

**METLAKATLA FIRST NATION
DRAFT METLAKATLA TREATY**



Explanatory Note

In accordance with Section 2 of the “Metlakatla Transition to Stage 5 and Treaty Revitalization Agreement” (the “Agreement”) this Draft Metlakatla Treaty is intended to inform and guide, but not limit Stage 5 Treaty negotiations.

During Stage 5 negotiations the Parties intend to resolve outstanding issues as identified in this Draft Metlakatla Treaty, informed and guided by the other Foundation Documents. In addition, this Draft Metlakatla Treaty will be revised with some provisions added, deleted, and amended as the Parties negotiate the Metlakatla Treaty. In accordance with paragraph 1b. of the Agreement, some of the provisions in this document may be deleted and included in appendices or side agreements.

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PREAMBLE

WHEREAS the Metlakatla First Nation is an aboriginal people of Canada;

WHEREAS Section 35 of the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada and the courts have stated that aboriginal rights include aboriginal title;

WHEREAS the courts have stated that reconciliation of the prior presence of aboriginal people and the assertion of sovereignty by the Crown is best achieved through negotiation and agreement rather than through litigation;

WHEREAS Canada endorses the United Nations Declaration on the Rights of Indigenous Peoples;

WHEREAS Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples states that “Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”;

WHEREAS the Parties intend to negotiate a Metlakatla Treaty to provide a basis for this reconciliation and to provide a basis for a new relationship;

WHEREAS the Parties have negotiated this Agreement under the British Columbia Treaty process;

WHEREAS the Parties desire certainty in respect of Metlakatla First Nation ownership and use of lands and resources, Metlakatla First Nation law-making authority and the relationship of Federal Laws, Provincial Laws and Metlakatla First Nation Laws;

WHEREAS the Parties intend that this Agreement will achieve certainty by agreeing to the continuation of rights as expressed in this Agreement, rather than by the extinguishment of rights;

WHEREAS Metlakatla First Nation heritage, history and culture, including Sm’algyax, are tied to the lands and waters of Metlakatla traditional territory as stated in the Tsimshian Statement of Intent submitted to the British Columbia Treaty Commission;

WHEREAS it is an important objective of the Parties that this Agreement is a living document and that the Parties are able to revisit and revise this Agreement during the Periodic Review and that the treaty establish Objective Standards in order to measure the success of the matters negotiated herein;

WHEREAS it is an important objective of the Parties that the Metlakatla First Nation Members achieve social and economic comparability with other citizens of Canada and that the treaty establish Objectives Standards in order to measure comparability and to gauge the success of the matters negotiated herein;

WHEREAS it is an important objective of the Metlakatla First Nation to preserve, protect, and enhance the Metlakatla First Nation economy, heritage, language and culture; and

WHEREAS this Agreement sets out the principles agreed to by the Parties as the basis for negotiating a Metlakatla Treaty;

During Stage 5 treaty negotiations, the Parties will address their interests in adding to or amending the Preamble.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

CHAPTER 1 – GENERAL PROVISIONS

1. During Stage 5 treaty negotiations, the Parties will address their interests in rights recognition, periodic renewal and predictability.

NATURE OF THIS AGREEMENT

2. The Parties acknowledge and agree that this Agreement and any of its provisions are not legally binding on any of the Parties and are without prejudice to the respective legal positions of the Parties prior to the Effective Date and neither this Agreement nor any related communications over the course of these negotiations will be used by any of the Parties in any court proceeding or any other forum, including international fora, or be construed as creating, abrogating, negating, denying, recognizing, defining, or amending any rights or obligations of any of the Parties except as expressly provided for in the Metlakatla Treaty only upon the Effective Date.
3. Based upon this Agreement, the Parties will begin as soon as practicable to negotiate a Metlakatla Treaty.
4. Prior to the conclusion of a Metlakatla Treaty, the Parties will address fisheries matters, and the Parties will review other parts of the Metlakatla Treaty that may be affected, and make any necessary changes, and the Metlakatla Treaty will reflect the agreement of the Parties.

NATURE OF THE METLAKATLA TREATY

5. The Metlakatla Treaty, once ratified by the Parties, will be legally binding on the Parties and on all persons, and can be relied on by all Parties and all persons.
6. Upon ratification of the Metlakatla Treaty by the Parties, the Metlakatla Treaty will be a treaty and a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
7. Canada and British Columbia will recommend to Parliament and the Legislature, respectively, legislation to bring into effect the Metlakatla Treaty.
8. Ratification of the Metlakatla Treaty by the Parties in accordance with the Ratification Chapter is a condition precedent to the validity of the Metlakatla Treaty and, unless so ratified, the Metlakatla Treaty is of no force or effect.

ASSURANCES

9. The Metlakatla First Nation will represent and warrant to Canada and British Columbia in the Metlakatla Treaty that, in respect of the matters dealt with in the Metlakatla Treaty it has the authority to enter and does enter into the Metlakatla Treaty on behalf of all persons who through the Metlakatla First Nation have or may exercise any aboriginal rights, including aboriginal title, in Canada, or who may make any claims to such rights.
10. Canada and British Columbia represent and warrant to Metlakatla First Nation that, in relation to the matters dealt with in the Metlakatla Treaty, they have the authority to enter into the

Metlakatla Treaty within their respective authorities.

CONSTITUTION OF CANADA

11. The Metlakatla Treaty will not alter the Constitution of Canada, including:
 - a) the distribution of powers between Canada and British Columbia;
 - b) the identity of the Metlakatla First Nation as aboriginal people of Canada within the meaning of the *Constitution Act, 1982*; and
 - c) sections 25 and 35 of the *Constitution Act, 1982*.
12. The Metlakatla Treaty will provide that the Canadian Charter of Rights and Freedoms including section 25 will apply to the Metlakatla First Nation Government in respect of all matters within its authority.

CHARACTER OF METLAKATLA FIRST NATION LANDS AND OTHER METLAKATLA FIRST NATION LANDS

13. After the Effective Date, there will be no “Lands reserved for the Indians” within the meaning of the Constitution Act, 1867 for Metlakatla and there will be no Indian Reserves for the use and benefit of Metlakatla and, for greater certainty, Metlakatla Lands are not “Lands reserved for the Indians” within the meaning of the Constitution Act, 1867, and is not an Indian Reserve.

APPLICATION OF FEDERAL AND PROVINCIAL LAWS

14. Any licence, permit or other authorization to be issued by Canada or British Columbia under the Metlakatla Treaty will be issued under Federal or Provincial Law and will not be part of the Metlakatla Treaty, but the Metlakatla Treaty will prevail to the extent of any inconsistency with the licence, permit or other authorization.
15. Federal Law and Provincial Law will apply to Metlakatla First Nation, Metlakatla First Nation Members, Metlakatla First Nation Institutions, Metlakatla First Nation Corporations, and Metlakatla First Nation Lands.
16. The Metlakatla Treaty will confirm that federal settlement legislation enacted to bring into effect the Metlakatla Treaty will prevail over other Federal Laws to the extent of any Conflict, and provincial settlement legislation enacted to bring into effect the Metlakatla Treaty will prevail over other Provincial Laws to the extent of any Conflict.
17. The Metlakatla Treaty will prevail to the extent of any inconsistency with a Federal or Provincial Law.

RELATIONSHIP OF LAWS

18. Notwithstanding any other rule of priority in the Metlakatla Treaty, if the Metlakatla First Nation Law has an incidental impact on, or if one of the aspects of the Metlakatla First Nation

Law is with respect to, a subject matter over which:

- a) the Metlakatla First Nation Government will not have law-making authority under the Metlakatla Treaty; or
- b) the Metlakatla First Nation Government will have law-making authority under the Metlakatla Treaty but for which Federal and Provincial Laws prevail to the extent of a conflict,

and if the Metlakatla First Nation Law is in Conflict with a Federal or Provincial Law, then the Federal or Provincial Law will prevail to the extent of the Conflict.

- 19. Notwithstanding any other rule of priority in the Metlakatla Treaty, Federal Laws in relation to peace, order and good government, criminal law, human rights, and the protection of the health and safety of all Canadians, or other matters of overriding national importance will prevail to the extent of any Conflict with Metlakatla First Nation Laws.
- 20. For greater certainty, Metlakatla First Nation law-making authorities set out in the Metlakatla Treaty do not extend to criminal law and procedure, Intellectual Property, official languages of Canada, aeronautics, navigation, shipping, and labour relations and working conditions.
- 21. During Stage 5 treaty negotiations, the Parties will address their interests in the scope of Federal Settlement Legislation on the application of Provincial Law.
- 22. Unless otherwise provided in the Metlakatla Treaty, Metlakatla First Nation Laws will not apply to Canada or British Columbia.
- 23. Any Metlakatla First Nation Law that is inconsistent with the Metlakatla Treaty will be of no force or effect to the extent of the inconsistency.
- 24. Prior to the Metlakatla Treaty, the Parties will provide for the consistency of Metlakatla First Nation Laws and actions with Canada's international legal obligations.

APPLICATION OF THE *INDIAN ACT*

- 25. Except for the purposes of determining whether an individual is an Indian, and subject to the Indian Act Transition and the Taxation Chapters, the Indian Act will have no application to Metlakatla First Nation, Metlakatla First Nation Members, Metlakatla First Nation Institutions or Metlakatla First Nation Lands as of the Effective Date.

OTHER RIGHTS, BENEFITS AND PROGRAMS

- 26. The Metlakatla Treaty will not affect the ability of Metlakatla First Nation Members to enjoy rights and benefits for which they would be eligible as Canadian citizens or permanent residents of Canada.
- 27. Subject to paragraph 28, nothing in the Metlakatla Treaty will affect the ability of the Metlakatla First Nation, Metlakatla First Nation Governments, Metlakatla First Nation Public

Institutions, or Metlakatla First Nation Members to participate in, or benefit from, federal or provincial programs for aboriginal people, registered Indians or other Indians, in accordance with general criteria established for those programs from time to time.

28. Metlakatla First Nation Members will be eligible to participate in programs established by Canada or British Columbia and to receive public services from Canada or British Columbia, in accordance with general criteria established for those programs or services from time to time, to the extent that the Metlakatla First Nation has not assumed responsibility for those programs or public services under the Metlakatla First Nation fiscal agreement.

COURT DECISIONS

29. If a superior court of a province, the Federal Court of Canada, or the Supreme Court of Canada finally determines any provision of the Metlakatla Treaty to be invalid or unenforceable:
 - a) the Parties will make best efforts to amend the Metlakatla Treaty, as applicable, to remedy or replace the provision; and
 - b) the provision will be severable from the Metlakatla Treaty, as applicable, to the extent of the invalidity or unenforceability, and the remainder of the Metlakatla Treaty, as applicable, will be construed, to the extent possible, to give effect to the intent of the Parties.
30. No Party will challenge, or support a challenge to, the validity of any provision of the Metlakatla Treaty.
31. A breach of the Metlakatla Treaty by a Party does not relieve any Party from its obligations under the Metlakatla Treaty.

SPECIFIC CLAIMS

32. Notwithstanding any other provision of the Metlakatla Treaty, nothing in the Metlakatla Treaty will preclude Metlakatla First Nation from pursuing any claims that fall within the scope of Canada's Specific Claims Policy, in accordance with that policy, the Specific Claims Tribunal Act, or in court.
33. For greater certainty, if Metlakatla First Nation pursues a specific claim in court, Canada reserves the right to plead all defences available to it including limitation periods, the doctrine of laches, and lack of admissible evidence, and Metlakatla First Nation reserves the right to make all possible counter arguments available to it.
34. Claims referred to in paragraph 32 will not result in any land being declared to be, or being set aside as, "Lands reserved for the Indians" within the meaning of the *Constitution Act, 1867* for Metlakatla First Nation or an Indian Reserve for the use and benefit of Metlakatla First Nation.

OTHER ABORIGINAL PEOPLES

35. The Metlakatla Treaty will not affect, recognize or provide any rights under section 35 of the *Constitution Act, 1982*, for any aboriginal people other than the Metlakatla First Nation.
36. If a superior court of a province, the Federal Court of Canada or the Supreme Court of Canada finally determines that any aboriginal people, other than Metlakatla First Nation, has a right under section 35 of the *Constitution Act, 1982* that is adversely affected by a provision of the Metlakatla Treaty:
 - a) that provision will operate and have effect to the extent it does not adversely affect that right; and
 - b) if the provision cannot operate and have effect in a way that it does not adversely affect that right, the Parties will make best efforts to amend the Metlakatla Treaty to remedy or replace that provision.
37. The Metlakatla Treaty will provide that if Canada or British Columbia enters into a treaty or a land claims agreement, within the meaning of Sections 25 and 35 of the *Constitution Act, 1982*, with any other aboriginal people and that treaty or land claims agreement adversely affects a Section 35 Right of the Metlakatla First Nation as set out in this Agreement:
 - a) Canada or British Columbia, or both, as the case may be, will provide the Metlakatla First Nation with additional or replacement rights or other appropriate remedies;
 - b) at the request of the Metlakatla First Nation, the Parties will negotiate and attempt to reach agreement on the provision of those additional or replacement rights or other appropriate remedies; and
 - c) if the Parties are unable to reach agreement on the provision of the additional or replacement rights or other appropriate remedies, the provision of those additional or replacement rights or remedies will be determined in accordance with Stage 3 of the Dispute Resolution Chapter.

INTERPRETATION

38. To the extent of any Conflict or inconsistency, the provisions in the General Provisions Chapter of the Metlakatla Treaty will prevail over the provisions in the other chapters of the Metlakatla Treaty.
39. There is no presumption that doubtful expressions, terms or provisions in the Metlakatla Treaty are to be resolved in favour of any particular Party.
40. No agreement, plan, guideline or other document made by a Party or Parties that is referred to in or contemplated by the Metlakatla Treaty, including an agreement that is reached as a result of negotiations that are required or permitted by the Metlakatla Treaty is:

- a) part of the Metlakatla Treaty; or
 - b) a treaty or land claims agreement, or recognizes or affirms aboriginal or treaty rights, within the meaning of Sections 25 and 35 of the *Constitution Act, 1982*.
41. In this Agreement:
- a) “provincial” refers to the province of British Columbia
 - b) a reference to a statute will include every amendment to it, every regulation made under it, and any law enacted in substitution for, or in replacement of it;
 - c) a reference to “Canada’s international legal obligations” will include those which are in effect on, or after, the Effective Date;
 - d) unless it is otherwise clear from the context, the use of the singular will include the plural, and the use of the plural will include the singular; and
 - e) unless it is otherwise clear from the context, a reference in a chapter of this Agreement to a “paragraph”, “subparagraph” or “Schedule” means a paragraph, subparagraph or schedule of that chapter, and
 - f) headings and subheadings are for convenience only, do not form a part of this Agreement, and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement.
42. For greater certainty, the Parties acknowledge that the *Official Languages Act* applies to the Metlakatla Treaty, including the execution of the Metlakatla Treaty.
43. The Metlakatla Treaty may set out other provisions concerning interpretation of the Metlakatla Treaty.

CONSULTATION

44. During Stage 5 treaty negotiations, the Parties will address their interests in the duty to consult with respect to Metlakatla Treaty Rights.

INFORMATION AND PRIVACY

45. For the purposes of federal and provincial access to information and privacy legislation, information that the Metlakatla First Nation Government provides to Canada or British Columbia in confidence is deemed to be information received or obtained in confidence from another government.
46. If the Metlakatla First Nation Government requests disclosure of information from Canada or British Columbia, the request will be evaluated as if it were a request by a province for disclosure of that information, but Canada and British Columbia are not required to disclose to the Metlakatla First Nation Government information that is only available to a particular province or particular provinces or that is not available to any provinces or that is not available

to any province.

47. The Parties may enter into agreements in respect of any one or more of the collection, protection, retention, use, disclosure, and confidentiality of personal, general, or other information in accordance with any applicable legislation, including federal and provincial access to information and privacy legislation.
48. Canada or British Columbia may provide information to the Metlakatla First Nation Government in confidence if the Metlakatla First Nation has made a law or has entered into an agreement with Canada or British Columbia, as the case may be, under which the confidentiality of the information will be protected.
49. Notwithstanding any other provision of this Agreement:
 - a) Canada and British Columbia are not required to disclose any information that they are required to or authorized to withhold under any Federal or Provincial Law, including under Sections 37 to 39 of the *Canada Evidence Act*;
 - b) if federal or provincial legislation allows the disclosure of certain information only if specified conditions for disclosure are satisfied, Canada and British Columbia are not required to disclose that information unless those conditions are satisfied; and
 - c) the Parties are not required to disclose any information that may be withheld under a privilege at law.

ENTIRE AGREEMENT

50. The Schedules and Appendices to the Metlakatla Treaty will form part of the Metlakatla Treaty.
51. The Metlakatla Treaty will be the entire agreement among the Parties in relation to the subject matter of the Metlakatla Treaty and, except as set out in the Metlakatla Treaty, there is no representation, warranty, collateral agreement, condition, right or obligation affecting the Metlakatla Treaty.

NO IMPLIED WAIVER

52. Any waiver of:
 - a) a provision of the Metlakatla Treaty;
 - b) the performance by a Party of an obligation under the Metlakatla Treaty; or
 - c) a default by a Party of an obligation under the Metlakatla Treaty,

will be in writing and signed by the Party or Parties giving the waiver and will not be a waiver of any other provision, obligation or subsequent default.

OBLIGATION TO NEGOTIATE

53. Whenever the Parties are obliged under any provision of the Metlakatla Treaty to negotiate and attempt to reach agreement, all Parties will participate in the negotiations unless the Parties otherwise agree.
54. Where the Metlakatla Treaty provides that the Parties, or any two of them, “will negotiate and attempt to reach agreement”, those negotiations will be conducted as set out in the Dispute Resolution Chapter, but none of the Parties are obliged to proceed to arbitration under Stage Three of the Dispute Resolution Chapter unless, in a particular case, they are required to do so under paragraph 28 of the Dispute Resolution Chapter.

ASSIGNMENT

55. Unless the Parties otherwise agree, the Metlakatla Treaty may not be assigned, either in whole or in part, by any Party.

ENUREMENT

56. The Metlakatla Treaty will enure to the benefit of and be binding on the Parties and their respective permitted assigns.

DEPOSIT OF METLAKATLA TREATY

57. The Parties will deposit a copy of the Metlakatla Treaty and any amendments to the Metlakatla Treaty, including any instruments giving effect to an amendment, in the following locations:
 - a) by Canada in:
 - i) the Library of Parliament; and
 - ii) the library of the Department of Indian Affairs and Northern Development in the National Capital Region.
 - b) By British Columbia in:
 - i) the Legislative Library of British Columbia; and
 - ii) the Office of the Registrar of Land Titles of British Columbia;
 - c) by Metlakatla First Nation in their main office; and
 - d) any other locations agreed to by the Parties.

NOTICE

58. In paragraphs 59 to 63, “communication” includes a notice, document, request, response, approval, authorization, confirmation or consent.
59. Unless otherwise described in this Agreement, a communication between or among the Parties under this Agreement will be in writing and will be:
 - a) delivered personally or by courier;
 - b) transmitted by fax or email; or
 - c) mailed by any method for which confirmation of delivery is provided.
60. A communication is considered to have been given, made or delivered, and received:
 - a) if delivered personally or by courier, at the start of business on the next business day after the business day on which it was received by the addressee or a responsible representative of the addressee;
 - b) if transmitted by fax or email and the sender receives confirmation of the transmission, at the start of business on the business day next following the day on which it was transmitted; or
 - c) if mailed by prepaid registered post in Canada, when the postal receipt is acknowledged by the addressee.
61. The Parties may agree to give, make or deliver a communication by means other than those provided in paragraphs 59 and 60.
62. The Parties will provide to each other addresses for delivery of communications under the Metlakatla Treaty, and subject to paragraph 63, will deliver a communication to the address provided by each Party.
63. If no other address for delivery of a particular communication has been provided by a Party, a communication will be delivered, mailed to the address or transmitted to the fax number of, the intended recipient to be completed during Stage 5 treaty negotiations.

CHAPTER 2 – SELF-GOVERNMENT

GENERAL

1. The Metlakatla First Nation has the right to self-government, and the authority to make laws, as set out in the Metlakatla Treaty.

DELEGATION

2. Any law-making authority of the Metlakatla First Nation Government under the Metlakatla Treaty may be delegated by a Metlakatla First Nation Law to:
 - a) a Metlakatla First Nation Public Institution;
 - b) another First Nation Government in British Columbia;
 - c) a public institution established by one or more First Nations Governments in British Columbia;
 - d) British Columbia;
 - e) Canada;
 - f) a Local Government; or
 - g) a legal entity as agreed to by the Parties;

if the delegation and the exercise of any law-making authority is in accordance with the Metlakatla Treaty and the Metlakatla First Nation Constitution.

3. Any authority of the Metlakatla First Nation under the Metlakatla Treaty other than a law-making authority may be delegated by a Metlakatla First Nation Law to:
 - a) any body set out in paragraph 2; or
 - b) a legal entity in Canada,

if the delegation and the exercise of any delegated authority is in accordance with the Metlakatla Treaty and the Metlakatla First Nation Constitution.

4. Any delegation under paragraph 2 or paragraph 3 requires the written consent of the delegate.
5. The Metlakatla First Nation may enter into agreements to receive authorities, including law-making authority, by delegation.

LEGAL STATUS AND CAPACITY

6. The Metlakatla First Nation is a legal entity with the capacity, rights, powers, privileges of a

natural person, including the ability to:

- a) enter into contracts and agreements;
 - b) acquire and hold property or any interest in property, and sell or dispose of that property or interest;
 - c) raise, invest, expend and borrow money;
 - d) sue and be sued, and
 - e) do other things ancillary to the exercise of their rights, powers and privileges.
7. The rights, powers, and privileges of the Metlakatla First Nation Government will be exercised in accordance with:
- a) the Metlakatla Treaty; and
 - b) Metlakatla First Nation Laws, including the Metlakatla First Nation Constitution.
8. The Metlakatla First Nation will act through the Metlakatla First Nation Government in exercising its rights, powers, privileges and authorities, and in carrying out its duties, functions and obligations.

METLAKATLA FIRST NATION GOVERNMENT LIABILITY

Elected Members of the Metlakatla First Nation Government

9. No action for damages lies or may be instituted against an elected member or former elected member of the Metlakatla First Nation Government for:
- a) anything said or done, or omitted to be said or done, by or on behalf of the Metlakatla First Nation or the Metlakatla First Nation Government by somebody other than that elected member or former elected member while he or she is, or was, an elected member;
 - b) any alleged neglect or default in the performance, or intended performance, of a duty, or the exercise of a power, of the Metlakatla First Nation or the Metlakatla First Nation Government while that person is, or was, an elected member;
 - c) anything said or done or omitted to be said or done by that person in the performance, or intended performance, of the person's duty or the exercise of the person's power; or
 - d) any alleged neglect or default in the performance, or intended performance, of that person's duty or exercise of that person's power.
10. Subparagraphs 9c) and 9d) do not provide a defence if:
- a) the person has, in relation to the conduct that is the subject matter of the action, been

guilty of dishonesty, gross negligence or malicious or willful misconduct; or

b) the cause of action is libel or slander.

11. Subparagraphs 9c) and 9d) do not absolve the Metlakatla First Nation from vicarious liability arising out of a tort committed by an elected member or former elected member of the Metlakatla First Nation Government for which the Metlakatla First Nation would have been liable had those subparagraphs not been in effect.

Metlakatla First Nation Public Officers

12. No action for damages lies or may be instituted against a Metlakatla First Nation Public Officer or former Metlakatla First Nation Public Officer:

a) for anything said or done or omitted to be said or done by that person in the performance, or intended performance, of the person's duty or the exercise of the person's power; or

b) for any alleged neglect or default in the performance, or intended performance, of that person's duty or exercise of that person's power.

13. Paragraph 12 does not provide a defence if:

a) the Metlakatla First Nation Public Officer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or

b) the cause of action is libel or slander.

14. Paragraph 12 does not absolve any of the corporations or bodies referred to in the definition of Metlakatla First Nation Public Officer from vicarious liability arising out of a tort committed by a Metlakatla First Nation Public Officer for which the corporation or body would have been liable had that paragraph not been in effect.

15. Notwithstanding paragraph 12, except as may be otherwise provided under Federal or Provincial Law, a Metlakatla First Nation Public Officer does not have protections, immunities or limitations in respect of liability, in respect of the provision of a service, if no persons delivering reasonably similar programs or services under Federal or Provincial Laws have protections, immunities, limitations in respect of liability and rights under Federal or Provincial Laws.

Metlakatla First Nation and Metlakatla First Nation Government

16. The Metlakatla First Nation and the Metlakatla First Nation Government have the protections, immunities, limitations in respect of liability, remedies over, and rights provided to a municipality and its municipal council under applicable provincial legislation.

17. Subject to paragraph 1 of the Access Chapter the Metlakatla First Nation has the protections,

immunities, limitations in respect of liability, remedies over and rights provided to a municipality under the *Occupiers Liability Act*, and, for greater certainty, has those protections, immunities, limitations in respect of liability, remedies over, and rights, in respect of a road on Metlakatla First Nation Settlement Lands used by the public, or by industrial or resource users, if the Metlakatla First Nation is the occupier of that road.

STRUCTURE

18. The Metlakatla First Nation Government, as provided for under its Constitution and the Metlakatla Treaty, is the government of the Metlakatla First Nation.
19. A majority of the members of the executive and legislative branches of the Metlakatla First Nation Government will be elected as provided for in the Metlakatla First Nation Constitution.
20. Subject to paragraph 19, the Metlakatla First Nation Constitution may provide for the appointment of members to the executive or legislative branches of the Metlakatla First Nation Government, including the process for appointment, duties and other related matters.

METLAKATLA FIRST NATION CONSTITUTION

21. The Metlakatla First Nation will have a Constitution, consistent with the Metlakatla Treaty, which will provide:
 - a) for a democratic Metlakatla First Nation Government, including its duties, composition, and membership;
 - b) that the majority of Metlakatla First Nation Government members shall be elected;
 - c) that the Metlakatla Treaty sets out the authority of the Metlakatla First Nation Government to make laws;
 - d) for the process for the enactment of laws by the Metlakatla First Nation Government;
 - e) for a process for challenging the validity of Metlakatla First Nation Laws;
 - f) for the establishment of Metlakatla First Nation Public Institutions;
 - g) that in the event of a conflict between the Metlakatla First Nation Constitution and the provisions of any Metlakatla First Nation Law, the Metlakatla First Nation Law is, to the extent of the conflict, of no force or effect;
 - h) that the Metlakatla First Nation Government will be democratically accountable to its Members with elections at least every five years;
 - i) for a system of financial administration comparable to standards generally acceptable for governments in Canada, through which Metlakatla First Nation Government will be financially accountable to its Members;

- j) for conflict of interest rules that are comparable to generally accepted conflict of interest rules for governments in Canada;
 - k) for conditions under which the Metlakatla First Nation may dispose of land or interests in lands;
 - l) for recognition and protection of rights and freedoms of Metlakatla First Nation Members;
 - m) that every individual who is enrolled under the Metlakatla Treaty is entitled to be a Metlakatla First Nation citizen;
 - n) for a transitional Metlakatla First Nation Government from the Effective Date until the first elected Metlakatla First Nation Government takes office;
 - o) for amendment of the Metlakatla First Nation Constitution; and
 - p) other provisions, as determined by the Metlakatla First Nation.
22. Metlakatla First Nation Constitution will not form part of the Metlakatla Treaty.
23. The Metlakatla First Nation Constitution, once ratified in accordance with the Metlakatla Treaty, will come into force on the Effective Date.
24. In the event of conflict between the Metlakatla First Nation Constitution and the Metlakatla Treaty, the provisions of the Metlakatla Treaty will prevail to the extent of the conflict.

