

November 30, 2007

**Agreement for the
Recognition of the Qalipu Mi'kmaq Band**

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**AGREEMENT FOR
THE RECOGNITION OF THE QALIPU MI'KMAQ BAND**

BETWEEN:

The Federation of Newfoundland Indians, a body corporate under the laws of Newfoundland and Labrador, with its head office at P.O. Box 956, Corner Brook, Newfoundland and Labrador, Canada, A2H 6J3
(hereinafter FNI)

AND

Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development
(hereinafter Canada)

WHEREAS:

The Parties wish to provide in this Agreement for the following process leading to the recognition by the Governor-in-Council of a landless band for the Mi'kmaq Group of Indians of Newfoundland, subject to the terms and conditions herein:

The Parties will establish an Enrolment Committee to assess whether applicants meet the eligibility criteria established by this Agreement to be enrolled as Founding Members of a band to be established by the Governor in Council to be known as the Qalipu Mi'kmaq First Nation Band; The Enrolment Committee will receive and assess applications during a first stage of twelve (12) months, with a possible extension of six (6) months, after which it will provide the Parties with the First Founding Members List;

The Enrolment Committee will continue to receive and assess applications for a second stage of thirty-six (36) months after which it will provide the Parties with the Second Founding Members List;

After the first stage, if the minimum number of Founding Members has been reached, the Minister will recommend to the Governor in Council to declare the body of Indians made up of the individuals listed on the First Founding Members List, attached as a schedule to the Recognition Order, to be a band for the purposes of the *Indian Act*;

After the second stage, the Minister will recommend to the Governor-in-Council to amend the schedule to the Recognition Order by adding to it the names included on the Second Founding Members List;

As of the date of the establishment of the Band pursuant to the

Recognition Order or as of the date of the inclusion of their name on the

schedule to the Recognition Order, as the case may be, the Founding Members will be entitled to registration on the Indian Register and to membership in the Band.

NOW THE PARTIES AGREE AS FOLLOWS:

Chapter 1 Definitions

1.1 Adoption

“Adoption” includes adoption in accordance with the Mi’Kmaq custom, such custom being described in the Enrolment Committee Guidelines, appended as Annex A to this Agreement;

1.2 Appeal Master

“Appeal Master” refers to the individual selected by the Parties in accordance with section 4.3.

1.3 Appeal Notice

“Appeal Notice” means a notice in writing to the Appeal Master, setting out the grounds of appeal and all arguments in support of the appeal of the decision of the Enrolment Committee.

1.4 Applicant Record

“Applicant Record” means the record that the Enrolment Committee retains for each applicant pursuant to subsection 4.2.11. It shall include all documentation provided by the applicant in support of his application, all documentation considered by the Enrolment Committee in its assessment, all correspondence sent and received by the Enrolment Committee in relation to the applicant and the written decision of the Enrolment Committee.

1.5 Band

“Band” refers to the band to be established by the Governor in Council through the Recognition Order and known as the Qalipu Mi’kmaq First Nation Band for the purposes of this Agreement.

1.6 Enrolment Clerk

“Enrolment Clerk” refers to one of the three individuals engaged by the FNI under subsection 4.4.2.

1.7 Enrolment Committee

“Enrolment Committee” refers to the committee established in accordance with section 4.2 below to make the assessment referred to under section 4.1.

1.8 Enrolment Process

“Enrolment Process” refers to the two-stage process for enrolment conducted by the Enrolment Committee and set out in section 4.2.

1.9 Founding Member

“Founding Member” refers to an individual who, in the assessment of the Enrolment Committee, meets the criteria set out in Section 4.1.

1.10 Founding Members List

“Founding Members List” refers to the list of Founding Members established by the Enrolment Committee from a first Founding Members List (“First Founding Members List”), established after the first stage of the Enrolment Process, amended by the addition of the names on a second Founding Members List (“Second Founding Members List”) established after the second stage of the Enrolment Process.

1.11 Indian Act

“*Indian Act*” means the *Indian Act*, R.S.C 1985 c. I-5 as amended.

1.12 Indian Register

“Indian Register” refers to the register maintained by the Registrar of the Department of Indian Affairs and Northern Development pursuant to section 5 of the *Indian Act*.

1.13 Member

“Member” means a person that has a current and substantial connection with the Mi’Kmaq Group of Indians of Newfoundland or, in the case of a

person referred to in paragraph 4.1(b)(i), had on or before March 31, 1949 a substantial connection with a Newfoundland Pre-Confederation Mi'kmaq Community.

1.14 Mi'kmaq Group of Indians of Newfoundland

“Mi'kmaq Group of Indians of Newfoundland” refers collectively to the Mi'kmaq groups of Indians on the island of Newfoundland, including but not limited to those situated at the various locations listed on Annex B to this Agreement.

1.15 Minister

“Minister” means the Minister of Indian Affairs and Northern Development.

1.16 Newfoundland Pre-Confederation Mi'kmaq Community

“Newfoundland Pre-Confederation Mi'kmaq Community” means a community of Mi'kmaq Indians that existed on the island of Newfoundland on or before March 31, 1949, including but not limited to the communities located at:

- Badger
- Bay du Nord
- Bay of Islands
- Beachy Cove, Halls Bay
- Black River, Placentia Bay
- Bonavista
- Bonne Bay
- Burgeo
- Clarkes Head, Gander Bay
- Codroy
- Conne River
- Corner Brook
- Deer Lake
- Dock Point
- Doyles
- Flat Bay
- Fogo
- Gambo
- Glenwood
- Grandy Island
- Halls Bay
- La Poile
- Main Gut
- Mattis Point
- Peter's Arm
- Point Leamington
- Port au Port
- Robinson's Station, Bay St. George
- Seal Rocks
- Sops Arm
- South Brook
- St. Georges
- St. Teresa's
- St. Albans
- Twillingate
- White Bay

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1.17 Parties

“Parties” refers to the FNI and Canada and “Party” refers to the FNI or to Canada.

