

**CHILD SUPPORT AGREEMENT BETWEEN THE NEZ PERCE TRIBE AND  
THE STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH  
SERVICES, DIVISION OF CHILD SUPPORT**

**Preamble**

The Nez Perce Tribe (the Tribe) and the Washington State Department of Social and Health Services, Division of Child Support (DCS) enter into this Agreement with acknowledgement and respect for their mutual sovereignty and with the intention of manifesting a cooperative government-to-government relationship with regard to Child Support establishment and enforcement.

The Tribe is authorized to enter into this Agreement pursuant to the Tribe's Constitution, the by-laws adopted by the General Council of the Nez Perce Tribe on May 6, 1961, and the Nez Perce Tribal Code. DCS is authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Revised Code of Washington, Chapter 39.34.

The Tribe and DCS declare that it is in their mutual interests to agree upon procedures for adjudication, according to the Tribe's laws and customs, of the establishment and enforcement of Child Support obligations where the Nez Perce Tribal Court has jurisdiction and where an American Indian will be affected. The Tribe and DCS declare that there are a significant number of families where at least one family member is an American Indian, where the custodial parent resides in the State of Washington and where the parent responsible for (or allegedly responsible for) Child Support resides on the Reservation. The Tribe and DCS declare that it is in their mutual interest to agree upon procedures in which a DCS authorized representative can bring such cases directly in, and have such cases adjudicated by, the Nez Perce Tribal Court, according to the Tribe's laws and customs.

The Tribe and DCS declare that it is in their mutual interest to agree upon procedures for the reciprocal recognition and enforcement of Child Support orders and judgments which have been made by, or which are sought to be enforced by, each of them.

The Tribe and DCS declare that this Agreement is consistent with, and is intended to further, the declared national policy of protecting the best interests of children by providing a more effective and efficient way by which these children may be maintained from the resources of responsible parents, thereby relieving, at least in part, the burden presently borne by the custodial parent and/or the general citizenry.

It is the intention of the parties that this Agreement be liberally construed to effectuate its intent and purposes.

## **Article I – Purpose**

The purpose of this Agreement is to establish procedures whereby DCS can file in Nez Perce Tribal Court certain Child Support establishment and enforcement cases, as further specified below, and have them adjudicated by the Nez Perce Tribal Court, according to the Tribe's laws and customs.

The purpose of this Agreement is to establish procedures for the reciprocal granting of full faith and credit to, and enforcement of, certain Child Support orders and judgments, as further specified below, which have been made by, or which are sought to be enforced by, the Tribe, Nez Perce Tribal Court or DCS.

## **Article II – Definitions**

**Another Tribe or other Tribe**: Any federally recognized Indian Tribe, other than the Nez Perce Tribe.

**Authorized DCS Representative**: A person authorized to file actions in Nez Perce Tribal Court on behalf of DCS who is a member in good standing of the Nez Perce Tribal Bar.

**Child**: Any person under the age of 18 owed a duty of Child Support under the laws of the Tribe, another Tribe or a State; or any person over the age of 18 for whom a Child Support Order has been issued by Nez Perce Tribal Court, by another Tribal court, or pursuant to the laws of a State.

**Child Support**: A payment of money, or the provision of in-kind support (whether or not assigned a monetary value) or traditional and customary support (whether or not assigned a monetary value), or the provision of any benefit (including, but not limited to, payment for health insurance coverage, extraordinary medical expenses, dental expenses, work-related daycare expenses, transportation expenses, educational expenses), or arrearages with respect to any of the foregoing, or any other payment of money or benefit provided which is intended for the support or care of a child, regardless of whether such support is denominated as Child Support, spousal support, alimony, maintenance and regardless of whether such support is to be provided in periodic amounts, at periodic times, in a lump sum or at one time.

**Child Support Guidelines**: A set of instructions to a court, which are either mandatory or advisory to the court, for example, which specify, for purposes of determining Child Support, what may be treated as "income" and what may not, or what may be counted as a deduction from income and what may not, or which describes the situations where the court may deviate from the amounts required under a Child Support Schedule, and other such matters related to establishing a Child Support obligation.

