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## CHAPTER 19 DISPUTE RESOLUTION

### DEFINITIONS

1. In this Chapter and in Appendix M-1 to M-6:

“Appendix” means Appendix M-1, M-2, M-3, M-4, M-5, or M-6 to this Agreement.

### GENERAL

2. In this Chapter, and in each Appendix, a Party is deemed to be directly engaged in a disagreement if another Party, acting reasonably, gives the first Party a written notice requiring it to participate in a process described in this Chapter to resolve the disagreement.
  3. The Parties share the following objectives:
    - a. to cooperate with each other to develop harmonious working relationships;
    - b. to prevent, or, alternatively, to minimize disagreements;
    - c. to identify disagreements quickly and resolve them in the most expeditious and cost-effective manner possible; and
    - d. to resolve disagreements in a non-adversarial, collaborative, and informal atmosphere.
  4. Except as otherwise provided, participating Parties may agree to vary a procedural requirement contained in this Chapter, or in an Appendix, as it applies to a particular disagreement.
  5. Participating Parties may agree to, and the Supreme Court of British Columbia, on application, may order:
    - a. the abridgment of a time limit; or
    - b. the extension of a time limit, despite the expiration of that time limitin this Chapter or in an Appendix.
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**SCOPE: WHEN THIS CHAPTER APPLIES TO A DISAGREEMENT**

6. This Chapter is not intended to apply to all conflicts or disputes between or among the Parties, but is limited to the conflicts or disputes described in paragraph 7.
7. This Chapter only applies to:
  - a. a conflict or dispute respecting:
    - i. the interpretation, application, or implementation of this Agreement, or
    - ii. a breach or anticipated breach of this Agreement;
  - b. a conflict or dispute, where provided for in this Agreement; or
  - c. negotiations required to be conducted under any provision of this Agreement that provides that the Parties, or any of them, "will negotiate and attempt to reach agreement".
8. This Chapter does not apply to:
  - a. an agreement between or among the Parties that is ancillary, subsequent, or supplemental to this Agreement unless the Parties have agreed that this Chapter applies to that agreement;
  - b. the Implementation Plan; or
  - c. conflicts or disputes, where excluded from this Chapter.
9. Nothing in this Chapter limits the application of a dispute resolution process, under any law of general application, to a conflict or dispute involving a person if that conflict or dispute is not a disagreement.
10. Nothing in any law of general application limits the right of a Party to refer a disagreement to this Chapter.

**DISAGREEMENTS TO GO THROUGH STAGES**

11. The Parties desire and expect that most disagreements will be resolved by informal discussions between or among the Parties, without the necessity of invoking this Chapter.
  12. Except as otherwise provided, disagreements not resolved informally will progress, until resolved, through the following stages:
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- a. Stage One: formal, unassisted efforts to reach agreement between or among the Parties, in collaborative negotiations under Appendix M-1;
  - b. Stage Two: structured efforts to reach agreement between or among the Parties with the assistance of a neutral, who has no authority to resolve the dispute, in a facilitated process under Appendix M-2, M-3, M-4, or M-5 as applicable; and
  - c. Stage Three: final adjudication in arbitral proceedings under Appendix M-6, or in judicial proceedings.
13. Except as otherwise provided, no Party may refer a disagreement to final adjudication in Stage Three without first proceeding through Stage One and a facilitated process in Stage Two as required in this Chapter.
  14. Nothing in this Chapter prevents a Party from commencing arbitral or judicial proceedings at any time:
    - a. to prevent the loss of a right to commence proceedings due to the expiration of a limitation period; or
    - b. to obtain interlocutory or interim relief that is otherwise available pending resolution of the disagreement under this Chapter.