CHALLENGES TO VALIDITY OF METLAKATLA FIRST NATION LAWS

25. The Provincial Court of British Columbia or the Supreme Court of British Columbia, as the case may be, has jurisdiction to hear applications challenging the validity of Metlakatla First Nation Laws.

APPEAL AND REVIEW OF ADMINISTRATIVE DECISIONS

26. The Metlakatla First Nation Government may establish processes for appeal or review of administrative decisions made by Metlakatla First Nation Institutions and if those processes provide for a right of appeal to a court, the Supreme Court of British Columbia will have jurisdiction to hear those appeals.
27. The Supreme Court of British Columbia has jurisdiction to hear applications for judicial review of administrative decisions taken by Metlakatla First Nation Institutions, under a Metlakatla Law, provided no application for judicial review of those decisions may be brought until all procedures for appeal or review provided by the Metlakatla First Nation Government and applicable to that decision have been exhausted.
28. The *Judicial Review Procedure Act* applies to an application for judicial review of administrative decisions taken by Metlakatla First Nation Institutions under paragraph 27 and for the purpose of applying that Act, “enactment” shall include a law enacted by the

Metlakatla First Nation Government.

REGISTRY OF LAWS

29. The Metlakatla First Nation Government will:
- a) maintain a public registry of Metlakatla First Nation Laws in the English language and, at the discretion of the Metlakatla First Nation Government, in Sm'algayax, the English version of which will be authoritative;
 - b) provide Canada and British Columbia with copies of the Metlakatla First Nation Laws as soon as practicable after they are enacted, unless otherwise agreed by the Parties; and
 - c) establish a procedure for the coming into force of Metlakatla First Nation Laws.

NOTIFICATION OF PROVINCIAL LEGISLATION

30. Subject to paragraph 36, or an agreement under paragraph 34, before legislation is introduced in the Legislative Assembly, or before a regulation is approved by the Lieutenant-Governor-in-Council, British Columbia will notify the Metlakatla First Nation if:
- a) The Metlakatla Treaty provides the Metlakatla First Nation Government law-making authority in respect of the subject matter of the legislation or regulation;
 - b) the legislation or regulation may affect the protections, immunities, limitations in respect of liability, remedies over, and rights referred to in paragraphs 9, 16 and others, as applicable; and
 - c) the legislation or regulation may affect
 - i) the rights, powers, duties, obligations, or
 - ii) the protections, immunities, and or limitations in respect of liability referred to in paragraph 61,

except where this cannot be done for reasons of emergency or confidentiality.

31. If British Columbia does not notify the Metlakatla First Nation under paragraph 30 for reasons of emergency or confidentiality, British Columbia will notify the Metlakatla First Nation, as soon as practicable, that the legislation has been introduced in the Legislative Assembly, or the regulation has been deposited with the Registrar of Regulations.
32. Notifications under paragraphs 30 and 31 will include:
- a) the nature and purpose of the proposed legislation or regulation; and
 - b) the date the proposed legislation or regulation is anticipated to take effect, if it has not already done so.

33. Subject to paragraph 35 and 36, or an agreement under paragraph 34, if, within 30 days after notice is given under paragraphs 30 or 31 or by agreement under paragraph 34, the Metlakatla First Nation makes a written request to British Columbia, then British Columbia and the Metlakatla First Nation will discuss the effect of the legislation or regulation, if any, on:
 - a) a law which has been enacted by the Metlakatla First Nation Government under the Metlakatla Treaty; or
 - b) a matter referred to in subparagraphs 30b), or 30c).
34. The Metlakatla First Nation and British Columbia may enter into an agreement establishing alternatives to the obligations which would otherwise apply under paragraphs 30 to 33.
35. If British Columbia establishes a process providing for collective discussion with British Columbia First Nation Governments in relation to matters referred to in paragraph 33 the process will be deemed to satisfy British Columbia's obligation for discussion in respect of a particular matter under paragraph 33.
36. If the Metlakatla First Nation is a member of a representative body and, with the consent of Metlakatla, British Columbia and that body have entered into an agreement providing for consultation in respect of matters under paragraphs 30, 31, 32 and 33, then consultations in respect of a particular matter will be deemed to satisfy British Columbia's obligations for notification under paragraphs 30, 31, 32 and discussion under paragraph 33.
37. Unless British Columbia agrees otherwise, the Metlakatla First Nation will retain the information provided under paragraphs 30 to 36 in strict confidence until such time, if ever, the draft legislation is given First Reading in the Legislative Assembly or a regulation is deposited with the Registrar of Regulations, as applicable.
38. The Parties acknowledge that nothing in paragraphs 30 to 36 is intended to interfere with British Columbia's legislative process.
39. Notwithstanding any other provision of this Agreement, to the extent that provincial legislation or a regulation referred to in paragraph 30 affects the validity of a Metlakatla First Nation Law, the Metlakatla First Nation Law will be deemed to be valid for a period of six months after the coming into force of the provincial legislation or regulation.

AUTHORITIES

40. The exercise of Metlakatla jurisdiction and law making authority by the Metlakatla First Nation Government as set out in the Metlakatla Treaty will evolve over time.

Metlakatla First Nation Government

41. Metlakatla First Nation Government may make laws in respect of the administration, management and operation of the Metlakatla First Nation Government, including:
 - a) the establishment of Metlakatla First Nation Public Institutions, including their

- respective powers, duties, composition, and membership but any incorporation of a Metlakatla First Nation Public Institution must be under Federal or Provincial Laws;
- b) the powers, duties, responsibilities, remuneration, indemnification and in relation to elected officials, employees and appointees of a Metlakatla First Nation Institutions;
 - c) the establishment of Metlakatla First Nation Corporations, but the registration or incorporation of Metlakatla First Nation Corporations must be under Federal or Provincial Laws;
 - d) financial administration of Metlakatla First Nation Institutions;
 - e) Metlakatla First Nation elections, by-elections and referenda; and,
 - f) matters associated with and ancillary to the operations of its government.
42. The Metlakatla First Nation Government will make laws that provide for reasonable access to information in the custody or control of a Metlakatla First Nation Institution by:
- a) Metlakatla First Nation Members,
 - b) Non-Members; and
 - c) persons who receive services and programs from a Metlakatla First Nation Institution.
43. A Metlakatla First Nation Law under paragraph 41 or 42 prevails to the extent of a Conflict with a Federal or Provincial Law except Federal or Provincial Law in respect of the protection of personal information prevails to the extent of a Conflict with a Metlakatla First Nation Law under paragraph 41 or 42.

Metlakatla Citizenship

44. Metlakatla First Nation Government may make laws in respect of Metlakatla First Nation citizenship.
45. The conferring of citizenship 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 the Metlakatla Treaty or in any Federal or Provincial Law, impose any obligation on British Columbia or Canada to rights or benefits.
46. A Metlakatla First Nation Law under paragraph 44 prevails to the extent of a Conflict with a Federal or Provincial Law.

Devolution of Cultural Property

47. In paragraphs 48 to 53, “cultural property” means:
- a) ceremonial regalia and similar personal property associated with a Metlakatla First Nation chief or clan; and
 - b) other personal property which has cultural significance to the Metlakatla First Nation.
48. The Metlakatla First Nation may make laws for the devolution of cultural property of a Metlakatla First Nation Member who dies without a valid will.
49. In the event of a Conflict between a Metlakatla First Nation Law under paragraph 48 and a Federal or Provincial Law, the Metlakatla First Nation law prevails to the extent of a Conflict.
50. Metlakatla First Nation has standing in any judicial proceeding in which:
- a) the validity of a will of a Metlakatla First Nation Member; or
 - b) the devolution of cultural property of a Metlakatla First Nation Member;
- is at issue, including any proceedings under wills variation legislation.
51. The Metlakatla First Nation may commence an action under Provincial wills variation legislation with respect to cultural property addressed by the will of a Metlakatla First Nation Member that provides for a devolution of cultural property.
52. In proceedings to which paragraphs 50 or 51 applies, a court will consider, among other matters, any evidence and representations in respect of Metlakatla First Nation Laws and customs relating to the devolution of cultural property.
53. The participation of the Metlakatla First Nation in proceedings pursuant to paragraphs 50 or 51 will be in accordance with the applicable rules of court and will not affect the court's ability to control its process.

Metlakatla First Nation Assets

54. The Metlakatla First Nation Government may make laws in respect of the use, possession, disposition and management of:
- a) assets located on Metlakatla First Nation Lands; and
 - b) assets off Metlakatla First Nation Lands;
- of the Metlakatla First Nation, Metlakatla First Nation Corporation or Metlakatla First Nation Public Institution.
55. A Metlakatla First Nation Law with respect to paragraph 54a) prevails to the extent of a

Conflict with Federal or Provincial Law.

56. A Federal or Provincial Law prevails to the extent of a Conflict with Metlakatla First Nation Law under paragraph 54b).
57. For greater certainty, the law making authority under paragraph 54 does not include the authority to make laws regarding creditors' rights and remedies.

Peace, Order, and Public Safety

58. The Metlakatla First Nation Government may make laws in respect of the regulation, control or prohibition of any actions, activities or undertakings on Metlakatla First Nation Lands that constitute, or may constitute, a nuisance, a trespass, a threat to public order, peace or safety or a danger to public health.
59. The Metlakatla First Nation Government authority does not include authority in respect of criminal law.
60. In the event of a Conflict between Metlakatla First Nation Laws and Federal or Provincial Laws in respect of paragraph 58, Federal and Provincial Laws will prevail to the extent of the Conflict.

Emergency Preparedness

61. Metlakatla First Nation Government has:
 - a) the rights, powers, duties, and obligations; and
 - b) the protections, immunities and limitations in respect of liabilityof a local authority under Federal and Provincial Law in respect of emergency preparedness and emergency measures on Metlakatla First Nation Lands.
62. The Metlakatla First Nation Government may make laws in respect of its rights, powers, duties, and obligations under paragraph 61.
63. In the event of a Conflict between a Federal or Provincial Law and a Metlakatla First Nation Law under paragraph 62, the Federal or Provincial Law prevails to the extent of the Conflict.
64. For greater certainty, the Metlakatla First Nation Government may declare a state of local emergency, and exercise the powers of a local authority in respect of local emergencies in accordance with Federal and Provincial Laws in respect of emergency measures, but any declaration and any exercise of those powers is subject to the authority of Canada and British Columbia under Federal and Provincial Laws.
65. Nothing in the Metlakatla Treaty affects the authority of:
 - a) Canada to declare a national emergency; or

b) British Columbia to declare a provincial emergency

in accordance with Federal and Provincial Laws.

66. Nothing in the Metlakatla Treaty precludes the Metlakatla First Nation from accessing emergency programs in the same manner that local governments access such programs from the Federal and Provincial Governments.

Regulation of Business

67. The Metlakatla First Nation Government may make laws in respect of the regulation, licensing and prohibition of business on Metlakatla First Nation Lands, including the imposition of licence fees or other fees.
68. Unless provided for under the Metlakatla Treaty, the Metlakatla First Nation Government law-making authority under paragraph 67 does not include the authority to make laws in respect of the accreditation, certification, or professional conduct of professions and trades.
69. In the event of a Conflict between a Federal or Provincial Law and a Metlakatla First Nation Law under paragraph 67, Federal and Provincial Law prevails to the extent of the Conflict.

Buildings and Structures

70. The Metlakatla First Nation Government may make laws in respect of buildings and structures on Metlakatla First Nation Lands.
71. Metlakatla First Nation may only establish standards that are different than or additional to the British Columbia Building Code pursuant to an agreement with British Columbia under paragraph 72.
72. At the request of the Metlakatla First Nation Government, British Columbia will negotiate and attempt to reach an agreement to enable the Metlakatla First Nation Government to establish standards for buildings or structures which are additional to or different from the standards established by the British Columbia Building Code.
73. In the event of a Conflict between Metlakatla First Nation Laws in respect of paragraph 70 and Federal or Provincial Laws, Federal or Provincial Law will prevail to the extent of the Conflict.

Public Works

74. The Metlakatla First Nation Government may make laws in respect of public works and related services undertaken or provided by or on behalf of the Metlakatla First Nation on Metlakatla First Nation Lands.
75. In the event of a Conflict between a Federal or Provincial Law and a Metlakatla First Nation Law made under paragraph 74, Federal or Provincial Law prevails to the extent of the Conflict.

Traffic, Parking, Transportation, and Highways

76. The Metlakatla First Nation Government may make laws in respect of parking, traffic, transportation, and highways on Metlakatla First Nation Lands to the same extent as municipalities in British Columbia.
77. In the event of a Conflict between Metlakatla First Nation Law in paragraph 76, Federal or Provincial Laws will prevail to the extent of the Conflict.

Health

78. The Metlakatla First Nation Government may make laws in respect of health services:
 - a) for Metlakatla First Nation Members; or
 - b) provided by a Metlakatla First Nation Institution,on Metlakatla First Nation Lands.
79. Metlakatla First Nation Laws under paragraph 78 will take into account the protection, improvement and promotion of public and individual health and safety.
80. Metlakatla First Nation Laws under paragraph 78 do not apply to health services provided by a provincially-funded health institution, agency or body, other than an institution, agency or body established by the Metlakatla First Nation.
81. At the request of any Party, the Parties will negotiate and attempt to reach agreement on the delivery and administration of federal and provincial health services and programs by a Metlakatla First Nation Institution for individuals residing on Metlakatla First Nation Lands.
82. In the event of a Conflict with a Federal or Provincial Law in respect of a health service law under paragraph 78, the Federal or Provincial Law will prevail to the extent of the Conflict.
83. Notwithstanding paragraph 82, a Metlakatla First Nation Law under paragraph 78 in respect of the organization and structure of Metlakatla First Nation Institutions used to deliver health services on Metlakatla First Nation Lands will prevail to the extent of the Conflict with Federal or Provincial Law.

Aboriginal Healers

84. The Metlakatla First Nation Government may make laws in respect of authorization, licensing and regulation of persons to practice as aboriginal healers within Metlakatla First Nation Lands.
85. The authority to make laws under paragraph 84 does not include the authority to regulate:
 - a) medical or health practices that, or practitioners who, require licensing or certification under Federal or Provincial Law; or

- b) products or substances that are regulated under Federal or Provincial Laws.
86. Any Metlakatla First Nation Laws under paragraph 84 will include standards:
- a) in respect of competence, ethics and quality of practice that are reasonably required to protect the public; and
 - b) that are reasonably required to safeguard personal client information.
87. In the event of a Conflict with a Federal or Provincial Law in respect of paragraph 84, the Metlakatla First Nation Law will prevail to the extent of the Conflict.

Family and Social Services

88. The Metlakatla First Nation Government may make laws in respect of family and social services, including income assistance and housing, provided by a Metlakatla First Nation Institution.
89. Federal or Provincial Law prevails to the extent of a Conflict with a Metlakatla First Nation Law under paragraph 88.
90. The Metlakatla First Nation Government law-making authority under paragraph 88 does not include the authority to make laws in respect of the licensing and regulation of facility-based services off Metlakatla First Nation Lands.
91. If the Metlakatla First Nation Government makes laws under paragraph 88, at the request of any Party, the Parties will negotiate and attempt to reach agreement in respect of exchange of information with regards to avoidance of double payments, and related matters.
92. At the request of any Party, the Parties will negotiate and attempt to reach agreements for administration and delivery by a Metlakatla First Nation Institution of federal and provincial social services and programs for all individuals residing within Metlakatla First Nation Lands.

Child Protection Services

93. The Metlakatla First Nation Government may make laws in respect of Child Protection Services on Metlakatla First Nation Lands with respect to children of Metlakatla First Nation Families.
94. Metlakatla First Nation Laws under paragraph 93 must:
- a) expressly provide that those Laws will be interpreted and administered such that the Safety and Well-being of Children are the paramount considerations; and
 - b) not preclude the reporting, under Provincial Law, of a Child in Need of Protection.
95. If the Metlakatla First Nation Government makes laws under paragraph 93, the Metlakatla First Nation Government will:

- a) develop operational and practice standards intended to ensure the Safety and Well-Being of Children and families
 - b) participate in British Columbia's information management systems, or establish an information management system that is compatible with British Columbia's information systems, concerning Children in Need of Protection and Children in Care;
 - c) allow for mutual sharing of information concerning Children in Need of Protection and Children in Care with British Columbia; and
 - d) establish and maintain a system for the management, storage and disposal of Child Protection Services records and the safeguarding of personal Child Protection Services information.
96. Notwithstanding any laws made under paragraph 93, if there is an emergency in which a Metlakatla First Nation Child on Metlakatla First Nation Lands is in need of protection, and the Metlakatla First Nation has not responded or is unable to respond in a timely manner, British Columbia may act to protect the Metlakatla First Nation Child and unless British Columbia and the Metlakatla First Nation otherwise agree in writing, British Columbia will refer the matter to the Metlakatla First Nation after the emergency.
97. If the Metlakatla First Nation Government has made a Law under paragraph 93, and there is an emergency in which a Child under British Columbia's authority is a Child in Need of Protection, Metlakatla First Nation may act to protect the Child, and unless British Columbia and Metlakatla First Nation agree otherwise in writing, Metlakatla First Nation will refer the matter to British Columbia after the emergency.
98. A Metlakatla First Nation Law under paragraph 93 prevails to the extent of a Conflict with a Federal or Provincial Law.
99. At the request of the Metlakatla First Nation or British Columbia, Metlakatla First Nation and British Columbia will negotiate and attempt to reach agreement in respect of how Child Protection Services are provided to:
- a) Metlakatla First Nation Children who reside on or off Metlakatla First Nation Lands; or
 - b) children who reside on Metlakatla First Nation Lands who are not Metlakatla First Nation Children.
100. Where the Director becomes the guardian of a Metlakatla First Nation Child, the Director will contact the Metlakatla First Nation and include the Metlakatla First Nation in planning for the Metlakatla First Nation Child, including adoption planning.
101. Metlakatla will participate in the planning, including adoption planning, for a Metlakatla First Nation Child.
102. Notwithstanding paragraphs 100 and 101, where Metlakatla is unable to participate in the planning, including adoption planning for a Metlakatla First Nation Child, or in emergency

situations, the Director may proceed with planning for the Metlakatla Child where in the opinion of the Director the best interests of the Metlakatla Child require the Director to act.

Child Custody

103. The Metlakatla First Nation Government will have standing in any proceedings in British Columbia in which custody of a Metlakatla First Nation Child is in dispute, and the court will take judicial notice of Metlakatla First Nation Laws and consider any evidence and representations concerning Metlakatla First Nation Laws and customs in addition to any other matters they are required by law to consider.
104. The participation of the Metlakatla First Nation Government pursuant to paragraph 103 will be in accordance with the applicable rules of court and will not affect the court's ability to control its process.

Adoption

105. For the purposes of this chapter, all relevant factors must be considered in determining a child's best interests, including those factors that must be considered under the *Adoption Act*.
106. Metlakatla First Nation Government may make laws in respect of adoptions in British Columbia for:
 - a) Metlakatla First Nation Children; and
 - b) Children who reside on Metlakatla First Nation Land to be adopted by Metlakatla First Nation Members.
107. Metlakatla Laws under paragraph 106 must:
 - a) expressly provide that the best interests of the child are the paramount consideration in determining whether an adoption will take place; and
 - b) provide for the consent of individuals whose consent to a Child's adoption is required under Provincial Law, subject to the power of the court to dispense with such consent under Provincial Law.
108. If the Metlakatla First Nation Government makes Laws under paragraph 106, the Metlakatla First Nation will:
 - a) develop operational and practice standards that promote the best interests of the Child; and
 - b) provide British Columbia and Canada with a record of all adoptions occurring under the Metlakatla First Nation Law.
109. The Parties will negotiate and attempt to reach agreement on the information that will be included in the record under paragraph 108b).

110. A Metlakatla First Nation Law under paragraph 106 prevails to the extent of a Conflict with a Federal or Provincial Law.
111. A Metlakatla First Nation Law under paragraph 106 applies to the adoption of a Metlakatla First Nation Child residing off Metlakatla First Nation Lands or a Child residing on Metlakatla First Nation Land who is not a Metlakatla First Nation Child if the Child has not been placed for adoption under the Adoption Act, and those individuals whose consent to the Child's adoption is required under Provincial Law consent to the application of Metlakatla First Nation Law to the adoption, or a court dispenses with the requirement for the consent required in paragraph 107b).
112. If a Director designated under Provincial Law becomes the guardian of a Metlakatla First Nation Child, the Director will:
 - a) provide notice to the Metlakatla First Nation Government that the Director is the guardian of the Metlakatla First Nation Child;
 - b) provide notice to the Metlakatla First Nation Government when the Director applies for a continuing custody order;
 - c) provide the Metlakatla First Nation Government with a copy of the continuing custody order once the order is made and make reasonable efforts to involve the Metlakatla First Nation Government in planning for the Child; and
 - d) if requested by the Metlakatla First Nation, consent to the application of Metlakatla First Nation Law to the adoption of that Metlakatla First Nation Child, provided that it is in the best interests of the Child; and
 - e) in determining the best interests of the Child under subparagraph 112d), the Director will consider, if not set out in Provincial Law, the importance of preserving the Child's cultural identity.
113. Before placing a Metlakatla First Nation Child for adoption, an adoption agency must make reasonable efforts to obtain information about the Child's cultural identity and discuss placement with a designated representative of the Metlakatla First Nation.
114. Paragraph 113 does not apply if the Child has reached the age where consent to adoption is required under Provincial Law, and objects to the discussion taking place, or if the birth parent or other guardian of the child who requested that the child be placed for adoption objects to the discussion taking place.

Child Care

115. The Metlakatla First Nation Government may make laws in respect of Child Care services on Metlakatla First Nation Lands.
116. During Stage 5 treaty negotiations, the Parties will address their interests in the issue of

priority of laws made under paragraph 115.

Kindergarten to Grade 12 Education

117. The Metlakatla First Nation Government may make laws in respect of kindergarten to grade 12 education provided by a Metlakatla First Nation Institution on Metlakatla First Nation Lands.
118. Metlakatla First Nation Laws under paragraph 117 must:
 - a) establish curriculum, examination and other standards that permit the transfer of students between school systems in British Columbia at a similar level of achievement and permit entry of students to the provincial post-secondary education systems; and
 - b) provide for the certification, other than for the teaching of Sm'alg yax and Tsimshian culture, of teachers by a Metlakatla First Nation Institution, or a body recognized by British Columbia in accordance with standards comparable to standards under Provincial Law applicable to individuals who teach in public or provincially funded independent schools in British Columbia.
119. The Metlakatla First Nation Government may make laws in respect of home education of Metlakatla First Nation Members on Metlakatla First Nation Lands.
120. A Metlakatla First Nation Law under paragraphs 117 and 119 prevails to the extent of a Conflict with Federal or Provincial Law.
121. At the request of the Metlakatla First Nation Government or British Columbia, those Parties will negotiate and attempt to reach agreement concerning the provision of kindergarten to grade 12 education by the Metlakatla First Nation Institution to:
 - a) persons other than Metlakatla First Nation Members residing on Metlakatla First Nation Lands; or
 - b) Metlakatla First Nation Members residing off Metlakatla First Nation Lands.

Post Secondary Education

122. The Metlakatla First Nation Government may make laws in respect of post-secondary education provided by a Metlakatla First Nation Institution on Metlakatla First Nation Lands, including:
 - a) the establishment of post-secondary institutions with the ability to grant degrees, diplomas or certificates;
 - b) the determination of the curriculum for post-secondary education institutions established by the Metlakatla First Nation Government; and
 - c) the provision for and coordination of adult education programs.

123. In the event of a Conflict between a Metlakatla First Nation Law under paragraph 122 and Federal or Provincial Law, Federal and Provincial Law prevail to the extent of a Conflict.

Solemnization of Marriages

124. The Metlakatla First Nation Government may make laws in respect of solemnization of marriages within British Columbia by individuals designated by the Metlakatla First Nation Government.
125. Individuals designated by the Metlakatla First Nation Government to solemnize marriages:
- a) will be appointed by British Columbia as persons authorized to solemnize marriages; and
 - b) have the authority to solemnize marriages under Provincial Law and Metlakatla First Nation Law, and have all the associated rights, duties and responsibilities of a marriage commissioner under Provincial Law.
126. In the event of a Conflict between a Metlakatla First Nation Law under paragraph 124 and a Federal or Provincial Law, the Federal or Provincial Law prevails to the extent of the Conflict.

Liquor Control

127. The Metlakatla First Nation Government may make laws in respect of the prohibition of, and the terms and conditions for, the sale, exchange, possession, manufacture or consumption of liquor on Metlakatla First Nation Lands.
128. In the event of a Conflict between Metlakatla First Nation Law under paragraph 127 and Federal Law or Provincial Law, the Federal Law or Provincial Law will prevail to the extent of the Conflict.
129. British Columbia will approve all applications made by or with the consent of the Metlakatla First Nation Government for licenses or permits to sell liquor on Metlakatla First Nation Land, where the proposed sale complies with applicable Provincial Law.
130. British Columbia will not issue a license, permit, or other authority to sell liquor on Metlakatla First Nation Lands without the consent of the Metlakatla First Nation Government.
131. A person with a licence, permit, or other authority to sell liquor on Metlakatla First Nation Lands must purchase liquor from an authorized distributor in accordance with Federal and Provincial Laws.
132. British Columbia will, in accordance with Provincial Law, authorize persons designated by the Metlakatla First Nation Government to approve or deny applications for special occasion licences to sell liquor on Metlakatla First Nation Lands.

Other Matters

133. For greater certainty, the authority of the Metlakatla First Nation Government to make Laws

in respect of a subject matter as set out in the Metlakatla Treaty includes the authority to make Laws and to do other things as may be necessarily incidental to exercising its authority.

134. The Metlakatla First Nation Government may adopt Federal or Provincial Laws in respect of matters within the Metlakatla First Nation Government law-making authority set out in the Metlakatla Treaty.
135. Prior to the Final Agreement, the Parties will address cannabis control issues on Metlakatla First Nation Lands.

ADMINISTRATION OF JUSTICE

Penalties

136. Metlakatla First Nation Law may provide for the imposition of sanctions, including fines, Administrative Penalties, community service, restitution and imprisonment, for the violation of Metlakatla First Nation Law.
137. Except as provided in paragraph 6 of the Taxation Chapter, Metlakatla First Nation Law may provide for:
 - a) a maximum fine that is not greater than that which may be imposed for comparable regulatory offences punishable by way of summary conviction under Federal or Provincial Law; and
 - b) a maximum Administrative Penalty that is not greater than that which may be imposed for a breach of a comparable regulatory requirement under Federal or Provincial Law
138. Where there is no comparable regulatory offence or regulatory requirement under Federal or Provincial Law, the maximum fine or Administrative Penalty will not be greater than the general limit for offences under the provincial *Offence Act*.
139. Subject to paragraph 6 of the Taxation Chapter, Metlakatla First Nation Law may provide for a maximum term of imprisonment that is not greater than the general limit for offences under the provincial *Offence Act*.

