

# SQUAMISH NATION



## INTESTATE POLICY

APPROVED July 11, 1994  
with subsequent revisions effective as at October 12, 2005

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### OBJECTIVES and PRINCIPLES

- ◆ The purpose of this document is to set out policies which reflect the customs of the Nation governing the transmission of interests in Custom Lots from the estates of Deceased Members of the Squamish Nation, who have died without a Will.
- ◆ The objectives of Council as expressed in this Policy are to fulfil its commitment to provide better administration of the day-to-day affairs of the Members of the Squamish Nation, while operating in accordance with clear business principles and remaining fiscally responsible and accountable to its membership.
- ◆ The policies set out in this document will continue to be updated, from time to time, as new concerns are identified and new policies are established to address these concerns.
- ◆ This Policy is based on the following principles:
  - ▶ That the transmission of an interest in a Custom Lot from a Member who has died without a Will to a person eligible to receive, is a decision to be made by the Deceased's family.
  - ▶ That the administration of Squamish Nation estate files be concluded in a timely manner.
  - ▶ That the Squamish Nation intestate policy be administered in a cost-effective, service-orientated and accountable manner.
  - ▶ That all Members be treated in as fairly and equally a manner as possible in the transmission of interests in Custom Lots among those eligible to receive.
  - ▶ That the administrative infrastructure be separated from and function independently of the political governance of the Squamish Nation.

## 1. INTERPRETATION

- 1.1 This policy document is to be referred generally as the "Squamish Nation Intestate Policy", and within this document as the "Policy" or the "Intestate Policy".
- 1.2 In this Policy, descendants and relatives of the Deceased who were conceived but not born before the Deceased's death and who are subsequently born, will inherit as if they had been born in the lifetime of the Deceased and had survived the Deceased.

### Application

- 1.3 This Policy applies only to Custom Lots situated on a Squamish Nation Reserve.
- 1.4 This Policy does not apply to reserve land held under a Certificate of Possession or a Notice of Entitlement.

### Definitions

- 1.5 In this Intestate Policy, unless the context otherwise requires:
- (a) "**appeal**" means an appeal made under section 5.2 by an Eligible Heir, or any other Member directly affected by decisions of the Family Council, Land Registry Officer or Director of Registry, as the case may be;
  - (b) "**Appeals Committee**" means the appeals committee appointed by Council under section 5.4;
  - (c) "**Appellant**" means an Eligible Heir, or any other Member of the Nation directly affected by decisions made under this Policy who requests an appeal hearing by filing a *Request for Appeal Hearing*, in the prescribed form, with the Director of Registry under section 5.3.
  - (d) "**Certificate of Possession**" means a document issued by the Minister of Indian and Northern Affairs which states that the holder is entitled, under section 20 of the *Indian Act*, to lawful possession of the lands described in the Certificate;
  - (e) "**Child**" means a child of Indian descent and includes:
    - (i) a biological child;
    - (ii) a child adopted by either:
      - (A) the traditional laws and customs of the Squamish Nation; or
      - (B) the laws of a Province or other legal jurisdiction,
    - (iii) a biological or adopted child who has been fostered out by either:
      - (A) the traditional laws and customs of the Squamish Nation; or

(B) the laws of a Province or other legal jurisdiction,

but does not include:

