

## Supplemental Document to Proposed Resolution

### 1) Key objectives:

- a. Provide a structure for full governance and jurisdiction over all cannabis matters on First Nations reserve lands;
- b. Develop a structure that BC First Nations can join as an when each First Nation wishes to do so at a time and under terms important to each individual First Nation;
- c. Use the First Nations Cannabis Regulator as a learning tool in the alignment of laws initiative;

### 2) Resolution Points

*Point 1* – the key objective of the FNCR is to put the management of all cannabis matters within the hands of the BC First Nations from licensing to enforcement, from inspection to levying / collecting of taxes and fees. Monies to remain with the participating BC First Nations by agreement with the relevant government authorities.

*Point 2* – initiated by the Osoyoos Indian Band with support from the Sumas First Nation, the BC Government has been engaged on development of a proposal culminating with the FNCR structure. Through the engagement with the BC Government, the initiative has been presented to and discussed with other BC First Nations and organizations.

The resolution point provides formal support, in principle, to advance discussions and development of the FNCR structure in a formal structure within the BCAFN. The “in-principle” is important to note as the outcome of any engagement with the BC Government / BC First Nations is not then binding on any of the BC First Nations. Each BC First Nation will opt in or out at their sole discretion.

*Point 3* – allows for engagement with the BC Government in the development of the agreement structure within a formal BCAFN framework. For example, the FNLC would participate under a mandate to do so.

*Point 4* – once a complete agreement package has been developed, including all relevant FNCR Cannabis Laws, then each BC First Nation would have the opportunity to review and ratify the agreements thus participating in the FNCR structure. Each BC First Nation could also opt to not participate in the FNCR and engage with the BC Government separately if they so wished.

*Point 5* – engagement with the BC Government and structuring of the agreements and relevant structure is currently being done with these points in mind. Inclusion in the resolution formalizes the principles under which engagement with the BC Government and development of the FNCR will operate under.

### 3) BC Government Position(s):

- a. *The BC Government (Cannabis Secretariat) would not stand in the way of establishing a First Nations Cannabis Regulator (“FNCR”);*

The BC Government has stated that:

- If the BC First Nations wanted to create the FNCR, then the government would support the initiative;
- The government would not require that every BC First Nation support the initiative before the government would enter into the necessary agreements to establish the FNCR;
- The government would like to see that all BC First Nations are aware of what is being contemplated with the FNCR at the very least – i.e. information distributed on what the FNCR is, what the intention behind the establishment of the FNCR, etc.

*b. BC Government would not impose any structure unilaterally on all BC First Nations;*

While the BC government is supportive of implementing an FNCR structure that a subset of all BC First Nations wish to participate in, the BC Government would not then impose that structure on all BC First Nations.

The BC Government stated [paraphrasing], “we will not tell any BC First Nation that is not part of the initial group participating in the FNCR establishment that they must join in at some point in the future. The BC Government will maintain the right for any non-participating BC First Nation to negotiate other agreements on cannabis if they so wish.”

*c. FNCR General Manager*

Assistant Deputy Minister David Hume, at the April 26, 2024 meeting stated [paraphrasing], “delegating all the powers that the current BC Cannabis Secretariat General Manager is something that I have the authority to do.”

This is a big step / statement. A FNCR General manager would in effect manage all cannabis operations on all of the reserve lands for the BC First Nation that participate in the FNCR structure.

### **By the First Nations for the First Nations**

*d. Supportive*

The BC Government / Cannabis Secretariat is supportive of the concept. The government’s key concern is to ensure all relevant issue are contemplated and address. To the end the BC Government provided a thorough list of regulatory issues to contemplate / address when drafting cannabis laws and agreements for execution as between the BC First Nations and BC Government.

BC Cannabis Secretariat has reached out other ministries to provide similar feedback for consideration, such as from the Ministry of Finance.

#### **4) Cannabis Law**

The FNCR would have a base cannabis that would govern cannabis operations on participating BC First Nation reserve lands. Additionally, any bylaw that individual BC First Nation implement would be enforced by the FNCR as well.

*Example:*

If one BC First Nation enacted a by-law that prohibited the establishment of any physical cannabis operations on its reserve lands, then the FNCR would enforce this by-law on top of the existing base cannabis law.

Where this would be advantageous is if the BC First Nation in question did not want to have any cannabis on its reserve lands but wanted to participate in a share of the revenues that would be generated through the establishment of the FNCR, then this is a structure to achieve that.

Note: this is part of the drafting of agreements requiring input from BC First Nations that would wish to participate.

## 5) FNCR Structure

The concept is to create a FNCR Co (BC Limited Co) with participating BC First Nations as shareholders. The participating BC First Nations then enter into the appropriate agreements with the relevant government authorities at the provincial and federal level to establish the FNCR.

The FNCR Co will have a Shareholders Agreement (“SA”) on how the FNCR Co will operate. The topics within the SA would include:

- How the Executive Leadership (BC First Nation Chiefs) would be made up (election, term, etc.)
  - The Executive Leadership to provide guidance and direction to the Board of Directors
- How the Board of Directors would be appointed (voting, term, makeup etc.)
- Creation of the key positions (FNCR GM, FNCR Director, FNCR SM) and how they would be appointed.
- How the key departments would be created:
  - Licensing division – issuance of operating permits for cannabis operations.
  - Taxation & Distribution – enforcement of all FNCR tax and fee policies
  - Distribution Center – all cannabis and cannabis derivatives to move through the FNCR framework under compliance with all FNCR regulations (licensing, testing, education, etc.)
  - Enforcement – staffed with BC First Nation Security Officer personnel, responsible for enforcing all relevant FNCR cannabis laws and individual First Nation bylaws.
  - Inspection – division responsible for ensuring FNCR regulated cannabis operations are adhering to all FNCR regulations.
- How BC First Nations can join the FNCR structure post establishment,
- Distribution of all monies collected through the operation of the FNCR, this will be a significant amount.
- How different levels of participation will be established upon which BC First Nation would join the framework.

In short, the Shareholders Agreement will be between the participating BC First Nations on how the FNCR Co will operate.

**Note:** the structure, cannabis laws, shareholders agreement, taxation agreements, etc. are being developed presently with participation of the current BC First Nations that have been engaged along with the BC government.