

**CANADA-FIRST NATION EDUCATION
JURISDICTION AGREEMENT**

Made this _____ day of _____, 20____

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Crown-Indigenous Relations

(hereinafter referred to as "**Canada**")

AND

THE "X" FIRST NATION

as represented by its Chief and Council

(hereinafter referred to as the "**Participating First Nation**")

Collectively referred to hereinafter as the "**Parties**"

WHEREAS:

- A. Indigenous peoples have the right to establish and control their educational systems and institutions, as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration"), and as a fundamental aspect of their inherent right of self-government, which is recognized by Canada as an existing aboriginal right pursuant to section 35 of the *Constitution Act, 1982*;
- B. The Truth and Reconciliation Commission of Canada has called on the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians;
- C. Canada and the Participating First Nation consider education to be a life-long learning process;

- D. Canada and the Participating First Nation may choose to reflect their understanding of how the Participating First Nation will exercise self-government over early childhood and post-secondary education through other agreements;
- E. Canada, the Province of British Columbia and the First Nations Education Steering Committee signed the Education Jurisdiction Framework Agreement dated July 5, 2006, setting out their responsibilities in supporting the exercise of Jurisdiction over Education;
- F. The Education Jurisdiction Framework Agreement was extended for five years under the "Agreement to Extend the Education Jurisdiction Framework Agreement" dated for reference June 28, 2013 and for a further three years under the "Agreement to Extend the Education Jurisdiction Framework Agreement" dated for reference July 3, 2018;
- G. Canada and the Participating First Nation respect and recognize the diversity among First Nations and support the advancement of First Nations control of First Nations education through the implementation of regional models, such as the exercise of Jurisdiction over Education as initiated by the Education Jurisdiction Framework Agreement;
- H. Canada and the Participating First Nation recognize and support the implementation of regional First Nations education models and regional funding mechanisms to support those models, as represented in two tripartite regional agreements in British Columbia – the Tripartite Education Framework Agreement (2012 to 2018) and the British Columbia Tripartite Education Agreement (2018 to 2023); and
- I. The First Nations Education Authority is an entity constituted by the Federal Enabling Legislation managed by a board of directors and having all necessary powers and capacity to properly perform its functions under this Agreement.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PART 1 – DEFINITIONS

1.1 In this Agreement:

"Agreement" means this Education Jurisdiction Agreement and, unless otherwise provided in the Agreement, includes its appendices, schedules and attachments;

"Another First Nation" means a First Nation other than the Participating First Nation;

"Another First Nation's Reserve" means a "reserve" within the meaning of the term under the *Indian Act* set apart for Another First Nation, and includes "First Nation land" administered under the *First Nations Land Management Act*;

"Band List" means a "Band List" within the meaning of the term under the *Indian Act*;

"BC Independent School" means any independent school regulated by the *Independent School Act* (BC);

"BC Public School" means any public school in British Columbia providing kindergarten to grade 12 education, but does not include a BC Independent School or a First Nation School;

"BCTEA" means the "BC Tripartite Education Agreement: Supporting First Nation Student Success", entered into by Canada, British Columbia and FNEESC, effective July 1, 2018;

"British Columbia-First Nation Education Agreement" means the agreement signed by British Columbia and the First Nations Education Steering Committee on July 5, 2006 or any successor agreement.

"Business Day" means any day from Monday to Friday inclusive, except for any day that is a statutory holiday in the place of receipt of a notice or communication;

"Community Education Authority" means a legally constituted entity established or identified by the Participating First Nation to operate its Education system;

"Education" means education programs and services of a nature generally provided to Students enrolled in Kindergarten 4 through grade 12;

"Education Co-Management Agreement" means the agreement entered into between the Participating First Nation and the First Nations Education Authority;

"Education Jurisdiction Funding Agreement" means a funding agreement entered into between the Participating First Nation and Canada in accordance with this Agreement;

"Effective Date" means the date specified in the federal Order-in-Council upon which this Agreement comes into effect;

"Eligible Student" means a student who is:

- a) enrolled in:
 - i. a First Nation School, or

- ii. a BC Public School, BC Independent School or a school operated by or on behalf of Another First Nation, including an online school, alternate education centre, adult education centre, or early childhood learning centre offering an Education program;
- b) either:
 - i. aged 4 to 21 years on December 31 of the school year in which funding support is required and enrolled in Kindergarten 4 through grade 12; or
 - ii. aged 18 and over on December 31 of the school year in which funding support is required and enrolled in an adult Education program that is funded under BCTEA or a successor to that agreement; and
- c) Ordinarily Resident on First Nation Land,

but does not include a student who is Ordinarily Resident on lands developed primarily for commercial purposes such as residential developments and is not registered as an Indian;

"Federal Enabling Legislation" means the *First Nations Jurisdiction over Education in British Columbia Act*;

"First Nation" means a "band" within the meaning of the term under the *Indian Act* located in British Columbia;

"First Nation Council" means the "council of the band", within the meaning of the term under the *Indian Act*, of the Participating First Nation;

"First Nations Education Authority" means the legally constituted entity established by Federal Enabling Legislation;

"First Nation Education Law" means a law passed by the Participating First Nation with respect to the operation of its Education system in accordance with this Agreement;

"First Nation Education Law-Making Protocol" means a protocol adopted by the Participating First Nation in accordance with this Agreement;

"First Nation Land" means a "reserve" within the meaning of the term under the *Indian Act* set apart for the Participating First Nation, and includes "First Nation land" administered under the *First Nations Land Management Act*;

"First Nation School" means a school operated by or on behalf of the Participating First Nation on First Nation Land, including an online school, alternate education centre, adult education centre, or early childhood learning centre offering an Education program;

"Fiscal Year" means the period that begins on April 1 in one year and ends on March 31 in the following year;

"Indian" means a person who, pursuant to the *Indian Act*, is registered as an Indian or is entitled to be registered as an Indian;

"Jurisdiction" means the Participating First Nation's law-making authority, as described in this Agreement;

"Member" means an individual whose name appears on a Band List or who is entitled to have his or her name appear on a Band List;

"Non-Member" means an individual who is not a Member;

"Ordinarily Resident" means in relation to land:

- a) usually living at a civic address on that land;
- b) in the case of a child in joint custody, living on that land for the majority of the time; or
- c) staying on that land with no usual home elsewhere,

and is not impacted by temporary absences such as attending school or working at a summer job elsewhere;

"Other Inherent Right Implementation Process" means another process by which a Participating First Nation may negotiate the implementation of all or some of the elements of the inherent right of self-government including the implementation of historic treaties or the negotiation of modern treaties, agreements or other constructive arrangements;

"Other Participating First Nation" means a First Nation other than the Participating First Nation that is named in the schedule to the Federal Enabling Legislation;

"Party" means a signatory to this Agreement;

"Schedule" means a schedule attached to this Agreement;

"School Certification Process" means the process and requirements set out and used by the First Nations Education Authority to certify First Nation Schools and schools operated by or on behalf of Other Participating First Nations;

"Student" means an individual attending a First Nation School; and

"Teacher Certification Process" means the process and requirements set out and used by the First Nations Education Authority to certify that a teacher has met the standards and competencies established by the First Nations Education Authority.

PART 2 - EXERCISE OF JURISDICTION

Scope of Education Jurisdiction

- 2.1 The Parties recognize the Participating First Nation's Jurisdiction over Education on First Nation Land.
- 2.2 For greater certainty, the Parties agree that the Participating First Nation's Jurisdiction over Education will extend to all Members, and Non-Members who choose to receive, or have their children receive, Education provided by the Participating First Nation on First Nation Land.

Access to Education Programs and Services

- 2.3 The Participating First Nation will:
- a) provide Education to:
 - i. Eligible Students who are enrolled in a First Nation School; and
 - ii. Students residing on Another First Nation's Reserve who attend a First Nation School, subject to receiving funding from or on behalf of that First Nation; and
 - b) purchase Education for Eligible Students who are enrolled in a BC Public School, a BC Independent School or a school operated by or on behalf of Another First Nation, including an online school, alternate education centre, adult education centre, or early childhood learning centre offering an Education program.
- 2.4 Subject to receiving funding in accordance with the reciprocal tuition funding arrangements with British Columbia, the Participating First Nation will provide Education to Students who are:
- a) not Ordinarily Resident on First Nation Land or Another First Nation's Reserve; or
 - b) Ordinarily Resident on First Nation Land or Another First Nation's Reserve on lands developed primarily for commercial purposes such as residential developments and not registered as Indians.

Non-Member Representation

- 2.5 Non-Members who receive Education, or have their children receive Education, provided by the Participating First Nation on First Nation Land will be provided with mechanisms through which they may have input into any decision with respect to a program or service where that decision directly and significantly affects the rights of Students who are Non-Members or their parents.

Supporting Transfer

- 2.6 The Participating First Nation will provide or make provision for Education that supports the successful transfer of Students to or from another school within the school system of the Province of British Columbia.

Legal Status and Capacity of Participating First Nation

- 2.7 For any purpose related to this Agreement, the Participating First Nation has the capacity, rights, powers, and privileges of a natural person and, without restricting the generality of the foregoing, may:
- a) enter into contracts or agreements;
 - b) acquire, hold or dispose of any property or an interest in property;
 - c) sue or be sued;
 - d) raise, spend, invest or borrow money, and secure or guarantee the repayment of money borrowed;
 - e) apply to form corporations or other legal entities in accordance with federal or provincial laws; and
 - f) do such other things as are ancillary to the exercise of its rights, powers, and privileges under this Agreement.
- 2.8 The capacity, rights, powers and privileges of the Participating First Nation to deal with matters in relation to Education referred to in paragraph 2.7 will be exercised by the First Nation Council in accordance with:
- a) the First Nation Education Law-Making Protocol;

- b) this Agreement, and
- c) its First Nation Education Laws.

2.9 The Participating First Nation will act through the First Nation Council in exercising its capacity, rights, powers, and privileges and in carrying out its duties, functions and obligations related to the subject matter of Education.

2.10 The First Nation Council has the authority to make laws as set out in this Agreement.

First Nation Education Law-Making Protocol

2.11 The Jurisdiction contemplated by this Agreement will be exercised by the First Nation Council following adoption of a First Nation Education Law-Making Protocol, which will provide for the following matters:

- a) procedures for the passage and amendment of First Nation Education Laws;
- b) procedures for challenging the validity of First Nation Education Laws;
- c) procedures for amending the First Nation Education Law-Making Protocol;
- d) conflict of interest rules; and
- e) other matters, as determined by the Participating First Nation.

2.12 The First Nation Education Law-Making Protocol, as approved in accordance with the Ratification Chapter, comes into force on the Effective Date.

Education Law-Making Powers

2.13 The Participating First Nation may, through its First Nation Council, and in accordance with the First Nation Education Law-Making Protocol, make and administer laws respecting Education provided by the Participating First Nation on First Nation Land.

2.14 A First Nation Education Law must include mechanisms through which Non-Members, who receive Education or have their children receive Education provided by the Participating First Nation, will have input into the decisions contemplated in paragraph 2.5.

2.15 The Jurisdiction described in paragraph 2.13 includes the power to make laws and to do other things as may be necessarily incidental to the exercise of that Jurisdiction.

Delegation

- 2.16 The Participating First Nation may delegate its Jurisdiction, or part thereof, to the First Nations Education Authority in a manner consistent with this Agreement and its First Nation Law-Making Protocol.
- 2.17 The Participating First Nation may delegate its duties and functions under this Agreement, other than its law-making powers, to a legal entity operating in British Columbia if the delegation and the exercise of the delegated duties and functions is in accordance with this Agreement and the First Nation Education Law-Making Protocol.
- 2.18 Any delegation under paragraph 2.16 or 2.17 will require the written consent of the delegate.
- 2.19 The Participating First Nation may enter into agreements to receive authorities with respect to Education, including law-making authority, by delegation.