- (iv) a biological child of the Deceased who has been adopted by another person under any laws; or
- (v) a non-Indian child, who is adopted by the Deceased under any laws.
- (f) **“Council”** means the lawfully elected Councillors of the Squamish Nation;
- (g) **“Council Motion”** means a motion passed at a duly convened meeting of Council;
- (h) **“custom allocation”** means an individual right to use and occupy a portion of the reserve in accordance with the custom of the Nation, granted by Council by way of a Council Motion;
- (i) **“Custom Lot”** means a Lot which has been assigned under custom allocation and which is administered under custom of the Nation and not under the *Indian Act* land registry system;
- (j) **“Deceased”** means a Member who has died intestate;
- (k) **“Director of Registry”** means the Director of the Squamish Nation Registry Department;
- (l) **“Eligible Heir”** means a Member related to the Deceased, as at the date of death, by blood or through adoption and who is among those entitled to be considered to receive an interest in the Custom Lot of the Deceased, and which term is distinguished from heir-at-law;
- (m) **“Family Administrator”** means a person appointed by the Family Council to administer the distribution of the Deceased’s interest in a Custom Lot;
- (n) **“Family Council”** means those persons selected under section 2.4 from the Deceased’s family to choose a Family Administrator and to assist in determining who should receive the Deceased’s interest in a Custom Lot;
- (o) **“INAC”** means the federal department of Indian and Northern Affairs Canada responsible for administering the *Indian Act*;
- (p) **“Indian”** means a person who, under the *Indian Act*, is registered as an Indian or is entitled to be registered as an Indian;
- (q) **“intestate”** means to die either without a Will or without a valid Will;
- (r) **“heir-at-law”** means a person who, under the *Indian Act* or the *BC Estate Administration Act*, has a right to inherit all of the estate of a deceased person

who has died without a Will; and which term is distinguished from an Eligible Heir;

- (s) “**Holdouts**” means those Eligible Heirs described in section 4.11 who have not signed the *Agreement of Heirs*;
- (t) “**joint tenancy**” means the holding of property by two or more persons in such a manner that upon the death of one joint owner, the survivor, or survivors take the entire property; and which term is distinguished from tenancy in common;
- (u) “**Land Registry Officer**” means the officer of the Squamish Nation within the Land Registry Division of the Registry Department, employed by the Nation from time to time;
- (v) “**living separate and apart**” includes where spouses:
  - (i) have lived separate and apart for at least one (1) year;
  - (ii) have entered into a written agreement under which they have agreed to live separate and apart;
  - (iii) have an order of the court recognizing their separation;and shall not be considered to have been interrupted or terminated by reason only that the spouses have resumed cohabitation during a period of, or periods totaling, not more than ninety (90) days with reconciliation as its primary purpose;
- (w) “**Lot**” means a parcel of land to which a Member is recognized as being entitled to use and occupation, which may be legally surveyed and/or serviced, and includes any permanent improvements situated on that parcel of land;
- (x) “**Member**” means a person determined to be a member of the Nation as defined by the *Squamish Nation Membership Code*, as amended from time to time;
- (y) “**Minor Child**” means a child under the age of 18 years;
- (z) “**Notice of Entitlement**” means a document issued by the Minister of Indian and Northern Affairs which states that the holder is entitled to lawful possession of the lands described in the Notice; issued instead of a Certificate of Possession when the lands have not yet been legally surveyed and the allotment is therefore based on a sketch plan and not a legally surveyed plan;
- (aa) “**Permanent Improvements**” means any permanent structure added to or constructed upon a Custom Lot such as a building or Residence, and which will form part of the Custom Lot;
- (bb) “**Personal Representative**” means an administrator of an estate or an executor of a Will;

- (cc) **"Quit Claim"** means to release, relinquish or give up a claim or interest in a Custom Lot;
- (dd) **"Reserve"** means all reserves of the Squamish Nation that are set aside by Her Majesty the Queen in right of Canada as reserves, for the use and benefit of the Squamish Nation;
- (ee) **"Residence"** means a single family accommodation unit and includes a house, duplex or manufactured home;
- (ff) **"Surviving Spouse"** means a person who was either:
  - (i) legally married or united by the traditional laws and customs recognized by the Squamish Nation or any other First Nation, to the Deceased Member, and was not living separate and apart from that Deceased Member at the time of the Member's death; or
  - (ii) living and cohabiting with the Deceased Member in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, for a continuous period of not less than two (2) years and was being publicly represented by each other during this time period as each other's spouse;
- (gg) **"Squamish Nation"** or **"Nation"** means the Squamish Indian Band within the meaning of section 2(1) of the *Indian Act*;
- (hh) **"tenancy in common"** means the holding of property by two or more persons each of whom has an individual interest which interest, upon the death of an owner, passes to the owner's heirs and not to the other survivor or survivors; and which term is distinguished from joint tenancy;
- (ii) **"Will"** means either:
  - (i) a written document signed by a Member in front of two witnesses by which the Member appoints a personal representative and indicates who is to receive his or her property after their death; or
  - (ii) any written document signed by a Member that has been approved by the Minister of Indian and Northern Affairs pursuant to section 45(3) of the *Indian Act*.

