

Mihtatakaw Sîpiy Awasak Wiyasiwêwin

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(Alberta only)

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1. PREAMBLE

WHEREAS:

- A. Driftpile Cree Nation wishes to create a safe, healthy, and caring community where Awasak are safe, happy, thriving, and growing up with their Family, community, language, and culture;
- B. the spirit and intent of this document is to affirm Driftpile Cree Nation's inherent right to self-determination, which includes the sacred responsibility to nurture and protect the well-being of our Awasak and Families;
- C. Driftpile Cree Nation has entered into a treaty relationship with the Crown, and the spirit and intent of the Treaty must be honoured and respected;
- D. Driftpile Cree Nation has the right to practice and revitalize our values, principles, customs, language, and spiritual practices. This includes the right to maintain, protect and develop the past, present and future manifestations of our distinct cultural identity;
- E. the impact of intergenerational trauma and systemic injustice on our families and communities is acknowledged. A compassionate, sensitive, and holistic approach is needed to support the well-being of our Awasak and to address their physical, emotional, and psychological needs. We seek to preserve our Families and distinct identity through the provision of culturally responsive and community-driven services founded on the wisdom and strengths of our ancestors;
- F. all Awasak have the right to be loved, respected and treated with dignity, and to be heard;
- G. our Awasak are our most precious resource, and the foundation of our future; and
- H. it is our duty to always act in the best interests of our Awasak.

NOW THEREFORE Driftpile Cree Nation, with the approval of Chief and Council and its Members, enacts as follows:

2. CITATION

- 2.1 This Act shall be cited as the "Mihtatakaw Sîpiy Awasak Wiyasiwêwin".

3. INTERPRETATION AND DEFINITIONS

- 3.1 In this Act, unless the context otherwise requires:
 - (a) the singular includes the plural, and the plural includes the singular;
 - (b) a reference to one gender includes reference to other genders; and
 - (c) "shall" and "must" are imperative.

3.2 In this Act,

- (a) “**Access Agreement**” means an agreement pursuant to section 8.4;
- (b) “**Act**” means the Mihtatakaw Sîpiy Awasak Wiyasiwêwin;
- (c) “**Appeal**” means an appeal commenced under section 11.14;
- (d) “**Appeal Hearing**” means the hearing process to determine an Appeal;
- (e) “**Appeal Panel**” means the panel appointed pursuant to section 11.26(a);
- (f) “**Appellant**” means a person who commences an appeal under section 11.14;
- (g) “**Approval Resolution**” means a Resolution setting out the process by which the Members may approve the Act;
- (h) “**Approved Kanawêyimâwasow**” means a person approved to operate a Care Home;
- (i) “**Awasak ôh-nâtamâkêw**” means the person appointed under section 6.16;
- (j) “**Awasis**” or “**Awasak**” means a person or persons, respectively, up to and including the age of 18 years:
 - (i) who is a Member, or is entitled to become a Member; or
 - (ii) to whom this Act applies pursuant to the Service Delivery Agreement, a Coordination Agreement, or other form of agreement with a province or Indigenous government;
- (k) “**Awasis and Family Services**” means social services to support Awasak and Families, including Prenatal Services, Preventive Services and Awasis Protection Services;
- (l) “**Awasis and Family Services Program**” means the program set out in section 8;
- (m) “**Awasis Protection Services**” means any Service provided to an Awasis who is in the Kanawêyim of the Nîkâni-kaskihcikêw;
- (n) “**Board**” or “**Board of Governors**” means the Board of Governors of the Chief Kinosêw Awasak Mîkiwâhp appointed pursuant to section 6.9 of the Act;
- (o) “**Care Home**” means a place that provides contracted care to an Awasis in the Kanawêyim of the Nîkâni-kaskihcikêw or an authority responsible for the administration of Awasis protection legislation in another province or

territory of Canada and includes a secure home, a foster home, and a group home, but does not include a facility that primarily provides medical care, educational services, or correctional services;

- (p) **“Care Home Approval”** means an approval pursuant to section 8.20;
- (q) **“Chair”** means the chair of the Miyo-Wîcêhtowin Onâtamâkêw;
- (r) **“Charter of Rights and Freedoms”** means Part 1 of the *Constitution Act, 1982*;
- (s) **“Chief and Council”** means the duly elected Chief and Council of Driftpile Cree Nation;
- (t) **“Chief Kinosêw Awasak Mîkiwâhp”** means the organization incorporated on May 29, 2023 pursuant to the *Canada Not-for-Profit Corporations Act* (corporation # 1506820-7) and, depending on the context, its authorized representatives;
- (u) **“Coordination Agreement”** means a coordination agreement as defined in *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24;
- (v) **“Court”** includes any federal, provincial, or indigenous administrative tribunal or court;
- (w) **“Customary Care”** means a voluntary, culturally grounded caregiving arrangement in which an Awasis is cared for by a trusted Family member or Member, rooted in the principle of least disruption and guided by mutual respect, community involvement, and the traditions of the DCN;
- (x) **“Day”** means a calendar day ending at midnight, Alberta time;
- (y) **“Decision”** means a decision:
 - (i) to provide or withhold financial assistance pursuant to section 8.1(l);
 - (ii) to enter into or terminate a Kanawêyim Agreement pursuant to section 8.3(a);
 - (iii) to enter into or terminate an Access Agreement pursuant to section 8.4(a);
 - (iv) to provide Awasis Protection Services pursuant to section 8.9(c);
 - (v) to Paminêw an Awasis pursuant to section 8.12(a);

- (vi) on Kanawêyim after Paminêw pursuant to section 8.16(a);
- (vii) on who has access to an Awasis who has been Paminêw pursuant to section 8.16(b);
- (viii) to approve a Care Home application pursuant to section 8.20(b);
- (ix) to vary the terms or conditions to which a Care Home Approval is subject pursuant to section 8.21;
- (x) to vary, suspend, or cancel a Care Home Approval and terminate the Care Home Approval holder's contract with the Chief Kinosêw Awasak Mîkiwâhp to provide Care Home services pursuant to section 8.25; and
- (z) **"Decision Maker"** means a person who makes a Decision;
- (aa) **"Driftpile Cree Nation"** or **"DCN"** means Driftpile Cree Nation #450;
- (bb) **"Enacting Resolution"** means a Resolution enacting the Act;
- (cc) **"Family"** means the following:
 - (i) certain kinship of the Awasis, namely the mother, father, siblings, grandparents, aunts and uncles, whether by blood, adoption or marriage; and
 - (ii) any person who, prior to the involvement of the Nîkâni-kaskihcikêw, assumed substantial responsibility for raising the Awasis;
- (dd) **"Governor"** or **"Governors"** means any individual member or members of the Board;
- (ee) **"Indigenous Community"** means an indigenous group, community, or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*;
- (ff) **"Kanawêyim"** means keeping an Awasis, and includes custody and guardianship;
- (gg) **"Kanawêyim Agreement"** means an agreement pursuant to section 8.3;
- (hh) **"Kanawêyimâwasow"** means a person who has primary responsibility for providing the day-to-day care of an Awasis, other than the Awasis's Parents, including persons who are Kanawêyimâwasows in accordance with the

customs and traditions of DCN, but does not include an Approved Kanawêyimâwasow;

- (ii) **“Mediation”** means alternative dispute resolution and includes talking circles, sharing circles and healing circles;
- (jj) **“Member”** means any person whose name appears or is entitled to appear on the membership list of DCN;
- (kk) **“Minor Parent”** means a mother or father who is under the age of 18;
- (ll) **“Miyo-Wîcêhtowin Onâtamâkêw”** means the dispute resolution tribunal established in section 11;
- (mm) **“Nîkâni-kaskihcikêw”** means the person hired and designated by the Chief Kinosêw Awasak Mîkiwâhp as a director for the purposes of this Act;
- (nn) **“Oski-iyinîs”** means a person or persons aged 18 years up to and including 26 years:
 - (i) who is a Member, or is entitled to become a Member; or
 - (ii) to whom this Act applies pursuant to the Service Delivery Agreement, a Coordination Agreement, or other form of agreement with a province or Indigenous government;
- (oo) **“Paminêw”** means to remove an Awasis from the Kanawêyim of a person and place the Awasis in the Kanawêyim of the Nîkâni-kaskihcikêw;
- (pp) **“Parent”** means:
 - (i) the mother of an Awasis;
 - (ii) the father of an Awasis; or
 - (iii) a person who has Kanawêyim of the Awasis by Court order, Miyo-Wîcêhtowin Onâtamâkêw order, or agreement with the Parent.
- (qq) **“Peace Officer”** means a member of a Police Service;
- (rr) **“Police Service”** means
 - (i) the Royal Canadian Mounted Police;
 - (ii) any provincial or municipal police service established by statute; or
 - (iii) a police service established by Resolution;

