

STAGE 5 TREATY NEGOTIATIONS MEMORANDUM OF UNDERSTANDING
(the “MOU”)

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the Minister of Crown-Indigenous Relations
(hereinafter “Canada”)

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA
as represented by the Minister of Indigenous Relations and Reconciliation
(hereinafter “British Columbia”)

AND:

STÓ:LŌ XWEXWILMEXW TREATY ASSOCIATION
comprised of Aitchelitz First Nation, Leq’á:mel First Nation, Skawahlook First Nation,
Skowkale First Nation, Tzeachten First Nation and Yakweakwioose First Nation
(hereinafter “SXTA”)

(each a “Party” and collectively the “Parties”)

Canada



WHEREAS

- A. The Parties are engaged in treaty negotiations under the British Columbia treaty process (the “Process”), have made substantial progress, and have decided to shift from Stage 4 to Stage 5 of the Process without signing an Agreement-in-Principle.
- B. Canada and British Columbia each have set out principles that form a foundation for partnering and supporting Indigenous Peoples through a Nation-to-Nation and Government-to-Government relationship (the “Principles”).
- C. The Process is transforming. The transformation includes incorporation of the Principles, non-extinguishment of rights, rights recognition, and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.
- D. The Parties acknowledge that key elements of the current draft Stó:lō Xwexwilmexw Agreement-in-Principle do not reflect the ongoing transformation of the Process.
- E. The Parties intend to take a renewed approach incorporating the ongoing transformation to treaty negotiations in Stage 5 of the Process without signing an Agreement-in-Principle.

NOW THEREFORE the Parties set out their mutual agreement as follows:

1 MOVING INTO STAGE 5 NEGOTIATIONS

- 1.1 The Parties are continuing to negotiate a treaty under the British Columbia treaty process.
- 1.2 The Parties will use elements of the draft Agreement-in-Principle and 1.4(c) to inform their negotiations in Stage 5.
- 1.3 The Parties have agreed and confirmed with the British Columbia Treaty Commission that they will transition into Stage 5 of treaty negotiations upon signing this MOU.
- 1.4 The Parties agree to:
 - a. commence Stage 5 negotiations on the effective date of this MOU;
 - b. commence Stage 5 negotiations without signing an Agreement-in-Principle;

- c. co-develop, on a non-binding basis¹, a core treaty that, among other things, will:
 - i. be consistent with the United Nation Declaration on the Rights of Indigenous Peoples;
 - ii. incorporate a non-extinguishment of rights and rights recognition approach;
 - iii. establish Nation-to-Nation and Government-to-Government relationships; and
 - iv. be adaptable, renewable and changeable over time; and
- d. seek approval to conclude a legally binding core treaty.

2 CONSULTATIONS WITH NEIGHBOURING FIRST NATIONS

- 2.1 SXTA will engage and consult with neighbouring First Nations and will make best efforts to address shared territory and overlap issues prior to finalizing and initialling a treaty.
- 2.2 Canada and British Columbia will consult with neighbouring First Nations whose section 35 rights may be adversely impacted by a treaty with Stó:lō Xwexwilmexw.
- 2.3 The Parties acknowledge that any necessary accommodation arising out of consultations referred to in 2.2 will be determined prior to finalizing a treaty.

3 OTHER

- 3.1 Any disputes regarding the interpretation or implementation of this MOU will be resolved only by the Parties and will not be referred to any other third party for settlement, unless the Parties otherwise agree.
- 3.2 Negotiations under this MOU will continue to take place within the Process. All negotiations conducted pursuant to this MOU, and all related documents, are confidential unless the Parties otherwise agree in writing, or are required by law to be disclosed, including under the *Freedom of Information and Protection of Privacy Act*, and are without prejudice to the legal positions of the Parties and will not be

¹ "on a non-binding basis" means that the core treaty negotiated during Stage 5 will not be legally binding until ratified by all of the parties.

tendered or relied upon in any court proceeding or in any other forum, or be construed as an admission of fact or liability.

- 3.3 This MOU is not intended to constitute a treaty or land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 3.4 This MOU does not establish, create, amend, define, affirm, recognize, deny, abrogate or derogate from any legally enforceable rights, including but not limited to any Aboriginal rights or title of the Stó:lō Xwexwilmexw which are recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.
- 3.5 This MOU is not legally binding and does not create any contractual or financial obligations for any Party.
- 3.6 This MOU may be amended with the written consent of the Parties.
- 3.7 This MOU will continue in effect unless a Party withdraws pursuant to 3.8 or it is replaced by the Stó:lō Xwexwilmexw Treaty.
- 3.8 A Party may withdraw from this MOU by providing reasonable written notice to the other Parties.
- 3.9 If a Party chooses to withdraw from this MOU, the remaining Parties will discuss whether they wish to continue discussions under the MOU on a bi-lateral basis or terminate the MOU.

4 EFFECTIVE DATE AND SIGNATURE

- 4.1 This MOU will come into effect on the date of the last signature.

SIGNED ON BEHALF OF SXTA



Skemi
Chief Angie Bailey
Athélets / Aitchelitz First Nation

October 12, 2018

Date



Wel'leq
Chief Derek Epp
Ch'iyáqtel / Tzeachten First Nation

October 12, 2018

Date



Mae'xe
Chief Alice Thompson
Leq'á:mel / Leq'á:mel First Nation

Oct 12 2018

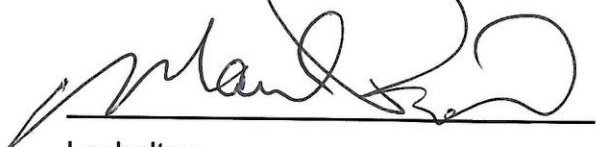
Date



Shxwetélemel-elhot
Chief Maureen Chapman
Sq'ewá:lxw / Skawahlook First Nation

Oct. 12, 2018

Date



Lexhalten
Chief Mark Point
Sq'ewqéyl / Skowkale First Nation

Oct 12 2018

Date



Siyémches
Chief Terry Horne
Yeqwyeqwí:ws / Yakweakwioose First Nation

Oct. 12, 2018

Date

SIGNED ON BEHALF OF BRITISH COLUMBIA



The Honourable Scott Fraser, M.L.A.
Minister of Indigenous Relations and Reconciliation

Oct. 12, 2018

Date

SIGNED ON BEHALF OF CANADA



The Honourable Carolyn Bennett, M.D., P.C., M.P.
Minister of Crown-Indigenous Relations

October 12, 2018

Date