1.18 Recognition Order

“Recognition Order” refers to the Order-in-Council establishing the Mi’kmaq Group of Indians of Newfoundland as a band for the purposes of the *Indian Act*, pursuant to paragraph (c) of the definition of band under subsection 2(1) and subsection 73(3) of the *Indian Act*.

1.19 Registrar

“Registrar” refers to the Registrar of the Department of Indian Affairs and Northern Development, responsible for the Indian Register pursuant to section 5 of the *Indian Act*.

Chapter 2 General Provisions

2.1 Status of this Agreement

This Agreement is not a treaty within the meaning of s. 35 of the *Constitution Act, 1982*.

2.2 Aboriginal or Treaty Rights

Nothing in this Agreement shall be construed so as to abrogate or derogate from any existing treaty right or aboriginal right of aboriginal peoples of Canada under s. 35 of the *Constitution Act, 1982*.

2.3 Charter of Rights and Freedom

The *Canadian Charter of Rights and Freedoms* will apply to the Band in respect of all matters within its authority.

2.4 Coming into Effect

This Agreement is an Agreement-in-Principle. It becomes a final agreement and comes into effect upon ratification by both Parties in accordance with Chapter 9 and the granting of the consent order referred to in section 8.1 by the Federal Court. The final agreement is binding on

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the Parties who are entitled to rely on it from and after the date of the consent order.

2.5 Rights under this Agreement

Rights, privileges and obligations under this Agreement accrue to the Parties only. Nothing in this section is intended to prevent individuals from applying for enrolment and appealing a denial in respect thereof.

2.6 No Land Set Aside for the New Band

The Parties acknowledge that Canada will not set aside any reserve within the meaning of the *Indian Act* or lands reserved for the Indians within the meaning of s. 91(24) of the *Constitution Act, 1867* for the use and benefit of the Band.

2.7 Entire Agreement

This Agreement is the entire agreement and there is no representation, warranty, collateral agreement or condition affecting this Agreement unless otherwise provided herein.

2.8 Warranty and representation

The FNI represents and warrants to Canada that it represents the Mi'kmaq Group of Indians of Newfoundland for the purposes of this Agreement.

2.9. No Admission of Liability

This Agreement is entered into by the Parties without any admission of allegation, fact or liability whatsoever with respect to the Federal Court Action No. T-129-89.

2.10 Annexes

The following are the annexes attached to and incorporated in this Agreement by reference and deemed to be part of it:

- Annex A: Enrolment Committee Guidelines
- Annex B: List of geographic locations of Mi'kmaq groups
- Annex C: Qalipu Mi'kmaq First Nation Band Custom Election Rules
- Annex D: Financial Management By-Law
- Annex E: List of provisions of the *Indian Act* applicable to a band with no reserve base

- Annex F: Ratification Voting Guidelines
- Annex G: Release

2.11 Headings and Table of Contents

The insertion of headings and recitals, and the provision of a table of contents, are solely for convenience and shall not be interpreted as modifying or explaining the scope or meaning of any part of this Agreement.

2.12 Expanded Meanings

Words in the singular include the plural and words in the plural include the singular. Words importing male persons include female persons and corporations.

2.13 No Presumption of Ambiguity

There shall be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.

2.14 Assignment

The Parties agree that the rights and obligations of the Parties may not be assigned or otherwise transferred without the prior written consent of the other Party, such consent not to be unreasonably withheld.

2.15 Amendment

This Agreement may only be varied, changed, amended, added to or replaced by written agreement between the Parties, ratified through the same procedures as this Agreement was ratified, save and except that the Parties may agree in writing from time to time to amend this Agreement, without further ratification or approval, for any of the following purposes:

- (a) to remove any conflicts or inconsistencies which may exist between any of the terms of this Agreement and any provision of any applicable law or regulation, so long as the Parties agree that such amendments will not be prejudicial to their respective interests;
- (b) to correct any typographical error in this Agreement, or to make corrections or changes required for the purpose of curing or correcting clerical omission, mistake, manifest error or ambiguity arising from defective or inconsistent provisions contained in this

Agreement; or

- (c) to extend any time limit set out in this Agreement.

2.16 Waiver

No waiver of any provision of this Agreement shall have any legal effect unless such waiver is expressed in writing and signed by the Party making the waiver.

2.17 Applicable Law

This Agreement shall be governed by the applicable laws of Canada and the Province of Newfoundland and Labrador.

2.18 References to Statutes and Regulations

All references in this Agreement to statutes and regulations of Canada and Newfoundland and Labrador shall, unless a contrary intention is expressed, include any such statute or regulation as the same may be amended, re-enacted or replaced from time to time and, in respect of any defined term derived from such statute or regulation, includes any subsequent definition contained in any statute or regulation enacted in substitution therefore, or in modification thereof.

2.19 Partial Severability

It is intended that all provisions of this Agreement shall be fully binding and effective between the Parties. In the event that any particular provision or part thereof is found by a court of competent jurisdiction to be invalid or unenforceable, the particular provision or part thereof shall be severed from this Agreement to the extent of the invalidity or unenforceability, and the remainder of this Agreement shall remain in full force so long as it continues to give effect to the intent of the Parties. If either Party, acting reasonably, determines that the Parties' intention is not preserved as a result of the severance, the Agreement shall either be amended by the Parties or terminated.

