

**Withdrawal Agreement
Between
Maine School Administrative District No. 27 and
the Winterville Plantation Withdrawal Committee**

This Agreement dated as of October 14, 2014, is by and between Maine School Administrative District No. 27, a Maine regional school unit comprising the municipalities of Eagle Lake, Fort Kent, New Canada, Saint Francis, Saint John Plantation, Wallagrass, and Winterville Plantation (hereinafter "SAD 27" or the "District") and the Winterville Plantation Withdrawal Committee, a duly appointed municipal withdrawal committee for Winterville Plantation (hereinafter "Winterville") organized in accordance with 20-A M.R.S. § 1466(4)(A).

1. **Purposes.** The purposes of this Agreement are:
 - a) To provide for the timely and orderly withdrawal of Winterville from SAD 27;
 - b) To provide educational continuity for those students residing in Winterville who wish to continue their education with SAD 27; and
 - c) To allocate SAD 27's financial and contractual obligations, and its assets, between SAD 27 and the new school administrative unit that includes or comprises Winterville Plantation (hereinafter the "New Winterville Plantation SAU"), as of the effective date of Winterville's withdrawal in a manner that fairly takes into account the continuing educational needs of students, the continuity of educational programs and the goal of avoiding sudden or excessive increases in property taxes. For purposes of this Agreement the term "New Winterville Plantation SAU" includes any school administrative unit that is composed solely of Winterville or that includes Winterville as a member during the term of this Agreement. By way of example, if Winterville becomes a municipal school unit, the term "New Winterville Plantation SAU" would encompass the Winterville municipal school unit.
2. **Withdrawal.** Pursuant to 20-A MRS §1466, Winterville shall withdraw from SAD 27 in accordance with the terms of this Agreement as of June 30, 2015 and thereafter shall no longer be a member of the SAD 27 school administrative unit. As of July 1, 2015 (the "Effective Date"), Winterville shall become a separate municipal school unit composed solely of Winterville Plantation.
3. **Continuity of Educational Program.** During the first year following withdrawal (July 1, 2015, to June 30, 2016), students residing in Winterville may attend the school they would have attended if Winterville had not withdrawn. The tuition rate for Winterville students during the first year after withdrawal shall be determined under 20-A M.R.S. § 5804 (for elementary students) and 20-A M.R.S. § 5805(1) (for secondary students); however, secondary student tuition shall not be subject to the state per pupil average limitation in 20-A M.R.S. § 5805(2).

4. Continued Enrollment / Ten Year Tuition Agreement.

- a. During the ten-year period from July 1, 2016, to June 30, 2026, all students residing in Winterville shall exclusively attend school in SAD 27. Additional students who are new residents in Winterville shall also exclusively enroll in schools in SAD 27. This tuition agreement shall not preclude Winterville resident students in grades pre-K through 5 from attending a school that is currently within SAD 27 if that school becomes included in a different school administrative unit as a result of a member municipality's withdrawal from SAD 27.
- b. During the ten-year period from July 1, 2016, to June 30, 2026, the tuition rate for Winterville students shall be determined under 20-A M.R.S. § 5804 (for elementary students) and 20-A M.R.S. § 5805(1) (for secondary students); however, secondary student tuition shall not be subject to the state per pupil average limitation in 20-A M.R.S. § 5805(2).

In the event that the voters of another member municipality of SAD 27 shall approve a withdrawal agreement and such withdrawal agreement establishes a tuition rate for secondary students to attend SAD 27 schools, if such tuition rate is less than a tuition rate calculated under section 5805(1) without regard to section 5805(2), then the tuition rate established in the withdrawal agreement of the other member municipality shall apply to Winterville Plantation students attending SAD 27 schools under this Agreement as of the effective date of the withdrawal agreement of the other member municipality.

- c. To the extent that the costs of programs provided by SAD 27 to Winterville students (such as, but not limited to, gifted and talented programs and the Pleasant Street Academy Early College High School program) are not included in the calculation of tuition rates under sections 5804(1) and 5805(1), the New Winterville Plantation SAU shall be responsible to pay such costs to SAD 27 in proportion to the number of Winterville students participating in such programs.
- d. In accordance with 20-A M.R.S. §§ 5804(1), 5804(3), 5805(2), and 5805(4), in addition to the tuition rates described above, SAD 27 shall charge a debt service factor for any (i) newly incurred capital outlay and debt service costs to the extent permitted by law; and (ii) newly incurred renovation project capital outlay and debt service to the extent permitted by law ("Debt Service Factor"). The parties agree that any Debt Service Factor shall not exceed 10% of the legal tuition rate per student in any one year and must be limited to a period of time not to exceed SAD 27's repayment period for the capital outlay and debt service. The parties agree that the amount of the Debt Service Factor in any year is that dollar amount that is proportional to the cost of the project(s) and the number of tuition students attending the school improved by the project(s). For example, the Debt Service Factor for a capital outlay at Fort Kent Community High School would be the percentage of the amount for capital outlay and debt service equal to the percentage of Fort Kent Community High School students who are Winterville Plantation resident students.