- (ss) **“Prenatal Services”** means services provided to an expectant mother;
- (tt) **“Preventive Services”** means services offered to Awasak and their Families in order to keep Awasak and Families together, and includes Customary Care, counselling, guidance, educational, recreational, well-being and customary shelter services, including related financial or material assistance, in order to aid in the resolution of family matters which if unresolved may create an environment requiring Awasak Protection Services, as set out in section 8.1;
- (uu) **“Reasons”** means the written reasons of the Appeal Panel for its decision pursuant to section 11.41;
- (vv) **“Reserve”** means any tract or tracts of land set apart by treaty or otherwise designated for the use and benefit of DCN and its Members;
- (ww) **“Resolution”** means a resolution or motion of Chief and Council passed at a duly convened meeting;
- (xx) **“Rules”** means the Miyo-Wîcêhtowin Onâtamâkêw’s rules of practice and procedure adopted pursuant to section 11.12(a);
- (yy) **“Service Delivery Agreement”** means the service delivery agreement among DCN and His Majesty the King in Right of Canada as represented by the Minister of Indigenous Services Canada effective as of March 17, 2025, as may be amended from time to time;
- (zz) **“Services”** includes financial assistance;
- (aaa) **“Vice-Chair”** means the vice-chair of the Miyo-Wîcêhtowin Onâtamâkêw; and
- (bbb) **“Wiyasiwêwinihk”** means by-laws governing the affairs of the Chief Kinosêw Awasak Mîkiwâhp.

4. **PURPOSE OF THE ACT**

4.1 The purposes of this Act are to:

- (a) affirm the jurisdiction and legislative authority of Driftpile Cree Nation over Awasak and Family Services for its Members;
- (b) establish the Chief Kinosêw Awasak Mîkiwâhp to provide the Awasak and Family Services Program on behalf of DCN;
- (c) set out the principles applicable to the interpretation of this Act and the provision of the Awasak and Family Services Program;

- (d) outline the components of the Awasis and Family Services Program;
- (e) establish the Miyo-Wîcêhtowin Onâtamâkêw and set out its jurisdiction and powers over disputes regarding the operation of the Awasis and Family Services Program;
- (f) provide for the execution of the Service Delivery Agreement and any Coordination Agreements; and
- (g) other related purposes.

5. **RIGHTS AND JURISDICTION OF DRIFTPILE CREE NATION**

5.1 Affirmation

The inherent right to self-government as exercised and affirmed by the United Nations Declaration on the Rights of Indigenous Peoples, and section 35 of the *Constitution Act, 1982* includes jurisdiction in relation to Awasis and Family Services, including legislative authority in relation to those services, and authority to administer and enforce laws made under DCN legislative authority.

5.2 Dispute Resolution Mechanisms

For greater certainty and for the purposes of 5.1, the authority to administer and enforce laws includes the authority to provide for dispute resolution mechanisms.

5.3 Application of Charter of Rights and Freedoms

The Charter of Rights and Freedoms applies to Driftpile Cree Nation in the exercise of jurisdiction in relation to Awasis and Family Services on behalf of DCN.

5.4 Scope

- (a) This Act and the Awasis and Family Services Program shall apply to all Members and their Awasak, whether they are residing on or off the Reserve.
- (b) This Act and the Awasis and Family Services Program may apply to other persons, pursuant to the Service Delivery Agreement and any Coordination Agreements.

6. **CHIEF KINOSÊW AWASAK MÎKIWÂHP**

6.1 Chief Kinôsêw Awasak Mîkiwâhp Established

- (a) The Chief Kinôsêw Awasak Mîkiwâhp shall engage employees for the purpose of carrying on the business of the Chief Kinôsêw Awasak Mîkiwâhp and may determine their conditions of service.

- (b) The Chief Kinosêw Awasak Mîkiwâhp shall maintain its head office on the Reserve.
- (c) The fiscal year of the Chief Kinosêw Awasak Mîkiwâhp shall run from April 1st of each year to March 31st of the following year.
- (d) Subject to this Act, Chief and Council may pass Resolutions:
 - (i) expanding or clarifying the powers, duties, or functions to be exercised or performed by the Chief Kinosêw Awasak Mîkiwâhp; or
 - (ii) imposing limits on the powers, duties, or functions to be exercised or performed by the Chief Kinosêw Awasak Mîkiwâhp.

6.2 Objects of Chief Kinosêw Awasak Mîkiwâhp

The objects of Chief Kinosêw Awasak Mîkiwâhp are to:

- (a) advocate for, develop and deliver the Awasis and Family Services Program, including Awasis and Family Services and approval of Care Homes for Awasak and Families both on and off the Reserve, in accordance with this Act, and in such a manner that is DCN specific, DCN determined and community-based;
- (b) develop and deliver an Awasis and Family Services Program, including Awasis and Family Services and approval of Care Homes, for persons who are resident on the Reserve but are not Members in a manner that respects their familial, cultural, social and religious heritage and beliefs;
- (c) negotiate, enter into, administer and generally deal with agreements with the private sector affecting Awasak and Families and, with the approval of Chief and Council, with the various levels of government;
- (d) negotiate, enter into, administer and generally deal with agreements with the private sector affecting the Awasak and Families of persons who are not Members and, with the approval of Chief and Council, with the various levels of government;
- (e) act as the representative of DCN before the Courts and with all levels of government for the review, advocacy, development and implementation of:
 - (i) this Act;
 - (ii) the calls to action of the Truth and Reconciliation Commission and Missing and Murdered Indigenous Women and Girls Commission;

- (iii) the Articles of the United Nations Declaration of the Rights of Indigenous Peoples;
 - (iv) the existing and ongoing findings and orders of the Canadian Human Rights Tribunal in its decision rendered on January 26, 2016 (*First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2) and the findings and orders in all subsequent Canadian Human Rights Tribunal decisions related to indigenous Awasak;
 - (v) Jordan's Principle; and
 - (vi) other entities as may be determined by Resolution;
- (f) liaise with non-indigenous, Métis, and non-status indigenous people as individuals or groups to improve Awasak and family programs and services;
 - (g) acquire lands, by purchase or otherwise, and to erect or otherwise provide a building or buildings for office, social, community and other purposes both on and off the Reserve;
 - (h) provide all necessary equipment and furniture for carrying on its various objects;
 - (i) accept gifts and raise funds by any lawful means to achieve the objects of the Chief Kinosêw Awasak Mîkiwâhp;
 - (j) conduct these activities and achieve these objects on a not-for-profit basis; and
 - (k) do everything reasonably necessary, suitable, proper, convenient, or incidental to these activities and objects.

Nothing in these objects shall be construed so as to abrogate or derogate from the inherent rights, including aboriginal and treaty rights, of DCN.

6.3 Chief Kinosêw Awasak Mîkiwâhp Funding

- (a) Chief and Council may, by Resolution, transfer money to the Chief Kinosêw Awasak Mîkiwâhp for the purposes of the Chief Kinosêw Awasak Mîkiwâhp objects.
- (b) The Chief Kinosêw Awasak Mîkiwâhp may, if approved by Resolution, receive funding directly from the federal or provincial governments and any other agencies, entities, or First Nations.

6.4 Borrowing and Guarantees

- (a) The Chief Kinosêw Awasak Mîkiwâhp shall not borrow money except in accordance with a Resolution.
- (b) The Chief Kinosêw Awasak Mîkiwâhp shall not give guarantees.

6.5 Indemnification

- (a) The Chief Kinosêw Awasak Mîkiwâhp shall, subject to the terms of any Resolution, indemnify:
 - (i) a present or former Governor or officer of the Chief Kinosêw Awasak Mîkiwâhp;
 - (ii) a person who acts or has acted at the request of the Chief Kinosêw Awasak Mîkiwâhp;
 - (iii) an employee or former employee, including a Nîkâni-kaskihcikêw or former Nîkâni-kaskihcikêw, of the Chief Kinosêw Awasak Mîkiwâhp; and
 - (iv) the heirs, estate and trustees of a person referred to in paragraphs (i)-(iii),

against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal, or administrative action or proceeding to which that person is made a party by reason of holding such a position, if that person acted honestly, in good faith and with a view to the best interests of the Chief Kinosêw Awasak Mîkiwâhp, and in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, if that person had reasonable grounds for believing that the conduct that is the subject of the action or proceeding was lawful.

- (b) The Chief Kinosêw Awasak Mîkiwâhp shall not provide indemnities other than those:
 - (i) authorized by section 5.5(a); or
 - (ii) provided in accordance with a Resolution.

6.6 Nîkâni-kaskihcikêw

- (a) The Chief Kinosêw Awasak Mîkiwâhp shall designate a qualified person to act as the Nîkâni-kaskihcikêw for the purposes of this Act.