PART 3 - COMMUNITY EDUCATION AUTHORITY

- 3.1 Without limiting the generality of paragraph 2.13, the Participating First Nation may make laws establishing a Community Education Authority to operate, administer and manage the Education system for the Participating First Nation and setting out the powers, duties, composition and membership of the Community Education Authority.
- 3.2 Nothing in paragraph 3.1 or 3.6 precludes the Participating First Nation from establishing a Community Education Authority jointly with one or more Other Participating First Nations.
- 3.3 Subject to paragraph 2.17, nothing in this Agreement precludes a Community Education Authority from exercising powers and duties delegated to it from an Other Participating First Nation.
- 3.4 Where the Participating First Nation establishes a Community Education Authority under paragraph 3.1, the Community Education Authority will have the capacity, rights, powers, and privileges of a natural person conferred on it by the First Nation Education Law and will perform the duties and be subject to the liabilities imposed on it by the First Nation Education Law.
- 3.5 A Community Education Authority established under paragraph 3.1 exercises its duties and functions as an agent of the Participating First Nation.

- 3.6 As an alternative to establishing a Community Education Authority under paragraphs 3.1 to 3.5, the Participating First Nation may identify an existing or newly-established legal entity established under federal or provincial law as its Community Education Authority for the purposes of this Agreement. The Participating First Nation may confer additional rights, powers and privileges and impose restrictions on the legal entity that are not inconsistent with the federal or provincial law under which the legal entity was established.

PART 4 – FIRST NATIONS EDUCATION AUTHORITY

- 4.1 On the Effective Date, the Participating First Nation will appoint two directors to sit on the board of directors of the First Nations Education Authority for an initial term of up to two years, and thereafter for terms of appointment to be established by the board of directors.
- 4.2 One of the directors appointed by the Participating First Nation to the board of directors under paragraph 4.1 will be a member of the Participating First Nation.
- 4.3 Subject to paragraph 4.5, the responsibilities of the First Nations Education Authority are to:
- a) assist the Participating First Nation in developing the capacity to provide Education;
 - b) establish standards applicable to Education provided by the Participating First Nation for curriculum and examinations for courses necessary to meet graduation requirements;
 - c) provide a Teacher Certification Process for teachers, other than teachers teaching only the language and culture of the Participating First Nation, who teach in a First Nation School;
 - d) if requested by the Participating First Nation, provide a Teacher Certification Process for teachers who teach only the language and culture of the Participating First Nation in a First Nation School;
 - e) provide for certification of First Nation Schools;
 - f) consult with British Columbia regarding standards applicable to Education provided by the Participating First Nation for curriculum and examination for courses necessary to meet graduation requirements; and
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g) other matters as agreed by the First Nations Education Authority and the Participating First Nation.

4.4 The power of the Participating First Nation under paragraph 2.13 to make laws in relation to:

- a) standards for curriculum and examinations for courses necessary to meet graduation requirements in respect of Education provided by the Participating First Nation on First Nation Land;
- b) certification of teachers, other than teachers teaching only the language and culture of the Participating First Nation, who teach in a First Nation School; and
- c) certification of First Nation Schools;

can only be exercised following the signing of an Education Co-management Agreement and in a manner consistent with that Agreement.

4.5 The Education Co-management Agreement entered into between the First Nations Education Authority and the Participating First Nation will provide for:

- a) the establishment of standards for curriculum and examinations by the First Nations Education Authority applicable to the courses necessary to meet graduation requirements in respect of Education provided by the Participating First Nation on First Nation Land;
- b) the certification of teachers, other than teachers who teach only the language and culture of the Participating First Nation, teaching in a First Nation School by the First Nations Education Authority;
- c) the certification of First Nation Schools by the First Nations Education Authority;
- d) the incorporation by reference in the First Nation Education Law of the process, standards and requirements regarding the subject matters referred to in subparagraphs (a) through (c) that have been developed by the First Nations Education Authority; and
- e) other matters as agreed by the First Nations Education Authority and the Participating First Nation.

4.6 For greater certainty, the references in paragraphs 4.3, 4.4 and 4.5 to "standards" for curriculum and examinations for courses necessary to meet graduation requirements are

intended to be interpreted as referring to both "graduation requirements" and the "process for evaluating locally developed First Nation courses that are required for graduation."

PART 5 – REGISTRY, ENFORCEMENT AND ADJUDICATION

Registry of First Nation Education Laws

- 5.1 The First Nation Council will:
- a) maintain a public registry of First Nation Education Laws in the English language and, at the discretion of First Nation Council, in the First Nation language, the English version of which will be definitive; and
 - b) provide Canada and British Columbia with copies of First Nation Education Laws as soon as practicable after they are enacted.

Appeal and Review of Administrative Decisions

- 5.2 The Participating First Nation will establish processes for appeal or review of administrative decisions made by the First Nation Council or the Community Education Authority and if those processes provide for a right of appeal to a court of competent jurisdiction, the Supreme Court of British Columbia will have jurisdiction to hear those appeals.
- 5.3 In addition to any right of appeal or review referred to in paragraph 5.2, the Supreme Court of British Columbia will have jurisdiction to hear applications for judicial review in relation to any exercise, refusal to exercise or purported exercise of a statutory power of decision by the First Nation Council, the Community Education Authority, or the First Nations Education Authority where they are exercising a statutory power of decision on behalf of the Participating First Nation.
- 5.4 The *Judicial Review Procedure Act* (BC) applies to an application for judicial review under paragraph 5.3 and, for the purpose of applying that Act, an "enactment" will mean a "First Nation Education Law."

Other Matters

- 5.5 The First Nation Council may adopt federal or provincial laws in respect of matters within the Jurisdiction of the Participating First Nation set out in this Agreement.

Enforcement of First Nation Education Laws

- 5.6 First Nation Education Laws made in accordance with paragraph 2.13 may provide for the appointment of enforcement officials to enforce First Nation Education Laws and establish powers of enforcement comparable to those provided by federal or provincial laws for officers enforcing similar laws.
- 5.7 First Nation Jurisdiction does not include:
- a) the authority to establish a police force; or
 - b) the power to authorize the carriage or use of firearms by enforcement officials.
- 5.8 If the First Nation Council appoints officials to enforce its First Nation Education Laws, that First Nation Council will:
- a) ensure that any enforcement officials are appropriately trained to carry out their duties having regard to training requirements for other enforcement officers carrying out similar duties in British Columbia; and
 - b) establish procedures for responding to complaints against enforcement officials.
- 5.9 Notwithstanding the general rule of priority set out in paragraph 6.2, federal or provincial law prevails to the extent of a conflict with a First Nation Education Law with respect to matters set out in paragraph 5.6.

