

**British Columbia – First Nations  
Proposed Commitment Document  
2015**

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**To: First Nations Leaders and Members of the BC Cabinet**

Over a year has passed since the historic *Tsilhqot'in* decision by the Supreme Court of Canada, and we are now about to hold the 2nd Annual BC Cabinet-First Nations Leaders Gathering to bring our respective leadership together to engage in common issues before us. We also celebrate the 10th anniversary of the New Relationship vision document that the Province and First Nations reached in 2005.

Today, we find ourselves with new circumstances and new opportunities informing this relationship. We are experiencing changes on the landscape of social issues, lands and resources, the economy, technology and case law such as the *Tsilhqot'in* decision. The *Tsilhqot'in* decision confirms that we must revitalize our efforts to build new relations grounded in the recognition of Aboriginal title and rights.

Over the past year, our shared understanding has deepened that change is needed and the status quo cannot continue. The future of our children, families, the environment and the economy depend on it.

Concrete action, and new and creative approaches, at all levels is required – in direct government-to-government relationships, negotiations, policies and laws, fiscal relations and decision-making.

To help move this fundamental change forward, the First Nations Leadership Council and the Province have developed a proposed Commitment Document setting out a proposed joint agenda and action plan for significant work to be done.

We are seeking your review, input and guidance on the Commitment Document and confirmation that it represents appropriate courses of action required to guide our mutual work.

The Commitment Document will be presented at the September 8th – 10th BC Cabinet–First Nations Leaders Gathering and will be the subject of follow-up dialogue and approvals through our respective processes.

If the direction proposed is supported, the work will begin in earnest, with a robust process of engaging First Nations and a commitment to inclusivity and transparency.

This is not intended to be a long, drawn-out process. It is meant to be about real action and change, in real and tangible ways, that will set us collectively on course to a revitalized relationship and a positive future grounded in recognition of Aboriginal title and rights, and reconciliation of our respective titles and jurisdiction.

Sincerely,



John Rustad  
Minister of Aboriginal Relations and Reconciliation

First Nations Leadership Council



Grand Chief Stewart Phillip  
Union of BC Indian Chiefs




Chief Bob Chamberlin  
Union of BC Indian Chiefs



Chief Judy Wilson  
Union of BC Indian Chiefs



Grand Chief Edward John  
First Nations Summit



Cheryl Casimer  
First Nations Summit



Robert Phillips  
First Nations Summit



Regional Chief Shane Gottfriedson BC  
Assembly of First Nations

We are all here to stay.

These are the words spoken by the Supreme Court of Canada in 1997, and the starting words of our mutual acknowledgement in the New Relationship vision document, developed in 2005.

Ten years later, we find ourselves with new circumstances and new opportunities informing this relationship. We are experiencing changes on the landscape of social issues, lands and resources, the economy, technology and case law such as the *Tsilhqot'in* decision.

Over the past ten years, we have experienced both successes and challenges. Many strong relationships have been built between the Province and First Nations through agreements and community initiatives, which have supported First Nations to strengthen their communities and culture and have led to partnerships in economic development. However, there is still much work to be done. We have yet to come to a common understanding of what it means to engage in a government-to-government relationship based on recognition of aboriginal title and rights as is evidenced by our different perspectives on the Four Principles which were presented by Chiefs to the Province for endorsement at the inaugural September 2014 BC Cabinet-First Nations Gathering.

Maintaining the *status quo* is not an option. Acknowledging our challenges and building on our successes from the past ten years, it is critical that we find a way forward with real and concrete actions so we can together build a bright future for our children.

## **Commitment**

We remain committed to a “government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights” and to the “reconciliation of Aboriginal and Crown titles and jurisdictions”, as we agreed in the New Relationship.

As articulated by the Supreme Court of Canada, reconciliation of pre-existing Aboriginal societies with the assertion of Crown sovereignty is an imperative set out in section 35 of the *Constitution Act, 1982*. The section 35 framework permits a principled reconciliation of Aboriginal rights with the interests of all Canadians. The courts have provided some guidance on how to advance reconciliation, but have encouraged the Crown governments and First Nations to work out the details of advancing reconciliation on the ground. Aboriginals and non-Aboriginal people are “all here to stay” and must of necessity move forward in a process of reconciliation.

We commit to jointly design a creative, constructive, pragmatic and organized approach to giving life to the section 35 framework in British Columbia, with tangible milestones to demonstrate progress.

Reconciliation is a journey. There is a multitude of ways to express what reconciliation means, and how it may be achieved through ongoing processes. The following are examples of the many articulations and dimensions of reconciliation:

*“Reconciliation requires constructive action on addressing the ongoing legacies of colonialism that have had destructive impacts on Aboriginal peoples’ education, cultures and languages, health, child welfare, the administration of justice, and economic opportunities and prosperity.” (Truth and Reconciliation Commission, 2015)*

*“Reconciliation must create a more equitable and inclusive society by closing the gaps in social, health, and economic outcomes that exist between Aboriginal and non-Aboriginal Canadians.” (Truth and Reconciliation Commission, 2015)*

*“Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith...” (UNDRIP)*

*“As Delgamuukw explains, the process of reconciling Aboriginal interests with the broader interests of society as a whole is the raison d’être of the principle of justification. Aboriginals and non-Aboriginals are “all here to stay” and must of necessity move forward in a process of reconciliation (para. 186).” (SCC, Tsilhqot’in, para. 82)*

*“What is at stake is nothing less than justice for the Aboriginal group and its descendants, and the reconciliation between the group and broader society.” (SCC, Tsilhqot’in, para. 23)*

We acknowledge there is a need for - and commit to jointly developing, advancing and implementing - additional concrete actions and creative approaches that better reflect our circumstances today, and which support reconciliation and this government-to-government relationship.

The process used to shape and develop our work moving forward must be inclusive, open, transparent and timely. Specifically, it is proposed that the engagement process:

- must provide for effective and informed input from First Nations leaders and communities;
- will engage all levels of the BC Government;
- will include business, industry and advocacy groups; and
- will include the Government of Canada.

### **Joint Agenda: Core Elements of the Work**

The Province and the First Nations Leadership Council (BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs) (the “FNL”) have developed the following proposed joint agenda and action plan for advancing the Crown-First Nation relationship in British Columbia and to come up with a principled framework for reconciliation, including concrete actions, measures and steps, in a manner that is appropriate for a post-*Tsilhqot’in* environment, and with a clear timeline that identifies tangible progress.

It is envisioned that this work will achieve a principled and substantive approach to reconciliation that will include:

#### **1. Vision**

A joint updated vision for the Crown-First Nation relationship in British Columbia, which builds from New Relationship, in the context of social issues, lands and resources and the economy. The vision may also reflect on the role of the Government of Canada.

#### **2. Guiding principles**

Guiding principles for reconciliation, building from those set out in the New Relationship. It is anticipated this will include or reflect principles about the relationship and reconciliation as articulated by the courts, as well as principles agreed to in political accords to date in BC between the Province and First Nations (e.g. *Tsawwassen Accord*, *Transformative Change Accord*).

### **3. Goals and objectives**

Mutual and respective goals and objectives for reconciliation, and associated actions, measures and steps. It is anticipated these would include achieving predictability and stability in the economy, and closing the socio-economic gap that persists between First Nations and non-First Nations.

### **4. Partnerships and Cultural Understandings**

Measures to build partnerships and strengthen cultural understandings between First Nations and the Crown, as well as with others (e.g. industry). The objective of advancing and achieving reconciliation is not an issue limited to the Crown and First Nations. It is an imperative of society as a whole and there are many potential partners to help successfully achieve this objective.

### **5. Processes and structures**

Action with regard to:

- a. Identifying and establishing new institutions, processes, and structures to support or facilitate reconciliation efforts;
- b. Designing new negotiation and dispute resolution approaches;
- c. Supporting First Nations capacity and governance development; and
- d. Determining and advancing strategies and actions to ensure the Government of Canada fulfills the federal Crown's obligations.

### **6. Systemic Supports: Legislation, Policy and Other Options**

Concrete legislative, policy or other options and ideas for facilitating and supporting an improved and constructive relationship. These may initially focus on key legislation, policies or practices that have given rise to conflict in the relationship (e.g. environmental assessment, online mineral staking). It is anticipated that options will include a process for improved and effective engagement on the collaborative development of new legislation, policies and practices, or reform of existing ones.

## Themes to Address

The work will require dialogue about a number of key themes, including:

*Reconciliation and Recognition* – Aboriginal rights and title exists in British Columbia. First Nations, the Province and Canada must find ways to reconcile our respective jurisdictions, governance, laws and responsibilities.

*Strengthening the Economy* – Having a strong and resilient economy is a shared interest and is critical to our mutual success. First Nations must be full partners in economic development and growth.

*Lands and Resources* – Aboriginal people have a unique connection to the land and resources in British Columbia and sustainable resource development is a key component of British Columbia's economy. Collaborative environmental stewardship can ensure our lands and resources are used sustainably and into the future.

*Social and Economic Gaps* – Closing the social and economic gap between Aboriginal peoples and other British Columbians to achieve healthy and strong Aboriginal communities is a shared objective and priority.

*Advancing Successful Negotiations* – Negotiation offers a path to collaboration and finding creative ways to address our respective interests, and the preferable path to reconciliation.