In the event that the voters of another member municipality of SAD 27 shall approve a withdrawal agreement and such withdrawal agreement contains a provision substantially similar to this subsection 4(d) regarding debt service factor, if such withdrawal agreement provides that any debt service factor shall not exceed a specified percentage of the legal tuition rate per student in any one year and such specified percentage is less than 10%, then such lesser percentage shall apply as the "not to exceed" percentage of any Debt Service Factor charged under this Agreement as of the effective date of the withdrawal agreement of the other member municipality.

- e. Tuition determined under Section 5805(1) expressly excludes costs for career and technical education. Accordingly, the New Winterville Plantation SAU shall be directly responsible to pay all costs that are attributable to Winterville resident students' attendance at a career and technical program (currently, the St. John Valley Technical Center (the "Technical Center")). Upon approval of this Agreement by the voters of Winterville Plantation, SAD 27 shall work with the Technical Center and, as needed, the school administrative units affiliated with the Technical Center, *see* 20-A M.R.S. § 8401(1)(S), to provide for the New Winterville Plantation SAU to be billed directly for its career and technical education costs by Maine School Administrative District No. 33 (in its capacity as operator of the Technical Center). Upon withdrawal, the New Winterville Plantation SAU shall, in concert with the Department of Education and the governing body of the Technical Center, take necessary steps to become an affiliated unit of the Technical Center through legislative amendment of 20-A M.R.S. § 8401(1)(S).

5. **Termination of Right to Attend SAD 27.** A student's right to continue to be educated at SAD 27 schools under Sections 3 and 4 of this Agreement may be discontinued to the extent provided by law, including without limitation, for reasons of suspension, expulsion, out-of-district placement, or enrollment in another public or private school.
6. **Adult Education.** The New Winterville Plantation SAU shall be responsible to pay all costs paid by SAD 27 that are attributable to Winterville residents' 16 to 20 year old out-of-school youth enrollment in adult education high school completion courses provided by SAD 27. The parties anticipate that such costs will be shown as the Basic Cost Allocation for Adult Education courses on the annual Form ED 279 (at Section 2.B.3 on the current form) for the New Winterville Plantation SAU.
7. **Special Education.** SAD 27 shall provide all special education services to SAD 27 enrolled students from Winterville required by the IEP prepared by each student's IEP Team to the extent that SAD 27 has an appropriate program to meet the terms of the IEP and applicable requirements of Maine law and regulations. Except for short term programming changes of not more than ten (10) school days, decisions about whether SAD 27 can implement the terms of the IEP and whether SAD 27 has an appropriate program or placement for a student pursuant to the requirements of the IEP shall be made by SAD 27 after a careful review of the IEP for the student. In no event shall SAD 27 refuse to

provide needed special education services as provided in the IEP, except for student removals of not more than 10 school days or when SAD 27 has determined that SAD 27 cannot provide an appropriate program or placement for that student. The New Winterville Plantation SAU's special education director shall represent the New Winterville Plantation SAU for special education programming, supervision of the IEP Team process, and supervision of the student evaluation process for SAD 27 enrolled students. In the event that the IEP Team is unable to reach consensus on issues that are the responsibility of the Team, the New Winterville Plantation SAU's representative at that Team meeting shall make the decisions on those issues, subject to the parent's due process rights in relation thereto. SAD 27 personnel will work cooperatively with the New Winterville Plantation SAU's special education director and other staff, and upon request will provide the New Winterville Plantation SAU's special education director with all information regarding classroom observations, student performance, academic achievement testing and functional behavior assessment components of the student evaluation process. The New Winterville Plantation SAU's special education director may provide input to SAD 27's special education director (or other administrative designee) on the proper implementation of SAD 27 enrolled student IEPs, or perceived deficiencies in IEP implementation. SAD 27 shall consider that input seriously and in good faith and SAD 27 shall respond in an appropriate manner consistent with the terms of this Agreement.