## 2. INITIAL PROCESS

### Establishment of a Family Council

- 2.1 Subject to section 2.3, upon the death of a Member who dies without a Will and holds an interest in a Custom Lot, a Family Council for the Deceased must be established as quickly as possible, and in any event no later than 120 days after the date of death of the Deceased.

2.2 The primary purposes of a Family Council is to:

- (a) choose a Family Administrator, and
- (b) assist the Family Administrator in determining who should receive the Deceased's interest in a Custom Lot.

2.3 If the interest of the Deceased in the Custom Lot is to be transferred in accordance with either section 3.1, 3.2 or 3.3, then it is not necessary to establish a Family Council in order to effect the transfer.

### **Composition of a Family Council**

2.4 The following persons will be entitled to form a Family Council of a deceased Member:

- (a) the Deceased's surviving spouse, if any; and
- (b) any surviving children of the Deceased who are the full age of 18 years and the legal representatives of any surviving minor child; or

if the Deceased leaves no survivors as described above, then the following persons will be entitled to form a Family Council:

- (c) any surviving parent of the Deceased; and
- (d) any surviving sibling, or a legal representative of any sibling who have died before the Deceased; or

if the Deceased leaves no survivors as described above, then the following persons will be entitled to form a Family Council:

- (e) any surviving grandparent of the Deceased; and
- (f) any surviving grandchildren of the Deceased; or

if the Deceased leaves no survivors as described above, then the following persons will be entitled to form a Family Council:

- (g) any surviving niece or nephew of the Deceased;

if the Deceased leaves no survivors as described above, then the following persons will be entitled to form a Family Council:

- (h) a minimum of three and maximum of five of the Deceased's closest surviving relatives who are Members and are of the full age of 18 years.

2.5 Notwithstanding section 2.4, those relatives of the Deceased who comprise the Family Council may choose to add any other persons to the Family Council as may be agreed upon by all members of the Family Council.

- 2.6 If a member of the Family Council or an Eligible Heir lacks the capacity to participate in the process for a reason other than being a minor, the person's right to participate may be exercised either by someone who is legally authorized to act for the person or by such other representative as the Family Administrator ultimately deems appropriate.

### **Appointment of a Family Administrator**

- 2.7 The Family Council must as quickly as possible, and in any event no later than 180 days after the date of death of the Deceased, appoint a willing individual to act as Family Administrator to administer the distribution of the Deceased's interest in a Custom Lot.
- 2.8 The Family Administrator need not be a Member.
- 2.9 The Family Administrator may be the same person appointed under the *Indian Act* by INAC as an "Administrator" to administer the estate property of the Deceased which currently excludes the Custom Lot.
- 2.10 No staff member of the Registry Department may act as a Family Administrator for the estate of a Deceased where the staff member's involvement would constitute a conflict of interest.
- 2.11 The Family Administrator is responsible for all decisions and determinations required in the course of the administration and distribution of the interest in the Custom Lot.
- 2.12 Once the Family Administrator is selected pursuant to section 2.7, the Family Council must complete and submit to the Director of Registry an *Appointment of Family Administrator* in prescribed form, which the Director will copy to both the Membership Division and the Land Registry Division of the Registry Department.

