

Funding Agreement Number: CC23017B01
\$10 a Day ChildCareBC Program 2022 Intake
Not-for-Profit Organizations, Public Sector Organizations, Indigenous Agencies
Licensed Child Care Providers

THIS AGREEMENT is effective the 1st day of November 2022.

BETWEEN:

HIS MAJESTY THE KING IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
represented by the Minister of Education and Child Care (the “Ministry” or “Province”, as
applicable)

Child Care Capital, Community and ECE Registry Services Branch PO Box 9788 Stn Prov Govt
Victoria BC V8W 9S5

OF THE FIRST PART

AND:

Organization Name	LITTLE WINGS DAY CARE CENTRE SOCIETY
Organization Address	3033 Templeton Street, Richmond, BC V7B 0B6
Facility Name	Little Wings Daycare
Facility Address	3033 Templeton Street, Richmond, BC V7B 0B6
Community Care Facility License #	FA10455 and FA10454

(the “Participant”)

Singularly a “Party” or collectively the “Parties”.

OF THE SECOND PART

WHEREAS:

- A. Part of the Province’s initiative to reduce child care fees means the Province is funding a limited number of existing licensed child care providers in the Province of British Columbia (“BC”). Formerly called the Universal Child Care Prototype Site Program, the \$10 a Day ChildCareBC Program (the “Program”) will offer parents reduced-cost child care spaces regardless of their income. The learning from this Program will inform the potential development of a universal child care model in BC.
- B. The Program involves the Province providing funding pursuant to the *Child Care BC Act* directly to selected existing licensed child care providers in an amount that covers the

child care providers' Eligible Operating Expenses that would otherwise have been funded through parent fees.

- C. The Program will also include provision by the Province of (i) other funding to these selected existing licensed child care providers beyond the funding referred to in paragraph B in certain circumstances, and (ii) ECE Wage Enhancement Funding under the Early Childhood Educator Wage Enhancement Program (the "ECE-WE").
- D. As part of the application process, the Province selected the Participant's child care facility as one of the Program sites. Consequently, the Province and the Participant are entering into this Agreement to set out the terms and conditions that are to govern the Participant's participation in the Program.

THEREFORE THIS AGREEMENT WITNESSES that the Parties agree as follows:

1. TERM

- 1.1 The term of this Agreement (the "Term") commences on the date shown on page 1 hereof and will end on October 31, 2024, subject to the termination provisions in sections 12.2 (c) and 12.3.

2. DEFINITIONS

- 2.1 In this Agreement:
 - a. "**Affordable Child Care Benefit**" means child care subsidies paid by the Province to families under the *Child Care Subsidy Act*;
 - b. "**Agreement**" means this \$10 a Day ChildCareBC Program 2022 Intake Agreement between the Province and the Participant and includes its Schedules;
 - c. "**BCeID**" means the British Columbia Electronic Identifier, for which the Participant must register and use to submit the reporting that the Province requires under this Agreement;
 - d. "**Child Care**" means the provision of child care services at a facility for which a valid Facility Licence has been issued under the *Community Care and Assisted Living Act*;
 - e. "**Child Care Fee**" means the fee the Participant charges for an Enrolled child to occupy a space for Child Care Services at the Facility, exclusive of Optional Parent Fees;
 - f. "**Child Care Provider Profile Survey**" means the annual survey of Facility information completed by the Participant;
 - g. "**Child Care Services Funding**" means the funding that the Province provides to the Participant under this Agreement, as detailed in Schedule B;
 - h. "**Child Care Services**" means the provision of Child Care to Enrolled children at the Facility, as detailed in Schedule A;

- i. **“Child with Support Needs”** or **“Children with Extra Support Needs”** means a child or children with support needs due to a documented developmental delay or disability in one or more of the following areas: physical, cognitive, communicative, social, emotional, or behavioural;
- j. **“Drop-In Space”** means the utilization of a Child Care space that is not an Enrolled Space on a casual or emergency basis at the Facility;
- k. **“Early Childhood Educator”** (“ECE”) means an individual who holds a current, valid “Early Childhood Educator” certificate, “Infant and Toddler Educator” certificate, or “Special Needs Educator” certificate issued by the BC Early Childhood Educator Registry;
- l. **“ECE Employee”** has the same meaning as the definition set out in the ECE-WE Funding Guidelines;
- m. **“ECE Portion of Statutory Benefits Funding”** means that portion of Statutory Benefits Funding in section 2.2 of Schedule B that must be paid to eligible ECE Employees;
- n. **“ECE Wage Enhancement Funding”** means collectively, the Wage Top-Up Funding, the Statutory Benefits Funding, and the ECE Portion of Statutory Benefits Funding that the Participant will receive under this Agreement;
- o. **“ECE Wage Enhancement Program”** (“ECE-WE”) means the program under which the Province indirectly provides a wage enhancement to ECE Employees by making payments to the Participant, which wage enhancement is based on the ECE Employee’s Hours Worked at the Facility in accordance with the ECE-WE Funding Guidelines;
- p. **“ECE-WE Funding Guidelines”** means the funding guidelines published by the Ministry in relation to the ECE Wage Enhancement Program, as those guidelines are amended by the Ministry from time to time;
- q. **“Eligible Operating Expenses”** refers to expenses that may be, in part or in full, funded by the Province, the categories for which are as set out in section 1.3 of Schedule B;
- r. **“Enrolled Space”** means a Child Care space allocated to a particular child as per their Enrolment;
- s. **“Enroll”, “Enrolment”, “Enrolls”, or “Enrolled”** refers to the registration of children full- or part-time in any given month at the Facility for a specific type of Child Care and on specific days within the Operational Capacity as detailed in Schedule A; and for clarity, Drop-in Space Child Care Services are not included within this definition;
- t. **“Event of Default”** has the meaning given to it in section 12.1;
- u. **“Extended Hours”** means the additional hours of operation the Facility is open and providing child care before 6:00 am, after 7:00 pm, or overnight;
- v. **“Facility”** means a Child Care centre or home, as the case may be, for which a valid Child Care license(s) has been issued under the *Community Care and Assisted Living Act* where the Participant is providing Child Care;
- w. **“Facility License”** means a license for the Facility as described in the definition for Facility;