2.20 Communications

Any notice or other communication required or permitted to be given under this Agreement shall be given in writing to the attention of:

(a) to the FNI:

President
Federation of Newfoundland Indians
P.O. Box 956
Corner Brook, Newfoundland and Labrador
A2H 6J3
Phone : (709) 634-0996
Fax: (709) 639-3997

(b) to Canada:

Regional Director General, Atlantic Region
Department of Indian Affairs and Northern Development
Atlantic Regional Office P.O. Box 16040 Havelock Street Amherst, Nova
Scotia B4H 3Z3 Phone: (902) 661-6200 Fax: (902) 661-6237

2.21 Termination

a) This Agreement may be terminated by either Party upon sixty (60) days notice to the other Party if that other Party has failed to perform one of its obligations under this Agreement and fails, prior to the expiry of the notice period, to perform that obligation or if, in the sole discretion of a Party acting reasonably, the Parties' intention is not preserved in the event of the severance from this Agreement of any provision or part thereof found to be invalid or unenforceable by a court of competent jurisdiction.

b) This Agreement may also be terminated by either Party upon thirty (30) days notice to the other Party if, in the sole discretion of a Party acting reasonably, there has been a continuing failure on the part of the Enrolment Committee to comply with the fundamental terms of this Agreement, provided however that prior to that notice:

(i) the Enrolment Committee has received notification in writing from that Party specifying the alleged failure to comply with this Agreement but, in the sole discretion of that Party acting reasonably, does not comply with the fundamental terms of this Agreement following receipt of the notice;

- (ii) the Parties have already replaced one or more members of the Enrolment Committee because of a failure to comply with the fundamental terms of this Agreement or that Party has requested in writing to the other Party to replace, for the same reason, a member or members of the Enrolment Committee and the other Party has not consented to such request within fifteen (15) days; and
 - (iii) there continues to be non-compliance with the fundamental terms of this Agreement subsequent to a replacement of one or more members of the Enrolment Committee and following the Enrolment Committee's receipt of a further notification from the same Party specifying the alleged failure to comply with this Agreement
- c) This Agreement may also be terminated by either Party upon thirty (30) days notice to the other Party if, in the sole discretion of a Party acting reasonably, there has been a continuing failure on the part of the Appeal Master to comply with the fundamental terms of this Agreement, provided however that prior to that notice:
- (i) the Appeal Master has received notification in writing from that Party specifying the alleged failure to comply with this Agreement but, in the sole discretion of that Party acting reasonably, does not comply with the fundamental terms of this Agreement following receipt of the notice;
 - (ii) the Parties have already replaced the Appeal Master because of a failure to comply with the fundamental terms of this Agreement or that Party has requested in writing to the other Party to replace, for the same reason, the Appeal Master and other Party has not consented to such request within fifteen (15) days; and
 - (iii) there continues to be non-compliance with the fundamental terms of this Agreement subsequent to a replacement of the Appeal Master and following the Appeal Master's receipt of a further notification from the same Party specifying the alleged failure to comply with this Agreement
- d) Notwithstanding sub-paragraphs 2.21(b)(iii) or (c) (iii), nothing therein shall be deemed to prohibit the Parties from agreeing to replace further members of the Enrolment Committee or the Appeal Master, as the case may be, in an attempt to effect compliance with the fundamental terms of

this Agreement. Whereupon such an agreement being reached, this

Agreement shall not be terminated unless there continues to be non-compliance with the fundamental terms of this Agreement by the Enrolment Committee, subsequent to the replacement of one or more of its members, or by the replaced Appeal Master and following the Enrolment Committee or the Appeal Master, as the case may be, receiving further notification from the Party referred to in paragraphs 2.21(b) or (c) specifying the alleged failure to comply with this Agreement.

Chapter 3 Band Recognition and Registration

- 3.1 Upon receipt of the First Founding Members List established by the Enrolment Committee, and provided that this list includes a number of names at least equivalent to fifty percent (50%) of the number of members of the FNI at the time of the initialing of this Agreement, the Minister shall recommend the issuance of the Recognition Order by the Governor-in-Council.
- 3.2 The recommended Recognition Order shall declare that the body of Indians made up of the persons named on the Founding Members List, attached as a schedule to the Recognition Order, is a band for the purposes of the *Indian Act*.
- 3.3 Upon receipt of the Second Founding Members List established by the Enrolment Committee, the Minister shall recommend to the Governor-in-Council the amendment of the schedule to the Recognition Order to add the names listed on the Second Founding Members List.
- 3.4 The Founding Members will be entitled to registration on the Indian Register in accordance with paragraph 6(1)(b) of the *Indian Act*. The individuals whose names are listed on the First Founding Members List will be entitled to registration from the time of the establishment of the Band. The individuals whose names are listed on the Second Founding Members List will be entitled to registration from the time of the amendment of the schedule to the Recognition Order adding their names to it.
- 3.5 For the purpose of section 3.1, the FNI shall certify and provide to Canada a copy of the list of its members within fourteen (14) days of the initialing of this Agreement.

Chapter 4 Eligibility and Enrolment Process

4.1 Eligibility Criteria

An individual is eligible to be enrolled as a Founding Member if that individual is alive at the time of the Recognition Order and, in the assessment of the Enrolment Committee:

- (a) is of Canadian Indian ancestry, whether by birth or adoption; and
- (b)
 - (i) on or before March 31, 1949 was a Member of a Newfoundland Pre-Confederation Mi'kmaq Community; or
 - (ii) is a descendant, whether by birth or adoption, of a person referred to in subparagraph 4.1(b)(i); and
- (c) is not registered on the Indian Register on the date of the Recognition Order; and
- (d) on the date of the Recognition Order
 - (i) self-identifies as a Member of the Mi'Kmaq Group of Indians of Newfoundland; and
 - (ii) is accepted by the Mi'Kmaq Group of Indians of Newfoundland as a Member of the Mi'Kmaq Group of Indians of Newfoundland.

4.2 Enrolment Process

- 4.2.1 An Enrolment Committee shall be established by the Parties to make the assessment referred to in section 4.1 in accordance with the procedures set out in section 4.4 and with the Enrolment Committee Guidelines appended as Annex A to this Agreement.
- 4.2.2 The Enrolment Committee shall include two representatives from Canada, two Mi'kmaq representatives and one independent chair.
- 4.2.3 The independent chair shall be an individual independent from both Parties, who is legally trained and well respected in the Newfoundland legal community, and shall be selected or replaced on mutual consent by the Parties. The FNI shall be responsible for the actual engagement of the independent chair.

4.2.4 If the Parties fail to agree on the selection of the independent chair within ninety (90) days of the coming into effect of this Agreement or on the selection of his subsequent replacement, they shall jointly apply to a Justice of the Supreme Court of Newfoundland and Labrador, Trial Division, to make the selection from a list of no more than four (4) nominees, with each Party submitting no more than two (2) nominees. The FNI shall engage the individual selected by the Court as independent chair.

