

**BRITISH COLUMBIA FIRST NATION EDUCATION AGREEMENT
REGARDING JURISDICTION INITIATIVE**

THIS AGREEMENT dated for reference the 4th day of February, 2022.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,
as represented by the Minister of Education
(hereinafter referred to as "British Columbia")

AND:

FIRST NATIONS EDUCATION STEERING COMMITTEE SOCIETY,
a society incorporated under the *Societies Act*, SBC 2015 c. 18,
as represented by its President (hereinafter referred to as "FNESC")

WHEREAS

- A. Indigenous peoples have the right to establish and control their educational systems and institutions as an aspect of their inherent rights of self-determination and self-government, as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* ("UN Declaration") and also as recognized and affirmed under section 35 of the *Constitution Act, 1982*.
- B. Canada, British Columbia and the FNESC signed the Education Jurisdiction Framework Agreement (EJFA) dated July 5, 2006, which was extended in 2013, 2018 and 2021, setting out their respective responsibilities in supporting the exercise of Jurisdiction over Education by Participating First Nations.
- C. Canada enacted the *First Nations Jurisdiction over Education in British Columbia Act*, and British Columbia enacted the *First Nations Education Act*, SBC 2007, c 40.
- D. The EJFA included the template for the Canada-First Nation Education Jurisdiction Agreement as Schedule B, which was updated and replaced on August 11, 2021.
- E. The EJFA also included the British Columbia First Nation Education Agreement as Schedule A. This Agreement amends the British Columbia First Nation Education Agreement by replacing the previous version of the British Columbia First Nation Education Agreement with this Agreement.
- F. British Columbia worked with FNESC to implement components of the British Columbia First Nation Education Agreement, pending finalization of negotiations and full implementation of the EJFA and the *First Nations Jurisdiction over Education in British Columbia Act*.
- G. The Parties are committed to continuing their working relationship, based on mutual respect, recognition, collaboration and clarity of roles and responsibilities for the education of First Nation students, recognizing that Aboriginal and treaty rights are recognized and affirmed under section 35

of the *Constitution Act, 1982*, children's rights are affirmed in the *Convention on the Rights of the Child*, Indigenous rights are affirmed by the UN Declaration, and key studies and reports offer important recommendations on advancing reconciliation between the Crown and First Nations, such as the Truth and Reconciliation Commission's Final Report and Calls to Action.

- H. FNEESC is a policy and advocacy organization that represents and works on behalf of First Nations in British Columbia, with a mandate to advance First Nations education in British Columbia by disseminating information, undertaking research, administering programs and services, and advocating and negotiating with the provincial and federal governments and other key stakeholders at the direction of First Nations.
- I. The Minister of Education, whose role is generally described in section 167 of the *School Act*, has responsibilities relating to kindergarten to grade 12 education in British Columbia.
- J. When the First Nations Education Authority is operational in accordance with the *First Nations Jurisdiction over Education in British Columbia Act*, British Columbia intends to enter into a separate agreement with that Authority.
- K. This Agreement specifically acknowledges and builds upon the continued mutual commitment to work together in a new relationship intended to improve educational opportunities and outcomes for First Nation students, recognizing that students often transition between First Nation schools and BC Public Schools or BC Independent Schools, which requires compatibility between the two education systems and collaboration and cooperation among the Parties.
- L. Improved educational outcomes for students attending First Nation schools and for First Nation students attending BC Public Schools will be central to the shared objective of restoring, revitalizing and strengthening the economic and social sustainability of First Nations in British Columbia.

Now therefore, the Parties agree as follows:

1.0 DEFINITIONS

- a) **"Agreement"** means this agreement between British Columbia and FNEESC, including its Appendices;
- b) **"Appendix"** means an appendix attached to this Agreement;
- c) **"BC Independent School"** means any independent school as defined in the *Independent School Act*, RSBC 1996, c 216;
- d) **"BC Public School"** means any public school in British Columbia where a board of education or francophone education authority provides kindergarten to grade 12 education under the *School Act*;
- e) **"Canada-First Nation Education Jurisdiction Agreement"** means an individual agreement between the government of Canada and a Participating First Nation brought into effect pursuant to the *First Nations Jurisdiction over Education in British Columbia Act*;

