

The Constitution of the Nisga'a Nation

Ratified October, 1998

THE CONSTITUTION OF THE NISGA'A NATION

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DECLARATION OF THE NISGA'A NATION

We are Nisga'a, the people of K'aliaksim Lisims -

From time immemorial we have lived in the lands that K'amligihahlhat gave to our ancestors.

We observe Ayuukhl Nisga'a, we have heard our Adaawak relating to all our Ango'oskw, from the Simgigat and Sigidimhaanak' of each of our wilp.

We honour and respect the principle of the common bowl.

We are Nisga'a -

Since the beginning of time, our leaders have upheld the honour of our nation, and many have grown old and passed on seeking justice for our people.

We have heard their stories, we celebrate their loyalty, and we are inspired by their courage. Their struggle was not in vain, their work is now finished, their vision is realized in our time. Our canoe has been launched, our journey continues.

We are Nisga'a, we declare to all the world -

We are a unique aboriginal nation of Canada, proud of our history, and assured in our future.

We claim and take our rightful place as equal participants in Canadian society.

Our destiny is living peacefully together with the other nations in Canada.

We commit ourselves to the values of our Ayuuk which have always sustained us and by which we govern ourselves, and we each acknowledge our accountability to those values, and to the Nisga'a Nation.

We adopt this Constitution, recording here a solemn promise to ourselves and our future generations, confident that under this Constitution -

The Nisga'a Nation will prosper as a self-reliant society with a sustainable economy;

Nisga'a culture, self-determination, and well-being will be preserved and enhanced for generations to come;

The traditional role that the Simgigat and Sigidimhaanak', and respected Nisga'a elders, as recognized and honoured in Nisga'a culture from time immemorial, will be respected;

Nisga'a elders, Simgigat and Sigidimhaanak' will continue to provide guidance and interpretation of the Ayuuk to Nisga'a government;

Nisga'a spirituality will thrive and prevail in this land that K'amligihahlhat gave to us; and

The Nisga'a Nation will flourish as a free and democratic society.

We are Nisga'a, the people of K'aliaksim Lisims -

May K'amligihahlhat continue to protect our land and nation.

CHAPTER 1

FOUNDING PROVISIONS

1. The Nisga'a Nation

- (1) The Nisga'a Nation has existed from time immemorial and is the collectivity of those aboriginal people who share the language, culture, and laws of the Nisga'a of the Nass Area, and their descendants.
- (2) The Nisga'a Nation comprises the Laxsgiik (Eagle), Laxgibuu (Wolf), Gisk'aast (Killerwhale), and Ganada (Raven) tribes, and their sub-crests.

2. Fundamental values of the Nisga'a Nation

The Nisga'a Nation is founded on values that have always been shared by all Nisga'a. In particular:

- (a) Nisga'a revere K'amligihahlhat who created this land, placed us in it as stewards, and endowed each person in it with a unique spirit.
- (b) Nisga'a cherish and celebrate the spirituality of our people.
- (c) Nisga'a honour the traditions of our ancestors, the authority of our Ayuuk, and the wisdom of our elders.
- (d) Nisga'a practice the principle of the common bowl.
- (e) Nisga'a respect the dignity of each person.

3. Simgigat, Sigidimhaanak' and respected Nisga'a elders

Simgigat, Sigidimhaanak, and respected Nisga'a elders:

- (a) nurture the spirit of the Nisga'a Nation;
- (b) provide guidance to interpretation of the Ayuuk;
- (c) advise Nisga'a Government on matters relating to the traditional values of the Nisga'a Nation, through the Council of Elders provided for in this Constitution; and

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- (d) contribute to the unity of the Nisga'a Nation, and the harmony of individuals and families within the Nisga'a Nation, during times of personal or national dispute.

4. Language and culture

- (1) The official languages of Nisga'a Government are Nisga'a and English.
- (2) Nisga'a Government must respect and encourage the use of the Nisga'a language and the practice of Nisga'a culture.

5. Nisga'a traditional territory

- (1) The Nisga'a Nation has lived from time immemorial in Nisga'a traditional territory, which is territory that includes all Nisga'a Lands and Nisga'a Fee Simple Lands.
- (2) Nisga'a individuals and families have a deep spiritual attachment to the land and natural resources, which, together with our culture, language and ancient traditions, define what it means to be Nisga'a.
- (3) In the same way that attachment to the land is central to the identity of every Nisga'a, the connection of families and communities to their traditional land has always been the basis of traditional authority within our nation.
- (4) For all Nisga'a, the colonial experience ruptured the ancient unity between the people, the land, the culture and the traditional authority and ability to govern ourselves.
- (5) All Nisga'a have experienced and know the deep pain of that loss, and understand that our struggle for national identity will not be complete until we have restored the unifying bond between individuals, families, communities and their land.
- (6) Nisga'a acknowledge that the Nisga'a Treaty recognizes collective Nisga'a authority over the land, and understand that we must re-affirm for ourselves the relationship of Nisga'a with our land in a national, personal and community sense.
- (7) This Constitution is a symbol of the restoration of our personal and community relationship to the land.

6. The constitution of the Nisga'a Nation

- (1) This Constitution is the supreme law of the Nisga'a Nation, subject only to:
 - (a) the Constitution of Canada, and

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- (b) the Nisga'a Treaty, which sets out the authority of Nisga'a Government to make laws.
- (2) The Canadian Charter of Rights and Freedoms applies to Nisga'a Government in respect of all matters within its authority, bearing in mind the free and democratic nature of Nisga'a Government.
- (3) In the event of an inconsistency or conflict between this Constitution and the provisions of any Nisga'a law, the Nisga'a law is, to the extent of the inconsistency or conflict, of no force or effect.

7. Validity of Nisga'a laws

The validity of a Nisga'a law may be challenged in the Supreme Court of British Columbia.

8. Citizenship

- (1) Every Nisga'a participant who is a Canadian citizen or permanent resident of Canada is entitled to be a Nisga'a citizen.
- (2) A person who is not a Nisga'a participant and who is a Canadian citizen or permanent resident of Canada may become a Nisga'a citizen if permitted by, and in accordance with, Nisga'a law.

CHAPTER 2

RIGHTS

9. The principle of rights in the Nisga'a Nation

The rights set out in this chapter are an expression of the fundamental values of the Nisga'a Nation, which cherishes the unique spirit, respects the dignity, and supports the independence of each individual living together in a community of shared resources and responsibilities.

10. Entry rights

Every Nisga'a citizen has the right to enter, remain in and leave Nisga'a Lands in accordance with Nisga'a law.

11. Political rights

Every Nisga'a citizen has the right to make political choices, to participate in political activities, and to express a view on any public issue.

12. Election rights

- (1) Subject to residency and other requirements set out in Nisga'a law, every Nisga'a citizen who is at least 18 years of age is eligible to vote in Nisga'a elections and to hold office in Nisga'a Government.
- (2) Wilp Si'ayuukhl Nisga'a must make laws in respect of Nisga'a elections and referendums, including the establishment of:
 - (a) qualifications of voters;
 - (b) qualifications of candidates for election to office;
 - (c) the independent office of Chief Electoral Officer to administer elections and referenda;
 - (d) procedures for the conduct of elections and referendums; and
 - (e) areas or locations within which elections or referendums will be held.