Enforcement of Metlakatla First Nation Laws

140. The Metlakatla First Nation Government is responsible for the enforcement of Metlakatla First Nation Laws.
141. The Parties may, to the extent of their respective authority, negotiate agreements for the enforcement of Metlakatla First Nation Laws by a police force, appropriate federal or provincial enforcement officials or other appropriate departments and enforcement agencies.
142. The Metlakatla First Nation Government may make laws for the enforcement of Metlakatla First Nation Laws, respecting:

- a) the appointment of officials to enforce Metlakatla First Nation Laws; and
 - b) powers of enforcement, provided such powers will not exceed those provided by Federal or Provincial Law for officials enforcing similar laws in British Columbia
143. The Metlakatla First Nation Government law-making authority in paragraph 142 does not include the authority to:
- a) establish a police force, regulate police activities or appoint police officers except as provided for under Federal and Provincial Law; or
 - b) authorize the acquisition, possession, transport, carriage or use of a firearm, ammunition, prohibited weapon or prohibited device as these terms are defined in Part III of the Criminal Code.
144. If the Metlakatla First Nation Government appoints officials to enforce Metlakatla First Nation Laws, the Metlakatla First Nation Government will:
- a) establish training standards similar to those established by British Columbia for its enforcement officials enforcing similar laws, including ensuring that any Metlakatla First Nation enforcement officials are adequately trained to carry out their duties having regard to recruitment, selection and training standards for other enforcement officers carrying out similar duties in British Columbia; and
 - b) establish accountability standards similar to those established by British Columbia for its enforcement officials enforcing similar laws, including establishing and implementing procedures for responding to complaints against Metlakatla First Nation enforcement officials.
145. Federal or Provincial Law prevails to the extent of a Conflict with a Metlakatla First Nation Law under paragraph 142.
146. The Metlakatla First Nation may, by a proceeding brought in the Supreme Court of British Columbia, enforce, or prevent or restrain the contravention of a Metlakatla First Nation Law.

Adjudication of Metlakatla First Nation Laws

147. The Provincial Court of British Columbia has jurisdiction to hear prosecutions of offences under Metlakatla First Nation Laws.
148. The summary conviction proceedings of the *Offence Act* apply to prosecutions of offences under Metlakatla First Nation Laws.
149. The Provincial Court of British Columbia or the Supreme Court of British Columbia, as the case may be, has jurisdiction to hear legal disputes arising between individuals under Metlakatla First Nation Laws.
150. The Metlakatla First Nation Government is responsible for the prosecution of all matters

arising from Metlakatla First Nation Laws, including appeals, and may carry out this responsibility by:

- a) appointing or retaining individuals to conduct prosecutions and appeals, in a manner consistent with the principle of prosecutorial independence and consistent with the overall authority and role of the Attorney General in the administration of justice in British Columbia;
 - b) entering into agreements with Canada or British Columbia in respect of the conduct of prosecutions and appeals; or
 - c) both sub-paragraphs a) and b).
151. Unless the parties agree otherwise, British Columbia will pay any fines collected, in respect of a penalty imposed on a person by the Provincial Court of British Columbia, or the Supreme Court of British Columbia, as the case may be, for an offence under a Metlakatla First Nation Law, to the Metlakatla First Nation Government on a similar basis as British Columbia makes payments to Canada for fines that may be collected by British Columbia in respect of an offence under a Federal Law.
152. The Metlakatla First Nation Government law-making authority does not include the authority to establish a court.
153. The Metlakatla Treaty will provide that the Metlakatla First Nation Government may propose to the Judicial Council of British Columbia, individuals to be recommended by the Judicial Council of British Columbia for appointment and designation as judicial justices of the peace.
154. For the purposes of paragraph 153, the Metlakatla First Nation Government will:
- a) develop and implement a process, including eligibility criteria, for identifying candidates; and
 - b) on submitting the name of a proposed candidate, disclose to the Judicial Council of British Columbia the nature and result of the processes referred to in subparagraph a).
155. The *Provincial Court Act* will apply in all respects to:
- a) the appointment and designation by the Lieutenant Governor in Council of individuals recommended by the Judicial Council of British Columbia under paragraph 153; and
 - b) judicial justices of the peace appointed and designated by the Lieutenant Governor under subparagraph a).
156. Judicial justices of the peace appointed under paragraph 153 will have jurisdiction to adjudicate offences established under Metlakatla First Nation Law and such other offences as may be determined by the Chief Judge of the Provincial Court of British Columbia.
157. After receiving a written request from the Metlakatla First Nation Government, the Parties

will discuss and explore options for the establishment of a court, other than a court with inherent jurisdiction or a federal court, to adjudicate offences and other matters arising under Metlakatla First Nation Law or laws of other First Nation Governments in British Columbia.

Community Correctional Services

158. The Metlakatla First Nation Government may provide Community Correctional Services for persons charged with, or found guilty of, an offence under Metlakatla First Nation Law and to carry out such other responsibilities as may be set out in an agreement under paragraphs 159 and 161.
159. At the request of the Metlakatla First Nation Government, the Metlakatla First Nation Government and British Columbia may enter into agreements to provide Community Correctional Services in relation to persons who fall under the jurisdiction of British Columbia on Metlakatla First Nation Lands for persons charged with, or found guilty of, an offence under a Federal or Provincial Law.
160. Any agreements under paragraph 159 will address:
 - a) recruitment and selection standards for individuals appointed by the Metlakatla First Nation Government to provide community correctional services;
 - b) adherence to provincial operational policy, including training standards;
 - c) confirmation of the authority of the official charged with the responsibility for investigations, inspections and standards of corrections and youth justice services under Provincial Law;
 - d) any other matters that may be identified by British Columbia and/or the Metlakatla First Nation as necessary to enter into the agreement; and
 - e) provisions for the Metlakatla First Nation Government to provide Community Correctional Services consistent with the needs and priorities of the Metlakatla First Nation.
161. At the request of the Metlakatla First Nation, the Metlakatla First Nation Government and British Columbia may enter into agreements to enable the Metlakatla First Nation Government to provide rehabilitative community-based programs and interventions off Metlakatla First Nation Lands for Metlakatla First Nation Members charged with, or found guilty of, an offence under a Federal or Provincial Law
162. The Metlakatla Treaty will not authorize the Metlakatla First Nation Government to establish or maintain places of confinement, except for police jails or lockups operated by a police service established under Provincial Law, or as provided for under an agreement referred to in paragraph 159.
163. The Metlakatla Treaty will address matters related to Federal correctional facilities and

services.

Creditor Remedies and Protection of Metlakatla Assets

164. During Stage 5 treaty negotiations, the Parties will address their interests in limitations on creditor remedies.

NON-MEMBER REPRESENTATION

165. The Metlakatla Treaty will provide that Non-Members are consulted about Metlakatla First Nation Institutions decisions which directly and significantly affect them.
166. For the purposes of paragraph 165, a Metlakatla First Nation Public Institution must provide:
- a) notice to Non-Members of the matter to be decided;
 - b) sufficient information with respect to the matter to permit Non-Members to prepare their views on the matter;
 - c) a reasonable period of time to permit Non-Members to prepare their views on the matter;
 - d) an opportunity for Non-Members to present their views on the matter; and
 - e) a full and fair consideration of any views on the matter presented by Non-Members.
167. In addition to the requirement to consult under paragraph 165, the Metlakatla First Nation Government will provide Non-Members with the opportunity to participate in the decision-making processes of a Metlakatla First Nation Public Institution if the activities of that Metlakatla First Nation Public Institution directly and significantly affect Non-Members.
168. Prior to the Metlakatla Treaty, the Parties will address the means of participation under paragraph 167.
169. The Metlakatla First Nation Government will provide Non-Members with access to the appeal and review procedures that may be established under paragraph 26 in respect of administrative decisions that directly and significantly affect Non-Members.
170. The Metlakatla First Nation Government will establish the means of participation under paragraph 167 by Metlakatla First Nation Law at the same time that it establishes a Metlakatla First Nation Public Institution whose activities may directly and significantly affect Non-Members.

Metlakatla First Nation Government

171. The Chief Councilor and Councilors of the Metlakatla First Nation Governing Council under the *Indian Act* on the day immediately before the Effective Date are the elected members of the Metlakatla First Nation Government from the Effective Date until the office holders

elected in the first election take office.

172. The first election for the officers of the Metlakatla First Nation Government will be initiated no later than six months after the Effective Date and the office holders elected in the election will take office no later than one year after the Effective Date.

Law-making by Metlakatla First Nation Government

173. Before the Metlakatla First Nation Government makes a Metlakatla First Nation Law in respect of adoption, Child Protection Services, Health Services, Family and Social Services, Childcare or Kindergarten to Grade 12 Education, the Metlakatla First Nation Government will give at least six months written notice of the proposed Law to Canada and British Columbia.
174. Upon agreement by the Parties, the Metlakatla First Nation Government may exercise a law-making authority before the expiration of the six-month notice period required in accordance with paragraph 173.
175. At the written request of any Party made within three months of receiving notice under paragraph 173, the relevant Parties will discuss:
- a) options to address the interests of the Metlakatla First Nation Government through methods other than the exercise of law-making authority;
 - b) immunity of individuals providing services or exercising authority under Metlakatla First Nation Laws;
 - c) any transfer of cases and related documentation from Federal or Provincial institutions to Metlakatla First Nation Institutions, including any confidentiality and privacy considerations;
 - d) any transfer of assets from Federal or Provincial institutions to Metlakatla First Nation Institutions;
 - e) any appropriate amendments to Federal or Provincial Laws; and
 - f) other matters agreed to by the Parties.
176. The Parties may enter into agreements regarding any of the matters set out in paragraph 175, but an agreement under this paragraph is not a condition precedent to the exercise of law-making authority by the Metlakatla First Nation Government, and such authority may be exercised immediately following the six-month notice period required under paragraph 173 or the notice period agreed upon in accordance with paragraph 174.

CHAPTER 3 – LOCAL AND REGIONAL GOVERNMENT RELATIONS

GENERAL

1. Metlakatla First Nation Lands do not form part of any municipality and do not form part of any regional district and the Local Government bylaws do not apply to Metlakatla First Nation Lands unless the Metlakatla First Nation consents to become a member of the regional district in accordance with paragraph 9.
2. On the Effective Date, the Metlakatla First Nation is responsible for managing its intergovernmental relations with Local Government.
3. Nothing in the Metlakatla Treaty will limit the ability of British Columbia to restructure regional districts or to amend or divide the boundaries of a regional district, municipality or electoral area in accordance with Provincial Law.
4. British Columbia will Consult with the Metlakatla First Nation on any changes to the boundaries or structure of a regional district or municipality that directly and significantly affect the Metlakatla First Nation, including any changes to the boundaries of the City of Prince Rupert and the District of Port Edward.

INTERGOVERNMENTAL AGREEMENTS

5. The Metlakatla First Nation may enter into agreements with Local Government with respect to the provision and delivery of:
 - a) Local Government services to Metlakatla First Nation Lands; and
 - b) Metlakatla First Nation services for lands under the jurisdiction of Local Government.
6. The Metlakatla First Nation agrees that any contractual service agreement with a Local Government in effect on the Effective Date will remain in effect following the Effective Date until such time as it is renegotiated or is terminated under the terms of the agreement.
7. The Metlakatla First Nation and Local Governments may establish and maintain agreements that set out principles, procedures and guidelines for the management of their relationship. The matters that may be governed by such agreements include, but are not limited to, the following:
 - a) coordination and harmonization of land use and planning, water use and watershed planning, for certainty including regulating land use, enforcement of regulations and development;
 - b) coordination and harmonization of property tax structures;
 - c) coordination and harmonization of the development of infrastructure including transportation;

- d) cooperative economic development including recreation and tourism;
 - e) environmental protection and stewardship;
 - f) protection of culture and heritage interests;
 - g) provision of services;
 - h) participating in Local Government decision-making processes; and
 - i) dispute resolution.
8. In the absence of an agreement under paragraph 7, the Metlakatla First Nation and Local Governments will meaningfully discuss with each other land use planning on parcels of land that touch a shared boundary between them.

REGIONAL DISTRICT MEMBERSHIP

- 9. The Metlakatla First Nation may become a member of regional districts in accordance with Provincial Law.
- 10. Where the Metlakatla First Nation becomes a member of a regional district, the Metlakatla First Nation will appoint an elected member of the Metlakatla First Nation Government to sit as a director on the board of the regional district in accordance with Provincial Law.
- 11. The Metlakatla First Nation director will have the functions, powers, duties, obligations and liability protections of a municipal director of the regional district board as is provided to a “treaty first nation director” under Provincial Law.
- 12. Where the Metlakatla First Nation is a member of a regional district and a dispute arises, the Metlakatla First Nation and the regional district may be required to use a dispute resolution process set out in Provincial Law.

REGIONAL HOSPITAL DISTRICT MEMBERSHIP

- 13. Metlakatla First Nation Lands form part of the North West Regional Hospital District.
- 14. On the Effective Date, the Metlakatla First Nation will be a member of the Northwest Regional Hospital District and will appoint an elected member of the Metlakatla First Nation Government to sit as a director on the board of the Northwest Regional Hospital District in accordance with Provincial Law.
- 15. The Metlakatla director will have the functions, powers, duties, obligations and liability protections of a municipal director of the regional hospital board as is provided to a “treaty first nation director” under Provincial Law.
- 16. Where the Metlakatla First Nation becomes a member of a regional district under paragraph 9, the Metlakatla First Nation’s membership in the Northwest Regional Hospital District under

paragraph 14 will be replaced through regional district membership.

LONG-TERM DEBT FINANCING

17. Prior to the Metlakatla Treaty, Canada and Metlakatla First Nation will discuss long-term debt financing for Metlakatla First Nation Government.

CHAPTER 4 – CULTURE AND HERITAGE

GENERAL

1. The Parties recognize the integral role of Metlakatla First Nation Artifacts in the continuation of Tsimshian culture, values, and traditions.
2. Metlakatla First Nation Members have the right to practice Tsimshian culture and to use Sm'alg yax in a manner consistent with the Metlakatla Treaty.
3. For greater certainty, nothing in paragraph 2 creates or implies any financial obligations or service delivery responsibilities on the part of Canada.

LAW-MAKING

4. The Metlakatla First Nation Government may make laws applicable on Metlakatla First Nation Lands in respect of:
 - a) the conservation, protection and management of the Heritage Sites of the Metlakatla First Nation;
 - b) public access to Heritage Sites;
 - c) the conservation, protection and management of Artifacts owned by the Metlakatla First Nation;
 - d) the education of Sm'alg yax and Tsimshian culture provided by a Metlakatla First Nation Institution, including:
 - i) the certification and accreditation of teachers of Sm'alg yax and Tsimshian culture;
 - ii) the development and teaching of Sm'alg yax and Tsimshian culture curriculum;
 - e) the preservation, promotion and development of Sm'alg yax and Tsimshian culture; and,
 - f) the cremation or interment of Ancient Human Remains found on Metlakatla First Nation Lands or returned to the Metlakatla First Nation by Canada, British Columbia or any other party.
5. Metlakatla First Nation Law with respect to the conservation, protection and management of Heritage Sites on Metlakatla First Nation Lands:
 - a) will establish standards and processes for the conservation, protection and management of Heritage Sites; and
 - b) ensure the Minister is provided with information relating to the location of Heritage

Sites and any materials recovered from Heritage Sites.

6. After Metlakatla First Nation makes a law under paragraph 2, Provincial Laws respecting heritage inspections, heritage investigations and the alteration of Heritage Sites will be suspended from application to Metlakatla First Nation.
7. Where BC and Metlakatla First Nation agree, information provided by the Metlakatla First Nation to BC under subparagraph 5b) will not be subject to public disclosure without the Metlakatla First Nation's prior written consent.
8. A Metlakatla First Nation law under subparagraph 4b) will not unreasonably deny public access to Heritage Sites on Metlakatla First Nation Lands, but for greater certainty, nothing in this paragraph prevents the Metlakatla First Nation from restricting access when necessary to protect and preserve Heritage Sites.
9. British Columbia will not designate any Metlakatla First Nation Lands as a provincial heritage site without the consent of Metlakatla First Nation.
10. A Metlakatla First Nation Law under paragraph 4 prevails to the extent of a Conflict with Federal Law or Provincial Law.

ARTIFACTS

11. During Metlakatla Treaty negotiations, Canada and British Columbia will provide the Metlakatla First Nation with a catalogue or inventory of all artifacts of Tsimshian ancestry, including Metlakatla First Nation Artifacts and Metlakatla Ancient Human Remains in the collections of the Canadian Museum of History, Parks Canada, and the Royal British Columbia Museum.
12. At the request of the Metlakatla First Nation, Canada or British Columbia will make reasonable efforts to facilitate the Metlakatla First Nation's access to Metlakatla First Nation Artifacts and Metlakatla Ancient Human Remains in other public collections in Canada.
13. The Metlakatla Treaty will set out provisions for the lending, sharing of or transfer to the Metlakatla First Nation of Metlakatla First Nation Artifacts, if any, in the permanent collection of the Canadian Museum of History.
14. The Metlakatla Treaty will set out provisions for the lending to or transfer to the Metlakatla First Nation of certain Metlakatla First Nation Artifacts, if any, in the permanent collection of Parks Canada.
15. The Metlakatla Treaty will set out provisions for the lending or transfer to the Metlakatla First Nation of Metlakatla First Nation Artifacts, if any, in the permanent collection of the Royal British Columbia Museum.

ANCIENT HUMAN REMAINS

16. Canada or British Columbia will return any Metlakatla Ancient Human Remains and associated

burial objects held by Canada or British Columbia at the Effective Date at the request of the Metlakatla First Nation, in accordance with Federal Law and policy and Provincial Law.

17. If, after the Effective Date, the Metlakatla Ancient Human Remains and associated burial objects come into the permanent possession or under the control of Canada or British Columbia, Canada or British Columbia will, at the request of the Metlakatla First Nation, transfer the Metlakatla Ancient Human Remains and associated burial objects to the Metlakatla First Nation, in accordance with Federal Law and policy and Provincial Law.
18. In the event of competing claims with another aboriginal group as to whether Ancient Human Remains and associated burial objects are Metlakatla Ancient Humans Remains and associated burial objects, the Metlakatla First Nation will provide to Canada or British Columbia, as applicable, written confirmation that the dispute has been resolved before further negotiation of the transfer of the Metlakatla Ancient Human Remains and associated burial objects.

HERITAGE SITES

19. On the Effective Date, British Columbia will commence the provincial designation process under the *Heritage Conservation Act* for sites of cultural or historic significance set out in Appendix C.
20. In recognition that a site designated in accordance with paragraph 19 may also have cultural or historic significance to persons other than Metlakatla First Nation, British Columbia may amend such designation to additionally reflect that cultural or historic significance.
21. Prior to amending the designation of a site listed in Appendix C, BC will Consult with Metlakatla regarding the proposed amendment.

PLACE NAMES

22. Prior to the Metlakatla Treaty, the Parties will address the naming of geographic features.
23. After the Effective Date, the Metlakatla First Nation may propose that British Columbia name or rename other geographic features with names in Sm'algayax Tsimshian language, and British Columbia will consider those proposals in accordance with Provincial Laws.
24. At the request of the Metlakatla First Nation, British Columbia will record names in the Tsimshian language and historic background information submitted by the Metlakatla First Nation for inclusion in the British Columbia geographic names data base for the geographic features that are set out in the Metlakatla Treaty, in accordance with provincial policy and procedures.

CHAPTER 5 – LANDS

GENERAL

1. On the Effective Date, the Metlakatla First Nation Lands will include:
 - a) former Metlakatla First Nation Indian Reserves, identified for illustrative purposes in Part 1 of Appendix B-1 and legally described in Part 2 of Appendix B-1;
 - b) former provincial Crown land, identified in Appendix B-2; and
 - c) former fee simple lands, identified in Appendix B-3.
2. Metlakatla First Nation Lands do not include Railway Corridors.
3. Prior to the Metlakatla Treaty, the Parties will address the issue of shared Indian Reserves, identified in Appendix C.
4. Prior to Metlakatla Treaty the Metlakatla First Nation may propose to the Parties other special land areas for consideration.
5. The Metlakatla Treaty will include provisions for agreed upon fee simple lands acquired by the Metlakatla First Nation prior to Effective Date to be included as Metlakatla First Nation Lands.

OWNERSHIP OF METLAKATLA FIRST NATION LANDS

6. On the Effective Date, the Metlakatla First Nation will own Metlakatla First Nation Lands in fee simple.
7. The Metlakatla First Nation fee simple ownership of Metlakatla First Nation Lands will not be subject to any condition, proviso, restriction, exception, or reservation set out in the *Land Act*, or any comparable limitation under Federal or Provincial Law.
8. In accordance with the Metlakatla Treaty, its Metlakatla First Nation Constitution, and its Metlakatla First Nation Law, the Metlakatla First Nation may transfer interests in its Metlakatla First Nation Lands without the consent of Canada or British Columbia.
9. Except as provided under paragraph 15 of Federal Expropriation Appendix H-2 and paragraph 14 of Provincial Expropriation Appendix H-1, a parcel of Metlakatla First Nation Lands remains Metlakatla First Nation Lands following the disposition of an interest in that parcel.
10. If Metlakatla First Nation wishes to dispose of a fee simple estate in a parcel of Metlakatla First Nation Lands it will, before the disposition, register the indefeasible title to that parcel under the *Land Title Act* in accordance with the Metlakatla Treaty.
11. If the Metlakatla First Nation transfers the estate in fee simple in a parcel of Metlakatla First Nation Lands to any person other than to a:

- a. member of the Metlakatla First Nation;
- b. Metlakatla First Nation Corporation; or
- c. Metlakatla First Nation Institution,

expropriation by a Provincial Expropriating Authority of such land may occur in accordance with Provincial Law and is not subject to the provincial expropriation provisions of the Metlakatla Treaty.

12. Metlakatla First Nation may remove a parcel of land from Metlakatla First Nations Lands with the consent of Canada and British Columbia.
13. In considering whether to consent to the removal of a parcel of land from Metlakatla First Nation Lands in accordance with a request under paragraph 12, Canada and British Columbia may consider:
 - a. necessary jurisdictional, administrative and servicing arrangements;
 - b. the views of any affected Local Government or neighbouring First Nation;
 - c. whether the removal of the land will have an impact on fiscal arrangements negotiated between the Metlakatla First Nation and Canada or British Columbia;
 - d. whether the removal of the land will have any legal or financial implications for Canada or British Columbia; or
 - e. any other matter that Canada or British Columbia considers relevant.
14. If Canada and British Columbia consent to the removal of a parcel of land from Metlakatla First Nation Lands then, upon receipt by Metlakatla First Nation of Canada and British Columbia's written consent:
 - a) Metlakatla First Nation will register the parcel of land in the Land Title Office, if it is not registered;
 - b) the parcel will cease to be Metlakatla First Nation Lands; and
 - c) Appendix B will be amended in accordance with the process set out in the General Provisions Chapter.
15. Prior to Metlakatla Treaty the Parties will address the question of Agricultural Land Reserve designations on Metlakatla First Nation Lands.
16. If, at any time, any parcel of Metlakatla First Nation Lands, or any estate or interest in a parcel of Metlakatla First Nation Lands, finally escheats to the Crown, the Crown will transfer, at no

cost and without fee, that parcel, estate or interest to the Metlakatla First Nation.

17. All methods of acquiring a right in or over land by prescription or by adverse possession, including the common law doctrine of prescription and the doctrine of the lost modern grant, are abolished in respect of Metlakatla First Nation Lands.

SUBMERGED LANDS

18. Subject to paragraph 19, Submerged Lands do not form part of Metlakatla First Nation Lands and nothing in this agreement affects British Columbia's ownership of Submerged Lands.
19. For greater certainty, Submerged Lands which are part of Former Indian Reserves form part of the Metlakatla First Nation Lands.
20. Prior to the Metlakatla Treaty, the Parties will address matters concerning Submerged Lands adjacent to or wholly contained within Metlakatla First Nation Lands, including disposition, occupation, and riparian rights.
21. Metlakatla has indicated that prior to the Metlakatla Treaty, Metlakatla has an interest in discussing ownership of Submerged Lands adjacent to or wholly contained within Metlakatla First Nation Lands.
22. No transfer of Submerged Lands to the Metlakatla First Nation in accordance with the Metlakatla Treaty includes:
 - a) property rights in fish;
 - b) the exclusive right to fish; or
 - c) the right to allocate fish.

ACCRETIONS TO METLAKATLA FIRST NATIONS LANDS

23. Metlakatla First Nation will own lawful accretions to Metlakatla First Nation lands.
24. If Metlakatla First Nation provides to Canada and British Columbia a certificate issued by the Surveyor General of British Columbia confirming that there has been a lawful accretion, then upon receipt of the certificate by Canada and British Columbia the accreted land will become Metlakatla First Nation Lands and Appendix F will be amended in accordance with paragraphs 9 to 13 of the Amendment Chapter.

INTERESTS ON METLAKATLA FIRST NATION LANDS

25. On the Effective Date, title to Metlakatla First Nation Lands will be free and clear of all Interests, except as listed in:
 - a) Appendix F-1 in respect of replacement Interests;

- b) Appendix F-3 in respect of Interests to be created on the Effective Date;
 - c) Appendix F-5 in respect of Interests on Former Metlakatla Indian Reserves;
 - d) Appendix F-8 in respect of Interests to continue in accordance with Provincial Law; and
 - e) Appendix F-9 in respect of existing foreshore Interests requiring upland owner consents.
26. The procedures for granting, issuing, executing and delivering documents provided for under paragraph 25 are set out in Appendix F.
27. Subject to paragraph 25, on the Effective Date, every Interest that encumbered or applied to Metlakatla First Nation Treaty Settlement Lands before the Effective Date will cease to exist.
28. Any Rights of Way of the nature described in section 218 of the *Land Title Act* that is granted by Metlakatla under the Metlakatla Treaty will be legally binding and enforceable notwithstanding those Metlakatla First Nation Treaty Settlement Lands to which the Rights of Way applies are not registered under the *Land Title Act*.
29. The Interests listed in Appendix F-8 are retained by the persons who hold those Interests on the Effective Date in accordance with the existing terms and conditions of the Interests on the Effective Date, modified where appropriate to reflect ownership of the land by Metlakatla and Provincial Law. If such an Interest is not renewed or replaced when it expires in accordance with its terms or Provincial Law, that Interest ceases to exist.

REPLACEMENT OF CERTIFICATES OF POSSESSION

30. On the Effective Date, Metlakatla First Nation will issue to each person named in Part 1 of Appendix F-5 to the Metlakatla Treaty, an interest for the parcel of Metlakatla First Nation Lands ascribed to that person and described in Part 1 of Appendix F-5 to the Metlakatla Treaty.
31. A person to whom Metlakatla First Nation issues an interest in accordance with paragraph 30 has substantially the same right to possess the described parcel of Metlakatla First Nation Lands as the person had as the holder of the certificate of possession under the Indian Act, immediately before the Effective Date, modified to reflect the law-making authority of the Metlakatla First Nation Government over such lands and ownership of such lands by Metlakatla First Nation in accordance with the Metlakatla Treaty.

INDEMNITY AND CONFIRMATION

32. British Columbia will indemnify and forever save harmless the Metlakatla First Nation from any damages, losses, liabilities or costs, excluding fees and disbursements of solicitors and other professional advisors, that the Metlakatla First Nation may suffer or incur in connection with or as a result of any claims, demands, actions or proceedings relating to or arising out of:
- a) the omission from Appendix F-8 of the name of a person who, immediately before the

Effective Date, had an Interest in Metlakatla First Nation Lands that had been granted by British Columbia; or

- b) the incorrect naming of a person in Appendix F-8 as a person entitled to an Interest, where another person was actually entitled, immediately before the Effective Date, to the Interest in Metlakatla First Nation Lands that had been granted by British Columbia.