#### **STAGE ONE: COLLABORATIVE NEGOTIATIONS**

15. If a disagreement is not resolved by informal discussion, and a Party directly engaged in the disagreement wishes to invoke this Chapter, that Party will deliver a written notice, as required under Appendix M-1, as soon as practicable to the other Parties, requiring the commencement of collaborative negotiations.
  16. Upon receiving the notice under paragraph 15, a Party directly engaged in the disagreement will participate in the collaborative negotiations.
  17. A Party not directly engaged in the disagreement may participate in the collaborative negotiations by giving written notice to the other Parties, preferably before the collaborative negotiations commence.
  18. If the Parties have commenced negotiations in the circumstances described in subparagraph 7(c), then, for all purposes under this Chapter, those negotiations will be deemed collaborative negotiations and the particular matter under negotiation will be considered a disagreement.
  19. Collaborative negotiations terminate in the circumstances set out in Appendix M-1.
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**STAGE TWO: FACILITATED PROCESSES**

20. Within 15 days of termination of collaborative negotiations that have not resolved the disagreement, a Party directly engaged in a disagreement, by delivering a notice to the other Parties, may require the commencement of a facilitated process.
21. A notice under paragraph 20:
  - a. will include the name of the Party or Parties directly engaged in the disagreement and a summary of the particulars of the disagreement; and
  - b. may propose the use of a particular facilitated process described in paragraph 24.
22. Upon receiving a notice under paragraph 20, a Party directly engaged in the disagreement will participate in a facilitated process described in paragraph 24.
23. A Party not directly engaged in the disagreement may participate in the facilitated process by giving written notice to the other Parties within 15 days of delivery of a notice under paragraph 20.
24. Within 30 days after delivery of a notice under paragraph 20, the Parties directly engaged in the disagreement will attempt to agree to use one of the following processes:
  - a. mediation under Appendix M-2;
  - b. technical advisory panel under Appendix M-3;
  - c. neutral evaluation under Appendix M-4;
  - d. elders advisory council under Appendix M-5; or
  - e. any other non-binding dispute resolution process assisted by a neutraland if they fail to agree, they will be deemed to have selected mediation under Appendix M-2.
25. A facilitated process terminates:
  - a. in the circumstances set out in the applicable Appendix; or
  - b. as agreed by the participating Parties, if an Appendix does not apply.

**NEGOTIATING CONDITIONS**

26. In order to enhance the prospect of reaching agreement, the Parties participating in
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collaborative negotiations or a negotiation component of a facilitated process will:

- a. at the request of a participating Party, provide timely disclosure of sufficient information and documents to enable a full examination of the subject matter being negotiated;
- b. make every reasonable effort to appoint negotiating representatives with sufficient authority to reach an agreement, or with ready access to such authority; and
- c. negotiate in good faith.

### **SETTLEMENT AGREEMENT**

27. Any agreement reached in a process under this Chapter:
  - a. will be:
    - i. recorded in writing,
    - ii. signed by authorized representatives of the Parties to the agreement, and
    - iii. delivered to all Parties; and
  - b. is binding only on the Parties who have signed the agreement.

### **STAGE THREE: ADJUDICATION - ARBITRATION**

28. After the later of termination of collaborative negotiations, or of a required facilitated process, in respect of a disagreement arising out of any provision of this Agreement that provides that a matter will be "finally determined by arbitration", the disagreement will, on the delivery of a notice by a Party directly engaged in the disagreement, to all Parties as required under Appendix M-6, be referred to and finally resolved by arbitration in accordance with that Appendix.
  29. After the later of termination of collaborative negotiations, or a required facilitated process, in respect of any disagreement, other than a disagreement referred to in paragraph 28, and with the written agreement of all Parties directly engaged in the disagreement, the disagreement will be referred to, and finally resolved by, arbitration in accordance with Appendix M-6.
  30. If two Parties make a written agreement under paragraph 29, they will deliver a copy of the agreement as soon as practicable to the other Party.
  31. Upon delivering a written notice to the participating Parties to the arbitration within 15 days
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after receiving a notice under paragraph 28 or copy of a written agreement under paragraph 30, a Party not directly engaged in the disagreement is entitled to be, and will be added as, a party to the arbitration of that disagreement whether or not that Party has participated in collaborative negotiations or a required facilitated process.