- x. **“Hours Worked”** means regular hours or overtime hours for which an ECE Employee is paid wages for working at the Facility, not including:
 - i. hours for sick time, parental leave, long-term disability, vacation, or unpaid leave; or
 - ii. hours spent solely in the care of children for whom the ECE Employee is a Parent (as defined herein) or is otherwise a parent or person standing in the place of a parent;
- y. **“Licensed Capacity”** means the total number of Child Care spaces allowed at the Facility under the *Community Care and Assisted Living Act* Facility Licence;
- z. **“Manual”** means the \$10 a Day ChildCareBC Centres – 2022 Intake Policy and Procedures Manual;
- aa. **“Monthly Report”** means, for the Facility operated by the Participant under this Agreement, the monthly \$10 a Day ChildCareBC Program report required by the Ministry;
- bb. **“Operational Capacity”** means the total number of Enrolled and Vacant Spaces at the Facility that may be occupied by a child at the Facility during the times that the Facility offers Child Care;
- cc. **“Optional Parent Fees”** means optional fees that are not included in the Child Care Fee and Parent Fee Portion for activities such as field trips or extra-curricular activities, for services provided during Extended Hours, and for fees associated with a Drop-in Space. For clarity, if a Parent does not opt to receive such optional services, no such optional fee shall be charged to that Parent and the Parent's child will receive the usual, continuous care at the Facility for which the Parent Fee applies;
- dd. **“Parent”** means a parent or a person standing in the place of a parent with respect to a child Enrolled in Child Care;
- ee. **“Program”** means the \$10 a Day ChildCareBC Program;
- ff. **“Parent Fee Portion”** means the capped portion of Child Care Fees for Enrolment that the Participant will charge Parents as described in section 1.2 of Schedule B exclusive of Optional Parent Fees;
- gg. **“Responsible Adult”** means a person who is qualified to act as a responsible adult under section 29 of the *Child Care Licensing Regulation*;
- hh. **“Statutory Benefits Funding”** means the funding that the Province provides to the Participant to cover the cost of increased statutory benefits obligations for ECE Employees as a result of the Wage Top-Up Funding, as set out in section 5.1(b) and in section 2.2 of Schedule B;
- ii. **“Term”** has the meaning given to it in section 1.1;
- jj. **“Vacant Spaces”** means the number of part-time and full-time available Child Care spaces at the Facility that are not filled through Enrolment;

- kk. **“Wage Top-Up Funding”** means a wage enhancement for each eligible ECE Employee at the Facility during the Term, as set out in section 5.1 (a) of the main Agreement and in section 2.1 of Schedule B.

3. FUNDING OF CHILD CARE FEES

3.1 The Parties acknowledge and agree that upon entering into this Agreement, the current Child Care Operating Funding Agreement (the “CCOF Agreement”) in place between the Participant and the Province will terminate on the effective date of this Agreement as shown on page 1 hereof. All funding that the Participant would have otherwise received under the CCOF Agreement, including the Opt-In Parent Fee Reduction funds under the Child Care Fee Reduction Initiative, will be replaced by the funding provided under this Agreement. Notwithstanding the termination of the CCOF Agreement, the Province will pay the Participant for any amounts owing under the CCOF Agreement for any Enrolment Reports, as defined in the CCOF Agreement, that were submitted to the Province in the required manner prior to the effective date of this Agreement.

3.2 So long as the Participant is delivering the Child Care Services as detailed in Schedule A, and is otherwise complying with this Agreement, the Province will provide the Child Care Services Funding set out in Schedule B, subject to section 3.3 below.

3.3 The parties anticipate that Enrolment will be at Operational Capacity for the Facility, and that the Participant will actively make bona fide efforts to achieve and maintain Enrolment at Operational Capacity. The Province will have the right on an ongoing basis to determine whether the Participant is making, or has provided justification acceptable to the Province for not making, such efforts. For clarity, if the Province determines that the Participant has not made such efforts, this will constitute an Event of Default.

3.4 If the Monthly Reports indicate Enrolment numbers that are less than the Operational Capacity for a period of three consecutive months or more, the Province reserves the right to adjust past and future Child Care Services Funding amounts to reflect actual Enrolment numbers. In the event the Province elects to adjust the amount of past Child Care Services Funding, the Province will issue an invoice to the Participant outlining instructions for repayment.

3.5 Depending on the circumstances of each Enrolled child, the Participant will collect the Parent Fee Portion, as set out in section 1.3 of Schedule B, from either:

- a. the Parent exclusively;
- b. the Province, by way of the Affordable Child Care Benefit program, for a Parent who is in receipt of the Affordable Child Care Benefit; or
- c. both the Parent and the Province (by way of the Affordable Child Care Benefit), with each of them paying a percentage of the Parent Fee Portion.

The Participant agrees not to seek any waitlist-related fees directly from families seeking Enrolment.