SURVEYS

- 33. Prior to the Metlakatla Treaty, the Parties will determine the need for any exterior boundary surveys of Metlakatla First Nation Lands, and the timing, order and priority of any such surveys. Canada and British Columbia will, as agreed between them, pay the cost of any exterior surveys of the boundaries of the Metlakatla First Nation Lands.

SITE REMEDIATION ON METLAKATLA LANDS

- 34. Prior to the Metlakatla Treaty, Canada and Metlakatla First Nation will address site remediation with respect to Metlakatla First Nation Indian Reserves and federal lands that may become Metlakatla First Nation Lands.
- 35. The transfer of Metlakatla First Nation Indian Reserves to the First Nation in accordance with the Metlakatla Treaty does not, in and of itself, result in British Columbia being determined to be a Responsible Person in respect of any potential Contamination of any Metlakatla First Nation Indian Reserves.

PRE-APPROVED ADDITIONS TO METLAKATLA FIRST NATION LANDS

- 36. If at any time after the Effective Date Metlakatla First Nation acquires any of the lands set out in Appendix G, at the request of Metlakatla First Nation the lands will be added as Metlakatla First Nation Lands.

ADDITIONS TO METLAKATLA FIRST NATION LANDS

- 37. At any time after the Effective Date, at Metlakatla First Nation's request, and with the agreement of British Columbia, Metlakatla First Nation may add to Metlakatla First Nation Lands, land that is:
 - a) owned in fee simple by Metlakatla First Nation;
 - b) within the Metlakatla First Nation Area; and either
 - c) outside of municipal boundaries, or
 - d) within municipal boundaries if the municipality consents.

38. During Stage 5 treaty negotiations, Metlakatla and Canada will address their interests related to additions to Metlakatla First Nation Lands.
39. When making a decision pursuant to paragraphs 37 and 38, Canada and British Columbia may take into account other matters that Canada or British Columbia considers relevant.
40. Nothing in paragraph 37 or 38 obligates Canada or British Columbia to pay any costs associated with the purchase or transfer of the land that is added to Metlakatla First Nation Lands under paragraph 37 or 38 or any other costs related to the addition of the land to Metlakatla First Nation Lands.
41. Metlakatla First Nation will own the Subsurface Resources on land that is added to Metlakatla First Nation Lands under paragraph 37 or 38 if:
 - a) the fee simple title includes ownership of the Subsurface Resources; or
 - b) British Columbia owns the Subsurface Resources and British Columbia and Metlakatla First Nation agree.
42. If Metlakatla First Nation adds land to Metlakatla First Nation Lands under paragraph 37 or 38, the land will, if necessary, be surveyed in accordance with the Metlakatla Treaty, and the Parties will amend Appendix B, in accordance with the amendment provisions of the General Provisions Chapter, to reflect the addition of the land, and the land will become Metlakatla First Nation Lands when the amendment takes effect.
43. A parcel of land added to Metlakatla First Nation Lands in accordance with paragraphs 37 to 42 continues to be subject to any interest existing immediately before the parcel of land becomes Metlakatla First Nation Lands, unless the holder of such interest otherwise agrees in writing.
44. For greater certainty, Metlakatla First Nation's ownership of Subsurface Resources is subject to any Subsurface Tenures existing immediately before the acquisition of the parcel of land by Metlakatla First Nation and those Subsurface Tenures continue to be administered by British Columbia in accordance with the Subsurface Resources Chapter.

PROVINCIAL EXPROPRIATION OF METLAKATLA FIRST NATION LANDS

45. British Columbia acknowledges that it is of fundamental importance to maintain the size and integrity of Metlakatla First Nation Lands and, therefore, as a general principle interests in Metlakatla First Nation Lands will not be expropriated under Provincial Law.
46. Where a Provincial Expropriating Authority has determined that it requires an estate or interest in Metlakatla First Nation Lands, the Provincial Expropriating Authority will make reasonable efforts to acquire the estate or interest through agreement with Metlakatla First Nation.

47. If a Provincial Expropriating Authority and Metlakatla First Nation are unable to reach an agreement under paragraph 46 that Provincial Expropriating Authority may expropriate Metlakatla First Nation Lands in accordance with Appendix H-1, with Provincial Law, and with the consent and by the order of the Lieutenant Governor in Council.
48. An expropriation of Metlakatla First Nation Lands by a Provincial Expropriating Authority will be the most limited estate or interest in Metlakatla First Nation Lands necessary and will be expropriated for the shortest time possible.

FEDERAL EXPROPRIATION OF METLAKATLA FIRST NATION LANDS

49. Canada acknowledges that it is of fundamental importance to maintain the size and integrity of Metlakatla First Nation Lands and, therefore as a general principle interests in Metlakatla First Nation Lands will not be expropriated.
50. Notwithstanding paragraph 49, an interest in Metlakatla First Nation Lands may be expropriated by a Federal Expropriating Authority in accordance with Federal Law, Appendix H-2 and with the consent of the Governor-in-Council.
51. If a Federal Expropriating Authority expropriates Metlakatla First Nations Lands, only the most limited interest in Metlakatla First Nation Lands necessary will be expropriated for the shortest time possible.
52. Nothing in the Metlakatla Treaty affects or limits the application of the federal Emergencies Act or any successor legislation and the Emergencies Act continues to apply in all aspects to Metlakatla First Nation Lands.

INTERIM PROTECTION MEASURES

53. When the Parties agree on all lands that are to become Metlakatla First Nation Lands, the Parties will attempt to negotiate an interim protection measures agreement on proposed Metlakatla First Nation Lands that will be put in place as soon as practicable following the signing of this agreement.

LAW-MAKING

54. The Metlakatla First Nation may make laws with respect to:
 - a) the use of Metlakatla First Nation Lands, including:
 - i) management;
 - ii) planning, zoning and development; and
 - iii) subject to paragraphs 3 to 8 in the Access Chapter, designation, including the

designation of Metlakatla First Nation Public Lands or Metlakatla First Nation Private Lands;

- b) the creation, allocation, ownership and disposition of interests or estates in Metlakatla First Nation Lands, including:
 - i) fee simple estates or any lesser estate or interest;
 - ii) mortgages;
 - iii) leases, licences, permits, easements and Rights of Way, including Rights of Way and covenants similar to those in sections 218 and 219 of the *Land Title Act*; and
 - iv) any conditions, provisos, restrictions, including restrictions on alienation, exceptions or reservations on such estates or interests;
 - v) the tenuring of Subsurface Resources.
- c) the establishment and operation of a Metlakatla First Nation land title or land registry system for Metlakatla First Lands that are not registered in the Land Title Office; or
- d) the expropriation by the Metlakatla First Nation of estates or interests in Metlakatla First Nation Lands for public purposes and public works other than:
 - i) estates or interests granted or continued on the Effective Date, as set out in Appendix F-8, or thereafter replaced under this Agreement;
 - ii) estates or interests expropriated or otherwise acquired by a Federal Expropriating Authority or a Provincial Expropriating Authority; and
 - iii) any other interests upon which the Parties have agreed in this Agreement,

where the Metlakatla First Nation provides fair compensation to the owner of the estate or interest and the expropriation is for the smallest estate or interest necessary for the public purpose or public work.

- 55. Notwithstanding subparagraph 54d)i), the Metlakatla First Nation may expropriate a fee simple estate or an interest granted under paragraph 30 for public purposes or public works where the Metlakatla First Nation provides fair compensation to the owner of the interest and the expropriation is for the smallest interest necessary for the public purpose or public work.
- 56. Subject to paragraph 58 and paragraph 6 the Land Title Chapter, Metlakatla First Nation Law under paragraph 54 prevails to the extent of a Conflict with Federal or Provincial Law.
- 57. Notwithstanding paragraph 56, Federal or Provincial Law in respect of Subsurface Resources prevails to the extent of a Conflict with Metlakatla First Nation law under paragraph 54.
- 58. During Stage 5 treaty negotiations, the Parties will address their interests in regard to the

division of matrimonial real property.

59. For the purposes of subparagraph 54b), the Metlakatla First Nation may make laws with respect to estates or interests in Metlakatla First Nation Lands that are:
 - a) not recognized under Federal or Provincial Law; or
 - b) recognized under Federal or Provincial Law provided that they are consistent with Federal or Provincial Law with respect to those estates or interests.
60. For greater certainty, a Metlakatla First Nation Law under subparagraph 54b)iv)11.b)iv) in respect of an interest granted under paragraph 30 is not inconsistent with common law principles.

CHAPTER 6 – LAND TITLE

FEDERAL TITLE REGISTRATION

1. Federal land title and land registry laws, other than laws with respect to the survey and recording of interests or estates that are owned by Canada and are in Metlakatla First Nation Lands, do not apply to any parcel of Metlakatla First Nation Lands.

LAND TITLES SYSTEM

2. If the Metlakatla First Nation applies under the *Land Title Act* in accordance with the Metlakatla Treaty, for the registration of an indefeasible title to a parcel of Metlakatla First Nation Lands, then, effective from the time of application and until the application has been withdrawn or rejected, or the indefeasible title is cancelled, the *Land Title Act*, but not any Metlakatla First Nation Law with respect to land title or land registration made pursuant to the Metlakatla Treaty, applies to the parcel.
3. The *Land Title Act* applies to all parcels of Metlakatla First Nation Lands registered on the Effective Date.
4. The *Land Title Act* does not apply to a parcel of Metlakatla First Nation Lands for which:
 - a) no application has been made under the *Land Title Act* in accordance with the Metlakatla Treaty for the registration of an indefeasible title;
 - b) an application has been made under the *Land Title Act* in accordance with the Metlakatla Treaty for the registration of an indefeasible title and that application has been withdrawn or rejected; or
 - c) the indefeasible title under the *Land Title Act* has been cancelled under that Act in accordance with the Metlakatla Treaty.
5. No title adverse to, or in derogation of, the title of the registered owner of a parcel of Metlakatla First Nation Lands under the *Land Title Act* will be acquired by length of possession and, for greater certainty, subsection 23(4) of the *Land Title Act* does not apply in respect of Metlakatla First Nation Lands.
6. Notwithstanding paragraph 57 of the Lands Chapter, where the *Land Title Act* applies to a parcel of Metlakatla First Nation Lands, that Act prevails to the extent of a Conflict with Metlakatla First Nation Law under paragraph 55 of the Lands Chapter in respect of that parcel.
7. The Registrar is entitled to rely on, and is not required to make any inquiries in respect of, the matters certified in the Metlakatla First Nation Certificate and a person deprived of an estate, interest, condition, proviso, restriction, exception or reservation, in or to a parcel of Metlakatla First Nation Lands as a result of the reliance by the Registrar on the Metlakatla First Nation Certificate, and the issuance by the Registrar of an indefeasible title based on the Metlakatla First Nation Certificate, will have no recourse, at law or in equity, against the Registrar, the Assurance Fund, British Columbia or Canada.

APPLICATION FOR REGISTRATION OF INDEFEASIBLE TITLE AND INTERESTS

8. The Metlakatla First Nation, and no other person, may apply under the *Land Title Act* for the registration of an indefeasible title to a parcel of Metlakatla First Nation Lands for which no indefeasible title is registered at the time of application, and such application may be made in the name of the Metlakatla First Nation or on behalf of another person.
9. Prior to the Metlakatla Treaty, the Parties will determine which Metlakatla First Nation Lands, including any Interests on Metlakatla First Nation Lands, will be registered in the Land Title Office on the Effective Date.

SURVEY AND LAND TITLE FEES

10. Notwithstanding any requirement of the *Land Title Act*, *Land Act*, bylaws of the Land Title and Survey Authority, or any other Provincial Law, no fee is payable by:
 - a) Canada, the Metlakatla First Nation, or any other person in relation to:
 - i) the first registration in the Land Title Office of indefeasible title to a parcel of Metlakatla First Nation Lands in the name of the Metlakatla First Nation, a Metlakatla First Nation Corporation, or a Metlakatla First Nation Public Institution on or after the Effective Date,
 - ii) the first registration in the Land Title Office of an instrument granting an estate or interest in Metlakatla First Nation Lands if the estate or interest is required under the Metlakatla Treaty to be registered in the Land Title Office,
 - iii) the deposit of any plan, or a certificate as required under the *Land Title Act* in relation to a matter referred to in subparagraph i) or ii),
 - iv) the issuance of a State of Title Certificate under the *Land Title Act* in relation to a matter referred to in subparagraph i) or ii),
 - v) the filing of a certificate in relation to a registered parcel that is to become Metlakatla First Nation Lands on the Effective Date in accordance with the Metlakatla Treaty, the indefeasible title of which is to be registered on the Effective Date in the name of a person other than the Metlakatla First Nation; or
 - b) Canada or the Metlakatla First Nation for any services provided under the *Land Act* by the Surveyor General, or persons under the Surveyor General's direction, in respect of a survey required by or for the purposes of the Metlakatla Treaty.

CANCELLATION OF INDEFEASIBLE TITLE

11. The Metlakatla First Nation, and no other person, may apply under the *Land Title Act* in accordance with this Chapter for cancellation of the registration of an indefeasible title to a parcel of Metlakatla First Nation Lands.

CHAPTER 7 – SUBSURFACE RESOURCES

GENERAL

1. The Metlakatla First Nation owns Subsurface Resources on or under Metlakatla First Nation Lands.
2. The Metlakatla First Nation ownership of Subsurface Resources described in paragraph 1 is subject to the Subsurface Tenures listed in Part 4 of Appendix F-8.
3. Subject to paragraph 11, the Metlakatla First Nation, as owner of Subsurface Resources, has the exclusive authority to set fees, rents, royalties and other charges except taxes, for exploration, development, extraction and production of Subsurface Resources owned by the Metlakatla First Nation.
4. Nothing in the Metlakatla Treaty will confer authority on Metlakatla First Nation to make laws in respect of:
 - a) the development, production, use or application of nuclear energy and atomic energy;
 - b) the exploration, development, production, possession or use, for any purpose, of nuclear substances and prescribed substances; or
 - c) the development, production, possession or use, for any purpose, of associated prescribed equipment and prescribed information.
5. Nothing in the Metlakatla Treaty confers authority on the Metlakatla First Nation Government to make laws in respect of:
 - a) spacing and target areas related to Petroleum and Natural Gas and Geothermal Resources, and conservation and allocation of Petroleum and Natural Gas and Geothermal Resources among parties having interests in the same reservoir; or
 - b) Subsurface Tenures listed in Part 4 of Appendix F-8 and related Tenured Subsurface Resources.

TENURED SUBSURFACE RESOURCES

6. Subject to paragraph 10, the Subsurface Tenures:
 - a) continue in accordance with Provincial Law and the Metlakatla Treaty; and
 - b) will be administered by British Columbia in accordance with Provincial Law and the Metlakatla Treaty.
7. Provincial Law applies to any exploration, development, extraction and production of Tenured Subsurface Resources as if the Tenured Subsurface Resources were owned by British

Columbia.

8. In administering the Subsurface Tenures and Tenured Subsurface Resources, British Columbia may grant, as necessary, any related extensions, renewals, continuations, replacements or issue any further rights as the Tenured Subsurface Resources are developed and will provide reasonable notice of any changes to the status of the Subsurface Resource Tenures.
9. In administering the Subsurface Tenures and Tenured Subsurface Resources, British Columbia will notify the Metlakatla First Nation Government before changing or eliminating any rents or royalties applicable to the Tenured Subsurface Resources.
10. British Columbia will:
 - a) ensure that any rents and royalties applicable to Tenured Subsurface Resources that British Columbia would be entitled to receive after the Effective Date as if those Tenured Subsurface Resources were owned by British Columbia, and any interest earned on those rents and royalties, are paid to the Metlakatla First Nation; and
 - b) retain any fees, charges or other payments for administrative purposes applicable to Subsurface Tenures and Tenured Subsurface Resources under Provincial Law.
11. The Metlakatla First Nation does not have the authority to establish fees, rents, royalties, or other charges, in relation to Subsurface Tenures listed in Part 4 of Appendix F-8 or the exploration, development, extraction or production of Tenured Subsurface Resources.
12. Metlakatla First Nation Lands will be treated as private lands under Provincial Law relating to Subsurface Resources for the purposes of dealing with access issues and compensation rights associated with any proposed entrance, occupation or use of the surface by holders of Subsurface Tenures.
13. For greater certainty, a Subsurface Tenure holder must not begin a mining activity on a Subsurface Tenure without first serving notice on Metlakatla First Nation in accordance with Provincial Law.
14. For greater certainty, any disagreements between holders of Subsurface Tenures and owners of Metlakatla First Nation Lands respecting entrance, occupation or use of an area of Metlakatla First Nation Lands may be resolved under Provincial Law relating to entrance and compensation disputes involving Subsurface Resources.
15. If a Subsurface Tenure is forfeited, cancelled or expires and is not restored under Provincial Law, Metlakatla First Nation Lands will no longer be subject to that Subsurface Tenure.

CHAPTER 8 – ACCESS

GENERAL

1. Except as modified by the Metlakatla Treaty:
 - a) the Metlakatla First Nation, as owner of Metlakatla First Nation Lands, has the same rights and obligations with respect to public access to Metlakatla First Nation Lands as other owners of estates in fee simple have with respect to public access to their land; and
 - b) with respect to unoccupied Metlakatla First Nation Lands, the Metlakatla First Nation has liabilities and limitations on liabilities similar to those of the provincial Crown with respect to unoccupied provincial Crown land.
2. Nothing in the Metlakatla Treaty will affect the public right of navigation.

DESIGNATION OF METLAKATLA FIRST NATION PRIVATE LANDS

3. On the Effective Date, Metlakatla First Nation Lands identified for illustrative purposes as “Subject Lands” in Appendix I are designated as Metlakatla First Nation Private Lands.
4. After the Effective Date, the Metlakatla First Nation may designate portions of Metlakatla First Nation Lands as Metlakatla First Nation Private Lands if:
 - a) the Metlakatla First Nation has granted an Interest comparable to an Interest granted by British Columbia on provincial Crown lands that excludes public access; or
 - b) the Metlakatla First Nation Lands are used for commercial, cultural, resource development or other uses that are incompatible with public access.
5. If the Metlakatla First Nation intends to designate Metlakatla First Nation Lands as Metlakatla First Nation Private Lands in accordance with paragraph 4, the Metlakatla First Nation will:
 - a) provide reasonable notice to British Columbia, Canada and the public of the proposed designation; and
 - b) consider any views advanced by British Columbia, Canada or the public in respect of the proposed designation.
6. If the Metlakatla First Nation intends to change the locations or boundaries of Metlakatla First Nation Private Land, it will:
 - a) provide reasonable notice to British Columbia, Canada and the public of the proposed changes; and
 - b) consider any views advanced by British Columbia, Canada or the public in respect of

the proposed changes.

7. If the designation of Metlakatla First Nation Public Lands as Metlakatla First Nation Private Lands has the effect of preventing public access to an area or location to which there is a public right of access under Federal Law or Provincial Law such as Navigable Waters or Crown roads, the Metlakatla First Nation will provide reasonable alternative means of public access to that area or location.
8. For greater certainty, paragraph 7 will not apply where British Columbia and the Metlakatla First Nation agree that a reasonable alternative means of public access to an area or location to which there is a public right of access under Federal or Provincial Law across provincial Crown Land already exists.

PUBLIC ACCESS ON METLAKATLA FIRST NATION PUBLIC LANDS

9. The Metlakatla First Nation will allow reasonable public access on Metlakatla First Nation Public Lands for temporary recreational and non-commercial purposes, including reasonable opportunities for the public to hunt and fish on Metlakatla First Nation Public Lands, but public access does not include:
 - a) harvesting or extracting resources unless authorized by the Metlakatla First Nation or as in accordance with the Metlakatla Treaty;
 - b) causing damage to Metlakatla First Nation Lands or resources on Metlakatla First Nation Lands;
 - c) causing mischief or nuisance; or
 - d) interfering with other uses authorized by Metlakatla First Nation or interfering with the ability of Metlakatla First Nation to authorize uses or dispose of its Metlakatla First Nations Land.
10. For greater certainty, public access contemplated by paragraph 9 will be in accordance with Metlakatla First Nation Law regulating public access to Metlakatla First Nation Public Lands.
11. The Metlakatla First Nation will take reasonable measures to notify the public of the terms and conditions respecting public access to Metlakatla First Nation Public Lands.

METLAKATLA PUBLIC ACCESS PERMITS

12. For the purpose of monitoring and regulating public access under paragraph 9, the Metlakatla First Nation may require persons other than Metlakatla First Nation Members to obtain a permit or licence or to sign a waiver.
13. The Metlakatla First Nation will make any permits, licences or waivers which may be required under paragraph 12 reasonably available at a reasonable fee taking into account the administrative and other costs of monitoring and regulating public access.

ACCESS TO ESTATES IN FEE SIMPLE AND OTHER INTERESTS

14. The Metlakatla Treaty will provide that the Metlakatla First Nation will allow reasonable access across Metlakatla First Nation Lands, at no cost, to the Interests listed in Appendix F, consistent with the terms and conditions of those Interests.
15. Where no other reasonable access exists across Crown land, the Metlakatla First Nation will allow reasonable access at no cost across Metlakatla First Nation Lands to any tenure listed in Appendix F, consistent with the terms and conditions of those tenures.
16. Metlakatla First Nation will allow reasonable access comparable to that which exists immediately before the Effective Date across its Metlakatla First Nation Lands, at no cost, to the estates in fee simple described in Appendix I.
17. For greater certainty, nothing in paragraphs 14, 15 and 16 obligates Metlakatla First Nation to pay any costs associated with access to the Interests listed in Appendices F and I.
18. British Columbia or Metlakatla First Nation may refer any Disagreement in respect of paragraphs 14, 15 and 16 to be finally determined by arbitration under Chapter 27 Dispute Resolution.

LAW-MAKING

19. The Metlakatla First Nation Government may make laws regulating public access on the Metlakatla First Nation Lands for the:
 - a) prevention of harvesting or extracting of resources owned by the Metlakatla First Nation;
 - b) protection of the Metlakatla First Nation cultural and Heritage sites; and
 - c) other matters agreed to by the Parties prior to the Metlakatla Treaty.
20. In the event of a Conflict between a Federal or Provincial Law and the Metlakatla First Nation Law made under subparagraphs 19a) and 19b), the Metlakatla First Nation Law will prevail to the extent of the Conflict.
21. The Metlakatla First Nation Government may make laws regulating public access on the Metlakatla First Nation Lands for the:
 - a) prevention of nuisance or damage, including forest fire prevention;
 - b) protection of sensitive habitat;
 - c) purposes of public safety;
 - d) establishment of requirements for persons other than Metlakatla First Nation Members to obtain permits, licences or provide waivers under paragraph 12;

- e) establishment of reasonable fees under paragraph 13; and
 - f) other matters agreed to by the Parties prior to the Metlakatla Treaty.
22. Federal or Provincial Law prevails to the extent of a Conflict with Metlakatla First Nation Law made under subparagraphs 21a), 21b), and 21c).
23. During Stage 5 treaty negotiations, the Parties will address their interests in the issue of priority of laws made under subparagraphs 21d) and 21e).
24. Metlakatla First Nation Government will notify British Columbia and Canada in respect of a proposed Metlakatla First Nation Law that would significantly affect public access on Metlakatla First Nation Public Lands.

ACCESS TO METLAKATLA FIRST NATION LANDS

25. Residents of Metlakatla First Nation Lands and Interest holders on Metlakatla First Nation Lands will have access to their property and ancillary Interests including access on Metlakatla First Nation Roads, subject to the terms and conditions of their leases, permits and tenures.
26. Agents, employees, and contractors of Canada, British Columbia, Local Government or Public Utility, Railways or NAV CANADA, members of the Canadian Armed Forces, or peace officers appointed under Federal or Provincial Law, may, in accordance with Federal or Provincial Law, enter, cross and stay temporarily on Metlakatla First Nation Lands, at no cost to:
- a) deliver and manage programs and services;
 - b) carry out inspections;
 - c) enforce law;
 - d) carry out the terms of the Metlakatla Treaty;
 - e) respond to emergencies and natural disasters; and
 - f) carry out other duties under Federal and Provincial Law.
27. For greater certainty, nothing in paragraph 26 obligates Metlakatla First Nation to pay any cost when British Columbia, Canada, a Public Utility, Railway or Local Government and the employees, agents, contractors or representatives of any of them travel to and from, enter on, cross over and stay temporarily on Metlakatla First Nation Lands, for the purposes outlined in paragraph 26.
28. During Stage 5 treaty negotiations, the Parties will address their interests in the application of Metlakatla First Nation Laws to persons who access Metlakatla First Nation Lands under paragraphs 25 and 26.
29. The Metlakatla Treaty will not limit the authority of Canada or the Minister of National

Defence to carry out activities related to national defence and security on Metlakatla First Nation Lands, without payment of any fees or other charges to the Metlakatla First Nation except as provided for under Federal Laws.

30. Unless otherwise agreed, Canada or British Columbia will provide reasonable notice of entry on Metlakatla First Nation Lands under paragraphs 25 to 29 to the Metlakatla First Nation Government:
 - a) before the entry if it is practicable to do so; or
 - b) as soon as practicable after the entry.
31. The requirement to provide reasonable notice under paragraph 30 does not apply to peace officers, federal and provincial law enforcement officers carrying out duties under Federal and Provincial Law.
32. Any person exercising a right of access in accordance with paragraph 25 will act in accordance with Federal Law or Provincial Law, including the payment of compensation for any damage to Metlakatla First Nation Lands if required by Federal Law or Provincial Law.

METLAKATLA FIRST NATION ACCESS TO CROWN LANDS

33. Agents, employees, and contractors of the Metlakatla First Nation Government may, in accordance with Federal and Provincial Law and the terms of any uses authorized by the Crown, enter, cross and stay temporarily on Crown land, at no cost, to:
 - a) deliver and manage programs and services;
 - b) carry out inspections;
 - c) respond to emergencies and natural disasters;
 - d) enforce Metlakatla First Nation Laws; and
 - e) carry out the terms of the Metlakatla Treaty.
34. Unless otherwise agreed, the Metlakatla First Nation Government will provide reasonable notice of entry onto Crown land under paragraph 33 to Canada or British Columbia as the case may be:
 - a) before the entry if it is practicable to do so; or
 - b) as soon as practicable after the entry.
35. Any person or individual exercising a right of access in accordance with paragraph 33 will act in accordance with Federal Law or Provincial Law, including the payment of compensation for any damage to provincial Crown lands if required by Federal Law or Provincial Law.

METLAKATLA FIRST NATION ACCESS TO METLAKATLA FIRST NATION LANDS

36. If an authorized use or Disposition of provincial Crown land would deny the Metlakatla First Nation reasonable access to Metlakatla First Nation Lands, British Columbia will provide the Metlakatla First Nation with reasonable alternative means of access to Metlakatla First Nation Lands.
37. British Columbia or Metlakatla First Nation may refer any Disagreement in respect of paragraph 36 to be finally determined by arbitration under the Dispute Resolution chapter.