**Child Support Order**: Any judgment, decree or order requiring the payment of Child Support which has been issued by Nez Perce Tribal Court, by another Tribal court, or pursuant to the laws of a State, consistent with the provisions of the federal Full Faith and Credit for Child Support Orders Act, 28

U.S.C. 1738B et seq., regardless of whether such judgment, decree or order is permanent or temporary, and regardless of whether such judgment, decree or order is the initial (first) such judgment, decree or order, or a modification of a prior such judgment, decree or order.

**Child Support Schedule**: A schedule of definite and fixed monthly money amounts of Child Support required for a child where the amounts vary according to the combined monthly net income of the mother and father of the child (and where the amounts are apportioned to the mother and father according to their respective percentages of the combined monthly net income), the number of children for whom the non-custodial parent is required to pay Child Support, and the age of each child concerned.

**Conference Board**: A grievance or dispute resolution process, provided under Washington State laws and regulations (but not a formal hearing process governed by the Administrative Procedures Act of Washington, RCW 34.05) in which a panel of Support Enforcement Officers, chaired by an attorney employed by DCS, either with or without a hearing to receive statements from the concerned parties, may consider various claims, including but not limited to, a claim that, if DCS proceeds with a particular Child Support enforcement action (which it is otherwise authorized to pursue), it will result in substantial financial hardship to the non-custodial parent or his or her immediate family, and in which, said Conference Board may, if it finds such claim to be meritorious, grant various forms of relief from such enforcement action.

**Continuing Exclusive Jurisdiction**: The sole authority of the State or other Tribal court to modify the existing Child Support Order because either the non-custodial parent, or the custodian, or the child who were subject to such existing Child Support Order still resides within the State or within the jurisdiction of the other Tribal court, unless the non-custodial parent and the custodian and the child all consent, in writing or on the Nez Perce Tribal Court record, to transfer of jurisdiction over the existing Child Support Order to the Nez Perce Tribal Court.

**Custodian**: Any person having the care, physical custody and control of any child or children under the laws of the Tribe, another Indian Tribe or a State.

**DCS**: The State of Washington, Department of Social and Health Services, Division of Child Support.

**Final Judgment**: The final determination of the rights of the parties in an action.

**Foreign Child Support Order**: A Child Support Order issued under the laws of another Tribe or a State.

**In-kind Support**: Child Support in the form of things (including, but not limited to, clothing, firewood, diapers, etc.) which are intended to satisfy the basic needs of a child.

**Indian Owned Business**: An Indian-owned business located on the Reservation.

**Interstate Enforcement Referral**: A request for child support establishment, enforcement, or modification services made to DCS by another Tribe or State.

**Laws of the Nez Perce Tribe**: The Nez Perce Tribal Constitution (including as hereafter amended), the Nez Perce Tribal Code (including as hereafter amended); resolutions of the Nez Perce Tribal Executive Committee; and the judgments, decrees and orders of the Nez Perce Tribal Court which are in effect as of the date of this Agreement and which come into effect during the duration of this Agreement.

**Nez Perce Tribal Court**: The court established pursuant to the Nez Perce Tribal Constitution and the Nez Perce Tribal Code (“Code”).

**Non-custodial Parent**: A person owing a duty to pay Child Support under the laws of the Tribe, another Indian Tribe or a State, or under a Child Support Order.

**Possible Father**: A man, other than the putative father who may be the father of the child concerned because of sexual contact with the mother of the child within either six (6) weeks prior to, or six (6) weeks after, the estimated date of conception of that child, where paternity of that child has not been established by Nez Perce Tribal Court or by another Tribal court or pursuant to the laws of a State.

**Putative Father**: The man believed by the mother to be the father of a child and whose paternity of that child has not been established by Nez Perce Tribal Court or by another Tribal court or pursuant to the laws of a State.