32. Despite paragraph 31, an arbitral tribunal may make an order adding a Party as a participating Party at any time, if the arbitral tribunal considers that:
- a. the participating Parties will not be unduly prejudiced; or
  - b. the issues stated in the pleadings are materially different from those identified in the notice to arbitrate under paragraph 28 or the written agreement to arbitrate in paragraph 29

and, in that event, the arbitral tribunal may make any order it considers appropriate or necessary in the circumstances respecting conditions, including the payment of costs, upon which the Party may be added.

#### **EFFECT OF ARBITRAL AWARD**

33. An arbitral award is final and binding on all Parties whether or not a Party has participated in the arbitration.
34. Despite paragraph 33, an arbitral award is not binding on a Party that has not participated in the arbitration if:
- a. the Party did not receive copies of:
    - i. the notice of arbitration or agreement to arbitrate, or
    - ii. the pleadings and any amendments or supplements to the pleadings; or
  - b. the arbitral tribunal refused to add the Party as a participating Party to the arbitration under paragraph 32.

#### **APPLICATION OF LEGISLATION**

35. No legislation of any Party respecting arbitration, except the settlement legislation, applies to an arbitration conducted under this Chapter.
36. A court must not intervene or offer assistance in an arbitration or review an arbitral award under this Chapter except as provided in Appendix M-6.

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**STAGE THREE: ADJUDICATION - JUDICIAL PROCEEDINGS**

37. Nothing in this Chapter creates a cause of action where none otherwise exists.
38. Subject to paragraph 39, at any time a Party may commence proceedings in the Supreme Court of British Columbia in respect of a disagreement.
39. A Party may not commence judicial proceedings in respect of a disagreement if the disagreement:
- a. is required to be referred to arbitration under paragraph 28 or has been agreed to be referred to arbitration under paragraph 29;
  - b. has not been referred to collaborative negotiations or a facilitated process as required under this Chapter; or
  - c. has been referred to collaborative negotiations or a facilitated process that has not yet been terminated.
40. Nothing in subparagraph 39(a) prevents an arbitral tribunal or the participating Parties from requesting the Supreme Court of British Columbia to make a ruling respecting a question of law as permitted in Appendix M-6.

**NOTICE TO PARTIES**

41. If, in any judicial or administrative proceeding, an issue arises in respect of:
- a. the interpretation or validity of this Agreement; or
  - b. the validity, or applicability of:
    - i. any settlement legislation, or
    - ii. any Nisga'a law

the issue will not be decided until the party raising the issue has properly served notice on the Attorney General of British Columbia, the Attorney General of Canada, and Nisga'a Lisims Government.

42. In any judicial or administrative proceeding to which paragraph 41 applies, the Attorney General of British Columbia, the Attorney General of Canada, and Nisga'a Lisims Government may appear and participate in the proceedings as parties with the same rights as any other party.

**COSTS**

43. Except as provided otherwise in the Appendices, each participating Party will bear the costs of its own participation, representation, and appointments in collaborative negotiations, a facilitated process, or an arbitration, conducted under this Chapter.
44. Subject to paragraph 43 and except as provided otherwise in the Appendices, the participating Parties will share equally all costs of collaborative negotiations, a facilitated process, or an arbitration, conducted under this Chapter.
45. For purposes of paragraph 44, "costs" include:
  - a. fees of the neutrals;
  - b. costs of hearing and meeting rooms;
  - c. actual and reasonable costs of communications, accommodation, meals, and travel of the neutrals;
  - d. costs of required secretarial and administrative support for the neutrals, as permitted in the Appendices; and
  - e. administration fees of a neutral appointing authority.



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## CHAPTER 20 ELIGIBILITY AND ENROLMENT

### ELIGIBILITY CRITERIA

1. An individual is eligible to be enrolled under this Agreement if that individual is:
  - a. of Nisga'a ancestry and their mother was born into one of the Nisga'a tribes;
  - b. a descendant of an individual described in subparagraphs 1(a) or 1(c);
  - c. an adopted child of an individual described in subparagraphs 1(a) or 1(b); or
  - d. an aboriginal individual who is married to someone described in subparagraphs 1(a), (b), or (c) and has been adopted by one of the four Nisga'a tribes in accordance with *Ayuukhl Nisga'a*, that is, the individual has been accepted by a Nisga'a tribe, as a member of that tribe, in the presence of witnesses from the other Nisga'a tribes at a settlement or stone moving feast.
  
