

October 18, 2001

CANADA/NEWFOUNDLAND/HEALTH LABRADOR CORPORATION
Child and Family Services Agreement

THIS AGREEMENT entered into the day of , 2001

BETWEEN:

Her Majesty the Queen in right of Canada
as represented by the Minister of Indian
Affairs and Northern Development
(Canada)

OF THE FIRST PART

- AND -

The Government of Newfoundland and Labrador
as represented by
the *Minister of Health and Community Services*
(Newfoundland and Labrador)

OF THE SECOND PART

- AND -

Health Labrador Corporation
(the Corporation)

OF THE THIRD PART

WHEREAS Newfoundland and Labrador has enacted the Child, Youth and Family Services Act and has established programs and services pursuant thereto;

AND WHEREAS the Corporation was established for the purpose of delivering programs and services for the Province and is designated as a child and family services agent under the provincial Act;

AND WHEREAS Order In Council No. P.C. 1997-7/415 dated March 19, 1997 empowers Canada to treat the Members of the Mushuau Innu and Sheshatshiu Innu communities as Status Indians on reserve land for the purpose of providing Programs and Services;

AND WHEREAS Canada is prepared to provide funding to assist the Corporation in delivering Programs and Services to Members of the Mushuau Innu and Sheshatshiu Innu communities.

NOW THEREFORE the parties, in consideration of these presents, covenant and agree as follows:

Part 1 - Definitions

- 1 In this Agreement:
- (a) "Act" means The Child, Youth and Family Services Act, S.N. 1998, c.C-12.1, as amended and any regulation thereunder;
 - (b) "Agreement" means this Agreement, and, where the context so requires, any Subsidiary Agreement entered into pursuant to this Agreement;
 - (c) "Member" means a person who is a resident or ordinarily resident of the Mushuau Innu or Sheshatshiu Innu communities, and who is registered or eligible for registration as an Indian in accordance with the terms of the Indian Act.
 - (d) "Ordinarily Resident" means the normal residence of a child and the child's parent(s)/guardian(s) at the time the child comes into the care of the Corporation.
 - (d) "Programs and Services" means the Child, Youth and Family programs and services provided by the Corporation pursuant to the Act and/or Provincial policies and standards, and the purposes of this Agreement.
 - (e) "Subsidiary Agreement" means one or more agreements entered into between one or more of the parties and the Corporation pursuant to this Agreement;
 - (f) "Tradition and Culture" means the language, values, beliefs, and customs of each of the Mushuau Innu and Sheshatshiu Innu communities; and
 - (g) "Child" means a person under the age of majority (19).

Part 2 - Purpose and Principles

Purpose of this Agreement

- 2 The purpose of this Agreement is to establish the principles and mechanisms whereby Programs and Services will be delivered to the Mushuau Innu and Sheshatshiu Innu communities and to outline the *roles* and responsibilities of the parties pursuant to the agreement.

Principles Apply to the Agreement

- 3 *Programs and Services will be provided in accordance with the following principles that are applied to the provision of the services under the CYFS Act, as amended from time to time:*
- (a) *the overriding and paramount consideration in any decision made under the Act shall be the best interests of the child;*
 - (b) *every child is entitled to be assured of personal safety, health and well-being;*
 - (c) *the family is the basic unit of society responsible for the safety, health and well-being of the child;*
 - (d) *the community has a responsibility to support the safety, health and well-being of a child and may require assistance in fulfilling this responsibility;*
 - (e) *prevention services are integral to the promotion of the safety, health and well-being of a child;*
 - (f) *kinship ties are integral to a child's self-development and growth and if a child's safety, health and well-being cannot be assured in the context of the family, the extended family shall be encouraged to care for the child provided that a director can be assured that the child's safety,*

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health and well-being will not be at risk;

- (g) the cultural heritage of a child shall be respected and connections with a child's cultural heritage shall be preserved; and*
- (h) In the absence of evidence to the contrary, there shall be a presumption that a child 12 years of age or over is capable of forming and expressing an opinion regarding his or her care and custody.*

Part 3 - Roles and Responsibilities

Canada

4 Canada shall:

- (a) provide to the Corporation, subject to the appropriation of sufficient funds from Parliament and pursuant to a Subsidiary Agreement to be entered into between Canada and the Corporation, financial resources to deliver child care services which will include:*

(i) assessment, counselling, referral, child protection and child placement services;

(ii) voluntary care, homemaker, daycare and similar services; and

(iii) other child care services as agreed upon by the parties.