13. Review and appeal of administrative decisions

Nisga'a Government must provide appropriate procedures for the appeal or review of administrative decisions of Nisga'a Public Institutions.

14. Access to information

Nisga'a Lisims Government must make laws in respect of access to information held by Nisga'a Institutions.

15. Reasonable limits

The rights set out in this chapter are subject only to reasonable limits prescribed by Nisga'a law that can be demonstrably justified in a free and democratic Nisga'a society.

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CHAPTER 3

LANDS AND RESOURCES

16. Determination of ownership of Nisga'a Lands

Ownership of Nisga'a Lands by the Nisga'a Nation and Nisga'a Villages will be determined in accordance with the Nisga'a Treaty.

17. Nisga'a Nation land transactions requiring referendum

Nisga'a Lisims Government may not enter into a single transaction on behalf of the Nisga'a Nation that results or could result in:

- (a) the conveyance of the estate in fee simple to the surface of a parcel or parcels of Nisga'a Lands owned by the Nisga'a Nation that taken together exceed 40 square kilometres; or
- (b) the granting of a lease to the surface of a parcel or parcels of Nisga'a Lands owned by the Nisga'a Nation that taken together exceed 40 square kilometres for a period greater than 25 years

unless that transaction is approved in advance by a majority of Nisga'a citizens who vote in a referendum that is held in accordance with a law made by Wilp Si'ayuukhl Nisga'a.

18. Nisga'a Village land transactions requiring referendum

Nisga'a Village Government may not enter into a single transaction on behalf of a Nisga'a Village that results or could result in:

- (a) the conveyance of the estate in fee simple to the surface of a parcel or parcels of the Nisga'a Village Lands owned by the Nisga'a Village that taken together exceed 10 square kilometres; or
- (b) the granting of a lease to the surface of a parcel or parcels of Nisga'a Village Lands owned by the Nisga'a Village that taken together exceed 20 square kilometres for a period greater than 25 years

unless that transaction is approved in advance by a majority of Nisga'a citizens who ordinarily reside within the Nisga'a Village Lands of the Nisga'a Village and who vote in a referendum that is held in accordance with a law made by Wilp Si'ayuukhl Nisga'a.

19. Expropriation

Wilp Si'ayuukhl Nisga'a must make laws in respect of expropriation by Nisga'a Government for public purposes or public works of estates or interests in Nisga'a Lands, including procedures for the determination and payment of any compensation.

20. Changes to boundaries of Nisga'a Village Lands

- (1) Wilp Si'ayuukhl Nisga'a must make laws in respect of:
 - (a) the designation of Nisga'a Lands as Nisga'a Village Lands or Nisga'a Private Lands; and
 - (b) changes to the boundaries of Nisga'a Village Lands or Nisga'a Private Lands.
- (2) Notwithstanding any law made under subsection (1), the boundaries of the Nisga'a Village Lands of a Nisga'a Village cannot be changed without the consent of that Nisga'a Village.

21. Duty to consult on land use planning

Nisga'a Lisims Government must establish a process for public involvement in land use planning.

22. Nisga'a Government facilities within Nisga'a Village Lands

Wilp Si'ayuukhl Nisga'a must establish a protocol with Nisga'a Village Governments to address the need to accommodate Nisga'a Lisims Government facilities within Nisga'a Village Lands.

CHAPTER 4

GOVERNMENT OF THE NISGA'A NATION

23. Governing principles of the Nisga'a Nation

The Nisga'a Nation expects Nisga'a Lisims Government, each Nisga'a Village Government, each Nisga'a Institution and each elected member of Nisga'a Government, to:

- (a) be loyal to the Nisga'a Nation, and respect this Constitution;
- (b) preserve and promote the peace, unity and well-being of the Nisga'a Nation;
- (c) provide good, effective, and accountable government; and
- (d) cooperate with one another in mutual trust and good faith, consult and inform one another on matters of common interest, and coordinate their actions and laws with one another.

24. Social and economic goals of the Nisga'a Nation

The Nisga'a Nation expects Nisga'a Government to pursue, among other goals:

- (a) that Nisga'a citizens have access to pre-school to grade 12 and post-secondary education, at standards at least comparable to those prevailing in Canada;
- (b) that Nisga'a citizens have access to nutrition, shelter, health care services and social services;
- (c) that Nisga'a citizens have access to housing;
- (d) that every Nisga'a child:
 - (i) has a home with family care or parental care, or appropriate alternative care when removed from the family environment; and
 - (ii) is protected from maltreatment, neglect, or abuse including exploitative labour practices; and
- (e) that the environment of the Nass Area is protected from ecological degradation.

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25. Composition of Nisga'a Government

- (1) Nisga'a Government is composed of:
 - (a) Nisga'a Lisims Government; and
 - (b) Nisga'a Village Governments in the Nisga'a Villages of New Aiyansh, Gitwinksihlkw, Laxgalt'sap, and Gingolx.
- (2) The Nisga'a Nation acts through Nisga'a Lisims Government in exercising its rights, powers, and privileges and in carrying out its duties, functions, and obligations.
- (3) Each Nisga'a Village acts through its Nisga'a Village Government in exercising its rights, powers, and privileges and in carrying out its duties, functions, and obligations.

26. Representation of Nisga'a citizens in urban areas

- (1) There is a Nisga'a Urban Local in each Nisga'a Urban Local Area.
- (2) Subject to a Nisga'a law made under subsection 26(5), there are Nisga'a Urban Local Areas in:
 - (a) Vancouver;
 - (b) Terrace;
 - (c) Prince Rupert/Port Edward; and
 - (d) any other Nisga'a Urban Local Area determined in accordance with Nisga'a law.
- (3) The Nisga'a Nation recognizes that Nisga'a citizens ordinarily residing within each Nisga'a Urban Local Area have organized themselves in Nisga'a Urban Locals to, among other things:
 - (a) provide liaison and contact between Nisga'a Government and Nisga'a citizens ordinarily residing within the Nisga'a Urban Local Area; and
 - (b) inform Nisga'a Government about the views of Nisga'a citizens within the Nisga'a Urban Local Area.
- (4) Nisga'a citizens ordinarily residing within a Nisga'a Urban Local Area are entitled to elect at least one individual to serve as a representative from that Nisga'a Urban Local to Nisga'a Lisims Government.

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- (5) Wilp Si'ayuukhl Nisga'a must make laws establishing:
 - (a) the number of representatives to Nisga'a Lisims Government to which each Nisga'a Urban Local is entitled;
 - (b) the boundaries of each Nisga'a Urban Local Area; and
 - (c) procedures to be followed before a Nisga'a Urban Local is established, changed or dissolved.