**Reservation**: The lands and areas within the borders of the Nez Perce Tribe’s reservation.

**State**: A State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

**Traditional or Customary Support**: Child Support which has been found by the Nez Perce Tribal Court to be support for a child, according to the laws, traditions, customs or practices of the Nez Perce Tribe (including, but not limited to, fish, game, venison, etc.).

**Tribe**: The Nez Perce Tribe.

**Washington State Child Support Order**: A Foreign Child Support Order made pursuant to the laws of the State of Washington, either administratively by the State of Washington, Department of Social and Health Services, or by the Superior Court of the State of Washington.

### Article III – Paternity Actions

1. DCS, through an authorized DCS representative, shall have standing to file, on behalf of the child, and to pursue to final judgment, in Nez Perce Tribal Court (hereinafter “Nez Perce Tribal Court” is referred to as “Tribal Court”), a Petition for Establishment of Paternity (“Paternity action”), as well as to appeal such final judgment and obtain a final appellate decision, pursuant to the Code, and in particular Code Chapter 2-2, Code Section 5-1-25 et seq. and Code Chapter 2-9, so long as all of the following are satisfied:

- (a) The mother or custodian of the child is receiving or has received public assistance on behalf of the child from the State of Washington, or the mother or the custodian of the child has requested Child Support enforcement services from DCS, or there has been an Interstate Enforcement Referral to DCS to establish the paternity of the child; and
- (b) The putative father or a possible father lives on the Reservation, or is employed by the Tribe or a Tribal enterprise or by an Indian owned business, or the putative father or a possible father is otherwise subject to the jurisdiction of Tribal Court under the laws of the Nez Perce Tribe.

2. DCS and the Tribe agree that, where DCS has satisfied the Tribal Court, based on evidence determined sufficient by the Tribal Court, that (1) there is a reasonable possibility that sexual contact occurred between the mother and the putative father and/or a possible father such that the Tribal Court is satisfied that the child concerned may have been conceived as a result of such contact; and (2) the putative father disputes paternity, or there is more than one possible father; the Tribal Court may order that the child, mother, putative father and any possible father submit to paternity testing, by means of each providing a sample of their respective genetic material by buccal swabbing<sup>1</sup>, pursuant to the testing procedures of Laboratory Corporation of America<sup>2</sup> (“LabCorp”) and according to the currently applicable contractual rates<sup>3</sup> of DCS. If the Tribal Court orders such paternity testing by LabCorp, a copy of the testing results, including an affidavit from the expert who performed such tests as to the procedures used and as to his or her qualifications, shall be submitted to the Tribal Court, as well as to each of the parties to the paternity action. The putative father and any possible father shall have a full and fair opportunity at a hearing to gain information about the security, validity, and interpretation of such tests and the qualifications of the expert(s) performing the tests. The Tribal Court may consider published sources as aids to interpretation of the testing results. The Tribal Court may admit such paternity testing results as evidence in any paternity action.

3. If the Tribal Court, based at least in part on the paternity testing results as to a putative father or possible father in a Paternity action which have been made a part of the Tribal Court record,

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1. A cotton swab rubbed inside the mouth.

2. Which has a contract with DCS, as of the date of this Agreement.

3. As of the date of this Agreement, currently applicable costs for testing are \$57 per person tested.

enters an order finding that said putative father or said possible father is the natural and biological father of the child, the Tribal Court may enter an order requiring said father to reimburse DCS for the costs of said paternity testing incurred by DCS. Notwithstanding the paternity testing results, it shall be in the sole discretion of the Tribal Court to decide whether any party to the Paternity action shall be ordered to reimburse DCS the costs of said paternity testing incurred by DCS.