4. ADDITIONAL FUNDING

4.1 In addition to the funding set out in section 3.2 above, the Province will provide additional funding to the Participant to address fluctuations in the Eligible Operating Expenses. The additional funding is included in the amounts set out in the table in section 3.1 of Schedule B.

4.2 Provided the Participant is in compliance with the obligations under this Agreement, the Province may consider a request for additional funding for Eligible Operating Expenses related to the provision of Child Care Services at the Facility during the Term. Any such requests must be made by way of the prescribed request process and must be made prior to the end of the Term. The Province will consider any such requests on a case-by-case basis and in accordance with policy.

5. ECE WAGE ENHANCEMENT FUNDING

5.1 Provided the Participant is in compliance with the obligations under this Agreement, the Province will pay the following funding:

- a. Wage Top-Up Funding;
- b. Statutory Benefits Funding; and
- c. ECE Portion of Statutory Benefits Funding.

Upon receipt of the Wage Top-Up Funding and the ECE Portion of Statutory Benefits Funding, the Participant will in turn distribute those payments in accordance with the requirements in the ECE-WE Funding Guidelines to each corresponding ECE Employee as soon as possible, but no later than 30 days after receipt, or such longer period as the Province may approve in advance in writing.

5.2 In cases where the ECE Employees at the Facility do not take their earned vacation until: (i) more than 30 days after the Participant receives the ECE Wage Enhancement Funding, or (ii) after the Term ends, the Participant must pay the amount of the ECE Portion of Statutory Benefits Funding that is owed to such ECE Employees for vacation pay in accordance with the time periods as set out in the *Employment Standards Act* rather than the 30 day period referred to above.

5.3 For ECE Employees at the Facility who are paid on a salaried (non-hourly) basis, the Province will pay the Wage Top Up Funding based on a breakdown of Hours Worked by that ECE Employee.

5.4 The Participant will not use the ECE Wage Enhancement Funding to replace eligible ECE Employee wages that would normally be paid by the Participant, nor will it use the ECE Wage Enhancement Funding to replace scheduled wage/salary increases. The Participant must distribute the funding over and above the regular hourly wage of the eligible ECE Employees.

5.5 For ECE Employees at the Facility who leave their employment or are terminated, the Participant will arrange to provide them with any outstanding Wage Enhancement Funding that

may be owed to them under this Agreement for all Hours Worked up to the date such employment ends.

5.6 It is the Participant's responsibility to formally notify ECE Employees at the Facility that the Wage Top-Up Funding and the ECE Portion of the Statutory Benefits Funding are provided by the Province and that all such funding is subject to modification or discontinuation. The Participant will advise eligible ECE Employees that the funding under this Agreement is being provided as a separate amount from their regular wage or salary, by either entering it as a separate line on pay stubs or issuing it as a separate payment labeled "Provincial Child Care ECE Wage Enhancement."

5.7 The Participant agrees that the Province will be under no obligation to continue to provide funding to the Participant or to ECE Employees at the Facility under this Agreement in the event of a modification or discontinuance of the ECE Wage Enhancement Program. Furthermore, the Province is not responsible to pay or otherwise reimburse the Participant for any cost, loss, fine, damage, or other financial obligation that the Participant may suffer or incur due to its failure to provide the notice referenced in section 5.6 to the Participant's eligible ECE Employees.

6. REPORTING REQUIREMENTS AND ONGOING ASSESSMENT AND EVALUATION ACTIVITIES

6.1 In order to receive any funding under this Agreement, the Participant must complete and submit to the Province complete and accurate reports in accordance with the reporting requirements in Schedule D using BCeID or such other method as the Province may require. The Participant will notify the Province immediately if it discovers a mistake or other inaccuracy in any report that it submits. The Participant will then take any steps that the Province may require to rectify the error or inaccuracy, which may include submitting an updated report.

6.2 Reporting Earned Vacation of Eligible ECE Employees:

An ECE Employee's earned vacation time is eligible for ECE Wage Enhancement Funding as Statutory Benefits Payments.

The Participant will report ECE Employees' earned vacation time in the Monthly Reports as follows:

- a. If the Participant pays the ECE Employees at the Facility a percentage of their gross wages instead of paid vacation leave, then the Participant will report all Hours Worked on the corresponding Monthly Reports. The Province will pay the ECE Wage Enhancement Funding for those earned vacation hours; or
- b. If the ECE Employees at the Facility take their earned vacation as time off with full pay, the Participant will not include those hours as time worked on the corresponding Monthly Reports. ECE Wage Enhancement Funding for earned vacation as time off with full pay is included in the Statutory Benefits Funding to the applicable ECE Employees for those hours when they were on paid vacation.

6.3 The Participant will assist the Province, in such manner as it may require, in disseminating approved information related to the ECE Wage Enhancement Program and in providing the Province ongoing feedback to help the Province evaluate the current Program and to consider a universal child care model in BC. The information and feedback required to facilitate or provide, as the case may be, includes:

- a. providing the Facility's relevant operating information (e.g. compensation and benefits costs, Facility costs, recruitment and retention issues, factors impacting quality of care) which the Province will use for economic analysis research purposes;
- b. participating in evaluation processes from time to time, which may include in-person visits at the Facility, distributing, collecting, and submitting any of the Province's staff or voluntary parent surveys, focus group sessions, or other initiatives the Province may create for the purpose of collecting feedback in connection with the Program;
- c. participating in making Province-approved public announcements related to the Participant's participation in this Program, notifying Parents and families of participation in the Program, and clarifying details of this Program, including provision of the Program funding and information regarding Parent obligations with respect to the Parent Fee Portion and the Affordable Child Care Benefit, if applicable; and
- d. sharing such other relevant information with families as the Province may request and inviting families to participate in any evaluation activities the Province may create.