And also includes the following:

(i) receive referrals from child protection and family strengthening services and provide child care services to reduce or eliminate any abuse or neglect of the child and/or, where necessary, to assist parents in providing for care of children who may be in need of protection;

(ii) investigate allegations or reports that a child may be in need of protection and where necessary, see that protection is provided and provide child care services for the benefit of the child;

(iii) provide care and supervision for children committed or assigned to the custody or guardianship of the Director of Child, Youth and Family Services, including the placement of children in foster homes or other facilities;

(iv) inspect or direct and supervise the inspection of the operations and records of any facility or other place where a child is placed pursuant to the CYFS Act; and

(v) perform such other duties as are prescribed by the Act.

- (b) advise the Corporation in writing on a timely basis of any intended changes to Canada's policies and programs regarding the matters that are the subject of this Agreement.*

Newfoundland and Labrador

5 Newfoundland and Labrador shall:

- (a) subject to appropriation from the House of Assembly continue to provide funding to the Corporation for such costs incurred by the Corporation for Programs and Services for which Newfoundland and Labrador has agreed*

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upon; and

- (b) advise the Corporation in writing of any intended changes to Newfoundland and Labrador's policies regarding the matters that are the subject of this Agreement.

Health Labrador Corporation (the Corporation)

6 The Corporation shall:

- (a) provide Programs and Services to Members in accordance with the principles outline in section 7 of the Act.

Joint Responsibilities

7 The parties jointly undertake to:

- (a) participate in a committee consisting of a representative from each of the parties, which committee shall meet not less than twice a year to:
 - (i) review and assess any matters related to this Agreement and any Subsidiary Agreements and submit a report together with recommendations, if any, of such meeting to each of the parties; and
 - (ii) make recommendations respecting adjustments to the level of funding if appropriate and the manner by which funding is to be provided to the Corporation;
- (b) advise each other of any proposed changes in policy, funding or legislation that might directly impact on this Agreement and any Subsidiary Agreements, and
- (c) work jointly toward the creation of Innu child and family services agencies in the communities of the Mushuau Innu and Sheshatshiu Innu during the term of this agreement.

Part 4 - Subsidiary Agreements

Objectives

- 8 It is the objective of the parties to implement this Agreement through one or more Subsidiary Agreement that shall provide for Programs and Services to be delivered by the Corporation.

Contents of Agreements

- 9 A Subsidiary Agreement that pertains to the funding of Programs and Services shall include:
 - (a) an outline of Programs and Services to be delivered by the Corporation;
 - (b) the amount of funding to be contributed by Canada ;
 - (c) the guidelines and criteria respecting the development and approval of budgets;
 - (d) the procedure respecting advance payments or the submission and reimbursement of costs for, or in respect of, a Program or Service;
 - (e) the accounting, audit, reporting obligations and the monitoring and performance review evaluations associated with the funding; and
 - (f) such other financial matters as may be required.
- 10 A Subsidiary Agreement shall include clauses providing for matters of confidentiality and rules respecting conflicts of interest.

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Copies of Agreements

- 11 The parties agree that copies of:
- all Subsidiary Agreements shall be provided to each of the parties; and
 - any other agreements between or among the parties dealing with the delivery of Programs and Services, or the funding of the delivery of such Programs and Services, shall be provided to each of the parties.

Part 5 - Financial Reporting and Liability Insurance**Corporation Financial Records and Accounts**

- 12 The Corporation shall ensure that it meets its obligations under any Subsidiary Agreements relating to the maintenance and provision of financial records and accounts.
- 13 Newfoundland *and Labrador* shall indemnify and save harmless Canada, their employees and agents, from any and all claims, demands, actions and costs whatsoever that may arise, directly, or indirectly out of any act or omission of Newfoundland *and Labrador* or its employees and agents, in the performance of this Agreement. Such indemnification shall survive termination of this Agreement.
14. *Canada shall indemnify and save harmless Newfoundland and Labrador and the Corporation, their employees, agents, from any and all claims, demands, actions and costs whatsoever that may arise, directly, or indirectly out of any act or omission of Canada or its employees and agents, in the performance of this Agreement. Such indemnification shall survive termination of this Agreement.*

Corporation Liability Insurance

- 15 Newfoundland *and Labrador* shall ensure that the Corporation purchases and maintains throughout the term of this Agreement the *insurance require by legislation*, public liability and property damage insurance against claims for personal injury, death or damage to property, arising out of any of the operations of the Corporation, or any of its officers, employees or agents in its fulfillment of this Agreement.
- * [16 *Newfoundland and Labrador shall ensure that the Corporation submits to Canada and Newfoundland and Labrador certified copies of liability and property policies or certificates in lieu thereof, evidencing said insurance as requested by Canada and Newfoundland and Labrador.*

Part 6 - Implementation**Term and Currency of this Agreement**

- 17 This Agreement comes into effect concurrently with the execution of Subsidiary Agreements between Canada and the Corporation and Newfoundland and Labrador and the Corporation and shall continue unless and until terminated pursuant to Section 26.