- f) **“Community Education Authority”** means a legally constituted entity established or identified by one or more Participating First Nations to operate its Education system;
- g) **“Education”** means education programs and services of a nature generally provided to Students enrolled in kindergarten to grade 12;
- h) **“First Nations Education Authority”** means the legally constituted entity established under the *First Nations Jurisdiction over Education in British Columbia Act*;
- i) **“First Nations Jurisdiction over Education in British Columbia Act”** means the *First Nations Jurisdiction over Education in British Columbia Act, SC 2006, c 10*;
- j) **“First Nation Land”** means a “reserve” within the meaning of the term under the *Indian Act, RSC 1985, c I-5*, set apart for a Participating First Nation, and includes “First Nation land” administered under the *First Nations Land Management Act, SC 1999, c 24*;
- k) **“Interested First Nation”** means a First Nation that has indicated its interest in exercising Jurisdiction over Education;
- l) **“Jurisdiction”** means the Participating First Nation’s law-making authority in relation to Education provided by the Participating First Nation, as described in its Canada-First Nation Education Jurisdiction Agreement;
- m) **“Negotiating First Nation”** means a First Nation that has a First Nation school and has passed a band council resolution appointing a negotiator and providing the negotiator with instructions to negotiate a Canada-First Nation Education Jurisdiction Agreement;
- n) **“Participating First Nation”** has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act*;
- o) **“Participating First Nation School”** means a school on First Nation Land operated by a Participating First Nation or a Community Education Authority on its behalf;
- p) **“Party”** means a signatory to this Agreement;
- q) **“School Act”** means the *School Act, RSBC 1996, c 412*; and
- r) **“Student”** means an individual attending a Participating First Nation School or participating in an Education program provided by a Participating First Nation.

2.0 PURPOSE

- 2.1 The purpose of this Agreement is to set out the commitments and responsibilities of British Columbia and FNEC to continue to work together to support the transition to Participating First Nations’ exercise of Jurisdiction over Education on First Nation Land.

2.2 This Agreement amends the British Columbia First Nation Education Agreement attached as “Schedule A” to the EJFA by replacing the previous Schedule A with this Agreement.

3.0 FIRST NATION JURISDICTION OVER EDUCATION

3.1 The Parties will recognize each Participating First Nation’s Jurisdiction over Education on First Nation Land, as described in their Canada-First Nation Education Jurisdiction Agreements.

3.2 For greater certainty, the Parties acknowledge that a Participating First Nation’s Jurisdiction over Education extends to all Students who attend its Participating First Nation School(s).

4.0 ROLE OF FNEC

4.1 The Parties acknowledge that:

- a) the First Nations Education Authority will become operational and assume the powers and duties referred to in section 19 of the *First Nations Jurisdiction over Education in British Columbia Act* and Part 4 of the Canada-First Nation Education Jurisdiction Agreements, when at least six directors have been appointed to its board of directors; and
- b) until such time as the First Nations Education Authority is operational, FNEC will play an interim role at the direction of Negotiating First Nations in respect of the development of a process for teacher certification and regulation.

5.0 BRITISH COLUMBIA AGREEMENTS WITH PARTICIPATING FIRST NATIONS AND FIRST NATIONS EDUCATION AUTHORITY

5.1 Once a First Nation’s name has been added to the Schedule of the *First Nations Jurisdiction over Education in British Columbia Act* and it becomes a Participating First Nation, British Columbia intends to enter into an agreement with that Participating First Nation to address matters required to support the implementation of the Participating First Nation’s Jurisdiction over Education.

5.2 Once the First Nations Education Authority is operational in accordance with the *First Nations Jurisdiction over Education in British Columbia Act*, British Columbia intends to enter into an agreement with the First Nations Education Authority to address matters required to support the implementation of Participating First Nations’ Jurisdiction over Education.

5.3 The Parties agree that the forms of agreement attached as Appendices A and B to this Agreement, agreed to in principle by Negotiating First Nations at a meeting held on November 10, 2021, will be provided to the First Nations Education Authority and Participating First Nations respectively, and proposed for their consideration, and finalization and execution with British Columbia, as follows:

- a) BC-FNEA Education Jurisdiction Agreement, once the First Nations Education Authority is operational; and
- b) BC-PFN Education Jurisdiction Agreement, for each Participating First Nation once it has been listed in the Schedule to the *First Nations Jurisdiction over Education in British Columbia Act* as a Participating First Nation.

6.0 SUPPORTING RECONCILIATION

- 6.1 The Parties will work together to support those in the provincial school system to understand First Nations' right to establish and control their educational systems and institutions, as affirmed in the *UN Declaration*, and Participating First Nations' Jurisdiction over Education.

7.0 CONSULTATION BY BRITISH COLUMBIA

- 7.1 British Columbia agrees to consult FNEA regarding any contemplated action or decision by British Columbia that may affect the implementation of this Agreement or First Nations that may become Participating First Nations in a timely manner that allows for meaningful discussion and engagement before the action is taken or the decision is made.
- 7.2 Unless otherwise agreed, the Parties will convene meetings of senior officials including the Deputy Minister and the President of FNEA at least four times each year, to provide for timely consultation under section 7.1.
- 7.3 In addition to meetings under section 7.2, British Columbia may share information with FNEA through other means in support of its consultation obligations under section 7.1.
- 7.4 For greater clarity, matters that British Columbia will consult on under section 7.1 include, but are not limited to proposed changes to provincial education policy, legislation, practices or standards that materially affect programs, assessments, teacher certification, graduation requirements, or curriculum.