A Party can only submit the names of nominees who have previously reviewed and accepted all terms and conditions of their potential engagement as independent chair, which shall include a provision that the Parties may replace the independent chair at any time in accordance with this Agreement.

4.2.5 Canada's representatives shall be selected by Canada, in its sole discretion, for the positive contribution these individuals can bring to the Enrolment Committee. At the sole discretion of Canada, its representatives may be replaced according to the same conditions applicable to these representatives' initial selection. Canada shall be responsible for the engagement of its representatives.

4.2.6 The two Mi'kmaq representatives shall be selected by the FNI, in its sole discretion, for the positive contribution these individuals can bring to the Enrolment Committee. These representatives shall be of Mi'kmaq ancestry. At the sole discretion of the FNI, either of these two Mi'kmaq representatives may be replaced by other individuals according to the same conditions applicable to these representatives' initial selection. The FNI shall be responsible for the engagement of these representatives.

4.2.7 The FNI shall provide facilities suitable for the operations of the Enrolment Committee.

4.2.8 The Enrolment Committee shall consider and determine, within the time lines set forth under subsections 4.2.18.4 and 4.2.19.2, all applications submitted in accordance with this Chapter during the Enrolment Process.

4.2.9 Where required, the Enrolment Committee may request additional evidence from an applicant before completing its assessment under section 4.1.

4.2.10 The Enrolment Committee shall retain for each applicant an Applicant Record.

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- 4.2.11 The Enrolment Committee may make rules to govern its internal procedures.
- 4.2.12 The Enrolment Committee shall be allowed to seek the assistance of experts for the purpose of its assessment under section 4.1.
- 4.2.13 For the purpose of its assessment under paragraph 4.1 (d), the Enrolment Committee may consider evidence of membership in any existing Mi'kmaq organizations, including evidence:
- provided by the FNI for members on its general list,
 - provided by the FNI local councils for members of the FNI local affiliates,
 - provided by the local governance of other Mi'kmaq groups of Indians on the island of Newfoundland for members of these groups.
- 4.2.14 The quorum for the meetings of the Enrolment Committee shall be constituted by the five members. Abstentions on any vote taken on an application before the Enrolment Committee shall not cause quorum to be lost once it has been established for the meeting.-
- 4.2.15 Subject to section 4.2.16, the assessment of the Enrolment Committee shall be determined by majority vote with the independent chair voting only to break a tie.
- 4.2.16 Except if directed to do so by the Appeal Master further to an appeal pursuant to subsection 4.3.3, the Enrolment Committee shall not add the name of an applicant to the Founding Members List unless the two representatives from Canada are satisfied that the applicant meets the criteria set out in paragraph 4(1)(a), subparagraph 4(1)(b)(ii) and paragraph 4(1)(c) of this Agreement.
- 4.2.17 Upon reviewing an application, the Enrolment Committee shall:
- a) if satisfied that the applicant has met all of the eligibility criteria, provide to the applicant written reasons confirming the applicant's enrolment; and
 - b) if not satisfied that the applicant has met all of the eligibility criteria, provide written reasons for denial to the applicant.

The Enrolment Committee decision, with written reasons, shall be sent to

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the applicant by ordinary mail to the mailing address indicated on the application form. A copy of the decision, with written reasons, shall be provided to the Parties.

4.2.18 First Stage of the Enrolment Process

4.2.18.1 The first stage of the Enrolment Process shall start with the establishment of the Enrolment Committee and continue for twelve (12) months.

4.2.18.2 In the event that, at the end of the first twelve (12) months of the Enrolment Process, the First Founding Members List includes a number of names representing less than fifty percent (50%) but more than forty percent (40%) of the number of FNI members at the time of the initialing of this Agreement, the first stage of the Enrolment Process shall be extended for six (6) months.

4.2.18.3 In the event that, at the end of the first twelve (12) months of the Enrolment Process, the First Founding Members List includes a number of names representing less than forty percent (40%) of the number of FNI members at the time of the initialing of this Agreement, the Enrolment Process shall stop, the Enrolment Committee and the Appeal Master shall cease their activities and this Agreement shall be terminated unless the Parties agree that the number of applications received within the first twelve (12) month period but not yet considered and determined justifies a six (6) month extension.

4.2.18.4 The Enrolment Committee shall establish the First Founding Members List and add to it the surname, given name, alias or other name and date of birth of every applicant who has been determined to have met the eligibility criteria set out in section 4.1:

- by the Enrolment Committee, prior to the conclusion of the first stage of the Enrolment Process,
- by the Appeal Master, within forty-five (45) days of the conclusion of the first stage of the Enrolment Process.

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- 4.2.18.5 The Enrolment Committee shall provide to the Parties a copy of the First Founding Members List verified by the independent chair within sixty (60) days of the conclusion of the first stage of the Enrolment Process.
- 4.2.18.6 Immediately after having provided the Parties with the First Founding Members List in accordance with subsection 4.2.18.5, the Enrolment Committee shall transfer to the Registrar the Applicant Records for all the individuals listed on the First Founding Members List.
- 4.2.18.7 Any application received after or not determined prior to the conclusion of the first stage of the Enrolment Process shall be held for consideration and determination during the second stage of the Enrolment Process.

4.2.19 Second Stage of the Enrolment Process

- 4.2.191 The second stage of the Enrolment Process shall start immediately after the conclusion of the first stage and shall conclude thirty-six (36) months following the date of its commencement. No application shall be received after the conclusion of the second stage of the Enrolment Process.
- 4.2.19.2 The Enrolment Committee shall establish the Second Founding Members List and add to it the surname, given name, alias or other name and date of birth of every applicant who has been determined to have met the eligibility criteria set out in section 4.1:
- by the Enrolment Committee, within thirty (30) days of the conclusion of the second stage of the Enrolment Process,
 - by the Appeal Master, within ninety (90) days of the conclusion of the second stage of the Enrolment Process.
- 4.2.19.3 Within thirty (30) days after the conclusion of the second stage of the Enrolment Process, the Enrolment Committee shall determine whether any remaining applicants have met the eligibility criteria.
- 4.2.19.4 The Enrolment Committee shall provide to the Parties a copy of the Second Founding Members List within one hundred and eleven (111) days of the conclusion of the second stage of the Enrolment Process.
- 4.2.20 The Enrolment Committee will cease to exist one hundred and eleven (111) days after the conclusion of the second stage of the Enrolment Process.
- 4.2.21 Upon the Enrolment Committee ceasing its activities as provided in

subsection 4.2.18.3 or upon its ceasing to exist as provided in subsection 4.2.20, the Enrolment Committee shall transfer to the Registrar all remaining Applicant Records.