CHAPTER 9 – CROWN CORRIDORS AND ROADS

CROWN CORRIDORS

1. Rights of way described in Appendix E which are presently part of Metlakatla First Nation Reserve lands, will continue to be lands owned by the Metlakatla First Nation.
2. For greater certainty, lands encumbered by rights of way listed in Appendix F continue to be Metlakatla First Nation Lands.
3. Municipal Roads and Crown Corridors are not part of Metlakatla First Nation Lands. The width of Crown Corridors will be specified in Appendix E of the Metlakatla Treaty.
4. Crown Corridors will be owned, administered, controlled, maintained, and repaired by British Columbia.

CROWN CORRIDORS NO LONGER REQUIRED

5. Where a Crown Corridor adjacent to Metlakatla First Nation Lands is closed and is no longer required for transportation or Public Utility purposes, British Columbia will provide the Metlakatla First Nation with a right of first refusal to acquire, on mutually acceptable terms, that portion of the land adjacent to Metlakatla First Nation Lands.
6. If British Columbia no longer requires any portion of a Crown Corridor having Metlakatla First Nation Lands on both sides, at the request of Metlakatla First Nation, it will transfer the estate in fee simple, including the Subsurface Resources, for that portion of the Crown Corridor to the Metlakatla First Nation.
7. Upon the Metlakatla First Nation acquiring land under paragraphs 5 and 6, and at the request of the Metlakatla First Nation, the land will become Metlakatla First Nation Land and Appendix B will be amended in accordance with the process set out in paragraph 9 of the Amendment Chapter.

ENTRY ON METLAKATLA FIRST NATION LANDS OUTSIDE CROWN CORRIDORS

8. In addition to the provisions of the Access Chapter, agents, employees, contractors, or representatives of British Columbia, Local Government or Public Utility may enter, cross and stay temporarily on Metlakatla First Nation Lands, including Metlakatla First Nation Roads, at no cost, for the purpose of undertaking works, including:
 - a) constructing drainage works;
 - b) carrying out repairs;
 - c) maintaining slope stability;
 - d) removing dangerous Timber or other hazards; or

- e) carrying out vegetation management

where the work is necessary for constructing, operating, maintaining, repairing, replacing, removing or protecting Crown Corridors or Rights of Way, or works located on Crown Corridors or Rights of Way that are on or adjacent to Metlakatla First Nation Lands.

9. For greater certainty, nothing in paragraph 8 obligates Metlakatla First Nation to pay any costs when British Columbia, a Public Utility or Local Government and the employees, agents, contractors or representatives of any of them travel to and from, enter on, cross over and stay temporarily on, Metlakatla First Nation Lands, including Metlakatla First Nations Roads for the purpose of undertaking works.
10. Unless otherwise agreed to by the Metlakatla First Nation, Timber removed from its Metlakatla First Nation Lands in accordance with paragraph 8 remains the property of the Metlakatla First Nation.

WORK PLANS

11. Before British Columbia, a Local Government or a Public Utility commences any work referred to in paragraph 8, British Columbia, a Local Government or the Public Utility will notify the Metlakatla First Nation, and at the request of the Metlakatla First Nation, deliver a work plan to the Metlakatla First Nation describing the effect and extent of the proposed work on the Metlakatla First Nation Lands to the Metlakatla First Nation for approval, which will not be unreasonably withheld.
12. Paragraph 8 is subject to the terms of any grant issued by the Metlakatla First Nation to British Columbia, a Public Utility, or a Local Government.
13. If, within 30 days of the delivery of a work plan delivered in accordance with paragraph 11, the Metlakatla First Nation does not approve the content of the work plan, either British Columbia or the Metlakatla First Nation may refer the Disagreement to be finally determined by arbitration under the Dispute Resolution Chapter without having to proceed through Stages One and Two.
14. Notwithstanding any other provision of the Metlakatla Treaty, British Columbia or a Public Utility may undertake works and take steps on Metlakatla First Nation Lands that are urgently required in order to protect works constructed on Crown Corridors, or to protect individuals or vehicles using Crown Corridors.
15. British Columbia or a Public Utility will, as soon as practicable, notify the Metlakatla First Nation that it has undertaken works on its Metlakatla First Nation Lands in accordance with paragraph 14.
16. In undertaking works referred to in paragraph 8, the party undertaking the work will minimize the damage to and time spent on Metlakatla First Nation Lands, and will pay compensation for any interference with or damage to Metlakatla First Nation Lands that result from work undertaken by or on behalf of the party.

17. British Columbia or the Metlakatla First Nation may refer a Disagreement in respect of compensation to be paid in accordance with paragraph 16 to be finally determined by arbitration under the Dispute Resolution Chapter.

PUBLIC UTILITIES

18. The Metlakatla Treaty will address the issuance of Public Utility Rights of Way on Metlakatla First Nation Lands, to be identified in an appendix.
19. With the prior written approval of Metlakatla First Nation, a Public Utility may extend or locate and install new distribution works on Metlakatla First Nation Lands on terms and conditions to be included in an Appendix of the Metlakatla Treaty where extended or new distribution works are necessary to meet demand for service on Metlakatla First Nation Lands.
20. With the prior written approval of Metlakatla First Nation, a Public Utility may extend or locate and install new transmission works on Metlakatla First Nation Lands on terms and conditions to be included in an Appendix of the Metlakatla Treaty where extended or new transmission works are necessary to meet demand for service on Metlakatla First Nation Lands.
21. Metlakatla First Nation will not unreasonably withhold approval for works referred to in paragraphs 19 or 20.
22. Nothing in paragraph 11 requires a Public Utility to obtain the approval of the Metlakatla First Nation for usual service extensions or connections to Public Utility works or to deliver and manage service to customers of a Public Utility.
23. During Stage 5 treaty negotiations, the Parties will address their interests in the application of Metlakatla First Nation Laws to persons who access Metlakatla First Nation Lands under paragraph 8.
24. Metlakatla First Nation Laws will not apply to the regulation of the business of a Public Utility, nor the planning, development, construction, repair, maintenance, operation or decommissioning of a Public Utility's authorized works.
25. Without affecting the generality of paragraph 22, Metlakatla First Nation Laws and the Metlakatla First Nation use or occupation of Metlakatla First Nation Lands will not impair or frustrate:
 - a) a Public Utility's authorized use or occupation of its Public Utility Right of Way or the Public Utility's works located on its Public Utility Right of Way; or
 - b) a Public Utility's authorized use or occupation of Metlakatla First Nation Lands or the Public Utility's works located on Metlakatla First Nation Lands
26. Public Utility Rights of Way established after the Effective Date on or adjacent to Metlakatla First Nation Lands will be subject to the provisions of the Metlakatla Treaty.
27. Notwithstanding paragraph 48 of the Lands Chapter where the Provincial Expropriating

Authority is a Public Utility, where the interest expropriated is less than fee simple interest, the Public Utility will have the right to use and occupy the expropriated interest or estate, on substantially the same terms and conditions as contained in Appendix F-7.

ACCESS AND SAFETY REGULATION

28. British Columbia will retain the authority to regulate all matters relating to:
 - a) the location and design of intersecting roads giving access to Crown Corridors from Metlakatla First Nation Lands, including:
 - i) regulating or requiring signs, signals, or other traffic control devices,
 - ii) regulating or requiring merging lanes, on ramps and off ramps, or
 - iii) requiring contributions to the cost of the matters referred to in subparagraphs 28a)i) and 28a)ii); and
 - b) the height and location of structures on Metlakatla First Nation Lands immediately adjacent to Crown Corridors, only to the extent reasonably required to protect the safety of the users of Crown Corridors.
29. British Columbia will provide the Metlakatla First Nation with any licence, permit or approval required under Provincial Law to join or cross a Provincial Road with a Metlakatla First Nation Road if:
 - a) the application for the required licence, permit or approval complies with Provincial Law, including the payment of any prescribed fees; and
 - b) the intersecting Metlakatla First Nation Road complies with standards established under Provincial Law for equivalent Provincial Roads.
30. Where the Metlakatla First Nation and British Columbia fail to agree on the location of a joining or intersecting Metlakatla First Nation Road under paragraph 28, the Metlakatla First Nation or British Columbia may refer the dispute for resolution under the Dispute Resolution Chapter.

CONSULTATION

31. British Columbia will notify Metlakatla First Nation of any proposed changes to the regulation of traffic and transportation on a Crown Corridor adjacent to a developed area of Metlakatla First Nation Lands on the same basis as British Columbia notifies municipal and regional government within the Metlakatla First Nation Area of any proposed changes to the regulation of traffic and transportation on provincial highways.
32. At the request of Metlakatla First Nation, British Columbia will Consult with Metlakatla First Nation with respect to:
 - a) the regulation of traffic and transportation on a Crown Corridor adjacent to a developed

area of Metlakatla First Nation Lands; or

- b) any matter that Metlakatla First Nation is notified of under paragraph 31.
- 33. Prior to the Metlakatla Treaty Canada and Metlakatla will negotiate how to incorporate elements of the Oceans Protection Plan into the Metlakatla Treaty.
 - 34. Metlakatla First Nation will notify British Columbia of any access or public safety issues associated with proposed land use decisions related to the development of Metlakatla First Nation Lands adjacent to Crown Corridors on the same basis as municipal and regional government notify British Columbia.
 - 35. Upon the request of British Columbia, the Metlakatla First Nation will Consult with British Columbia on any access or public safety issues associated with land use decisions related to the development of Metlakatla First Nation Lands adjacent to Crown Corridors.
 - 36. British Columbia will Consult with Metlakatla First Nation regarding new public utility or transportation related uses, road closures and deactivations, or major road construction within Crown Corridors adjacent to Metlakatla First Nation Lands.

METLAKATLA FIRST NATION ROADS

- 37. Metlakatla First Nation Roads are part of Metlakatla First Nation Lands.
- 38. Metlakatla First Nation Roads will be administered, controlled, maintained, and repaired by the Metlakatla First Nation.
- 39. In accordance with the Access Chapter, unless otherwise designated as private, Metlakatla First Nation will allow public use of its Metlakatla First Nation Roads.

GRAVEL

- 40. Prior to the Metlakatla Treaty, British Columbia and Metlakatla First Nation will discuss whether or not the Metlakatla Treaty will provide for access by British Columbia to gravel on Metlakatla First Nation Lands, and access by Metlakatla to gravel on provincial Crown Lands.

REALIGNMENT OF CROWN CORRIDORS

- 41. British Columbia may request that a portion of a Crown Corridor be realigned onto Metlakatla First Nation Lands and if:
 - a) the new alignment is reasonably suitable for use as a Crown Corridor;
 - b) British Columbia pays all reasonable costs associated with decommissioning that portion of the Crown Corridor; and
 - c) British Columbia and Metlakatla First Nation reach agreement on the value of the land exchange,

Metlakatla First Nation will not unreasonably refuse to provide its consent to the realignment.

42. If Metlakatla First Nation requires a portion of a Crown Corridor for another purpose, the Metlakatla First Nation may request that a portion of a Crown Corridor be realigned, and if:
- a) the new alignment is reasonably suitable for use as a corridor of a comparable standard considering construction, maintenance, operation, and costs;
 - b) British Columbia and the Metlakatla First Nation reach agreement on the value of the land exchange; and
 - c) the Metlakatla First Nation pays all reasonable costs, including costs of design, planning, supervision, land, and construction,

British Columbia will not unreasonably refuse to undertake the realignment.

43. If a Crown Corridor is realigned as a result of a consent provided by Metlakatla First Nation or British Columbia in accordance with paragraphs 41 or 42:
- a) any portion of a Crown Corridor transferred to the First Nation will cease to be a Crown Corridor and will become Metlakatla First Nation Lands; and
 - b) any Metlakatla First Nation Lands transferred to British Columbia will cease to be Metlakatla First Nation Lands and will become a Crown Corridor,

and, upon any such transfer, the Parties will amend Appendices B and E in accordance with paragraph 9 in the Amendment Chapter to reflect the relocation of the Crown Corridor, and the change in the status of the lands will occur when the amendment takes effect.

CHAPTER 10 – FISHERIES

1. During Stage 5 treaty negotiations, the Parties will address Fisheries matters.

CHAPTER 11 – WILDLIFE

RIGHT TO HARVEST WILDLIFE

1. The Metlakatla First Nation will have the right to harvest Wildlife within the Harvest Area throughout the year, in accordance with the Metlakatla Treaty, hereinafter referred to as the Metlakatla Right to Harvest Wildlife.
2. The Metlakatla First Nation Right to Harvest Wildlife is held by the Metlakatla First Nation and cannot be Alienated.
3. Except as otherwise provided under a Metlakatla First Nation Law, all Metlakatla First Nation Members may exercise the Metlakatla Right to Harvest Wildlife.
4. The Metlakatla Right to Harvest Wildlife will be limited by measures necessary for conservation, public health or public safety.
5. The Minister retains authority for managing and conserving Wildlife and Wildlife habitat and will exercise that authority consistent with the Metlakatla Treaty.
6. The Metlakatla Treaty will not alter Federal or Provincial Law in respect of property in Wildlife.

INCIDENTAL USE

7. Metlakatla First Nation Members may use resources on provincial Crown land within the Harvest Area for purposes reasonably incidental to the exercise of the Metlakatla First Nation Right to Harvest Wildlife, subject to Federal and Provincial Law.

REASONABLE OPPORTUNITY

8. During Stage 5 treaty negotiations, the Parties will address their interests in including or excluding language in relation to reasonable opportunity to Harvest Wildlife and respective obligations regarding provincial Crown lands decision-making.

HARVESTING ON FEDERAL LANDS

9. The Metlakatla Treaty will not preclude Metlakatla First Nation from entering into an agreement with a federal department or agency, which agreement provides for access and harvesting on land owned or in use by that department or agency by Metlakatla First Nation Members in accordance with that agreement and Federal and Provincial Law.
10. The Metlakatla Treaty will not preclude Metlakatla First Nation from entering into an agreement to Harvest Wildlife on a Reserve within the Harvest Area, if the Indian Band for whom the Reserve was set aside agreed in writing to provide such access, and any Harvest is in accordance with that Indian Band's laws and Federal Law, but any such agreement:

- a) will not cause a Reserve to be included within the Harvest Area; and
- b) does not prevent the Indian Band for whom the Reserve is set aside from revoking access to this Reserve.

HARVESTING ON PRIVATE LANDS

11. Metlakatla First Nation Members may exercise the Metlakatla First Nation Right to Harvest Wildlife on lands that are privately owned in fee simple off Metlakatla First Nation Lands, but access for the purposes of harvesting will be in accordance with Federal and Provincial Laws.
12. Where lands owned by another First Nation as Treaty Settlement Lands fall within the Harvest Area, Metlakatla First Nation Members may exercise the Metlakatla First Nation Right to Harvest Wildlife on these lands, provided access for purposes of harvesting will be in accordance with Federal and Provincial Laws, and the laws or agreements of the other First Nation respecting access to the lands.

HARVESTING OUTSIDE HARVEST AREA

13. The Metlakatla Treaty will not preclude Metlakatla First Nation Members from Harvesting Wildlife outside of the Harvest Area throughout Canada in accordance with:
 - a) Federal and Provincial Laws; or
 - b) any agreements, that are in accordance with Federal and Provincial Laws, between the Metlakatla First Nation and other aboriginal people; or
 - c) any arrangements between other aboriginal people and Canada or British Columbia.
14. For greater certainty, Metlakatla Members who have Indian status may harvest Wildlife outside the Harvest Area in the same manner as other status Indians in British Columbia, in accordance with the Wildlife Act.
15. Prior to the Metlakatla Treaty, the Parties will discuss the issue of harvesting Wildlife by Metlakatla First Nation Members in areas where the Metlakatla First Nation has protocol agreements in effect with other First Nations.

LAW-MAKING AUTHORITY

16. The Metlakatla First Nation Government may make laws in respect of the Metlakatla First Nation Right to Harvest Wildlife that are consistent with the Metlakatla Treaty for:
 - a) the distribution of harvested Wildlife among the Metlakatla First Nation Members;
 - b) the designation of Metlakatla First Nation Members who may exercise the Metlakatla First Nation Right to Harvest Wildlife;
 - c) the administration of documentation to identify Metlakatla First Nation Members as

- harvesters of Wildlife;
- d) the methods, timing and location of the harvesting of Wildlife, under the Metlakatla First Nation Right to Harvest Wildlife and individual allotments of Wildlife;
 - e) Trade and Barter of Wildlife under paragraph 28;
 - f) other matters agreed to by the Parties prior to the Metlakatla Treaty.
- 17. In the event of a Conflict between the Metlakatla First Nation Law made under paragraph 16 and a Federal or Provincial Law, the Metlakatla First Nation Law will prevail to the extent of the Conflict.
 - 18. During Stage 5 treaty negotiations, the Parties will address their interests in lawmaking for the designation of individuals who may Harvest Wildlife.
 - 19. The Metlakatla First Nation Government will make laws to require all Metlakatla First Nation harvesters to comply with any conservation measures established by the Minister that affect the Metlakatla First Nation Right to Harvest Wildlife.
 - 20. The Metlakatla First Nation Government will make laws to require all Metlakatla First Nation Members who Harvest or transport Wildlife under the Metlakatla Treaty to carry documentation issued by the Metlakatla First Nation Government and produce that documentation on request by an authorized individual.
 - 21. Metlakatla First Nation will have the right to participate in any public Wildlife advisory management processes established by British Columbia, in respect of the Metlakatla First Nation Harvest Area.
 - 22. If a public Wildlife advisory management process is established under paragraph 21 by British Columbia for an area that includes any portion of the Harvest Area, the Minister may request recommendations from the Wildlife advisory management process before determining whether a Wildlife species will be or continue to be subject to a conservation measure.

DOCUMENTATION

- 23. The Metlakatla First Nation Government will issue documentation to any individual designated under paragraph 25 and to Metlakatla First Nation Members authorized to Harvest Wildlife under the Metlakatla First Nation Right to Harvest Wildlife in the Harvest Area.
- 24. Documentation issued under paragraph 23 will:
 - a) be in the English language, which version is authoritative, and at the discretion of the Metlakatla First Nation, in Sm'algyax;
 - b) include sufficient information to identify the individual harvester; and
 - c) meet any other requirements as set out by the Metlakatla First Nation Government.

DESIGNATED NON-MEMBER HARVESTERS

25. During Stage 5 treaty negotiations, the Parties will address their interests in the designation of non-member harvesters.

LICENSE AND FEES

26. Subject to paragraph 27, Metlakatla First Nation Members will not be required to have federal or provincial licenses or pay fees, charges, or royalties to Canada or British Columbia relating to the Metlakatla First Nation Right to Harvest Wildlife under the Metlakatla Treaty.
27. Nothing in the Metlakatla Treaty affects Canada's ability to require Metlakatla First Nation Members to obtain licenses for the use and possession of firearms under federal laws on the same basis as other Aboriginal peoples of Canada.

TRADE, BARTER AND SALE

28. During Stage 5 treaty negotiations, the Parties will address their interests in trade, barter and sale of Wildlife harvested under the Metlakatla First Nation Right to Harvest Wildlife.

TRANSPORT AND EXPORT

29. During Stage 5 treaty negotiations, the Parties will address their interests in the transport or export of Wildlife harvested under the Metlakatla First Nation Right to Harvest Wildlife.

ENFORCEMENT

30. The Parties may negotiate agreements concerning enforcement of Federal Laws, Provincial Laws, or Metlakatla First Nation Laws in respect of Wildlife.
31. During Stage 5 treaty negotiations, the Parties will address their interests in the enforcement of Metlakatla First Nation Laws in respect of Wildlife.

WILDLIFE MANAGEMENT

32. During Stage 5 treaty negotiations, the Parties will address their interests in Wildlife management within the Metlakatla Harvest Area.

CONSERVATION MEASURES FOR WILDLIFE SPECIES

33. The Minister will Consult with Metlakatla First Nation regarding a conservation measure, proposed by the Minister or Metlakatla First Nation, in respect of a Wildlife species within the Harvest Area.
34. Conservation measures are measures intended to ensure sustainable management of a population of a Wildlife species within the Metlakatla Wildlife Harvest Area and may include:
 - a) determining whether a Wildlife population should be identified as a population of

- concern;
- b) identifying a Wildlife population as a population of concern;
 - c) establishing Wildlife habitat protection and enhancement measures;
 - d) limiting the harvest of an identified Wildlife population of concern by class, such as age or gender;
 - e) limiting the harvest of an identified Wildlife population of concern within a management area, including the establishment of an Allocation;
 - f) regulating, prohibiting or imposing requirements on invasive species; or
 - g) other measures as determined by the Minister.
35. When considering a conservation measure in respect of a Wildlife species within the Harvest Area, the Minister will take into account:
- a) the conservation risk to the Wildlife species;
 - b) the population of the Wildlife species:
 - i) within the Harvest Area; and
 - ii) within its normal range or area of movement outside the Harvest Area;
 - c) the necessity for and the nature of, the proposed conservation measure;
 - d) Metlakatla First Nation's role in the development and implementation of the conservation measure.
36. Prior to the approval of any conservation measures, the Minister will provide to Metlakatla First Nation:
- a) a copy of any proposed/approved conservation measure in respect of a Wildlife species within the Harvest Area; and
 - b) at the request of Metlakatla First Nation written reasons and related information for the proposed/adoption of that conservation measure.
37. Before approving the establishment, variance or cancellation of a conservation measure that will affect the Metlakatla First Nation Right to Harvest Wildlife, the Minister will use reasonable efforts to minimize the impact of the conservation measure on that right.
38. Where the Minister determines that establishing or varying an Allocation for Metlakatla First Nation is a necessary conservation measure, British Columbia and Metlakatla First Nation will negotiate and attempt to reach agreement on that Allocation.

39. Where British Columbia and Metlakatla First Nation fail to agree on an Allocation under paragraph 38 the dispute will be finally determined by arbitration under the Dispute Resolution Chapter.
40. In determining the Allocation under paragraph 38, the arbitrator must take into account all relevant information provided by Metlakatla First Nation and British Columbia.

REGISTERED TRAPPING

41. Registered traplines that exist on the Effective Date, and that are located wholly or partially on Metlakatla First Nation Lands, are set out in Appendix F-8 Part 1. They will be retained by the persons who hold those interests and may be transferred or renewed in accordance with Provincial Law.
42. Metlakatla First Nation will allow reasonable access to Metlakatla First Nation Public Lands by a person who holds a registered trapline set out in Appendix F-8 Part 1, or any renewal or replacement of that trapline, or by any person who has written permission from that registered trapline holder to trap within the registered trapline area for the purpose of carrying out trapping activities.
43. During Stage 5 treaty negotiations, the Parties will address their interests in notification regarding access for registered trapping on Metlakatla First Nation Public Lands.
44. If a trapline set out in Appendix F-8 Part 1 becomes vacant by reason of abandonment or operation of law, British Columbia will not grant registration to that portion of the trapline located on Metlakatla First Nation Lands without the consent of Metlakatla First Nation.
45. If the holder of a registered trapline set out in Appendix F-8 Part 1 agrees to transfer the trapline to the Metlakatla First Nation, British Columbia will consent to and register the transfer.
46. For greater certainty, nothing in this agreement is intended to limit the right of Metlakatla First Nation to trap for Domestic Purposes.

GUIDING AND ANGLING

47. During Stage 5 treaty negotiations, the Parties will address their interests regarding guide outfitter and angling licences within the Metlakatla First Nation Area.

CHAPTER 12 – MIGRATORY BIRDS

RIGHT TO HARVEST MIGRATORY BIRDS

1. Metlakatla First Nation will have the Right to Harvest Migratory Birds for Domestic Purposes within the Harvest Area throughout the year in accordance with the Metlakatla Treaty.
2. The Metlakatla First Nation Right to Harvest Migratory Birds is held by the Metlakatla First Nation and cannot be Alienated.
3. Except as otherwise provided under a Metlakatla First Nation Law, all Metlakatla First Nation Members may exercise the Metlakatla Right to Harvest Migratory Birds.
4. The Metlakatla First Nation Right to Harvest Migratory Birds is limited by measures necessary for conservation, public health or public safety.
5. During Stage 5 treaty negotiations, the Parties will address their interests in the Minister's authority for management and conservation of Migratory Birds and Migratory Bird habitat.
6. The Metlakatla Treaty will not alter Federal Law or Provincial Law in respect of property in Migratory Birds.

INCIDENTAL USE

7. Metlakatla First Nation Members may use resources on provincial Crown land within the Harvest Area for purposes reasonably incidental to the exercise of the Metlakatla First Nation Right to Harvest Migratory Birds, subject to Federal and Provincial Law.

REASONABLE OPPORTUNITY

8. During Stage 5 treaty negotiations, the Parties will address their interests in including or excluding language in relation to reasonable opportunity to Harvest Migratory Birds and respective obligations regarding provincial Crown lands decision-making.

HARVESTING ON FEDERAL CROWN LANDS

9. During Stage 5 treaty negotiations, Metlakatla First Nation and Canada will address their interests in agreements with a federal department or agency for access and harvesting by Metlakatla First Nation Members on land owned or in use by that department or agency.
10. The Metlakatla Treaty will not preclude Metlakatla First Nation from entering into an agreement to Harvest Migratory Birds on a Reserve within the Harvest Area, if the Indian Band for whom the Reserve was set aside agreed in writing to provide such access, and any Harvest is in accordance with that Indian Band's laws and Federal Law, but any such agreement:
 - a) will not cause a Reserve to be included within the Harvest Area; and
 - b) does not prevent the Indian Band for whom the Reserve is set aside from revoking

access to this Reserve.

HARVESTING ON PRIVATE LANDS

11. Metlakatla First Nation Members may exercise the Metlakatla First Nation right to Harvest Migratory Birds on lands that are privately owned in fee simple off Metlakatla First Nation Lands, but access for the purposes of harvesting will be in accordance with Federal and Provincial Laws.
12. Where lands owned by another First Nation as Treaty Settlement Lands fall within the Harvest Area, Metlakatla First Nation Members may exercise the Metlakatla First Nation Right to Harvest Migratory Birds on these lands, provided access for purposes of harvesting will be in accordance with Federal and Provincial Laws, and the laws or agreements of the other First Nation respecting access to the lands.

HARVESTING OUTSIDE HARVEST AREA

13. Nothing in the Metlakatla Treaty precludes Metlakatla First Nation Members from Harvesting Migratory Birds throughout Canada in accordance with:
 - a) Federal and Provincial Law; or
 - b) Federal and Provincial Law and:
 - i) any agreements between the Metlakatla First Nation and other aboriginal groups
 - ii) any arrangements between other aboriginal groups and Canada or British Columbia.
14. Prior to the Metlakatla Treaty, the Parties will discuss the Harvest of Migratory Birds outside of the Harvest Area in the same manner as other status Indians in British Columbia.
15. Prior to the Metlakatla Treaty, the Parties will discuss the issue of harvesting Migratory Birds by Metlakatla First Nation Members in areas where the Metlakatla First Nation has protocol agreements in effect with other First Nations.