Adjudication of First Nation Education Laws

- 5.10 The Provincial Court of British Columbia has jurisdiction with respect to violations of First Nation Education Laws.
- 5.11 The summary conviction procedures of part xxvii of the *Criminal Code* apply to prosecutions of offences under First Nation Education Laws.
- 5.12 The Supreme Court of British Columbia has jurisdiction to hear legal disputes arising between individuals under a First Nation Education Law.
- 5.13 For the purpose of prosecuting offences, the Participating First Nation may:
- a) retain its own prosecutor;

- b) enter into an agreement with Canada to arrange for a federal agent to prosecute these offences; or
- c) enter into an agreement with Canada and the Province of British Columbia to arrange for a provincial prosecutor.

PART 6 – APPLICATION OF LAW

Relationship of Laws

- 6.1 Federal laws will continue to apply concurrently with First Nation Education Laws made pursuant to this Agreement.
- 6.2 In the event of a conflict between a First Nation Education Law under paragraph 2.13 and a federal or provincial Law, the First Nation Education Law prevails on First Nation Land to the extent of a conflict.
- 6.3 Notwithstanding the general rule of priority described in paragraph 6.2, federal law will prevail over a First Nation Education Law that has a double aspect, or an incidental impact, on any area of federal legislative jurisdiction for which the Participating First Nation does not have law-making authority under this Agreement.
- 6.4 Notwithstanding the general rule of priority set out in paragraph 6.2, in the event of a conflict between a federal law in relation to peace, order and good government and other matters of overriding national importance and a First Nation Education Law, the federal law will prevail to the extent of the conflict.
- 6.5 For greater certainty, the power described in paragraph 2.13 does not include the power to make laws in relation to criminal law, labour relations and working conditions that would fall under federal jurisdiction, or the protection of health and safety of Canadians.
- 6.6 First Nation Education Laws do not apply to Canada.
- 6.7 Any First Nation Education Law that is inconsistent with this Agreement will be of no force or effect to the extent of the inconsistency.
- 6.8 This Agreement prevails to the extent of an inconsistency with the First Nation Education Law-Making Protocol.

Application of Federal Laws

- 6.9 The Federal Enabling Legislation provides that in the event of a conflict between:
- a) this Agreement and any Act of Parliament, including the Federal Enabling Legislation, this Agreement prevails to the extent of the conflict; and
 - b) the Federal Enabling Legislation and any other Act of Parliament, the Federal Enabling Legislation prevails to the extent of the conflict.
- 6.10 The Federal Enabling Legislation prevails over other federal laws to the extent of any conflict.

Charter of Rights and Freedoms

- 6.11 The *Canadian Charter of Rights and Freedoms* applies to the Participating First Nation and any body exercising its Jurisdiction and authority over Education pursuant to this Agreement.

Application of *Canadian Human Rights Act*

- 6.12 Nothing in this Agreement limits the operation of the *Canadian Human Rights Act*.

Application of the *Indian Act*

- 6.13 Sections 114 to 122 of the *Indian Act* will no longer apply to the Participating First Nation after it has passed a First Nation Education Law.

PART 7 – FINANCIAL ARRANGEMENTS

- 7.1 The Parties agree to work together to advance the following goals:
- a) closing social well-being gaps in Education, including achieving and maintaining equity in education outcomes between Members and other British Columbians;
 - b) teaching the culture, language and heritage of the Participating First Nation to present and future generations of Members; and
 - c) Members having access to Education that provides them with at least the same level of services and programs that are generally available to other students in British Columbia, recognizing the need for culturally relevant services and programs, and additional supports designed to support successful educational outcomes.

- 7.2 The Parties will enter into an Education Jurisdiction Funding Agreement, and Canada will continue to meet its obligations through an Education Jurisdiction Funding Agreement or other agreement between the Parties.
- 7.3 Canada's financial support under an agreement referred to in paragraph 7.2 is provided to enable the Participating First Nation to:
- a) exercise the rights and discharge the responsibilities set out in this Agreement; and
 - b) support the advancement of the goals set out in paragraph 7.1.
- 7.4 The financial support to be provided by Canada to the Participating First Nation, under an Education Jurisdiction Funding Agreement or other funding agreement referred to in paragraph 7.2, shall be determined without taking into consideration the fiscal capacity of the Participating First Nation. For greater certainty, Canada's policy approach to the consideration of own-source revenue in determining funding will not be applied to the calculation of the financial support to be provided by Canada to the Participating First Nation under such agreement.
- 7.5 The recognition of the Participating First Nation's Jurisdiction under this Agreement or the exercise of the Participating First Nation's Jurisdiction does not create or imply any financial obligation or service delivery obligation on the part of either Party, except to the extent that the Parties have agreed to such obligations under this Agreement or under an Education Jurisdiction Funding Agreement or other agreement entered into by the Parties in fulfilment of paragraph 7.2 of this Agreement.
- 7.6 Any funding required for the purposes of meeting Canada's financial obligation under an Education Jurisdiction Funding Agreement or other agreement is subject to the appropriation of funds by the Parliament of Canada.
- 7.7 The obligation of the Participating First Nation to provide Education under paragraph 2.3 of this Agreement or under an Education Jurisdiction Funding Agreement or other agreement referred to in paragraph 7.2 is contingent on the Participating First Nation receiving agreed funding amounts from Canada under such agreement.
- 7.8 The Parties agree that the amount of Education funding to be provided by Canada to the Participating First Nation for Eligible Students, under any Education Jurisdiction Funding Agreement or other agreement under paragraph 7.2, will not be less than the Education funding provided to First Nations in British Columbia that are not Participating First Nations through the mechanisms that are used to fund those other First Nations.
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- 7.9 If an Education Jurisdiction Funding Agreement is terminated and the Parties are unable to reach an agreement on a replacement arrangement for Education funding, the Parties agree that:
- a) Canada will provide the Participating First Nation with Education funding consistent with the terms and conditions for providing Education funding for Eligible Students under that agreement prior to termination through an agreement or such other arrangement as may be made available at the time; and
 - b) notwithstanding subparagraph (a), the amount of funding to be provided by Canada following termination of that agreement will not be less than the Education funding provided to First Nations in British Columbia that are not Participating First Nations through the mechanisms that are used to fund those other First Nations.