4.3 Appeal

4.3.1 The Parties shall, on mutual consent, select or replace as Appeal Master an individual independent from both Parties, who is legally trained and well respected in the Newfoundland legal community. The Appeal Master shall not be a member of the Enrolment Committee or any person who is an Enrolment Clerk. The FNI shall be responsible for the actual engagement of the Appeal Master.

4.3.2 If the Parties fail to agree on the selection of the Appeal Master within ninety (90) days of the coming into effect of this Agreement or on his subsequent replacement, they shall jointly apply to a Justice of the Supreme Court of Newfoundland and Labrador, Trial Division, to make the selection from a list of no more than four (4) nominees, with each Party submitting no more than two (2) nominees. The FNI shall engage the individual selected by the court as Appeal Master.

A Party can only submit the names of nominees who have previously reviewed and accepted all terms and conditions of their potential engagement as Appeal Master, which shall include a provision that the Parties may replace the Appeal Master at any time in accordance with this Agreement.

4.3.3 Within thirty (30) days of the mailing of its decision by the Enrolment Committee, the applicant and the Parties shall have the right to appeal the decision of the Enrolment Committee by sending an Appeal Notice to the Appeal Master, with a copy to the Enrolment Committee.

4.3.4 The appeal shall be by way of a review of the Appeal Notice and of the Applicant Record. No additional evidence shall be provided on appeal.

4.3.5 Upon receiving a copy of the Appeal Notice, the Enrolment Committee shall forthwith provide a copy of the Applicant Record to the Appeal Master and notify the applicant or the Parties, as the case may be, of the appeal.

4.3.6 The Appeal Master shall, upon the review of the Appeal Notice and the Applicant Record, determine all appeals made under this section and provide a copy of its decision with written reasons to the appellant (applicant), the Enrolment Committee and the Parties.

- 4.3.7 Where the Appeal Master is satisfied that the appellant (applicant) has met the eligibility criteria, the Enrolment Committee shall add the surname, the given name, the alias or other name and the date of birth of the appellant (applicant) to the Founding Members List.
- 4.3.8 As soon as the Appeal Master has complied with subsection 4.3.6, he shall return the copy of the Applicant Record, together with any document received or produced in relation to this determination, to the Enrolment Committee for inclusion in the Applicant Record.
- 4.3.9 The Appeal Master shall determine all appeals made prior to the conclusion of the first stage of the Enrolment Process within forty-five (45) days thereafter and shall determine all remaining appeals within ninety (90) days of the conclusion of the second stage of the Enrolment Process.
- 4.3.10 The Appeal Master shall continue his functions until ninety days (90) after the conclusion of the second stage of the Enrolment Process and not longer.

4.4 Enrolment Applications

- 4.4.1 Anyone who wishes to enroll as a Founding Member may apply for enrolment during the Enrolment Process by submitting to the Enrolment Clerk for his region a completed application on a form to be developed by the Parties, together with all necessary documentation in support of his application, for consideration by the Enrolment Committee.
- 4.4.2 In order to assist the applicants in completing their application form and the Enrolment Committee in the administration of the Enrolment Process, the FNI shall engage one Enrolment Clerk for the Central region and two Enrolment Clerks for the Western region. These engagements will continue in effect as long as the Enrolment Committee continues its functions.
- 4.4.3 Canada shall provide to the Enrolment Clerks the training required to perform their functions according to this Agreement.
- 4.4.4 The FNI shall be responsible for providing office spaces suitable to their functions to each of the Enrolment Clerks within the boundaries of each region.
- 4.4.5 The Enrolment Clerks shall perform their functions under the direction of the

Enrolment Committee. An Enrolment Clerk cannot serve as a member of the Enrolment Committee.

Chapter 5 Federal Programs

- 5.1 The participation of the Band and its members in, or their respective eligibility to benefit from, programs established by Canada for Indian bands, band members, and/or registered Indians, including but not limited to those programs listed in section 5.2, shall be determined according to the application of general criteria established by Canada defining the participation of Indian Bands, and members and/or registered Indians in, or their respective eligibility to benefit from, such programs.
- 5.2 The main programs currently established by Canada which will be available to the Band, its band members or to registered Indians include:
- Post Secondary Student Support Program
 - Band Support Funding Program
 - Band Employee Benefits Program
 - Indian Registry Administration
 - Community Economic Development Organizations Program
 - Community Support Services Program
 - Community Economic Opportunities Program
 - Non-insured Health Benefits
- 5.3 The programs established by Canada for Indian bands, band members and registered Indians, including those listed in section 5.2, may be amended, replaced or cancelled from time to time, and new programs may be created for which the Band and its members may become eligible.
- 5.4 Nothing in this Agreement will preclude the Band or its members from accessing and benefiting from programs of general application that Canada may make available for aboriginal people from time to time, provided the applicable program eligibility criteria can be met.

Chapter 6 Governance Structure and Leadership Selection

- 6.1 The Parties agree that the selection of the leaders, as well as the governance structure of the Band, will be based on the principles of democracy, inclusiveness, fairness and accountability.
- 6.2 The Band will be governed by and act through a band council selected in

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accordance with the custom of the Band, reflected in the Qalipu Mi'kmaq First Nation Band Custom Election Rules as amended from time to time, a copy of which is appended as Annex C to this Agreement.