6.4 The Participant will complete and submit to the Province all reporting required under this Agreement in accordance with Schedule D.

7. INSURANCE

7.1 The Participant will comply with the insurance obligations set out in Schedule C.

8. PAYMENTS

8.1 Unless otherwise determined by the Province all funding provided under this Agreement will be a single payment each month, and will be comprised of the funding categories set out in Schedule B.

8.2 The Participant must not commit or purport to commit the Province to pay any money unless specifically authorized by this Agreement.

8.3 The Province's agreement to provide funding to the Participant is subject to the *Financial Administration Act*, which makes the obligation to pay subject to an appropriation being available in the Province's fiscal year during which payment becomes due.

8.4 Without limiting any other rights that the Province has under this Agreement, if any information is received that leads the Province to conclude that any funding made or to be made under this Agreement may not be used as intended or required under this Agreement, the

Province reserves the right, at its discretion, to discontinue payment of some or all of the funding.

9. REPRESENTATIONS AND WARRANTIES

9.1 The Participant represents and warrants that all information, statements, documents and reports furnished or submitted by the Participant to the Province in connection with this Agreement are in all material respects true and correct.

9.2 All representations, warranties, covenants and agreements that the Participant makes in this Agreement, and all certificates or other documents that are delivered or that are delivered on the Participant's behalf, are material and will conclusively be deemed to have been relied upon by the Province, despite any investigation by the Province and they shall survive the payment of the funding under this Agreement and the fulfillment of all other transactions and deliveries contemplated under this Agreement and will continue in full force and effect while this Agreement is in effect.

9.3 The Participant acknowledges that if it provides information that is false or misleading in order to obtain funds under this Agreement, then in addition to the termination and repayment obligations outlined in this Agreement and under section 7 of the *Child Care BC Act*, the Participant is also subject to penalties upon conviction under section 9 of the *Child Care BC Act*.

10. COVENANTS

10.1 The Participant will comply with all of the terms and requirements set out in this Agreement.

10.2 The Participant will not provide any services to any person in circumstances which, in the Province's reasonable opinion, could give rise to a conflict of interest between the Participant's duties to that person and its duties to the Province under this Agreement.

11. INDEMNITY AND OCCUPATIONAL HEALTH AND SAFETY

11.1 The Participant must indemnify and save harmless the Province and the Province's employees and agents from any loss, claim, damage award, action, cause of action, cost or expense that the Province or any of the Province's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends (each a "Loss"), to the extent the Loss is directly or indirectly caused or contributed to by any act or omission by the Participant or by any of the Participant's agents, employees, officers, directors or contractors in connection with this Agreement, or by any representation or warranty of the Participant being or becoming untrue or incorrect.

11.2 Without limiting the generality of section 11.1, the Participant must comply with, and must ensure that any approved contractors comply with, all applicable occupational health and safety laws in relation to the performance of its obligations under this Agreement, including the *Workers Compensation Act* in British Columbia.

12. EVENTS OF DEFAULT AND TERMINATION

12.1 Any of the following events will constitute an “Event of Default” whether it is voluntary, involuntary or results from the operation of law or any judgment or order of any court or administrative or government body:

- a. the Participant failed to comply with any of its obligations under this Agreement or any other agreement it has entered into with the Province and has not, to the Province’s satisfaction, rectified the failure within any time limit set by the Province;
- b. any representation or warranty the Participant makes to the Province for the funding under this Agreement or any information, statement, certificate or report submitted the Province under this Agreement is untrue or incorrect;
- c. an order is made, or a resolution is passed, or a petition is filed for the liquidation or winding up of the Participant’s assets or business;
- d. the Participant becomes insolvent, commits an act of bankruptcy, or makes an assignment of its assets for the benefit of its creditors or otherwise acknowledges its insolvency;
- e. if the Participant is a corporation or society, and it ceases to be registered or is registered but not in good standing with BC Registries and Online Services;
- f. the Participant has or demonstrates a practice of refusing to provide Child Care Services to families for the sole reason that the family is in receipt of payments under the *Child Care Subsidy Act*;
- g. the Participant loses its license(s) to operate a Facility under the *Community Care and Assisted Living Act*;
- h. the Participant ceases to be willing to Enroll Children with Support Needs;
- i. the Participant ceases, in the Province’s opinion, to operate the Facility;
- j. without limiting the generality of paragraph a, the Participant fails to use funds provided to it by the Province under this Agreement for the agreed upon purposes described in the Recitals;
- k. the Participant has an amount owing to the Province for which no payment plan has been established and approved by the Province;
- l. the Participant does not comply with the repayment obligation set out in section 13.3; and
- m. the Participant is not making *bona fide* efforts, in the Province’s opinion, to achieve or maintain a full Enrolment level of Operational Capacity at the Facility without a justification acceptable to the Province.

12.2 Upon the occurrence of any Event of Default and at any time after that the Province may, despite any other provision of this Agreement, by written notice to the Participant do one or more of the following:

- a. require the Participant to take such action, within such time period as the Province determines in its discretion to rectify the Event of Default and, upon its request, require the Participant to provide evidence of having taken such action;
- b. delay, decrease, suspend or cease any or all funding described in this Agreement;

- c. terminate this Agreement either immediately or within a time period stipulated by the Province; or
- d. notify the Participant in writing that it must repay the Province any payments made under this Agreement after the date on which the Province determines the Event of Default to have occurred, and any such payments are deemed to be ineligible amounts within the meaning of section 7(1) of the *Child Care BC Act*.