In addressing these themes, the work should reflect upon and consider lessons learned since 2005, including:

- progress and opportunities that have been made;
- a frank assessment of what has and has not worked;
- the implications, challenges, and opportunities for implementing the principles and standards of *Tsilhqot'in* across British Columbia, including recognizing the proper Title and Rights holders;
- the respective work that First Nations and Crown governments must do to effect a transformation in relations; and
- reflect on strengths and how to address gaps in the relationships.

Acknowledging that a large body of work already exists and should be built upon moving forward, the work should consider relevant materials including the following:

- New Relationship Vision;
- Transformative Change Accord;
- The Supreme Court of Canada's decision in *Tsilhqot'in* and other jurisprudence;
- The Four Principles developed by First Nations Chiefs in 2014;
- The strategic objectives of the Premier and Cabinet;
- The *United Nations Declaration on the Rights of Indigenous Peoples*;
- Truth and Reconciliation Commission Reports;
- Recognition Working Group materials;
- Recognition and Reconciliation legislative initiative;
- All Chiefs Task Force Report (2009);
- Materials developed by the Union of BC Indian Chiefs, First Nations Summit, and BC Assembly of First Nations that inform the development of a reconciliation framework, and movement to a post-*Tsilhqot'in* environment;
- Royal Commission on Aboriginal Peoples Report;
- First Nations Leadership Council report on shared territories and overlaps;
- Industry and business reports and publications;
- Government reports and publications.

### **Proposed Implementation & Engagement Process**

The implementation of this joint agenda will be overseen by the Members of the Provincial Cabinet and the FNLC, who will jointly determine milestones/timelines to be met, as informed by input gathered through the engagement process.

A Joint Core Working Group will be established to undertake this work in accordance with this proposed commitment document.

We recognize that meaningful engagement and information sharing will be critical in making progress in the coming year. We commit to developing a joint engagement workplan that is based on an inclusive, open, transparent and timely process.



### First Nations Engagement

The FNLC proposes the following processes for First Nations engagement:

- Two All Chiefs Assemblies, in addition to regularly scheduled BCAFN, UBCIC and FNS assemblies;
- Team/working group to present in any Nation;
- Regional sessions; and
- First Nations Organizations (sectoral councils);
- Legal advisory team (to which any First Nation can send a representative).

### BC Government Engagement

The Premier and Cabinet provide the policy direction of Government and will be informed by:

- Policy and legal working group to include and encourage advice from cross-government; and
- Premier's office involvement and linkage to core working group.

The following components are engagement pieces that will be approached jointly:

### Business and Industry Engagement

The engagement process will create diverse opportunities for outreach and engagement with business and industry. Engagement with business and industry will occur through existing associations and groups including Business Council of British Columbia, sector associations such as Clean Energy BC, Mining Association of BC, AME-BC, COFI, etc. Engagement may take a variety of forms including dialogue sessions, presentations, written, etc and may be joint or bilateral.

### Federal Government Engagement

The Federal government has a critical role to play in reconciliation and engaging on a Nation-to-Nation basis with BC First Nations. The FNLC and Province of BC agree that it's important to jointly approach the Federal Government and ensure the Federal government fulfills the federal Crown's obligations.

### Public Awareness and Other Stakeholders

We jointly agree there will be other relevant stakeholders such as social service agencies that may want input and information regarding this work. This will be considered as part of the overall engagement workplan.

Consideration will be given to finding ways to raise public awareness and understanding of the unique and important nature of the relationship between First Nations and the Provincial Crown.

The actions in this proposed Commitment Document now form the agenda for the coming year between First Nations Leadership Council and the Province, with milestones/timelines to be jointly determined, and informed by input from the engagement process, as a priority step. It is proposed that the Province be represented by members of the BC Cabinet. This will include an Annual meeting on progress to include the Premier.

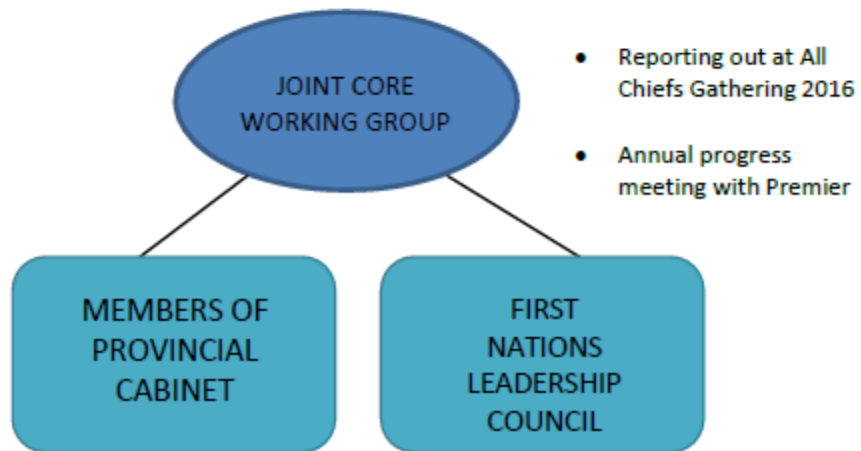
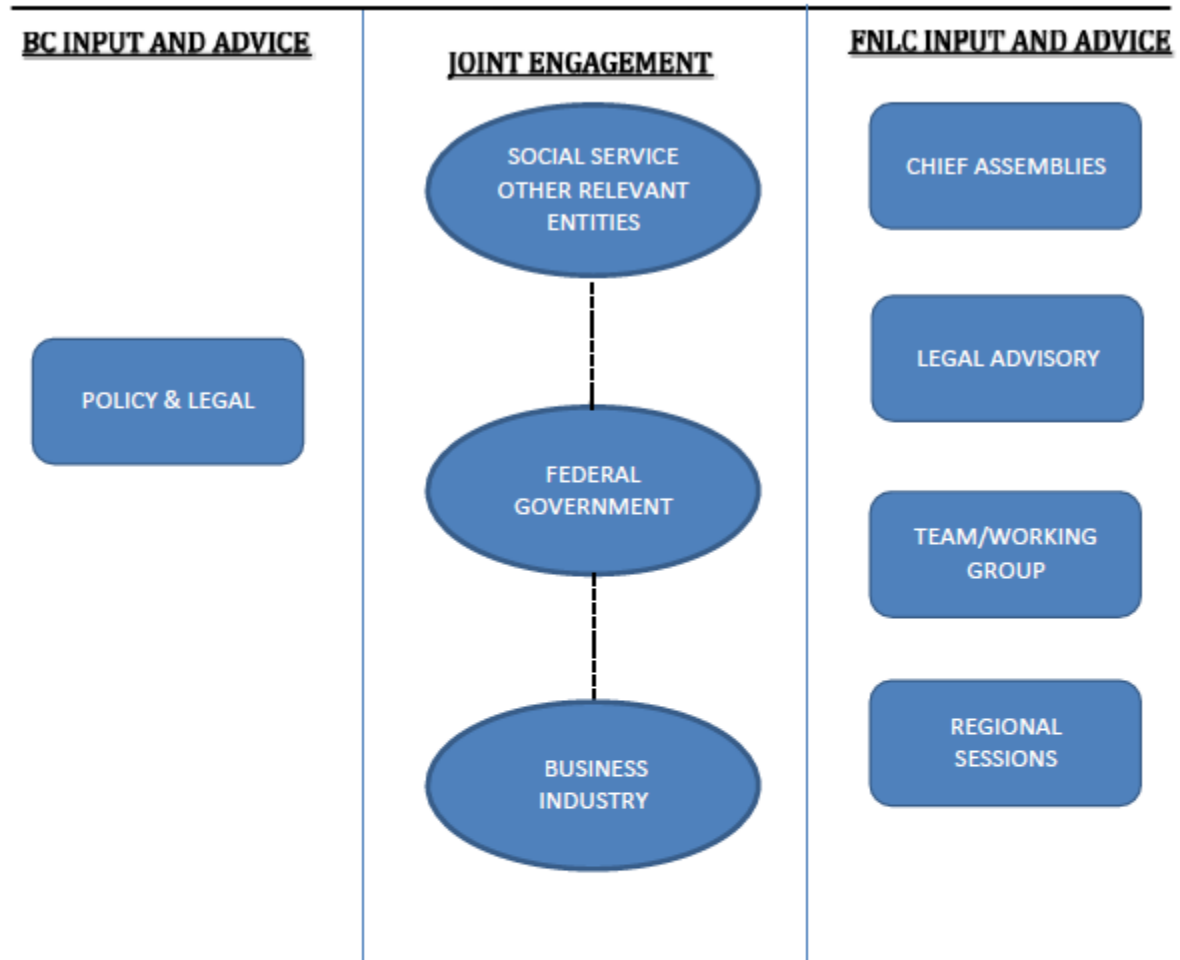
A formal report out will occur at the next annual BC Cabinet First Nations Leaders Gathering in September 2016, with other reporting as set out in the proposed Implementation and Engagement Process.

Province commits to resourcing the joint work and engagement process.

A proposed engagement and reporting structure is attached.

Ratification processes will be implemented as appropriate.