### **List of Eligible Heirs**

- 2.13 The Family Administrator must submit a written request to the Squamish Nation Membership Division of the Registry Department for a *List of Eligible Heirs* in prescribed form.
- 2.14 The Family Administrator must make a diligent and careful search to identify and locate all possible Eligible Heirs to the Deceased's Custom Lot, including, where applicable:
- (a) reviewing the family genealogical trees;
  - (b) consulting with Elders; and
  - (c) advertising for Eligible Heirs in two consecutive issues of the Kahtou publication and twice each week for two consecutive weeks in either the Vancouver Sun or the Vancouver Province newspapers and in such additional newspaper publications, community or otherwise, as the Family Administrator deems appropriate.

### **Other Appointments of Family Administrator**

- 2.15 If the Deceased has an interest in a Custom Lot, a Family Administrator may also need to be appointed in any of the following circumstances:
- (a) where a Deceased has left a Will but did not name an executor; or
  - (b) where a Deceased has left a Will naming an executor but the executor is unable or unwilling to act or is dead and no alternate has been named; or
  - (c) where a Deceased has left a Will which is not approved by INAC or probated by the Supreme Court of BC, resulting in an ineffective appointment of executor.

### **3. BASIC ENTITLEMENT: Surviving Spouse**

#### **Joint Tenancy**

- 3.1 If the Custom Lot is held in joint tenancy, then the interest of the Deceased in the Custom Lot does not form part of the estate, but rather passes to all remaining Member joint tenant(s) upon submission to the Land Registry Officer of an original or certified copy of the *Death Certificate* and a completed *Custom Lot Transfer Form*.

#### **Surviving Spouse and No Children**

- 3.2 If the Deceased dies leaving a surviving spouse and no children, then the interest in Custom Lot must be transferred solely to the surviving spouse as the sole Eligible Heir.

#### **Surviving Spouse and Children**

- 3.3 If the Deceased dies leaving a surviving spouse and any children, then it is Squamish Nation Custom that the surviving spouse is the sole Eligible Heir and that the interest in the Custom Lot must be transferred solely to the surviving spouse.

#### **Sole Eligible Heir**

- 3.4 Where there is only one Eligible Heir, the Family Administrator must submit to the Land Registry Officer the *List of Eligible Heirs* and a completed *Custom Lot Transfer Form* for the Custom Lot to be custom allocated by Council to the sole Eligible Heir.
- 3.5 Upon receipt of the documentation set out in sections 3.1 and 3.4, the Land Registry Officer will present the *Custom Lot Transfer Form* to Council and Council will allocate the Custom Lot to the remaining joint tenant(s) or sole Eligible Heir, as the case may be.

#### **Non-Member Spouse**

- 3.6 If the surviving spouse is not a Member and the Deceased dies leaving no children, then although the surviving spouse is not, by definition, an Eligible Heir, the surviving spouse will receive a limited right of occupancy, allowing the right to remain living on the Custom Lot as their primary residence until the earlier of:

- (a) the death of the surviving spouse,
  - (b) the eighteenth anniversary of the Deceased's death,
  - (c) such date as the Family Administrator verifies that the surviving spouse is not residing on and using the Custom Lot as their primary residence, or
  - (d) such date as the surviving spouse advises the Family Administrator, in writing, that he/she no longer intends to remain living on the Custom Lot.
- 3.7 If the surviving spouse is not a Member and the Deceased dies leaving any children, then although the surviving spouse is not, by definition, an Eligible Heir, the surviving spouse will receive a limited right of occupancy, allowing the right to remain living on the Custom Lot as their primary residence until the earlier of:
- (a) the death of the surviving spouse,
  - (b) the eighteenth anniversary of the Deceased's death,
  - (c) the date the Deceased's youngest child attains the age of majority,
  - (d) such date as the Family Administrator verifies that the surviving spouse is not residing on and using the Custom Lot as their primary residence, or
  - (e) such date as the surviving spouse advises the Family Administrator, in writing, that he/she no longer intends to remain living on the Custom Lot.
- 3.8 The limited right of occupancy granted to a non-Member surviving spouse is not transferable.

