

Personal Credits for First Nations, Métis and all other Non-Inuit Recipients

Terms and Conditions

OCTOBER 4, 2013

Personal Credits for First Nations and Métis – Terms and Conditions

RECITALS

The Parties have entered into the Indian Residential Schools Settlement Agreement for the resolution of the legacy of Indian Residential Schools. Compensation to former students of Indian Residential Schools is provided in the form of Common Experience Payments and awards made through the Independent Assessment Process.

Pursuant to the Indian Residential Schools Settlement Agreement, the Parties agreed to establish a trust to provide for the funding of the Common Experience Payments and certain other matters, in which a portion of the residual will take the form of personal credits.

Article 5.07 (1) of the Indian Residential School Settlement Agreement provides that where the balance in the Designated Amount Fund exceeds the amount required to make the Common Experience Payment to all CEP Recipients who have applied before the Common Experience Payment application deadline by more than \$40 million, the excess will be apportioned pro rata to all those who received a Common Experience Payment up to a maximum amount of three thousand dollars (\$3,000) per person in the form of Personal Credits.

Personal Credits have no cash value, but can be redeemed for education services at eligible educational entities or groups jointly approved by Canada and the Assembly of First Nations. Eligible individuals can apply to receive up to a maximum amount of \$3,000 in Credits.

The Indian Residential Schools Settlement Agreement provided limited details on the Personal Credits. The Indian Residential Schools Settlement Agreement directs Canada and the Assembly of First Nations to develop Terms and Conditions for the Personal Credits for First Nation, Métis and all other non-Inuit Recipients.

The Assembly of First Nations and Canada, with input from counsel for the claimant groups, agree to the following Terms and Conditions for Personal Credits to be paid out of the Designated Amount Fund in accordance with the Indian Residential Schools Settlement Agreement.

1.0 DEFINITIONS

In these Terms and Conditions, the terms listed below shall have the following definition:

“**AFN**” means the Assembly of First Nations/National Indian Brotherhood.

“**Agent of the Trustee**” means the entity approved by the courts to administer the Personal Credit process.

“**Applicant**” means a CEP Recipient who has submitted a Personal Credits Application to receive or transfer the Personal Credits.

“**Business Day**” means a day other than a Saturday or a Sunday or a day observed as a holiday under the laws of the Province or Territory in which the person who needs to take action pursuant to these Terms and Conditions is situated or a holiday under the federal laws of Canada

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applicable in the said Province or Territory.

“**CEP Recipient**” means all persons who received or will validly receive a Common Experience Payment.

“**Common Experience Payment**” and/or “**CEP**” means a lump sum payment made to an Eligible Recipient in the manner set out in Article Five (5) of the Indian Residential Schools Settlement Agreement.

“**Costs**” means all internal administrative costs of the Agent of the Trustee relating to the distribution of the Personal Credits outlined in Section 9.

“**Designated Amount**” means one billion nine hundred million dollars (\$1,900,000,000.00) less any amounts paid by way of advance payments, if any, as at the Implementation Date.

“**Designated Amount Fund**” means the trust fund established to hold the Designated Amount to be allocated in the manner as set out in Article Five of the Indian Residential Schools Settlement Agreement.

“**Disability**” means severe, sustained mental or physical incapacity, as evidenced by a medical certificate signed by a licensed physician.

“**Educational Entities and Groups**” means those educational entities or groups jointly approved by Canada and the AFN, and described more particularly in Sections 5.0 and 6.0.

“**Educational Programs and Services**” means those provided by universities, colleges, Indigenous Institutions of Higher Learning (IIHL’s), trade or training schools, or which relate to literacy or trades, as well as programs and services which relate to the preservation, reclamation, development or understanding of native identities, histories, cultures, or languages; and described more particularly in Section 5.0 and 6.0.

“**Eligible CEP Recipient**” means any former Indian Residential School student who resided at any Indian Residential School prior to December 31, 1997 and who was alive on May 30, 2005 and who does not opt out, or is not deemed to have opted out of the Class Actions during the Opt-Out Periods or is a Cloud Student Class Member.