**ENGAGEMENT WORKPLAN:**



**FOR ILLUSTRATION PURPOSES ONLY**

# Joint Agenda: Implementing the Commitment Document

## Shared Vision, Guiding Principles, Goals and Objectives

### VISION 2018

As expressed in the 2005 New Relationship vision, the Province of British Columbia and First Nations in British Columbia remain determined to achieve a government-to-government relationship based on respect, recognition and accommodation of Aboriginal title and rights, and to the reconciliation of Aboriginal and Crown titles and jurisdictions.

In light of the changing legal, political, economic and social landscape, we are updating our shared vision of and framework for an effective Crown-First Nation relationship in British Columbia, that includes concrete actions and measures for ensuring tangible and real change to the *status quo*.

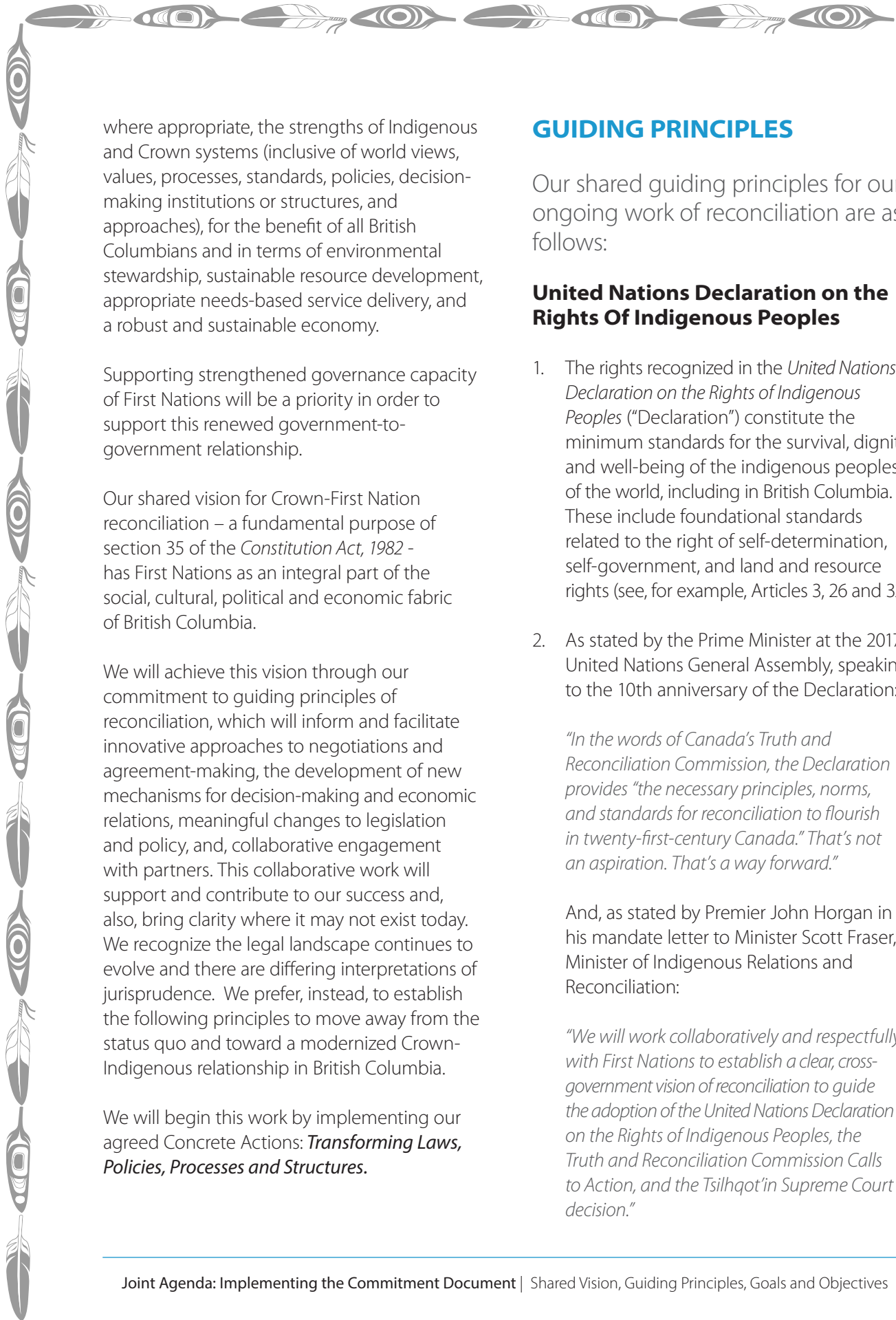
We will jointly design, construct and implement a principled, pragmatic and organized approach to implement the section 35 *Constitution Act*, 1982 framework in British Columbia, the Tsilhqot'in



decision and other established law, the *United Nations Declaration on the Rights of Indigenous Peoples*, and the Truth and Reconciliation Commission's Calls to Action - with tangible milestones to demonstrate progress. We also endorse for application in BC the Principles respecting the Government of Canada's relationship with Indigenous peoples (July 2017), which we will determine in collaboration and which are consistent with the Four Principles developed by BC First Nations in 2014. We acknowledge, too, the roles the federal Crown must play in our work of reconciliation.

First Nations and the Crown will work toward strong, sophisticated and valued government-to-government relationships, with clear principles, mutual and respective responsibilities, and accountabilities. This renewed and modernized relationship will clarify and include space for the exercise of our respective jurisdictions, governance, laws and responsibilities, including through new processes and institutions, with the aim of benefitting from and integrating,





where appropriate, the strengths of Indigenous and Crown systems (inclusive of world views, values, processes, standards, policies, decision-making institutions or structures, and approaches), for the benefit of all British Columbians and in terms of environmental stewardship, sustainable resource development, appropriate needs-based service delivery, and a robust and sustainable economy.

Supporting strengthened governance capacity of First Nations will be a priority in order to support this renewed government-to-government relationship.

Our shared vision for Crown-First Nation reconciliation – a fundamental purpose of section 35 of the *Constitution Act, 1982* – has First Nations as an integral part of the social, cultural, political and economic fabric of British Columbia.

We will achieve this vision through our commitment to guiding principles of reconciliation, which will inform and facilitate innovative approaches to negotiations and agreement-making, the development of new mechanisms for decision-making and economic relations, meaningful changes to legislation and policy, and, collaborative engagement with partners. This collaborative work will support and contribute to our success and, also, bring clarity where it may not exist today. We recognize the legal landscape continues to evolve and there are differing interpretations of jurisprudence. We prefer, instead, to establish the following principles to move away from the status quo and toward a modernized Crown-Indigenous relationship in British Columbia.

We will begin this work by implementing our agreed Concrete Actions: ***Transforming Laws, Policies, Processes and Structures.***

## GUIDING PRINCIPLES

Our shared guiding principles for our ongoing work of reconciliation are as follows:

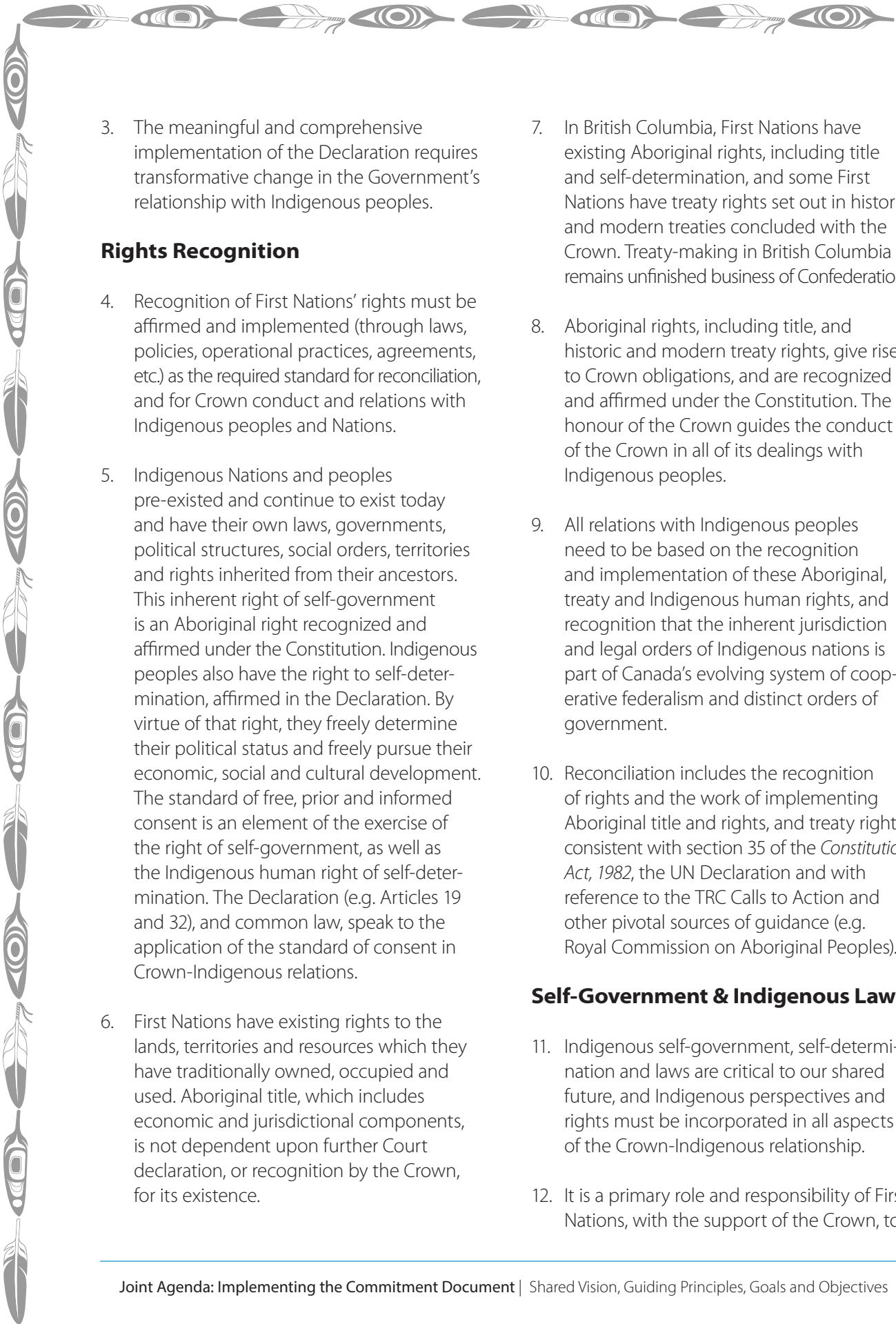
### United Nations Declaration on the Rights Of Indigenous Peoples