PART 8 – IMPLEMENTATION

Implementation Plan

- 8.1 The implementation plan for this Agreement will take effect on the Effective Date and has a term of 10 years.
- 8.2 The implementation plan for this Agreement will:
- a) identify the obligations in this Agreement, the activities to be undertaken to fulfill these obligations, the responsible party or parties, and the timeframe for completion of these activities;
 - b) specify how the implementation plan may be amended;
 - c) specify how the implementation plan may be renewed or extended; and
 - d) address other matters agreed to by the Parties.
- 8.3 The implementation plan for this Agreement:
- a) will be appended to this Agreement as Schedule A, but will not form part of this Agreement;
 - b) is not to be used to interpret this Agreement;
 - c) does not create legal obligations; and

d) does not alter any rights or obligations set out in this Agreement.

Senior Officials

8.4 On the Effective Date, the Parties will each designate a senior official to monitor the implementation of this Agreement.

8.5 The senior officials designated under paragraph 8.4 will:

- a) discuss the implementation of this Agreement;
- b) carry out a review of the implementation plan of this Agreement; and
- c) prior to the expiry of the implementation plan, advise the Parties on the further implementation of this Agreement, including a recommendation as to whether the implementation plan should be amended, renewed or extended.

Implementation Working Committee

8.6 If a regional or province-wide implementation working committee is established, the Participating First Nation may designate an individual to participate and represent them in that forum.

PART 9 – DISPUTE RESOLUTION

Informal Discussion

9.1 In the event of a dispute between the Parties arising out of or relating to this Agreement, the Parties agree to meet, negotiate in good faith and attempt to resolve the dispute amicably.

Invoking the Dispute Resolution Procedure

9.2 If a dispute arises under this Agreement which cannot be resolved by the Parties within thirty (30) Business Days, either Party may invoke this dispute resolution procedure by giving written notice to the other Party.

9.3 Within ten Business Days of receiving notice, the senior officials for both Parties will enter into direct, good faith negotiations concerning the dispute.

9.4 If within 30 Business Days after the first meeting between the senior officials, the Parties have failed to resolve the dispute and have not agreed to extend the time for senior

officials to resolve the dispute, then the Parties agree to use a mediator, in accordance with paragraph 9.5, to assist in resolving the dispute.

Mediation

- 9.5 Where a mediator is required to assist in resolving the dispute, the following rules will apply:
- a) the Parties will jointly select a single mediator. If the Parties are unable to agree upon the choice of a mediator, then a mediator will be chosen, upon application by the Parties, by the ADR Institute of British Columbia;
 - b) the Parties agree to participate in good faith in the mediation process and to meet with the mediator as soon as possible; and
 - c) each Party will bear the costs of its own participation and representation in the mediation and will pay equally all other costs of mediating the dispute, including the remuneration of the mediator.

Arbitration

- 9.6 If the Parties are unable to resolve the dispute within 60 Business Days of the first meeting with the mediator or within such time as the Parties may agree in writing, the Parties may agree in writing to submit the dispute to arbitration, in accordance with paragraph 9.7.
- 9.7 Where the Parties agree to submit the dispute to arbitration, the following rules will apply:
- a) the dispute will be resolved by a single arbitrator if the Parties agree on one and, otherwise, by three arbitrators, one to be appointed by each Party and a third to be chosen by the two arbitrators appointed by the Parties;
 - b) the Parties may agree on the procedure to be followed in the arbitration. If they cannot agree on this procedure within 15 Business Days of the appointment of an arbitrator or arbitrators, the procedure will be determined by the arbitrator or arbitrators;
 - c) the arbitrator or arbitrators will issue a written decision within 30 Business Days of the completion of the arbitration process and will provide copies of the written decision to each Party; and
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- d) unless otherwise agreed or otherwise ordered in the arbitration decision, each Party will bear the costs of its own participation and representation in the arbitration and will pay equally all other costs of the arbitration, including remuneration of the arbitrator or arbitrators.

Judicial Proceedings

- 9.8 The Parties agree not to commence litigation in respect of a dispute under this Agreement until the completion of the mediation process in accordance with paragraph 9.5.
- 9.9 In the event that the Parties have agreed to arbitration, no Party may commence litigation in respect of a dispute under this Agreement until receipt of the arbitration decision.
- 9.10 Where litigation in respect of a dispute under this Agreement is to be commenced by a Party, the Party will give 20 Business Days written notice to the other Party of their intent to commence litigation, unless to do so would result in the loss of a right to commence litigation due to the expiration of a limitation period.

PART 10 – RATIFICATION

Participating First Nation

- 10.1 Prior to the ratification vote being conducted in accordance with paragraph 10.2, the Participating First Nation will take reasonable steps to inform its Members of:
 - a) their right to participate in the approval process and the manner in which that right can be exercised;
 - b) the content of the First Nation Education Law-Making Protocol; and
 - c) the content of this Agreement.
- 10.2 Ratification of this Agreement and the First Nation Education Law-Making Protocol by the Participating First Nation requires:
 - a) the conduct of a vote, by way of secret ballot, on a day or days to be determined by resolution of the First Nation Council, indicating that at least 50% percent plus one of Members who cast a ballot have voted in favour of entering into this Agreement, and have voted to adopt the First Nation Education Law-Making Protocol; and

- b) that this Agreement and the First Nation Law-Making Protocol be signed by an authorized representative of the Participating First Nation.

10.3 The Participating First Nation, by resolution of the First Nation Council:

- a) will determine the minimum age of Members who are entitled to vote under paragraph 10.2 (a); and
- b) may increase the minimum percentage required for approval otherwise required under paragraph 10.2 (a).

Canada

10.4 Ratification of this Agreement by Canada requires that:

- a) this Agreement be signed by a Minister, authorized by the Federal Cabinet; and
- b) the Federal Cabinet pass an Order in Council adding the Participating First Nation to a Schedule of the Federal Enabling Legislation.

10.5 Canada will undertake the process set out in paragraph 10.4 following the ratification by the Participating First Nation in accordance with paragraph 10.2.