The tuition rate determined under 20-A M.R.S. §§ 5804 and 5805 expressly excludes expenditures for special education. In accordance with Chapter 101 of the Rules of the Maine Department of Education, Maine Unified Special Education Regulations, Sections IV(4)(A), (B), the New Winterville Plantation SAU shall be responsible for the costs of special education for Winterville resident students. Therefore, in addition to the tuition required under Sections 3 and 4 of this Agreement, the New Winterville Plantation SAU shall be responsible for the actual costs of special education for Winterville resident students attending SAD 27 schools, including special education transportation costs and costs for facilities modifications required to accommodate the students, to the extent that such costs are not included in the calculation of the tuition rate and regardless of whether the costs qualify for state subsidy. For purposes of this Section 7, special education shall include non-special education Section 504/ADA plans and services and reasonable attorney fees incurred by SAD 27 in connection with disputes over delivery of special education services and/or Section 504/ADA plans and services for individual Winterville students. SAD 27 shall provide an itemized invoice to the New Winterville Plantation SAU for such special education costs during the fiscal year in which the special education costs are incurred.

8. **Transportation**. SAD 27 shall provide transportation for Winterville students during the tuition contract period provided in Sections 3 and 4 above, provided that the New Winterville Plantation SAU enrolls its students in SAD 27 schools on an exclusive basis in accordance with Section 4 above. The New Winterville Plantation SAU shall be responsible for the cost of transportation of its students, which shall be determined by dividing the total transportation costs of the District by the portion of District transportation attributed to Winterville on the basis of miles. Transportation attributed to Winterville on the basis of miles shall be only those miles traveled within Winterville Plantation. The New Winterville Plantation SAU may request transportation for its resident students in

addition to the regular school-day pick-ups and drop-offs (for example, “late bus” service). To the extent that such additional transportation runs serve Winterville students exclusively (i.e., times when all students on a bus are Winterville students), the New Winterville Plantation SAU shall be responsible for mileage traveled outside of Winterville Plantation in addition to the mileage traveled within Winterville Plantation.

9. **Financial Commitments from Outstanding Bonds or Notes.** Pursuant to 20-A M.R.S. § 1466 (16)(A), whenever a municipality withdraws from a regional school unit having outstanding indebtedness, the regional school unit remains intact for the purpose of securing and retiring the indebtedness; however, a withdrawal agreement may provide for alternate means of retiring outstanding indebtedness.

As of the Effective Date (July 1, 2015), SAD 27 will have outstanding indebtedness as shown in the table below. The parties acknowledge that the voters of SAD 27 agreed to issue this debt as a school administrative district and/or a regional school unit with the understanding that all member municipalities would contribute to the payment of debt service. The parties further acknowledge that the withdrawal of Winterville Plantation will leave the remaining members of SAD 27 with increased debt responsibility unless Winterville Plantation fulfills its obligation with respect to the debt service.

As an alternate means of retiring SAD 27’s outstanding indebtedness, the New Winterville Plantation SAU agrees to pay SAD 27 for Winterville’s proportionate share of SAD 27’s outstanding indebtedness (based on its percentage of the SAD 27’s 2012 State Valuation, 8.13%, adjusted by percentage of debt service that is included in calculation of tuition, 2.83%, to equal 5.30%, and then divided in half to equal 2.65%) as shown in the table below.

Date Issued	Amount Borrowed	Purpose (Type of Loan)	Outstanding Principal as of Effective Date	Maturity Date	Winterville’s Proportionate Share (2.65%)
5-3-2007	\$271,590	Community High School Roof (School Revolving Renovation Fund)	\$54,318	7-15-2016	\$1,439.43
12-20-2013	\$697,800	Energy Conservation Project (School Revolving Renovation Fund)	\$628,020	7-31-2023	\$16,642.53
12-20-2013	\$120,256	Energy Conservation Project (Municipal Lease Purchase)	\$112,239	12-20-2028	\$2,974.33
5-22-2014	\$842,746	Energy Conservation Project (2014 General Obligation Bond)	\$842,746	11-1-2029	\$22,332.77

To retire the 2007 School Revolving Renovation Fund loan, the New Winterville Plantation SAU shall pay SAD 27 a lump sum of \$ 1,439.43 on or before June 30, 2015.

To retire the 2013 School Revolving Renovation Fund loan, the New Winterville Plantation SAU shall pay SAD 27 the total sum of \$16,642.53 in nine substantially equal installments commencing on July 1, 2015.