2. Enrolment under this Agreement does not:
  - a. confer or deny rights of entry into Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, or any of the rights or benefits under the *Indian Act*; or
  - b. except as set out in this Agreement or in any federal or provincial law, impose any obligation on Canada or British Columbia to provide rights or benefits.

### OTHER LAND CLAIMS AGREEMENTS

3. An individual who is enrolled under another land claims agreement in Canada may not at the same time be enrolled under this Agreement.
  4. An individual enrolled under another land claims agreement in Canada may apply to enrol under this Agreement, but if their application succeeds that individual must withdraw from enrolment under the other land claims agreement.
  5. If the Enrolment Committee determines that an individual who is enrolled under another land claims agreement in Canada meets the eligibility criteria, the individual will be conditionally enrolled, and the individual's enrolment will be effective when the individual ceases to be enrolled under the other land claims agreement.
  6. If an individual who has been conditionally enrolled does not, within 60 days after receiving
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written notification by the Enrolment Committee, demonstrate that they have ceased to be enrolled under the other land claims agreement, the Enrolment Committee will remove that individual's name from the enrolment register.

## APPLICANTS

7. An individual may:
- a. apply to the Enrolment Committee for enrolment;
  - b. appeal a decision of the Enrolment Committee to the Enrolment Appeal Board; or
  - c. seek judicial review of a decision of the Enrolment Appeal Board
- on their own behalf, or on behalf of a minor, or an adult whose affairs they have the legal authority to manage.

## ENROLMENT COMMITTEE

8. The Enrolment Committee is a committee established by the General Executive Board of the Nisga'a Tribal Council and governed by enrolment rules adopted by the General Executive Board of the Nisga'a Tribal Council.
9. The Enrolment Committee comprises eight Nisga'a individuals, as follows:
- a. two members from the *Laxsgiik* (Eagle) tribe, as selected by that tribe;
  - b. two members from the *Gisk'aast* (Killer whale) tribe, as selected by that tribe;
  - c. two members from the *Ganada* (Raven) tribe, as selected by that tribe; and
  - d. two members from the *Laxgibuu* (Wolf) tribe, as selected by that tribe
- each of whom must understand *Ayuukhl Nisga'a*, Nisga'a culture, Nisga'a ancestry, Nisga'a tribes, and Nisga'a community institutions, and must reside in a Nisga'a Village.
10. During the initial enrolment period, the Nisga'a Tribal Council or the Nisga'a Nation, as the case may be, will notify Canada and British Columbia of the names of the individuals appointed to the Enrolment Committee.
11. During the initial enrolment period, the Enrolment Committee will:
- a. consider each application and:

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- i. enrol each applicant who demonstrates that they meet the eligibility criteria, and
      - ii. refuse to enrol each applicant who does not demonstrate that they meet the eligibility criteria;
    - b. establish and maintain, as a public document, an enrolment register containing the name of each individual who is enrolled;
    - c. take reasonable steps to publish the enrolment rules and the eligibility criteria;
    - d. provide an application form to any individual who wishes to apply for enrolment;
    - e. provide written notification to each applicant of its decision in respect of their application, and if enrolment is refused, include written reasons for that decision;
    - f. provide a copy of the notification referred to in subparagraph 11(e), including any reasons, to the Nisga'a Tribal Council or the Nisga'a Nation, as the case may be, and to Canada;
    - g. upon request, provide in confidence a Party or the Enrolment Appeal Board with information in respect of an individual's enrolment application;
    - h. add names to, or delete names from, the enrolment register in accordance with this Chapter;
    - i. subject to this Chapter, keep information provided by and about applicants confidential; and
    - j. provide a copy of the enrolment register to the Parties each year and at other times on request.
  12. In addition to the functions set out in paragraph 11, before the completion of the referendum in respect of this Agreement under paragraph 2 of the Ratification Chapter, the Enrolment Committee will:
    - a. provide the Ratification Committee with the name of each individual who is enrolled, and any other information requested by the Ratification Committee; and
    - b. if the Enrolment Committee forms the opinion that an applicant will be refused enrolment, provide the applicant with a reasonable opportunity to present further information or representations, in accordance with the enrolment rules.
  13. Each applicant has the burden of proving to the Enrolment Committee that they meet the eligibility criteria.
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14. Subject to this Chapter, all decisions of the Enrolment Committee are final and binding.
15. The Enrolment Committee may, before an appeal of a decision is commenced, vary the decision on the basis of new information, if it considers the decision was in error.
16. If the Enrolment Committee does not make a decision in respect of an application for enrolment within the time established in the enrolment rules, the application will be deemed to be refused.