- 6.3 The Parties acknowledge that the *Indian Act* provisions with respect to Indian band elections, as well as the *Indian Band Election Regulations*, C.R.C. 1978 c. 952, as amended, will not apply to the Band unless the Minister exercises his discretion to issue an order pursuant to s. 74 of the *Indian Act* to bring the Band under the *Indian Act* regime for election purposes.
- 6.4 Subject to the specific terms of the Qalipu Mi'kmaq First Nation Band Custom Election Rules, the band council of the Band will be elected every three years and will be composed of one Chief elected by all eligible electors, one Vice-Chief elected by the electors eligible to vote in an electoral ward within the Central Region, one Vice-Chief elected by the electors eligible to vote in an electoral ward within the Western region, and nine Councilors elected by the electors eligible to vote in one of the nine electoral wards, the intention being that each eligible elector shall have the right to vote for one councilor only.
- 6.5 Transition
- 6.5.1 The band council of the Band will be composed of the incumbent board of directors of the FNI existing as of the date of the establishment of the Band and until replaced through the electoral process referred to in subsection 6.5.2.
- 6.5.2 Within six months of the date of the establishment of the Band, its band council shall announce the date of the first election for all positions on band council, and such election shall be held in accordance with the Qalipu Mi'kmaq First Nation Band Custom Election Rules no later than one year following the date of the establishment of the Band.
- 6.5.3 In the event that any position on the band council become vacant during the interim period provided for in subsection 6.5.1, such position shall remain vacant until the election referred to in subsection 6.5.2.
- 6.6 Financial Accountability
- 6.6.1 The band council of the Band shall maintain a system of accountability to its band members which provides for:

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- (a) transparency: which means that the band council's decision making processes and approved program delivery policies are known to band members;
- (b) disclosure: which means that band members have access to information on band council's plans, actions and expenditures; and
- (c) redress: which means that the band council shall maintain formal dispute resolution processes by which band members may appeal decisions of the band council, which includes decisions of its employees and delegates.

6.6.2 The band council of the Band shall maintain financial records and prepare financial statements in accordance with generally accepted accounting principles, as prescribed by the Canadian Institute of Chartered Accountants and, where applicable, with the requirements of the Year-end Reporting Handbook, as amended from time to time.

6.6.3 The band council of the Band will, within the first year of the establishment of the Band, propose to make, pursuant to s. 83 of the *Indian Act*, a Financial Management By-Law substantially in the form of Annex D to this Agreement.

Chapter 7 Applicable Indian Act Provisions

7.1 The Band will be a band for the purpose of the *Indian Act*, but will have no reserve base. As a result, the provisions of the *Indian Act*, or of any other Act applicable to Indian bands, dealing with the administration of reserve lands or requiring the existence of a reserve base for their application, will not apply in situations involving the Band and its members.

7.2 The provisions of the *Indian Act*, or of any other Act applicable to Indian bands, which do not require the existence of a reserve base for their application will apply in situations involving the Band and its members. A list of provisions of the *Indian Act* applicable in the absence of a reserve base is attached as Annex E, for information purposes.

7.3 For greater certainty, this Chapter is not intended to affect the application of the federal legislation, but simply to reflect the understanding of the Parties.

Chapter 8 Litigation Settlement, Release and Indemnity

8.1 Upon ratification by Canada of this Agreement, the Parties and the individual Plaintiffs in the Federal Court Action No. T-129-89 shall jointly seek from the Federal Court a consent order dismissing the action without costs. The draft consent order shall contain a provision that it take effect on

the date of the establishment of the Band.

This Agreement shall be of no force or effect until the Federal Court grants the proposed consent order dismissing the action without costs, on terms acceptable to the Parties in their sole respective discretion.

In the event that the Band is not established within thirty months of the coming into effect of this Agreement, the Parties shall thereafter have leave to apply to the Federal Court to seek directions with respect to the matter.

8.2 This Agreement shall be of no force or effect unless all the Plaintiffs in the Federal Court action T-129-89 execute a full and final release in the terms of Annex G to this Agreement. The executed full and final release shall be of no force or effect if the Federal Court does not grant the proposed consent order dismissing the action without costs or if the proposed order does not take effect.

8.3 Any applicant for enrolment pursuant to Chapter 4 shall complete and sign an application form developed by the Parties, which will include a full and final release in favour of Canada with respect to any claims or proceedings against Canada or any of its officers, servants, employees or agents, seeking recognition as an Indian under the *Indian Act* or damages as a result of the failure by Canada, its officers, servants, employees or agents to, at any time, provide to the applicant benefits comparable to those available to Indians.

The terms of the full and final release will require an applicant who is granted enrolment to opt-out from any class action proceedings in any way relating to or arising from the failure at any time by Canada to provide him with benefits comparable to those available to Indians, thereby excluding himself from participating in any related court award or settlement agreement.

Any applicant not signing the proper application form, including the full and final release, will have his application automatically denied by the Enrolment Committee, without prejudice to the ability of the applicant to submit a new

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application form properly completed and signed. In the event that the Recognition Order is not issued or that the applicant is denied the right to have his name added to the Founding Members List, the executed release shall be of no force or effect.

8.4 Within thirty (30) days of the Recognition Order, the band council of the Band shall sign an indemnification form providing, in substance, for the following:

- (a) The Band shall indemnify and forever save harmless Canada, its officers, servants, employees or agents, from all damages, costs, losses, or liabilities that Canada, its officers, servants, employees or agents may suffer or incur in connection with or as a result of any suits, actions, causes of action, claims, proceedings, or demands initiated or made after the Recognition Order by a member or any person having been at any time a member of the Band relating or arising from the failure by Canada, its officers, servants, employees or agents, at any time, to recognize the applicant as an Indian for the purposes of the *Indian Act* and to provide him benefits comparable to those available to Indians.
- (b) The costs referred to in paragraph (a) do not include fees and disbursements of lawyers and other professional advisors.
- (c) Canada shall vigorously defend any suit, action, claim, demand or proceeding referred to in paragraph (a) and shall not compromise or settle any suit, action, claim, demand or proceeding without the consent of the Band, which consent will not be unreasonably withheld or delayed.