1. The rights recognized in the *United Nations Declaration on the Rights of Indigenous Peoples* (“Declaration”) constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world, including in British Columbia. These include foundational standards related to the right of self-determination, self-government, and land and resource rights (see, for example, Articles 3, 26 and 32).
2. As stated by the Prime Minister at the 2017 United Nations General Assembly, speaking to the 10th anniversary of the Declaration:

*“In the words of Canada’s Truth and Reconciliation Commission, the Declaration provides “the necessary principles, norms, and standards for reconciliation to flourish in twenty-first-century Canada.” That’s not an aspiration. That’s a way forward.”*

And, as stated by Premier John Horgan in his mandate letter to Minister Scott Fraser, Minister of Indigenous Relations and Reconciliation:

*“We will work collaboratively and respectfully with First Nations to establish a clear, cross-government vision of reconciliation to guide the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission Calls to Action, and the Tsilhqot’in Supreme Court decision.”*



3. The meaningful and comprehensive implementation of the Declaration requires transformative change in the Government's relationship with Indigenous peoples.

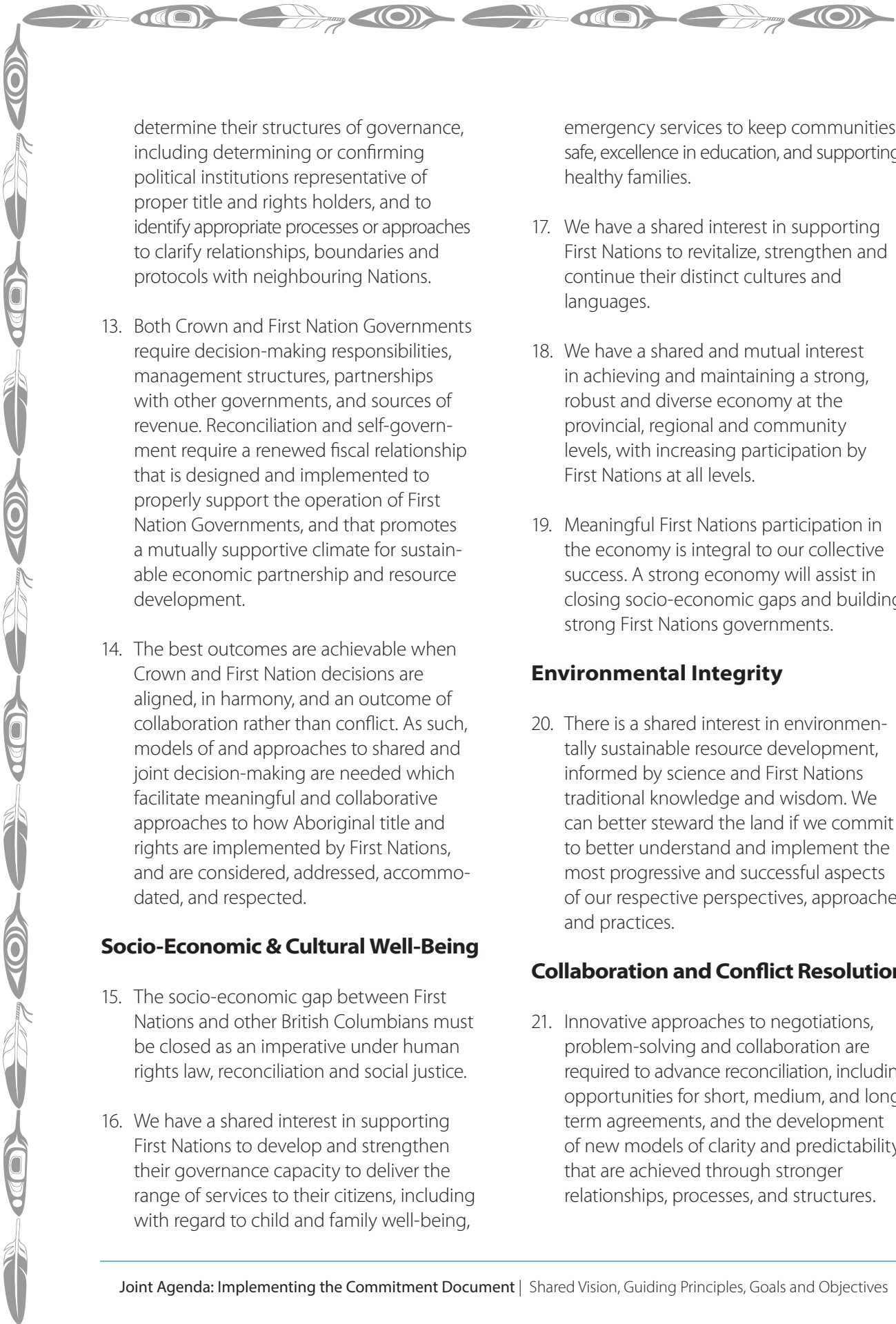
### **Rights Recognition**

4. Recognition of First Nations' rights must be affirmed and implemented (through laws, policies, operational practices, agreements, etc.) as the required standard for reconciliation, and for Crown conduct and relations with Indigenous peoples and Nations.
5. Indigenous Nations and peoples pre-existed and continue to exist today and have their own laws, governments, political structures, social orders, territories and rights inherited from their ancestors. This inherent right of self-government is an Aboriginal right recognized and affirmed under the Constitution. Indigenous peoples also have the right to self-determination, affirmed in the Declaration. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. The standard of free, prior and informed consent is an element of the exercise of the right of self-government, as well as the Indigenous human right of self-determination. The Declaration (e.g. Articles 19 and 32), and common law, speak to the application of the standard of consent in Crown-Indigenous relations.
6. First Nations have existing rights to the lands, territories and resources which they have traditionally owned, occupied and used. Aboriginal title, which includes economic and jurisdictional components, is not dependent upon further Court declaration, or recognition by the Crown, for its existence.

7. In British Columbia, First Nations have existing Aboriginal rights, including title and self-determination, and some First Nations have treaty rights set out in historic and modern treaties concluded with the Crown. Treaty-making in British Columbia remains unfinished business of Confederation.
8. Aboriginal rights, including title, and historic and modern treaty rights, give rise to Crown obligations, and are recognized and affirmed under the Constitution. The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.
9. All relations with Indigenous peoples need to be based on the recognition and implementation of these Aboriginal, treaty and Indigenous human rights, and recognition that the inherent jurisdiction and legal orders of Indigenous nations is part of Canada's evolving system of cooperative federalism and distinct orders of government.
10. Reconciliation includes the recognition of rights and the work of implementing Aboriginal title and rights, and treaty rights, consistent with section 35 of the *Constitution Act, 1982*, the UN Declaration and with reference to the TRC Calls to Action and other pivotal sources of guidance (e.g. Royal Commission on Aboriginal Peoples).

### **Self-Government & Indigenous Laws**

11. Indigenous self-government, self-determination and laws are critical to our shared future, and Indigenous perspectives and rights must be incorporated in all aspects of the Crown-Indigenous relationship.
12. It is a primary role and responsibility of First Nations, with the support of the Crown, to



determine their structures of governance, including determining or confirming political institutions representative of proper title and rights holders, and to identify appropriate processes or approaches to clarify relationships, boundaries and protocols with neighbouring Nations.

13. Both Crown and First Nation Governments require decision-making responsibilities, management structures, partnerships with other governments, and sources of revenue. Reconciliation and self-government require a renewed fiscal relationship that is designed and implemented to properly support the operation of First Nation Governments, and that promotes a mutually supportive climate for sustainable economic partnership and resource development.
14. The best outcomes are achievable when Crown and First Nation decisions are aligned, in harmony, and an outcome of collaboration rather than conflict. As such, models of and approaches to shared and joint decision-making are needed which facilitate meaningful and collaborative approaches to how Aboriginal title and rights are implemented by First Nations, and are considered, addressed, accommodated, and respected.