### **Transfer of Custom Lot**

- 3.9 Upon termination of the limited right of occupancy described in sections 3.6 & 3.7, the Family Council must choose a Member to receive the Deceased's interest in the Custom Lot and then the Family Administrator must submit to the Land Registry Officer the following documentation:
- (a) the *List of Eligible Heirs*;
  - (b) a completed *Agreement of Eligible Heirs*; and
  - (c) a completed *Custom Lot Transfer Form* for the Custom Lot.
- 3.10 Upon receipt of the documentation set out in section 3.9, the Land Registry Officer will present the *Custom Lot Transfer Form* to Council and Council will custom allocate the Custom Lot to the Member chosen by the Family Council.

### **No Eligible Heirs**

- 3.11 If the Deceased leaves no next of kin and thus there are no Eligible Heirs, then the interest in the Custom Lot will revert back to and for the benefit of the Nation and the Land Registry Officer will recommend that a custom allocation of the Custom Lot to the Nation be approved by Council.

#### **4. BEYOND BASIC ENTITLEMENT: Persons Eligible to Apply**

##### **More than one Eligible Heir**

- 4.1 If there is no surviving spouse and there is more than one Eligible Heir, then the Family Council must meet as quickly as possible, within one year of the Deceased's date of death, to discuss the disposition of the Custom Lot.
- 4.2 The Family Council and Eligible Heirs must decide, within two years of the Deceased's date of death, which individual or individuals will be granted the custom allocation of the Custom Lot, provided only a maximum of two persons are chosen. The person or persons chosen to receive the interest in the Custom Lot must be a Member, but need not be an Eligible Heir.

##### **Agreement of Eligible Heirs**

- 4.3 Once the Family Administrator submits to the Land Registry Officer the following:
- (a) the *List of Eligible Heirs* in prescribed form; and
  - (b) the *Family Administrator's Affidavit* in prescribed form; and

the Land Registry Officer will provide to the Family Administrator the appropriate *Agreement of Eligible Heirs* in prescribed form which each Eligible Heir will sign.

- 4.4 The *Agreement of Eligible Heirs* stipulates clearly that the Eligible Heir quit claims and renounces any interest in the Custom Lot, which Custom Lot likely represents only a portion of the Deceased's estate property, and consents to transfer of the Custom Lot to the Member chosen by the Family Council.
- 4.5 As only Members are entitled to be allocated a Custom Lot, only Eligible Heirs need execute an *Agreement of Eligible Heirs*.
- 4.6 The Family Administrator will then either hand deliver or send by registered mail to each Eligible Heir identified a copy of the *Agreement of Eligible Heirs* document and request each of them to sign the *Agreement of Eligible Heirs*, which can be signed in counterpart.

##### **Agreement by all Eligible Heirs**

- 4.7 Once the Family Administrator has arranged for all the Eligible Heirs to respectively sign the *Agreement of Eligible Heirs*, then the Family Administrator must submit to the Land Registry Officer the following documentation:

- (a) the *Agreement of Eligible Heirs*;
- (b) an *Affidavit of Service* in prescribed form in respect of each Eligible Heir; and
- (c) a completed *Custom Lot Transfer Form* for the Custom Lot to be custom allocated by Council to the chosen Member.

4.8 Upon receipt of the documents set out in section 4.7, the Land Registry Officer will present the *Custom Lot Transfer Form* to Council and Council will custom allocate the Custom Lot to the chosen Member.

#### **Agreement by Less than 100% of the Eligible Heirs**

- 4.9 Council will not approve the allocation of the Custom Lot to the chosen Member unless the signatures of all the Eligible Heirs on an *Agreement of Eligible Heirs* have been obtained.
- 4.10 If any one or more of the Eligible Heirs do not wish to quit claim and renounce their interest in the Custom Lot and consent to its transfer, then Council will not approve the custom allocation of the Custom Lot to the Member chosen to receive it until either:
- (a) the thirty (30) day appeal period has expired without an appeal hearing being requested, or
  - (b) a duly requested appeal has been resolved by the Appeals Committee.