8.0 TERM AND REVIEW

- 8.1 The term of this Agreement commences on the date of its execution and continues unless and until terminated by the Parties.
- 8.2 The Parties will review this Agreement on its first anniversary and every two years thereafter to address any concerns with its implementation and identify any improvements.

9.0 INTERPRETATION

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

9.2 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 a Participating First Nation or British Columbia 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 a Participating First Nation from entering into other agreements with British Columbia or other parties with respect to any matter, including those matters covered under this Agreement.

9.3 In this Agreement:

- a) unless it is otherwise clear from the context, a reference to a "section" means a section of this Agreement;
- b) 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;
- c) 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;
- d) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of plural includes the singular;
- e) where one or more Parties are mentioned in a provision of this Agreement, this will not be interpreted as implying or inferring any obligation on or acknowledgment by any Party not mentioned in that provision, and
- f) The Appendices referred to in section 5.4 form a part of this Agreement.

9.4 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 enforcement of the remaining provisions will not in any way be considered by the Parties to be affected or impaired.

Amendment

9.5 This Agreement may be amended by written agreement of the Parties.

Disputes

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

Effective Date of Agreement

9.7 This Agreement shall take effect once it has been executed by British Columbia and FNEC.

10.0 NOTICES AND COMMUNICATIONS

10.1 If to British Columbia:

Minister of Education
Office of the Deputy Minister
PO Box 9179 Stn Prov Govt
Victoria, BC V8W 9H8
Fax: (250) 356-2011

10.2 If to the First Nations Education Steering Committee:

C/O
#113 - 100 Park Royal South
West Vancouver, BC V7T 1A2
Fax: (604) 925-6097

10.3 Any notice to be given or communication made to a Party pursuant to this Agreement will be in writing and will be effectively given or made if delivered by hand, transmitted by facsimile transmission or sent by registered mail, to the appropriate address or facsimile number where so notified by that Party.

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

- a) if delivered by hand 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) if 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; or

**APPENDIX A
DRAFT AGREEMENT**

**for Consideration
by British Columbia and the First Nations Education Authority**

THIS AGREEMENT dated for reference the 11th day of March.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
as represented by the Minister of Education
(hereinafter referred to as “British Columbia”)

AND:

THE FIRST NATIONS EDUCATION AUTHORITY
(hereinafter referred to as the “FNEA”)

WHEREAS

- A. Indigenous peoples have the right to establish and control their educational systems and institutions as an aspect of their inherent rights of self-determination and self-government, as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (“UN Declaration”) and also as recognized and affirmed under section 35 of the *Constitution Act, 1982*.
- B. Canada, British Columbia and the First Nations Education Steering Committee (FNESC) signed the Education Jurisdiction Framework Agreement (EJFA) dated July 5, 2006, which was extended in 2013, 2018 and 2021, setting out their respective responsibilities in supporting the exercise of Jurisdiction over Education by First Nations.
- C. Canada enacted the *First Nations Jurisdiction over Education in British Columbia Act*, and British Columbia enacted the *First Nations Education Act, SBC 2007 c 40*.
- D. The EJFA included a template Canada-First Nation Education Jurisdiction Agreement as Schedule B, which was updated and replaced on August 11, 2021.
- E. The EJFA also included the British Columbia-First Nation Education Agreement as Schedule A, which was updated and replaced by the agreement between British Columbia and the First Nations Education Steering Committee entered into on _____.
- F. The Minister of Education, whose role is generally described in section 167 of the *School Act*, has responsibilities relating to kindergarten to grade 12 education in British Columbia.

- G. The FNEA is established pursuant to the *First Nations Jurisdiction over Education in British Columbia Act*.
- H. The Parties are committed to work together to support First Nations Jurisdiction over Education by establishing a working relationship based on mutual respect, recognition, collaboration and clarity of roles and responsibilities, recognizing that Aboriginal and treaty rights are recognized and affirmed under section 35 of the *Constitution Act, 1982*, children’s rights are affirmed in the *Convention on the Rights of the Child*, Indigenous rights are affirmed by the UN Declaration, and key studies and reports offer important recommendations on advancing reconciliation between the Crown and First Nations, such as the Truth and Reconciliation Commission’s Final Report and Calls to Action.