### **Socio-Economic & Cultural Well-Being**

15. The socio-economic gap between First Nations and other British Columbians must be closed as an imperative under human rights law, reconciliation and social justice.
16. We have a shared interest in supporting First Nations to develop and strengthen their governance capacity to deliver the range of services to their citizens, including with regard to child and family well-being,

emergency services to keep communities safe, excellence in education, and supporting healthy families.

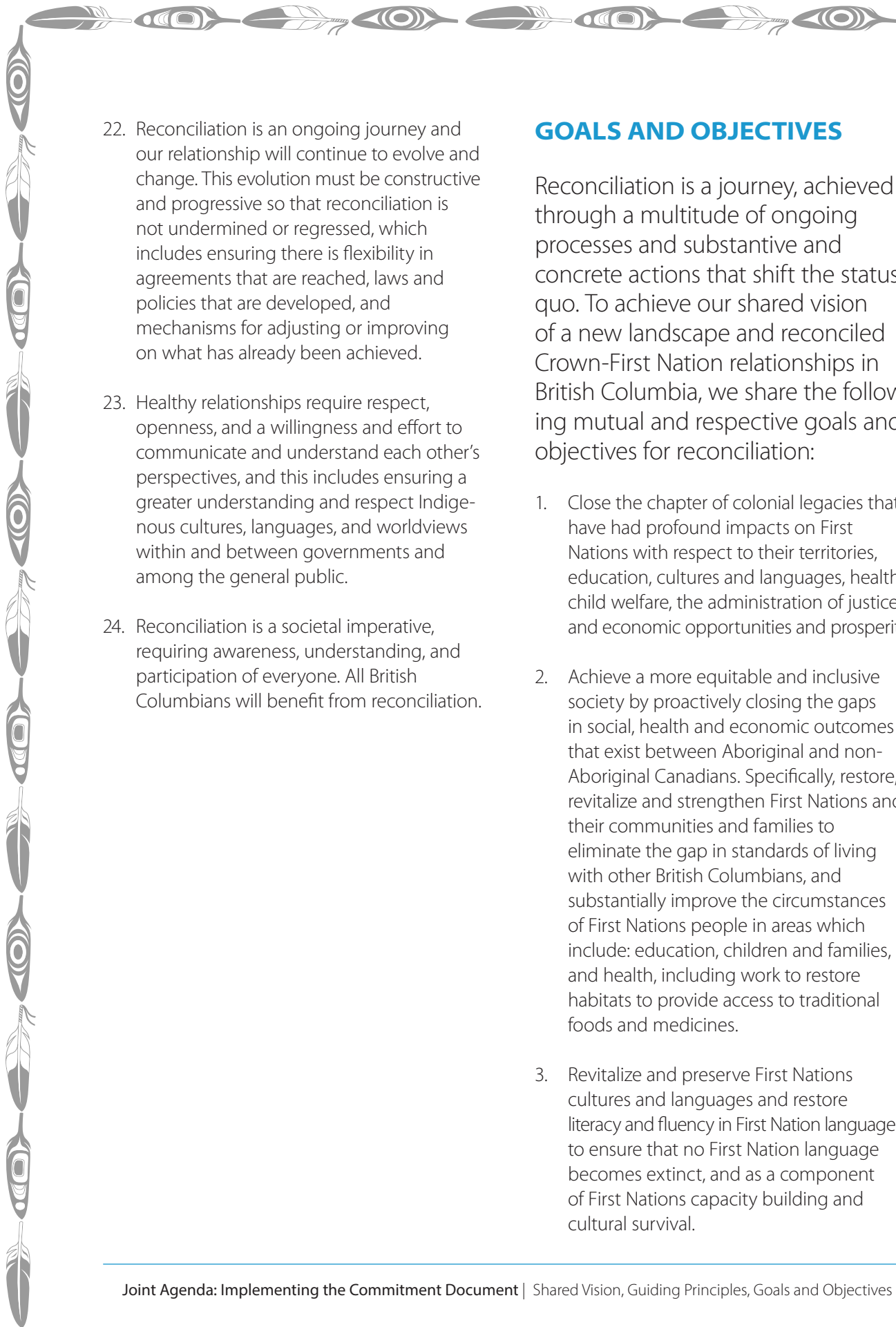
17. We have a shared interest in supporting First Nations to revitalize, strengthen and continue their distinct cultures and languages.
18. We have a shared and mutual interest in achieving and maintaining a strong, robust and diverse economy at the provincial, regional and community levels, with increasing participation by First Nations at all levels.
19. Meaningful First Nations participation in the economy is integral to our collective success. A strong economy will assist in closing socio-economic gaps and building strong First Nations governments.

### **Environmental Integrity**

20. There is a shared interest in environmentally sustainable resource development, informed by science and First Nations traditional knowledge and wisdom. We can better steward the land if we commit to better understand and implement the most progressive and successful aspects of our respective perspectives, approaches and practices.

### **Collaboration and Conflict Resolution**

21. Innovative approaches to negotiations, problem-solving and collaboration are required to advance reconciliation, including opportunities for short, medium, and long-term agreements, and the development of new models of clarity and predictability that are achieved through stronger relationships, processes, and structures.



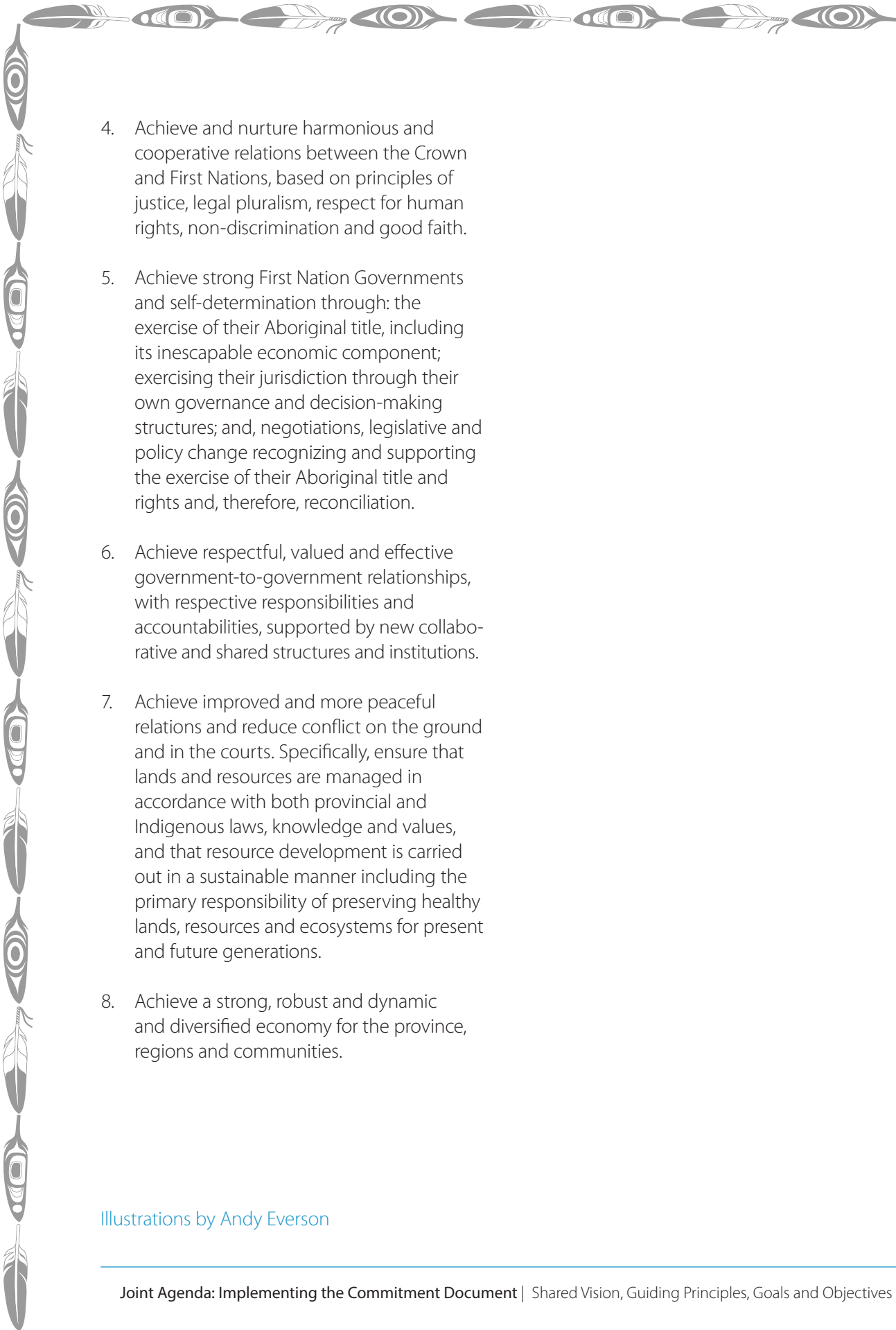
22. Reconciliation is an ongoing journey and our relationship will continue to evolve and change. This evolution must be constructive and progressive so that reconciliation is not undermined or regressed, which includes ensuring there is flexibility in agreements that are reached, laws and policies that are developed, and mechanisms for adjusting or improving on what has already been achieved.
23. Healthy relationships require respect, openness, and a willingness and effort to communicate and understand each other's perspectives, and this includes ensuring a greater understanding and respect Indigenous cultures, languages, and worldviews within and between governments and among the general public.
24. Reconciliation is a societal imperative, requiring awareness, understanding, and participation of everyone. All British Columbians will benefit from reconciliation.