Chapter 9 Ratification

9.1 This Agreement must be ratified in accordance with this Chapter as a condition precedent to its validity. Unless so ratified by the Parties, this Agreement has no force or effect. When ratified by both Parties in accordance with this Chapter, this Agreement shall be binding on the Parties and constitute the final agreement, subject to section 8.1 of this Agreement.

9.2 The FNI shall have ratified this Agreement when:

- (a) it has been approved by the FNI members, and
- (b) the President of the FNI, duly authorized by a resolution of the board

of directors, has signed it.

For the purpose of paragraph (a), this Agreement shall be deemed to be approved by the members of the FNI if a majority of the votes cast by

eligible voters at the ratification vote conducted in accordance with the process set out in this Chapter is in favor of it.

9.3 Canada shall have ratified this Agreement when the Minister, authorized by the Governor in Council, has signed this Agreement.

9.4 At least forty-five (45) days prior to the date of the ratification vote, the FNI shall post the Notice of the ratification vote and the List of Voters in conspicuous places near the polling stations . The Notice of the ratification vote shall specify the date(s), time(s) and place(s) for the ratification vote (including the advance poll), as well as the Ballot Question contained in subsection 9.12. It shall also give instructions on how to have one's name added to the voters list and provide a deadline for such additions or other revisions.

9.5 Ratification Officer and Deputy Ratification Officers

9.5.1 Before the Notice of the ratification vote is posted, the FNI shall select and appoint a Ratification Officer and as many Deputy Ratification Officers as required to conduct the ratification vote. The Ratification Officer and the Deputy Ratification Officers shall not be FNI members.

9.5.2 The Ratification Officer and the Deputy Ratification Officers shall have experience acceptable to the Parties in voting processes and procedures and shall undergo such further training as the Parties shall consider appropriate to carry out their duties under this Chapter. The FNI shall provide this training.

9.5.3 The Ratification Officer shall have the responsibility, with the assistance of the Deputy Ratification Officers, of preparing the List of Voters and conducting the ratification vote in accordance with the Ratification Voting Guidelines appended as Annex F to this Agreement.

9.6 Subsequent to the posting of the Notice of the ratification vote and the List of Voters and at least five (5) days prior to the date of the ratification vote, the FNI shall hold information sessions regarding this Agreement for the membership of each FNI affiliate and the membership enrolled on the FNI

general list. Each of the information sessions shall be attended by representatives from the FNI and from Canada, by the Ratification Officer, and by a legal counsel hired by the FNI to explain the legal effect of this Agreement, including the litigation releases required pursuant to sections 8.2 and 8.3, with a view to ensuring that all voters are fully informed prior to casting their votes on the Ballot Question.

9.7 Within five (5) days of the posting of the Notice of the ratification vote, the FNI shall mail to the individuals identified on the List of Voters as of the date of the posting, information, in paper or electronic format, including at least:

- a copy of the Notice of ratification vote,
- information on the substance of this Agreement,
- a copy of this Agreement with all annexes,
- information on the ratification voting process and on the dates, time and locations of the information sessions.

Except where the FNI has already sent the information to the individual, the FNI will send the same information to any individual added to the voters list within three (3) days of being notified by the Ratification Officer of such addition.

9.8 The FNI will also make the information referred to in section 9.7 available to other Mi'kmaq upon request and will post the same on the FNI website.

9.9 All members of the FNI of at least eighteen (18) years of age on the voting day shall be considered eligible voters in the ratification process, including Mi'kmaq individuals affiliated with other Mi'kmaq groups outside of the FNI local groups that are enrolled on the FNI general list.

9.10 The ratification vote shall be by secret ballot.

9.11 At the closing of the vote, all ballot boxes shall be sealed by the Deputy Ratification Officers and transferred to a central location where the votes shall be tallied, numerated and recorded by the Ratification Officer, in the presence of a representative for each Party.

9.12 The Ballot Question will read as follows: Do you approve the Agreement-in-Principle between Canada and the FNI which, if ratified by both Parties, provides for the establishment of a landless band and the registration of its Founding Members as registered Indians under the *Indian Act*?
[] yes [] no

- 9.13 The appearance, format and contents of the ballot shall be approved by the Parties prior to the posting of the notice of the ratification vote.

Chapter 10 Implementation

- 10.1 Within thirty (30) days of ratification of this Agreement by Canada, the Parties shall establish a plan for the implementation of this Agreement, referred to as the "Implementation Plan". The Implementation Plan is not part of this Agreement and is not binding on the Parties.
- 10.2 Within ten (10) days of ratification of this Agreement by Canada, the Parties shall establish an Implementation Committee. The Implementation Committee shall cease its activities on the date of the establishment of the Band or of the termination of this Agreement, as the case may be.
- 10.3 The Implementation Committee shall consist of six (6) representatives; three (3) chosen by the FNI and three (3) chosen by Canada.
- 10.4 The Implementation Committee shall oversee and coordinate the implementation of this Agreement and advise the Parties on issues relating to the establishment of the Band. The Implementation Committee shall have no authority to bind the Parties. Without limiting the generality of the foregoing, the Implementation Committee shall:
- develop the Implementation Plan,
 - serve as a forum to negotiate the funding agreements referred to in this Chapter including any required amendments to such funding agreements,
 - assist the Enrolment Committee as required,
 - monitor the progress of the Enrolment Process,
 - facilitate the resolution of any implementation issues.
- 10.5 The Parties shall negotiate a funding agreement acceptable to Canada to cover the reasonable direct costs of the participation of the FNI in the work required for the implementation of this Agreement.
- 10.6 The Parties shall negotiate a funding agreement acceptable to Canada to support the reasonable direct costs incurred by the FNI with respect to the following aspects of the Enrolment Process:
- the engagement and remuneration of the Enrolment Clerks,
 - the engagement and remuneration of the members of the Enrolment

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- Committee (excluding the representative from Canada) and the Appeal Master, and
- the administration and operations of the Enrolment Committee.

