

Canada



**ESKETEMC**



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# **AGREEMENT-IN-PRINCIPLE TRANSITION CHAPTER**

**Public Release Chapter  
March 31, 2010**

*This public release document is for consultation purposes only. It is not necessarily representative of the final position which may be taken in respect of a matter, and is subject to change. It is without prejudice to the position of the parties in any proceeding before any court or in any other forum and will not be construed as an admission of fact or liability and will not be tendered or relied upon in any such proceedings.*

## TRANSITION CHAPTER

### BACKGROUND

Canada, British Columbia and the Esketemc are engaged in treaty negotiations in the British Columbia Treaty Commission process. Our treaty negotiations include public consultation and internal review of documents under negotiation by the three Parties.

This document is part of a group of chapters under negotiation for the purposes of an Agreement-in-Principle.

### OBJECTIVE

The Parties are releasing this document as a sample for public information. However, it is intended that the Chapters in any future Esketemc Agreement-in-Principle would be read and understood in the context of the Agreement-in-Principle as a whole.

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## TRANSITION CHAPTER

### GENERAL

1. The Final Agreement will provide that the *Indian Act* applies, with any modifications that the circumstances require, to the property and estate of an individual who died testate or intestate before the Effective Date, and at the time of death was a member of the Esketemc Band under the *Indian Act*.
2. Before the Effective Date, Canada will take reasonable steps to:
  - a. notify in writing all members of the Esketemc Band who have deposited wills with the Minister; and
  - b. provide information to all members of the Esketemc Band who have not deposited wills with the Minister and to all individuals who are eligible to be enrolled under this Agreement,that their wills may not be valid after the Effective Date and that their wills should be reviewed to ensure validity under Provincial Law.
3. Section 51 of the *Indian Act* applies, with any modifications that the circumstances require, to the property of an Esketemc Citizen whose property was administered under section 51 of the *Indian Act* immediately before the Effective Date, until that individual is declared to be no longer incapable under the *Patients Property Act*.
4. The *Indian Act* applies, with any modifications that the circumstances require, to the estate of an Esketemc Citizen:
  - a. who executed a will in a form that complies with subsection 45(2) of the *Indian Act* before the Effective Date;
  - b. whose property was administered under section 51 of the *Indian Act* immediately before the Effective Date and at the time of death; and
  - c. who did not execute a will that complies with the requirements as to form and execution under Provincial Law during a period after the Effective Date in which that individual was declared to be no longer incapable under the *Patients Property Act*.
5. The Final Agreement will provide that section 52, 52.2, 52.3, 52.4 and 52.5 of the *Indian Act* apply with any modifications that the circumstances require to the administration of any property to which an Esketemc Citizen who is an infant child of an Indian is entitled, if the Federal Government was administering

that property under the *Indian Act* immediately before the Effective Date, until the duties of the Federal Government in respect of the administration have been discharged.

### **CONTINUATION OF *INDIAN ACT* BYLAWS**

6. The bylaws of the Esketemc Band that were in effect immediately before the Effective Date have effect for 6 months after the Effective Date on Esketemc Lands.
7. The relationship between a bylaw referred to in paragraph 6, and Federal Law and Provincial Law, will be governed by the provisions of the Final Agreement governing the relationship between Esketemc Law, and Federal Law and Provincial Law in respect of the subject matter of the bylaw.
8. Esketemc Government may repeal but not amend a bylaw referred to in paragraph 6.
9. Nothing in the Final Agreement precludes a person from challenging the validity of a bylaw referred to in paragraph 6.

### **TRANSFER OF BAND ASSETS**

10. Subject to the Final Agreement, on the Effective Date, all of the rights, titles, interests, assets, obligations and liabilities of the Esketemc Band vest in the Esketemc Government and the Esketemc Band ceases to exist.
11. Esketemc Band monies held by Canada, belonging to the Esketemc, will be transferred to the Esketemc Government upon the Effective Date.
12. All moneys held by Canada pursuant to the *Indian Act* for the use and benefit of the Esketemc including capital and revenue moneys of the Band, shall be transferred by Canada to Esketemc as soon as practicable after the Effective Date.
13. Upon transfer of the moneys referred to in paragraph 12 Canada shall no longer thereafter be responsible for the collection of moneys payable:
  - a. to or for the benefit of Esketemc; or
  - b. except as provided in paragraph 1 to 5 or for the benefit of a Citizen.
14. For greater certainty, Canada shall not be liable for any errors or omissions in the administration of all moneys held by Esketemc or the use and benefit of

Esketemc that occur subsequent to the transfer of capital and revenue moneys of the Band from Canada to Esketemc.