6.7 Delegation to Nîkâni-kaskihcikêw

- (a) The Nîkâni-kaskihcikêw is authorized to receive any authority delegated to an official by any government or Awasis welfare authority relating to an Awasis who is in the custody or under the guardianship of that government or authority.
- (b) The Nîkâni-kaskihcikêw is authorized to receive any authority under any provincial legislation relating to an Awasis.

6.8 Delegation from Nîkâni-kaskihcikêw

- (a) The Nîkâni-kaskihcikêw may delegate any power, duty or function of the Nîkâni-kaskihcikêw under this Act to any of the following:
 - (i) a person employed or engaged in the administration of this Act;
 - (ii) a person who is providing care to an Awasis in respect of that Awasis; or
 - (iii) any other person.

6.9 Board of Governors

- (a) There shall be a Board of Governors consisting of up to 7 members appointed by Resolution.
- (b) The Board shall designate one of the Governors as the chair of the Board.
- (c) The Board may determine the remuneration and other expenses payable to Governors.

6.10 Governor

- (a) A Governor holds office for a term fixed in the Resolution appointing the Governor, which term must not exceed 4 years.
- (b) A Governor shall not serve on the Board for more than 2 consecutive terms.
- (c) A Governor ceases to hold office when:
 - (i) the Governor resigns;
 - (ii) the Governor's appointment expires; or
 - (iii) the Governor's appointment is terminated by the Chief and Council by Resolution for cause.

- (d) A Governor's resignation becomes effective when it is received by the chair of the Board, in writing, or at the time specified in the resignation, whichever is later.
- (e) The chair of the Board shall send a copy of a resignation of a Governor to the Chief and Council forthwith.
- (f) Notwithstanding (a) and (b), where a Governor's appointment expires, the Governor continues to hold office until:
 - (i) the Governor is reappointed; or
 - (ii) a successor is appointed, whichever occurs first.
- (g) In determining the term of an appointment, the Chief and Council shall have regard to the desirability of having no more than 1/3 of the appointments expire in any one year.
- (h) In making an appointment, the Chief and Council shall have regard to the desirability of having a Board that consists of individuals who, in the aggregate, have the full range of skills, knowledge and experience necessary to effectively lead the Chief Kinosêw Awasak Mîkiwâhp in achieving its objectives.

6.11 Board Powers

- (a) The Board shall supervise the management of the business and affairs of the Chief Kinosêw Awasak Mîkiwâhp, in accordance with the Act and Wiyasiwêwinihk.

6.12 Wiyasiwêwinihk

- (a) The Board may recommend to Chief and Council that Chief Kinosêw Awasak Mîkiwâhp adopt or amend Wiyasiwêwinihk to govern:
 - (i) the business and affairs of the Chief Kinosêw Awasak Mîkiwâhp;
 - (ii) the calling and conducting of Board and committee meetings and the conduct of the business of the Board and committees generally; and
 - (iii) practice standards and procedures, subject to the principles and requirements of this Act.
- (b) Adoption of Wiyasiwêwinihk, or any amendments thereto, must be authorized by Resolution.

6.13 Kwayask Kâ-tôtamihk Wiyasiwêwin

- (a) Every Governor, officer, Nîkâni-kaskihcikêw and employee of the Chief Kinosêw Awasak Mîkiwâhp shall, in exercising powers and performing their duties:
 - (i) act honestly and in good faith and with a view to the best interests of the Awasak;
 - (ii) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
 - (iii) comply with this Act, any Resolutions and the Wiyasiwêwinihk of the Chief Kinosêw Awasak Mîkiwâhp.
- (b) No provision in any contract, resolution, or bylaw relieves any Governor, officer, Nîkâni-kaskihcikêw or employee of the Chief Kinosêw Awasak Mîkiwâhp from the duty to act in accordance with this Act and any Resolutions.

6.14 Disclosure of Information

- (a) Chief and Council may request from the Chief Kinosêw Awasak Mîkiwâhp any information, excluding personal information, that the Chief and Council considers necessary, and the Chief Kinosêw Awasak Mîkiwâhp shall disclose the information in the form and manner determined by the Chief and Council.
- (b) Subject to (a), the Chief Kinosêw Awasak Mîkiwâhp shall allow the Chief and Council's representative to:
 - (i) inspect and make copies of all records, accounts, reports and other documents for the Chief and Council and, in the case of an electronic document, make or cause to be made a printout of the electronic document; and
 - (ii) otherwise review the operations of the Chief Kinosêw Awasak Mîkiwâhp.
- (c) If the information relates to Awasak, Oski-iyinîs and Families receiving any services from the Chief Kinosêw Awasak Mîkiwâhp, the information is to be treated as having been provided in confidence.

6.15 Powers of the Board

- (a) The Board may, after giving notice to Chief and Council, make resolutions consistent with this Act and any applicable Wiyasiwêwinihk:

- (i) respecting investment by the Chief Kinosêw Awasak Mîkiwâhp and terms and conditions of agreements entered into by the Chief Kinosêw Awasak Mîkiwâhp;
- (ii) respecting the borrowing of money by the Chief Kinosêw Awasak Mîkiwâhp under section 6.4;
- (iii) respecting indemnities referred to in section 6.5, any terms and conditions of an indemnity and the circumstances and manner in which an indemnity may be given;
- (iv) respecting conflict of interest guidelines, codes of conduct and any other guidelines and policies in respect of Governors, officers, Nîkâni-kaskihcikêw and employees of the Chief Kinosêw Awasak Mîkiwâhp;
- (v) requiring the Chief Kinosêw Awasak Mîkiwâhp to prepare records and accounts and to provide them to the Chief and Council, and respecting those records and accounts;
- (vi) regarding charging for services; and
- (vii) respecting generally the operations of the Chief Kinosêw Awasak Mîkiwâhp.

6.16 Awasak ôh-nâtamâkêw

- (a) The Board may designate a person to be the Awasak ôh-nâtamâkêw, with such compensation as may be approved by the Board.
- (b) The Awasak ôh-nâtamâkêw may:
 - (i) communicate and visit with an Awasis;
 - (ii) at the request of an Awasis or the Nîkâni-kaskihcikêw, participate in a Mediation and/or Appeal;
 - (iii) at the request of an Awasis or the Nîkâni-kaskihcikêw, consult with the Nîkâni-kaskihcikêw in regards to a Decision; and
 - (iv) perform any other function prescribed by the Chief Kinosêw Awasak Mîkiwâhp.

7. **PRINCIPLES AND REQUIREMENTS OF THE AWASIS AND FAMILY SERVICES PROGRAM**

7.1 Best Interests of the Awasis

This Act is to be interpreted and administered in accordance with the principle of the best interests of the Awasis, in particular:

- (a) the best interests of the Awasis must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of Awasis and Family Services in relation to an Awasis and, in the case of decisions or actions related to placing an Awasis into Paminêw, the best interests of the Awasis must be the paramount consideration; and
- (b) primary consideration must be given to the Awasis's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that Awasis, of having an ongoing relationship with her Family and with the Driftpile Cree Nation or people to which she belongs and of preserving the Awasis's connections to her culture.

7.2 Factors to be Considered

To determine the best interests of an Awasis, all factors related to the circumstances of the Awasis must be considered, including:

- (a) the Awasis's cultural, linguistic, religious and spiritual upbringing and heritage;
- (b) the Awasis's needs, given the Awasis's age and stage of development, including but not limited to the Awasis's need for stability;
- (c) the nature and strength of the Awasis's relationship with the Awasis's Parent and any Family member who plays an important role in the Awasis's life;
- (d) the importance to the Awasis of preserving the Awasis's cultural identity and connections to the language and territory of Driftpile Cree Nation or community to which the Awasis belongs;
- (e) the Awasis's views and preferences, giving due weight to the Awasis's age and maturity, unless they cannot be ascertained;
- (f) any plans for the Awasis's care, including care in accordance with the customs or traditions of DCN or community to which the Awasis belongs;
- (g) any family violence and its impact on the Awasis, including whether the Awasis is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the Awasis; and
- (h) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the Awasis.

7.3 Cultural Continuity

This Act is to be interpreted and administered in accordance with the principle of cultural continuity as reflected in the following concepts:

- (a) cultural continuity is essential to the well-being of an Awasis, a Family and Driftpile Cree Nation;
- (b) the transmission of the languages, cultures, practices, customs, healing practices, traditions, ceremonies and knowledge of DCN is integral to cultural continuity;
- (c) an Awasis's best interests are often promoted when the Awasis resides with members of the Awasis's Family and the culture of DCN is respected;
- (d) Awasis and Family Services provided in relation to an Awasis are to be provided in a manner that does not contribute to the assimilation of the Awasis or to the destruction of the culture of DCN; and
- (e) the characteristics and challenges of the region in which an Awasis and a Family is located are to be considered.