Now therefore, the Parties agree as follows:

1.0 DEFINITIONS

1.1 The following definitions apply to this Agreement:

- a) **“Adult Dogwood”** means a British Columbia Adult Graduation Diploma that may be issued by the minister under the *School Act* and as described in the Student Credentials Order, as amended from time to time;
- b) **“Agreement”** means this agreement between British Columbia and the FNEA;
- c) **“BC Independent School”** means any independent school as defined in the *Independent School Act*;
- d) **“BC Public School”** means any public school in British Columbia where a board of education or francophone education authority provides kindergarten to grade 12 education under the *School Act*;
- e) **“Canada-First Nation Education Jurisdiction Agreement”** means an individual agreement between the government of Canada and a Participating First Nation brought into effect pursuant to the *First Nations Jurisdiction over Education in British Columbia Act*;
- f) **“Community Education Authority”** means a legally constituted entity established or identified by one or more Participating First Nations to operate its Education system;
- g) **“Dogwood Diploma”** means the British Columbia Certificate of Graduation that may be issued by the minister under the *School Act* and as described in the Student Credentials Order, as amended from time to time;
- h) **“Education”** means education programs and services of a nature generally provided to Students enrolled in kindergarten to grade 12;
- i) **“First Nations Authorized Courses”** means locally relevant courses developed by First Nations for use in their schools under their own authority, which are approved in accordance with the First Nations Authorized Courses (FNAC) Process;

- j) **“First Nations Jurisdiction over Education in British Columbia Act”** means the *First Nations Jurisdiction over Education in British Columbia Act*, SC 2006, c 10;
- k) **“First Nation Land”** means a “reserve” within the meaning of the term under the *Indian Act*, RSC 1985, c I-5, set apart for a Participating First Nation, and includes “First Nation land” administered under the *First Nations Land Management Act*, SC 1999, c 24;
- l) **“FNEA Certified Teacher”** means a person who holds an FNEA Teaching Certificate that has been issued by the First Nations Education Authority;
- m) **“FNEA teacher certification and regulation process”** means the teacher certification and regulation process established under the authority of education laws passed by Participating First Nations;
- n) **“FNEA Teaching Certificate”** means a teaching certificate issued by the FNEA to a qualified applicant under the FNEA teacher certification and regulation process that enables the holder to teach in a Participating First Nation School;
- o) **“Graduation Program Order”** means the provincial Ministerial Order 302/04, made under the *School Act*, as amended from time to time;
- p) **“Independent School Act”** means the *Independent School Act*, RSBC 1996, c 216;
- q) **“Jurisdiction”** means the Participating First Nation’s law-making authority in relation to Education provided by the Participating First Nation, as described in its Canada-First Nation Education Jurisdiction Agreement;
- r) **“Ministry of Education”** means the provincial ministry described in section 167 of the *School Act* with responsibilities for kindergarten to grade 12 education in British Columbia;
- s) **“Participating First Nation”** has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act*;
- t) **“Participating First Nation School”** means a school on First Nation Land operated by a Participating First Nation or a Community Education Authority on its behalf;
- u) **“Party”** means a signatory to this Agreement;
- v) **“School Act”** means the *School Act*, RSBC 1996, c 412;
- w) **“Student”** means an individual attending a Participating First Nation School or participating in an Education program provided by a Participating First Nation;
- x) **“Student Credentials Order”** means the provincial Ministerial Order 164/96, made under the *School Act*, as amended from time to time; and
- y) **“Teachers Act”** means the *Teachers Act*, S.B.C.2011, c.19.

2.0 PURPOSE

- 2.1 The purpose of this Agreement is to set out roles and responsibilities of the Parties in working together to support Participating First Nations' exercise of Jurisdiction over Education on First Nation Land.

3.0 FIRST NATION JURISDICTION OVER EDUCATION

- 3.1 The Parties recognize each Participating First Nation's Jurisdiction over Education on First Nation Land, as described in its Canada - First Nation Education Jurisdiction Agreement.
- 3.2 For greater certainty, the Parties acknowledge that a Participating First Nation's Jurisdiction over Education extends to all Students who attend its Participating First Nation School(s).

4.0 GRADUATION REQUIREMENTS & GRANTING CREDENTIALS

- 4.1 The Parties recognize that Participating First Nations have Jurisdiction to grant their own credentials, including a First Nation graduation certificate, to:
- a) Students enrolled in Participating First Nation Schools who have met the applicable graduation requirements; and
 - b) members of Participating First Nations who have completed the graduation requirements at a BC Public School or BC Independent School and have achieved learning outcomes substantially comparable to those required for graduation by the FNEA.
- 4.2 As set out in the *School Act*, the minister may issue a Dogwood Diploma or Adult Dogwood to a person who is engaged in a program of studies at an educational institution operated on First Nation Land by a Participating First Nation or a Community Education Authority if the minister is satisfied that the person:
- a) has completed a program of studies at the grade 12 level at the educational institution, and
 - b) has achieved learning outcomes substantially similar to the learning outcomes necessary to meet the general requirements for graduation established by order of the minister.
- 4.3 The Parties acknowledge that First Nations Authorized Courses count toward graduation requirements for a Dogwood Diploma, as set out in the Ministry of Education's Board/Authority Authorized Courses policy.

5.0 TEACHER CERTIFICATION AND REGULATION PROCESS

- 5.1 The FNEA will issue the FNEA Teaching Certificate which will qualify FNEA Certified Teachers to teach in Participating First Nation Schools.