#### **Article IV – Establishment Actions**

1. DCS, through an authorized DCS representative, shall have standing to file, on behalf of the child, and to pursue to final judgment, in Tribal Court, a Petition for Establishment of Child Support (“Establishment action”), as well as to appeal such final judgment and obtain a final appellate decision, pursuant to the Code, and in particular Code Chapter 2-2, Code Section 5-1-25 et seq., Code Section 4-5-12 et seq., and Code Chapter 2-9, so long as all of the following are satisfied:

- (a) The custodian of the child is receiving or has received public assistance on behalf of the child from the State of Washington, or the custodian of the child has requested Child Support enforcement services from DCS, or there has been an Interstate Enforcement Referral to DCS to establish the support obligation for the child; and
- (b) The non-custodial parent lives on the Reservation, or is employed by the Tribe or a Tribal enterprise or by an Indian owned business, or the non-custodial parent is otherwise subject to the jurisdiction of Tribal Court under the laws of the Nez Perce Tribe.

#### **Article V – Enforcement Actions**

1. DCS, through an authorized DCS representative, shall have standing to file, on behalf of the child, and to pursue to final judgment, in Tribal Court, a Petition for Recognition and Enforcement of Foreign Child Support Order (“Enforcement action”), as well as to appeal such final judgment and obtain a final appellate decision, pursuant to the Code, and in particular Code Chapter 2-2, Rule 56 and Code Chapter 2-9, so long as all of the following are satisfied:

- (a) The custodian of the child is receiving or has received public assistance on behalf of the child from the State of Washington, or the custodian of the child has requested Child Support enforcement services from DCS, or there has been an Interstate Enforcement Referral to DCS to enforce a Foreign Child Support Order; and
- (b) The non-custodial parent lives on the Reservation, or is employed by the Tribe or a Tribal enterprise or by an Indian owned business, or the non-custodial parent is otherwise subject to the jurisdiction of Tribal Court under the laws of the Tribe.

2. A Foreign Child Support Order which has been properly recognized by the Tribal Court, pursuant to this Agreement, and Code Chapter 2-2, Rule 56, shall be enforceable according to the original terms of the Foreign Child Support Order, pursuant to the remedies for enforcement which are

available under the laws of the Nez Perce Tribe; provided that the non-custodial parent may raise, in the Tribal Court, any defense he or she may have to the Foreign Child Support Order, that is available under the laws of the Nez Perce Tribe, including a claim of in-kind or traditional or customary support.

#### **Article VI – Garnishment Actions**

1. With respect to any Child Support Order of the Tribal Court (including a Foreign Child Support Order which has properly been recognized by the Tribal Court, under the provisions of Article V of this Agreement) DCS, through an authorized DCS representative, shall have standing to file, on behalf of the child, and to pursue to final judgment, a Motion For Writ of Garnishment of a non-custodial parent’s wages received from the Tribe, a Tribal enterprise or an Indian owned business (“Garnishment action”), in accordance with the laws of the Nez Perce Tribe, in particular, Code Section 2-7-5. DCS shall also have standing to appeal such final judgment and obtain a final appellate decision, pursuant to Code Chapter 2-9.

2. The immunity of the Nez Perce Tribe from suit in the Nez Perce Tribal Court and no other court, is waived for the limited purpose of allowing enforcement of child support orders through the process of garnishment in those cases where the regulations of this agreement have been met. The Nez Perce Tribe shall answer any written garnishment and shall hold the wages of any tribal employee in accordance with an order issued by the Nez Perce Tribal Court. Upon further order of the Nez Perce Tribal Court, the Nez Perce Tribe shall pay so much of the employee wages as might be held by the Tribe to the Court as required by a Tribal Court order. Notwithstanding any other part or provision of this Agreement, no judgment may be entered against the Nez Perce Tribe in such garnishment action which would obligate the Tribe to pay over any moneys except for wages otherwise owed the employee and actually held or accrued for the benefit of the individual by the Nez Perce Tribe for the judgment debtor at the time that the order to pay over is made by the Tribal Court. Provided further, that the Nez Perce Tribe shall not under any circumstances be liable for any support award, any penalty, interest, cost or attorneys’ fees if the Nez Perce Tribe fails to act as required by a court order or statute, including failure to answer the writ.

3. The periodic amount and the period of garnishment of wages in a Garnishment action shall be determined by the Tribal Court, according to the laws of the Nez Perce Tribe.