12.3 Without limiting the Province's termination option in section 12.2(c), the Province may terminate this Agreement on 90 calendar days' written notice to the Participant. The Participant may terminate this Agreement on 30 calendar days' written notice to the Province. In the event of termination under this section, all funding under this Agreement will cease, provided however, that so long as the Participant is in compliance with this Agreement up to the date of termination, the Province will pay any outstanding undisputed funding owing for the period up to the date of termination.

12.4 The rights, powers and remedies conferred on the Province under this Agreement or any statute or law are not intended to be exclusive, and each remedy will be cumulative and in addition to and not in substitution for every other remedy existing or available to the Province.

12.5 The exercise of any one or more remedies available to the Province will not preclude the simultaneous or later exercise by the Province of any other right, power or remedy.

13. OVERPAYMENT AND REPAYMENT

13.1 If funding is paid to the Participant that the Participant is not eligible or entitled to receive under the terms of this Agreement, or the Participant has reported expenditures using funding provided through this Agreement on expenses outside of those listed in the Eligible Operating Expenses table in Schedule B, then unless otherwise agreed to by the Province, the Participant will repay the full amount of any such overpayment as a debt due to the Province which may, after consultation with the Participant, do any or all of the following:

- a. recover the amount owed as a debt due to the Province in accordance with the *Financial Administration Act*; or
- b. avail itself of any of the options set out in section 12.2 a. to d.

For clarity, funding paid to the Participant in an amount it was not eligible or entitled to receive includes any overpayments made as the result of clerical or administrative error or miscalculation on the Province's part or as a result of incorrect information supplied by the Participant to the Province.

13.2 If the Participant fails to provide the records referred to in sections 15.1, 15.2 and 15.3, or to provide any other records that must be provided to the Province under this Agreement, within 30 calendar days of receipt from the Province of a demand for the records, all funding paid to the Participant under this Agreement, in respect of the period for which records were requested by the Province, will be deemed to be an overpayment for the purposes of section 13.1.

13.3 The Participant must make any repayments owed to the Province under section 13.1 within 30 days of receipt of the Province's demand for payment or in accordance with such longer repayment timeframe that the Province may, in its discretion, approve in writing.

13.4 Without limiting any of the Province's rights under this Agreement, the amount of any overpayment referred to in section 13.1 will be deemed to be an ineligible amount for purposes of section 7(1) of the *Child Care BC Act*.

13.6 If, after fulfilling all obligations as required under this Agreement, the Participant has surplus Child Care Services Funding in excess of 5% of the total Child Care Services Funding provided to it under this Agreement, this surplus funding is a debt owing to the Province which may, after consultation with the Participant and, at the Province's discretion, take any of the steps provided for in section 13.1.

14. NOTICE

14.1 Any notice contemplated by this Agreement must be in writing and either:

- a. sent by email to the email address provided by the other Party, or
- b. mailed by prepaid registered mail to the other Parties' address as specified in this Agreement.

14.2 Any notice in accordance with

- a. subsection 14.1(a) is deemed to be received on the day the notice is emailed,
- b. subsection 14.1(b) is deemed to be received four (4) Business Days after mailing. "Business Days" under this Agreement means any day other than a Saturday, Sunday or statutory holiday in the Province of BC.

14.3 Within five (5) Business Days of a change to its address or email address, a Party must provide written notice of the change to the other Party.

15. INFORMATION MANAGEMENT AND PRIVACY PROTECTION

15.1 The Participant must create and maintain all information that is necessary for it to be able to complete, and to submit to the Province, the Monthly Reports.

15.2 The Participant must create and retain the following information for each Enrolled child: the name, date of birth, date of Enrolment in the Facility, and Child Care Fees, including the Parent Fee Portion charged for each Enrolled child. The Participant must also create and retain a monthly schedule of confirmed Enrolled spaces or such other reasonable information as the Province may require from time to time.

15.3 The Participant must create and maintain accurate and complete information pertaining to Hours Worked by ECE Employees in receipt of ECE Wage Enhancement Funding.

15.4 The Participant must retain the records described in sections 15.1 to 15.3 for two years following the end of the Term and make them available to the Province for audit purposes as

described in section 16. The Participant acknowledges that the Province does not have control of the records described in those sections.

15.5 If the Participant is subject to the *Freedom of Information and Protection of Privacy Act* or to the *Personal Information Protection Act*, then it must ensure that it complies with the legislation that is applicable to it with respect to any personal information it collects, uses or discloses, including obtaining any consents or authorization necessary for it to comply with its obligations under this Agreement.

15.6 Without limiting its obligations under the legislation referred to in section 15.5, the Participant must make reasonable security arrangements, including ensuring that it has reasonable and adequate systems security measures in place, to protect personal information it collects about Enrolled Children and their Parent(s) and ECE Employees from unauthorized access, collection, use, disclosure, or disposal.

16. FINANCIAL REPORTING, AUDIT, AND SERVICE EVALUATION

16.1 The Participant will deliver to the Province its annual financial statements in accordance with section 4 of Schedule D.

16.2 The Participant must comply with all information requests made by the Province from time to time in the form, manner, and time-frame specified.

16.3 For audit purposes, the Participant must, during the Term and for no less than two years following the end of the Term, permit the Province or its audit services providers at any time during normal business hours to review any and all records relevant to this Agreement.