27. Council of Elders

- (1) Simgigat, Sigidimhaanak', and respected Nisga'a elders may advise Nisga'a Lisims Government on matters relating to the traditional values of the Nisga'a Nation through a Council of Elders composed of:
 - (a) the Chairperson of the Council of Elders; and
 - (b) other Simgigat, Sigidimhaanak' and respected Nisga'a elders, to be chosen and appointed by Nisga'a Lisims Government in accordance with a law made by Wilp Si'ayuukhl Nisga'a.
- (2) The Council of Elders must meet when called by the Chairperson of the Council to consider a matter referred to it by Wilp Si'ayuukhl Nisga'a, but must meet once a year, in accordance with a law made by Wilp Si'ayuukhl Nisga'a.

28. Nisga'a elections

Elections of the Officers of Nisga'a Lisims Government, the Chief Councillor and the Village Councillors of each Nisga'a Village Government, and the representatives from each Nisga'a Urban Local, will be held every fourth year commencing in the year 2004, on a date, and in accordance with a law made by Wilp Si'ayuukhl Nisga'a.

29. Conduct of individuals elected to office

- (1) Each elected candidate will assume office:
 - (a) on a date specified in a law made by Wilp Si'ayuukhl Nisga'a and in any event no later than seven days after their election: and
 - (b) after swearing or affirming the Oath of Office in accordance with Schedule 1.

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- (2) An individual elected as an Officer of Nisga'a Lisims Government must comply with any rules of conduct adopted by Wilp Si'ayuukhl Nisga'a.
- (3) An individual elected as the Chief Councillor or a Village Councillor of a Nisga'a Village Government must comply with any rules of conduct adopted by Wilp Si'ayuukhl Nisga'a and any rules of conduct adopted by the Nisga'a Village Government.
- (4) An individual elected as a representative to Nisga'a Lisims Government of a Nisga'a Urban Local must comply with any rules of conduct adopted by Wilp Si'ayuukhl Nisga'a.
- (5) Wilp Si'ayuukhl Nisga'a must enact and maintain conflict of interest rules for elected and appointed officials of Nisga'a Government, that are comparable to standards generally accepted for governments in Canada.

30. Special Assembly of the Nisga'a Nation

- (1) Wilp Si'ayuukhl Nisga'a may call a Special Assembly of the Nisga'a Nation to consider any matter of importance to the Nisga'a Nation.
- (2) The Nisga'a Lisims Government Executive must convene a Special Assembly as soon as practicable after Wilp Si'ayuukhl Nisga'a calls for a Special Assembly.
- (3) Wilp Si'ayuukhl Nisga'a must make laws establishing:
 - (a) procedures for convening and giving notice of Special Assemblies; and
 - (b) rules of procedure to be followed at Special Assemblies.
- (4) Wilp Si'ayuukhl Nisga'a must make laws authorizing members of the Nisga'a Lisims Government Executive to call a Special Assembly.
- (5) Subject to the rules of procedure for Special Assemblies:
 - (a) every Nisga'a citizen has the right to attend and speak at a Special Assembly; and
 - (b) every Nisga'a citizen who is at least 18 years of age and attending a Special Assembly has the right to vote at the Special Assembly.
- (6) A Special Assembly may make recommendations to Nisga'a Government regarding a matter in respect of which the Special Assembly was called.

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- (7) A recommendation made by a Special Assembly must be considered by Nisga'a Lisims Government or a Nisga'a Village Government, as the case may be, as soon as practicable, after the Special Assembly.

CHAPTER 5

NISGA'A LISIMS GOVERNMENT

PART A - LEGISLATIVE AUTHORITY OF NISGA'A LISIMS GOVERNMENT

31. **Wilp Si'ayuukhl Nisga'a**

- (1) Within Nisga'a Lisims Government there is:
 - (a) a legislative house, known as Wilp Si'ayuukhl Nisga'a; and
 - (b) the Nisga'a Lisims Government Executive.
- (2) Wilp Si'ayuukhl Nisga'a is composed of every individual who is:
 - (a) an Officer of Nisga'a Lisims Government;
 - (b) the Chief Councillor of a Nisga'a Village Government;
 - (c) a Village Councillor of a Nisga'a Village Government; or
 - (d) a representative from a Nisga'a Urban Local.
- (3) Ganim Siwilyeensk is the symbol of the continuity and authority of the Nisga'a Nation, and:
 - (a) must be presented by Simgigat and Sigidimhaanak' to the members of Wilp Si'ayuukhl Nisga'a at the beginning of its first sitting after a regular election;
 - (b) must be present during all sittings of Wilp Si'ayuukhl Nisga'a; and
 - (c) must be returned to the Simgigat and Sigidimhaanak' present before the presiding member closes the last sitting of Wilp Si'ayuukhl Nisga'a before a regular election.
- (4) At its first sitting after a regular election, or when necessary to fill a vacancy, Wilp Si'ayuukhl Nisga'a must elect one of its members, other than a member of the Nisga'a Lisims Government Executive, to preside at its sittings.
- (5) Wilp Si'ayuukhl Nisga'a may make rules and orders concerning the carrying out of its business and the business of its committees, including the time and duration of sittings and meetings.

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- (6) Wilp Si'ayuukhl Nisga'a may sit either in public or in camera but may enact legislation only at a public sitting.
- (7) Wilp Si'ayuukhl Nisga'a must keep a record of its sittings and must keep a public record of its public sittings.

32. Authority of Wilp Si'ayuukhl Nisga'a

- (1) Wilp Si'ayuukhl Nisga'a may exercise any right, power or privilege, and may carry out any duty, function or obligation, of the Nisga'a Nation or Nisga'a Lisims Government set out in the Nisga'a Treaty, in accordance with Nisga'a law, including:
 - (a) making any law within the authority of Nisga'a Government, or the authority of Nisga'a Lisims Government, as set out in the Nisga'a treaty;
 - (b) adopting any federal or provincial law in respect of a matter within the authority of Nisga'a Government, or Nisga'a Lisims Government, as set out in the Nisga'a Treaty;
 - (c) passing a resolution proposing an amendment to this Constitution; and
 - (d) passing a resolution proposing a question to be put to the Nisga'a Nation in a referendum.
- (2) Wilp Si'ayuukhl Nisga'a may refer a matter to the Council of Elders at any time, and in particular may consult the Council of Elders in respect of:
 - (a) amendments to this Constitution;
 - (b) Nisga'a language and culture;
 - (c) Nisga'a citizenship; and
 - (d) the relationship between Nisga'a Lisims Government and Nisga'a Village Governments and Nisga'a Urban Locals.
- (3) When referring a matter to the Council of Elders, Wilp Si'ayuukhl Nisga'a must specify the time within which the Council of Elders must consider the matter and report its views to Wilp Si'ayuukhl Nisga'a, and the Council of Elders must report its views to Wilp Si'ayuukhl within the time specified.

33. Public information and review of legislation

Wilp Si'ayuukhl Nisga'a and Nisga'a Village Governments must each establish appropriate procedures in respect of informing Nisga'a citizens, or Nisga'a citizens within their Nisga'a Village, as the case may be, in respect of their proposed legislation, and the receipt of comments from those Nisga'a citizens.