LAW-MAKING AUTHORITY

16. The Metlakatla First Nation Government may make laws in respect of the Metlakatla First Nation Right to Harvest Migratory Birds that are consistent with the Metlakatla Treaty for:
 - a) the designation of Metlakatla First Nation Members who may Harvest Migratory Birds under the Metlakatla Treaty;
 - b) the administration of documentation of those individuals authorized to harvest under the Metlakatla First Nation Right to Harvest Migratory Birds under subparagraphs 1.a);
 - c) the distribution of harvested Migratory Birds to Metlakatla First Nation Members;

- d) the methods, timing, and location of harvest of Migratory Birds under the Metlakatla Treaty;
 - e) Trade and Barter of Migratory Birds harvested under the Metlakatla Treaty in accordance with paragraph 29;
 - f) the sale of inedible byproducts, including down, of harvested Migratory Birds if permitted by Federal Law and Provincial Law;
 - g) other matters agreed to by the Parties.
17. In the event of a conflict between a Metlakatla First Nation Law made under paragraph 16 and a Federal Law or Provincial Law, the Metlakatla First Nation Law prevails to the extent of the conflict.
18. During Stage 5 treaty negotiations, the Parties will address their interests in lawmaking for the designation of individuals who may Harvest Migratory Birds.
19. During Stage 5 treaty negotiations, the Parties will address their interests in lawmaking for the possession and transportation of Migratory Birds harvested under the Metlakatla First Nation Right to Harvest Migratory Birds.
20. The Metlakatla First Nation Government may make laws in respect of the Metlakatla First Nation Right to Harvest Migratory Birds for:
- a) management of Migratory Bird habitat on Metlakatla First Nation Lands;
 - b) the management of Migratory Birds on Metlakatla First Nation Lands;
 - c) the sale of Migratory Birds, other than their inedible byproducts, if permitted by Federal Laws and Provincial Laws;
 - d) requiring Metlakatla First Nation Members to report to the Metlakatla First Nation the harvest of any Migratory Bird species that are subject to a conservation measure; and
 - e) other matters agreed to by the Parties.
21. The Metlakatla First Nation Government will make laws to require all individuals who harvest or transport Migratory Birds under the Metlakatla First Nation Right to Harvest Migratory Birds to carry documentation issued by the Metlakatla First Nation Government and produce that documentation on request by an authorized person.
22. Federal Law or Provincial Law in relation to Migratory Birds prevails to the extent of a Conflict with Metlakatla First Nation Law under paragraph 20.
23. During Stage 5 treaty negotiations, the Parties will address their interests in priority of laws with

respect to paragraph 21.

DOCUMENTATION

24. The Metlakatla First Nation Government will issue documentation to Metlakatla First Nation Members designated under paragraph 16a) and individuals under paragraph 26 who are eligible to harvest or transport Migratory Birds under the Metlakatla First Nation Right to Harvest Migratory Birds.
25. The documentation referred to in paragraph 24 and issued by the Metlakatla First Nation Government will:
 - a) be in the English language, which version is authoritative, and, at the discretion of Metlakatla First Nation, in the Sm'algyax language;
 - b) include sufficient information to identify the person; and
 - c) meet any other requirements set out by the Metlakatla First Nation Government.

DESIGNATED NON-MEMBER HARVESTERS

26. During Stage 5 treaty negotiations, the Parties will address their interests in the designation of non-member harvesters.

LICENSES AND FEES

27. Metlakatla First Nation Members will not be required to have federal or provincial licenses or pay fees, charges, or royalties to Canada or British Columbia relating to the Metlakatla First Nation Right to Harvest Migratory Birds under the Metlakatla Treaty.
28. Nothing in the Metlakatla Treaty will affect Canada's ability to require Metlakatla First Nation Members to obtain licenses or registration certificates, where applicable, for acquisition, possession, transport, carrying and use of firearms under Federal law.

TRADE AND BARTER AND SALE

29. The Metlakatla First Nation and Metlakatla First Nation Members, in accordance with the Metlakatla Treaty and Metlakatla First Nation Law under paragraph 16, have the Right to Trade and Barter any Migratory Birds harvested in accordance with the Metlakatla Treaty between themselves, or with other aboriginal people of Canada.
30. Metlakatla First Nation and Metlakatla First Nation Members may sell Migratory Birds harvested under the Metlakatla Treaty in accordance with:
 - a) any Federal Law and Provincial Law that permits the sale of Migratory Birds; and
 - b) any Metlakatla First Nation Law enacted under paragraph 16.

31. Notwithstanding paragraph 29, Metlakatla First Nation and Metlakatla First Nation Members may trade, barter and sell inedible byproducts, including down, of Migratory Birds harvested under the Metlakatla Treaty in accordance with any Metlakatla First Nation Law under paragraph 16.

TRANSPORT AND EXPORT

32. During Stage 5 treaty negotiations, the Parties will address their interests in the transportation or export of Migratory Birds harvested under the Metlakatla Right to Harvest Migratory Birds.

ENFORCEMENT

33. During Stage 5 treaty negotiations, the Parties will address their interests in the enforcement of Metlakatla First Nation Laws in respect of Migratory Birds.

CONSERVATION MEASURES

34. During Stage 5 treaty negotiations, the Parties will address their interests in the establishment of conservation measures for Migratory Birds.

MIGRATORY BIRD AGREEMENTS

35. During Stage 5 treaty negotiations, the Parties will address their interests in agreements concerning the conservation and management of Migratory Birds.

CONSULTATION ON INTERNATIONAL NEGOTIATIONS ON MIGRATORY BIRDS

36. Canada will Consult with the Metlakatla First Nation on the development of Canada's positions in respect of international discussions or negotiations that may adversely affect the Metlakatla First Nation Right to Harvest Migratory Birds.

SPECIES AT RISK

37. During Stage 5 treaty negotiations, the Parties will address their interests in Species at Risk on Metlakatla First Nation Lands.

CHAPTER 13 – GATHERING

RIGHT TO GATHER

1. The Metlakatla First Nation has the Right to Gather Plants for Domestic Purposes on provincial Crown lands within the Harvest Area throughout the year in accordance with the Metlakatla Treaty.
2. The Metlakatla First Nation Right to Gather Plants is held by the Metlakatla First Nation and cannot be alienated.
3. Except as otherwise provided under a Metlakatla First Nation Law, all Metlakatla First Nation Members may exercise the Metlakatla Right to Gather Plants.
4. Prior to the Metlakatla Treaty the parties will address the right to harvest timber for domestic purposes.
5. The Metlakatla First Nation Right to Gather Plants is limited by measures necessary for conservation, public health or public safety.
6. Canada or British Columbia will give notice of its intent to implement a public health or public safety measure identified under paragraph 5 to the Metlakatla First Nation:
 - a) Before the measure is implemented if it is practicable to do so; or
 - b) As soon as practicable after the measure is implemented.
7. The Minister retains the authority for managing and conserving Plants and Plant habitat and will exercise that authority consistent with the Metlakatla Treaty.
8. The Metlakatla Treaty will not alter Federal or Provincial Law in respect of proprietary interests in Plants.

INCIDENTAL USE

9. Metlakatla First Nation Members may use resources on provincial Crown land in accordance with Federal and Provincial Law for purposes reasonably incidental to the exercise of the Metlakatla First Nation Right to Gather Plants.

REASONABLE OPPORTUNITY

10. During Stage 5 treaty negotiations, the Parties will address their interests in including or excluding language in relation to reasonable opportunity to Gather Plants and respective obligations regarding provincial Crown lands decision-making.

GATHERING ON FEDERAL CROWN LANDS

11. During Stage 5 treaty negotiations, Metlakatla First Nation and Canada will address their

interests in agreements with a federal department or agency for access and gathering by Metlakatla First Nation Members on land owned or in use by that department or agency.

12. The Metlakatla Treaty will not preclude Metlakatla First Nation from entering into an agreement to Gather Plants on a Reserve within the Harvest Area, if the Indian Band for whom the Reserve was set aside agreed in writing to provide such access, and any Gathering of Plants is in accordance with that Indian Band's laws and Federal Law, but any such agreement:
 - a) will not cause a Reserve to be included within the Harvest Area; and
 - b) does not prevent the Indian Band for whom the Reserve is set aside from revoking access to this Reserve.

HARVESTING OUTSIDE HARVEST AREA

13. The Metlakatla Treaty will not preclude Metlakatla First Nation Members from gathering Plants elsewhere in Canada in accordance with Federal and Provincial Laws.
14. For greater certainty, Metlakatla Members who have Indian status may gather plants outside the Harvest Area in the same manner as the general public.
15. Prior to the Metlakatla Treaty, the Parties will discuss the issue of gathering plants by Metlakatla First Nation Members in areas where the Metlakatla First Nation has protocol agreements in effect with other First Nations.

LAW MAKING AUTHORITY

16. The Metlakatla First Nation Government may make laws in respect of the Metlakatla First Nation Right to Gather Plants for:
 - a) designating Metlakatla First Nation Members to Gather Plants;
 - b) the distribution of Gathered Plants among Metlakatla First Nation Members;
 - c) Trade and Barter of Plants gathered by Metlakatla First Nation Members;
 - d) the methods, timing and location of Gathering Plants under the Metlakatla First Nation Right to Gather Plants;
 - e) the administration of documentation to identify Metlakatla First Nation Members or their designate; and
 - f) other matters agreed to by the Parties prior to the Metlakatla Treaty.
17. A Metlakatla First Nation Law made under paragraph 16 prevails to the extent of a Conflict with Federal Law or Provincial Law.
18. The Metlakatla First Nation will make laws to require the Metlakatla First Nation Members gathering under the Metlakatla First Nation Right to Gather Plants to comply with any

conservation measures established by the Minister that affect the Metlakatla First Nation Right to Gather Plants.

DOCUMENTATION

19. Where documentation is required under Provincial Law to gather Plants, Metlakatla First Nation will issue documentation to Metlakatla First Nation Members who exercise the Metlakatla First Nation Right to Gather Plants.
20. Documentation issued under paragraph 19 will:
 - a) be in the English language, which will be the authoritative version, and, at the discretion of Metlakatla First Nation, also in Sm'algayax;
 - b) include sufficient information to identify the Metlakatla First Nation Member; and
 - c) meet any requirements to which Metlakatla First Nation and British Columbia may agree.
21. If documentation is required for the general public under Federal Law or Provincial Law, Metlakatla First Nation will enact a law requiring Metlakatla First Nation Members who gather or transport Plants under the Metlakatla First Nation Right to Gather Plants to carry documentation issued by the Metlakatla First Nation and to produce that documentation on request by an authorized individual.

DESIGNATED NON-MEMBER GATHERERS

22. During Stage 5 treaty negotiations, the Parties will address their interests in the designation of non-member gatherers.

LICENCES AND FEES

23. Metlakatla First Nation Members are not required to have federal or provincial licences or to pay any fees or royalties to Canada or British Columbia relating to the Metlakatla First Nation Right to Gather Plants.

TRADE BARTER AND SALE

24. The Metlakatla First Nation has the right to Trade and Barter Plants and household goods and apparel made from Plants gathered under the Metlakatla First Nation Right to Gather Plants:
 - a) among themselves; or
 - b) with other aboriginal people of Canada.
25. Metlakatla First Nation may exercise the right to Trade and Barter Plants in accordance with Metlakatla First Nation Laws.
26. The Metlakatla First Nation right to Trade and Barter Plants under paragraph 24 is held by the

Metlakatla First Nation and cannot be alienated.

27. During Stage 5 treaty negotiations, the Parties will address their interests in the sale of Plants Gathered under the Metlakatla First Nation Right to Gather Plants.

ENFORCEMENT

28. The Parties may negotiate agreements concerning the enforcement of Federal Laws, Provincial Laws or Metlakatla First Nation Laws in respect of the Metlakatla First Nation Right to Gather Plants.
29. During Stage 5 treaty negotiations, the Parties will address their interests in the enforcement of Metlakatla First Nation Laws in respect of Plants.

CONSERVATION

30. The Minister will Consult with First Nation regarding a conservation measure, proposed by the Minister or First Nation, in respect of a Plant species within the Harvest Area.
31. When considering a conservation measure in respect of a Plant species within the Harvest Area, the Minister will take into account:
 - a) the conservation risk to the Plant species;
 - b) the population of the Plant species;
 - c) the necessity for and the nature of, the proposed conservation measure; and
 - d) First Nation's role in the development and implementation of the conservation measure.
32. Before approving the establishment or a variance of a conservation measure that will affect the First Nation Right to Gathering Plants, the Minister will use reasonable efforts to minimize the impact of the conservation measure on that right.

COMMERCIAL HARVESTING

33. Metlakatla Members may gather Plants on provincial Crown land for commercial purposes in accordance with Federal or Provincial Law.

CHAPTER 14 – LAND AND RESOURCE MANAGEMENT, SHARED DECISION MAKING AND PLANNING WITHIN THE METLAKATLA FIRST NATION AREA

GENERAL

1. The Parties recognize that Metlakatla First Nation has an interest in shared decision-making, natural resource management and land use planning within the Metlakatla First Nation Area particularly to the extent that natural resource management and land use planning decisions have the potential to impact upon the Metlakatla First Nation rights to be set out in the Metlakatla Treaty.
2. Metlakatla First Nation and British Columbia acknowledge that they are both parties to the Reconciliation Protocol signed by British Columbia and the Coastal First Nations in 2009, as amended from time to time, including the amendments on the following dates: in 2010, 2011, and 2016 (the “Reconciliation Protocol”).
3. Prior to the Metlakatla Treaty, and in the context of government-to-government relations, British Columbia and the Metlakatla First Nation will negotiate an approach to shared decision-making, natural resource management and land use planning for provincial Crown land within the Metlakatla First Nation Area.
4. For greater certainty, provincial Crown Land as referred to in paragraph 3 includes foreshore and marine areas under provincial jurisdiction.
5. Any arrangements negotiated and agreed to in accordance with paragraph 3 will not form part of the Metlakatla Treaty.
6. Metlakatla First Nation and British Columbia acknowledge that section 15.9 of the Reconciliation Protocol provides that concluding a Metlakatla Treaty does not preclude Metlakatla First Nation from remaining a party to the Reconciliation Protocol.

SCOPE OF METLAKATLA TREATY NEGOTIATIONS

7. Subject to any amendments required as a result of Metlakatla Treaty negotiations, Metlakatla First Nation and British Columbia agree Metlakatla may remain part of the Reconciliation Protocol, or its successor agreement, as long as the Reconciliation Protocol or any successor agreement remains in effect.
8. Prior to the Metlakatla Treaty, Metlakatla First Nation and British Columbia will negotiate the relationship between the Reconciliation Protocol and the Metlakatla Treaty.
9. The negotiations contemplated under paragraphs 3, 7 and 8 will be based upon:
 - a) the principle of a government-to-government relationship between Metlakatla First Nation and British Columbia;

- b) During Stage 5 treaty negotiations, the Parties will address their interests in including or excluding language in relation to reasonable opportunity to harvest Wildlife, Migratory Birds, Fish and to gather Plants and respective obligations regarding provincial Crown lands decision-making.
- c) existing agreements and plans, including:
 - i) the Reconciliation Protocol;
 - ii) the Metlakatla-British Columbia Strategic Land Use and Planning Agreement, March 2006;
 - iii) the Metlakatla- British Columbia Protected Area Collaborative Management Agreement, October 2007;
 - iv) the North Coast Land Resource Management Plan, and related letter of ratification from Metlakatla March 2004;
 - v) North Coast Marine Plan, signed in 2015 by British Columbia and the North Coast-Skeena First Nations Stewardship Society;
- d) Metlakatla First Nation's interests as expressed through the Draft Metlakatla Land Use Plan and the Metlakatla Marine Use Plan;
- e) British Columbia and Metlakatla First Nation's shared interest that Metlakatla First Nation's role in natural resource management and land use planning occur at a strategic level;
- f) ecosystem-based management principles as outlined within agreements and plans listed in 8c);
- g) potential measures for incorporating available information, including both scientific and Metlakatla First Nation traditional knowledge;
- h) the interests of Metlakatla First Nation and British Columbia in identifying procedures for dispute resolution and amending agreed to arrangements;
- i) the interests of Local Government and other stakeholders within the Metlakatla First Nation Area;
- j) the asserted interests of other First Nations within the Metlakatla First Nation Area;
- k) provisions in the United Nations Declaration on the Rights of Indigenous Peoples that are within British Columbia's area of jurisdiction; and
- l) other interests as may be identified by Metlakatla First Nation and British Columbia.

PUBLIC PLANNING PROCESSES

10. Any public planning processes initiated by British Columbia in the Metlakatla First Nation Area will be established through consultation, cooperation or other forms of meaningful engagement with Metlakatla.

FUTURE RELATIONSHIPS

11. Nothing in the Metlakatla Treaty will preclude the Metlakatla First Nation from participating in provincial processes or institutions, including any process or institution that may address matters of shared decision making, or benefiting from any future provincial programs, including provincial revenue-sharing programs, accommodation agreements or policies or initiatives of general application to First Nations as British Columbia develops an improved relationship with First Nations.
12. Nothing in the Metlakatla Treaty will preclude the Metlakatla First Nation from participating in, or benefiting from, provincial benefits-sharing programs of general application in accordance with the general criteria established for those programs from time to time.

Accommodation Agreements

13. Nothing in the Metlakatla Treaty will preclude the Metlakatla First Nation from entering into accommodation agreements within the Metlakatla First Nation Area related to resource development or other arrangements for economic opportunities with third parties.

ECONOMIC OPPORTUNITIES

14. During Stage 5 treaty negotiations, the Parties will address their interests in economic opportunities from Provincial Protected Area uses or tourism within the Metlakatla First Nation Area.

MARINE USE PLANNING

15. Prior to Metlakatla Treaty the Parties will discuss the development of an approach for joint marine use planning within the Metlakatla First Nation Area.

CHAPTER 15 – PARKS AND PROTECTED AREAS

GENERAL

1. During Stage 5 treaty negotiations, the Parties will address their interests in determining the geographic area within the Metlakatla First Nation Area in which the consent of the Metlakatla First Nation is required in the creation of new protected areas after the Effective Date.
2. During Stage 5 treaty negotiations, the Parties will address their interests in marine use planning processes and agreements and their relationship to the treaty.

PROVINCIAL PROTECTED AREAS

3. The Metlakatla First Nation may make proposals to British Columbia to establish a Protected Area within the Metlakatla First Nation Area.
4. Nothing in the Metlakatla Treaty will obligate British Columbia to establish a Protected Area within the Metlakatla First Nation Area.
5. British Columbia will provide the Metlakatla First Nation with written reasons of a decision under paragraph 4 not to establish a protected area proposed by the Metlakatla First Nation under paragraph 3.
6. During Stage 5 treaty negotiations, the Parties will address their interests in the exercise of the Metlakatla First Nation Right to Harvest within Provincial Protected Areas.
7. During Stage 5 treaty negotiations, Metlakatla First Nation and British Columbia will address their interests in collaborative parks management and planning.
8. Paragraph 7 will include the Provincial Protected Areas outlined in Appendix N.
9. Subject to any authorization required by Metlakatla, British Columbia and Canada, Metlakatla Treaty negotiations between the Parties will seek to address Metlakatla's interests in Lucy Islands Conservancy and the Ksgaxl/Stephens Island Conservancy.
10. British Columbia and Canada acknowledge that Metlakatla has identified the negotiation of Metlakatla First Nation Lands for the Lucy Islands Conservancy and the Ksgaxl/Stephens Island Conservancy as essential for the negotiation of a Metlakatla Treaty.

CONSULTATION

11. During Stage 5 treaty negotiations, Metlakatla First Nation and British Columbia will address their interests in Consultation with Metlakatla First Nation regarding the creation, amendment and management of Provincial Protected Areas in the Metlakatla First Nation Area.

PUBLIC PLANNING PROCESS

12. During Stage 5 treaty negotiations, Metlakatla First Nation and British Columbia will address

their interests in public planning processes related to Provincial Protected Areas.

NATIONAL PARKS, NATIONAL MARINE CONSERVATION AREAS AND NATIONAL HISTORIC SITES

13. Canada will Consult Metlakatla First Nation prior to:
 - a) the establishment of or changes to the boundaries of any National Park or National Marine Conservation Area
 - b) the designation as a National Historic Site of lands under the administration and control of the Parks Canada Agency;
 - c) transfer of administration of a national historic site to the Parks Canada Agency; or
 - d) changes to the boundaries of a National Historic Site,wholly or partly within the Metlakatla First Nation Area.
14. Prior to establishing any National Park, National Marine Conservation Area or National Historic Site wholly or partly within the Metlakatla First Nation Area, Metlakatla First Nation and Canada will negotiate and attempt to reach agreement regarding Metlakatla First Nation's participation in a cooperative planning and management process to provide advice to the Minister for that National Park, National Marine Conservation Area or National Historic Site.

Harvesting and Other Cultural Activities

15. Metlakatla First Nation has the right to Harvest Renewable Resources for Domestic Purposes in the portions of:
 - a) any National Park or National Marine Conservation Area established wholly or partly within the Metlakatla First Nation Area; and
 - b) any National Historic Site wholly or partly within the Metlakatla First Nation Area where an opportunity to Harvest Renewable Resources exists,in accordance with the Metlakatla Treaty.
16. The Metlakatla First Nation Right to Harvest Renewable Resources is limited by measures necessary for conservation, public health or public safety.
17. The Metlakatla First Nation Right to Harvest Renewable Resources is a communal right held by Metlakatla First Nation and cannot be alienated.
18. If any National Park or National Marine Conservation Area is established wholly or partly within the Metlakatla First Nation Area, or where there is a Metlakatla First Nation Right to Harvest Renewable Resources in a National Historic Site, Metlakatla First Nation and Canada will negotiate and attempt to reach agreement on terms and conditions for the exercise of:

- a) the Metlakatla First Nation Right to Harvest Renewable Resources, and
- b) other Metlakatla First Nation cultural activities

in that National Park or National Marine Conservation Area or National Historic Site.

19. After Consultation with Metlakatla First Nation, the Minister may close areas in any National Park, National Marine Conservation Area or National Historic Site to harvesting for the purposes of conservation, public health or public safety.

General

20. The Minister retains authority for the management, administration, and control of National Parks, National Marine Conservation Areas, and National Historic Sites on lands and waters owned by Canada and administered by the Parks Canada Agency and will exercise that authority in accordance with the Metlakatla Treaty.

CHAPTER 16 – ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL PROTECTION

ENVIRONMENTAL ASSESSMENT

1. During Stage 5 treaty negotiations, the Parties will address their interests in Metlakatla First Nation consent for projects subject to an environmental assessment.

METLAKATLA FIRST NATION PARTICIPATION IN FEDERAL ENVIRONMENTAL ASSESSMENTS

2. If a Federal Project is to be located within the Metlakatla First Nation Area, may reasonably be expected to cause adverse environmental effects on Metlakatla First Nation Members residing on Metlakatla First Nation Lands or to adversely affect Metlakatla First Nation Lands, Metlakatla First Nation Heritage Sites or Metlakatla First Nation Section 35 Rights, Canada will:
 - a) as soon as practicable after Canada receives a project description, ensure that the Metlakatla First Nation is provided with timely notice of the environmental assessment and information describing the Federal Project in sufficient detail, to permit the Metlakatla First Nation to determine if it is interested in participating in the environmental assessment;
 - b) as soon as practicable after Canada receives a project description, provide the Metlakatla First Nation with an opportunity to comment on the environmental assessment of the Federal Project conducted under the federal environmental assessment legislation including:
 - i. the type of environmental assessment to be conducted;
 - ii. the scope of the assessment;
 - iii. the environmental effects of the Federal Project;
 - iv. the adverse impacts of the Federal Project on Metlakatla First Nation Lands and/or Section 35 Rights;
 - v. any mitigation or accommodation measures;
 - vi. any follow-up programs; and
 - vii. any potential conditions.
 - c) ensure the Metlakatla First Nation will have access to information in Canada's possession related to the environmental assessment of the Federal Project, in accordance with the public registry provisions in the federal environmental assessment legislation;

and

- d) give full and fair consideration to any comments made under paragraph 2.b), and will respond to the comments, before making any decision that would have the effect of enabling the proposed Federal Project to be carried out in whole or in part;
 - e) in response to Metlakatla's comments made under paragraph 2.b):
 - i. indicate in writing how Metlakatla First Nation's comments were taken into account into the assessment of the Federal Project;
 - ii. provide a rationale in writing for why any of Metlakatla First Nation's comments were not incorporated into the assessment of the Federal Project; and
 - iii. meet with Metlakatla First Nation, upon the request of Metlakatla First Nation.
 - f) work collaboratively with Metlakatla First Nation to identify measures to accommodate adverse effects on Metlakatla First Nation Lands, Metlakatla First Nation Heritage Sites or Metlakatla First Nation Section 35 Rights and will take action to implement those accommodation measures within areas of federal jurisdiction.
3. During Stage 5 treaty negotiations, Canada and Metlakatla First Nation will address their interests in follow-up activities related to an anticipated adverse effect of a Federal Project.
 4. If a Federal Project described in paragraph 2 is referred to a panel under the federal environmental assessment legislation, Canada will provide the Metlakatla First Nation with:
 - a) the opportunity to propose to the Minister a list of names that the Minister may consider for appointment to a panel in accordance with the requirements of the federal environmental assessment legislation unless the Metlakatla First Nation is a proponent of the Federal Project;
 - b) the opportunity to participate in the development of the terms of reference of the panel; and
 - c) formal standing before the panel.
 5. If a Federal Project described in paragraph 2 is referred to a panel under the federal environmental assessment legislation and that Federal Project will be located on Metlakatla lands, Canada will provide Metlakatla with:
 - a) the opportunity to propose to the Minister a list of names from which the Minister will appoint one member in accordance with the federal environmental assessment legislation unless Metlakatla is a proponent of the Federal Project;
 - b) the opportunity to participate in the development of terms of reference of the panel; and

- c) formal standing before the panel.

METLAKATLA FIRST NATION PARTICIPATION IN PROVINCIAL ENVIRONMENTAL ASSESSMENT PROCESSES

- 6. During Stage 5 treaty negotiations, Metlakatla First Nation and British Columbia will address their interests in Metlakatla First Nation's participation in Provincial environmental assessment processes and the outcomes of those processes.

LAW-MAKING

- 7. The Metlakatla First Nation Government may make laws applicable on Metlakatla First Nation Lands in relation to:
 - a) environmental assessment, including effects on Heritage Sites, for Metlakatla First Nation Projects and other projects on Metlakatla First Nation Lands that are not subject to environmental assessment under Provincial Law;
 - b) Environmental management relating to the protection, preservation, and conservation of the Environment, including:
 - i. prevention, mitigation and remediation of pollution and degradation of the Environment;
 - ii. waste management, including solid wastes and wastewater;
 - iii. protection of local air and water quality; and
 - iv. Environmental Emergency response.
- 8. Metlakatla First Nation Law under paragraph 7, in respect of Metlakatla First Nation Projects that are also Federal Projects will maintain, or exceed, the requirements of the federal environmental assessment legislation.
- 9. Where the Metlakatla First Nation Project is also a Federal Project and Metlakatla First Nation exercises its law-making authority under paragraph 7, Canada and the Metlakatla First Nation will work collaboratively to provide a timely and efficient review through:
 - a) coordinating their respective environmental assessment requirements; and
 - b) avoiding duplication.
- 10. During Stage 5 treaty negotiations, the Parties will address their interests in Metlakatla First Nation's law-making for projects that are subject to environmental assessment under Provincial Law.
- 11. During Stage 5 treaty negotiations, the Parties will address their interests in the issue of priority of laws made under paragraph 7.

CANADA'S PARTICIPATION IN METLAKATLA FIRST NATION ENVIRONMENTAL ASSESSMENT

12. Where a Metlakatla First Nation's Project may reasonably be expected to have adverse effects on federal lands, or may require a federal authority to exercise a power or perform any duty or function that could permit the Metlakatla Project to be carried out, Metlakatla First Nation will ensure that Canada:
 - a) is Consulted and provided with an opportunity to participate in the environmental assessment of the applicable Metlakatla First Nation Project; and
 - b) during the course of the environmental assessment of the Metlakatla First Nation Project, Metlakatla First Nation will give full and fair consideration to any comments provided by Canada, and will respond to the comments, before taking any decision that would have the effect of allowing the Metlakatla First Nation Project to proceed.