## GOALS AND OBJECTIVES

Reconciliation is a journey, achieved through a multitude of ongoing processes and substantive and concrete actions that shift the status quo. To achieve our shared vision of a new landscape and reconciled Crown-First Nation relationships in British Columbia, we share the following mutual and respective goals and objectives for reconciliation:

1. Close the chapter of colonial legacies that have had profound impacts on First Nations with respect to their territories, education, cultures and languages, health, child welfare, the administration of justice, and economic opportunities and prosperity.
2. Achieve a more equitable and inclusive society by proactively closing the gaps in social, health and economic outcomes that exist between Aboriginal and non-Aboriginal Canadians. Specifically, restore, revitalize and strengthen First Nations and their communities and families to eliminate the gap in standards of living with other British Columbians, and substantially improve the circumstances of First Nations people in areas which include: education, children and families, and health, including work to restore habitats to provide access to traditional foods and medicines.
3. Revitalize and preserve First Nations cultures and languages and restore literacy and fluency in First Nation languages to ensure that no First Nation language becomes extinct, and as a component of First Nations capacity building and cultural survival.





4. Achieve and nurture harmonious and cooperative relations between the Crown and First Nations, based on principles of justice, legal pluralism, respect for human rights, non-discrimination and good faith.
5. Achieve strong First Nation Governments and self-determination through: the exercise of their Aboriginal title, including its inescapable economic component; exercising their jurisdiction through their own governance and decision-making structures; and, negotiations, legislative and policy change recognizing and supporting the exercise of their Aboriginal title and rights and, therefore, reconciliation.
6. Achieve respectful, valued and effective government-to-government relationships, with respective responsibilities and accountabilities, supported by new collaborative and shared structures and institutions.
7. Achieve improved and more peaceful relations and reduce conflict on the ground and in the courts. Specifically, ensure that lands and resources are managed in accordance with both provincial and Indigenous laws, knowledge and values, and that resource development is carried out in a sustainable manner including the primary responsibility of preserving healthy lands, resources and ecosystems for present and future generations.
8. Achieve a strong, robust and dynamic and diversified economy for the province, regions and communities.

Illustrations by Andy Everson

# Joint Agenda: Implementing the Commitment Document

## Concrete Actions: Transforming Laws, Policies, Processes and Structures

To implement the Commitment Document, and to achieve the Vision, Guiding Principles, Goals and Objectives, First Nations and British Columbia (B.C.) need to establish new institutions, processes and structures based on recognition of Indigenous rights, to support/facilitate reconciliation efforts, enable new negotiations and dispute resolution approaches, and provide capacity and governance development support to First Nations and BC.

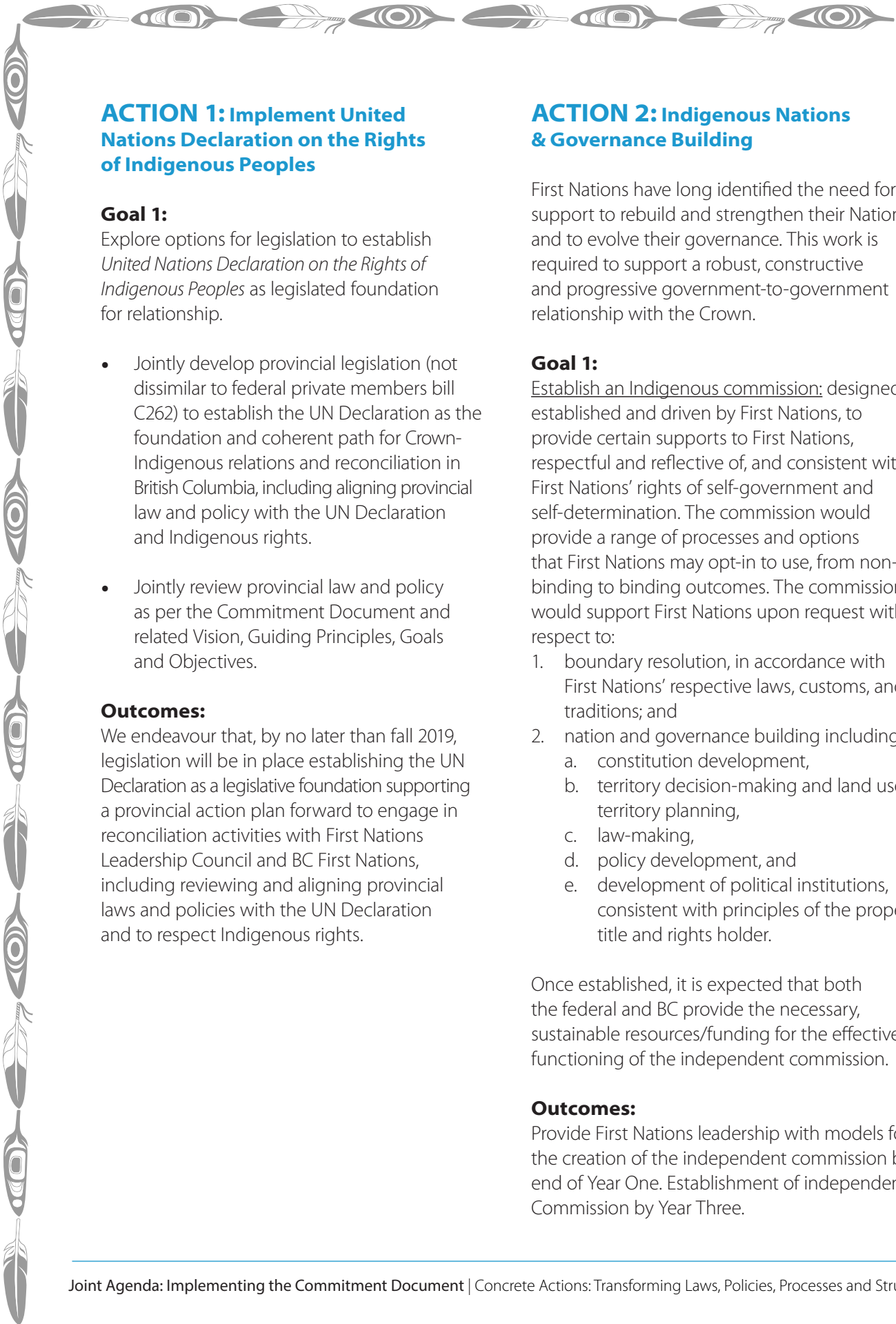
To enable and enact new processes and structures, the Province and First Nations will review policies, programs, and legislation to align with the *United Nations Declaration on the Rights of Indigenous Peoples* ("Declaration"), the Truth and Reconciliation Commission Calls to Action, and *Tsilhqot'in* and other case law. In addition, the Government of Canada has roles to play which must be engaged.



Simply stated, reconciliation and transformative change will occur through concrete action, not mere verbal commitments.

The following concrete actions have been identified as initial priorities: Indigenous Nations & Governance Building; Legislative, Policy and Practice Review and Reform; New Approaches to Effective Negotiations and Dispute Resolution; and, Reconciliation in BC. These actions will be implemented through joint processes that are agreed to by First Nations and BC and are co-governed by the Premier/Ministers and the First Nations Leadership Council. The First Nations Leadership Council and BC will engage Canada as appropriate and are committed to engaging and informing stakeholders and non-Indigenous communities on concrete actions. This multi-year work is focused primarily on systemic change and is laid out below with concrete outcomes proposed for the next three years of work.





## **ACTION 1: Implement United Nations Declaration on the Rights of Indigenous Peoples**

### **Goal 1:**

Explore options for legislation to establish *United Nations Declaration on the Rights of Indigenous Peoples* as legislated foundation for relationship.

- Jointly develop provincial legislation (not dissimilar to federal private members bill C262) to establish the UN Declaration as the foundation and coherent path for Crown-Indigenous relations and reconciliation in British Columbia, including aligning provincial law and policy with the UN Declaration and Indigenous rights.
- Jointly review provincial law and policy as per the Commitment Document and related Vision, Guiding Principles, Goals and Objectives.

### **Outcomes:**

We endeavour that, by no later than fall 2019, legislation will be in place establishing the UN Declaration as a legislative foundation supporting a provincial action plan forward to engage in reconciliation activities with First Nations Leadership Council and BC First Nations, including reviewing and aligning provincial laws and policies with the UN Declaration and to respect Indigenous rights.

## **ACTION 2: Indigenous Nations & Governance Building**

First Nations have long identified the need for support to rebuild and strengthen their Nations and to evolve their governance. This work is required to support a robust, constructive and progressive government-to-government relationship with the Crown.