#### **Article VII – Modification Actions**

1. The Tribal Court may modify a Foreign Child Support Order which has properly been recognized by the Tribal Court under the provisions of Article V of this Agreement, and which either the Tribe, DCS, the non-custodial parent or the custodian properly seeks to modify in Tribal Court (“Modification action”), so long as, all of the following are satisfied:

- (a) The Tribal Court has personal jurisdiction over the non-custodial parent, the Custodian and the Child; and
- (b) The Tribal Court has subject matter jurisdiction over the provision(s) of the Child

- Support Order which are sought to be modified; and
- (c) The other Tribal court or State that issued the Foreign Child Support Order no longer has continuing exclusive jurisdiction; or that other Tribal court or State still has continuing exclusive jurisdiction, but the non-custodial parent, custodial parent and DCS consent to transfer of jurisdiction to the Tribal Court; and
  - (d) The non-custodial parent, custodian and DCS are provided with reasonable notice and an opportunity to be heard in Tribal Court on the Modification action.

2. In any Modification action properly brought under the preceding paragraph, the Tribal Court shall have the authority to modify the Child Support Order only prospectively, and not retroactively, from the date that the Modification action was initiated by petition, motion or other similar pleading properly filed in Tribal Court, according to the laws of the Tribe.

### **Article VIII – IRS Certification Actions**

1. With respect to any Child Support Order of the Tribal Court (including a Foreign Child Support Order which has properly been recognized by the Tribal Court, under the provisions of Article V of this Agreement) in which DCS has an interest (because the custodian of the child is receiving or has received public assistance on behalf of the child from the State of Washington, or the custodian of the child has requested Child Support enforcement services from DCS, or there has been an Interstate Enforcement Referral to DCS to enforce a Foreign Child Support Order) and which DCS enforces, or is seeking to enforce, by means of referral to the federal Internal Revenue Service (IRS) for interception of the non-custodial parent’s income tax refund(s), the non-custodial parent shall be entitled to a hearing in Tribal Court (“IRS Certification action”), so long as, all of the following are satisfied:

- (a) The non-custodial parent is informed of his or her right to request an administrative review of his or her case by a DCS support enforcement officer and/or to request a Conference Board; and
- (b) The Tribal Court has personal jurisdiction over the non-custodial parent and the custodian; and
- (c) The custodian and DCS are provided with reasonable notice and an opportunity to be heard, including the right to participate by telephone in any such hearing, in Tribal Court on the IRS Certification action.

2. In any IRS Certification action, the Tribal Court shall have the authority to order DCS not to make a referral to the IRS for interception of the non-custodial parent’s income tax refund(s), if the Tribal Court makes a finding, after a hearing (reasonable notice of which and an opportunity to be heard is provided to the custodian and DCS) that the non-custodial parent, or his or her immediate family for whom he or she has financial responsibility, will suffer substantial financial hardship, if the non-custodial parent’s income tax refund(s) from the federal government are intercepted to satisfy the non-custodial parent’s Child Support obligations under a valid Child Support Order of the Tribal Court (including a Foreign Child Support Order which has properly been recognized by the Tribal Court,

under the provisions of Article V of this Agreement).

### **Article IX – Charge-off Actions**

1. With respect to any Washington State Child Support Order which has properly been recognized by the Tribal Court, under the provisions of Article V of this Agreement, and under which the non-custodial parent owes Child Support arrearages to the State of Washington on the basis of public assistance paid to a custodian, on behalf of a child, pursuant to such Washington State Child Support Order (“Washington State arrearages”), the non-custodial parent shall be entitled to a hearing in Tribal Court (“Charge-off action”), so long as, all of the following are satisfied:

- (a) The non-custodial parent is informed of his or her right to request an administrative review of his or her case by a DCS support enforcement officer and/or to request a Conference Board; and
- (b) The Tribal Court has personal jurisdiction over the non-custodial parent and the custodian; and
- (c) The custodian and DCS are provided with reasonable notice and an opportunity to be heard, including the right to participate by telephone in any such hearing, in Tribal Court on the Charge-off action.