PART 11 – GENERAL PROVISIONS

Nature of Agreement

11.1 This Agreement is an “individual agreement” within the meaning of the Federal Enabling Legislation, which provides that:

- a) this Agreement will, upon coming into effect, have the force of law, be binding and relied on by all persons, have priority over other federal laws in the event of a conflict; and
- b) persons and bodies will have the powers, rights, privileges and benefits conferred on them by this Agreement and are subject to any obligations and liabilities imposed on them.

11.2 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

11.3 The purposes of this Agreement are to:

- a) set out how the Participating First Nation will exercise Jurisdiction over Education and the Parties' respective roles and responsibilities; and
- b) implement elements of the inherent right of self-government recognized and affirmed by section 35 of the *Constitution Act, 1982* relating to Jurisdiction over Education.

11.4 This Agreement is to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as:

- a) creating, amending, defining the nature and scope of, or abrogating or derogating from those rights;
- b) prejudicing, limiting or restricting the position that the Participating First Nation or Canada may take at any time with respect to the aboriginal or treaty rights of the Participating First Nation or the exercise of those rights; or
- c) restricting or limiting the Participating First Nation from entering into other agreements with Canada or other parties with respect to any matter, including those matters covered under this Agreement.

11.5 Nothing in this Agreement will be construed so as to affect in any manner the Constitution of Canada.

Other Inherent Right Implementation Processes

11.6 The Parties acknowledge that:

- a) the Participating First Nation may choose to pursue the implementation of the inherent right of self-government including Education through an Other Inherent Right Implementation Process or on its own initiative; and
- b) the Participating First Nation may adopt a governance structure that would bring it outside the scope of the Federal Enabling Legislation and this Agreement.

11.7 If the Parties have initiated discussions under an Other Inherent Right Implementation Process, they will meet and discuss whether there is a need to transition from the exercise of Jurisdiction over Education under this Agreement to the exercise of Jurisdiction over Education under the Other Inherent Right Implementation Process, recognizing that it is in the interest of both Parties that any transition be smooth.

11.8 The discussions described in paragraph 11.7 will:

- a) take place under the Other Inherent Right Implementation Process or such other process as may be agreed to by the Parties;
- b) consider whether the Federal Enabling Legislation will continue to apply to the Participating First Nation or its successor;
- c) consider whether this Agreement needs to be amended, replaced or terminated;
- d) address fiscal support for:
 - i. Education taking into account the commitments to provide Education funding for Eligible Students set out in the Education Jurisdiction Funding Agreement; and
 - ii. the exercise of governance responsibilities in aggregate related to Education and additional self-government authorities contemplated under the Other Inherent Right Implementation Process taking into account the Participating First Nation's expenditure needs; and
- e) address such other matters as may be agreed to by the Parties.

11.9 If the Participating First Nation initiates the implementation of the inherent right of self-government on its own initiative in a manner that could affect the application of this Agreement or result in an arrangement that would be inconsistent with the Federal Enabling Legislation, the Parties will meet to discuss whether this Agreement will need to be amended, replaced or terminated depending on the circumstances.

Education Jurisdiction Agreement is Binding

11.10 This Agreement is binding on the Parties from the Effective Date.

11.11 This Agreement is binding on, and can be relied on by, all persons from the Effective Date.

Access to Other Programs

11.12 Members of the Participating First Nation who are Canadian citizens or permanent residents of Canada continue to be entitled to all the rights and benefits of other Canadian citizens or permanent residents of Canada, applicable to them from time to time.

11.13 Subject to paragraph 11.12, nothing in this Agreement will affect the ability of the Participating First Nation, or its Members, to participate in, or benefit from, programs established by Canada for Indians, Bands or aboriginal people, in accordance with criteria established for those programs from time to time.

11.14 Members of the Participating First Nation will be eligible to participate in educational programs or services established by Canada or British Columbia and to receive services from Canada or British Columbia, in accordance with criteria established for those programs and services from time to time, to the extent that the Participating First Nation has not assumed responsibility for those educational programs and services under an Education Jurisdiction Funding Agreement or other funding agreement.

Liability

11.15 The Participating First Nation will from time to time and at all times be indemnified and saved harmless from and against claims, liabilities and demands arising directly or indirectly from the acts or omissions of Canada, its officers, employees and agents in the exercise of their powers, duties and functions with respect to this Agreement.

11.16 Canada will from time to time and at all times be indemnified and saved harmless from and against claims, liabilities and demands arising directly or indirectly from the acts or omissions of the Participating First Nation, the Community Education Authority, and their officers, employees and agents in the exercise of their powers, duties and functions with respect to this Agreement.

Amendments

11.17 This Agreement may be amended where consent in writing of each Party is obtained. Canada's consent to any amendment may require an Order in Council. The Participating First Nation's consent to any amendment will require a resolution of the First Nation Council.

11.18 An amendment to this Agreement takes effect on a date agreed to by the Parties to the amendment, but if no date is agreed to, on the date that the last Party gives its consent.

11.19 If federal legislation is required to give effect to an amendment to this Agreement, Canada will take all reasonable steps to enact the legislation.

Access to Information and Protection of Privacy

- 11.20 The Participating First Nation may enter into agreements with Canada in respect of any one or more of the following issues: collection, protection, retention, use, disclosure, and confidentiality of personal, general or other information necessary for the Participating First Nation to exercise its Jurisdiction under this Agreement consistent with applicable federal laws, including federal access to information and privacy legislation.
- 11.21 For the purposes of federal access to information and privacy legislation, information that the Participating First Nation provides to Canada in confidence is deemed to be information received or obtained in confidence from another government.
- 11.22 Canada may provide information necessary for the exercise of the Jurisdiction under this Agreement to the Participating First Nation in confidence if the Participating First Nation has entered into an agreement with Canada under which the confidentiality of the information will be protected.
- 11.23 Notwithstanding any other provision of this Agreement:
- a) Canada is not required to disclose any information that it is required to withhold under any federal law, including sections 37 to 39 of the *Canada Evidence Act*;
 - b) if federal legislation allows the disclosure of certain information only if specified conditions for disclosure are satisfied, Canada is not required to disclose that information unless those conditions are satisfied; and
 - c) the Parties are not required to disclose any information that may be withheld under privilege at law.

