ensure that the legal duty to consult, and where appropriate, to accommodate Indigenous Peoples’ groups, is met and continues to be met to the Province’s satisfaction; and
- c) it will consult with Indigenous Peoples’ groups that might be affected by the Project, explain the Project to them, including the Province’s role, and will provide a report to the Province, which will include:
 - i) a list of all Indigenous Peoples’ groups contacted;
 - ii) a summary of all communications to date with the Indigenous Peoples’ groups, indicating which groups support or object to the Project, and whether their positions are final, preliminary or conditional in nature;
 - iii) a summary of any issues or concerns that the Indigenous Peoples’ groups have raised and an indication of how the Recipient has addressed or proposes to address those issues or concerns; and
 - iv) any other information the Province may deem appropriate.

13. DEFAULT AND RECOVERY

13.1. **DEFAULT**

The Province may declare a default under this Agreement if any of the following events occur:

- a) the Recipient is not undertaking or has not completed the Project in accordance with the terms and conditions of this Agreement;
- b) the Recipient ceases to actively cause the Project to be completed in a timely manner;
- c) in the opinion of the Province, acting reasonably, a material and adverse change in risk affecting the Recipient’s ability to fulfil the terms and conditions of this Agreement has occurred;

- d) in the opinion of the Province, acting reasonably, the Recipient has not or is unlikely to achieve the Expected Results;
- e) the Recipient has not provided accounting with respect to any Advance Payments by the applicable Advance Accounting Deadline, as described in subsection 9.2 above;
- f) the Recipient has submitted false or misleading information to the Province, or has made a false or misleading representation to the Province or their officials, excepting an error in good faith, the proof of which must be demonstrated by the Recipient to the satisfaction of Province;
- g) the Recipient has not complied with or satisfied, any condition, undertaking or term of this Agreement, or has breached any of the representations or warranties made in this Agreement;
- h) the Recipient has neglected or failed to pay the Province any amount due in accordance with this Agreement;
- i) a Material Change has occurred without the prior written consent of the Province;
- j) in the opinion of the Province, the Recipient ceases to carry on business or has sold or has entered into an agreement to sell all or substantially all of its assets;
- k) the Recipient becomes insolvent, commits an act of bankruptcy, takes the benefit of any statute relating to bankrupt or insolvent debtors, or goes into receivership or bankruptcy;
- l) a resolution has been passed by the Recipient's board of directors for the winding-up of the Recipient, or the Recipient is dissolved; and/or
- m) the Recipient is not eligible or is otherwise not entitled to the Provincial Contribution.

13.2. NOTICE AND RECTIFICATION PERIOD

- a) The Province may make a declaration of default by providing written notice to the Recipient of the condition or event which, in the Province's opinion, constitutes an event of default under subsection 13.1. In the circumstances described in paragraphs a) through i) of subsection 13.1, the Province may, at the Province's discretion, advise the Recipient of the condition or event, and allow the Recipient a period of fifteen (15) Business Days to correct the condition or event complained of, or to demonstrate to the satisfaction of the Province that it has taken the necessary steps to correct the condition, failing which the Province may immediately declare that an event of default has occurred. Notification by the Recipient of rectification shall be made in writing to the Province within a fifteen (15) Business Days correction period.
- b) Where the Province is concerned that a condition or event identified in subsection 13.1 is likely to occur, the Province may notify the Recipient in writing of the condition or event in question, following which the Parties shall discuss the Province's concerns, and the Recipient shall be obliged to correct the condition or event complained of, or to demonstrate to the satisfaction of the Province that it has taken such steps as are necessary to correct the condition, within fifteen (15) Business Days of such discussions.

13.3. REMEDIES

If the Province declares that an event of default has occurred, or in the reasonable opinion of the Province is likely to occur, and the Recipient has not rectified the default as required

in subsection 13.2, if applicable, the Province may exercise any one or more of the following remedies, which the Parties acknowledge are fair and reasonable:

- a) suspend any further payments to the Recipient under this Agreement, including payments in respect of claims which may have been received by the Province prior to the date of the Province's declaration of default;
- b) terminate this Agreement, including any obligation to make further payments to the Recipient under this Agreement;
- c) require the Recipient to repay all or part of the Provincial Contribution which has been paid to the Recipient, including any Advance Payments, together with interest, calculated at the rate described in subsection 9.7, from the date of demand for repayment; and
- d) any other remedy available to the Province at law or in equity.

13.4. NON-WAIVER

Any tolerance or indulgence demonstrated by one Party to the other, or any partial or limited exercise of rights conferred on a Party, shall not constitute a waiver of rights, and unless expressly waived in writing, both Parties shall be entitled to exercise any right and seek any remedy available under this Agreement or otherwise at law or in equity. Either Party may, by notice in writing, waive any of its rights under this Agreement.

13.5. NON-COMPLIANCE

Without prejudice to the Province's right to exercise any remedy available at law or in equity or pursuant to this Agreement as a result of a default on the part of the Recipient, where an audit of the Recipient reveals elements of non-compliance with the terms and conditions of this Agreement, or if the Recipient denies access to documents, records or premises, or fails to provide the necessary cooperation or assistance to conduct an audit, the Recipient may be required to develop and provide the Province with a plan of corrective action within fifteen (15) Business Days of receiving notice of non-compliance. Such a plan must outline procedures to enact corrective measures that are acceptable to the Province and must be accompanied by a written undertaking on the part of the Recipient to implement the plan.

14. AUDIT AND EVALUATION

14.1. RECIPIENT AUDIT

The Recipient acknowledges that the Province may conduct periodic audits of its compliance with the terms and conditions of this Agreement, including without restrictions compliance with the financial provisions. The Recipient will, at its own expense, preserve and make available for audit and examination by the Province all books, accounts and records of the Project, the Recipient's administrative, financial and claim processes and procedures, and any other information necessary to ensure compliance with the terms and conditions of this Agreement. The Province will have the right, notwithstanding any payment of the Provincial Contribution or expiry or termination of this Agreement, to conduct such audits at the Province's expense as the Province considers necessary using internal audit staff or auditors selected by the Province. The Recipient will ensure that any contractual arrangements with Third Parties will contain similar provisions to provide the Province with similar audit rights in respect of those Third Parties.

14.2. PROGRAM EVALUATION

The Province may engage in an evaluation of the Program for the purposes of assessing its continued relevance and impact. The Recipient shall, at its own expense, assist the

Province to perform any such evaluation. The Province shall pay the costs of evaluations undertaken pursuant to this clause.

14.3. AUDITOR GENERAL RIGHTS

The Recipient acknowledges that, pursuant to subsection 11(6) of the *Auditor General Act* (British Columbia), the Auditor General of British Columbia may, at the Auditor General's own cost, conduct an audit respecting the Recipient's compliance with the terms and conditions of this Agreement and report on performance with respect to this Agreement.

For the purposes of any such audit undertaken by the Auditor General, the Recipient shall provide, upon request and in a timely manner:

- a) all records held by the Recipient, or by agents or contractors of the Recipient, relating to this Agreement or the use of the funds provided under this Agreement;
- b) all relevant information as may reasonably be required to undertake a performance audit of the Recipient's compliance with the terms and conditions of this Agreement; and
- c) such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General, may request relating to this Agreement or the use of the funds provided under this Agreement.

The Auditor General may discuss any concerns raised in such an audit with the Recipient and with the Province. The results may be reported to the Legislative Assembly of British Columbia in a report of the Auditor General.

15. INFORMATION MANAGEMENT, RETENTION AND ACCESS

15.1. RECORDS RETENTION AND ACCESS

The Recipient shall keep and maintain books of account and other records in which all receipts, disbursements, costs, technical specifications and activities in relation to the Project are recorded in a segregated fashion, and in a manner which shall demonstrate the application of the Provincial Contribution received from the Province to reimburse Eligible Costs. The Recipient shall establish and maintain sound financial and management practices that will ensure the Provincial Contribution is expended in accordance with the terms of this Agreement.

15.2. ACCESS TO PREMISES

The Recipient will provide the Province reasonable access to the Recipient's premises and those of any Third Parties, and any premises where the Project is being carried out in order to review Project records and assess the progress of the Project and the Recipient's compliance with the terms and conditions of this Agreement.

15.3. CONFIDENTIALITY

Subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia) and the *Information Management Act* (British Columbia), and subsections 15.4, 15.5, 15.6 and 16.1 of this Agreement, each Party shall keep confidential and shall not without the consent of the other Party disclose the contents of this Agreement and the documents pertaining to it, whether provided before or after this Agreement was entered into, or of the transaction contemplated in this Agreement.

15.4. DISCLOSURE

Notwithstanding subsection 15.3 above, the Province may publicly disclose the following:

- a) the Recipient's name;
- b) if applicable, the name of any Third Party responsible for implementing the Project;
- c) the amount of funding that the Recipient is contributing to the Project;
- d) the amount of the Provincial Contribution;
- e) the amount and name of other funding sources identified in subsection 7.1;
- f) a description of the nature of the Project;
- g) the Project Start and the Project Completion Dates;
- h) the amount of the Provincial Contribution disbursed;
- i) the total Project Cost and Project Budget;
- j) the information provided in any Community Report including the name of communities, the number of Underserved Households, and progress of the Project by each community;
- k) the failure of the Recipient to provide a Community Report as required by subsection 10.4;
- l) the Residential Broadband Service as set out in Annex A-2 of Schedule A; and
- m) the Dedicated Broadband Service as set out in Annex A-2 of Schedule A.

15.5. **SHARING**

The Recipient acknowledges and agrees that in order to ensure efficiencies and effectiveness in the implementation and administration of the Program, including the implementation of the Project, the Province may collect and share Recipient information, including this Agreement, with other Ministries of the Province of British Columbia, Governments who are providing funding for the Project, and other sources who may be providing funding for the Project, for purposes that include but are not limited to obtaining of all necessary regulatory permits in connection with the Project and for the use of such information in the auditing, assessment, analysis and evaluation of the Recipient, the Project, and the Recipient's performance of its obligations under this Agreement.

15.6. **DISCLOSURE OF AGREEMENT**

The Province hereby consents to the Recipient disclosing this Agreement, and any portion or summary thereof, for any of the following purposes:

- a) securing additional funding;
- b) entering into an agreement with a Third Party to build, own or operate the Project;
or
- c) pursuant to subsection 14.1 of this Agreement, confirming to all agents, contractors and subcontractors of the Recipient that all agents, contractors and subcontractors must agree to provide the Province and the Auditor General with access to their records and premises.

16. COMMUNICATIONS

16.1. PUBLIC INFORMATION AND ANNOUNCEMENTS

- a) The Recipient agrees to public announcements by or on behalf of the Province relating to this Agreement and the Project. The Province will inform the Recipient of the date on which the public announcement is to be made and the Recipient will not make a public announcement of this Agreement until such date.
- b) The Recipient shall not make any formal public announcement relating to this Agreement or the Project, without first obtaining the approval of the Province and providing reasonable advance notice to the Province to facilitate the possible attendance of Government representatives at those announcements.
- c) Nothing in this section shall be interpreted as preventing the fulfillment, where applicable, by the Recipient of its reporting obligations under applicable securities laws.

16.2. ACKNOWLEDGEMENT

The Recipient shall ensure that the Province receives full and fair acknowledgement for its role and contribution on all Communications Materials and Products. The Recipient shall use a form of acknowledgement which has been approved by the Province, and, official symbols of the Province, and/or other approved graphic elements. The Recipient shall also limit the acknowledgement to Communications Materials and Products agreed upon by the Province and shall terminate acknowledgement upon request of the Province.

16.3. NOTICE

The Recipient shall give at least fifteen (15) Business Days notice to the Province of any proposed public communications relating to the Agreement or the Project to allow adequate time for review. The Recipient agrees to notify the Province at the time of any announcement of material events or Material Changes that must be publicly disclosed pursuant to applicable securities laws.

17. REPRESENTATIONS, WARRANTIES AND ADDITIONAL COVENANTS

17.1. REPRESENTATIONS AND WARRANTIES

The Recipient represents and warrants that:

- a) no member of the Legislative Assembly of British Columbia shall be admitted to any share or part of this Agreement or to any benefit arising from it, that are not otherwise available to the general public;
- b) no current or former public servant or public office holder to whom the *Standards of Conduct for BC Public Service employees*, the *Disclosing a Conflict of Interest: Employee Guideline & Disclosure Form*, or the *Members' Conflict of Interest Act* (British Columbia), applies, shall derive direct benefit from the Agreement, including any employment, payments or gifts, unless the provision or receipt of such benefits is in compliance with such codes and the legislation. If the Recipient employs or has a major shareholder who is either a current or former (in the last twelve (12) months) public office holder or employee of the Province, the Recipient shall demonstrate compliance with these codes and the legislation;
- c) it has not paid, nor agreed to pay to any person, either directly or indirectly, a commission, fee or other consideration that is contingent upon the execution of this Agreement, or upon the person arranging a meeting with a public office holder;

- d) it will not pay, nor agree to pay to any person, either directly or indirectly, any commission, fee or other consideration that is contingent upon the person arranging a meeting with a public office holder;
- e) the Recipient, or any persons who may be, are or have been engaged by the Recipient to communicate or arrange meetings with public office holders regarding the Project or this Agreement, are in compliance with the requirements of the *Lobbyists Transparency Act* (British Columbia);
- f) it is in good standing under the laws of [British Columbia or insert applicable Province/Territory] and is in good standing under the laws of each jurisdiction which govern it;

OR it is a Band Council within the meaning of section 2 of the *Indian Act* (Canada) and is in good standing under all Applicable Laws and agreements;

OR it is an Indigenous Peoples' government authority established by [a Self-Government Agreement] [a Comprehensive Land Claim Agreement] and is in good standing under all Applicable Laws and agreements;

- g) it has the requisite power and authority, and has met all legal requirements, necessary to carry on its business, to hold property and to enter into, deliver and perform this Agreement;
- h) entering into, execution by the signatory, delivery and performance of this Agreement, and its execution by the undersigned signatory, have been duly and validly authorized, and when executed and delivered this Agreement will constitute a legal, valid and binding obligation of the Recipient enforceable in accordance with its terms;
- i) the execution and delivery of this Agreement, and the performance by the Recipient of its obligations under this Agreement will not, with or without the giving of notice or the passage of time or both:
 - i) violate any provisions of the Recipient's by-laws, any other governance document subscribed to by the Recipient, or any resolution of the Recipient;
 - ii) violate any judgment, decree, order or award of any court, Government agency, regulatory authority or arbitrator; or
 - iii) conflict with or result in the breach or termination of any material term or provision of, or constitute a default under, or cause any acceleration under, any license, permit, concession, franchise, indenture, mortgage, lease, equipment lease, contract, permit, deed of trust or any other instrument or agreement by which it is bound;
- j) it is under no obligation or prohibition, nor is it subject to or threatened by any actions, suits or proceedings which could or would prevent compliance with this Agreement;
- k) it has acquired property and general liability insurance that is consistent with the level of risk exposure associated with the Project;
- l) all of the information contained in the Funding Proposal and all documentation submitted with the Funding Proposal or subsequently in support of the Funding Proposal is in all material respects complete, accurate and not false or misleading; and
- m) it is in compliance with the Canadian ownership and control requirements of the

Telecommunications Act (Canada), the Radiocommunication Regulations (Canada) and the Radiocommunication Act (Canada).

The Recipient acknowledges that the representations and warranties in this section are fundamental terms of this Agreement. In the event of breach of these representations and warranties, the Province may exercise the remedies set out in subsection 13.3.

17.2. ADDITIONAL COVENANTS

In addition to its other covenants and obligations in this Agreement, the Recipient covenants and agrees to:

- a) take all necessary action to maintain itself in good standing with respect to all legal requirements necessary to carry on its business, hold property, and to perform the Project and all obligations under this Agreement, and to preserve its legal capacity, during the term of this Agreement;
- b) advise the Province forthwith of the occurrence during the term of this Agreement of any actions, suits or proceedings which could or would prevent compliance with this Agreement;
- c) comply with all Applicable Laws, regulations, ordinances, orders, decrees or orders-in-councils and with the requirements of all regulatory bodies having jurisdiction over the Recipient in relation to the Program and the Project; and
- d) without limiting the generality of paragraph (c), maintain and comply with all licenses, permits and registrations required or appropriate to conduct the Project and sustain the Broadband Service throughout the duration of the Agreement.

17.3. MATERIAL CHANGE

The Recipient shall not make a Material Change without the prior written consent of the Province. Notice of a Material Change must be delivered promptly to the Province and in no event later than fifteen (15) Business Days prior to the proposed Material Change.

18. INDEMNIFICATION AND LIMITATION OF LIABILITY

18.1. INDEMNIFICATION

The Recipient shall at all times indemnify and save harmless, the Province, his or her officials, employees and agents, from and against all claims and demands, losses, costs, damages, actions, suits or other proceedings (including, without limitation, those relating to injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights) by whomever brought or prosecuted, or threatened to be brought or prosecuted, in any manner based upon or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights, caused by, or arising directly or indirectly from:

- a) the Project, its operation, conduct or any other aspect thereof;
- b) the performance or non-performance of this Agreement, or the breach or failure to comply with any term, condition, representation or warranty of this Agreement by the Recipient, its officers, employees and agents, or by a Third Party or its officers, employees, or agents;
- c) the design, construction, operation, maintenance and repair of any part of the Project; or,
- d) any omission or other willful or negligent act or delay of the Recipient or a Third Party and their respective employees, officers, or agents, except to the extent to

which such claims and demands, losses, costs, damages, actions, suits, or other proceedings relate to the negligent act or omission of an officer, official, employee, or agent of the Province, in the performance of their duties.

18.2. LIABILITY

The Province shall have no liability under this Agreement, except for payments of the Provincial Contribution, in accordance with and subject to the provisions of this Agreement. Without limiting the generality of the foregoing, the Province shall not be liable for any direct, indirect, special or consequential damages, or damages for loss of revenues or profits of the Recipient, regardless of however arising, whether in contract, tort, fiduciary duty, statute or otherwise.

19. GENERAL PROVISIONS

19.1. TRANSFER AND ASSIGNMENT

The Recipient will not transfer or assign this Agreement or any part thereof, or its rights, duties or obligations under this Agreement, without the prior written consent of the Province and without a written irrevocable undertaking, representation and warranty from the transferee or assignee, as the case may be, in which the transferee or assignee agrees to comply with all terms and conditions of this Agreement. Any attempt by the Recipient to transfer or assign any part of this Agreement, or the rights, duties or obligations of this Agreement, without the Province's express written consent is void.

19.2. DISPUTE RESOLUTION

If a dispute arises concerning the application or interpretation of this Agreement, the Parties will attempt to resolve the matter through good faith negotiation, and may, if necessary and the Parties consent in writing, resolve the matter through mediation by a mutually acceptable mediator or arbitration in accordance with the *Arbitration Act* (British Columbia), and all regulations made pursuant to that Act. Pending resolution, all payments and other obligations related to the issue in dispute will be suspended.

19.3. DISPOSITION OF PROJECT ASSETS

The Recipient shall preserve and maintain the assets acquired with the Provincial Contribution and shall not sell, transfer or dispose of them until the expiration or early termination of this Agreement, unless:

- a) the Recipient has obtained the prior written consent of the Province, on such conditions as the Province may determine; or
- b) the asset was acquired at a cost less than \$1,000; or
- c) the asset is worn or outdated and is sold, transferred or disposed of in order to be replaced and the proceeds of sale of the asset are used for the acquisition of the replacement.

19.4. DEBT DUE TO THE PROVINCE

Any amount owed to the Province under this Agreement shall constitute a debt due to the Province and shall be recoverable as such. Unless otherwise specified in this Agreement, the Recipient agrees to make payment of any such debt within thirty (30) days of receiving written notification by the Province.

Debts due to the Province will accrue interest in effect on the due date in accordance with the *Interest on Overdue Accounts Receivable Regulation* issued under the *Financial Administration Act* (British Columbia). Interest shall be compounded monthly on overdue balances payable, from the date on which the payment is due, until payment in full is

received by the Province. Any such amount is a debt due to the Province and is recoverable as such.

19.5. **SET-OFF**

Without limiting the scope of set-off rights provided in the *Financial Administration Act* (British Columbia), the Province may set off against the Provincial Contribution, any amounts owed by the Recipient to the Province under any legislation or any agreements with the Province at any time over the term of this Agreement and the Recipient shall declare to the Province all amounts outstanding in that regard when making any claim under this Agreement.

19.6. **BINDING EFFECT**

This Agreement is binding upon the Parties, their successors and permitted assignees.

19.7. **AMENDMENT**

No amendment to this Agreement shall be effective unless it is made in writing and signed by the Parties.

19.8. **NO AGENCY**

No provision of this Agreement or action by the Parties will establish or be deemed to establish any partnership, joint venture, principal-agent or employer-employee relationship in any way, or for any purpose, between the Province and the Recipient, or between the Province and any Third Party. The Recipient is not in any way authorized to make a promise, agreement or contract or to incur any liability on behalf of the Province, nor shall the Recipient make a promise, agreement or contract or incur any liability on behalf of the Province, and shall be solely responsible for any and all payments and deductions required by the Applicable Laws.

19.9. **SEVERABILITY**

If for any reason a provision of this Agreement that is not a fundamental term of the agreement between the Parties is found to be or becomes invalid or unenforceable, whether in whole or in part, it shall be deemed to be severable and shall be deleted from this Agreement, and all remaining terms and conditions of this Agreement will continue to be valid and enforceable.

19.10. **TAX**

The Recipient acknowledges that financial assistance from Government programs may have tax implications for its organization and that advice should be obtained from a qualified tax professional.

19.11. **NOTICE**

Any notice, information or document provided for under this Agreement may be delivered or sent by any pre-paid method, including regular or registered mail, courier, facsimile or email. Any notice will be considered as received upon delivery by the courier, or one (1) Business Day after being sent by facsimile or email, or five (5) Business Days after mailing. A Party may change its address below by notifying the other Party in writing.

Any notice to the Province shall be sent to:

Ministry of Citizens' Services
Attn: Executive Director, Network BC
PO Box 9416 STN PROV GOVT
3350 Douglas Street, 3rd Floor
Victoria, BC

V8W 9V1

ConnectingCommunitiesBC@gov.bc.ca

Any notice to the Recipient shall be sent to:

[Recipient name]

Attn: [title]

[address]

19.12. APPLICABLE LAWS

This Agreement will be interpreted in accordance with the laws and regulations of British Columbia and of the province or territory in which the Recipient's head office is located. The Parties attorn to the jurisdiction of the Courts of British Columbia and all courts competent to hear appeals from the Courts of British Columbia.

19.13. INTELLECTUAL PROPERTY

Title to any intellectual property created solely by the Recipient as part of or in respect of the Project shall vest with the Recipient.

19.14. COUNTERPARTS

This Agreement may be signed in counterparts and each counterpart shall constitute an original document; these counterparts taken together shall constitute one and the same Agreement.

20. SIGNATURES

This Agreement has been executed on behalf of the Province and the Recipient as of the date(s) indicated below:

**HIS MAJESTY THE KING IN RIGHT OF
THE PROVINCE OF BRITISH COLUMBIA**

as represented by the Minister of
Citizens' Services

[Insert Legal Name of the
Recipient]

Signed by:

Signed by:

Minister or their authorized
representative

Authorized Signatory

Print Name: _____

Print Name: _____

Date: _____

Date: _____

I have the authority to bind the
Recipient

SAMPLE FUNDING AGREEMENT

SCHEDULE A

This Statement of Work establishes minimum requirements for the Project. The Province retains discretion to require additional or different activities to be included within the Statement of Work.

STATEMENT OF WORK

- 1. PROJECT SUMMARY**
- 2. KEY PROJECT DATES**
- 3. PROJECT IMPLEMENTATION**
- 4. OPEN ACCESS**

SAMPLE FUNDING AGREEMENT

ANNEX A-1

DETAILED PROJECT DESCRIPTION

1. PROJECT DESCRIPTION

- 1.1. Key Activities and Implementation Strategy
- 1.2. Networking Technologies and Product Manufacturer
- 1.3. Geographical Overview Map
- 1.4. Logical Network Diagram
- 1.5. Geographical Backbone Transport Routes
- 1.6. Network Description
- 1.7. Table of Project Sites
- 1.8. Fixed Wireless Tower Information
- 1.9. Project Dependencies
- 1.10. Network Security
- 1.11. Permitting Plan

ANNEX A-2

EXPECTED RESULTS

1. COMMUNITY BENEFITS
2. LAST-MILE COVERAGE
3. COVERAGE AREA
4. MOBILE COVERAGE AREA
5. RESIDENTIAL BROADBAND SERVICE
6. MOBILE BROADBAND SERVICE

SAMPLE FUNDING AGREEMENT

ANNEX A-3

MILESTONE DELIVERABLES

- 1. MILESTONE #1 - DELIVERABLES**
- 2. MILESTONE #2 - DELIVERABLES**
- 3. MILESTONE #3 - DELIVERABLES**

SAMPLE FUNDING AGREEMENT

ANNEX A-4

PROJECT SCHEDULE

SAMPLE FUNDING AGREEMENT

ANNEX A-5

PROJECT BUDGET

- 1. PART A – SUMMARY OF ESTIMATED PROJECT COSTS**

- 2. PART B – SUMMARY OF ESTIMATED PROJECT FINANCING**

SAMPLE FUNDING AGREEMENT

ANNEX A-6

ELIGIBLE AND INELIGIBLE COSTS

1. ELIGIBLE COSTS

2. INELIGIBLE COSTS

SAMPLE FUNDING AGREEMENT

SCHEDULE B

COSTING MEMORANDUM AND ELIGIBLE AND INELIGIBLE COSTS

1. GENERAL PRINCIPAL

The Eligible Costs shall be the direct costs which, in the opinion of the Province, are reasonably and properly incurred or allocated, to the performance of the Project, less any applicable credits as defined in paragraph 7 below. These costs shall be determined in accordance with the Recipient's cost accounting system as accepted by the Province and applied consistently over time. The cost accounting system should clearly establish an audit trail that supports all Eligible Costs claims, as described below.

2. REASONABLE COSTS

A cost is reasonable if the nature and amount do not exceed what would be incurred by an ordinary prudent person in the conduct of a competitive business.

In determining the reasonableness of a particular cost, consideration will be given to:

- a) whether the cost is of a type generally recognized as normal and necessary for the conduct of the Recipient's business or performance of the Project;
- b) the restraints and requirements of such factors as generally accepted sound business practices, arm's length bargaining, federal, provincial and local laws and regulations and Agreement terms;
- c) the action that prudent business persons would take in the circumstances, considering their responsibilities to the owners of the business, their employees, customers, the Government and the public at large;
- d) significant deviations from the established practices of the Recipient which may unjustifiably increase the Eligible Costs; and
- e) the specifications, delivery schedule and quality requirements of the particular Project as they affect costs.

3. DIRECT COSTS

There are six categories of Direct Costs:

- a) **Direct Labour Costs** means the portion of gross wages or salaries incurred for work which can be specifically identified and measured as having been performed or to be performed on the Project and that is so identified and measured consistently by the Recipient's cost accounting system, as accepted by the Province. Costs for salary and wages must only be claimed for employees who are on the Recipient's payroll. The payroll rate to be used is the actual gross pay rate for each employee (normal periodic numeration before deductions) working on the Project. The payroll rate excludes all premiums (e.g., overtime, workers compensation benefits, as well as payments in terms of shares, stock, stock options, discretionary bonuses, or performance related payments of any kind), shift differentials, and any reimbursement or benefit conferred in lieu of salaries or wages;
- b) **Direct Material Costs** means those cost of materials which can be specifically identified and measured as having been used or to be used in the performance of the Project in accordance with the following:

- (i) These materials may include, in addition to materials purchased solely for the Project and processed by the Recipient, or obtained from subcontractors, any other materials issued from the Recipient's general stocks.
 - (ii) Materials purchased solely for the Project or subcontracts shall be charged to the Project at the net laid down cost to the Recipient, net of any taxes and before any discounts for prompt payment.
 - (iii) Materials issued from the Recipient's general stocks shall be charged to the Project in accordance with the method as used consistently by the Recipient in pricing material inventories.
- c) **Direct Equipment Costs** means the cost of equipment required for the completion of the Project, including but not limited to servers, switches, fibre optic cable, repeaters, radio equipment, towers, poles, back-up power supplies, shelters and enclosures, and network broadband connectivity devices including upgrades and adaptations;
- d) **Direct Satellite Capacity Costs** means the portion of the direct purchase, or lease of Bandwidth or capacity delivered over the physical medium of satellite which can be specifically identified and measured as have been used or to be used in the performance of the Project. These costs will be measured in units of Mbps, MHz, or a quantity of satellite transponders;
- e) **Direct Travel Costs** means the cost of travel which is deemed necessary to the performance of the Project. To be eligible, travel costs must be clearly documented as to the purpose of each trip and must respect the spirit of the Province's current travel expense policies, as notified to the Recipient, including without limitation those travel expense policies set forth in the [British Columbia Core Policy and Procedures Manual](#). Travel expenses, at economy rates, shall be charged at actual costs; and,
- f) **Other Direct Costs** means those applicable costs, not falling within the categories of direct labour, direct equipment, direct material, direct satellite capacity, or direct travel costs, but which can be specifically identified and measured as having been incurred or to be incurred in the performance of the Project and which are so identified and measured consistently by the Recipient's cost accounting practices as accepted by the Province. This includes labour performed by subcontractors.

Direct Costs do not include any allocation for profit or any allocation of general and administrative expenses.

4. ELIGIBLE COSTS

The Eligible Costs which may be reimbursed by the Provincial Contribution are those Direct Costs identified in the Project Budget as Eligible Costs, provided, in each case, that the cost is, in the opinion of the Province, reasonable as well as required for and directly related to the completion of the Project, as set out in Schedule A. Without limiting the generality of the foregoing, the following costs are eligible:

- Engineering and design including network, architecture and systems design and integration;
- Environmental assessments, if required;
- Direct capital costs for the deployment of Broadband infrastructure;
- Purchase of related hardware, software and associated services;
- Equipment and infrastructure including servers, switches, fibre optic cable, repeaters, radio equipment, towers, poles, back-up power supplies, shelters and network broadband connectivity devices including upgrades and adaptations;
- Incremental salaries and benefits associated with the Project as well as fees for

- contracted services/professional services;
- Software required for telecommunications and network facilities related to the Project;
- Third Party infrastructure assessment and verification, if required; and
- Any other costs that, in the opinion of the Province, are considered to be direct and necessary for the successful completion of the Project and which have been approved in writing by the Province prior to being incurred.

5. INELIGIBLE COSTS

Unless deemed eligible by the Province all other costs not set out above are ineligible. Notwithstanding that the following costs may have been or may be reasonably and properly incurred by the Recipient, including any Third Party, in the performance of the Project, below are considered to be Ineligible Costs:

- Any costs outside of those clearly listed as Eligible Costs, all expenditures incurred after the Project Completion Date and before the Funding Agreement Effective Date.
- Expenditures related to purchasing land, right-of-way and buildings (except for equipment shelters not meant for human occupation) and associated real estate and other fees;
- Leasing land, buildings and other facilities, including permanent shelters for housing network related equipment (except for temporary facilities directly related to the construction of the Project);
- General repairs and ongoing maintenance resulting from the Project and related structures;
- Legal fees, survey fees, right-of-way/access fees, audit fees, rent, land applications and co-location fees;
- Operational costs to operate the network built as a result of the Project;
- Maintenance and service contracts and technical support contracts for equipment, software and hardware;
- Warranties including warranties for equipment, software and hardware;
- Taxes for which the Recipient is eligible for a tax rebate and all costs eligible for rebates;
- Contingency provisions;
- Insurance costs (e.g., construction, general liability, commercial, etc.);
- Land purchase costs;
- Existing capital assets including land, buildings, vehicles and other indirect, fixed, and/or capital costs;
- Customer Premise Equipment (CPE) and their installation, including but not limited to:
 - devices or infrastructure whose cost is recovered by the Recipient from its Broadband Service subscribers either directly or indirectly
 - devices that form the endpoints of the Recipient's shared last mile network such as modems, Optical Network Terminals, and subscriber transceiver equipment
 - devices that form the endpoints of the Recipient's point-to-point link delivering Broadband Service such as routers and Optical Network Terminals (ONTs) but excluding point-to-point radios
 - masts or towers located on a customer's premises
- Cost of any goods and services which are received through donations or in kind;
- Financing or carrying costs, loan and interest payments;
- Salary bonuses and dividend payments;
- Fines and penalties;
- General office space and equipment i.e., photocopiers, furniture, telephones, computers, printers and office software;
- All costs to setup a service provider including all general business and office related

expenses, tools, vehicles, office supply, telephones, computers, printers, telecommunication & networking installation, measuring, maintenance and repair of devices;

- Advertising/promotion activities;
- Radio and Spectrum licensing fees;
- Research and development work and activities and expenses related to experimental work;
- Software development and hardware development and production;
- Non commercial-off-the-shelf networking and telecommunications equipment;
- All software except software to operate the network of the project;
- All permits required for the ongoing operation of the network (excludes all one-time costs required to initially obtain the permit);
- Existing telecommunication, network infrastructure and dark fibre including indefeasible right of use (IRU) dark fibre arrangements;
- Lease-to-own contracts and any costs under a lease-to-own agreement;
- Cleaning fees;
- Costs related to funding application development;
- Goods and services tax;
- Overhead administration and labour costs including administration, management, finance, general business overhead;
- Vacation pay, overtime, shift differential, bonuses, stock shares, allowances CPP, EI, WCB, and other benefits;
- Project administration including maintenance, operational costs resulting from the Project such as customer service, Progress Reports, etc.; and
- Fees paid to members of a Board of Directors for their time.

6. GOODS AND SERVICES TAX OR HARMONIZED SALES TAX

Only that portion of the Goods and Services Tax or the Harmonized Sales Tax which is not refundable by Canada Revenue Agency as an input tax credit or as a rebate can be claimed as an Eligible Cost. Only that portion of the Provincial Sales Tax which is also not refundable by the respective provincial tax authority can be claimed as an Eligible Cost.

7. CREDITS

The applicable portion of any income, rebate, allowance, or any other credit relating to any applicable Eligible Costs, received by or accruing to the Recipient, will be credited to the Project and the Eligible Costs to be reimbursed under this Agreement.

8. RELATED PARTIES

Costs of goods or services (including labour) acquired from parties related to the Recipient, including intermediate Third Parties, must be valued at the cost to the supplying entity and shall not include any mark up for profit or return on investment and shall not exceed Fair Market Value. The Province may not consider that such costs are Eligible Costs unless access is provided to the relevant records of the supplying entity.

9. TRAVEL

Eligible travel costs are those which are deemed necessary to the performance of the Project. To be eligible, travel costs must be clearly documented as to the purpose of each trip. Travel expenses, at economy rates, shall be charged as at actual costs, but only to the extent that they are considered reasonable by the Province.

Where a personal automobile is to be used, kilometre (mileage) allowance will be based on the Province's current travel expense policies, as notified to the Recipient, including without limitation those travel expense policies set forth in the [British Columbia Core Policy and Procedures Manual](#). Eligible Costs shall be limited to the cost that would have been incurred and paid had normal public transportation at economy rates been used.

Actual costs at the destination will be allowed for food and accommodation. Meal rates will be based on the Province's current travel expense policies, as notified to the Recipient, including without limitation those travel and expense policies set forth in the [British Columbia Core Policy and Procedures Manual](#). Please note all receipts are to be kept for all items except meals. Entertainment (hospitality) costs are not eligible.

SAMPLE FUNDING AGREEMENT

SCHEDULE C

REPORTING REQUIREMENTS

1. REPORTING

The Recipient shall ensure that appropriate processes are in place to enable the capture and reporting of the information necessary to complete the following reports.

The Recipient shall provide the Province with the following reports in writing using forms approved by the Province or other such form satisfactory to the Province. These reports are considered the minimum reporting requirements; the Province retains the discretion to request additional reporting from the Recipient.

2. COMMUNITY REPORT

A Community Report setting out the Project's progress by each community listed in section 1 of Annex A-2 of Schedule A, which shall include:

- The stage of the Project's progress for each community, which must include information pertaining to:
 - **Planning:** This may include additional community and Indigenous Peoples' consultations, finalizing financing arrangements, conducting environmental assessments, and acquiring spectrum licenses.
 - **Detailed design & construction stage:** This stage may include inspecting poles and routes, trenching, fibre or tower placement, installing equipment, and providing test results.
 - **Operational:** Broadband Service is available in the community, and if applicable, wholesale services are available to third-party internet service providers.
- The estimated and actual number of Underserved Households in each community with Broadband Service.
- The types of Broadband Service to be made available in each community.
- The estimated and actual construction start date for Project Sites by community.
- The estimated and actual construction end date for Project Sites by community.

Community Report Due Dates

The Recipient must submit Community Reports on a quarterly basis until the Project Completion Date on the following dates:

- March 1st
- June 1st
- September 1st
- December 1st

From the Project Completion Date to the end of the Term or early termination of this Agreement, the Province may request that the Recipient submit a Community Report within five (5) Business Days, or within such longer period as may be authorized by the Province.

3. PROGRESS REPORT

A Progress Report in respect of the Project that shall include:

- Confirmation that a milestone has been achieved during the period being reported. If applicable, all Milestone Deliverables must be submitted (see Annex A-3 of Schedule A for a complete list) if not previously provided;
- Description of the work completed by community and by each Project Site, and any other work completed as of the date of the Progress Report including the permitting status of each Project Site. This description should explain progress made on specific activities described in Schedule A as well as provide an explanation for any activity that is currently behind schedule;
- Description of any changes that have been made to previously submitted documents;
- Issues or risks that have been encountered in completing the Project, or that may affect the schedule, budget or completion of the Project, and related risk mitigation strategies;
- Confirmation that the total Project Costs and Provincial Contribution in each year as set out in the Project Budget remains unchanged or provide an update of the total Project Costs and Provincial Contribution;
- A quarterly estimate of the Provincial Contribution (or updated Provincial Contribution) as set out in the Project Budget for the remainder of the current Fiscal Year;
- Last milestone completed in Project;
- Any Communications Materials and Products produced;
- Progress reports are required as described in section 9.1 of the Agreement, "Payment of Claims".

4. FINAL IMPLEMENTATION REPORT

A **Final Implementation Report** shall be submitted in conjunction with the request for final payment as per subsection 10.3 and shall include the following components in addition to those requested in any Progress Reports:

- Indicate the anticipated and actual number of Underserved Households connected through the Project, including the actual count of Underserved Households connected by last-mile type, and identifying communities and Indigenous communities. Provide an explanation for the variance if applicable;
- Indicate, if applicable, the actual number of businesses and key institutions connected through the Project;
- Describe changes in the Project schedule, why they were made, and the impact on the Project;
- Provide any other information which identifies, demonstrates and quantifies the success of the Project and the direct and indirect benefits resulting from the Project;
- An itemized statement showing cumulative funding in the Project from all sources as well as details of all Project Costs incurred and paid from the Effective Date to the Project Completion Date, which must be substantiated by such documents as may be required by the Province;
- The itemized statement shall be certified, in a form satisfactory to the Province, by the chief financial officer of the Recipient or other person satisfactory to the

Province; and

- An attestation certifying that all Eligible Costs are incurred and paid, and all obligations as set out in the Agreement have been met.

5. EVALUATION

As provided in subsection 14.2 of the Agreement, the Province may seek to evaluate the success of the Program. The Recipient agrees to collect information pertaining to the subscriber growth, network expansions, competition, capacity demands, economic development activities, other significant trends and events and any other information requested by the Province from time to time in relation to the network arising from the Project, to the extent that the Recipient is in possession of such information, and to provide such information to the Province in the form and using the schedule requested by the Province.

6. INITIAL AND SUBSEQUENT ANNUAL SERVICE PERFORMANCE MONITORING REPORTS

The Recipient shall provide Service performance monitoring reports that at a minimum:

- Demonstrate the Broadband Services are performing at, or in excess, of the service speeds, latency and packet loss rates to the recipients CPE device as defined in the 50/10 Universal Service Objective Quality of Service objectives; and
- Describe the methodology used to measure, and gather the service performance data.

The Province reserves the right to request the Recipient to undertake additional performance testing and/or to use a Third Party to undertake performance testing.