ENVIRONMENTAL EMERGENCIES

13. During Stage 5 treaty negotiations, the Parties will address their interests in environmental emergencies occurring on Metlakatla First Nation Lands, or the lands and waters adjacent to Metlakatla First Nation Lands.

CHAPTER 17 – WATER

GENERAL

1. Nothing in the Metlakatla Treaty will alter Federal or Provincial Law in respect of property in water.
2. The water reservation to be established under the Metlakatla Treaty will include the volumes established under Final Water License 7690 issued to the Metlakatla Band in respect of Tsimpsean Indian Reserve No.2 and Tsook Lake.
3. Storage, diversion, extraction or use of water will be in accordance with Federal and Provincial Law.

WATER RESERVATION

4. Subject to there being sufficient Available Flows, the Metlakatla Treaty will provide for a water reservation under the Water Act in favour of the Metlakatla First Nation.
5. The Metlakatla First Nation water reservation established under the *Water Sustainability Act* for the Metlakatla First Nation will specify the volume of unrecorded water, the Streams that are subject to the water reservation and the extent to which the water reservation applies to particular Streams, including the monthly percentage of Available Flow.
6. Water reserved pursuant to the Metlakatla First Nation water reservation may be used for all purposes under the *Water Sustainability Act* including domestic, industrial and agricultural purposes, but excluding those purposes set out in paragraphs 28 to 31.
7. The Metlakatla Treaty will provide that the Metlakatla First Nation water reservation will have priority over all water licences other than:
 - a) Water Licences issued before a date to be determined during Metlakatla Treaty negotiations and proximate to the date upon which Metlakatla and British Columbia agree upon the water volume to reserve for Metlakatla on particular water systems and when British Columbia issues a water reservation;
 - b) Water Licences issued pursuant to an application before a date to be determined during Metlakatla Treaty negotiations and proximate to the date upon which Metlakatla and British Columbia agree upon the water volume to reserve for Metlakatla on particular water systems and when British Columbia issues a water reservation; and
 - c) Water Licences issued pursuant to water reservations established before a date to be determined during Metlakatla Treaty negotiations and proximate to the date upon which Metlakatla and British Columbia agree upon the water volume to reserve for Metlakatla on particular water systems and when British Columbia issues a water reservation.

WATER LICENCES

8. A Person may, with the consent of the Metlakatla First Nation, apply to British Columbia for Water Licences for volumes of flow to be applied against the Metlakatla First Nation water reservation.
9. If a Person applies for a water licence for volumes of water to be applied against the Metlakatla First Nation water reservation and:
 - a) the Metlakatla First Nation has consented to the application;
 - b) the application conforms to provincial regulatory requirements, including safety standards;
 - c) there is sufficient unrecorded volume of flow of water in the Metlakatla First Nation water reservation established in accordance with paragraph 3;
 - d) where required, the application includes provisions for storage where the monthly Available Flow during periods of low flow is insufficient to meet proposed demand; and
 - e) the application is for a volume of flow of water that, together with the total volume of flow licensed for that Stream under the Metlakatla Treaty, does not exceed the percentage of monthly Available Flow for that Stream as set out in the Metlakatla Treaty,

British Columbia will approve the application and issue the Water Licence.

10. A Water Licence issued to a person for use on the Metlakatla First Nation Lands under paragraph 9 will not be subject to any provincial royalties, rentals, fees, or charges, except taxes.
11. The volume of flow of water approved in a Water Licence issued under paragraph 9 will be deducted from the unrecorded volume of flow in the Metlakatla First Nation water reservation, established under paragraph 4.
12. If a water licence issued pursuant to paragraph 9 is cancelled, expires or otherwise terminates, the volume of flow in that water licence will be added back to the unrecorded volume of flow in the Metlakatla First Nation water reservation, established under paragraph 4.
13. For greater certainty, a person may apply for Water Licences under paragraph 9 for use of water off Metlakatla First Nation Lands.
14. The Metlakatla Treaty will not preclude the Metlakatla First Nation or Metlakatla First Nation Members from applying for additional Water Licences under Provincial Law not provided for under the water reservation established under paragraph 4.

ACCESS ACROSS METLAKATLA FIRST NATION LANDS

15. British Columbia will Consult with the Metlakatla First Nation Government respecting applications for Water Licences made after the Effective Date where the applicant may reasonably require access across or an interest in Metlakatla First Nation Lands.
16. Sections 32, 33, 34 and 35 of the *Water Sustainability Act* respecting a licensee's right to expropriate land do not apply on Metlakatla First Nation Lands.
17. If a person has a Water Licence and reasonably requires access across, or an interest in Metlakatla First Nation Lands for the construction, maintenance, improvement or operation of works authorized under the licence, the Metlakatla First Nation may not unreasonably withhold consent, and will take reasonable steps, to ensure that access or the granting of that interest, if the licence holder offers fair compensation to the owner of the estate or interest affected.
18. British Columbia or the Metlakatla First Nation may refer a dispute arising under paragraph 15 to be finally determined by arbitration in accordance with the Dispute Resolution Chapter.

ACCESS ACROSS CROWN LAND

19. If the Metlakatla First Nation, a Metlakatla Public Institution, a Metlakatla Corporation, or a Metlakatla First Nation Member has a Water Licence approved under paragraph 9 and reasonably requires access across, or an interest in, Crown land for the construction, maintenance, improvement or operation of work authorized under the licence, British Columbia, or Canada as the case may be, will grant the access or interest on reasonable terms in accordance with Provincial Law.
20. For greater certainty, the provisions of the *Water Sustainability Act* regarding access for the construction, maintenance, improvement or operation of works across fee simple lands off Metlakatla First Nation Lands apply with respect to water licences issued in accordance with paragraph 9.

WATER MANAGEMENT

21. Metlakatla First Nation may participate in water planning processes in the Metlakatla First Nation Area.
22. During Stage 5 treaty negotiations, the Parties will address their interests in the negotiation of water management agreements within the Metlakatla First Nation Area.
23. Where a watershed includes both Metlakatla First Nation Lands and provincial Crown land in British Columbia, and if the Metlakatla First Nation or British Columbia considers that the watershed is an important source of drinking water, British Columbia and the Metlakatla First Nation may negotiate agreements on the protection of drinking water in the area.

LAW-MAKING AUTHORITY

24. The Metlakatla First Nation Government may make laws in respect of:
 - a) the consent of the Metlakatla First Nation under paragraph 9a) to applications for water licences to be applied against the Metlakatla water reservation established in accordance with paragraph 2; and
 - b) the supply and the use of water from a Water Licence issued in accordance with paragraph 9.
25. A Metlakatla First Nation Law under paragraph 24a) prevails to the extent of a Conflict with a Federal or Provincial Law.
26. Federal Law or Provincial Law prevails to the extent of a Conflict with Metlakatla First Nation Law under paragraph 24b).

OTHER

27. If Federal or Provincial Law permit the sale of water, the Metlakatla First Nation may sell water in accordance with those Laws.
28. Prior to the Metlakatla Treaty the Parties will address the issue of groundwater.

HYDRO POWER RESERVATION

29. In addition to the Metlakatla First Nation water reservation established under paragraph 4, British Columbia will, subject to Available Flow, establish a water reservation of the unrecorded water of specific Streams identified in the Metlakatla Treaty in favour of the Metlakatla First Nation Government for a term to be set out in the Metlakatla Treaty after the Effective Date to enable the Metlakatla First Nation Government to investigate the suitability of those Streams for hydro power purposes, including related storage purposes.
30. If the Metlakatla First Nation Government applies for a water reservation for hydro power purposes on a Stream subject to the Metlakatla First Nation hydro power reservation under paragraph 29, British Columbia, after considering the results of any investigation referred to in paragraph 29 and subject to Available Flow, will establish a Metlakatla First Nation hydro power reservation for hydro power purposes and any related storage purposes on that Stream if it considers that Stream to be suitable for hydro power purposes.
31. If British Columbia establishes a water reservation for hydro power purposes on a Stream under paragraph 30, the Metlakatla First Nation hydro power reservation under paragraph 29 will terminate in respect of that Stream.
32. If, after British Columbia establishes a water reservation for hydro power purposes under paragraph 30, the Metlakatla First Nation Government applies for a Water Licence for hydro power purposes and any related storage purposes for a volume of flow from the Stream subject to that water reservation, British Columbia will grant the Water Licence if the proposed hydro

power project conforms to federal and provincial Laws, and there is sufficient Available Flow in the Stream.

33. If British Columbia issues a Water Licence under paragraph 32, the water reservation established under paragraph 30 will terminate in respect of that Stream.

ALTERNATIVE ENERGY SOURCES

34. Prior to the Metlakatla Treaty, the Parties will discuss Metlakatla First Nation interests with respect to alternative sources of energy.

CHAPTER 18 – FOREST RESOURCES

FOREST RESOURCES ON METLAKATLA FIRST NATION LANDS

1. The Metlakatla First Nation will own Forest Resources on Metlakatla First Nation Lands.
2. Metlakatla First Nation Lands will be treated as Private Lands for the purposes of Provincial Law in respect of Forest Resources, Forest Practices and Range Practices.
3. The Metlakatla First Nation, as owner, will have exclusive authority to determine, collect and administer any fees, rents, royalties or other charges, except taxes, relating to the harvesting of Forest Resources on Metlakatla First Nation Lands.

LAW MAKING

4. The Metlakatla First Nation Government may make laws in respect of Forest Resources, Forest Practices and Range Practices on Metlakatla First Nation Lands.
5. Federal Law or Provincial Law prevails to the extent of a Conflict with Metlakatla First Nation Law under paragraph 4.

TIMBER MARKING AND SCALING

6. Nothing in the Metlakatla Treaty confers authority on the Metlakatla First Nation Government to make laws applicable to timber marking, timber marks and timber scaling and, for greater certainty, Provincial Law in respect of timber marking, timber marks and timber scaling apply to timber harvested on Metlakatla First Nation Lands when transported off Metlakatla First Nation Lands.

MANUFACTURE AND EXPORT OF TIMBER RESOURCES

7. Timber harvested from Metlakatla First Nation Lands will not be subject to any requirement under Provincial Law for use or manufacturing in British Columbia.
8. The Metlakatla First Nation, or a person authorized by the Metlakatla First Nation, may export Logs harvested from Metlakatla First Nation Lands in accordance with Federal Law and federal policy.

FOREST AND RANGE HEALTH

9. If Canada, British Columbia or the Metlakatla First Nation becomes aware of insects, diseases, plants, animals or abiotic factors on Crown land or Metlakatla First Nation Lands that may threaten the health of Forest Resources or Range Resources on Crown land or Metlakatla First Nation Lands, Canada, British Columbia, or the Metlakatla First Nation, as the case may be, will notify the other Parties.
10. Following notification under paragraph 9, Metlakatla and British Columbia may develop an

appropriate and reasonable co-operative response to minimize the impacts of such insects, diseases, plants, animals or abiotic factors on Forest Resources or Range Resources on Metlakatla First Nation Lands or provincial Crown land.

11. During Stage 5 treaty negotiations, Metlakatla First Nation and Canada will address their interests in responding to impacts on the health of Forest Resources or Range Resources.
12. During Stage 5 treaty negotiations, the Parties will address their interests in the application of Federal Law or Provincial Law in relation to the health of Forest Resources.

INFORMATION SHARING

13. The Metlakatla Treaty will provide for information sharing in relation to Forest Practices and Range Practices on Metlakatla First Nation Lands and on provincial Crown lands immediately adjacent to Metlakatla First Nation Lands from time to time.

WILDFIRE SUPPRESSION AND CONTROL

14. Subject to the Wildfire Suppression Agreement entered into under paragraph 15 and subject to paragraphs 16 and 20, Provincial Law in respect of the protection of resources from wildfire and for wildfire prevention and control applies to First Nation Lands as Private Land.
15. On the Effective Date, the Parties will enter into a Wildfire Suppression Agreement that will set out how the costs incurred by British Columbia for wildfire control on the Metlakatla First Nation Lands for wildfires that originate on such lands, will be shared by British Columbia, Canada and the Metlakatla First Nation.
16. Subject to paragraph 17 and 18 and subject to the limitations on the scope of the Metlakatla First Nation's responsibility to pay wildfire control costs set out in the Metlakatla First Nation Wildfire Suppression Agreement, the Metlakatla First Nation is responsible for one third of the costs incurred by British Columbia for wildfire control on Metlakatla First Nation Lands for wildfires that originate on such lands.
17. If the Metlakatla First Nation caused or contributed to the start or spread of any wildfire due to its own wilful misconduct, the Metlakatla First Nation's responsibility for costs is not limited by paragraph 16.
18. Metlakatla First Nation will not be responsible under paragraph 15 for wildfire control costs incurred by British Columbia on Metlakatla First Nation Lands if British Columbia or Canada caused or contributed to the start or spread of that wildfire due to the willful misconduct of British Columbia or Canada.
19. For greater certainty, the responsibility of the Metlakatla First Nation under paragraph 16 for the costs incurred by British Columbia for wildfire control does not include responsibility for any costs associated with wildfire control off Metlakatla First Nation Lands.
20. British Columbia will respond to a wildfire originating on Metlakatla First Nation Lands on the same priority basis as for provincial Crown land and in accordance with any priorities as set by

the Minister.

21. For the purposes of paragraph 15:
 - a) unless terminated at the written request of the Metlakatla First Nation, the Wildfire Suppression Agreement remains in effect between the Metlakatla First Nation and British Columbia, on the same terms, subject to those terms that the Metlakatla First Nation and British Columbia negotiate on a periodic basis; and
 - b) Canada's participation in the Wildfire Suppression Agreement is limited to assuming a share of costs under that agreement for a period of 10 years commencing on the Effective Date.
22. Subject to any cost-sharing arrangement that may be in effect between Canada and British Columbia regarding wildfire suppression on lands provided under land claims agreements, Canada and British Columbia may, at their respective discretion, enter into new agreements from time to time in respect of Canada's continuing participation in the Wildfire Suppression Agreement following the 10 year period referred to in paragraph 21b).
23. Nothing under paragraphs 15 or 16 limits the ability of any Party to pursue legal action against third parties.
24. At the request of the Metlakatla First Nation, or in accordance with Provincial Law, British Columbia may enter on Metlakatla First Nation Lands and assist in the provision of, or carry out, wildfire control.

OBLIGATIONS EXISTING BEFORE EFFECTIVE DATE

25. Unless otherwise requested in writing by the Metlakatla First Nation, British Columbia will ensure that on the Effective Date or as soon as practicable, all obligations that apply on Metlakatla First Nation Lands in respect of Forest Practices and Range Practices, including road deactivation, will be fulfilled in accordance with Provincial Law.
26. The Metlakatla First Nation will provide access to Metlakatla First Nation Lands at no cost to British Columbia and to any tenure holder whose rights to Forest Resources under paragraph 27 cease to be valid, and to their respective employees, agents, contractors, successors or assigns, so that they may fulfill the obligations referred to in paragraph 25.

TIMBER HARVESTING RIGHTS EXISTING BEFORE THE EFFECTIVE DATE

27. British Columbia will ensure that on the Effective Date, any portion of:
 - a) any agreement under the *Forest Act* or *Range Act*; and
 - b) any plan, permit, licence or authorization associated with any agreement under the *Forest Act* or *Range Act* that applies on Metlakatla First Nation Lands,

ceases to be valid.

LONG-TERM FOREST TENURE

28. Prior to the Metlakatla Treaty, British Columbia and Metlakatla First Nation will attempt to negotiate Metlakatla First Nation's interest in securing a long-term forest tenure.

CHAPTER 19 – FISCAL RELATIONS

GENERAL

1. The Parties acknowledge that Canada and aboriginal groups are engaged in the Collaborative Fiscal Policy Development Process that includes discussions regarding how the principle of shared responsibility will be implemented. The result of this process may affect the fiscal arrangements to be negotiated during Metlakatla Treaty negotiations.
2. The Parties acknowledge that the government-to-government relationship established by the Metlakatla Treaty will include a fiscal relationship, in which the Parties acknowledge they each will have a role in supporting Metlakatla through direct or indirect financial support or through access to public programs and services. This relationship will be expressed in the Metlakatla Treaty.
3. In Metlakatla Treaty negotiations, the Parties will negotiate and attempt to reach agreement on fiscal matters including:
 - a) Metlakatla Treaty provisions regarding the ongoing fiscal relationship among the Parties; and
 - b) Fiscal arrangements to take effect on Effective Date that will set out terms, conditions and funding with respect to the responsibilities assumed by Metlakatla First Nation, which may include methods for calculating some or all of that funding.
4. Prior to the conclusion of the Metlakatla Treaty, the Parties will negotiate fiscal arrangements, which may take effect prior to the Effective Date, regarding responsibilities assumed by Metlakatla First Nation prior to Effective Date.
5. During Stage 5 treaty negotiations, the Parties will address their interests in financial obligations pertaining to the creation of the Metlakatla First Nation Government.
6. Any funding required for the purposes of a fiscal arrangement, or any other agreement that is contemplated by the Metlakatla Treaty and that provides for financial obligations to be assumed by a Party, is subject to the appropriation of funds:
 - a. in the case of Canada, by the Parliament of Canada;
 - b. in the case of British Columbia, by the Legislature of British Columbia; or
 - c. in the case of the Metlakatla First Nation, by the Metlakatla Government.

CHAPTER 20 – CAPITAL TRANSFER AND NEGOTIATION LOAN REPAYMENT

CAPITAL TRANSFER

1. The Capital Transfer from Canada and British Columbia to the Metlakatla First Nation will be \$47 million (Q1 2017) and will be paid in accordance with the provisions of this Chapter.
2. The Parties agree that the Capital Transfer may be changed from the amount set out in paragraph 1 in Final Ageement negotiations.
3. A provisional schedule of payments will be negotiated prior to the initialing of the Metlakatla Treaty such that:
 - a) the net present value of the amounts listed in the provisional schedule of payments will equal the amount set out in paragraph 1; and
 - b) the net present value of the amounts listed in the provisional schedule of payments will be calculated using as a discount rate the most recent and appropriate Consolidated Revenue Fund Lending Rate available prior to the initialing of the Metlakatla Treaty from the Department of Finance, Canada, less one-eighth of one percent.
4. A final schedule of payments will be determined approximately one month before the Effective Date, or as soon as the Effective Date is known, whichever date is closest to the Effective Date, in accordance with the following formula:

$$\text{Final Amount} = \text{Provisional Amount} \times \left(\frac{\text{Effective Date FDDIPI}}{1^{\text{st}} \text{ Q 2017 FDDIPI}} \right)$$

Where,

“Final Amount” refers to each amount in the final schedule of payments;

“Provisional Amount” refers to the corresponding amount in the provisional schedule of payments;

“Effective Date FDDIPI” refers to the value of the Canada Final Domestic Demand Implicit Price Index (FDDIPI) for the quarter prior to the Effective Date;

“1st Q 2017 FDDIPI” refers to the value of the Canada FDDIPI for the 1st quarter of the year 2017;

the Effective Date FDDIPI and 1st Q 2017 FDDIPI values used will be taken from the latest published values available from Statistics Canada at the time the final schedule of payments is established.

5. Canada, subject to paragraph 7, and British Columbia will make payments to Metlakatla in accordance with the final schedule of payments determined in accordance with paragraph 4.

RESOURCE REVENUE SHARING

6. Prior to the Metlakatla Treaty, the Parties will negotiate and attempt to reach agreement on sharing with Metlakatla agreed-upon resource revenues originating in British Columbia and flowing to Canada or British Columbia.

NEGOTIATION LOAN REPAYMENT

7. During Stage 5 treaty negotiations, the Parties will address their interests in how to address past and present negotiation loans.

CHAPTER 21 – TAXATION

DIRECT TAXATION

1. The Metlakatla First Nation Government may make laws with respect to:
 - a) Direct taxation of Metlakatla First Nation Members within Metlakatla First Nation Lands in order to raise revenue for Metlakatla First Nation Government purposes; and
 - b) the implementation of any taxation agreement entered into between the Metlakatla First Nation and Canada or British Columbia.
2. The Metlakatla First Nation Government law-making authority under subparagraph 1a) will not limit the taxation powers of Canada or British Columbia.
3. Notwithstanding any other provision in this Agreement, any Metlakatla First Nation Law made under this chapter or any exercise of power by the Metlakatla First Nation is subject to Canada's International Legal Obligations respecting taxation.

TAX AGREEMENTS

4. From time to time, at the request of the Metlakatla First Nation, Canada and British Columbia, together or separately, may negotiate and attempt to reach agreements with the Metlakatla First Nation Government with respect to:
 - a) the extent to which the Direct taxation law-making authority of the Metlakatla First Nation Government under paragraph 1a) may be extended to apply to Persons, other than Metlakatla First Nation Members, within Metlakatla First Nation Lands; and
 - b) the manner in which the Metlakatla First Nation Government law-making authority under paragraph 1a), as extended by the application of paragraph 4a), will be coordinated with existing federal or provincial tax systems, including:
 - i) the amount of tax room that Canada or British Columbia may be prepared to vacate in favour of taxes imposed by the Metlakatla First Nation Government, and
 - ii) the terms and conditions under which Canada or British Columbia may administer, on behalf of the Metlakatla First Nation, taxes imposed by the Metlakatla First Nation Government.
5. During Stage 5 treaty negotiations, the Parties will address their interests in the negotiation of a real property tax coordination agreement.

PENALTIES

6. A Metlakatla First Nation Law with respect to taxation may provide for:

- a) a fine that is greater than the limits set out in paragraph 137 of the Self Government Chapter; or
- b) a term of imprisonment that is greater than the limits set out in paragraph 139 of the Self Government Chapter.

where there is an agreement to that effect as contemplated in paragraph 4 of the Taxation Chapter.

ADJUDICATION

- 7. Notwithstanding the provisions of the Governance Chapter, parties to an agreement under paragraph 4 may provide for an alternative approach to the appeal, enforcement or adjudication of Metlakatla First Nation Law with respect to taxation.

METLAKATLA FIRST NATION LANDS

- 8. The Metlakatla First Nation is not subject to capital taxation, including real property taxes and taxes on capital or wealth, with respect to the estate or interest of the Metlakatla First Nation in Metlakatla First Nation Lands on which there are no improvements or on which there is a designated improvement.
- 9. In paragraph 8, “designated improvement” means:
 - a) a residence of a Metlakatla First Nation Member;
 - b) an improvement, all or substantially all of which is used for a public purpose or a purpose ancillary or incidental to the public purpose, including:
 - i) a public governance or administration building, public meeting building, public hall, public school or other public educational institution, teacherage, public library, public health facility, public care facility, public seniors home, public museum, place of public worship, manse, fire hall, police facility, court, correction facility, public recreation facility, public park, or an improvement used for Metlakatla First Nation cultural or spiritual purposes;
 - ii) works of public convenience constructed or operated for the benefit of Metlakatla First Nation Members, occupiers of Metlakatla First Nation Lands or persons visiting or in transit through Metlakatla First Nation Lands, including public utility works, public works used to treat or deliver water or as part of a public sewer system, public roads, public bridges, public drainage ditches, traffic signals, street lights, public sidewalks, and public parking lots; or
 - iii) other improvements similar in nature to those described in subparagraphs 9b)i) and 9b)ii);
 - c) an improvement that is used primarily for the management, protection or enhancement of a natural resource, including a Forest Resource, a fishery or a wildlife resource, other

than an improvement that is used primarily in harvesting or processing a natural resource for profit; and

- d) Forest Resources and forest roads.
10. In subparagraph 9b), “public purpose” does not include the provision of property or services primarily for the purpose of profit.
 11. For the purposes of paragraphs 8 and 9:
 - a) for greater certainty, Metlakatla First Nation Lands include the improvements on those lands; and
 - b) an improvement is deemed to be on the land that is necessarily ancillary to the use of the improvement.
 12. For greater certainty, the exemption from taxation in paragraph 8 does not apply to a taxpayer other than the Metlakatla First Nation nor does it apply with respect to a disposition of Metlakatla First Nation Lands or interests in those lands by the Metlakatla First Nation.
 13. For federal and provincial tax purposes, proceeds of disposition received by the Metlakatla First Nation on expropriation of Metlakatla First Nation Lands in accordance with the Lands Chapter will not be taxable.

TRANSFER OF METLAKATLA FIRST NATION CAPITAL

14. A transfer under the Metlakatla Treaty of Metlakatla First Nation Capital and a recognition of ownership of Metlakatla First Nation Capital under the Metlakatla Treaty is not taxable.
15. For the purposes of paragraph 14, an amount paid to a Metlakatla First Nation Member is deemed to be a transfer of Metlakatla First Nation Capital under this Agreement if the payment:
 - a) reasonably can be considered to be a distribution of Capital Transfer received by the Metlakatla First Nation; and
 - b) becomes payable to the Metlakatla First Nation Member within 90 days and is paid to the Metlakatla First Nation Member within 270 days from the date that the Metlakatla First Nation receives the Capital Transfer.
16. For Federal and British Columbia income tax purposes, Metlakatla First Nation Capital is deemed to have been acquired by the Metlakatla First Nation at a cost equal to its fair market value on the later of:
 - a) the Effective Date; and
 - b) the date of transfer of ownership or the date of recognition of ownership, as the case may be.

INDIAN ACT TAX EXEMPTION AND TRANSITIONAL EXEMPTION

17. During Stage 5 treaty negotiations, the Parties will discuss their interests in transitional tax measures.

TAX TREATMENT AGREEMENT

18. The Parties will enter into a tax treatment agreement, which will come into effect on the Effective Date.
19. Canada and British Columbia will recommend to Parliament and the Legislature of British Columbia, respectively, that the tax treatment agreement be given effect and force of law under federal and provincial legislation.

CHAPTER 22 – ELIGIBILITY AND ENROLMENT

GENERAL

1. Enrolment under the Metlakatla Treaty 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 the Metlakatla Treaty or in any Federal Law or Provincial Law, impose any obligation on Canada or British Columbia to provide rights or benefits.

ELIGIBILITY CRITERIA

2. An individual is eligible to be enrolled under the Metlakatla First Nation Metlakatla Treaty, if that individual is:
 - a) of Metlakatla First Nation ancestry;
 - b) was adopted as a Child under laws recognized in Canada, or by a Metlakatla First Nation custom, by an individual described in paragraphs 2a) or 2c);
 - c) a Descendant of an individual described in paragraphs 2a) or 2b);
 - d) a band member listed or entitled to be listed as a band member on the Metlakatla First Nation Band list pursuant to the *Indian Act* as of the day before Effective Date;
 - e) accepted as a Metlakatla First Nation Member by the Metlakatla First Nation in accordance with Metlakatla First Nation custom and has a demonstrated attachment to the Metlakatla First Nation community; or
 - f) after the Effective Date, accepted according to a community acceptance process set out in Metlakatla First Nation Law.
3. During Stage 5 treaty negotiations, the Parties will determine the criteria for eligibility for enrollment of Descendants of anyone other than those described in paragraphs 2a) or 2b).
4. Notwithstanding subparagraph 2c) and paragraph 3 where an individual having no aboriginal ancestry became a member of the Metlakatla First Nation prior to April 17, 1985 because of marriage to a Metlakatla First Nation member, and that individual subsequently has a Child with another individual having no Metlakatla First Nation ancestry, that Child will not be entitled to be enrolled.