2. In any Charge-off action, the Tribal Court shall have the authority to find that some or all of the Washington State arrearages should be charged-off, or to set a repayment schedule by the non-custodial parent with respect to those arrearages, provided that, the Tribal Court shall have such authority only if it determines, after a hearing (reasonable notice of which and an opportunity to be heard is provided to the custodian and DCS) that at least one of the following grounds have been sufficiently established by the non-custodial parent: (1) the non-custodial parent, or his immediate family for whom he or she has financial responsibility, will suffer substantial financial hardship if the non-custodial parent is required to repay the Washington State arrearages; (2) the probable costs to DCS to collect the Washington State arrearages exceed the amount of those arrearages; (3) the non-custodial parent and DCS have reached settlement regarding a disputed claim; or (4) there is an error or legal defect with respect to the claim for such Washington State arrearages which reduces the possibility of DCS collecting those arrearages.

## **Article X – Payment**

Notwithstanding Section 5-1-27 of the Code, DCS and the Tribe agree that, in any action described by this Agreement in which the custodian is receiving public assistance from the State of Washington on behalf of a child subject to a Child Support Order; or in which there are Child Support arrearages owing to another Tribe or State, pursuant to a Foreign Child Support Order under an Interstate Enforcement Referral (including one that has been properly recognized by the Tribal Court under Article V of this Agreement); or in which Child Support arrearages are owing to the custodian and the custodian has requested Child Support enforcement services from DCS; the Tribal Court shall provide that all current Child Support payments and payments toward Child Support arrearages which are ordered to be made by the non-custodial parent, or (in the case of a Garnishment action) by the Tribe, Tribal enterprise or Indian owned business, shall be made to the following address and with the following designation:

Washington State Support Registry  
PO Box 45868  
Olympia, WA 98504  
IVD Case No. \_\_\_\_\_  
Individual No. \_\_\_\_\_

## **Article XI – Governing Law**

In any Paternity action, Establishment action, Enforcement action, Modification action, IRS Certification action, or Charge-off action, the governing law shall be this Agreement and the laws of the Nez Perce Tribe; provided that, in an Enforcement action, where the Foreign Child Support Order has not been subject to a Modification action, and the issue is interpretation of the provisions of the Foreign Child Support Order, the Tribal Court shall apply the law of the other Tribal court or the State that issued the Foreign Child Support Order; provided further that, if, after the date of this Agreement, there are changes in federal law, which are applicable to DCS, and which concern referral by DCS to the IRS for garnishment of income tax refunds of any non-custodial parents, such federal law changes shall be applied by the Tribal Court in any IRS Certification actions, but only to the extent such changes modify the provisions of this Agreement; and provided further that, if, after the date of this Agreement, there are changes in Washington State law, which concern charge-off of Washington State arrearages, such Washington State law changes shall be applied by the Tribal Court in any Charge-off actions, but only to the extent such changes modify the provisions of this Agreement.

## **XII – Nez Perce Tribal Child Support Schedule and Child Support Guidelines**

DCS and the Tribe acknowledge that, as of date of this Agreement, the Tribe has not adopted its own Child Support Schedule or Child Support Guidelines. DCS and the Tribe agree that they will work together to develop a Nez Perce Tribal Child Support Schedule and/or Nez Perce Child Support Guidelines, consistent with any federal requirements for such, and that they will make their best efforts to

complete the draft(s) of such document(s), ready for consideration by the Nez Perce Tribal Executive Committee, within one (1) year of the date of this Agreement. DCS and the Tribe agree that, at such time as the Tribe, by resolution of the Nez Perce Tribal Executive Committee, adopts such Nez Perce Tribal Child Support Schedule and/or Nez Perce Tribal Child Support Guidelines, such Schedule and/or Guidelines shall, for purposes of this Agreement, be treated as included within the “laws of the Nez Perce Tribe,” as used in this Agreement.