- 5.2 British Columbia acknowledges that the FNEA Teaching Certificate, which will be issued to qualified applicants under the FNEA teacher certification and regulation process, is a valid teaching certificate for teachers teaching in Participating First Nation Schools.
- 5.3 The Parties will enter into a coordination agreement with respect to the certification of applicants for an FNEA Teaching Certificate and the regulation of teachers who hold such a certificate.
- 5.4 The coordination agreement referred to in section 5.3 may address the following matters:
- a) the provision of investigative and advisory assistance by British Columbia to the FNEA to support the FNEA teacher certification and regulation process;
 - b) the process for sharing information between the FNEA and British Columbia with respect to applicants for an FNEA Teaching Certificate and FNEA Certified Teachers; and
 - c) other matters as agreed by the Parties.

6.0 PROVINCIAL ASSESSMENTS

- 6.1 If requested, British Columbia will work with the FNEA to:
- a) make provincial assessments described in the Graduation Program Order available to Students attending Participating First Nation Schools; and
 - b) establish appropriate protocols and/or procedures for conducting provincial assessments.

7.0 CONSULTATION BY BRITISH COLUMBIA

- 7.1 In order to build an effective working relationship and support the purpose of this Agreement, and unless otherwise agreed, the Parties agree to meet at least twice each year to discuss matters of mutual interest.
- 7.2 Further to section 7.1, British Columbia agrees to consult the FNEA regarding any contemplated action or decision by British Columbia that may affect the implementation of this Agreement, the FNEA, or Participating First Nation Schools, in a timely manner that allows for meaningful discussion and engagement before the action is taken or the decision is made.
- 7.3 For greater clarity, matters that British Columbia will consult on under section 7.2 include, but are not limited to, proposed changes to provincial education policy, legislation, practices or standards that materially affect programs, assessments, teacher certification, graduation requirements, or curriculum offered by Participating First Nation Schools.
- 7.4 In addition to meetings, British Columbia may share information with the FNEA through other means in order to support timely engagement and full information to the FNEA.

7.5 Where relevant to the implementation of this Agreement, the FNEA will advise British Columbia of changes to its rules, policies or standards regarding Education provided by or on behalf of Participating First Nations.

8.0 EFFECTIVE INFORMATION SHARING

8.1 The Parties agree that, during at least one of their meetings each year, they shall discuss opportunities for the continued development and implementation of effective, purposeful and compatible information sharing opportunities and capacities.

9.0 EFFECTIVE DATE OF AGREEMENT

9.1 This Agreement shall take effect once it has been executed by British Columbia and the FNEA.

10.0 REVIEW

10.1 The Parties agree that, at least once per year, the Ministry of Education, as represented by the Deputy Minister, and the FNEA, as represented by the FNEA's senior representative(s), shall meet to discuss and continue to improve upon the effectiveness of the implementation of this Agreement.

10.2 For clarity, the Parties may agree to address the effectiveness of this Agreement under section 10.1 at one of their two annual meetings under section 7.1.

11.0 REPRESENTATION ON PROVINCIAL BODIES

11.1 British Columbia agrees to invite the FNEA to be represented and to participate on provincial bodies (e.g. advisory bodies) with the purpose or focus of improving services and supports for Students and supporting Student achievement.

11.2 The Parties acknowledge that, once sections 5 and 6 of the *Education Statutes Amendment Act, 2021*, SBC 2021, c 29, have been brought into force by regulation, the FNEA may appoint an individual to the British Columbia Teachers' Council, as set out in section 9 of the *Teachers Act*.

12.0 SHARED SERVICES

12.1 British Columbia will work with the FNEA to explore and pursue shared services, purchasing opportunities, and reasonable cost access to provincial learning resources to benefit from economies of scale and to support their respective capacity, as the case may be.

13.0 INTERPRETATION

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

13.2 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 a Participating First Nation or British Columbia 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 a Participating First Nation from entering into other agreements with British Columbia or other parties with respect to any matter, including those matters covered under this Agreement.

13.3 In this Agreement:

- a) unless it is otherwise clear from the context, a reference to a “section” means a section of this Agreement;
- b) 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;
- c) 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;
- d) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of plural includes the singular; and
- e) where one or more Parties are mentioned in a provision of this Agreement, this will not be interpreted as implying or inferring any obligation on or acknowledgment by any Party not mentioned in that provision.

13.4 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 enforcement of the remaining provisions will not in any way be considered by the Parties to be affected or impaired.

Amendment

13.5 This Agreement may be amended by written agreement of the Parties.

Disputes

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

14.0 NOTICES AND COMMUNICATIONS

14.1 If to British Columbia:

Minister of Education
Office of the Deputy Minister
PO Box 9179 Stn Prov Govt
Victoria, BC V8W 9H8
Fax: (250) 356-2011

14.2 If to the FNEA:

C/O
#113 - 100 Park Royal South
West Vancouver, BC V7T 1A2
Fax: (604) 925-6097

14.3 Any notice to be given or communication made to a Party pursuant to this Agreement will be in writing and will be effectively given or made if delivered by hand, transmitted by facsimile transmission or sent by registered mail, to the appropriate address or facsimile number where so notified by that Party.