#### **APPLICATION TO REMOVE APPLICANTS FROM ENROLMENT REGISTER**

17. If a Nisga'a participant, or an individual having legal authority to manage the affairs of a Nisga'a participant, applies to have the Nisga'a participant's name removed from the enrolment register, the Enrolment Committee will remove the Nisga'a participant's name and will notify the individual who made that application.

#### **ENROLMENT APPEAL BOARD**

##### **Appeals**

18. An applicant, a Party, or a Nisga'a Village may appeal to the Enrolment Appeal Board any decision of the Enrolment Committee made under subparagraph 11(a) or paragraph 15.

##### **Establishment of Enrolment Appeal Board**

19. On the effective date, the Nisga'a Nation and Canada will establish the Enrolment Appeal Board consisting of three members. The Nisga'a Nation and Canada will each appoint one member and will jointly appoint a chairperson.
  20. The Enrolment Appeal Board will:
    - a. establish its own procedures and time limits;
    - b. hear and determine each appeal brought under paragraph 18 and decide whether the applicant will be enrolled;
    - c. conduct its hearings in public unless it determines in a particular case that there are reasons for confidentiality that outweigh the public interest in having an open hearing; and
    - d. provide written reasons for its decision to the appellant, the applicant and the Parties.
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21. The Enrolment Appeal Board:
  - a. by summons, may require any individual to appear before the Enrolment Appeal Board as a witness and produce any relevant document in their possession; and
  - b. may direct a witness to answer on oath or solemn affirmation questions posed to the witness.
22. A judge of the Supreme Court of British Columbia, on application by the Enrolment Appeal Board, may enforce a summons or direction made under paragraph 21.
23. An applicant, a Party, a Nisga'a Village or a witness appearing before the Enrolment Appeal Board may be represented by counsel or agent.
24. No action lies or may be instituted against the Enrolment Appeal Board, or any member of the Enrolment Appeal Board, for anything said or done, or omitted to be said or done, in good faith in the performance, or intended performance, of a duty or in the exercise or intended exercise of a power under this Chapter.
25. Subject to paragraphs 26 to 29, all decisions of the Enrolment Appeal Board are final and binding.

## JUDICIAL REVIEW

26. An applicant, a Party, or a Nisga'a Village may apply to the Supreme Court of British Columbia to review and set aside a decision of the Enrolment Appeal Board, on the grounds that the Enrolment Appeal Board acted without jurisdiction, acted beyond its jurisdiction, refused to exercise its jurisdiction, failed to observe procedural fairness, erred in law, or based its decision on an erroneous finding of fact that it made in a perverse or capricious manner, or without regard for the material before it.
27. On an application for judicial review, the Court may either dismiss the application or set aside the decision and refer the matter back to the Enrolment Appeal Board for determination in accordance with any directions that the Court considers appropriate.
28. If the Enrolment Appeal Board fails to hear or decide an appeal within a reasonable time, an applicant, a Party, or a Nisga'a Village may apply to the Supreme Court of British Columbia for an order directing the Enrolment Appeal Board to hear or decide the appeal in accordance with any directions that the Court considers appropriate.
29. An applicant, a Party, or a Nisga'a Village may apply for judicial review within 60 days of receiving notification of the decision of the Enrolment Appeal Board or a longer time determined by the Court.