“**Family Member**” means the following persons:

- (i) the spouse, child, grandchild, parent, grandparent or sibling of a CEP Recipient;
- (ii) the spouse of a child, grandchild, parent, grandparent or sibling of CEP Recipient;
- (iii) a former spouse of a CEP Recipient;
- (iv) a child or other lineal descendant of a grandchild of a CEP Recipient;
- (v) a person of the same or opposite sex to a CEP Recipient who cohabitated for a period of at least one year with that CEP Recipient immediately before his or her death;
- (vi) a person of the same or opposite sex to a CEP Recipient who was cohabitating with that CEP Recipient at the date of his or her death and to whom that CEP Recipient was providing support or was under a legal obligation to provide support on the date of his or her death;

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- (vii) any other person to whom a CEP Recipient was providing support for a period of at least three years immediately prior to his or her death;
- (viii) a person of the same or opposite sex to a CEP Recipient who cohabitated for a period of at least one year with that CEP Recipient immediately before the CEP Recipient delivered a Personal Credits Acknowledgement Form to the Agent of the Trustee;
- (ix) a person of the same or opposite sex to a CEP Recipient who was cohabitating with that CEP Recipient immediately before the CEP Recipient delivered a Personal Credits Acknowledgement Form to the Agent of the Trustee and to whom that CEP Recipient was providing support or was under a legal obligation to provide support; and
- (x) any other person to whom a CEP Recipient was providing support for a period of at least three years immediately prior to delivering a Personal Credits Acknowledgement Form to the Agent of the Trustee.

“Indian Residential Schools Settlement Agreement” and/or **“IRSSA”** means the final settlement agreement among Canada, Plaintiffs, as represented by the National Consortium, Merchant Law Group and other legal counsel, The Assembly of First Nations, Inuit Representatives, The General Synod of the Anglican Church of Canada, The Presbyterian Church in Canada, The United Church of Canada and Roman Catholic Entities and its recitals and Schedules, as amended, supplemented or restated from time to time.

“Legacy of Indian Residential Schools” means any continuing direct or indirect effects of Indian Residential Schools, including the intergenerational impacts, on individuals, families and communities.

“Parties” means collectively and individually the signatories to the Indian Residential Schools Settlement Agreement.

“Person Under Disability” means; (1) a minor as defined by that person’s Province or Territory of residence; or (2) a person who is unable to manage or make reasonable judgments or decisions in respect of their affairs by reason of mental incapacity and for whom a Personal Representative has been appointed.

“Personal Credits” and/or “PCs” means education credits that have no cash value, are transferable only to a family member, may be combined with the Personal Credits of other individuals and are only redeemable for either personal or group education services provided by education entities or groups jointly approved by Canada and the Assembly of First Nations pursuant to these terms and conditions.

“Personal Representative” includes, if a person is deceased, an executor, administrator, estate trustee, trustee or liquidator of the deceased or, if the person is mentally incompetent, the tutor, committee, Guardian, curator of the person or the Public Trustee or their equivalent or, if the person is a minor, the person or party that has been appointed to administer his or her affairs.

“Project” means a project carried on or to be carried on to address the education, occupational skills and/or cultural preservation needs of First Nation and Métis people affected by the Legacy of Indian Residential Schools, including the intergenerational impacts.

“Termination Date” is January 1st, 2015.

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“**Transferee**” means a person to whom Personal Credits are transferred to.

“**Transferor**” means a CEP Recipient who elects to transfer all or part of their Personal Credits to a family member.

“**Trustee**” means Her Majesty in Right of Canada as represented by the incumbent Ministers from time-to-time responsible for Indian Residential Schools Resolution and Service Canada. As at January 1, 2013, the Representative Ministers are the Minister of Aboriginal Affairs and Northern Development and the Minister of Human Resources and Skills Development, respectively.”

2.0 DESCRIPTION

- 2.01 The objectives of Personal Credits include:
- a) To further a fair, comprehensive and lasting resolution of the legacy of Indian Residential Schools; and
 - b) To promote education and reconciliation.
- 2.02 Personal Credits are intended to support the following outcomes:
- a) Increasing the number of First Nations and Métis students who graduate from high school;
 - b) Increasing the number of First Nations and Métis students who attend post-secondary school; and
 - c) Fostering people’s education in First Nations’ and Métis’ respective traditional knowledge, language and cultural revitalization.
- 2.03 The funding for Personal Credits will flow from the Designated Amount Fund and will align with these Terms and Conditions.
- 2.04 Personal Credits are intended to address the legacy of Indian Residential Schools and associated harms, including intergenerational effects.
- 2.05 Educational Programs and Services eligible to receive Personal Credits shall include, but not be limited to, those provided by universities, colleges, Indigenous Institutions of Higher Learning (IIHL’s) trade or training schools, or which relate to literacy or trades, as well as projects or services which relate to the preservation, reclamation, development or understanding of native identities, histories, cultures, or languages.
- 2.06 Former students at Indian Residential Schools have recommended that Educational institutions and programs provide as many of the following supports to enhance the success of the Personal Credits outcomes:
- a) Availability of onsite childcare;
 - b) Flexible policies, allowing time off to care for a sick family member, alternative assignments or grading, admissions policies based on diverse experience and not just grade point averages;