34. Proclamation of legislation and registration of laws

- (1) Legislation is enacted by Wilp Si'ayuukhl Nisga'a when:
 - (a) the legislation has been introduced and considered by Wilp Si'ayuukhl Nisga'a in accordance with its rules;
 - (b) the legislation has been passed by the members of Wilp Si'ayuukhl Nisga'a in accordance with its rules, but those rules must require at least a simple majority of the members of Wilp Si'ayuukhl Nisga'a who vote on proposed legislation to vote in favour of the legislation; and
 - (c) the legislation has been signed by the President of the Nisga'a Nation.
- (2) The President must sign all legislation that has been passed in accordance with subsections 1(a) and (b).
- (3) Wilp Si'ayuukhl Nisga'a must make a law under which:
 - (a) a public registry of Nisga'a laws will be maintained in the English language and, at the discretion of Wilp Si'ayuukhl Nisga'a, in the Nisga'a language;
 - (b) Canada and British Columbia will be provided with a copy of a Nisga'a law as soon as practicable after that law is enacted; and
 - (c) additional procedures may be established for the enactment, coming into force, and publication of Nisga'a laws.
- (4) A copy of a Nisga'a law deposited at the public registry of Nisga'a laws is conclusive evidence of the provisions of that law.

35. Relationship of Nisga'a laws

If Nisga'a Lisims Government and a Nisga'a Village Government have both made a law within their respective authority:

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- (a) both laws are equally operative to the extent that they do not conflict with each other; and
- (b) if those laws conflict
 - (i) the law made by Nisga'a Lisims Government will prevail to the extent of the conflict; and
 - (ii) at the first practicable opportunity Nisga'a Lisims Government will review its law in light of the conflict.

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PART B – NISGA'A LISIMS GOVERNMENT EXECUTIVE

36. Nisga'a Lisims Government Executive

The Nisga'a Lisims Government Executive consists of:

- (a) the President, the Chairperson, the Secretary-Treasurer, the Chairperson of the Council of Elders, and any other Officer of Nisga'a Lisims Government;
- (b) the Chief Councillor of each Nisga'a Village Government; and
- (c) one representative from each Nisga'a Urban Local, as determined in accordance with a law made under section 26.

37. Authority of Nisga'a Lisims Government Executive

The Nisga'a Lisims Government Executive may:

- (a) exercise the authorities, responsibilities and functions:
 - (i) assigned to it by this Constitution;
 - (ii) assigned or delegated to it by Wilp Si'ayuukhl Nisga'a;
- (b) do such other things as may be necessary to the exercise of those authorities, responsibilities and functions;
- (c) represent the Nisga'a Nation in intergovernmental relations, subject to and in accordance with any direction from Wilp Si'ayuukhl Nisga'a;
- (d) exercise any power of Nisga'a Lisims Government to appoint a person to any office or position in any Nisga'a Public Institution of Nisga'a Lisims Government, in accordance with a law of Wilp Si'ayuukhl Nisga'a;
- (e) assign to any member of the Nisga'a Lisims Government Executive responsibility for the administration, application, and enforcement of any particular law or administrative function, unless that responsibility is otherwise assigned by Nisga'a law; and
- (f) assign one of its members to act temporarily on behalf of another member who is unable to perform a function assigned in accordance with paragraph (e).

38. Officers of Nisga'a Lisims Government

- (1) Wilp Si'ayuukhl Nisga'a may make laws establishing any number of Officers of Nisga'a Lisims Government, in addition to the Officers of Nisga'a Lisims Government named in paragraph 36(a).
- (2) Each Officer of Nisga'a Lisims Government must be elected by the Nisga'a Nation in a general election.
- (3) Only a person who is a Simoogit, Sigidimnak', or respected Nisga'a elder may be elected as the Chairperson of the Council of Elders.
- (4) Officers of Nisga'a Lisims Government must ordinarily reside in Nisga'a Lands during their terms of office, and an individual ceases to be an Officer of Nisga'a Lisims Government if they cease to ordinarily reside in Nisga'a Lands.
- (5) Wilp Si'ayuukhl Nisga'a may remove an Officer of Nisga'a Lisims Government from office by a resolution supported by at least two-thirds of its members and only on the grounds of:
 - (a) conduct or behaviour that has brought the office into disrepute; or
 - (b) mental or physical inability to perform the functions of that office.

39. Duties of Officers of Nisga'a Lisims Government

- (1) The President:
 - (a) is the senior member of the Nisga'a Lisims Government Executive;
 - (b) may lead any delegation representing the Nisga'a Nation in any intergovernmental relationship, unless Wilp Si'ayuukhl Nisga'a or the Nisga'a Lisims Government Executive has assigned that responsibility to another person; and
 - (c) signs any appointment made or recommended by Wilp Si'ayuukhl Nisga'a, or the Nisga'a Lisims Government Executive, in accordance with this Constitution or Nisga'a law.
- (2) The Chairperson:
 - (a) presides at meetings of the Nisga'a Lisims Government Executive;
 - (b) acts in the office of the President when the President is temporarily unable to exercise the authorities, responsibilities or functions of that office or, upon

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the office of President becoming vacant, until a new President is elected in accordance with Nisga'a law.

- (3) The Secretary-Treasurer:
 - (a) presides at meetings of the Nisga'a Finance Committee; and
 - (b) is responsible for the administration of the finances of the Nisga'a Nation in accordance with Nisga'a law.
- (4) The Chairperson of the Council of Elders presides at meetings of the Council of Elders and is the liaison between the Council of Elders and the Nisga'a Lisims Government Executive.
- (5) Wilp Si'ayuukhl Nisga'a may make laws establishing:
 - (a) additional powers and duties for each Officer of Nisga'a Lisims Government named in paragraph 36(a); and
 - (b) powers and duties for each Officer of Nisga'a Lisims Government established under subsection 38(l).

40. Vacancies in office of Officers of Nisga'a Lisims Government

- (1) A vacancy occurs in an office of Nisga'a Lisims Government if a person who is an Officer of Nisga'a Lisims Government:
 - (a) dies;
 - (b) is removed from their office under subsection 38(5);
 - (c) ceases to be an Officer of Nisga'a Lisims Government because they cease to ordinarily reside in Nisga'a Lands; or
 - (d) resigns.
- (2) Within 30 days after a vacancy occurs in the office of Chairperson of the Council of Elders, Nisga'a Lisims Government Executive must appoint another member of the Council to act in that office until a person is elected to that office in accordance with Nisga'a law.
- (3) Within 30 days after a vacancy occurs in any office of Nisga'a Lisims Government other than the office of President, or Chairperson of the Council of Elders, the Nisga'a Lisims Government Executive must appoint one of its members to act in that office until a person is elected to that office in accordance with Nisga'a law.

CHAPTER 6

NISGA'A VILLAGE GOVERNMENTS

41. **Area of authority of Nisga'a Village Governments**

The laws of each Nisga'a Village Government apply on the Nisga'a Village Lands of that Nisga'a Village.