To retire the 2013 Municipal Lease Purchase and the 2014 General Obligation Bond, the New Winterville Plantation SAU shall pay 2.65% of each remaining installment of principal and interest directly to SAD 27 at least thirty (30) days prior to the due date of each installment and shall pay any costs incurred as a result of any late payment by the New Winterville Plantation SAU.

To the extent requested by the Maine Municipal Bond Bank (the "Bond Bank") with respect to bonds issued (and to be issued) by SAD 27 and held by the Bond Bank that are outstanding as of the Effective Date, SAD 27 shall have its bond counsel prepare and submit an opinion to the Bond Bank that this Agreement does not affect the Bond Bank's substantive rights to enforce the terms of such outstanding bonds. On the Effective Date, the New Winterville Plantation SAU shall reimburse SAD 27 its legal costs for this opinion of bond counsel.

10. **Collective Bargaining Agreements.** The withdrawal of Winterville from SAD 27 will not directly affect any of the District's collective bargaining agreements.
11. **Continuing Contract Rights under Section 13201.** The withdrawal of Winterville from SAD 27 will not affect the continuing contract rights of teachers under 20-A M.R.S. § 13201.
12. **Disposition of Real and Personal Property.** There will be no outstanding issues of personal or real property as between SAD 27 and Winterville resulting from the withdrawal of Winterville from SAD 27. No real or personal property will be transferred to the New Winterville Plantation SAU under this Agreement.
13. **Undesignated Fund Balance.** Within 30 days of a finalized audit for FY 2014-2015, SAD 27 shall pay to the New Winterville Plantation SAU 8.13% of SAD 27's undesignated fund balance, net of all encumbered funds and other charges under generally accepted accounting principles, such as but not limited to funds for summer salaries and benefits obligations. In the event that the audit for FY 2014-2015 shows that SAD 27 had a negative undesignated fund balance as of June 30, 2015, then within 30 days of the finalized audit, the New Winterville Plantation SAU shall pay SAD 27 8.13% of the amount of the negative fund balance.
14. **Transition of Administration and Governance.** As of the Effective Date, Winterville will become a municipal school unit, and the administration and governance of education for students residing in Winterville will be transferred accordingly. Upon voter approval of this Agreement, Winterville Plantation will provide for the election of a school committee in accordance with state law. The school committee will have the responsibility to develop an operating budget for the New Winterville Plantation SAU for the 2015-2016 fiscal year.

The New Winterville Plantation SAU School Committee shall be responsible for hiring necessary administrative staff, including a superintendent, and providing for necessary central office services.

Following certification of voter approval of this Agreement, the voters of Winterville Plantation thereafter shall not participate in, as applicable, the annual budget meeting or budget validation referendum for the SAD 27 2015-2016 annual school budget.

15. **Superintendents' Agreements.** Nothing in this Withdrawal Agreement shall limit the availability or use of Superintendents' Agreements with respect to any student who is not an enrolled student under this Agreement.

16. **Dispute Resolution.** Any dispute between Winterville Plantation, the New Winterville Plantation SAU and SAD 27 (hereinafter individually a "Party" or collectively, the "Parties") arising out of or relating to this Agreement shall be resolved in accordance with this paragraph. Either Party may give written notice of a dispute arising out of or related to this Agreement to the other Party in person or by certified mail, return receipt requested. The Parties shall attempt to resolve the matter through informal communication or negotiation for a period of ten (10) days from the date of receipt of notice by the noticed Party. If the dispute has not been resolved within ten (10) days, either Party may serve written notice on the other Party of a request for mediation. The mediation shall be conducted in Maine by a mediator mutually agreeable to the Parties, shall not exceed one full day or two half days in length, and shall be completed within thirty (30) days from the date of receipt of notice of a request for mediation. In the event that the Parties are unable to agree on a mediator within ten (10) days, or to resolve the dispute through mediation within 30 days, each party retains all rights and remedies provided by law and equity, including the right to initiate and pursue litigation. The parties knowingly, voluntarily, intentionally, and irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

17. **Applicability to Successor School Administrative Units.** Upon approval by the Maine Commissioner of Education and approval of Winterville at referendum by a two-thirds majority of the voters of Winterville Plantation, this Agreement shall be binding upon Winterville Plantation, the New Winterville Plantation SAU and its successor school administrative units, and on SAD 27 and its successor school administrative units. Accordingly, the terms of this Agreement shall be incorporated by reference into any Reorganization Plan to which Winterville, the New Winterville Plantation SAU, or SAD 27, or their respective successor school administrative units, is or becomes a party.