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- c) Geographic proximity to a CEP Recipient's respective First Nation or Métis community;
- d) Provision of distance education services and programs;
- e) Indigenous orientation of the institution (e.g. Indigenous controlled, incorporation of Indigenous languages, traditional knowledge or ceremonies);
- f) Number of Indigenous staff;
- g) Involvement of Elders and First Nations or Métis community members;
- h) Relationships with local First Nations and/or Métis communities or organizations;
- i) Availability of First Nations and/or Métis programs or departments;
- j) Availability of support services (e.g. financial, social, health, housing) and skills development (e.g. job finding);
- k) Availability of Aboriginal-specific student support services;
- l) Organizational philosophy that values diversity;
- m) Safe spaces on campus for First Nations and Métis students and community members including former students of Indian Residential Schools;
- n) Presence of a comfortable and welcoming environment (e.g. student lounge or kitchen);
- o) Academic support such as tutoring;
- p) Availability of short-term programs (e.g. week-long training programs);
- q) Demonstrated knowledge of Indian Residential Schools and issues affecting former students of these schools;
- r) Evidence that at least 20% percent of First Nation and/or Métis students graduate in a timely manner.

2.07 Personal Credits may be transferred to a family member.

3.0 PERSONAL CREDITS ELIGIBILITY

3.01 All persons who received or will validly receive a Common Experience Payment are eligible to redeem Personal Credits.

4.0 PERSONAL CREDIT CERTIFICATES & TRANSFERS

4.01 Each CEP Recipient will receive a Personal Credit Acknowledgement Form describing the amount of Personal Credits and the process for redeeming them.

4.02 Personal Credits are nonmarketable, cannot be cashed in by a CEP Recipient and therefore cannot be sold to others or redeemed for cash, rather they will represent a dollar amount up to \$3,000.

4.03 The Agent of the Trustee shall keep the contact information of each CEP Recipient and their election to use, transfer or pool Personal Credit(s) on a database, as well as information on the redemption of the Personal Credit(s).

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- 4.04 Where a CEP Recipient elects to redeem their Personal Credits, a Redemption Form will be issued to the CEP Recipient to confirm their designation and a certificate will be provided.
- 4.05 A CEP Recipient may transfer all or part of their Personal Credits to a family member. Such transfer shall be evidenced by the CEP Recipient designating their election on the Personal Credit Acknowledgement Form and providing particulars of the Transferee(s).
- 4.06 A CEP Recipient who seeks to transfer Personal Credits to a family member should be prepared to produce supporting official documents such as certificates of birth or marriage, adoption and guardianship orders, custom adoption documents (affidavit from parent/personal representative and affidavit from First Nation), or an affidavit evidencing the family relationship, where requested.
- 4.07 Personal Credits can be:
- a) fully retained by the CEP Recipient;
 - b) transferred one time by the CEP Recipient to no more than two family members in an amount not less than \$1,000; or
 - c) CEP Recipient retains part of the Personal Credit not less than \$1,000 and the remainder transferred to one family member for not less than \$1,000.
- 4.08 A family member may not transfer Personal Credits to any other persons, but in the event of the death or disability of the family member prior to the submission of the PC Redemption Form to the Agent of the Trustee, the Personal Credits may be transferred back to the CEP Recipient.
- 4.09 Once an Eligible CEP Recipient or Transferee has elected to redeem Personal Credits with an eligible Education Program or Service, the CEP Recipient or Transferee may not change this election unless the course, program or education service is no longer available.

5.0 ELIGIBLE EDUCATION PROGRAMS AND SERVICES

- 5.01 The following educational entities and groups may be eligible to accept Personal Credits in exchange for educational services:
- a) *Formal education institutions*
 - i. Elementary and secondary schools in First Nation and Métis communities (Grades K-12);
 - ii. Post-secondary institutions such as universities, colleges, and Indigenous Institutions of Higher Learning (IIHL's);
 - iii. Technical institutes or trade schools;
 - iv. Essential skills-building courses or workshops such as basic life skills training, literacy and numeracy courses, parenting classes, computer skills, job finding skills.
 - b) *Indigenous Education and Cultural Training*
 - i. Early childhood education centres or early years programs (0-6 yrs);