42. **Composition of Nisga'a Village Governments**

(1) Each Nisga'a Village Government is composed of the following individuals:

- (a) a Chief Councillor; and
- (b) the number of Village Councillors determined in accordance with the following table:

<u>Residents of the Village</u>	<u>Number of Councillors</u>
Less than 201	4
201 to 400	5
401 to 600	6
601 to 800	7
Over 800	8

- (2) The Chief Councillor and each Village Councillor of a Nisga'a Village Government must be elected by the Nisga'a citizens residing in the Nisga'a Village governed by that Nisga'a Village Government.
- (3) Only a Nisga'a citizen ordinarily residing in a Nisga'a Village may be nominated for election as Chief Councillor or Village Councillor of the Nisga'a Village Government of that Nisga'a Village.
- (4) During their respective terms of office, the Chief Councillor and every Village Councillor of a Nisga'a Village Government must ordinarily reside in the Nisga'a Village governed by that Nisga'a Village Government, and a person ceases to be the Chief Councillor or a Village Councillor if they cease to ordinarily reside in the Nisga'a Village.

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- (5) Each Nisga'a Village Government must elect one of its members, other than the Chief Councillor, to be the Deputy Chief Councillor:
 - (a) at its first sitting after a regular election; and
 - (b) thereafter if the position of Deputy Chief Councillor becomes vacant.
- (6) When a vacancy occurs in the position of Chief Councillor of a Nisga'a Village Government, the Deputy Chief Councillor must act as Chief Councillor until a person is elected to that position in accordance with Nisga'a law.
- (7) A vacancy occurs in a Nisga'a Village Government, if a person who is a Chief Councillor or Village Councillor of the Nisga'a Village Government:
 - (a) dies;
 - (b) is removed as Chief Councillor or Village Councillor in accordance with the Nisga'a Village Charter of the Nisga'a Village;
 - (c) ceases to be a Chief Councillor or Village Councillor because they cease to ordinarily reside in the Nisga'a Village; or
 - (d) resigns.

43. Legislative authority of Nisga'a Village Governments

- (1) Each Nisga'a Village Government may have a Village Charter to provide for the better conduct and administration of that Nisga'a Village Government, and may amend that Village Charter, but a Village Charter must be consistent with this Constitution and is not part of this Constitution.
- (2) Each Nisga'a Village Government may exercise any right, power or privilege, and may carry out any duty, function or obligation, of a Nisga'a Village or a Nisga'a Village Government set out in the Nisga'a Treaty, in accordance with Nisga'a law, including:
 - (a) making any law within the authority of Nisga'a Government, or the authority of a Nisga'a Village Government, as set out in the Nisga'a Treaty; and
 - (b) adopting any federal or provincial law in respect of a matter within the authority of Nisga'a Government, or a Nisga'a Village Government, as set out in the Nisga'a Treaty.
- (3) Legislation is enacted by a Nisga'a Village Government when:

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- (a) the legislation has been introduced and considered by the Nisga'a Village Government in accordance with its rules;
 - (b) the legislation has been passed by the members of the Nisga'a Village Government in accordance with its rules, but those rules must require at least a simple majority of the members of the Nisga'a Village Government who vote on proposed legislation to vote in favour of the legislation; and
 - (c) the legislation has been signed by the Chief Councillor of the Nisga'a Village.
- (4) The Chief Councillor of a Nisga'a Village must sign all legislation passed by the Nisga'a Village Government in accordance with sections 3(a) and (b).

44. Administrative authority of Nisga'a Village Governments

- (1) A Nisga'a Village Government may
- (a) exercise the authorities, responsibilities and functions:
 - (i) assigned to it by this Constitution;
 - (ii) assigned or delegated to it by Wilp Si'ayuukhl Nisga'a; and
 - (b) do such other things as may be necessary to the exercise of those authorities, responsibilities and functions.
- (2) A Nisga'a Village Government may assign to any member of that Nisga'a Village Government responsibility for the administration, application, and enforcement in that Nisga'a Village of any particular law or administrative function, unless that responsibility is otherwise assigned by a provision of Nisga'a law.
- (3) A Nisga'a Village Government may assign one of its members to act temporarily on behalf of another member who is unable to exercise an authority, responsibility or function assigned in accordance with subsection (2).

45. Restoration of Nisga'a Village Governments in an emergency

- (1) If, at any time, due to vacancies of its members, a Nisga'a Village Government cannot satisfy the quorum rule for meetings as set out in its Village Charter:
- (a) despite any provision of its Village Charter relating to quorum at meetings, the remaining members of that Nisga'a Village Government:

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- (i) must request the Chief Electoral Officer to call an election to fill the vacancies in the Nisga'a Village Government at the earliest practicable time;
 - (ii) if the offices of the Chief Councillor and the Deputy Chief Councillor are both vacant, must appoint a remaining member of that Nisga'a Village Government to act as Chief Councillor until the election is held; and
 - (iii) may enact interim legislation to remain in force until 30 days after the election; and
 - (b) until 30 days after the election referred to in paragraph (a) has been held, the Nisga'a Lisims Government Executive, in consultation with the remaining members of that Nisga'a Village Government, must take reasonable steps to ensure the continuation of proper financial administration of the Nisga'a Village, in accordance with Chapter 8 and Nisga'a law.
- (2) If, at any time, there are no remaining members of a Nisga'a Village Government due to vacancies, the Chairperson of the Council of Elders must convene a meeting of the Simgigat, Sigidimhaanak', and other respected Nisga'a elders of that Nisga'a Village, and the Nisga'a Lisims Government Executive, in the spirit of Sayt K'il'im Goot, to determine the steps to be taken to restore the Nisga'a Village Government, and to secure the well-being of that Nisga'a Village in the interim.

CHAPTER 7

OTHER INSTITUTIONS

46. Existing Institutions

The Nisga'a Nation recognizes the vital role that has been played in Nisga'a community life by:

- (a) Board of School Trustees of School District No. 92 (Nisga'a);
- (b) Nisga'a Valley Health Board;
- (c) Wilp Wilxo'oskwhl Nisga'a; and
- (d) voluntary societies and associations of Nisga'a citizens.

47. Establishment of Nisga'a Public Institutions

Nisga'a Government may establish a Nisga'a Public Institution, in accordance with the Nisga'a Treaty, to perform functions of Nisga'a Government, including to carry out the functions of a body referred to section 46.

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CHAPTER 8

DISPUTE RESOLUTION

48. Principles of dispute resolution

Nisga'a seek to resolve disputes based on values expressed in the Ayuuk, including:

- (a) preserving the unity of the Nisga'a Nation;
- (b) maintaining the dignity of and respect for each individual;
- (c) acknowledging wrongdoing, and providing restitution for harm suffered;
- (d) achieving healing and reconciliation;
- (e) restoring harmony; and
- (f) developing collective understanding of the Ayuuk.

49. Disputes between or among Nisga'a governments

- (1) The Nisga'a Nation expects Nisga'a Lisims Government and the Nisga'a Village Governments to endeavour to resolve disputes between or among them by informal discussion and without the necessity of invoking formal means of dispute resolution.
- (2) Wilp Si'ayuukhl Nisga'a must make laws to provide for the consideration of disputes between or among Nisga'a Lisims Government and the Nisga'a Village Governments, which may include:
 - (a) the establishment of another dispute resolution body;
 - (b) referral to the Council of Elders;
 - (c) the establishment of a Nisga'a Court in accordance with the Nisga'a Treaty;
or
 - (d) other appropriate means of dispute resolution.