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

- a) if delivered by hand 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) if 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; or
- c) if mailed by registered post in Canada, five (5) 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 facsimile transmission.

**APPENDIX B
DRAFT AGREEMENT**

**for Consideration
by British Columbia and Negotiating First Nations**

**BRITISH COLUMBIA – [NAME OF FIRST NATION]
EDUCATION JURISDICTION AGREEMENT**

THIS AGREEMENT dated for reference the [insert date] day of _____.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
as represented by the Minister of Education
(hereinafter referred to as “British Columbia”)

AND:

[NAME OF FIRST NATION]
(hereinafter referred to as “[NAME OF FIRST NATION]”)

WHEREAS

- A. Indigenous peoples have the right to establish and control their educational systems and institutions as an aspect of their inherent rights of self-determination and self-government, as affirmed in the *United Nations Declaration on the Rights of Indigenous Peoples* (“UN Declaration”) and also as recognized and affirmed under section 35 of the *Constitution Act, 1982*.
- B. Canada, British Columbia and the First Nations Education Steering Committee (FNESC) signed the Education Jurisdiction Framework Agreement (EJFA) dated July 5, 2006, which was extended in 2013, 2018 and 2021, setting out their respective responsibilities in supporting the exercise of Jurisdiction over Education by First Nations.
- C. Canada enacted the *First Nations Jurisdiction over Education in British Columbia Act*, and British Columbia enacted the *First Nations Education Act*, SBC 2007, c 40.
- D. The EJFA included a template Canada-First Nation Education Jurisdiction Agreement as Schedule B, which was updated and replaced on August 11, 2021.
- E. The EJFA also included the British Columbia-First Nation Education Agreement as Schedule A, which was updated and replaced by the agreement between British Columbia and the First Nations Education Steering Committee entered into on _____.

- F. The Minister of Education, whose role is generally described in section 167 of the *School Act*, has responsibilities relating to kindergarten to grade 12 education in British Columbia.
- G. **[NAME OF FIRST NATION]** has Jurisdiction over Education on First Nation Land as set out in its Canada-First Nation Education Jurisdiction Agreement.
- H. The Parties are committed to establishing and maintaining an effective relationship based on mutual respect, recognizing that Aboriginal and treaty rights are recognized and affirmed under section 35 of the *Constitution Act, 1982*, children’s rights are affirmed in the *Convention on the Rights of the Child*, Indigenous rights are affirmed by the UN Declaration, and key studies and reports offer important recommendations on advancing reconciliation between the Crown and First Nations, such as the Truth and Reconciliation Commission’s Final Report and Calls to Action.

Now therefore, the Parties agree as follows:

1.0 DEFINITIONS

1.1 The following definitions apply to this Agreement:

- a) **“Adult Dogwood”** means a British Columbia Adult Graduation Diploma that may be issued by the minister under the *School Act* and as described in the Student Credentials Order, as amended from time to time;
- b) **“Agreement”** means this agreement between British Columbia and **[NAME OF FIRST NATION]**;
- c) **“BC Independent School”** means any independent school as defined in the *Independent School Act*, RSBC 1996, c 216;
- d) **“BC Public School”** means any public school in British Columbia where a board of education or francophone education authority provides kindergarten to grade 12 education under the *School Act*;
- e) **“Canada-First Nation Education Jurisdiction Agreement”** means an individual agreement between the government of Canada and a Participating First Nation brought into effect pursuant to the *First Nations Jurisdiction over Education in British Columbia Act*;
- f) **“Certificate Holder”** means a person who holds a certificate of qualification or an independent school teaching certificate issued by the Director of Certification under the *Teachers Act*.
- g) **“Community Education Authority”** means a legally constituted entity established or identified by **[NAME OF FIRST NATION]** on its own or together with one or more Participating First Nations to operate its Education system;