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- ii. Indigenous educational or cultural institutions including First Nations and Métis schools, Friendship Centres, cultural centres;
 - iii. Indigenous cultural training projects including community-based programs such as cultural camps, courses taught by Elders on relearning local First Nation and/or Métis history or traditional knowledge training such as hunting, trapping, fishing, or drum making;
 - iv. Traditional language training such as community-based Indigenous language programs or language courses taught by Elders.
- c) *Institutions or Groups Outside Canada*
- i. Eligible education institutions and groups outside of Canada where an individual resides abroad;
 - ii. Where a person resides in Canada, requests to attend education institutions and group programs outside of Canada must be approved by the Advisory Committee.
- 5.02 CEP Recipients and/or Transferees may apply to use their Personal Credits towards the development of and their participation in an educational project that aims to provide mainstream or cultural education or training.
- 5.03 Where a First Nations and/or Métis language or cultural retention program exists in a First Nation or Métis community, Personal Credits may be used or pooled by CEP Recipients to expand and enhance such programs. However, Personal Credits may not be used by mainstream educational institutions to supplement programs that exist and are funded by the federal, provincial or territorial governments.
- 5.04 Personal Credits may be redeemed to cover tuition and fees, lab fees, required course expenses, text books, computers but not living expenses.

6.0 ELIGIBLE GROUP EDUCATION SERVICES

- 6.01 Personal Credits may be redeemed for group education services provided by First Nation and Métis education entities, at education institutions listed in 5.0 and groups jointly approved by Canada and the Assembly of First Nations.
- 6.02 Canada and the Assembly of First Nations will agree to which programs are acceptable as Group Education Services.
- 6.03 A group of CEP Recipients and/or Transferees may elect to pool their Personal Credits to develop and participate in specific education programs within their First Nation and Métis community; contributing their Personal Credits towards the development of an educational or other programs or services which relate to the preservation, reclamation, development or understanding of First Nation or Métis identities, histories, cultures, or languages.
- 6.04 In order to be eligible, an education service must meet at least one of the following mandatory criteria:

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- a) Address harms resulting from the Legacy of Indian Residential Schools, including the intergenerational impacts;
- b) Provide training programs that restore First Nation or Métis languages, cultural education, and personal development;
- c) Be geared towards preserving and transmitting First Nation or Métis knowledge and skills (cultural expressions, traditional knowledge, medicinal knowledge and folklore) to future generations;
- d) Promote and restore First Nation or Métis values, traditions, traditional family and governing structures;
- e) Include elements of research and of capacity building for communities;
- f) Address special needs of segments of the population, including those of the elderly, youth and women; and
- g) Be based on a community holistic approach designed to address needs of individuals, families and communities.

6.05 Where a group of CEP Recipients and/or Transferees wish to pool their Personal Credits, supplemental information will be submitted, with attached Personal Credit Acknowledgement Forms from each CEP Recipient and/or Transferees supporting the project. For the purpose of assessing projects and programs submitted by a group of CEP Recipients and/or Transferees for Group Education Services, the supplemental information shall include a description of the project, who will deliver the project, location and timelines.

7.0 REDEMPTION PROCESS

- 7.01 A CEP Recipient and/or Transferee may choose to redeem their Personal Credits at an eligible educational institution; or programs or services which relate to the preservation, reclamation, development or understanding of First Nation or Métis identities, histories, cultures, or languages:
- a) In exchange for personal education or training; or
 - b) In exchange for local group programs developed to preserve, reclaim, further develop or transmit understanding of First Nation or Métis history, culture or languages.
- 7.02 A CEP Recipient or Transferee who wishes to redeem his/her Personal Credits to participate in an education project or service offered by an eligible institution shall complete a Personal Credit Acknowledgement Form and submit it to the Agent of the Trustee.
- 7.03 The Personal Credit Acknowledgement Form must be submitted to the Agent of the Trustee by October 31, 2014. The Personal Credit Redemption Form must be submitted to the Agent of the Trustee by December 1, 2014.
- 7.04 The Agent of the Trustee shall process a complete Application within 30 days of its receipt.

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- 7.05 The Agent of the Trustee shall send a Redemption Form letter to the CEP Recipient advising the Personal Credit Acknowledgement Form was approved.
- 7.06 When individuals wish to redeem their Credits in exchange for cultural training where no formal institutional structures are in place, funding may be transferred to a First Nation / Métis organization or other recognized entity.
- 7.07 A Personal Representative has all the rights that a CEP Recipient would have had to transfer Personal Credits to a CEP Recipient's family member(s).
- 7.08 A maximum of two redemptions can be made per \$3,000 Personal Credits.