CHAPTER 9

FINANCIAL ADMINISTRATION

50. Nisga'a principles of financial administration

The Nisga'a Nation expects the financial management and administration of the Nisga'a Nation and each Nisga'a Village to:

- (a) be prudent, open, and accountable; and
- (b) provide for effective and efficient use of the financial resources of the Nisga'a Nation and each Nisga'a Village.

51. Nisga'a Finance Committee

- (1) Wilp Si'ayuukhl Nisga'a must establish the Nisga'a Finance Committee which may make recommendations to Nisga'a Government on any matter addressed in this Chapter, or in Nisga'a law relating to financial matters.
- (2) The Nisga'a Finance Committee consists of the Secretary-Treasurer, and the Chief Councillor or a Village Councillor from each Nisga'a Village Government, selected by that Nisga'a Village Government.
- (3) The Secretary-Treasurer chairs the Nisga'a Finance Committee.
- (4) Wilp Si'ayuukhl Nisga'a will establish rules and terms of reference for the Nisga'a Finance Committee, including such matters as:
 - (a) rules of procedure;
 - (b) frequency of meetings;
 - (c) time periods for performing duties; and
 - (d) ability to seek advice from persons with relevant expertise.
- (5) The Nisga'a Finance Committee may establish rules of procedure that are consistent with those matters set out in subsections (2), (3) and (4).
- (6) Wilp Si'ayuukhl Nisga'a must request and consider a report from the Nisga'a Finance Committee before ratifying a Nisga'a Nation Fiscal Financing Agreement, a Nisga'a Nation Own Source Revenue Agreement, a Nisga'a Nation Taxation Agreement, or

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other agreement with Canada or British Columbia that will substantially affect the finances of the Nisga'a Nation, or an amendment to any of them.

- (7) Wilp Si'ayuukhl Nisga'a may request and consider a report from the Nisga'a Finance Committee before making any law that will substantially affect the finances of the Nisga'a Nation.

52. Control of financial administration

Wilp Si'ayuukhl Nisga'a must make laws to establish a system of financial administration, through which Nisga'a Lisims Government will be financially accountable to Nisga'a citizens, and Nisga'a Village Governments will be financially accountable to Nisga'a citizens of those Nisga'a Villages, and that includes standards comparable to those generally accepted for governments in Canada.

53. Nisga'a settlement trust

- (1) The Nisga'a Nation must establish a Nisga'a settlement trust.
- (2) A document establishing a Nisga'a settlement trust in accordance with subsection (1) must require that the trustee or trustees be appointed only by persons elected to Nisga'a Government.

54. Lisims Fisheries Conservation Trust

- (1) The President, in consultation with the other members of the Nisga'a Lisims Government Executive and on the recommendation of the Nisga'a Finance Committee, may exercise any power of the Nisga'a Nation to appoint trustees of the Lisims Fisheries Conservation Trust.
- (2) The trustees referred to in subsection (1) will discharge their responsibilities in accordance with the Nisga'a Treaty.

55. Independence of trustees

Trustees of a Nisga'a settlement trust, or of the Lisims Fisheries Conservation Trust appointed under subsection 55(1), in acting as trustees, are independent of Nisga'a Government.

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56. Nisga'a law

Nisga'a Lisims Government, on behalf of the Nisga'a Nation, and each Nisga'a Village Government, on behalf of its Nisga'a Village, must manage its finances in accordance with Nisga'a law.

57. Allocations from the Nisga'a Nation

- (1) Nisga'a Lisims Government and each Nisga'a Village Government are each entitled to an allocation from the Nisga'a Nation, for the provision of agreed-upon public programs and services.
- (2) Wilp Si'ayuukhl Nisga'a must make laws providing for the allocations under subsection (1).
- (3) If Nisga'a Government is providing programs or services to Nisga'a citizens residing in a Nisga'a Urban Local Area, the Nisga'a Government will endeavour to involve the Nisga'a Urban Local in that Nisga'a Urban Local Area in the planning, management and delivery of those programs or services.
- (4) The Nisga'a Nation, or a Nisga'a Village, may contract with a Nisga'a Urban Local for the delivery of a program or service to Nisga'a citizens within a Nisga'a Urban Local Area if the capacity, composition and procedures of the Nisga'a Urban Local meet the requirements of Nisga'a law.

58. Budgets

Wilp Si'ayuukhl Nisga'a must make laws that prescribe for the Nisga'a Nation and for each Nisga'a Village:

- (a) a common fiscal year;
- (b) the timing and form of budgets to be introduced; and
- (c) the process to be followed in preparing, coordinating, and approving budgets.

59. Guarantee of Loans

The Nisga'a Nation, or a Nisga'a Village, may guarantee a loan only if the guarantee complies with conditions set out in Nisga'a law.

CHAPTER 10

PUBLIC ADMINISTRATION

60. Values and principles

The Nisga'a Nation expects the public service of the Nisga'a Nation and each Nisga'a Village to be administered in accordance with the following values and principles.

- (a) a high standard of ethics;
- (b) efficient and effective use of resources;
- (c) impartial and equitable provision of services;
- (d) responsiveness to public needs; and
- (e) provision of timely, accessible, and accurate information.

CHAPTER 11

GENERAL PROVISIONS

61. **Constitutional amendment**

- (1) Subject to subsections (2), and (4), this Constitution may be amended only in accordance with the following steps:

Step 1 Wilp Si'ayuukhl Nisga'a, by simple majority vote, may adopt a resolution proposing an amendment to this Constitution.

Step 2 The Nisga'a Lisims Government Executive will refer the proposed constitutional amendment to the Council of Elders, which will consider whether the proposed amendment is consistent with the values and principles of the Nisga'a Nation, and report the result of its consideration to Wilp Si'ayuukhl Nisga'a within the time specified in the referral.

Step 3 Wilp Si'ayuukhl Nisga'a will consider the report of the Council of Elders and will then determine whether to proceed with or change the proposed amendment.

Step 4 If Wilp Si'ayuukhl Nisga'a decides to proceed with a proposed amendment, the President will request that the Chief Electoral Officer hold a referendum on a date determined by the Nisga'a Lisims Government Executive, but at least 90 days after the date on which the President makes the request, and Nisga'a Lisims Government will ensure that appropriate steps are taken to notify Nisga'a citizens of the proposed amendment.

Step 5 If at least 70% of Nisga'a citizens voting in the referendum vote in favour of the proposed amendment, this Constitution is amended accordingly.

- (2) An amendment to this Constitution must be consistent with the Nisga'a Treaty.

- (3) A Nisga'a Village may be created, amalgamated, altered or dissolved only by an amendment to this Constitution adopted in accordance with subsection (1).

- (4) Despite subsection (1), the Nisga'a Lisims Government Executive, by resolution signed by the President, may amend this Constitution at any time by:

- (a) changing the name of a Nisga'a Village to a new name adopted by its Nisga'a Village Government;
- (b) changing the name of an Nisga'a Urban Local or a Nisga'a Urban Local Area;

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- (c) changing the name of a body listed in section 46 to a new name adopted by that body;
- (d) deleting the name of a Nisga'a Urban Local that ceases to exist; or
- (e) replacing any word or expression in the following list with either a different English word or expression, or with an alternative word or expression in Nisga'a:

Chairperson
Chairperson of the Council of Elders
Chief Councillor
Chief Electoral Officer
Council of Elders
Nisga'a Court
Nisga'a Government
Nisga'a Lisims Government
Nisga'a Lisims Government Executive
Nisga'a Village Government
President
Representative (from a Nisga'a Urban Local)
Secretary-Treasurer
Village Councillor

62. Definitions

In this Constitution:

“Ayuukhl Nisga'a” and **“Ayuuk”** mean the traditional laws and practices of the Nisga'a Nation;

“British Columbia” means, unless the context otherwise requires, Her Majesty the Queen in right of British Columbia;

“Canada” means, unless the context otherwise requires, Her Majesty the Queen in right of Canada;

“Chief Electoral Officer” means the official in charge of the election administration established by Nisga'a law;

“general election” means an election held in accordance with Nisga'a law, in which all Nisga'a citizens who are at least 18 years old are entitled to vote;

“K'aliaksim Lisims” means the Nass Area;

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“law” includes federal, British Columbia, and Nisga'a legislation, acts, ordinances, regulations, orders in council, bylaws, and the common law, but, for greater certainty, does not include Ayuukhl Nisga'a or Ayuuk;

“legislation” means an Act of Wilp Si'ayuukhl Nisga'a or a Nisga'a Village Government, whether referred to as a statute, a code or by any other name;

“Lisims Fisheries Conservation Trust” means the Lisims Fisheries Conservation Trust within the meaning of that term in the Nisga'a Treaty;

“Nass Area” means:

- (a) the entire Nass watershed,
- (b) all Canadian watersheds and water bodies that drain into portions of Portland Inlet, Observatory Inlet, or Portland Canal, as defined in subparagraph (c), and
- (c) all marine waters in Pearse Canal, Portland Inlet, Observatory Inlet, and Portland Canal northeast of a line commencing at the Canadian border, midway between Pearse Island and Wales Island, and proceeding along Wales Passage southeasterly to Portland Inlet, then northeasterly to the midpoint between Start Point and Trefusis Point, then south to Gadu Point

as set out approximately in Appendix I of the Nisga'a Treaty;

“Nisga'a Court” means a court established under the Administration of Justice Chapter of the Nisga'a Treaty;

“Nisga'a Fee Simple Lands” means Category A Lands and Category B Lands under the Nisga'a Treaty;

“Nisga'a Government” means Nisga'a Lisims Government and Nisga'a Village Governments;

“Nisga'a Institution” means:

- (a) Nisga'a Lisims Government,
- (b) a Nisga'a Village Government, or
- (c) a Nisga'a Public Institution;

“Nisga'a Lands” means those lands identified as Nisga'a Lands in the Nisga'a Treaty;

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“Nisga’a laws” includes this Constitution;

“Nisga’a Lisims Government” means the government of the Nisga’a Nation;

“Nisga’a Lisims Government Executive” means the Nisga’a Lisims Government Executive as described in this Constitution;

“Nisga’a Nation” means the collectivity of those aboriginal people who share the language, culture, and laws of the Nisga’a of the Nass Area, and their descendants;

“Nisga’a Nation Fiscal Financing Agreement” means a fiscal financing agreement within the meaning of that term in the Nisga’a Treaty;

“Nisga’a Nation Own Source Revenue Agreement” means an own source revenue agreement within the meaning of that term in the Nisga’a Treaty;

“Nisga’a Nation Taxation Agreement” means a Taxation Agreement within the meaning of that term in the Nisga’a Treaty;

“Nisga’a participant” means an individual who is enrolled in the enrolment register provided for in the Nisga’a Treaty;

“Nisga’a Private Lands” means Nisga’a Lands that are designated as Nisga’a Private Lands by Nisga’a Lisims Government;

“Nisga’a Public Institution” means a Nisga’a Government body, board, commission, or tribunal established under Nisga’a law, such as a school board, health board, or police board, but does not include the Nisga’a Court;

“Nisga’a settlement trust” means a Nisga’a settlement trust within the meaning of that term in the Nisga’a Treaty;

“Nisga’a Treaty” means the Nisga’a Final Agreement between the Nisga’a Nation, Canada and British Columbia;

“Nisga’a Urban Local” means an entity established for the purpose of participation in Nisga’a Lisims Government by Nisga’a citizens residing outside of the Nass Area;

“Nisga’a Urban Local Area” means a geographic area within British Columbia, determined in accordance with Nisga’a law, and served by a Nisga’a Urban Local;

“Nisga’a Village” means the village of New Aiyansh, Gitwinksihlkw, Laxgalt'sap, or Gingolx;

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“Nisga’a Village Government” means the government of a Nisga’a Village;

“Nisga’a Village Lands” means Nisga’a Lands that are designated as Nisga’a Village Lands of a particular Nisga’a Village by Nisga’a Lisims Government;

“Officer of Nisga’a Lisims Government” means the President, the Secretary-Treasurer, the Chairperson, the Chairperson of the Council of Elders and any other Officer of Nisga’a Lisims Government established by Wilp Si’ayuukhl Nisga’a under Nisga’a law;

“regular election” means a regularly scheduled election held in accordance with Nisga’a law.

“Simgigat and Sigidimhaanak” means individuals who are Nisga’a chiefs, and Nisga’a matriarchs, respectively, in accordance with Ayuukhl Nisga’a; and

“Wilp Si’ayuukhl Nisga’a” means the assembly of Nisga’a Lisims Government that exercises the legislative authority of the Nisga’a Nation.

63. Glossary of Nisga’a words and expressions

Each Nisga’a word or expression listed in this section refers generally to the subject matter indicated for it. The references in this section are not complete definitions of the various words or expressions, and are placed here only as a convenience to the reader. In this Constitution:

“Adaawak” refers to the history of the Nisga’a Nation since time immemorial;

“Ango’oskw” refers to the traditional domain of each Wilp;

“Ganim Siwilyeenskw” refers to the Talking Stick, which is a symbol of authority of the Nisga’a Nation;

“K’amligiihahlhat” refers to the great spirit of creation as recognized in Nisga’a culture from time immemorial;

“Sayt K’il’im Goot” refers to the Nisga’a spirit of being of one heart;

“Wilp” literally, “house”, refers to a sub-group of a Nisga’a tribe, which is based on family links.

64. Interpretation

(1) In this Constitution:

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- (a) unless it is otherwise clear from the context, the use of the word “including” means “including, but not limited to”, and the use of the word “includes” means “includes, but is not limited to”;
 - (b) unless it is otherwise clear from the context, a reference to a “section”, “subsection” or “paragraph” means a section, subsection or paragraph, respectively, of this Constitution;
 - (c) headings and subheadings are for convenience only, do not form a part of this Constitution, and in no way define, limit, alter, or enlarge the scope or meaning of any provision of this Constitution; and
 - (d) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular.
- (2) If there is a conflict between different versions of this Constitution, the English language version will prevail.

65. Conflict of laws

In this Agreement there is a conflict between laws if compliance with one law would be a breach of the other law.

66. Status of Schedules

Schedules 1 and 2 to this Constitution form part of this Constitution.

67. Commencement

This Constitution is in effect as of the effective date of the Nisga'a Treaty.

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SCHEDULE I

OATH OF OFFICE

Each person who is elected to office and required by this Constitution to swear or affirm loyalty to the Nisga'a Nation and obedience to this Constitution, must, while holding Ganim Siwilyeenskwa, answer the following questions asked by an elder:

Will you accept from the people the sacred responsibility of government? Will you be loyal to the Nisga'a Nation, uphold its values, and protect and obey its Constitution?

"I will."

Will you seek the guidance of the elders, Simgigat and Sigidimhaanak' and respect their wisdom and interpretation of the Ayuuk? Will you be a faithful counsellor to those who seek your advice, and will you keep secret all matters entrusted to your confidence?

"I will."

Will you work to preserve the peace and unity of the Nisga'a Nation, to secure the well-being of the people, and to provide good, effective, and accountable government for the Nisga'a Nation as a whole?

"I will, and may K'amligihahlhat grant me wisdom and continue to protect our land and our people."

SCHEDULE 2

TRANSITION RULES

1. Interpretation

- (1) In this Schedule
- (a) **“effective date”** means the date that the Nisga'a Constitution took effect;
 - (b) **“first election”** means the election required by item 4;
 - (c) **“former Indian Band Council”** means a Band Council that was organized under the Indian Act, and that had jurisdiction immediately before the effective date in a village listed in paragraph 25(1)(b);
 - (d) **“Indian Act”**, means the Indian Act, R.S.C. 1985, c. I-5;
 - (e) **“Nisga'a Tribal Council”** or **“NTC”** means the Nisga'a Tribal Council, as incorporated under the Society Act of British Columbia;
 - (f) **“successor Nisga'a Village Government”** means the Nisga'a Village Government that has jurisdiction after the effective date in respect of a village that was governed immediately before the effective date by a former Indian Band Council.
- (2) In this Schedule, reference to a section or subsection denotes a section or subsection of the Constitution, and reference to an item or subitem denotes an item or subitem of this Schedule.

2. Affirmation of traditional relationship to lands

Within a year after the effective date, Nisga'a Lisims Government Executive will convene a Special Assembly of the Nisga'a Nation for the purposes of:

- (a) relating to one another our stories of personal and community alienation from traditional lands during the period of colonialism and our struggle for recognition of Nisga'a right to self-government;
- (b) discussing ways to secure the continuing relationship of the Nisga'a with our land; and
- (c) advising Nisga'a Government of steps to be considered in the exercise of its authority over the land and the resources within Nisga'a Lands.

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3. Land Use Plans

A land use plan adopted by a former Indian Band Council and in effect immediately before the effective date is a land use plan of the successor Nisga'a Village Government in effect as of the effective date until it is altered, repealed or replaced by that Nisga'a Village Government.

4. Elections

Despite section 28, an election of Officers of Nisga'a Lisims Government, Chief Councillors and Village Councillors of each Nisga'a Village Government, and the representatives of each Nisga'a Urban Local must be held no later than six months after the effective date.

5. Interim Structures of Government

(1) As of the effective date:

- (a) the individual who held the office of President of NTC immediately before the effective date is the President of Nisga'a Lisims Government;
- (b) the individual who held the office of Executive Chairman of NTC immediately before the effective date is the Chairperson of Nisga'a Lisims Government ;
- (c) the individual who held the office of Secretary-Treasurer of NTC immediately before the effective date is the Secretary-Treasurer of Nisga'a Lisims Government;
- (d) an individual who held the office of Chief Councillor of a former Indian Band Council immediately before the effective date is the Chief Councillor of the successor Village Government;
- (e) an individual who held the office of Councillor of a former Indian Band Council immediately before the effective date is a Village Councillor of the successor Village Government; and
- (f) each individual who held either the office of Vice President, or NTC Trustee, of a Nisga'a Urban Local immediately before the effective date is a Government Representative from that Nisga'a Urban Local.

(2) Despite subsection 25(1) and section 36, from the effective date until the date of the first election, in addition to the persons entitled to be members of Wilp Si'ayuukhl Nisga'a and of the Nisga'a Lisims Government Executive in accordance with subsection 25(1), section 36, and subitem (1):

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- (a) an individual who, immediately before the effective date, held the office of NTC Trustee from a former Indian Band is a member of Wilp Si'ayuukhl Nisga'a, and of the Nisga'a Lisims Government Executive; and
 - (b) each individual who, immediately before the effective date, was a member of the General Executive Council and the General Executive Board of NTC, by way of appointment by NTC, is entitled to be a member of Wilp Si'ayuukhl Nisga'a and of the Nisga'a Lisims Government Executive.
- (3) If Nisga'a law establishing the Council of Elders, as provided for in section 27, is enacted before the first election, the initial Chairperson of the Council of Elders may be appointed in accordance with that law.
- (4) If, immediately before the effective date, a former Indian Band Council comprised a number of Councillors greater than the number specified in the Table in section 42 for the successor Nisga'a Village Government, the number of Village Councillors of that Nisga'a Village Government is deemed to be that larger number until the date of the first election.
- (5) Subsections 38(4) and 42(4) do not apply until after the first regular election of Nisga'a Government.
- (6) Despite subsections 26(5), 38(2) and 42(2):
- (a) each person who assumes office in Nisga'a Lisims Government or a Nisga'a Village Government in accordance with this item serves for a term that expires upon the swearing in of the successful candidates in the first election; and
 - (b) each person who assumes office in Nisga'a Lisims Government or a Nisga'a Village Government following the first election serves for a term that expires upon the swearing in of the successful candidates in the first election held in accordance with section 28.

6. Vacancies

- (1) If, immediately before the effective date, there was a vacancy in an office of NTC mentioned in subitem 5(1)(a), (b), or (c), the corresponding office in Nisga'a Lisims Government will be filled in accordance with subitem (2).
- (2) If, at any time between the effective date and the date of the first election, a vacancy exists in an office of Nisga'a Lisims Government, the members of Wilp Si'ayuukhl Nisga'a:

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- (a) if the vacancy is in the office of Chairperson of the Council of Elders, will elect one of the other members of the Council to fill that vacant office until the first election; or
 - (b) if the vacancy is in any other office, will elect one of the members of Wilp Si'ayuukhl Nisga'a to fill that vacant office until the first election.
- (3) If, immediately before the effective date, there was a vacancy in the office of Chief Councillor of a former Indian Band Council, the Office of Chief Councillor in the successor Village Government will be filled in accordance with subitem (4).
- (4) If, at any time between the effective date and the date of the first election, a vacancy exists in the office of Chief Councillor of a Nisga'a Village Government, the members of that Nisga'a Village Government will elect one of their number to fill that vacant office until the first election.

7. Other Transition Rules

- (1) Wilp Si'ayuukhl Nisga'a may make any additional transitional rules consistent with the Nisga'a Treaty to deal with any matter that in the opinion of Wilp Si'ayuukhl Nisga'a is not adequately addressed in this Schedule.