7.4 Substantive Equality

This Act is to be interpreted and administered in accordance with the principle of substantive equality as reflected in the following concepts:

- (a) the rights and distinct needs of an Awasis with a disability are to be considered in order to promote the Awasis's participation, to the same extent as other Awasak, in the activities of the Awasis's Family or Driftpile Cree Nation;
- (b) an Awasis must be able to exercise her rights under this Act, including the right to have her views and preferences considered in decisions that affect her, and the Awasis must be able to do so without discrimination, including discrimination based on sex, gender identity or expression;
- (c) an Awasis's Family member must be able to exercise her rights under this Act, including the right to have her views and preferences considered in decisions that affect the Family member, and she must be able to do so without discrimination, including discrimination based on sex, gender identity or expression;
- (d) the Chief Kinosêw Awasak Mîkiwâhp must be able to exercise without discrimination the rights of DCN under this Act, including the right to have the views and preferences of the Members considered in decisions that affect the Members; and

- (e) in order to promote substantive equality between Awasak and other Awasak, a jurisdictional dispute must not result in a gap in the Awasis and Family Services that are provided in relation to Awasak.

7.5 Provision of Services

Awasis and Family Services provided in relation to an Awasis are to be provided in a manner that:

- (a) takes into account the Awasis's needs, including with respect to the Awasis's physical, emotional and psychological safety, security and well-being;
- (b) takes into account the Awasis's culture;
- (c) allows the Awasis to know her family origins; and
- (d) promotes substantive equality between the Awasis and other Awasak.

7.6 Notice

After making a Decision, and where consistent with the best interests of the Awasis, the Decision Maker must make reasonable efforts to provide notice of the Decision to the Awasis's Parent(s).

7.7 Personal Information

The Chief Kinosêw Awasak Mîkiwâhp or Nîkâni-kaskihcikêw must ensure that the notice provided to the Chief and Council pursuant to section 7.6 does not contain personal information about the Awasis, a member of the Awasis's Family or the Kanawêyimâwasow, other than information that is necessary to explain the proposed significant measure, or what is required by the Service Delivery Agreement or a Coordination Agreement.

7.8 Notice, Representations and Party Status

In the context of a civil proceeding of any kind in front of any Court in respect to the provision of Awasis and Family Services in relation to an Awasis:

- (a) the Awasis's Parent have the right to notice, to make representations and to have party status; and
- (b) the Chief Kinosêw Awasak Mîkiwâhp and the Chief and Council have the right to notice and to make representations.

7.9 Priority to Preventive Services

The Chief Kinosêw Awasak Mîkiwâhp shall coordinate with other service providers supporting an Awasis' Family to ensure there is no duplication of

Preventive Services but if duplication does exist, the Preventive Services are to be given priority.

7.10 Priority to Prenatal Services

Prenatal Services are to be given priority over other services in order to prevent taking the Awasis into care at the time of the Awasis's birth. The Chief Kinosêw Awasak Mîkiwâhp shall coordinate with other DCN service providers to ensure there is no duplication of existing Prenatal Services.

7.11 Socio-Economic Conditions

In the context of providing Awasis and Family Services in relation to an Awasis, to the extent that it is consistent with the best interests of the Awasis, the Awasis must not be Paminêw solely on the basis of their socio-economic conditions, including poverty, lack of adequate housing or infrastructure or the state of health of the Parent.

7.12 Reasonable Efforts

If an Awasis is in need of Awasis and Family Services, and the Awasis resides with one of the Awasis's Parents or another adult member of the Awasis's Family, the Chief Kinosêw Awasak Mîkiwâhp or Nîkâni-kaskihcikêw shall not Paminêw the Awasis without first making reasonable efforts to have the Awasis continue to reside with that person, unless Paminêw immediately is consistent with the best interests of the Awasis.

7.13 Placement of Awasis

(a) Priority

The placement of an Awasis in the context of providing Awasis and Family Services in relation to the Awasis, to the extent that it is consistent with the best interests of the Awasis, is to occur in the following order of priority:

- (i) with one of the Awasis's Parents;
- (ii) with another adult Member of the Awasis's Family;
- (iii) with an adult Member of Driftpile Cree Nation;
- (iv) with an adult who belongs to an Indigenous Community other than DCN; or
- (v) with any other adult.

(b) Placement With or Near Other Awasak

When the order of priority set out in (a) is being applied, the possibility of placing the Awasis with or near Awasak who have the same Parent(s) as the Awasis, or who are otherwise members of the Awasis's Family, must be considered in the determination of whether a placement would be consistent with the best interests of the Awasis.

(c) Customs and Traditions

The placement of an Awasis must take into account the customs and traditions of DCN.

(d) Family Unity

In the context of providing Awasis and Family Services in relation to an Awasis, there must be a reassessment, conducted on an ongoing basis, of whether it would be appropriate to place the Awasis with:

- (i) a person referred to in (a)(i), if the Awasis does not reside with such a person; or
- (ii) a person referred to in (a)(ii), if the Awasis does not reside with such a person, unless the Awasis resides with a person referred to in (a)(i).

(e) Attachment and Emotional Ties

In the context of providing Awasis and Family Services in relation to an Awasis, if the Awasis is not placed with a member of their Family in accordance with (a)(i) or (a)(ii), to the extent that doing so is consistent with the best interests of the Awasis, the Awasis's attachment and emotional ties to each such member of their Family are to be promoted.

8. COMPONENTS OF THE AWASIS AND FAMILY SERVICES PROGRAM

8.1 Preventive Services

- (a) The Chief Kinosêw Awasak Mîkiwâhp may provide Preventive Services in order to aid in the resolution of family matters which if unresolved may create an unsuitable environment for an Awasis or Oski-iyinîs.
- (b) The Nîkâni-kaskihcikêw may enter into an agreement with the Parent of an Awasis if, in the opinion of the Nîkâni-kaskihcikêw, the Awasis is at risk of needing Awasis Protection Services but as a result of the provision of Preventive Services, the Awasis's safety, security, or development will be adequately protected if the Awasis remains with the Awasis's Parent.

- (c) The Chief Kinosêw Awasak Mîkiwâhp may provide or purchase such supportive and treatment services as may be required to prevent family disruption or restore family functioning.
- (d) The Chief Kinosêw Awasak Mîkiwâhp may provide emergency financial and material assistance to prevent family disruption.
- (e) Where it appears to the Nîkâni-kaskihcikêw that a Awasis is in need of care outside the home for varying periods of time during the day, the Nîkâni-kaskihcikêw may, by agreement with the Parent(s) of the Awasis, place the Awasis in a facility that provides daytime care, support, and supervision.
- (f) Where it appears that the Parent(s) requires training in homemaking and Awasis care, the Nîkâni-kaskihcikêw may, with the agreement with the Parent(s), place a parent aide in the home of the Parent(s) in order to provide the training.
- (g) If a Nîkâni-kaskihcikêw is satisfied that, without the provision of Customary Care, an Awasis may be in need of Awasis Protection Services because the Parent(s) of the Awasis cannot be located after a reasonable search, or has died or become incapacitated, the Nîkâni-kaskihcikêw may appoint a person to care for the Awasis until the Parent(s) can be located or other satisfactory arrangements can be made for the care of the Awasis, and the Nîkâni-kaskihcikêw may convey the Awasis for the purpose of placing the Awasis in the care of that person.
- (h) The person appointed under section 8.1(g) may care for the Awasis in the home in which the Awasis was found and for that purpose may:
 - (i) enter the home;
 - (ii) live in the home;
 - (iii) carry on normal homemaking activities in the home that are necessary for the care of the Awasis; and
 - (iv) exercise reasonable control over all Awasak residing in the home.
- (i) The person appointed under section 8.1(g) may care for the Awasis in the person's own home for the amount of time that the Nîkâni-kaskihcikêw directs.
- (j) When a person is appointed under section 8.1(g), no liability attaches to that person in the course of carrying out that person's duties under section 8.1(g) or to the Nîkâni-kaskihcikêw assisting that person in carrying out those

duties by reason only of the entry into and occupation of the home without the consent of the owner or occupier.

- (k) With the agreement of all Parents who have Kanaweyim of the Awasis, the Nîkâni-kaskihcikêw may provide counselling, treatment and other services to the Awasis and Family as a whole, whether in the home of the Family, or in a home provided by the Nîkâni-kaskihcikêw, for such periods of time as may be agreed to between the Nîkâni-kaskihcikêw and the Parents.
- (l) The Nîkâni-kaskihcikêw may provide financial assistance or other forms of support to an Oski-iyinîs, until the Oski-iyinîs reaches the age of 26.

8.2 Customary Care

- (a) Upon mutual agreement, the Parent(s) of an Awasis may enter into a Customary Care arrangement under which Kanawêyim of the Awasis is given to a Family member, a Member, or any other person.
- (b) The Chief Kinosêw Awasak Mîkiwâhp may provide financial assistance to support a Customary Care arrangement.