### **Article XIII – In-kind Support and Traditional and Customary Support**

1. In a Modification action or Charge-off action concerning modification of, or charge-off of Child Support arrears under, a Washington State Child Support Order, the Tribal Court shall be permitted to adjudge, as against a money amount of Child Support required under such Order, an offset or credit, for any in-kind support or traditional or customary support that the non-custodial parent promises, on the record of the Tribal Court, to provide for the child in the future, or which the non-custodial parent has proven, on the record of the Tribal Court and to its satisfaction, that he or she has provided for the child in the past; provided that, such offset or credit shall be reduced, by the Tribal Court, to a definite money amount; and provided further that, the amount of such offset or credit shall not, in any case, reduce the original cash amount of Child Support under the Washington State Child Support Order by more than fifty percent (50%).

2. DCS and the Tribe agree that the preceding paragraph shall not limit, in any way, the authority of the Tribal Court to decide the amount of Child Support, including the amount, form, or manner of payment of in-kind support, or traditional or customary support, to be provided by the non-custodial parent in an Establishment action, as set forth in Article IV of this Agreement, and that the requirement of reducing the in-kind or traditional or customary support to a definite money amount and the fifty percent (50%) limitation mentioned in the preceding paragraph shall not apply in such Establishment action.

### **Article XIV – Notice by Tribal Court to DCS - Intervention**

1. After the date of this Agreement, where there is any case involving establishment, modification, or enforcement of Child Support filed in Tribal Court, and where the custodian resides in the State of Washington, the Tribal Court will ask the custodian if she or he is receiving or has received public assistance, on behalf of the child, from the State of Washington, or if she or he has requested Child Support enforcement services from the State of Washington; and, if the custodian answers affirmatively, the Tribal Court shall provide notice to DCS<sup>4</sup> of such proceeding.

2. The Tribe agrees that, with respect to any action described in the preceding paragraph, DCS, through an authorized DCS representative, shall have standing to file a Motion to Intervene as a Party in such action, according to the laws of the Tribal Court. DCS shall be permitted by Tribal Court to intervene as a necessary party to such action, so long as:

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4. Tribal Unit, Division of Child Support B32-9, PO Box 2560, Spokane, WA 99220-2560

- (a) the custodian, on behalf of the child, is receiving or has received public assistance from the State of Washington; the non-custodial parent owes Child Support arrearages to the State of Washington; and the custodian has assigned to DCS his or her right to receive Child Support from the non-custodial parent in return for receiving public assistance on behalf of the child; or
- (b) DCS has accepted from the custodian a written application for Non Assistance Support Enforcement Services.

#### **Article XV- Stay of Other DCS Enforcement Actions By Tribal Court**

DCS agrees that, where the Tribal Court has issued an order concerning the establishment or enforcement of Child Support in any action described by this Agreement, including an action described by the previous section XIV, and where the non-custodial parent is in substantial compliance with the material provisions of such order, and where DCS could otherwise, on the basis of a Foreign Child Support Order or an order of Tribal Court, take other enforcement actions (which, for purposes of this Agreement, shall mean enforcement actions not provided for in a Tribal Court order) against the assets of the non-custodial parent in the State of Washington, DCS shall not pursue such other enforcement actions, so long as such non-custodial parent is in such substantial compliance. Provided that, for purposes of this Agreement, “such other enforcement actions” shall not include IRS Certification actions as described by section VIII of this Agreement.

#### **Article XVI – Full Faith and Credit And Enforcement of Tribal Court Child Support Orders**

1. DCS shall give full faith and credit to any order issued by the Tribal Court in accordance with this Agreement.
2. DCS shall give full faith and credit to any Child Support Order issued by the Tribal Court which has been made consistent with the provisions of the federal Full Faith and Credit For Child Support Orders Act (28 U.S.C. 1738B et seq.); and DCS shall take all appropriate enforcement actions with respect to such Child Support Order which the Tribe, a State, another Tribe or the custodian requests DCS to enforce to the extent such enforcement is consistent with the federal Full Faith and Credit For Child Support Orders Act (28 USC 1738B et seq.).
3. Any custodian, on behalf of a child who is entitled to support under any Child Support Order issued by the Tribal Court, may apply to DCS to enforce the Child Support Order against the non-custodial parent. Upon acceptance of an application for Non Assistance Support Enforcement Services, DCS shall take appropriate action to enforce the Child Support Order, without imposing a fee, unless required by state or federal law.