#### **Greater than 75% Agreement**

- 4.11 If 75% or greater of the Eligible Heirs have signed the *Agreement of Eligible Heirs*, then the Family Administrator will send a *Notice of Intention to Proceed* in prescribed form by registered mail to those Eligible Heirs who have not signed the Agreement.
- 4.12 The *Notice of Intention to Proceed* will advise the Holdouts that the Family Administrator intends to request Council to, upon expiry of a thirty (30) day period from the date of sending the *Notice*, allocate the Eligible Heirs' interest in the Custom Lot to the chosen Member without any further consideration to those Holdouts who have refused to sign the *Agreement of Eligible Heirs*. The Family Administrator will consequently swear an *Affidavit of Notice* in prescribed form.

#### **Right to Appeal**

- 4.13 The Holdouts described in section 4.11 who refuse to sign an *Agreement of Eligible Heirs* or any other Member directly affected by the decision of the Family Council may appeal the decision of the Family Council in respect of the disposition of the Custom Lot, before expiry of the thirty (30) day period described in section 4.12.

#### **Custom Lot Returned to the Nation**

- 4.14 If within two years of the Deceased's death the Family Council has not reached a decision on the disposition of the Custom Lot or has reached a decision but less that

75% of the Eligible Heirs have signed the *Agreement of Eligible Heirs*, then the Custom Lot will revert back to the Nation for the benefit of the Nation without any compensation to the Deceased's estate.

- 4.15 Failure to reach a decision as described in section 4.14 within the stated time period will result in the Land Registry Officer recommending that a custom allocation of the Custom Lot to the Nation be approved by Council.

#### **Extension of Limitation Period**

- 4.16 Upon the request of the Family Administrator, the Director of Registry may grant the Family Council a six month extension of the two year limitation period, but in any event the Family Council will be entitled to only two extensions of six months each. The Family Administrator must provide written reasons as to why an extension is required.

#### **Estate Administration Expenses**

- 4.17 All expenses attributable to administering the Deceased's Estate, including but not limited to retaining legal advisors, financial advisors and other persons to assist in the estate administration, will be borne by either the Deceased's Estate or the Family Council, or both, but in any event will not be borne by the Nation.

### **5. APPEALS PROCESS**

- 5.1 There is no right of appeal to Council or any other body from decisions of the Family Administrator, Family Council and Land Registry Officer, except as provided in this Policy.
- 5.2 The following decisions may be appealed to the Appeals Committee by an Eligible Heir or any other Member directly affected by such decision:
- (a) a decision of the Family Council to select a Member or Members to receive custom allocation of the Deceased's interest in a Custom Lot under section 4.13;
  - (b) a decision of the Land Registry Officer to recommend custom allocation of a Custom Lot to the Nation be approved by Council under section 4.15; and
  - (c) a decision of the Director of Registry not to grant the Family Council a six month extension of the two year limitation period under section 4.16.
- 5.3 An appeal must be in writing in prescribed form, the *Request for Appeal Hearing* form must be signed by the Appellant and must be delivered to the Director of Registry within thirty (30) days of the decision being appealed having been made, or such other period of time as set out in this Policy.
- 5.4 An Appeals Committee must be established by Council Motion and must consist of five Members and may include an additional two Members, identified to act as Alternates, each appointed for a four (4) year term.

- 5.5 Quorum for the Appeals Committee will be four persons.
- 5.6 No member of the Appeals Committee may participate in any proceeding where the member's participation would constitute a conflict of interest.
- 5.7 The Appeals Committee will review the Appellant's summary of the appeal and will either grant or decline the appeal and will provide written reasons of their decision.
- 5.8 The Appeals Committee's decision and reasons will be provided to the Director of Registry for distribution to the Appellant who initiated the appeal.
- 5.9 The Appeals Committee may, in its discretion, obtain legal advice on any question of law or procedure relating to the discharge of their duties.
- 5.10 A member or Alternate of the Appeals Committee may only sit for four (4) consecutive terms, not to exceed a total of sixteen (16) years.