8.3 Kanawêyim Agreement

- (a) The Nîkâni-kaskihcikêw may enter into an agreement with the Parent(s) of an Awasis under which Kanawêyim of the Awasis is given to the Nîkâni-kaskihcikêw if, in the opinion of the Nîkâni-kaskihcikêw:
 - (i) the Awasis is in need of Awasis Protection Services; and
 - (ii) the safety, security, or development of the Awasis cannot be adequately protected if the Awasis remains with the Awasis's Parent(s).
- (b) The agreement may include the following:
 - (i) the conditions, if any, under which the Nîkâni-kaskihcikêw will consult with the Parent(s) on matters affecting the Awasis;
 - (ii) an Access Agreement; and
 - (iii) any other matter relating to the parenting of the Awasis.
- (c) The agreement may be made for whatever period of time the parties agree is in the best interests of the Awasis, or it may be permanent.

- (d) The agreement may be terminated by the Nîkâni-kaskihcikêw if, in the opinion of the Nîkâni-kaskihcikêw, the Kanawêyim Agreement is no longer in the best interests of the Awasis.
- (e) If the agreement is permanent, the Nîkâni-kaskihcikêw must make best efforts to find new Parents for the Awasis as quickly as possible.
- (f) Where the Nîkâni-kaskihcikêw, after making reasonable efforts, is unable to locate or contact a Parent of the Awasis, the Nîkâni-kaskihcikêw may nonetheless enter into a Kanawêyim Agreement with the other Parent, provided the conditions in section 8.1(a) are otherwise met.

8.4 Access Agreement

- (a) The Nîkâni-kaskihcikêw may enter into an Access Agreement with a Parent of an Awasis who is the subject of a Kanawêyim Agreement or anyone who has a significant relationship with the Awasis, either as part of a Kanaweyim Agreement, or as a separate agreement.
- (b) An Access Agreement entered into pursuant to section 8.4(a) terminates with the termination of the Kanaweyim Agreement.
- (c) An Access Agreement may be terminated by the Nîkâni-kaskihcikêw if, in the opinion of the Nîkâni-kaskihcikêw, the Access Agreement is no longer in the best interests of the Awasis.

8.5 Defining When a Awasis is in Need of Awasis Protection Services

For the purposes of this Act, an Awasis is in need of Awasis Protection Services if a Nîkâni-kaskihcikêw has reasonable and probable grounds to believe that the safety, security, or development of the Awasis is endangered because of any of the following:

- (a) the Awasis has been abandoned or lost;
- (b) the Parent of the Awasis is deceased, and the Awasis has no other Parent;
- (c) the Awasis is neglected by the Parent;
- (d) the Awasis has been or there is substantial risk that the Awasis will be physically injured or sexually abused by the Parent of the Awasis;
- (e) the Parent of the Awasis is unable or unwilling to protect the Awasis from physical injury or sexual abuse;
- (f) the Awasis has been emotionally injured by the Parent of the Awasis;

- (g) the Parent of the Awasis is unable or unwilling to protect the Awasis from emotional injury; or
- (h) the Parent of the Awasis has subjected the Awasis to, or is unable or unwilling to protect the Awasis from, cruel and unusual treatment or punishment.

8.6 Definition of Neglect

For the purposes of section 8.5(c), an Awasis is neglected if:

- (a) the Parent is unable or unwilling to obtain for the Awasis, or to permit the Awasis to receive essential medical, surgical, or other treatment that is necessary for the health or well-being of the Awasis; or
- (b) is unable or unwilling to provide the Awasis with adequate care or supervision.

8.7 Definition of Emotional Injury

For the purposes of section 8.5(f), an Awasis is emotionally injured if:

- (a) there is impairment of the Awasis's mental or emotional functioning or development; and
- (b) there are reasonable and probable grounds to believe that the emotional injury is the result of:
 - (i) rejection;
 - (ii) emotional, social, cognitive or physiological neglect;
 - (iii) deprivation of affection or cognitive stimulation;
 - (iv) exposure to family violence or severe domestic disharmony;
 - (v) inappropriate criticism, threats, humiliation, accusations or expectations of or toward the Awasis;
 - (vi) the mental or emotional condition of the Parent of the Awasis or of anyone living in the same home as the Awasis; or
 - (vii) exposure to criminal behaviour.

8.8 Reporting Awasis in Need

- (a) Any person, including a Peace Officer, who has reasonable and probable grounds to believe that an Awasis is in need of Awasis Protection Services shall forthwith report the matter to the Nîkâni-kaskihcikêw.
- (b) Subsection (a) applies notwithstanding that the information on which the belief is founded is confidential and its disclosure is prohibited under any other legislation.
- (c) This section 8.8 does not apply to information that is privileged as a result of a solicitor-client relationship.
- (d) No action lies against a person reporting pursuant to this section unless the reporting is done maliciously or without reasonable and probable grounds for the belief.

8.9 Investigation and Response

- (a) If the Nîkâni-kaskihcikêw receives information in the form of:
 - (i) a request for Awasis Protection Services;
 - (ii) a report under section 8.8; or
 - (iii) any other allegation or evidence that an Awasis may be in need of Awasis Protection Services,

the Nîkâni-kaskihcikêw must investigate the Awasis's need for Awasis Protection Services unless the Nîkâni-kaskihcikêw is satisfied that the information was provided maliciously and is unfounded or that the report or allegation was made without reasonable and probable grounds.
- (b) During an investigation, the Nîkâni-kaskihcikêw:
 - (i) may request the assistance of a Peace Officer; and
 - (ii) may convey an Awasis to any place in order to complete the investigation.
- (c) If, after an investigation, the Nîkâni-kaskihcikêw is of the opinion that the Awasis is in need of Awasis Protection Services, the Nîkâni-kaskihcikêw must:
 - (i) if the Nîkâni-kaskihcikêw is satisfied that it is consistent with the Awasis's need for Awasis Protection Services, provide Preventive Services to the Awasis or to the Awasis's Family in accordance with this Act; or

- (ii) if the Nîkâni-kaskihcikêw is not satisfied that the Awasis's need for Awasis Protection Services can be met under (c)(i), take whatever action under this Act that the Nîkâni-kaskihcikêw considers appropriate, including the provision of Awasis Protection Services in accordance with this Act.
- (d) The Nîkâni-kaskihcikêw may, if the Nîkâni-kaskihcikêw is satisfied that it is consistent with the Awasis's need for Awasis Protection Services, convey the Awasis to the person who has Kanawêyim of the Awasis or to a person who is temporarily caring for the Awasis.
- (e) If Preventive Services are provided to the Awasis or to the Awasis's Family, the person or a member of the organization providing those services must report to the Nîkâni-kaskihcikêw any matter respecting the Awasis that may require further investigation by the Nîkâni-kaskihcikêw.

8.10 Minor Parent

- (a) The Chief Kinosêw Awasak Mîkiwâhp shall work with other interested professionals and organizations to ensure that Minor Parents are informed of services that are available to them.
- (b) The Nîkâni-kaskihcikêw, on application by a Minor Parent, shall establish a plan and provide services which are in the best interests of the Minor Parent and Awasis.

8.11 Agreements with Minors

- (a) Any agreement entered into under this Act by a person under 18 years of age is as valid as if that person had attained the age of 18.

8.12 Paminêw

- (a) If a Nîkâni-kaskihcikêw has reasonable and probable grounds to believe that an Awasis is in need of Awasis Protection Services, the Nîkâni-kaskihcikêw may Paminêw the Awasis, and may request the assistance of a Peace Officer in order to do so.
- (b) The Nîkâni-kaskihcikêw and any Peace Officer called on for assistance, may, by force, if necessary, enter a place or premises and search for and Paminêw the Awasis.
- (c) If the Nîkâni-kaskihcikêw, after making reasonable efforts, is unable to Paminêw the Awasis pursuant to sections 8.12(a) and 8.12(b), the Nîkâni-kaskihcikêw may make an ex parte application to a judge of the Court, or if no judge is reasonably available, to a justice of the peace, for an order authorizing the Nîkâni-kaskihcikêw or any person named in the order

and any Peace Officer called on for assistance, to enter, by force if necessary, the place or premises of the Awasis and to search for and Paminêw the Awasis.

- (d) If, in the opinion of the Nîkâni-kaskihcikêw, it would be impracticable to appear personally before a judge or justice of the peace to apply for an order in accordance with section 8.12(c), the Nîkâni-kaskihcikêw may make the application by telephone or other means of telecommunication to a judge of the Court or a justice of the peace.
- (e) A Peace Officer may Paminêw an Awasis in need of Awasis Protection Services and, as soon as practical thereafter, place the Awasis in the Kanawêyim of the Nîkâni-kaskihcikêw.
- (f) If an Awasis is apprehended in Alberta or another province under the authority of that province's legislation or other Awasis welfare legislation and placed in the custody of a director under the authority of that province's legislation or other Awasis welfare legislation, the Awasis is deemed to be Paminêw under this Act as well, effective on the date the Awasis is so placed.