- h) **“Dogwood Diploma”** means the British Columbia Certificate of Graduation that may be issued by the minister under the *School Act* and as described in the Student Credentials Order, as amended from time to time;
- i) **“Education”** means education programs and services of a nature generally provided to Students enrolled in kindergarten to grade 12;
- j) **“First Nations Authorized Courses”** means locally relevant courses developed by First Nations for use in their schools under their own authority, which are approved in accordance with the First Nations Authorized Courses (FNAC) Process.
- k) **“First Nations Education Authority”** means the legally constituted entity established under the *First Nations Jurisdiction over Education in British Columbia Act*;
- l) **“First Nations Jurisdiction over Education in British Columbia Act”** means the *First Nations Jurisdiction over Education in British Columbia Act*, SC 2006, c 10;
- m) **“First Nation Land”** means a “reserve” within the meaning of the term under the *Indian Act*, RSC 1985, c I-5, set apart for [NAME OF FIRST NATION], and includes “First Nation land” administered under the *First Nations Land Management Act*, SC 1999, c 24;
- n) **“FNEA Certified Teacher”** means a person who holds an FNEA teaching certificate that has been issued by the First Nations Education Authority;
- o) **“Graduation Program Order”** means the provincial Ministerial Order 302/04, under the *School Act*, as amended from time to time;
- p) **“Jurisdiction”** means the [NAME OF FIRST NATION]’s law-making authority in relation to Education provided by [NAME OF FIRST NATION], as described in its Canada-First Nation Education Jurisdiction Agreement;
- q) **“Ministry of Education”** means the provincial ministry described in section 167 of the *School Act* with responsibilities for kindergarten to grade 12 education in British Columbia;
- r) **“[NAME OF FIRST NATION] School”** means a school on First Nation Land operated by [NAME OF FIRST NATION] or a Community Education Authority on its behalf; [NTD: This should be moved accordingly once the First Nation’s name is inserted]
- s) **“Participating First Nation”** has the same meaning as in the *First Nations Jurisdiction over Education in British Columbia Act*, and includes [NAME OF FIRST NATION];
- t) **“Party”** means a signatory to this Agreement;
- u) **“School Act”** means the *School Act*, RSBC 1996, c 412;
- v) **“Student”** means an individual attending a [NAME OF FIRST NATION] School or participating in an Education program provided by [NAME OF FIRST NATION];

- w) **“Student Credentials Order”** means the provincial Ministerial Order 164/96, made under the *School Act*, as amended from time to time; and
- x) **“Teachers Act”** means the *Teachers Act*, SBC 2011, c 19.

2.0 PURPOSE

- 2.1 The purpose of this Agreement is to set out the commitments and responsibilities of British Columbia and **[NAME OF FIRST NATION]** in working together in support of the **[NAME OF FIRST NATION]**'s exercise of Jurisdiction over Education on First Nation Land.

3.0 FIRST NATION JURISDICTION OVER EDUCATION

- 3.1 British Columbia recognizes **[NAME OF FIRST NATION]**'s Jurisdiction over Education on First Nation Land, as described in its Canada-First Nation Education Jurisdiction Agreement.
- 3.2 For greater certainty, British Columbia acknowledges that **[NAME OF FIRST NATION]**'s Jurisdiction over Education extends to all Students who attend its **[NAME OF FIRST NATION]** School(s).
- 3.3 British Columbia's obligations under this Agreement are subject to **[NAME OF FIRST NATION]** and Canada maintaining a Canada-First Nation Education Jurisdiction Agreement.

4.0 TUITION FOR STUDENTS ATTENDING **[NAME OF FIRST NATION] SCHOOL(S)**

- 4.1 British Columbia agrees to pay tuition to **[NAME OF FIRST NATION]** in respect of Students who are enrolled to receive an educational program provided by **[NAME OF FIRST NATION]** or Community Education Authority and who, if the Student attended a BC Public School, would otherwise be eligible for an education program funded by British Columbia, in accordance with a reciprocal tuition agreement between the Parties.
- 4.2 Nothing in this Agreement obligates British Columbia to pay tuition to **[NAME OF FIRST NATION]** in respect of any Students who are not described in section 4.1.

5.0 GRADUATION REQUIREMENTS & GRANTING CREDENTIALS

- 5.1 **[NAME OF FIRST NATION]** has Jurisdiction to grant its own credentials, including a First Nation graduation certificate, to:
 - a) Students enrolled in its **[NAME OF FIRST NATION]** School who have met the applicable graduation requirements; and
 - b) members of **[NAME OF FIRST NATION]** who have completed the graduation requirements at a BC Public School or BC Independent School and have achieved learning outcomes

substantially comparable to those required for graduation by the First Nations Education Authority.

5.2 As set out in the *School Act*, the minister may issue a Dogwood Diploma or Adult Dogwood to a person who is engaged in a program of studies at an educational institution operated on First Nation Land by [NAME OF FIRST NATION] or a Community Education Authority if the minister is satisfied that the person:

- a) has completed a program of studies at the grade 12 level at the educational institution, and
- b) has achieved learning outcomes substantially similar to the learning outcomes necessary to meet the general requirements for graduation established by order of the minister.

5.3 The Parties acknowledge that First Nations Authorized Courses count toward graduation requirements for a Dogwood Diploma, as set out in the Ministry of Education's Board/Authority Authorized Courses policy.

6.0 COMMUNITY EDUCATION AUTHORITIES

6.1 If [NAME OF FIRST NATION] establishes a Community Education Authority to operate, administer and manage its Education system, [NAME OF FIRST NATION] will promptly inform British Columbia of the name of its Community Education Authority and the names of the [NAME OF FIRST NATION] Schools that the Community Education Authority will be operating.