18. **Contingent Liabilities.**
 - a. **Future Claims.** The Parties acknowledge that SAD 27 may be liable for future legal claims based on incidents arising prior to the Effective Date, when Winterville was a member of SAD 27. The New Winterville Plantation SAU shall be responsible for and agrees to pay 8.13% of SAD 27's costs, expenses, damages, and other losses arising from such claims, including costs to defend such claims, to the extent that SAD 27's costs, expenses, damages, and other losses are not covered by insurance or other sources. SAD 27 shall give written notice of such claims to the New Winterville Plantation SAU within 30 days after SAD 27 receives notice of a claim.

SAD 27 shall regularly update the New Winterville Plantation SAU regarding the status of such claims, and shall consult with the school committee or as applicable the superintendent of the New Winterville Plantation SAU before entering into a settlement of such claims.

- b. **Audits.** In the event that SAD 27 becomes the subject of a federal or state audit for a period when Winterville was a member of SAD 27 and as a result of such audit, SAD 27 becomes subject to any payment obligation or withholding by federal or state authority, then the New Winterville Plantation SAU shall reimburse SAD 27 for 8.13% of the amount of such payment obligation or withholding relating to the period when Winterville was a member of SAD 27 including without limitation, any interest and penalties thereon, within thirty (30) days of any such payment by SAD 27 or any such withholding from SAD 27. If, as a result of such audit, SAD 27 receives any rebate, refund, credit or overpayment from any federal or state authority, then SAD 27 shall reimburse the New Winterville Plantation SAU 8.13% of such rebate, refund, credit or overpayment within thirty (30) days of receipt of any such payment or credit to SAD 27.

19. **State and Local Approval.** This Agreement is subject to approval by the Maine Commissioner of Education as required by 20-A M.R.S. § 1466(4)(B) and approval by a two-thirds vote at a referendum conducted in Winterville Plantation as required by 20-A M.R.S. § 1466(9-A).

20. **School Construction.** The withdrawal of Winterville Plantation from Maine School Administrative District No. 27 will not cause a need within five (5) years from the effective date of withdrawal for any school construction projects that would be eligible for state funds, except when a need for school construction existed prior to the Effective Date or when a need for school construction would have arisen even if Winterville Plantation had not withdrawn.

21. **Miscellaneous**

- a) This Agreement contains the entire agreement between the Parties in relation to its subject matter, and there are no other agreements or understandings, oral or otherwise, between the Parties at the time of execution of this Agreement.
- b) This Agreement may only be amended by mutual written agreement of the school boards of SAD 27 and the New Winterville Plantation SAU. Any amendment is subject to the written approval of the Commissioner of the Maine Department of Education.
- c) This Agreement may not be assigned and shall be interpreted, governed, construed, and enforced in accordance with the laws of State of Maine, without regard to any of its conflict of laws principles.
- d) Each Party represents that its signatories to this Agreement are duly authorized by that Party to execute this Agreement and in so doing to bind that Party to its terms.

- e) The headings and subheadings of the sections and paragraphs of this Agreement are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the agreements, terms, covenants and conditions of this Agreement in any manner.
- f) If any provision(s) of this Agreement is determined to be invalid or unenforceable in whole or in part for any reason, such provision(s) shall be severed and the Parties shall negotiate in good faith to amend this Agreement so as to effect the original intent of the Parties as closely as possible. The remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the full extent permitted by law.
- g) In the event that any of the methods of calculation described herein become unworkable due to a change in law, regulation, policy, or procedure of the State or the Maine Department of Education, the method of calculation shall be equitably modified to effect the original intent of the Parties as closely as possible.
- h) This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same Agreement.

[signature page(s) follow]

In witness whereof, the duly authorized representatives of the parties have set their hands as of the date(s) written below.

Dated: October 15, 2015, 2014 Winterville Plantation Withdrawal Committee

By: Wah E. Luning
Elizabeth Albert
John L. Martin
Amanda Drennon

Maine School Administrative District No. 27

By: Timothy Doak
Timothy Doak
Superintendent of Schools
Dated: 10/15, 2014

By: Barry Ouellette
Barry Ouellette
Chair of the School Board
Dated: October 15, 2014

Approved this 23 day of Oct, 2014:

James Rier
James Rier
Commissioner, Maine Department of Education