8.13 Notice of Paminêw

- (a) If an Awasis has been Paminêw, the Nîkâni-kaskihcikêw shall notify the Parents of the Awasis forthwith that the Awasis has been taken into care, the reasons for it and provide contact information of the Nîkâni-kaskihcikêw.
- (b) Notice under (a) may be by any method and may be oral, in writing or electronic.
- (c) The validity of proceedings pursuant to this Act is not affected if the Nîkâni-kaskihcikêw is unable, after reasonable efforts, to give notice in accordance with this section.

8.14 Exclusive Kanawêyim

- (a) If an Awasis has been Paminêw, the Nîkâni-kaskihcikêw has exclusive Kanawêyim of the Awasis and is responsible for the Awasis's care, maintenance and well-being.

8.15 Health Care on Paminêw

- (a) If the Parent(s) of an Awasis who has been Paminêw is unable, unavailable, or refuses to consent to the provision of essential medical, surgical, dental, or other treatment for the Awasis that is recommended by a physician, dentist, or other qualified medical professional, the Nîkâni-kaskihcikêw may authorize the provision of any recommended treatment for the Awasis.

- (b) If an Awasis is treated under this section, no liability attaches to the person treating the Awasis by reason only that the Parent of the Awasis did not consent to the treatment.

8.16 Kanawêyim After Paminêw

- (a) If an Awasis is Paminêw by the Nîkâni-kaskihcikêw, the Awasis shall remain in the Kanawêyim of the Nîkâni-kaskihcikêw until:
 - (i) the Nîkâni-kaskihcikêw decides that it is in the best interests of the Awasis to return the Awasis to their Parent(s);
 - (ii) the Awasis is adopted; or
 - (iii) the Nîkâni-kaskihcikêw enters into a new or amended Kanawêyim Agreement.
- (b) The Nîkâni-kaskihcikêw may decide who has access to an Awasis who has been Paminêw.

8.17 Right to Kanawêyim

Subject to any applicable terms of the Service Delivery Agreement or a Coordination Agreement, the right of the Nîkâni-kaskihcikêw to the Kanawêyim of an Awasis when the Awasis is in the Kanawêyim of the Nîkâni-kaskihcikêw takes precedence over the rights given by any order or agreement not made pursuant to this Act respecting guardianship, custody, access, contact, parenting time or the Awasis's placement, whether that order or agreement:

- (a) was in respect of a person who was a party to the proceedings under this Act or otherwise; or
- (b) was granted or made before or after the Awasis came into the Kanawêyim of the Nîkâni-kaskihcikêw.

8.18 Death of Awasis

When an Awasis who is in the Kanawêyim of the Nîkâni-kaskihcikêw dies, the Nîkâni-kaskihcikêw shall:

- (a) notify the Family;
- (b) notify the local Police Service and provincial coroner;
- (c) consent to an autopsy of the body of the Awasis; and
- (d) in consultation with the Family, arrange for the burial or other disposition of the body of the Awasis.

8.19 Approval Required for Care Home

- (a) No person shall operate a Care Home unless that person holds a subsisting Care Home Approval issued by the Nîkâni-kaskihcikêw under this Act.

8.20 Application for Approval

- (a) An application for a Care Home Approval or a renewal of a Care Home Approval must:
 - (i) be made to the Nîkâni-kaskihcikêw in a form satisfactory to the Nîkâni-kaskihcikêw; and
 - (ii) state the maximum number of persons intended to be accommodated or cared for in the Care Home.
- (b) On considering an application for or renewal of a Care Home Approval, the Nîkâni-kaskihcikêw may issue a Care Home Approval and impose terms and conditions in the Care Home Approval.
- (c) Unless otherwise specified in the Care Home Approval, the term of a Care Home Approval is one year from the date of its issue.
- (d) A Care Home Approval issued under this section must indicate:
 - (i) the Care Home that may be operated under the Care Home Approval;
 - (ii) who may operate the Care Home;
 - (iii) the maximum number of Awasak, other than Awasak of an Approved Kanawêyimâwasow, who may reside in the Care Home;
 - (iv) the term of the Care Home Approval if the term is other than one year from the date of issue; and
 - (v) any conditions to which the Care Home Approval is subject.

8.21 Varying an Approval

- (a) The Nîkâni-kaskihcikêw may, on the application by a Care Home Approval holder in a form acceptable to the Nîkâni-kaskihcikêw, vary the terms or conditions to which the Care Home Approval is subject.

8.22 Standards and Fees

- (a) A holder of a Care Home Approval must ensure that the Care Home meets the requirements of any applicable Resolutions, and the Care Home

Approval holder may not charge more for Care Home services than the rates provided for in any applicable standards adopted by the Chief Kinosêw Awasak Mîkiwâhp.

8.23 Inspection

- (a) For the purposes of ensuring compliance with this Act, the regulations and any conditions to which a Care Home Approval is subject, the Nîkâni-kaskihcikêw or a person authorized by the Nîkâni-kaskihcikêw may:
 - (i) at any reasonable hour, enter a Care Home other than a private dwelling place and inspect it;
 - (ii) enter a Care Home that is a private dwelling place and inspect it with the consent of the owner or operator of the private dwelling place;
 - (iii) require the production of any books, records, or other documents and examine them, make copies of them or remove them temporarily for the purpose of making copies;
 - (iv) inspect and take samples of any material, food, medication, or equipment being used in a Care Home; and
 - (v) perform tests, take photographs, or make recordings in respect of a Care Home.
- (b) When a person removes any books, records, or other documents under section 8.23(a)(iii) above, the person must:
 - (i) give to the person from whom those items were taken a receipt for those items; and
 - (ii) forthwith make copies of, take photographs of or otherwise record those items and forthwith return those items to the person to whom the receipt was given.
- (c) When a person takes samples under section 8.23(a)(iv), the person must:
 - (i) give to the person from whom those items were taken a receipt for those items; and
 - (ii) on that person's request, return those items to that person when those items have served the purposes for which they were taken.

8.24 Order After Inspection

If a Care Home has been inspected under section 8.23 and the Nîkâni-kaskihcikêw is of the opinion that:

- (a) this Act, a Resolution, or a condition of a Care Home Approval is not being complied with; or
- (b) the Care Home is not providing proper care,

the Nîkâni-kaskihcikêw may, in writing, order the person operating that Care Home to take measures as specified in the order within the time limits specified in the order.

8.25 Suspension or Cancellation of Approval

(a) When the Nîkâni-kaskihcikêw is of the opinion that:

- (i) a Care Home Approval holder is not providing proper care to an Awasis who resides in the approval holder's Care Home;
- (ii) the premises described in the Care Home Approval have become unfit or unsuitable for a Care Home; or
- (iii) a Care Home Approval holder has not complied with:
 - A. this Act, a Resolution, a condition of the Care Home Approval or an order of the Nîkâni-kaskihcikêw or Miyo-Wîcêhtowin Onâtamâkêw; or
 - B. any other legislation that applies to a Care Home;

the Nîkâni-kaskihcikêw may, by notice in writing to the Care Home Approval holder, vary, suspend or cancel the Care Home Approval and terminate the Care Home Approval holder's contract to provide Care Home services.

- (b) Every contract between the Nîkâni-kaskihcikêw and the owner or operator of a Care Home is deemed to contain a provision that the Nîkâni-kaskihcikêw may terminate the contract without notice and without damages payable by the Nîkâni-kaskihcikêw to the owner or operator if the owner or operator fails to comply with an order of the Nîkâni-kaskihcikêw or if the Care Home Approval is suspended, cancelled or expired.

9. **ADOPTION**

9.1 Customary Adoption

- (a) An Awasis in the Kanawêyim of the Nîkâni-kaskihcikêw may be adopted in accordance with the customary adoption practices of Driftpile Cree Nation.
- (b) Such an adoption terminates any other order, agreement, or rights with respect to the Awasis.

10. NOTICE OF LEGISLATIVE AUTHORITY AND COORDINATION AGREEMENT

10.1 Notice of Legislative Authority

- (a) When Driftpile Cree Nation intends to exercise its legislative authority in relation to Awasis and Family Services, DCN may give notice of that intention to:
 - (i) Canada; and
 - (ii) each province in which DCN intends to bring this Act into force and effect.
- (b) Driftpile Cree Nation may also request that Canada, and each of those provinces to whom DCN has given notice, enter into a Coordination Agreement, or other form of agreement, with DCN in relation to the exercise of the legislative authority respecting, among other things:
 - (i) the provision of emergency services to ensure the safety, security and well-being of Awasak;
 - (ii) support measures to enable Awasak to exercise their rights effectively;
 - (iii) fiscal arrangements relating to the provision of Awasis and Family Services by DCN that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Awasak, Families and DCN, and to support the capacity of DCN to exercise its legislative authority effectively; and
 - (iv) any other coordination measure related to the effective exercise of DCN legislative authority.