#### **Article XVII - Mutual Exchange of Information for Child Support Establishment and Enforcement**

In order to achieve the purposes of this Agreement, the Tribe and DCS agree that, upon reasonable written request of the other, it will provide the other promptly with any of the following information in its possession with respect to either the non-custodial parent or the custodian: verification of employment, name of employer, salary, physical address, mailing address, social security number, and medical insurance coverage for the non-custodial parent or the custodian and any of his/her children. The Tribe and DCS agree that the information described in this paragraph shall be used solely for purposes of establishing and enforcing Child Support obligations. The Tribe and DCS shall comply with federal and Washington state laws and regulations, and the laws of the Nez Perce Tribe, with regard to the confidentiality of the information described in this paragraph.

### **Article XVIII – Service of Process on the Reservation**

The Tribe agrees that DCS, when initiating any action pursuant to this Agreement, may utilize the Tribe's law enforcement office (the Tribal Police) for the service of process on non-custodial parents residing on the Reservation, and DCS agrees to pay the then-applicable fee for such services.

### **Article XIX - Review and Disagreement**

This Agreement shall be reviewed at the request of either party. The parties will periodically discuss any concerns they may have with the implementation or interpretation of this Agreement. The Tribe and DCS acknowledge that there may arise instances where one party believes that the other has violated a provision of this Agreement, or that clarification is necessary to interpret a provision of this Agreement, or that a change in Title IVD of the Social Security Act or its implementing regulations may require a modification of the provisions of this Agreement. In such an instance, the parties agree that they will first each make a good faith effort to resolve the matter amicably through mutual discussion and agreement. If the matter cannot be resolved through such good faith effort by each party, the parties, by mutual agreement, may request that a mediator resolve the dispute; provided that, if the parties requests such mediation, the costs of such mediation shall be born equally by the parties, and the rules governing such mediation shall be mutually agreed upon by the parties; provided further that, it shall not be a requirement that such mediation be invoked or exhausted before a party invokes the provisions of Article XX of this Agreement.

### **Article XX – Term of Agreement and Termination**

This Agreement may be terminated by either party, upon thirty (30) days written notice to the other party.

## **Article XXI – Miscellaneous**

1. Nothing in this Agreement shall limit the right of any individual to bring his or her own separate paternity action or Child Support action in any forum of his or her choice.
2. DCS and the Tribe shall each bear its own expenses that each may incur in implementing its respective responsibilities under this Agreement.
3. Cases pending in Tribal Court as of the date of termination of this Agreement shall, notwithstanding said termination, be completed to final judgment or final appeal decision, according to the terms of this Agreement.
4. In the event that the federal government determines that any provision of this Agreement would violate the State of Washington's IV-D Plan, said provision shall be null and void to the extent of such violation, but the remaining provisions of this Agreement shall be in full force and effect.
5. This Agreement constitutes the entire agreement between DCS and the Tribe on Child Support matters and supercedes any prior agreement between DCS and the Tribe on Child Support matters.
6. Nothing in this Agreement is intended to, nor shall it affect, the inherent authority of the Tribe to initiate any action in tribal, state or federal court to enforce any right of the Tribe or of any of its members.

On the 27 day of August, 2001, DCS and the Tribe hereby approve this Agreement, through the following persons, each in their representative capacities:

Samuel N. Penney  
Samuel N. Penney, Chairman  
Nez Perce Tribal Executive Committee

Arthur M. Taylor, Jr.  
Arthur M. Taylor, Jr., Secretary  
Nez Perce Tribal Executive Committee

Dennis Braddock  
Dennis Braddock, Secretary  
Department of Social & Health Services

John Atherton  
John Atherton, Assistant Secretary  
Economic Services Administration

Georgiann DeKay  
Georgiann DeKay, Acting Director  
Division of Child Support