**FUNDING**

30. During the initial enrolment period, Canada and British Columbia will pay the costs of the Enrolment Committee and the Enrolment Appeal Board as set out in the "Eligibility and Enrolment Funding Agreement for a Nisga'a Final Agreement" dated October 23, 1997.

**DISSOLUTION OF ENROLMENT COMMITTEE AND ENROLMENT APPEAL BOARD**

31. The Enrolment Committee and the Enrolment Appeal Board will be dissolved when they have made a decision in respect of every application or appeal made or commenced before the end of their respective initial enrolment period.
32. On dissolution, the Enrolment Committee and Enrolment Appeal Board will provide their records to Nisga'a Lisims Government.

**NISGA'A NATION RESPONSIBILITIES FOR ENROLMENT**

33. Subject to the funding agreement referred to in paragraph 30, after the initial enrolment period the Nisga'a Nation will:
- a. be responsible for an enrolment process and the administrative costs of that process;
  - b. maintain the enrolment register;
  - c. provide a copy of the enrolment register to Canada and British Columbia each year or as they request; and
  - d. provide information concerning enrolment to Canada and British Columbia as they request.

## CHAPTER 21 IMPLEMENTATION

1. On the effective date, the Parties will establish an Implementation Plan to guide the Parties on the implementation of this Agreement.
  2. The Implementation Plan will be for a term of 10 years, commencing on the effective date.
  3. The Implementation Plan:
    - a. identifies obligations and activities arising from this Agreement;
    - b. identifies the manner in which the Parties anticipate fulfilling those obligations and undertaking those activities;
    - c. contains guidelines for the operation of the Implementation Committee established under this Chapter;
    - d. includes a communication strategy in respect of the implementation and content of this Agreement;
    - e. provides for the preparation of annual reports on the implementation of this Agreement; and
    - f. addresses other matters agreed to by the Parties.
  4. The Implementation Plan:
    - a. is not part of this Agreement;
    - b. is not intended to be a treaty or land claims agreement, and it is not intended to recognize or affirm aboriginal or treaty rights, within the meaning of sections 25 or 35 of the *Constitution Act, 1982*;
    - c. does not create legal obligations;
    - d. does not alter any rights or obligations set out in this Agreement;
    - e. does not preclude any Party from asserting that rights or obligations exist under this Agreement even though they are not referred to in the Implementation Plan; and
    - f. is not to be used to interpret this Agreement.
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**IMPLEMENTATION COMMITTEE**

5. On the effective date, the Parties will establish the Implementation Committee for a term of 10 years:
  - a. to provide a forum for the Parties to discuss the implementation of this Agreement;  
and
  - b. before the tenth anniversary of the effective date, to advise the Parties on the further implementation of this Agreement.



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## CHAPTER 22 RATIFICATION

### GENERAL

1. Ratification of this Agreement by the Parties in accordance with this Chapter is a condition precedent to the validity of this Agreement and, unless so ratified, this Agreement has no force or effect.

### RATIFICATION BY THE NISGA'A NATION

2. Ratification of this Agreement by the Nisga'a Nation requires:
  - a. debate at an assembly of the Nisga'a Nation called to consider this Agreement and to determine whether to refer it to a referendum;
  - b. proposal at that assembly of a motion to refer this Agreement to a referendum;
  - c. adoption of that motion by a simple majority of those voting on that motion;
  - d. conduct, by the Ratification Committee, of the referendum referred to in paragraph 5; and
  - e. that in that referendum, a simple majority of eligible voters vote in favour of entering into this Agreement.
3. All votes cast in a referendum under this Chapter will be by secret ballot.