11. DISPUTE RESOLUTION

Establishment of the Miyo-Wîcêhtowin Onâtamâkêw

- 11.1 The Miyo-Wîcêhtowin Onâtamâkêw has the capacity and, subject to this Act and any Resolutions, the rights, powers and privileges of a natural person.

- 11.2 The Chief and Council may appoint up to seven people, at one time, to serve as members of the Miyo-Wîcêhtowin Onâtamâkêw for a term of up to 4 years.
- 11.3 Where the appointment of a member of the Miyo-Wîcêhtowin Onâtamâkêw expires, but is not terminated, the member may continue to hold office until:
- (a) the member is reappointed;
 - (b) a successor is appointed;
 - (c) a period of 3 months has elapsed; or
 - (d) any Appeal in which the member serves on the Appeal Panel is concluded.
- 11.4 In determining the term of an appointment of a member of the Miyo-Wîcêhtowin Onâtamâkêw, the Chief and Council shall have regard to the desirability of having no more than 1/3 of the appointments expire in any one year.
- 11.5 The Miyo-Wîcêhtowin Onâtamâkêw shall maintain an office at a place or places to be determined by Resolution.
- 11.6 The Miyo-Wîcêhtowin Onâtamâkêw does not have jurisdiction over constitutional questions or to apply the *Alberta Human Rights Act*, R.S.A. 2000, c. A-25.5.

Miyo-Wîcêhtowin Onâtamâkêw Duties

- 11.7 Miyo-Wîcêhtowin Onâtamâkêw members must:
- (a) faithfully, honestly, and impartially perform their duties as members of the Miyo-Wîcêhtowin Onâtamâkêw and, except in the proper performance of those duties, must not disclose to any person any information obtained as a member of the Miyo-Wîcêhtowin Onâtamâkêw; and
 - (b) participate in any training or education programs as may be directed by the Chief and Council from time to time.

Remuneration

- 11.8 The Chief Kinosêw Awasak Mîkiwâhp shall compensate the members of the Miyo-Wîcêhtowin Onâtamâkêw by remuneration and payment for travelling, living and other reasonable expenses incurred in the course of their duties as members.

Chair and Vice-Chair(s)

- 11.9 The Board shall appoint from the members of the Miyo-Wîcêhtowin Onâtamâkêw the Chair and one or more Vice-Chairs.

- 11.10 In addition to the compensation described in section 11.8, the Chief Kinosêw Awasak Mîkiwâhp may provide additional compensation to the Chair for the responsibilities outlined in this Act.
- 11.11 The Vice-Chair(s) serve as a replacement for the Chair when the Chair is unable to carry out their duties and powers under this Act. All of the Chair's powers under this Act can be delegated to the Vice-Chair(s).
- 11.12 The Chair may make procedural rules and policies consistent with this Act respecting:
- (a) rules under which Appeals are to be made and heard;
 - (b) matters of procedure before an Appeal Panel;
 - (c) emergency circumstances in which an Appeal may be heard by one member of the Miyo-Wîcêhtowin Onâtamâkêw; and
 - (d) the forms to be used in an Appeal.

Administrative Support

- 11.13 The Chief Kinosêw Awasak Mîkiwâhp shall provide the Miyo-Wîcêhtowin Onâtamâkêw with administrative support.

Commencing an Appeal

- 11.14 A person may appeal a Decision to the Appeal Panel where they are directly affected by the Decision.

Informing of the Right to Appeal

- 11.15 After making a Decision, the Decision Maker will include in its notification to the person(s) subject to the Decision a statement that the person(s) has the right to Appeal the Decision within 30 Days of the date of the Decision.

Grounds of Appeal

- 11.16 An Appeal may be brought if, in making a Decision, the Decision Maker:
- (a) was biased or followed an unfair procedure; or
 - (b) erred in fact or law.

Form of Appeal

- 11.17 An Appeal must:
- (a) be in writing in the form required by the Miyo-Wîcêhtowin Onâtamâkêw;

- (b) be based solely on the grounds of appeal in section 11.16;
- (c) include an explanation of the grounds for the Appeal in sufficient detail for the Miyo-Wîcêhtowin Onâtamâkêw; and
- (d) be delivered to the Miyo-Wîcêhtowin Onâtamâkêw within 30 Days of the date of the Decision.

Notice of Appeal

11.18 The Miyo-Wîcêhtowin Onâtamâkêw will, within 7 Days of receiving an Appeal, send a copy to:

- (a) the Board; and
- (b) the Decision Maker.

Preliminary Review

11.19 If the Miyo-Wîcêhtowin Onâtamâkêw receives an Appeal, the Chair must, within 15 Days:

- (a) acknowledge receipt of the Appeal; and
- (b) conduct a preliminary review of the Appeal to confirm it complies with section 11.17.

Summary Dismissal

11.20 After completing a preliminary review pursuant to section 11.19, the Chair may dismiss, prior to an Appeal Hearing, one or more of the matters raised in the Appeal if the Chair determines that any of the following apply:

- (a) one or more of the matters raised in the Appeal do not comply with section 11.17;
- (b) the Decision was rescinded or varied in a manner that renders the Appeal moot;
- (c) the matter is not within the jurisdiction of the Miyo-Wîcêhtowin Onâtamâkêw; or
- (d) there is no reasonable prospect the Appeal will succeed.

Summary Dismissal - Notice

11.21 Before summarily dismissing one or more of the matters in an Appeal under section 11.20, the Chair will notify the Appellant of its intention, following which:

- (a) the Appellant may provide written submissions or additional information within 15 Days of the date the Chair's notification is issued; and
- (b) the Chair, after considering any submissions provided by the Appellant pursuant to section 11.21(a), may summarily dismiss one or more of the matters raised in the Appeal.

Summary Dismissal - Reasons

11.22 If the Chair summarily dismisses the Appeal, they must provide written reasons to:

- (a) the Appellant; and
- (b) the Decision Maker.

Summary Dismissal – Exclusive Jurisdiction

11.23 The Chair has exclusive jurisdiction to summarily dismiss an Appeal in accordance with section 11.20.

Mediation

11.24 If the Chair does not dismiss an Appeal after a preliminary review, the Chair will convene a pre-hearing conference to determine whether the parties are willing to engage in Mediation.

11.25 The Chief Kinosêw Awasak Mîkiwâhp will establish and maintain policies and procedures to support effective, timely Mediation in accordance with DCN customs, traditions, and culture.

Referral to Hearing

11.26 By the earlier of: (i) 30 Days after the pre-hearing conference and (ii) the mediator or either party to the Appeal advising the Chair that there is no reasonable prospect of resolving the issue through Mediation, then the Chair must:

- (a) appoint a quorum three (3) members of the Miyo-Wîcêhtowin Onâtamâkêw, which can include the Chair making the appointment, for appointment to the Appeal Panel that will hear the Appeal Hearing;
- (b) refer the Appeal to an Appeal Panel for an Appeal Hearing;
- (c) notify the Appellant and the Decision Maker of the referral;
- (d) determine whether the Appeal Hearing will be an oral hearing or by way of written submissions and:
 - (i) if it is an oral hearing, set the time and place of the hearing;
 - or

- (ii) if the hearing is by way of written submissions, set the timelines for submissions; and
- (e) may make any other orders they consider necessary to facilitate the just and timely resolution of the Appeal.

Appointment of Appeal Panel

- 11.27 Subject to sections 11.28 and 11.29, a quorum for an Appeal Hearing is three (3) members.
- 11.28 Notwithstanding section 11.27, a single member of the Miyo-Wîcêhtowin Onâtamâkêw may address procedural matters related to the Appeal and preside over an Appeal Hearing as a single member panel in emergency circumstances.
- 11.29 If a member of an Appeal Panel is unable for any reason to complete the member's duties:
 - (a) The Chair may appoint another member as a replacement; or
 - (b) the remaining members, with consent of the Chair may continue to hear and determine the Appeal; and
 - (c) the replacement or vacancy does not invalidate the proceeding.

Ability of the Decision Maker to Vary/Rescind a Decision

- 11.30 The Decision Maker may vary or rescind a Decision under Appeal at any time before the commencement of the Appeal Hearing and, with leave of the Appeal Panel, during the Appeal Hearing.

Standing to Make Submissions

- 11.31 In reviewing a Decision, the Appeal Panel may receive submissions from the Appellant and the Decision Maker.