16.4 The Participant must, in a manner that complies with applicable privacy legislation, provide clearly worded notice to both ECE Employees and Parents that limited personal information about them and their Enrolled children, as the case may be, will be provided to the Province when required by the Program for the purposes of determining and auditing the provision of funding under the Program and ECE Wage Enhancement.

16.5 The Province acknowledges that all financial statements and reports delivered to it under sections 16.1 and 16.2 are supplied on a confidential basis. The Province will not permit their disclosure without the Participant's prior written consent except as permitted or required by applicable law, including the *Freedom of Information and Protection of Privacy Act*. The Province's internal use of this information will be limited to appropriate staff on a "need to know" basis.

17. COMMUNICATION WITH MEDIA AND THE PUBLIC

17.1 Should the Participant make any public announcements, comments, or statements, including through social media (such as social networking sites including Facebook, Twitter, LinkedIn, YouTube, etc.), provide any media releases, or engage in any other media appearances, directly or indirectly, regarding the subject matter of this Agreement (the "Communications") during the Term, the Participant must clearly state that it is not speaking on behalf of the Province.

17.2 The Province retains the right to make any public announcements or media releases in relation to the subject matter of this Agreement. The Participant will, if requested by the Province, cooperate with the Province in making public announcements, news releases, location ground-breakings or openings, and participate in event opportunities regarding the subject matter in this Agreement.

17.3 Any of the Participant's proposed Communications of an informative or promotional nature must acknowledge the financial contribution that the Province has made to the Program, in a manner and format satisfactory to the Province, including the inclusion of the approved Government of British Columbia logos and statements in such Communications. For further clarity, the informative or promotional Communications may include signage, posters, exhibits, pamphlets, brochures, advertising, websites, social media content, and/or video footage.

17.4 The Participant will prominently display at its Facility any signage in the form, content, and location of which will be determined by the Province, acknowledging the Province's funding contribution.

17.5 The Participant acknowledge that the Province is and shall remain the owner of all right, title, and interest in and to the Provincial logo should it be provide to you.

17.6 Notwithstanding sections 17.1 to 17.5, the Participant is permitted to conduct all reasonable business, including routine correspondence with Parents, and advertising for recruitment purposes, without prior approval from the Province.

18. GENERAL

18.1 Any of the Participant's obligations under this Agreement, which, by their terms or nature, are intended to survive the expiry or termination of this Agreement, will continue in force notwithstanding such expiry or termination, including without limitation, the Participant's representations and warranties (section 9); the Participant's indemnification obligations (section 11); overpayment and repayment (section 13); information management and privacy protection (section 15); financial reporting; audit and service evaluation (section 16); and Schedule D (Reporting Requirements).

18.2 The Participant must comply with the *Community Care and Assisted Living Act*, and all other applicable statutes and laws. Furthermore, the Participant must notify the Province in writing within two (2) Business Days of any change to its *Community Care and Assisted Living Act* Facility License.

18.3 The Participant must not assign or subcontract any of its rights or obligations under this Agreement without the Province's prior written consent.

18.4 If the Participant is required by law to obtain a consent, permit, approval or authorization for its Facility, nothing in this Agreement exempts its from its legal obligation to obtain it.

18.5 This Agreement does not operate as a permit, license, approval, or other statutory authority which the Participant may be required to obtain from the Province or any of its agencies in order to perform the Participant's obligations. Nothing in this Agreement is to be

construed as interfering with the exercise by the Province or its agencies of any statutory power or duty.

18.6 The Schedules to this Agreement are part of this Agreement.

18.7 This Agreement and any modification to it constitutes the entire agreement between the Parties as to performance of the services.

18.8 No modification of this Agreement is effective unless it is in writing and signed by the Parties.

18.9 To the extent that any provision of this Agreement is found to be invalid, illegal, or unenforceable, it will be severable from this Agreement and the remaining provisions will not be affected by the severance, and will be valid, legal, and enforceable.

18.10 All provisions of this Agreement in the Province's favour and all its rights and remedies, either at law or in equity, will survive the expiration or early termination of this Agreement.

18.11 Nothing contained in the Agreement will create or be deemed to create, as between the Province on the one hand and the Participant on the other hand, a partnership, joint venture or employment or agency relationship.

18.12 Unless the Participant provides reasonable grounds for why the Province should not do so, and those grounds are deemed acceptable by the Province, the Province will publicly advertise each Facility named in this Agreement, on the Child Care Map, BC Data Catalogue and any other of its public websites.

18.13 The failure on the Province's part to require the performance of any term or obligation of this Agreement, or the waiver by the Province of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

18.14 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

18.15 In this Agreement,

- a. the words "includes" and "including" are not intended to be limiting;
- b. words and defined terms importing the singular include and have a comparable meaning when used in the plural, and vice versa, and words importing gender include all genders; and
- c. unless the context otherwise requires, references to sections by number are to sections of this Agreement.

18.16 References to statutes in this Agreement are references to the Revised Statutes of British Columbia and any regulations.

18.17 This Agreement may be executed in counterparts, each of which is deemed an original and all of which together constitute one document. Counterpart signature pages may be delivered by e-mail or prepaid registered mail in accordance with the notice provisions set out in this Agreement.

SIGNED on the <u>3rd</u> day of <u>October</u>, 2022 by an authorized signing officer of the Participant:  Signature(s) <u>Lisa Dunkley</u> Print Name(s) <u>Director of Operations</u> Print Title(s)	SIGNED on the <u>5</u> day of <u>October</u>, 2022 on behalf of the Province by its duly authorized representative:  Signature <u>Tlell Raffard</u> Print Name <u>Director</u> Print Title
---	---

SCHEDULE A – CHILD CARE SERVICES

General Description

The Child Care Services will be provided according to the licensed category(ies) based on the Participant’s *Community Care and Assisted Living Act* Facility License(s) as detailed in this Schedule. The Participant will provide the Child Care Services in compliance with the \$10 a Day ChildCareBC Centres – 2022 Intake Policy and Procedures Manual (the “Manual”).