APPLICATIONS FOR ENROLMENT

5. An individual may:

- a) apply to the Enrolment Committee, or a body established under paragraph 37 for enrolment under the Metlakatla Treaty;
- b) appeal a decision of the Enrolment Committee to the Enrolment Appeal Board; and
- c) seek judicial review of a decision of the Enrolment Appeal Board or a body established under paragraph 37;

on the individual's own behalf, or on behalf of a Child or an adult whose affairs the individual has legal authority to manage.

6. Each individual has the burden of demonstrating to the Enrolment Committee that the Eligibility Criteria are met.

OTHER LAND CLAIMS AGREEMENTS

7. Other than as provided below, an Applicant who is a beneficiary of, or has applied for enrolment under, another treaty or land claims agreement in Canada will not at the same time be enrolled under the Metlakatla Treaty.
8. Upon application to be enrolled under the Metlakatla Treaty, an Applicant must notify the Enrolment Committee or a body established under paragraph 37 if he or she is a beneficiary of, or has applied for enrolment under, another treaty or land claims agreement in Canada.
9. Subject to paragraph 10, an individual described in paragraph 7 may be enrolled if he or she meets the Eligibility Criteria.
10. An individual who has been enrolled under paragraph 9 will:
 - a) within 120 days after the Effective Date; or
 - b) where the decision to accept his or her application to be enrolled under paragraph 9 is made after the Effective Date, within 120 days of receiving written notification from the Enrolment Committee or a body established under paragraph 37 that he or she has been enrolled;

provide written evidence to a body established under paragraph 37 to demonstrate that he or she has ceased to be a beneficiary of, or has withdrawn his or her application for enrolment under, another treaty or land claims agreement in Canada.

11. If an individual enrolled under paragraph 9 fails to satisfy the requirements of paragraph 10, that individual's name will be removed from the Enrolment Register.
12. An individual enrolled under paragraph 9 is not entitled to exercise any rights or receive any benefits under the Metlakatla Treaty until that individual has satisfied the requirements of paragraph 10.

MEMBERSHIP IN A BAND OTHER THAN METLAKATLA

13. For greater certainty, as provided in paragraph 24 of the General Provisions Chapter, after the Effective Date, upon becoming a Metlakatla First Nation Member, an individual ceases to be a member or a registered Indian of any Band.
14. An individual who was a member or a registered Indian of a Band other than the Metlakatla First Nation Indian Band will:
 - a) within 120 days after the Effective Date; or
 - b) where the decision to accept his or her application to be enrolled under paragraph 9 is made after the Effective Date, within 120 days of receiving notification from the Enrolment Committee or a body established under paragraph 37 that he or she has been enrolled;

do all things necessary to request Canada to change his or her affiliation to the Metlakatla First Nation and to issue a new status card.

THE ENROLMENT COMMITTEE

15. An Enrolment Committee will be established by the Metlakatla First Nation at a time agreed upon by the Parties, and will be comprised of three representatives by the Metlakatla First Nation.
16. The Metlakatla First Nation will notify Canada and British Columbia of the members of the Enrolment Committee as soon as practical after their appointment.
17. The Enrolment Committee(s) will:
 - a) establish enrolment procedures and set time limits;
 - b) during the Initial Enrolment Period, receive enrolment applications, consider each application, enrol all applicants who meet the eligibility criteria, maintain a record of those decisions and request further information if required;
 - c) establish and maintain an Enrolment Register, containing the names of all enrolled individuals;
 - d) publish its enrolment procedures, including a list of the documentation and information required of each applicant;
 - e) publish the Eligibility Criteria and provide information on the enrolment process and application forms to any Metlakatla First Nation Individual who wishes to apply for enrolment;
 - f) notify in writing each applicant and the Parties of its decision and where enrolment is

refused, provide written reasons;

- g) provide information on request in confidence from any Party or the Enrolment Appeal Board with respect to an Applicant's enrolment application;
 - h) add names to, delete names from or amend names on from the Enrolment Register in accordance with this Chapter and decisions of the Enrolment Appeal Board;
 - i) Subject to this Chapter, keep information provided by and about Applicants confidential;
 - j) provide a true copy of the Enrolment Register to the Parties upon request;
 - k) provide a copy of the Enrolment Register, and any other relevant information requested, to the Ratification Committee in a timely manner; and
 - l) take reasonable steps to notify individuals potentially eligible for enrolment of the Eligibility Criteria and enrolment procedures.
18. During the Initial Enrolment Period, after a decision by the Enrolment Committee and before any appeal of that decision is commenced, an Applicant may submit new information to the Enrolment Committee.
19. Subject to this Chapter, all decisions of the Enrolment Committee will be final and binding.
20. During the Initial Enrolment Period the Enrolment Committee may vary a decision on the basis of new information.
21. Where the Enrolment Committee fails to decide upon an application for enrolment within the time established in its enrolment procedures, the application will be deemed to be refused and the deemed refusal will constitute grounds for appeal to the Enrolment Appeal Board.

APPLICATION TO REMOVE NAME FROM ENROLMENT REGISTER

22. Where an individual eligible for enrolment or an individual having legal authority to manage the affairs of such an individual applies to have his or her name removed from the Enrolment Register, the Enrolment Committee will remove the individual's name and will notify the individual who made the application.

THE ENROLMENT APPEAL BOARD

23. The Enrolment Appeal Board will be established by Metlakatla First Nation and Canada at a time to be agreed upon.
24. Metlakatla First Nation and Canada will each appoint one member to the Enrolment Appeal Board and will jointly appoint a third member, and the members will select a chairperson from among themselves.

25. A member of the Enrolment Committee will not be a member of the Enrolment Appeal Board.
26. During the Initial Enrolment Period, an Applicant or a Party may appeal by written notice to the Enrolment Appeal Board any decision of the Enrolment Committee made pursuant to paragraphs 17b) or 20, or an application deemed to be refused under paragraph 21.
27. The Enrolment Appeal Board will:
 - a) establish and publish its own procedures and set time limits;
 - b) hear and determine any appeal brought pursuant to paragraph 26 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 which outweigh the public interest in having an open hearing;
 - d) provide written reasons for its decision to the Applicant and the Parties;
 - e) maintain a record of its decisions and communicate them to the Enrolment Committee as required; and
 - f) provide information on the enrolment appeal process to the Parties as requested.
28. During Stage 5 treaty negotiations, the Parties will address their interests in the timing of when the Enrolment Appeal Board is empowered to compel witnesses.
29. The Enrolment Appeal Board may:
 - a) by summons require any individual to appear before the Enrolment Appeal Board as a witness and produce any relevant document in that individual's possession; and
 - b) require any witness to answer on oath or solemn affirmation any relevant question posed to the witness.
30. Where an individual fails to comply with a summons or direction of the Enrolment Appeal Board made under paragraphs 29a) or 29b), on application by the Enrolment Appeal Board, a judge of the Supreme Court of British Columbia may enforce the direction.
31. Any Applicant, Party, or witness appearing before the Enrolment Appeal Board may be assisted by counsel or agent.
32. No action lies or may be commenced against the Enrolment Committee or the Enrolment Appeal Board or any member of the Enrolment Committee or Enrolment Appeal Board for anything done or omitted to be said or done in good faith in the performance, or intended performance, of a duty or in the exercise of a power under this Chapter.
33. Subject to paragraphs 38 to 41 all decisions of the Enrolment Appeal Board will be final and

binding.

COSTS

34. Canada and British Columbia will provide to the Metlakatla First Nation the agreed upon funds for the Enrolment Committee and the Enrolment Appeal Board during the Initial Enrolment Period.

ENROLMENT AFTER THE INITIAL ENROLMENT PERIOD

35. The Enrolment Committee and the Enrolment Appeal Board will be dissolved when they have rendered final decisions in respect of those applications or appeals commenced prior to the end of the Initial Enrolment Period. On dissolution the Enrolment Committee and the Enrolment Appeal Board will provide their records to the Metlakatla First Nation, and, upon request, to Canada or British Columbia.
36. Once an application or appeal is commenced before them, the Enrolment Committee or the Enrolment Appeal Board will render a decision in respect of that application or appeal prior to its dissolution.
37. After the Initial Enrolment Period, the Metlakatla First Nation will:
 - a) be responsible for the enrolment process, including the application of the Eligibility Criteria, and the administrative costs of that process;
 - b) maintain the Enrolment Register,
 - c) provide a true copy of the Enrolment Register to Canada and British
 - d) Columbia each year or as they request; and
 - e) provide information concerning enrolment to Canada and British Columbia as they request.

JUDICIAL REVIEW

38. An Applicant or a Party may apply to the Supreme Court of British Columbia for judicial review of a decision of the Enrolment Appeal Board, or any body established under paragraph 37 on the grounds that the Enrolment Appeal Board or body:
 - a) acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction,
 - b) failed to observe procedural fairness,
 - c) erred in law, or

- d) 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.
39. On an application for judicial review under paragraph 38 the Supreme Court of British Columbia may either dismiss the application, set aside the decision or refer the matter back to the Enrolment Appeal Board, or a body established under paragraph 37, for determination in accordance with such directions as the Supreme Court of British Columbia considers appropriate.
 40. Where the Enrolment Appeal Board or any body established under paragraph 37 fails to hear or decide an appeal within a reasonable time, an Applicant or a Party may apply to the Supreme Court of British Columbia for an order directing the Enrolment Appeal Board or a body to hear or decide the appeal in accordance with such directions as the Supreme Court of British Columbia considers appropriate.
 41. An Applicant or a Party may apply for judicial review within 60 days of receiving notification of the decision of the Enrolment Appeal Board or any body established under paragraph 37 or a longer time that may be determined by the Supreme Court of British Columbia.

CHAPTER 23 – RATIFICATION OF THE METLAKATLA TREATY

General

1. The Metlakatla Treaty will be submitted to the Parties for ratification as set out in the Metlakatla Treaty after it has been initialled by Chief Negotiators for Canada and British Columbia and the Metlakatla First Nation.

Ratification by the Metlakatla First Nation

2. Ratification of the Metlakatla Treaty by the Metlakatla First Nation requires:
 - a) that Eligible Voters have a reasonable opportunity to review the Metlakatla Treaty;
 - b) a vote, by way of a secret ballot;
 - c) in the ratification vote, a majority of individuals on the List of Eligible Voters vote in favour of the Metlakatla Treaty;
 - d) ratification of the Metlakatla First Nation Constitution through the process set out in the Metlakatla Treaty; and
 - e) the Metlakatla Treaty be signed by the authorized representative(s) of the Metlakatla First Nation.

Ratification by Canada

3. Ratification of the Metlakatla Treaty by Canada requires:
 - a) that the Metlakatla Treaty be signed by a Minister authorized by the Federal Cabinet; and
 - b) the coming into force of Federal Settlement Legislation.

Ratification by British Columbia

4. Ratification of the Metlakatla Treaty by British Columbia requires:
 - a) that the Metlakatla Treaty be signed by a Minister authorized to do so; and
 - b) the coming into force of Provincial Settlement Legislation.

Ratification of the Metlakatla First Nation Constitution

5. Ratification of the Metlakatla First Nation Constitution by the Metlakatla First Nation requires:
 - a) that Metlakatla First Nation individuals who may be eligible to vote have a reasonable opportunity to review their Metlakatla First Nation Constitution;

- b) a vote, by way of a secret ballot; and
- c) that a majority of the Eligible Voters in the Metlakatla First Nation vote in favour of adopting their Metlakatla First Nation Constitution.

Ratification Committee

- 6. The Parties will establish the Ratification Committee, consisting of one representative appointed by each Party to be responsible for the Metlakatla First Nation ratification process.
- 7. The Ratification Committee will:
 - a) establish and publish its procedures;
 - b) set its time limits;
 - c) take reasonable steps to provide an opportunity for Metlakatla First Nation Eligible Voters to review the Metlakatla Treaty prior to the ratification vote;
 - d) prepare and publish a List of Eligible Voters based on the Enrolment Register prepared under paragraph 17c) of the Eligibility and Enrolment Chapter and provided by the Enrolment Committee at least 30 days before the first day of voting in the ratification vote by:
 - i) determining whether each individual whose name is provided to it by the Enrolment Committee is eligible to vote under paragraph 8; and
 - ii) including on the List of Eligible Voters the name of each individual whom the Ratification Committee determines to be eligible to vote under paragraph 7d)i);
 - e) update the List of Eligible Voters by:
 - i) any time before the end of the last day of voting, adding to the List of Eligible Voters the name of each individual provided by the Enrolment Committee under paragraph 17k) of the Eligibility & Enrolment Chapter whom the Ratification Committee determines to be eligible to vote under paragraph 9;
 - ii) adding to the List of Eligible Voters the name of each individual who casts a ballot under paragraph 9 and whose ballot is counted under paragraph 10;
 - iii) removing from the List of Eligible Voters the name of each individual who died on or before the last day of voting without having voted in the ratification vote;
 - iv) removing from the List of Eligible Voters the name of each individual who did not vote in the ratification vote and for whom is provided, within seven days of the last day of voting in the ratification vote, 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 voting; and

- v) removing from the List of Eligible Voters the name of each individual who has applied, or on whose behalf application has been made, by the close of polls on the last day of voting, to have his or her name removed from the Enrolment Register by the Enrolment Committee under paragraph 22 of the Enrolment and Eligibility chapter, provided the individual has not already voted;
- f) after updating the List of Eligible Voters in accordance with paragraphs 7d) and 7e), preparing and publishing a final List of Eligible Voters;
- g) approve the form and content of the ballot;
- h) authorize and provide general direction to voting officers;
- i) establish polling stations;
- j) conduct the ratification vote on a day or days determined by the Ratification Committee;
- k) ensure that information about the dates set for voting and the location of the polling stations are made publicly available;
- l) count the vote and provide the results of the ratification vote to the Parties;
- m) publish the results of the ratification vote; and
- n) prepare and provide to the Parties a written report on the outcome of the ratification vote within 90 days of the last day of voting.

Eligible Voters

- 8. An individual is eligible to vote in the ratification vote if that individual:
 - a) is eligible to be enrolled under the Metlakatla Treaty in accordance with the Eligibility and Enrolment Chapter or the Ratification chapter; and
 - b) meets the minimum age requirement to be set out in the Metlakatla Treaty.
- 9. Notwithstanding paragraph 8, an individual who is eligible to vote under paragraph 8 but whose name is not included on the List of Eligible Voters may cast a ballot in the Ratification Vote if that individual:
 - a) provides a voting officer with a completed enrolment application form or evidence satisfactory to a voting officer that the individual has submitted a completed enrolment application form to the Enrolment Committee; and
 - b) provides evidence satisfactory to a voting officer that the individual meets the requirements that will be set out in paragraph 8.

10. If the Enrolment Committee notifies the Ratification Committee that an individual referred to in paragraph 9 meets the Eligibility Criteria:
 - a) the name of the individual will be added to the List of Eligible Voters; and
 - b) the ballot of the individual will be counted for the purposes of the votes under paragraphs 2b) and 5b).

Funding

11. Canada and British Columbia will provide an amount of funding agreed upon by the Parties for the Ratification Committee to carry out the duties and responsibilities set out in this Chapter.

MINOR CHANGES

12. After the ratification of the Metlakatla Treaty, but before the Parties sign the Metlakatla Treaty, the Chief Negotiators for the Parties may agree to make minor changes to the Metlakatla Treaty.

CHAPTER 24 – IMPLEMENTATION

General

1. The Parties will, prior to initialling the Metlakatla Treaty, conclude an implementation plan that will take effect on the Effective Date of the Metlakatla Treaty.
2. During Stage 5 treaty negotiations, the Parties will determine the term in years of the implementation plan, which may be renewed or extended upon agreement of the Parties.

Implementation Plan

3. The implementation plan will:
 - a) identify obligations arising from the Metlakatla Treaty, the activities to be undertaken to fulfill those obligations, the responsible Party or Parties and the timeframe for completion of those activities;
 - b) specify how the implementation plan may be amended;
 - c) specify how the implementation plan may be renewed or extended;
 - d) address other matters agreed to by the Parties.
4. The implementation plan will not:
 - a) create legal obligations;
 - b) alter any rights or obligations set out in the Metlakatla Treaty;
 - c) preclude any Party from asserting that rights or obligations exist under the Metlakatla Treaty even though they are not referred to in the implementation plan; and
 - d) be used to interpret the Metlakatla Treaty.

Implementation Working Group

5. The Parties agree to establish a tripartite implementation working group during Metlakatla Treaty negotiations which will:
 - a) be responsible for the development of an implementation plan; and
 - b) be responsible for the development of a list of activities that the Parties must complete by the Effective Date.

Implementation Committee

6. The Implementation Committee will be established on the Effective Date.
7. During Stage 5 treaty negotiations, the Parties will determine the term in years of the Implementation Committee, which may be extended for a period as agreed to by the Parties.
8. On the Effective Date Metlakatla, Canada and British Columbia will each appoint one member as their representative to the Implementation Committee. Other individuals may be invited to participate in Implementation Committee meetings to support or assist a member.
9. The Implementation Committee will:
 - a) be a forum for the Parties to:
 - i) discuss the implementation of the Metlakatla Treaty; and
 - ii) attempt to resolve any implementation issues arising among the Parties in respect of the Metlakatla Treaty;
 - b) establish its own procedures and operating guidelines;
 - c) develop a communications strategy in respect of the implementation and content of the Metlakatla Treaty;
 - d) provide for the preparation of annual reports on the implementation of the Metlakatla Treaty;
 - e) prior to the expiry of the implementation plan, review the implementation plan and advise the Parties on the further implementation of the Metlakatla Treaty; and
 - f) review and recommend revisions to the Implementation Plan; and
 - g) address other matters agreed to by the Parties.
10. Prior to the Metlakatla Treaty, the Parties will address costs of Implementation, including those of the Implementation Committee.

CHAPTER 25 – INDIAN ACT TRANSITION

ESTATES

1. The Metlakatla Treaty will provide that the *Indian Act* applies after the Effective Date, with any modifications that the circumstances require, to the estate of an individual who died testate or intestate before the Effective Date and who, at the time of death, was an Indian of the Metlakatla First Nation Band.
2. Before the Effective Date, Canada will take reasonable steps to:
 - a) notify in writing all Indians of the Metlakatla First Nation Band who have deposited wills with the Minister; and
 - b) provide information to all Indians of the Metlakatla First Nation Band who have not deposited wills with the Minister and to all individuals who may be eligible to be Enrolled under the Metlakatla Treaty,that their wills may not be valid after the Effective Date and that their wills should be reviewed to ensure validity under provincial laws.
3. The Metlakatla Treaty will provide that Section 51 of the *Indian Act* applies after the Effective Date, with any modifications that the circumstances require to the property and estate of an individual 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 a Metlakatla First Nation Member:
 - a) who executed a will in a form that complies with subsection 45(2) of the *Indian Act* before 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. Sections 52, 52.2, 52.3, 52.4 and 52.5 of the *Indian Act* apply, with any modifications that the circumstances require, where immediately before the Effective Date the Minister was administering property under the *Indian Act* to which an individual who is the infant child of an Indian is entitled, until the duties of the Minister in respect of the property have been discharged.

CONTINUATION OF INDIAN ACT BYLAWS AND LAND CODE

6. Prior to the Metlakatla Treaty, the Parties will agree to a period of time for the bylaws of the Metlakatla First Nation Band, the *Metlakatla First Nation Land Code* and any laws made under the *Metlakatla First Nation Land Code* that were in effect immediately before the Effective Date to have effect after the Effective Date on Metlakatla First Nation Lands.
7. The relationship between a bylaw of the Metlakatla First Nation Band referred to in paragraph 6, the *Metlakatla First Nation Land Code* and any Metlakatla First Nation Laws made under the *Metlakatla First Nation Land Code* and Federal and Provincial Laws, will be governed by the provisions of the Metlakatla Treaty governing the relationship between Metlakatla First Nation Laws and Federal and Provincial Laws in respect of the subject matter of the bylaw, *Metlakatla First Nation Land Code* or the law made under the *Metlakatla First Nation Land Code*.
8. The Metlakatla First Nation Government replacing the Metlakatla First Nation Governing Council that made a bylaw of the Metlakatla First Nation, *Metlakatla First Nation Land Code* provision or law referred to in paragraph 6 may repeal, but not amend, that bylaw, *Metlakatla First Nation Land Code* provision or law.
9. Nothing in the Metlakatla Treaty precludes a person from challenging the validity of a bylaw of the Metlakatla First Nation Band, a *Metlakatla First Nation Land Code* provision or law referred to in paragraph 6.

TRANSFER OF BAND ASSETS

10. Subject to the Metlakatla Treaty, on the Effective Date, all of the rights, titles, interests, assets, obligations and liabilities of the Metlakatla First Nation Band vest in the Metlakatla First Nation and the Metlakatla First Nation Band under the *Indian Act* cease to exist.
11. All moneys held by Canada pursuant to the *Indian Act* for the use and benefit of Metlakatla First Nation Band, including capital and revenue moneys of the Metlakatla First Nation Band, will be transferred by Canada to Metlakatla First Nation as soon as practicable after the Effective Date.
12. Upon transfer of the moneys referred to in paragraph 11, Canada will no longer thereafter be responsible for the collection of moneys payable:
 - a) to or for the benefit of Metlakatla First Nation; or
 - b) except as provided in paragraphs 1, 3, 4 and 5, to or for the benefit of a Metlakatla First Nation Member.

CHAPTER 26 – DISPUTE RESOLUTION

GENERAL

1. In this Chapter, and in Appendix O, 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.
2. 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.
3. Except as otherwise provided, participating Parties may agree to vary a procedural requirement contained in this Chapter, or in Appendix O, as it applies to a particular Disagreement.
4. Participating Parties may agree in writing to, or 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.

SCOPE: WHEN THIS CHAPTER APPLIES TO A DISAGREEMENT

5. This Chapter is not intended to apply to all disputes between or among the Parties, but is limited to the disputes described in paragraph 6.
6. This Chapter only applies to:
 - a) a disputes respecting:
 - i) the interpretation, application, or implementation of the Metlakatla Treaty, or
 - ii) a breach or anticipated breach of the Metlakatla Treaty;
 - b) a disputes, where provided for in the Metlakatla Treaty; or
 - c) negotiations required to be conducted under any provision of the Metlakatla Treaty that provides that the Parties, or any of them, “will negotiate and attempt to reach

agreement”.

7. This Chapter does not apply to:
 - a) an agreement between or among the Parties that is ancillary, subsequent, or supplemental to the Metlakatla Treaty unless the Parties have agreed that this Chapter applies to that agreement;
 - b) disputes, where excluded from this Chapter.
8. During Stage 5 negotiations, the Parties will address their interests in whether or not the Dispute Resolution Chapter applies to the Implementation Plan.
9. Nothing in this Chapter limits the application of a dispute resolution process, under any law of general application, to a dispute involving a person if that 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:
 - a) Stage One: formal, unassisted efforts to reach agreement between or among the Parties, in collaborative negotiations under Appendix O;
 - 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 O; and
 - c) Stage Three: final adjudication in arbitral proceedings under Appendix O, 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 O, 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 6c), 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 O.

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 O;

- b) technical advisory panel under Appendix O;
- c) neutral evaluation under Appendix O;
- d) advisory council under Appendix O; or
- e) any other non-binding dispute resolution process assisted by a neutral

and if they fail to agree, they will be deemed to have selected mediation under Appendix O.

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 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 O, 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 O.
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 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 O.

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 39a) 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 O.

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 Metlakatla First Nation 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 Metlakatla First Nation 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 Metlakatla First Nation

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.

CHAPTER 27 – AMENDMENT

GENERAL

1. Any Party may propose an amendment to the Metlakatla Treaty.
2. Before proceeding with an amendment to the Metlakatla Treaty under paragraph 1, the Parties will attempt to find other means to address the interests of the Party proposing the amendment.
3. Except as provided under paragraphs 9 and 11, amendments to the Metlakatla Treaty require the consent of the Parties.
4. Where the Parties agree to amend the Metlakatla Treaty, they will determine the form and wording of the amendment.

AMENDMENTS REQUIRING CONSENT

5. Except as provided under paragraphs 9 and 11, the Parties will provide consent to an amendment to the Metlakatla Treaty in the following manner:
 - a) Canada, by order of the Governor-in-Council;
 - b) British Columbia, by resolution of the Legislative Assembly; and
 - c) Metlakatla First Nation's processes for ratifying amendments to the Metlakatla Treaty will be set out in the Metlakatla Treaty.
6. Where federal or provincial legislation is required to give effect to an amendment to the Metlakatla Treaty, Canada or British Columbia, as the case may be, will take all reasonable steps to enact the legislation.
7. Each Party will give notice to the other Parties when consent in accordance with paragraph 5 has been given and when any legislation referred to in paragraph 6, if applicable, has been brought into force.
8. Unless the Parties otherwise agree, an amendment to the Metlakatla Treaty takes effect once the consent requirements under paragraph 5 are completed and any legislation referred to in paragraph 6, if applicable, has been brought into force.

DEEMED AMENDMENT

9. Where the Metlakatla Treaty provides that the Parties will amend the Metlakatla Treaty upon the happening of an event:
 - a) the requirements for consent referred to in paragraphs 3 and 5 will not apply;
 - b) paragraph 8 will not apply; and

- c) as soon as practicable after the happening of the event:
 - i) the Parties will take all steps necessary to conclude and give effect to the amendment including those steps referred to in paragraph 4 and, if applicable, paragraph 6; and
 - ii) each Party will provide notice to the other Parties when it has completed all of its respective requirements to conclude and give effect to the amendment.
- 10. An amendment referred to in paragraph 9 will take effect on the date agreed by the Parties, but if no date is agreed to, on the date that the last Party provides notice to the other Parties that it has completed all of its requirements to conclude and give effect to the amendment.
- 11. Notwithstanding paragraphs 2 to 10, where:
 - a) the Metlakatla Treaty provides that:
 - i. the Parties, or any two of them, will negotiate and attempt to reach agreement in respect of a matter that will result in an amendment to the Metlakatla Treaty; and
 - ii. if agreement is not reached, the matter will be finally determined by arbitration in accordance with the Dispute Resolution Chapter; and
 - b) those Parties have reached an agreement or the matter has been finally determined by arbitration,

the Metlakatla Treaty will be deemed to be amended on the date that the agreement or the decision of the arbitrator takes effect, as the case may be.
- 12. In respect of amendments contemplated by paragraph 11, the applicable Parties will:
 - a) provide notice to any Party that is not a party to an agreement reached or an arbitrator's decision, as the case may be; and
 - b) agree on the form and wording of the amendment.
- 13. In the case of an arbitrator's decision referred to in paragraph 11, if the Parties are unable to agree, the form and wording of the deemed amendment will be finally determined by the arbitrator.

IMPLEMENTATION OF AMENDMENTS

- 14. The Parties will take the necessary steps to implement an amendment to the Metlakatla Treaty as soon as practicable after the amendment takes effect.
- 15. Amendments to the Metlakatla Treaty will be:

- a) published by Canada in the Canada Gazette;
- b) published by British Columbia in the British Columbia Gazette; and
- c) deposited by Metlakatla in the Metlakatla registry of laws as contemplated under the Metlakatla Treaty.

CHAPTER 28 – DEFINITIONS

During Stage 5 treaty negotiations, the Parties will address the definitions.