## **6. AMENDMENT TO THIS POLICY**

- 6.1 Subject to the Objectives and Principles set out above, this Policy may only be amended by Council Motion.
- 6.2 Council is responsible for approving procedural guidelines and policies established in respect of this Policy.
- 6.3 Any amendments to this Policy must be made available to Members within a reasonable time period following approval by Council.

## **7. CROSS-REFERENCE TO OTHER POLICIES**

- 7.1 In the event of a conflict between a provision of this Policy and a provision in any Squamish Nation Bylaw, the provisions of the Bylaw will prevail to the extent of the conflict.

## **8. GENERAL**

- 8.1 No condoning, excusing or overlooking by the Nation of any default, breach or non-observance by a Member or by the Nation at any time in respect of any term or condition contained in this Policy will operate as a waiver of the Nation's rights set out in this Policy in respect of any continuing or subsequent default, breach or non-observance or so as to defeat or affect in any way the rights of the Nation in respect of any such continuing or subsequent default or breach.
- 8.2 No waiver will be implied by or inferred from anything either done or not done by the Nation, excepting only an express waiver in writing.

**9. FORMS AND DOCUMENTS**

9.1 The following are a list of some of the prescribed forms and related documents required by this Policy:

- Form 1 - Appointment of Family Administrator;
- Form 2 - Replacement of Family Administrator;
- Form 3 - List of Eligible Heirs;
- Form 4 - Affidavit of Family Administrator;
- Form 5a - Agreement of Eligible Heirs (solo)
- Form 5b - Agreement of Eligible Heirs (multi)
- Form 6 - Affidavit of Service;
- Form 7 - Notice of Intention to Proceed;
- Form 8 - Affidavit of Notice;
- Form 9 - Request for Appeal Hearing;
- Form 10a - Letter to Appellant (Decision);
- Form 10b - Letter to Appellant (Deadline);
- Form 10c - Letter to Administrator (Deadline);

## SCHEDULE "A"

### DETERMINATION OF ELIGIBLE HEIRS

- 1.1 The ELIGIBLE HEIRS of the Deceased's estate are Members related to the Deceased, as at the date of death, by blood or through adoption and who are among those entitled to be considered to receive an interest in the Custom Lot of the Deceased.
- 1.2 For the purpose of determining Members entitled to be considered to receive an interest in the Custom Lot of the Deceased, Eligible Heirs under section 4.2 are determined as follows:
  - (a) If the Deceased leaves a surviving spouse and no children, then the sole Eligible Heir is the Deceased's surviving spouse;
  - (b) If the Deceased leaves a surviving spouse and any children then the sole Eligible Heir is the Deceased's surviving spouse;
  - (c) If the Deceased leaves children but no surviving spouse, then the Eligible Heirs are the children;
  - (d) If the Deceased leaves no surviving spouse or children, then the Eligible Heirs are the Deceased's mother and father, or the survivor of them;
  - (e) If the Deceased leaves no surviving spouse, children or parent, then the Eligible Heirs are the Deceased's surviving brothers and sisters;
  - (f) If the Deceased leaves no surviving spouse, children, parent, brother or sister, then the Eligible Heirs are the Deceased's surviving grandparents;
  - (g) If the Deceased leaves no surviving spouse, children, parent, brother, sister or grandparent, then the Eligible Heirs are the Deceased's surviving grandchildren;
  - (h) If the Deceased leaves no surviving spouse, children, parent, brother, sister, grandparent or grandchild, then the Eligible Heirs are the Deceased's surviving nieces and nephews;
  - (i) If the Deceased leaves no surviving spouse, children, parent, brother, sister, grandparent, grandchild, nieces or nephews, then the Eligible Heirs are the Deceased's surviving first cousins; and
  - (j) If the Deceased leaves no surviving spouse, children, parent, brother, sister, grandparent, grandchild, nieces, nephews or first cousins, then there are no Eligible Heirs.

**END OF DOCUMENT**