Licence Type	Max Licensed Capacity	Max Operational Capacity	Weeks in Operation (based on a 52 week schedule)	Days of the Week		Hours of Operation
Group Child Care (Under 36 months)	24	24	52	☒ Monday ☒ Tuesday ☒ Wednesday	☒ Thursday ☒ Friday ☐ Saturday ☐ Sunday	From: 7:00 To: 17:30
Group Child Care (30 months to School-Age)	25	25	52	☒ Monday ☒ Tuesday ☒ Wednesday	☒ Thursday ☒ Friday ☐ Saturday ☐ Sunday	From: 7:00 To: 17:30

SCHEDULE B – PAYMENTS

Subject to the Participant's compliance with the Agreement, the Province will pay the Participant the funding described below:

1.0 Child Care Services Funding payments

Monthly recurring

- 1.1 a. Subject to subsection (b), the Province will, for each month during the Term, pay to the Participant the applicable amount set out in the last column of the table in section 3.1 of this Schedule B on or about the 1st day of the month.
- b. If the Province agrees to make any adjustments under section 4.2 of the Agreement, or any adjustments that reflect changes to the ECE-WE Guidelines, the Province will inform the Participant in writing and such notification will include details of the adjustments. In any such case the table in section 3.1 of this Schedule B will be deemed to have been amended accordingly.
- 1.2 The Parent Fee Portion at the Facility will be capped as follows for all care types for all families:

Full days (4 hours or more), 5 days a week	\$200/month
Full days (4 hours or more), 1 to 4 days a week	\$10/day to a maximum of \$200/month
Half days (less than 4 hours), 5 days a week	\$140/month
Half days (less than 4 hours), 1 to 4 days a week	\$7/day to a maximum of \$140/month

- 1.3 For purposes of section 13.1 of the Agreement, Eligible Operating Expenses are as set out in the following table:

Eligible Operating Expenses	Yes	Yes – partial	No
FACILITY			
Mortgage (principal and interest)	X		
Rent/lease	X		
Strata fees	X		
Property taxes	X		
Utilities (electricity, gas, water, phone, internet)	X		
Upkeep (garbage removal, recycling charges, supplies)	X		
Facility maintenance and improvements (repairs, appliance/furniture replacement, snow removal)	X		
Janitorial services (by arm's length third party)	X		
Insurance	X		

Eligible Operating Expenses	Yes	Yes – partial	No
Vehicle(s) ¹ – capital or lease costs	X		
HUMAN RESOURCES			
Wages and benefits for child care staff (ECEs, ECE assistants, Responsible Adults, substitutes)	X		
Professional development and education		X	
Professional dues (membership fees)	X		
ADMINISTRATION²			
Wages and benefits for non-child care staff (management/administrators, maintenance)	X		
Audit/reviews ³	X		
Business licence	X		
Accounting/legal	X		
Meals/entertainment (business related)			X
Office supplies and equipment	X		
Amortization/depreciation/capital cost allowance of capital assets			X
Bank charges	X		
Fundraising costs			X
Recruitment and retention (ECEs, ECE assistants, Responsible Adults, substitutes)	X		
Loans repayment (expenses to be approved in advance on a case-by-case basis)		X	
Taxes			X
PROGRAM COSTS			
Food (meal programs for Enrolled children)	X		
Non-standard hours (extended hours, flexible care, overnight care)	X		
Program supplies and equipment (books/toys, diapers, bedding, art materials, strollers, clothing ⁴ , other Program equipment)	X		
Staff bonus/gifts			X
Health and safety supplies	X		
Advertising and promotion			X
Field trips		X	
Rental (equipment/off-site room)	X		
Travel/mileage/vehicle maintenance	X		
OTHER			
Bad debts ⁵			X
Specialized instruction (yoga, dance)			X
Staff appreciation/events/meetings		X	

¹ Only vehicles used by the Participant for purposes associated with Child Care Services (i.e., to transport Enrolled children when an additional fee is not charged for this service). If parents pay extra for this service, vehicle-related costs will not be considered an eligible expense. Personal use vehicles (with or without) advertising on the side are not considered an eligible expense.

² Administration costs are not to exceed 15% of the total Child Care Services Funding as set out in section 3.1 (Funding Summary) of this Schedule B.

³ Eligible if total funding under this Agreement during the first twelve months of the Term is \$500,000 or greater.

⁴ A small clothing allowance for emergency clothing for children (e.g., dry socks, clean underwear, etc.). Funding for uniforms will not be considered an eligible expense.

⁵ "Bad debts" refers to debt incurred when families do not pay their parent fees.

Eligible Operating Expenses	Yes	Yes – partial	No
Vehicle rental			X
Parent events (food, child-minding)		X	
Consulting (expenses to be approved in advance on a case-by-case basis)		X	
Equipment purchases (capital assets, not including vehicles)			X
Home improvement (owned property)			X
ACCB Parent Fee rebate			X
“Decorating” non child care areas			X

2.0 ECE Wage Enhancement Funding payments

2.1 During the Term, the Province will pay the Participant the ECE Wage Enhancement Funding payments for each month as set out in section 3.1 (Funding Summary) of this Schedule B, on or about the 1st day of the month pursuant to section 5.1(a) of the Agreement, subject to any necessary adjustments that may be required after that time.