### Ratification Committee

4. The Ratification Committee is a committee established by the General Executive Board of the Nisga'a Tribal Council and governed by rules adopted by the General Executive Board of the Nisga'a Tribal Council. It includes a representative of Canada, selected by the Minister of Indian Affairs and Northern Development, and a representative of British Columbia.
  5. Conduct of the referendum by the Ratification Committee requires the following steps:
    - a. preparing and publishing a preliminary list of voters based on the information provided by the Enrolment Committee under paragraph 12 of the Eligibility and Enrolment Chapter;
    - b. taking reasonable steps to provide the opportunity for the Nisga'a Nation to review
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this Agreement;

- c. preparing and publishing an official voters list at least 14 days before the first day of general voting in the referendum by:
  - i. determining whether or not each individual whose name is provided to it by the Enrolment Committee is eligible to vote, and
  - ii. including on that list the name of each individual whom the Ratification Committee determines to be eligible to vote in accordance with paragraph 6;
- d. updating the official voters list by:
  - i. at any time before the end of general voting, adding to the official voters list the name of each individual whom the Ratification Committee determines to be eligible to vote in accordance with paragraph 6,
  - ii. adding to the official voters list the name of each individual who votes in accordance with paragraph 7 and whose vote counts in accordance with paragraph 8,
  - iii. removing from the official voters list the name of each individual who died on or before the last day of voting without having voted in the referendum, and
  - iv. removing from the official voters list the name of each individual who did not vote in the referendum and who provides, within seven days of the last scheduled day of voting in the referendum, certification by a qualified medical practitioner that the individual was physically or mentally incapacitated to the point that they could not have voted on the dates set for general voting;
- e. approving the form and content of the ballot;
- f. authorizing and providing general direction to voting officers;
- g. conducting the vote on a day or days determined by the Ratification Committee; and
- h. counting the vote.

### Eligible Voters

6. An individual is eligible to vote in the referendum if that individual:
  - a. has been enrolled by the Enrolment Committee as a Nisga'a participant in

accordance with the eligibility criteria set out in paragraph 1 of the Eligibility and Enrolment Chapter;

- b. will be at least 18 years of age on the last scheduled day of voting for the referendum referred to in paragraph 5;
  - c. is ordinarily resident in Canada; and
  - d. is not enrolled in any other land claims agreement in Canada.
7. An individual who is eligible to vote under paragraph 6, but whose name is not included on the official voters list, may vote in the referendum if that individual:
- a. provides the voting officer with a completed enrolment application form or evidence satisfactory to the voting officer that the individual has submitted an enrolment application form to the Enrolment Committee;
  - b. provides evidence satisfactory to the voting officer that the individual meets the requirements set out in subparagraphs 6(b) and (c); and
  - c. declares in writing that they:
    - i. meet the eligibility criteria set out in paragraph 1 of the Eligibility and Enrolment Chapter, and
    - ii. are not enrolled in any other land claims agreement in Canada.
8. The ballot of an individual who votes under paragraph 7 counts in determining the outcome of the referendum only if the Ratification Committee determines that the individual is enrolled by the Enrolment Committee and meets the criteria set out in subparagraphs 6(b), (c), and (d).

#### Costs

9. Canada and British Columbia will pay the costs of the Ratification Committee as set out in the "Ratification Funding Agreement for a Nisga'a Final Agreement" entered into by the Parties on March 31, 1998.

#### RATIFICATION BY CANADA

10. Ratification of this Agreement by Canada requires:
- a. that this Agreement be signed by a Minister of the Crown authorized by the

Governor in Council; and

- b. the enactment of federal settlement legislation giving effect to this Agreement.

#### **RATIFICATION BY BRITISH COLUMBIA**

- 11. Ratification of this Agreement by British Columbia requires:
  - a. that this Agreement be signed by a Minister of the Crown authorized by the Lieutenant Governor in Council; and
  - b. the enactment of provincial settlement legislation giving effect to this Agreement.

#### **ADOPTION OF THE NISGA'A CONSTITUTION**

- 12. Adoption of the Nisga'a Constitution requires the support of at least 70% of those eligible voters who vote in a referendum on the Nisga'a Constitution.