7.0 TEACHER EMPLOYMENT INFORMATION

7.1 If [NAME OF FIRST NATION] or a Community Education Authority providing education on behalf of [NAME OF FIRST NATION] employs, in the capacity of a teacher, an FNEA Certified Teacher or a Certificate Holder, then by October 15 of the year in which that teacher is employed, [NAME OF FIRST NATION] will provide to British Columbia for inclusion in the employers list established and maintained under s. 80 of the *Teachers Act*:

- a) information that identifies any person employed in the capacity of teacher who is an FNEA Certified Teacher or a Certificate Holder; and
- b) identifies the employer for each of the individuals described in subsection (a).

7.2 British Columbia will provide the information received to the Director of Certification appointed under the *Teachers Act*.

7.3 The Director of Certification will include the information provided under section 7.1 in the employers list established under section 80 of the *Teachers Act* and will maintain the information for at least 10 years.

8.0 PROVINCIAL ASSESSMENTS

- 8.1 If requested, British Columbia will work with [NAME OF FIRST NATION] to:
- a) make provincial assessments described in the Graduation Program Order available to Students attending Participating First Nation Schools; and
 - b) establish appropriate protocols and/or procedures for conducting provincial assessments.

9.0 CONSULTATION BY BRITISH COLUMBIA

- 9.1 British Columbia agrees to consult [NAME OF FIRST NATION] regarding any contemplated action or decision by British Columbia that may affect the First Nations education system in British Columbia, the First Nations Education Authority, or a [NAME OF FIRST NATION] School, in a timely manner that allows for meaningful discussion and engagement before the action is taken or the decision is made.
- 9.2 For greater clarity, matters that British Columbia will consult on under section 9.1 include, but are not limited to proposed changes to provincial education policy, legislation, practices or standards that may affect the implementation of this Agreement, or any programs, assessments, teacher certification, graduation requirements, or curriculum offered by [NAME OF FIRST NATION] School(s).

10.0 NOTIFICATION OF CHANGES TO FIRST NATION LAWS, STANDARDS OR POLICIES

- 10.1 Where relevant to the implementation of this Agreement, [NAME OF FIRST NATION] will advise British Columbia of changes to its legislation, policies or standards regarding Education provided by or on behalf of [NAME OF FIRST NATION].

11.0 EFFECTIVE DATE OF AGREEMENT

- 11.1 This Agreement shall take effect once it has been executed by British Columbia and [NAME OF FIRST NATION].

12.0 REVIEW

- 12.1 The Parties agree to meet at least once per year to discuss the effectiveness and continued improvement of the implementation of this Agreement.

13.0 SHARED SERVICES

- 13.1 British Columbia will work with [NAME OF FIRST NATION] to explore and pursue shared services, purchasing opportunities, and reasonable cost access to provincial learning resources to benefit from economies of scale and to support their respective capacity, as the case may be.

14.0 INTERPRETATION

- 14.1 This Agreement is not a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 14.2 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 [NAME OF FIRST NATION] or British Columbia may take at any time with respect to the Aboriginal or treaty rights of [NAME OF FIRST NATION] or the exercise of those rights; or
 - c) restricting or limiting [NAME OF FIRST NATION] from entering into other agreements with British Columbia, Canada or other parties with respect to any matter, including those matters covered under this Agreement.
- 14.3 The Parties agree that this Agreement is not intended to preclude or impede the capacity of [NAME OF FIRST NATION] to pursue the further recognition of jurisdiction over education through other initiatives including self-government and treaty negotiations.
- 14.4 In this Agreement:
- a) unless it is otherwise clear from the context, a reference to a “section” means a section of this Agreement;
 - b) 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;
 - c) 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;
 - d) unless it is otherwise clear from the context, the use of the singular includes the plural and the use of plural includes the singular; and
 - e) where one or more Parties are mentioned in a provision of this Agreement, this will not be interpreted as implying or inferring any obligation on or acknowledgment by any Party not mentioned in that provision.
- 14.5 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 enforcement of the remaining provisions will not in any way be considered by the Parties to be affected or impaired.

Amendment

14.6 This Agreement may be amended by written agreement of the Parties.

Disputes

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

15.0 NOTICES AND COMMUNICATIONS

15.1 If to British Columbia:

Minister of Education
Office of the Deputy Minister
PO Box 9179 Stn Prov Govt
Victoria, BC V8W 9H8
Fax: (250) 356-2011

15.2 If to **[NAME OF FIRST NATION]:**

[CONTACT & ADDRESS]

15.3 Any notice to be given or communication made to a Party pursuant to this Agreement will be in writing and will be effectively given or made if delivered by hand, transmitted by facsimile transmission or sent by registered mail, to the appropriate address or facsimile number where so notified by that Party.

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

- a) if delivered by hand 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) if 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; or
- c) if mailed by registered post in Canada, five (5) 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 facsimile transmission.