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IN WITNESS THEREOF, the Minister of Indian Affairs and Northern Development has affixed his signature on behalf of Her Majesty the Queen in right of Canada, and the President of the Federation of Newfoundland Indians has affixed his signature on behalf of the Federation of Newfoundland Indians and its members.

SIGNED at _____ this ___ day of _____ 200__.

Brendan Sheppard
President of the Federation of Newfoundland Indians

WITNESSED BY:

Name:

Address:

Occupation:

SIGNED at _____ this ___ day of _____ 200__.

Chuck Strahl
Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-status Indians

WITNESSED BY:

Name:

Address:

Occupation:

ENROLMENT COMMITTEE GUIDELINES

The Enrolment Committee established by the Federation of Newfoundland Indians (the FNI) and Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development (Canada) is responsible for assessing the applications of persons who wish to be included in the Founding Members Lists of the Qalipu Mi'kmaq First Nation Band as meeting the eligibility criteria set out in section 4.1 of the Agreement for the Recognition of an Indian Band on the Island of Newfoundland (the Agreement).

The Enrolment Committee shall assess applications in accordance with the procedures set out in section 4.4 of the Agreement and in accordance with the following guidelines.

In these guidelines, capitalized terms have the meaning ascribed to them in the Agreement; words in the singular include the plural and words in the plural include the singular; words importing male persons include female persons and corporations.

Validity of Application

1. Submitted applications must be in a form developed by the Parties.
2. Except in the case of a mentally incompetent person 18 years of age or over, an application form for a person 18 years of age or over shall be signed by that person.
3. An application form for a mentally incompetent person 18 years of age or over shall be signed by the legal guardian of that person.
4. An application form for a person under the age of 18 years ("child") shall be signed by one parent named on the child's long form Vital Statistics birth certificate or if the child was adopted through provincial legislation or by Mi'kmaq custom, by one of the adoptive parents. If a court has made a custody award in respect of a child, the application shall be signed by a person granted custody, except where the custodial order makes provision for another person to make decisions with respect to the child in which case the application shall be signed by that other person.
5. An application must include a copy of the long form Vital Statistics birth certificate of the applicant showing the names of the applicant's parents, and if applicable, either a copy of the official Adoption Order if the applicant was adopted under the provincial regime or, if the applicant was adopted in accordance with Mi'kmaq custom, documentation as outlined in section 10 of this document.

6. Notwithstanding section 5, where a long form Vital Statistics birth certificate does not exist, the Enrolment Committee may consider such evidence as it considers appropriate to obtain the information that would be contained on a long form Vital Statistics birth certificate.
7. Where the release portion of an application form that has been presented to the Enrolment Committee has not been signed by the applicant or the person applying on his behalf, the application shall be denied by the Enrolment Committee.

Adoption

8. Under the eligibility criteria established by subsection 4.1 of the Agreement, ancestral links may be by birth or adoption and an adopted person is in the same position as a natural descendant.
9. For the purpose of the eligibility criteria established by subsection 4.1 of the Agreement, adoption under the provincial regime or in accordance with the Mi'kmaq custom is accepted.
10. In determining whether a person was adopted in accordance with Mi'kmaq custom, the Enrolment Committee shall be guided by the following:
 - a) A person may be considered to have been adopted by way of Mi'kmaq custom if the Enrolment Committee receives evidence that the person, starting at or below the age of 9 years, was raised by the adoptive parents as their own child in accordance with the values, customs and traditions preserved by the Mi'kmaq Group of Indians of Newfoundland.
 - b) Evidence to establish that a person was adopted by Mi'kmaq custom shall, where possible, include:
 - i) An affidavit completed by the adopted person (if age 18 years or older) attesting that:
 - a) He was adopted according to Mik'maq custom and providing the names of the custom adoptive parent(s) and the date of the custom adoption,
 - b) He was raised by the custom adoptive parent(s) as his/their own child,
 - c) He was raised according to Mi'kmaq custom and was aware that the adoptive parents self-identify (or adoptive parent self-identifies) as (a) Member(s) of the Mi'kmaq Group of Indians of Newfoundland.

- ii) Affidavit(s) completed by the birth parent(s) attesting that:
 - a) The person was adopted according to Mi'kmaq custom and providing the names of the custom adoptive parents and the date of the custom adoption,
 - b) The adoptive parent(s) raised or are raising the person as his/their own child.
- iii) Affidavit(s) completed by the adoptive parent(s) attesting that:
 - a) He/They adopted the person according to Mi'kmaq custom and providing the date of the custom adoption,
 - b) He/They are raising or raised the person as his/their own child and in accordance with the values, customs and traditions preserved by the Mi'kmaq Group of Indians of Newfoundland.
- iv) A resolution from the local Mi'kmaq group of Indians on the island of Newfoundland with which the person is affiliated, affirming that:
 - a) The person was adopted according to Mi'kmaq custom and that the adoption took place at or before the age of 9,
 - b) The adoptive parent(s) is/are raising or raised the person as his/their own child,
 - c) The person is being raised or was raised aware that the parent self-identifies as a Member of the Mi'kmaq Group of Indians of Newfoundland, and is being raised or was raised in accordance with values, customs and traditions preserved by the Mi'kmaq Group of Indians of Newfoundland.
- v) Affidavit(s) from a Mi'kmaq elder or other person who has personal knowledge of the adoption attesting that:
 - a) The person was adopted according to Mi'kmaq custom and the adoption took place at or before the age of 9,
 - b) The adoptive parent(s) is/are raising or raised the person as his/their own child,
 - c) The person is being raised or was raised according to Mi'kmaq custom.
- vi) Any relevant evidence that may be presented by or on behalf of the applicant or that the Enrolment Committee may require.

Registered Indian

11. The application of a registered Indian shall be denied by the Enrolment Committee.
12. Verification that a person is not registered in the Indian Register will be provided to the Enrolment Committee by the Office of the Indian Registrar .

Canadian Indian Ancestry

13. The applicant must provide evidence that he is of Canadian Indian ancestry. There is no minimum blood quantum.
14. