Tripartite Emergency Management Working Group:

Technical Sub-Committee on Emergency Program Act Reform

Terms of Reference

Approved by on \_\_\_\_\_\_\_, 2020

**DRAFT FOR DISCUSSION**

The purpose of this Terms of Reference document is to define the scope, composition, and priorities of the Tripartite Emergency Management Working Group’s Technical Sub-Committee on Emergency Program Act Reform.

# Background & Context

In early 2016, the BC Cabinet and the First Nations Leadership Council (“**FNLC**”), being a collective composed of the BC Assembly of First Nations (“**BCAFN**”), First Nations Summit (“**FNS**”) and Union of BC Indian Chiefs (“**UBCIC**”), endorsed a Commitment Document, which set out a government-to-government relationship based on respect, recognition, and accommodation for the Aboriginal title and rights of the First Nations in BC, as well as the meaningful reconciliation of Aboriginal and Crown titles and jurisdictions.

In May 2017, a new provincial government was formed that further committed to working with BC First Nations to endorse and implement the United Nations Declaration on the Rights of Indigenous Peoples (“**UNDRIP**”), the Truth and Reconciliation Commission’s Calls to Action, and the Supreme Court of Canada’s Tsilhqot’in decision. Subsequently, the Province and the FNLC updated the Commitment Document and its associated Joint Agenda to reflect certain renewed commitments toward a shared vision, principles, goals, and objectives, as well as to transform BC’s legal and administrative structures.

The Tripartite Memorandum of Understanding on Emergency Management (the “**Tripartite MOU**”) was signed in April 2019 by the FNLC, Canada, and BC. The Tripartite MOU establishes a high level partnership between Emergency Management BC (“**EMBC**”), the BC Wildfire Service (“**BCWS**”), Indigenous Services Canada (“**ISC**”), and FNLC to identify gaps and areas of concern for First Nations communities regarding emergency management. The Tripartite MOU Technical Working Group was established in 2019, and includes First Nations community-based emergency management champions from across the province. The purpose of the MOU Technical Working Group is to implement the Tripartite MOU through community-based experience, and to identify approaches to close the jurisdictional and practical gaps in how the four pillars of emergency management operate to serve First Nations in BC.

In November 2019, the British Columbia legislature unanimously passed the *Declaration on the Rights of Indigenous Peoples Act* (the “**Declaration Act**”), which requires British Columbia to take all measures needed to ensure provincial laws are consistent with the UN Declaration on the Rights of Indigenous Peoples. DRIPA requires that British Columbia take all necessary measures to ensure provincial laws are consistent with UNDRIP. Therefore, ongoing provincial reform of the *Emergency Program Act* (“**EPA**”) must comply with DRIPA.

# definitions

**“Emergency Program Act Reform”** (“**EPA Reform**”) refers to the Emergency Program Act Modernization that British Columbia launched through its discussion paper in October 2019.

**“Senior Level Officials”** refers to the senior parties of the Tripartite MOU tasked with engagement, as defined in Section 3.5 in the Tripartite MOU, including the:

* Assistant Deputy Minister of EMBC;
* Associate Deputy Minister of BCWS;
* Assistant Deputy Minister of the Ministry of Indigenous Relations and Reconciliation (“**MIRR**”);
* ISC;
* Regional Director General;
* FNLC representatives, and;
* Executive Director of the First Nations Emergency Services Society (“**FNESS**”).

**“Tripartite Emergency Management Working Group”** (“**Working Group**”)refers to the technical working group composed of representatives of First Nations, the FNLC, FNESS, EMBC, ISC, and representatives from BCWS, and formed as a result of the Tripartite MOU tasked with general technical-level engagement with respect to *Emergency Program Act* reform.

**“Technical Sub-Committee on EPA Reform”** (“**Technical Sub-committee**”) refers to the technical sub-committee composed of representatives of First Nations, the FNLC, FNESS, EMBC, ISC, and BC Wildfire Service, which has been formed as a sub-committee of the Tripartite Emergency Management Working Group.

# Composition

The membership of the Technical Sub-Committee shall include at least one technical representative from each of the following organizations:

* Participating First Nations;
* FNLC;
* FNESS;
* EMBC;
* ISC; and
* BC Wildfire Service.

The number of representatives appointed to the Technical Sub-Committee shall be determined by each organization on a case-by-case basis.

Members shall appoint a Chair who must be a member of the Technical Sub-Committee at the end of each meeting of the Technical Sub-Committee. The appointment of the Chair shall be effective from the closure of the meeting at which the Chair is appointed until to the closure of the proceeding meeting of the Technical Sub-Committee. The Senior Level Officials shall appoint an initial Chair of the Technical Sub-Committee from its membership.

# Mandate and Scope

The purpose of the Technical Sub-Committee is to facilitate co-development of EPAReforms by the province of British Columbia and Indigenous peoples within British Columbia, and to help ensure the new legislation realizes the goal of the Tripartite MOU, being to collectively advance meaningful recognition and enhanced capacity of First Nations within all pillars of emergency management.

In fulfilling this mandate, the Technical Sub-Committee will support the meaningful implementation of UNDRIP within EPA Reforms by:

* identifying areas where amendments to the EPA or its regulations may be helpful or necessary to support Declaration Act implementation and be consistent with UNDRIP;
* providing input, discussing matters and considering approaches relating to section 3 of the Declaration Act on the alignment of provincial laws with UNDRIP, including reviewing proposed new or amended legislation and/or regulations, agreements, policies and other instruments;
* providing a forum for discussion of legal issues arising from planning reporting requirements that flow from the Declaration Act, including the Action Plan (section 4), and the Annual Report (section 5); and
* employing collaborative approaches in developing technical solutions to the implementation of the Declaration Act.

The Technical Sub-Committee will work on a “without prejudice” basis and will be further guided by the Tripartite MOU, Commitment Document, UNDRIP, and the following additional principles:

* confidentiality and sharing of information based on the concepts of collaboration; cooperation and reconciliation;
* reciprocity and respect for positions, mandates and authorities;
* understanding of roles and responsibilities of the parties and members of the Technical Sub-Committee; and
* focus on constructive, innovative and solution-oriented discussions and recommendations that advance the implementation of the Declaration Act and meeting the objectives of UNDRIP.

# Objectives

The following represent the primary objectives of the Technical Sub-Committee in fulfilling its mandate:

1. To develop an Indigenous engagement plan for legislative reform that reflects the province’s obligations in DRIPA, and which is developed in the spirit of DRIPA with transparency, respect and inclusion of Indigenous perspectives.
2. To review and refine policy concepts informed from Indigenous engagement, which will inform the drafting of reforms to the EPA.
3. To track and report on how Indigenous engagement is reflected in the legislative process for implementing reforms to the EPA.
4. To review and comment on drafts of the proposed legislative reforms to ensure that the goals of the Tripartite MOU and any feedback arising from Indigenous engagement are adequately reflected in the legislative text.

# workplan

The Technical Sub-Committee will develop a workplan within 30 days of completing this Terms of Reference, identifying all resources necessary to achieve the objectives identified in section 5. The Senior Level Officials shall approve the workplan prior to initiating work under this Terms of Reference.

# structure & accountability

Members of the Technical Sub-Committee are governed by these Terms of Reference.

Members of the Technical Sub-Committee are accountable to the communities and organizations they represent, and shall be responsible for reporting to those respective communities and organizations on all matters of the Technical Sub-Committee. Members of the Technical Sub-Committee will also report to the assemblies of the BCAFN, UBCIC, and FNS, and at meetings of the FNLC, as requested.

Members of the Technical Sub-Committee shall be accountable to any confidentiality or non-disclosure agreements they enter into with government entities, and shall be governed by the provisions contain in any such confidentiality or non-disclosure agreement, including, but not limited to, provisions regarding the sharing of information with individuals, groups, or organization not bound by the agreements.

The Chair of the Technical Sub-Committee will act as the external spokesperson of the Technical Sub-Committee in a general capacity.

# meetings

The Technical Sub-Committee will meet regularly on an as-needed basis to carry out its work during the period of EPA reform. The Chair or support staff will provide written notice to members not less than fourteen (14) calendar days in advance of each meeting, and will include an agenda and all relevant materials in advance of each meeting with adequate time for review and preparation.

The quorum for any meeting of the Technical Sub-Committee is fifty percent plus one (50% +1) of its membership, including the Chair. The support staff of the FNESS are responsible for keeping minutes of each Technical Sub-Committee meeting using a template provided, and will circulate meeting minutes to the Technical Sub-Committee within five (5) business days of the each proceeding Technical Sub-Committee meeting.

The members of the Technical Sub-Committee will endeavour to make decisions by consensus and as informed by their own respective mandates. In the event that consensus is not reached, issues will be referred to the Working Group, with reasons for the lack of consensus.

# amendments

The Technical Sub-Committee may propose amendments to the Terms of Reference at any duly convened meeting, which FNESS support staff will track using version numbers and dates. Amendments to the Terms of Reference must be approved by a quorum of Technical Sub-Committee members, and then must be subsequently approved by Senior Level Officials.