International Legal Obligations

- 11.24 The Participating First Nation agrees to exercise the powers set out in this Agreement in a manner consistent with the international obligations binding on Canada under international law, including those obligations that are in force before, on or after the Effective Date.

Entire Agreement

- 11.25 This Agreement is the entire agreement among the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right, or obligation affecting this Agreement.
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No Implied Waiver

- 11.26 A provision of this Agreement, or the performance by a Party of an obligation under this Agreement, may not be waived unless the waiver is in writing and signed by the Party or Parties giving the waiver.
- 11.27 No written waiver of a provision of this Agreement, of performance by a Party of an obligation under this Agreement, or of default by a Party of an obligation under this Agreement, will be a waiver of any other provision, obligation, or subsequent default.

Interpretation

11.28 In this Agreement:

- a) unless it is otherwise clear from the context, "including" means "including, but not limited to", and "includes" means "includes, but is not limited to";
- b) unless it is otherwise clear from the context, a reference to a "Part" or "paragraph" means a Part or paragraph of this Agreement;
- c) headings and sub-headings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- d) unless otherwise provided, a reference to a statute includes every amendment to it, every regulation made under it and amendment made to such regulation, and any successor legislation; and
- e) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of the plural includes the singular.

11.29 For greater certainty, references in this Agreement to "Education provided by the Participating First Nation" includes Education provided by a Community Education Authority on behalf of the Participating First Nation.

Computation of Time

11.30 Sections 26 to 28 of the *Interpretation Act (Canada)* apply to the computation of time for the purposes of this Agreement.

Execution of Document

11.31 Each Party will, at the request of and at no cost to the other Party, execute and deliver to the requesting Party any instrument or document or will do anything that may reasonably be required to carry out its obligations under this Agreement, or to complete any transaction contemplated by this Agreement.

Severability

11.32 Unless otherwise determined by a court of competent jurisdiction, if any provision contained in this Agreement is rendered invalid, illegal or unenforceable by a court of competent jurisdiction in any respect:

- a) the Parties will make best efforts to remedy or amend the provision; and
- b) the validity, legality or enforceability of the remaining provisions will not in any way be considered by the Parties to be affected or impaired.

Notices and Communications

11.33 Where in this Agreement any notice or other communication is required to be given or made by either Party, it will be in writing and will be effective if delivered by hand, transmitted by email or facsimile transmission or sent by registered mail to the addresses set out below. The address of either Party may be changed by notice in the manner set out in this paragraph.

CANADA:

Minister
Crown-Indigenous Relations
10 Wellington Street
OTTAWA ONTARIO K1A 0H4

Fax: (819) 953-4941
Email: aadnc.infopubs.aandc@canada.ca

PARTICIPATING FIRST NATION:

[to be inserted]

Fax: (xxx) xxx-xxxx
Email: _____

11.34 A notice or communication will be considered to have been received if:

- a) delivered personally or by courier during business hours on a Business Day, upon receipt by a responsible representative of the receiver, and if not delivered during business hours, upon the commencement of business on the next Business Day;
- b) sent by facsimile transmission during business hours on a Business Day, upon the sender receiving confirmation of the transmission, and if not transmitted during business hours, upon the commencement of business on the next Business Day;
- c) sent by email during business hours on a Business Day, upon the sender receiving confirmation of receipt from the recipient, and if not transmitted during business hours, upon the commencement of business on the next Business Day; or
- d) mailed by registered post in Canada, five Business Days after posting, except that, in the case of a disruption or an impending or threatened disruption in postal services, every notice or communication will be delivered by hand or sent by email or facsimile transmission.

Counterpart Signatures

11.35 This Agreement may be signed in identical counterparts, each of which constitutes an original, and such counterparts taken together will constitute one agreement. The signatures of the parties need not appear on the same counterpart, and executed counterparts may be delivered in electronically scanned form by electronic mail.

11.36 This Agreement may be executed by electronic signature, which will be considered as an original signature for all purposes and will have the same force and effect as an original signature on paper. Without limitation, "electronic signature" will include electronically scanned and transmitted versions (e.g. via pdf) of an original signature.

THIS AGREEMENT HAS BEEN EXECUTED as of the day and year first above written.

EXECUTED in the presence of:)
) HER MAJESTY THE QUEEN IN RIGHT OF
) CANADA as represented by the Minister of
) Crown-Indigenous Relations or duly
) authorized signatory

As to the authorized signatory for the
Minister of Crown-Indigenous Relations

Per: duly authorized signatory

EXECUTED in the presence of:

) Participating First Nation as represented by
) its Chief and Council or duly authorized
) signatory

As to the signature of

Per: duly authorized signatory

**SCHEDULE A
IMPLEMENTATION PLAN**

1. The term of this implementation plan takes effect on the Effective Date and has a term of 10 years.
2. This implementation plan may be amended, renewed, or extended with the written consent of each Party. Canada's and the PFN's consent may be provided by their respective senior officials designated under section 8.4 of this Agreement.
3. This implementation plan:
 - a. does not form part of this Agreement;
 - b. is not to be used to interpret this Agreement;
 - c. does not create legal obligations; and
 - d. does not alter any rights or obligations set out in this Agreement.

EDUCATION JURISDICTION IMPLEMENTATION PLAN

*Note: All agreement References are to the PFN's Canada-First Nation Education Jurisdiction Agreement, unless they are preceded by an "FA," in which case they are a reference to the PFN's Canada-First Nation Education Jurisdiction Funding Agreement. **

	Agreement Ref #	Step	Responsible Party	Timing
Implementation Activities				
1.		Effective Date Activities		
2.	4.1, 4.2	Appoint two directors to sit on the board of directors of the First Nations Education Authority (FNEA), one of whom must be a member of the Participating First Nation (PFN) for an initial term of up to two years.	PFN	Effective Date (ED) Mandatory Activity (MA)
3.	8.4, 8.5	Designate senior officials to monitor implementation of the Canada-First Nation Education Jurisdiction Agreement (PFN Jurisdiction Agreement).	CAN-CIRNAC/PFN	ED (MA)
4.	8.6	If a regional or province-wide implementation working committee is established, the PFN may designate an individual to participate and represent them in that forum.	PFN	ED onwards
5.		Develop Education Law		
6.	2.13	Make and administer laws respecting Education provided by the PFN on First Nation Land in accordance with the PFN Law-Making Protocol.	PFN	ED onwards
7.	2.5, 2.14	Include mechanisms, in the First Nations Education Law, through which Non-Members, who receive Education or have their children receive Education from the PFN, will have input into the decisions regarding a program or service that directly and significantly affects the rights of Students who are Non-Members or their parents.	PFN	prior to passing law
8.	2.16, 2.17	If applicable, determine delegation of authority to the FNEA, a CEA or other legal entity in accordance with the PFN Jurisdiction Agreement and the Law-Making Protocol.	PFN	prior to ED or ED onwards