### **Goal 1:**

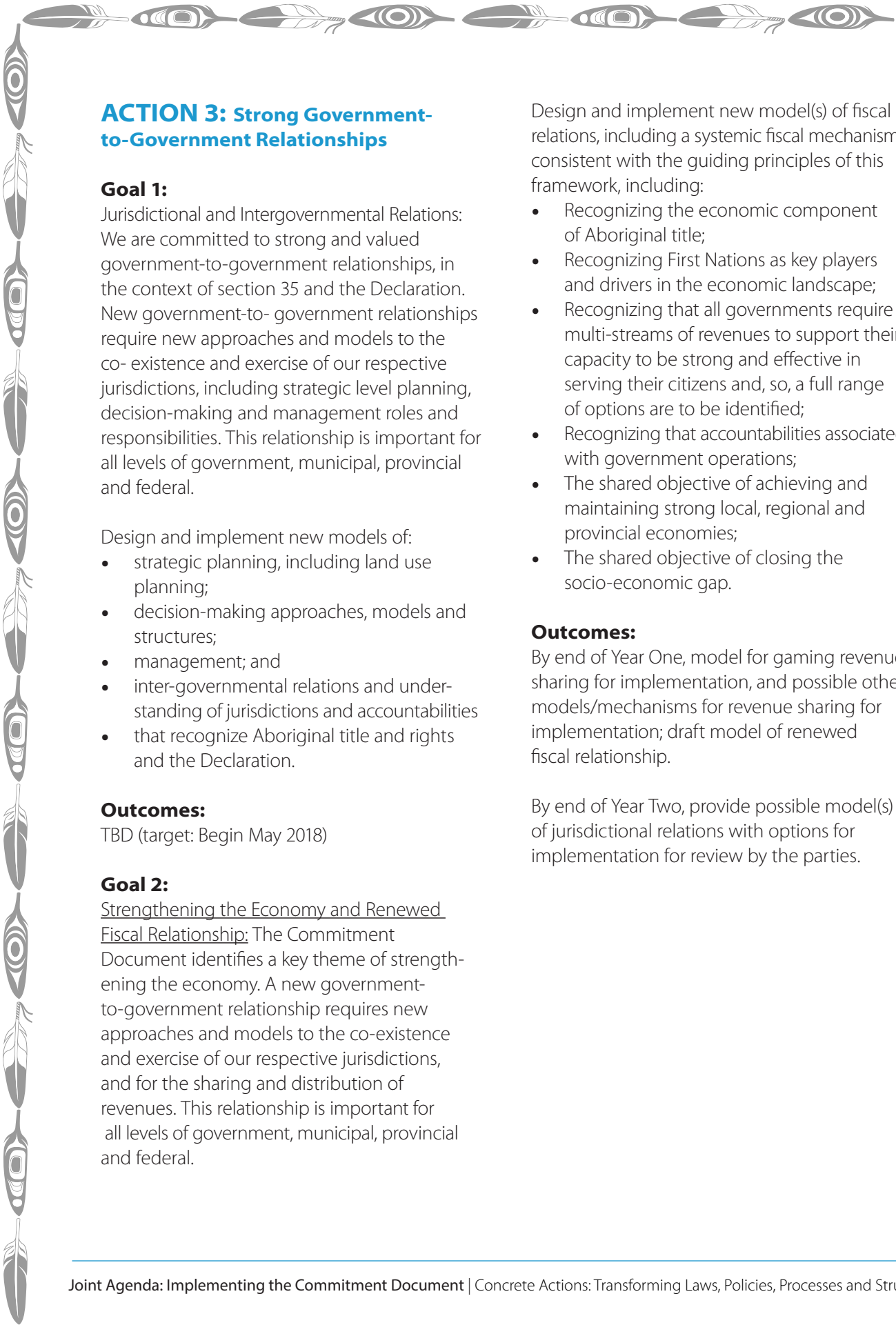
Establish an Indigenous commission: designed, established and driven by First Nations, to provide certain supports to First Nations, respectful and reflective of, and consistent with, First Nations' rights of self-government and self-determination. The commission would provide a range of processes and options that First Nations may opt-in to use, from non-binding to binding outcomes. The commission would support First Nations upon request with respect to:

1. boundary resolution, in accordance with First Nations' respective laws, customs, and traditions; and
2. nation and governance building including:
  - a. constitution development,
  - b. territory decision-making and land use/territory planning,
  - c. law-making,
  - d. policy development, and
  - e. development of political institutions, consistent with principles of the proper title and rights holder.

Once established, it is expected that both the federal and BC provide the necessary, sustainable resources/funding for the effective functioning of the independent commission.

### **Outcomes:**

Provide First Nations leadership with models for the creation of the independent commission by end of Year One. Establishment of independent Commission by Year Three.



### **ACTION 3: Strong Government-to-Government Relationships**

#### **Goal 1:**

**Jurisdictional and Intergovernmental Relations:** We are committed to strong and valued government-to-government relationships, in the context of section 35 and the Declaration. New government-to-government relationships require new approaches and models to the co-existence and exercise of our respective jurisdictions, including strategic level planning, decision-making and management roles and responsibilities. This relationship is important for all levels of government, municipal, provincial and federal.

Design and implement new models of:

- strategic planning, including land use planning;
- decision-making approaches, models and structures;
- management; and
- inter-governmental relations and understanding of jurisdictions and accountabilities
- that recognize Aboriginal title and rights and the Declaration.

#### **Outcomes:**

TBD (target: Begin May 2018)

#### **Goal 2:**

Strengthening the Economy and Renewed Fiscal Relationship: The Commitment Document identifies a key theme of strengthening the economy. A new government-to-government relationship requires new approaches and models to the co-existence and exercise of our respective jurisdictions, and for the sharing and distribution of revenues. This relationship is important for all levels of government, municipal, provincial and federal.

Design and implement new model(s) of fiscal relations, including a systemic fiscal mechanism, consistent with the guiding principles of this framework, including:

- Recognizing the economic component of Aboriginal title;
- Recognizing First Nations as key players and drivers in the economic landscape;
- Recognizing that all governments require multi-streams of revenues to support their capacity to be strong and effective in serving their citizens and, so, a full range of options are to be identified;
- Recognizing that accountabilities associated with government operations;
- The shared objective of achieving and maintaining strong local, regional and provincial economies;
- The shared objective of closing the socio-economic gap.

#### **Outcomes:**

By end of Year One, model for gaming revenue sharing for implementation, and possible other models/mechanisms for revenue sharing for implementation; draft model of renewed fiscal relationship.

By end of Year Two, provide possible model(s) of jurisdictional relations with options for implementation for review by the parties.



## **ACTION 4: Legislation, Policy and Practice Review and Reform**

The evolution of section 35 and the objective of advancing reconciliation requires systemic shifts that reflect the existence of Aboriginal title and rights. These shifts will broaden the space for government-to-government relationships and for both Indigenous and Crown decision-making.

### **Goal:**

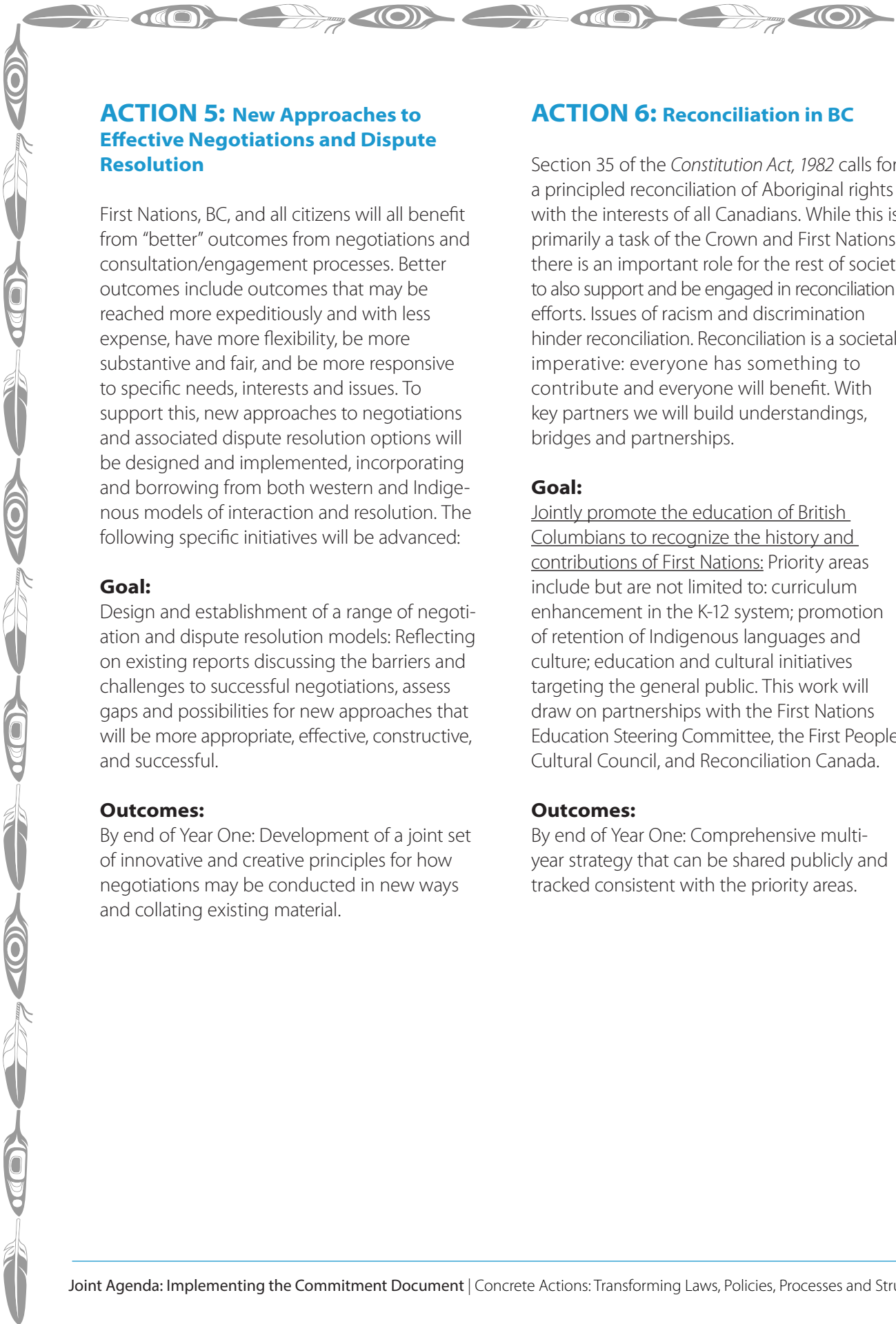
Establish a joint legislative and policy review table to oversee *initial* subject-matter priorities as identified below: The table will identify priority legislative, policy and practice barriers that are systemic obstacles to reconciliation (e.g. prevent certain shared decision-making models from taking place, prevent or hinder effective engagement, limit available tools for reconciliation or accommodation). Initial subject-matters where substantive work is underway and which can create space for reconciliation and achieving progress include child welfare, environmental assessment and forestry:

1. *Indigenous Child and Family Jurisdiction and Self-Government:* BC is prepared to engage in a process with First Nations for designing and implementing First Nations exercise of jurisdiction over Indigenous children and families. The process will necessarily include First Nations, Delegated Aboriginal Agencies and other service providers, including those created through the previous Indigenous Approaches program, as well as the Federal government. The work will take into account the work underway by the First Nations Health Council through their MOU with BC, on regional strategies and priorities related to the social determinants of health, as developed and approved by each Regional Caucus, to identify key outcomes for joint review and action with the FNLC.

2. *Environmental Assessment:* The need for innovation and change in environmental assessments has been long identified as an area where reconciliation may be advanced. This will take into account work underway by the First Nations Energy and Mining Council and the Environmental Assessment Office and direction that has been provided by First Nations leadership. Environmental assessment processes must be reflective of First Nations title and rights. The Government of Canada is embarking on reform of the *Canadian Environmental Assessment Act*, and related statutes.
3. *Forestry:* Consider statutes and policy in the forestry sector, taking into account work underway by the Forestry Council and BC and direction that has been provided by First Nations leadership, and evaluate options for reform.
4. *Land Use/Territory Planning:* Consider legislation and policy development and/or amendments to support First Nations land use/territory planning with legal recognition by the Crown.

### **Outcomes:**

By end of Year One: Key strategies for implementation of changes to legislation or published policies in the three (3) identified priority areas, and preliminary components for an implementation plan in each of the three (3) identified priority areas. Subject to progress, identify future priority areas to be addressed.



## **ACTION 5: New Approaches to Effective Negotiations and Dispute Resolution**

First Nations, BC, and all citizens will all benefit from “better” outcomes from negotiations and consultation/engagement processes. Better outcomes include outcomes that may be reached more expeditiously and with less expense, have more flexibility, be more substantive and fair, and be more responsive to specific needs, interests and issues. To support this, new approaches to negotiations and associated dispute resolution options will be designed and implemented, incorporating and borrowing from both western and Indigenous models of interaction and resolution. The following specific initiatives will be advanced:

### **Goal:**

Design and establishment of a range of negotiation and dispute resolution models: Reflecting on existing reports discussing the barriers and challenges to successful negotiations, assess gaps and possibilities for new approaches that will be more appropriate, effective, constructive, and successful.

### **Outcomes:**

By end of Year One: Development of a joint set of innovative and creative principles for how negotiations may be conducted in new ways and collating existing material.

## **ACTION 6: Reconciliation in BC**

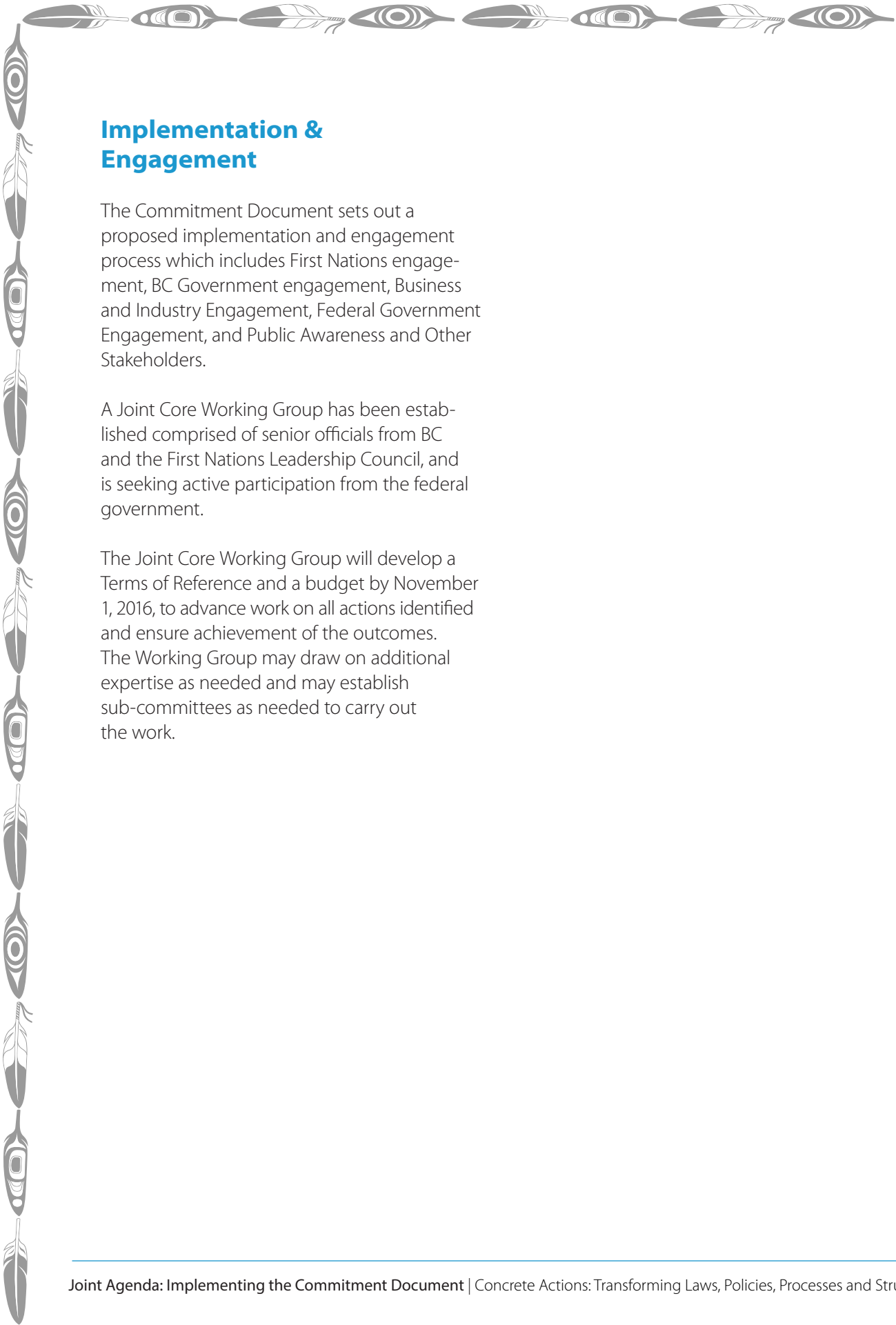
Section 35 of the *Constitution Act, 1982* calls for a principled reconciliation of Aboriginal rights with the interests of all Canadians. While this is primarily a task of the Crown and First Nations, there is an important role for the rest of society to also support and be engaged in reconciliation efforts. Issues of racism and discrimination hinder reconciliation. Reconciliation is a societal imperative: everyone has something to contribute and everyone will benefit. With key partners we will build understandings, bridges and partnerships.

### **Goal:**

Jointly promote the education of British Columbians to recognize the history and contributions of First Nations: Priority areas include but are not limited to: curriculum enhancement in the K-12 system; promotion of retention of Indigenous languages and culture; education and cultural initiatives targeting the general public. This work will draw on partnerships with the First Nations Education Steering Committee, the First Peoples Cultural Council, and Reconciliation Canada.

### **Outcomes:**

By end of Year One: Comprehensive multi-year strategy that can be shared publicly and tracked consistent with the priority areas.



## Implementation & Engagement

The Commitment Document sets out a proposed implementation and engagement process which includes First Nations engagement, BC Government engagement, Business and Industry Engagement, Federal Government Engagement, and Public Awareness and Other Stakeholders.

A Joint Core Working Group has been established comprised of senior officials from BC and the First Nations Leadership Council, and is seeking active participation from the federal government.

The Joint Core Working Group will develop a Terms of Reference and a budget by November 1, 2016, to advance work on all actions identified and ensure achievement of the outcomes. The Working Group may draw on additional expertise as needed and may establish sub-committees as needed to carry out the work.