Ability to Vary Rules

- 11.32 If an Appeal Panel considers it necessary and appropriate to facilitate the just and timely resolution of one or more matters in an Appeal, the Appeal Panel:
 - (a) may make determinations about the application of the Miyo-Wîcêhtowin Onâtamâkêw's Rules and may vary the Rules; and
 - (b) may request the Miyo-Wîcêhtowin Onâtamâkêw to schedule an oral or written hearing.

Not Open to Public

11.33 Appeal Hearings will not be open to the public.

Advisors to the Appeal Panel

11.34 The Chair, or an Appeal Panel if appointed, may appoint experts or persons having special technical or legal knowledge to advise the Miyo-Wîcêhtowin Onâtamâkêw when it performs its duties and functions under this Act.

11.35 A person appointed under section 11.34 may be paid the remuneration and expenses that the Chief and Council prescribes.

Restrictions on New Evidence

11.36 An Appeal Panel need not consider any other evidence that was not before the Decision Maker unless the Appeal Panel is satisfied that the new evidence:

- (a) was not before the Decision Maker despite the exercise of due diligence by the Appellant; and
- (b) is relevant and credible and, when taken together with the other evidence before the Appeal Panel, is likely to affect the Appeal Panel's determination.

11.37 If the Appeal Panel considers evidence under section 11.36 the Decision Maker may provide additional evidence to the Appeal Panel in response.

Findings After Hearing

11.38 After an Appeal hearing, the Appeal Panel may:

- (a) confirm, vary, or reverse the Decision;
- (b) refer the matter back to the Decision Maker, with or without directions; or
- (c) make any other order it considers appropriate in the circumstances.

Majority Decision

11.39 A decision of the majority of the Appeal Panel members hearing the Appeal is the decision of the Appeal Panel.

Written Reasons

11.40 The Appeal Panel shall make reasonable efforts to issue its decision in an Appeal within 60 Days of the completion of the Appeal Hearing.

- 11.41 The Appeal Panel, as soon as practicable, must give written reasons for its decision (the “**Reasons**”) to the Appellant and to the Decision Maker.

Amending Reasons

- 11.42 The Appeal Panel may, within 30 Days of the date of providing the Reasons, amend the Reasons to:
- (a) correct a typographical or another similar error; or
 - (b) correct an omission.

Exclusive Jurisdiction

- 11.43 Subject to section 11.6, the Appeal Panel has exclusive jurisdiction to hear and determine all matters and questions of fact, law and discretion arising or required to be determined in an Appeal and to make any order permitted to be made.

Final and Binding Decisions

- 11.44 A decision or order of the Appeal Panel or the Chair on a matter in respect of which the Appeal Panel or the Chair has exclusive jurisdiction is final and conclusive and is not open to question or review by any Court.

Submissions on Reconsideration

- 11.45 Where the Appeal Panel refers a matter back to the Decision Maker for reconsideration:
- (a) the Decision Maker will comply with any direction of the Appeal Panel regarding the rescission, termination, or variance of a Decision; and
 - (b) the Appellant may make new submissions to the Decision Maker.

Notification

- 11.46 If the Decision Maker decides to rescind, terminate or vary a Decision following its reconsideration, the Decision Maker will promptly notify the Chair.

12. GENERAL

12.1 Computation of Time

- (a) If, in this Act, the time limited for the doing of a matter expires or falls on a holiday, it may be done on the next following day that is not a holiday.
- (b) If, in this Act, the time limited for the doing of a matter expires or falls on a day on which the office or place in which it is required to be done is not

open during its regular hours of business, it may be addressed on the day next following on which the office or place is open.

12.2 Protection from Liability

- (a) Subject to (b), no action lies or may be commenced or maintained against any individual, the Nîkâni-kaskihcikêw, the Chief Kinosêw Awasak Mîkiwâhp, the Chief and Council or the Miyo-Wîcêhtowin Onâtamâkêw in respect of anything done or omitted to be done in the exercise or intended exercise of any power under this Act or in the performance or intended performance of any duty or function under this Act.
- (b) Subsection (a) does not apply in relation to anything done or omitted to be done in bad faith.

13. **REVIEW AND AMENDMENT OF ACT**

13.1 Process to Review

- (a) Chief and Council may at any time by Resolution amend or repeal the Act, but in part only.
- (b) Any amendment, or repeal shall be effective for 6 months from the effective date set out in the Resolution.
- (c) Notwithstanding (b), an amendment to or repeal of the Act may only be made permanent if approved by the Members pursuant to an approval resolution within 6 months of the effective date of the amendment or repeal.
- (d) If the amendment, or repeal is not approved by the Members within 6 months, it ceases to have effect immediately.
- (e) Every 5 years after the day on which this Act comes into force, DCN must undertake a review of the provisions and operation of this Act.

13.2 Report

The Chief Kinosêw Awasak Mîkiwâhp must prepare a report for the review conducted under section 13.1(e) that sets out its conclusions and recommendations.

13.3 Tabling of Report

The Chief and Council must cause the report made in accordance with section 13.2 to be tabled at the next regular Chief and Council meeting after the day on which the report is submitted.

14. **DCN RESOLUTIONS**

- 14.1 The Chief and Council may make any Resolutions required to facilitate the operation of this Act, but those Resolutions are void if they conflict with any provisions of this Act.

15. CONFIDENTIALITY

- 15.1 The Nîkâni-kaskihcikêw and any person employed or assisting in the administration of this Act, including the Board, may disclose or communicate personal information that comes to the Nîkâni-kaskihcikêw's, person's, or Board's attention under this Act only in accordance with proceedings before the Miyo-Wîcêhtowin Onâtamâkêw, or as follows:
- (a) to any person or organization, if the disclosure is necessary to plan services for or provide services to the Awasis, Oski-iyinîs or the Family or to plan or provide for the day-to-day care or education of the Awasis;
 - (b) to the Parents or Family of the Awasis or Oski-iyinîs to whom the information relates;
 - (c) to the Awasis or the Oski-iyinîs to whom the information relates;
 - (d) to any person employed in the administration of Awasis protection legislation in another province or treaty territory in Canada; or
 - (e) to any person with the written consent of the Nîkâni-kaskihcikêw.
- 15.2 The Nîkâni-kaskihcikêw or a person acting on behalf of the Nîkâni-kaskihcikêw, may collect and use personal information, including health information, for the purposes of conducting an assessment or investigation, or providing services under this Act.
- 15.3 A hospital, medical care facility, Police Service, or other custodian of personal information shall provide personal information to the Nîkâni-kaskihcikêw at the request of the Nîkâni-kaskihcikêw.
- 15.4 No liability attaches to the Nîkâni-kaskihcikêw or any other person who discloses or communicates information in accordance with this section 15 if the disclosure or communication is made in the administration of this Act or for the protection of the Awasis.
- 15.5 Despite section 15.1, the name of a person who makes a report to the Nîkâni-kaskihcikêw about an Awasis who may be in need of Awasis Protection Services and any information that would identify that person is privileged information of the person making the report and is not admissible in evidence in any action or proceeding or before any inquiry without the consent of the person.

16. ENACTMENT

16.1 Enacting Resolution

- (a) The provisions of this Act come into force on a date to be fixed by an Enacting Resolution.
- (b) An Enacting Resolution is only valid if:
 - (i) the Enacting Resolution is passed following the approval of the Act by the Members;
 - (ii) the approval by the Members was done in accordance with the Approval Resolution; and
 - (iii) the Approval Resolution was passed before the approval of the Act was given by the Members.
- (c) An Enacting Resolution may provide:
 - (i) that various sections of the Act shall come into force at different times, or upon later Enacting Resolutions; or
 - (ii) that the Act only applies within specific provinces.

16.2 The Chief and Council shall authorize and approve a Cree translation of the Act.

17. **TRANSITIONAL**

17.1 Upon the enactment of this Act, subject to the terms of the Service Delivery Agreement, a Coordination Agreement or other form of agreement with a province:

- (a) at the written request of the Nîkâni-kaskihcikêw, a province shall immediately transfer the file of an Awasis in the Kanawêyim of the province to the Nîkâni-kaskihcikêw;
- (b) the Nîkâni-kaskihcikêw shall be deemed to have assumed Kanawêyim of an Awasis in the Kanawêyim of a province when the Awasis's file has been transferred from the province to the Nîkâni-kaskihcikêw, or 30 Days have elapsed since the request for the file was received by the province, whichever is sooner;
- (c) until the file has been so transferred, the current status of an Awasis in the Kanawêyim of the province continues, but the Nîkâni-kaskihcikêw must be consulted before any decisions are made with respect to the Awasis; and
- (d) Any decision made by a province with respect to an Awasis, contrary to the consultation requirement in section 17.1(c), is deemed void.

- 17.2 Once DCN has given notice to a province or territory pursuant to section 10.1, the applicable province or territory must consult with the Nîkâni-kaskihcikêw on all substantive decisions affecting Members and Awasak.