Amendments

- 18 Amendments to this Agreement may be made in writing with the consent of the parties.

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Applicable Legislation

19 This Agreement shall be carried out in accordance with terms of all applicable laws of Canada and Newfoundland *and Labrador*.

Survival of Terms

20 *Sections 13 and 14* shall survive the termination or expiration of this Agreement.

No Assignment of Agreement

- 21 No party shall assign or transfer this Agreement or any of the rights or obligations under this Agreement without first obtaining written permission from the other parties.
- 22 No assignment or transfer of this Agreement shall relieve any of the parties of any obligation under this Agreement, except to the extent they are properly performed by that party's permitted assigns.
- 23 This Agreement shall be binding upon the successors and any permitted assigns of the parties.

Senate, House of Commons, Legislative Assembly

24 No Member of the Senate, the House of Commons of Canada, *the House of Assembly of Newfoundland and Labrador*, shall be admitted to any share or part of this Agreement or to any benefit arising therefrom, directly or indirectly, provided that Programs and Services delivered by the Agency pursuant to this Agreement shall be deemed not to be a benefit.

Dispute Resolution

25 The parties agree that any disputes arising between them concerning this agreement or any interpretation thereof shall be settled in accordance with the Commercial Arbitration Act of Newfoundland *and Labrador*. *The venue of all arbitration proceedings shall be the Department of Health and Community Services, St. John's Newfoundland*, unless otherwise agreed to by the parties.

Termination of Agreement

26 This Agreement:

- (a) *shall terminate on March 31st _____ (Interim agreement with the option to renew) during the currency of this Agreement, provided that one of the parties has given notice in writing to the other parties of its intention to terminate the Agreement.*
- (b) shall terminate upon termination of one or more of the Subsidiary Agreements between:
- (i) Canada and the Corporation
 - (ii) Newfoundland *and Labrador* and the Corporation
- (c) may be terminated at the option of Canada or Newfoundland *and Labrador* immediately upon the Corporation :
- (i) being adjudged bankrupt

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- (ii) making a general assignment for the benefit of creditors
- (iii) being placed in receivership
- (iv) being liquidated, or
- (v) losing its mandate or being otherwise dissolved under provincial legislation; or

(d) may be terminated at the option of one or more parties, following a reasonable period of notice given in writing by one of the parties to any other party that such other party is in default of its obligations under this Agreement and the other party fails to remedy such default within a reasonable period of time; and

(e) *all eligible costs incurred up to the date of termination of this Agreement shall be paid by Canada.*

NOTICE

27 Any notices required pursuant to this Agreement shall be delivered personally, by registered pre-paid mail or courier, or sent by fax or similar form of transmitted message, directed to the parties at the addresses indicated below. Any notice delivered personally, by registered pre-paid mail or courier shall be deemed to be received on the date of actual delivery thereof. Any notice sent by fax or similar form of transmitted message shall be deemed to have been received on the next business day following transmission.

(f) To Canada:

Regional Director General
Indian and Northern Affairs
Atlantic Region

(g) To Newfoundland and Labrador:

Assistant Deputy Minister of
Policy and Program Services Branch
Department of Health and Community Services

(c) To Health Labrador Corporation:

Chief Executive Officer
Health Labrador Corporation
P.O. Box 7000 STN. A
Happy Valley-Goose Bay
Labrador,
A0P 1S0

28 Nothing in this Agreement shall affect the continuing delivery of programs and services by Canada or Newfoundland and Labrador other than Programs and Services as defined in the subsidiary agreements.

IN THE WITNESS THEREOF this Agreement has been signed on behalf of Canada by the Honorable Robert Nault, Minister of Indian Affairs and Northern Development, or an authorized signatory, this _____ day of _____, 2001, A.D.

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Witness

Minister of Indian Affairs and
Northern Development, or authorized
signatory

IN THE WITNESS THEREOF this Agreement has been signed on behalf of
Newfoundland and Labrador by the Honorable Minister of Health &
Community Services, or an authorized signatory, this day of
2001, A.D.

Witness

Minister of Health & Community Services,
authorized signatory

IN THE WITNESS THEREOF this Agreement has been signed on behalf of
Newfoundland and Labrador by the Honorable Minister of
Intergovernmental Affairs, or an authorized signatory, this day of
, 2001, A.D.

Witness

Minister of Intergovernmental Affairs,
authorized signatory

IN THE WITNESS THEREOF this Agreement has been signed by the Chief
Executive Officer of Health Labrador Corporation, or an authorized signatory this
day of
, 2001, A.D.

Witness

Chief Executive Officer,
Health Labrador Corporation, or authorized
Signatory