8.0 APPEALS

- 8.01 All Applicants shall have one right to appeal the decision of the Agent of the Trustee to the Advisory Committee.
- 8.02 An Applicant may appeal the decision of the Agent of the Trustee on the following grounds:
- a) There was an error in denying a proposed Transferee as a Family Member;
 - b) There was an error in applying the criteria for proposed education project and service and/or institutions, entity and group pursuant to Article 5; and
 - c) There was an error in applying criteria for proposed education program and service, group education services, and group pursuant to Article 6.
- 8.03 An Applicant who seeks to appeal the decision of the Agent of the Trustee shall request the review in writing setting out the particular circumstances.
- 8.04 The Advisory Committee may:
- a) Set aside the decision of the Agent of the Trustee and substitute it with its own decision; or
 - b) Dismiss the appeal.
- 8.05 A decision of the Advisory Committee is final.

9.0 ADMINISTRATION OF THE PERSONAL EDUCATION CREDITS

- 9.01 An individual cannot redeem Personal Credits for cash.
- 9.02 The Agent for the Trustee shall receive Personal Credit Acknowledgement Forms up to October 31, 2014.
- 9.03 The Agent for the Trustee shall process all transfers of Personal Credit requests from CEP Recipient(s).

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- 9.04 The Agent of the Trustee shall deny all applications that are incomplete or deficient as of December 1, 2014.
- 9.05 The Trustee shall administer payments from the Designated Amount Fund, in accordance with these Terms and Conditions.
- 9.06 The Trustee shall disburse such funds in accordance with instructions from CEP Recipient and/or Transferee, so long as requests are consistent with these Terms and Conditions and instructions from the courts.
- 9.07 The Trustee and Agent of the Trustee shall minimize overhead and administrative costs required to carry on its business and affairs related to Personal Credits.

10.0 ADVISORY COMMITTEE

- 10.01 An Advisory Committee will be established, and will be composed of three representatives, one appointed by the Assembly of First Nations; one appointed by Canada; and one appointed by the Court.
- 10.02 The Advisory Committee may be responsible for:
- a) Providing direction on education institutions and programs;
 - b) Reviewing the proposed group education services, where requested;
 - c) Reviewing Personal Credits notices, and other informational material on the Personal Credits for distribution to the public, if jointly requested by the AFN and Canada;
 - d) Consider written appeals.
- 10.03 The Advisory Committee shall meet at least once a month, normally by teleconference. Formal records of decisions shall be kept.
- 10.04 The Agent of the Trustee may refer any questions it may have on the administration of the Personal Credits program to the Advisory Committee for guidance.

11.0 ABORIGINAL LIAISONS

- 11.01 Aboriginal Liaisons positions will be established.
- 11.02 Aboriginal Liaisons will work with the Assembly of First Nations and will communicate information about Personal Credits to and from First Nations and Métis communities.
- 11.03 Aboriginal Liaisons will assist community members with completing Personal Credit Acknowledgement and Redemption forms for redeeming Personal Credits, as well as work with communities on the coordinated development and delivery of group programs and services which relate to the preservation, reclamation, development or understanding of First Nations or Métis identities, histories, culture or languages.

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12.0 TERMINATION OF THE ADMINISTRATION OF THE PERSONAL CREDITS

- 12.01 After the payment of the maximum amount of Personal Credits to all CEP Recipients, including payment of all administration costs related thereto, all excess funds remaining in the Designated Amount Fund will be transferred to the National Indian Brotherhood Trust Fund and Inuvialuit Education Foundation in accordance with section 5.07 of the IRSSA and section 7.01 of the trust agreement (schedule 1 to the IRSSA).
- 12.02 The distribution by the Trustee and Agent of the Trustee of Personal Credits shall terminate on December 31st, 2014; or after the payment of the maximum amount of Personal Credits to all CEP Recipients, whichever occurs first.

13.0 COMMUNICATIONS

- 13.01 A communications process explaining and promoting Personal Credits and the options and process for spending them will be developed and launched at the earliest possible date for wide dissemination.
- 13.02 The AFN is uniquely positioned to effectively lead the Personal Credits communications strategy, given their success in communication with diverse First Nations communities on Common Experience Payments, Independent Assessment Process, Truth and Reconciliation Commission activities. The networks previously established during the implementation of the IRSSA will form the basis of the dissemination strategy for Personal Credits.