2.2 ECE Wage Top Up Funding

The Province will pay the Participant the Wage Top Up Funding for each eligible ECE Employee for Hours Worked and Statutory Benefits Funding and the ECE Portion of Statutory Benefits Funding in accordance with the ECE-WE Funding Guidelines.

a. Benefit surplus or deficit

- i. After complying with the Participant’s obligations with respect to the Statutory Benefits Funding and the ECE Portion of Statutory Benefits Funding, it may end up with a surplus of funds. In this instance, the Participant will apply any such surplus Statutory Benefits Funding and ECE Portion of Statutory Benefits Funding toward its ECE Employee salaries or to fund additional statutory benefit expenses for them (i.e., additional EI, vacation/statutory holiday pay).
- ii. The Province will pay the ECE Portion of Statutory Benefits Funding according to the amounts established at the start of the term of the Agreement, and will adjust those amounts according to changes in mandatory statutory benefits.

3.0 Funding summary

3.1 This section consists of the following table:

Start Date	End Date	Child Care Services Funding – payment per month	ECE Wage Enhancement Funding – payment per month	Total Monthly Payment
November 1, 2022	October 31, 2023	\$80,246.55	\$10,398.60	\$90,645.15
November 1, 2023	October 31, 2024	\$80,246.55 X Inflation Factor = A	\$10,398.60	A + \$10,398.60

For purposes of this table, “Inflation Factor” means a percentage determined by the Province.

SCHEDULE C – PARTICIPANT’S INSURANCE OBLIGATIONS

1. The Participant must, without limiting its obligations or liabilities and at its own expense, purchase and maintain throughout the Term the following insurance with insurers licensed in Canada in forms and amounts acceptable to the Province:

- a. Commercial General Liability in an amount not less than \$2,000,000 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this Agreement and this insurance must:
 - i. include the Province as an additional insured,
 - ii. be endorsed to provide the Province with 30 days advance written notice of cancellation or material change, and
 - iii. include a cross liability clause.
- b. Where the Participant uses a vehicle as part of providing the Child Care Services, it shall maintain Automobile Liability insurance on all vehicles owned, operated or licensed by it in an amount not less than \$2,000,000 per occurrence, and where applicable the Participant may show evidence of this insurance using an ICBC Confirmation of Insurance Coverage (APV-47) form.

2. All insurance described in section 1 of this Schedule must:

- a. be primary; and
- b. not require the sharing of any loss by any insurer of the Province.

3. The Participant must provide the Province with evidence of all required insurance as follows:

- a. if any required insurance policy expires before the end of the Term, the Participant must provide to the Province within 10 Business Days of the policy’s expiration, evidence of a new or renewal policy meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance; and
- b. despite paragraph (a) or (b) above, if requested by the Province at any time, the Participant must provide to the Province certified copies of the required insurance policies.

4. The Participant must obtain, maintain and pay for any additional insurance which it is required by law to carry, or which it considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in its sole discretion.

SCHEDULE D – REPORTING REQUIREMENTS

A. Without limiting any other obligation set out in the Agreement for the Participant to retain records or provide information to the Province, the Participant will comply with the following reporting requirements:

1. Monthly Reports (see section 6.1 of the Agreement)

The Participant will complete and submit to the Province Monthly Reports in such format as the Province may require, which will be due by the end of the following month. In respect of the final month of the Term, the Participant must submit a final Monthly Report by the end of the month immediately following the end of the Term.

2. Child Care Provider Profile Survey

The Participant will complete and submit to the Province each year the Child Care Provider Profile Survey for the Facility in accordance with all instructions and timelines issued with the survey.

3. Program-specific statement of operations or income statement

The Participant must deliver to the Province its Program-specific statement of operations or income statement, signed by its authorized representative, for the first twelve months of the Term. The Program-specific statement of operations or income statement will be delivered in such a format as the Province may require, by the end of the month immediately following the twelfth month of the Term.

If the Term is longer than twelve months, the Participant must also deliver to the Province its Program-specific statement of operations or income statement, signed by its authorized representative, for the entire duration of the Term. The Program-specific statement of operations or income statement will be delivered in such a format as the Province may require, by the end of the month immediately following the end of the Term.

4. Annual financial statements

The Participant must deliver to the Province its annual financial statements, as determined in accordance with the criteria set out below, no later than six (6) months after the end of any fiscal year of the Participant that falls within the Term.

The Participant's annual financial statements must be completed in accordance with Canadian generally accepted accounting principles.

Criteria for financial statement reporting requirements under this section are based on the total funding the Participant anticipates receiving from the Province under this Agreement within the first twelve months of the Term. In particular, the Participant is required to submit annual financial statements, including a Program-specific statement of operations or income statement in accordance with either a, b, c, or d below:

- a. under \$250,000, financial statements signed by an authorized representative of the Participant's Facility may be requested at the Province's discretion;
- b. \$250,000 through \$499,999, the Participant is required to submit financial statements signed by an authorized representative (no requirement for audit or review of the statements as defined in the CPA Canada Handbook – Assurance);
- c. \$500,000 through \$1,499,999, the Participant is required to submit financial statements reviewed in accordance with the Canadian Standard on Review Engagements found in the CPA Canada Handbook – Assurance; and
- d. \$1,500,000 and above, the Participant is required to submit financial statements audited in accordance with Canadian Auditing Standards found in the CPA Canada Handbook – Assurance.

5. Additional reporting requirements

- a) Other information as may be reasonably requested by the Province, in such format and in accordance with such timelines as the Province may reasonably require.