9.	3.1	Determine whether or not to establish a CEA through the Education Law to operate, administer, and manage the Education system for the PFN.	PFN	prior to ED or ED onwards
10.	4.4, 4.5, 4.6	Sign an Education Co-Management Agreement that addresses FNEA authority for: teacher certification, school certification, and graduation requirements and course approvals.	PFN/FNEA	ED onwards (MA)
11.	4.5d	Include in PFN law incorporation by reference of FNEA rules for teacher certification, school certification, graduation requirements, and courses required for graduation.	PFN	ED onwards (MA)
12.		Implementation of Education Law		
13.	2.10, 2.13, 2.15	Formally pass Education Law(s).	PFN	ED onwards
14.	5.1	Maintain a public registry of First Nation Education Laws; and provide Canada and British Columbia with copies of First Nation Education Laws.	PFN	ED onwards
15.	3.1 - 3.6	<i>If PFN has decided to establish a Community Education Authority (CEA), complete necessary steps to do so:</i>	PFN	prior to ED or ED onwards
16.	3.1 - 3.3	- <i>Establish internal structure.</i>	PFN	prior to ED or ED onwards
17.	3.1	- <i>Specify responsibilities and powers.</i>	PFN	prior to ED or ED onwards
18.	3.6	- <i>If using an existing, or newly-established legal entity established under federal or provincial law as a CEA, ensure that rights, powers, and privileges are not inconsistent with the federal or provincial law under which it was established.</i>	PFN	prior to ED or ED onwards
19.	5.2	Establish processes for appeal or review of administrative decisions taken by the First Nation Council or a CEA.	PFN	prior to ED or ED onwards

20.	2.18	PFN to seek written consent of the delegate if PFN proposing to delegate jurisdiction to the FNEA under 2.16, or to delegate other duties and functions to a legal entity under 2.17.	PFN	prior to delegation
21.		The First Nations Education Authority		
22.	4.3b, 4.6	Establish rules for graduation requirements and courses required for graduation.	FNEA	ED onwards
23.	4.3c	Provide Teacher Certification Process for teachers who teach in the Education system operated by the PFN (excluding those persons who teach PFN language and culture).	FNEA	ED onwards
24.	4.3d	If requested by the PFN, responsibility for the development and provision of a Teacher Certification Process for teachers who teach only the language and culture of a PFN.	PFN/FNEA	ED onwards
25.	4.3e	Provide a process for certifying schools.	FNEA/FNESC	ED onwards
26.	4.3f	Consult with British Columbia regarding standards applicable to Education provided by the PFN for curriculum and examination for courses necessary to meet graduation requirements.	FNEA	ED onwards
27.		Providing Funding for Education Services and Governance		
28.	FA 4.1 and 4.3 Schedules A, C and D	Provide agreed to funding amounts to PFN to: <ul style="list-style-type: none"> a) provide Education to Eligible Students attending a First Nation School (see schedule A of FA); b) purchase Education for Eligible Students attending a BC Public School, a BC Independent School or a school operated by or on behalf of Another First Nation, including an online school, alternate education centre, adult education centre, or early childhood learning centre offering an Education program (see Schedule A of FA); and c) carry out governance activities (see Schedules C and D of FA). 	CAN- CIRNAC	ED (MA) Initial payment within 10 days of ED Further payments monthly or as agreed in an LOU

29.	2.3b 7.7	Subject to receiving funding, purchase education for Eligible Students who are enrolled in a BC public school or a BC independent school or a school operated by or on behalf of Another First Nation, including an online school, alternate education centre, adult education centre, or early childhood learning centre offering an Education program.	PFN	To be determined (TBD)
30.	FA 4.2	Provide agreed to funding amounts to FNEC and/or PFN for Centralized Education Services in accordance with Schedule B of the FA.	CAN-ISC	ED onwards (MA)
31.		Providing Education		
32.	7.7, 2.3, 2.4	Subject to receiving funding, provide education to: <ul style="list-style-type: none"> (a) Eligible Students who are enrolled in a First Nation School; (b) Students residing on Another First Nation's Reserve who attend a First Nation School; and (c) Students enrolled in a First Nation School who are: <ul style="list-style-type: none"> i. Non-status and ordinarily resident on commercially developed reserve lands; and ii. Not ordinarily resident on a reserve. 	PFN	ED onwards
33.	2.6	Provide or make provision for Education programs and services that supports the successful transfer of students to or from another school within the school system of the Province of BC.	PFN	ED onwards
34.		Reporting Requirements and Periodic Review		
35.	FA 6.1	The PFN will remain accountable to its members for the delivery of Education.	PFN	ED onwards

36.	FA 6.2, 6.4	The PFN will provide reports to Canada (ISC) as set out in Schedule E of the FA. All of the accounts and financial statements required to be prepared will be maintained and prepared in accordance with Generally Accepted Accounting Principles.	PFN	ED onwards and as set out in Schedule E
37.	FA 6.5a	The PFN will provide Canada (ISC) with consolidated audited financial statements for the fiscal year within 120 days following the end of each fiscal year.	PFN	within 120 days following the end of each fiscal year
38.	FA 6.5b	Where the PFN transfers funds to an agent or contractor under paragraph 6.3 of the FA to deliver Education, the PFN will ensure that adequate procedures are in place with that agent or contractor to establish program and financial accountability for those funds, including the provision of a financial audit, as appropriate.	PFN	as set out in Schedule E
39.	FA Part 5	Carry out a periodic review of the FA.	CAN- CIRNAC/PFN	commence within three years of the ED and every five years afterwards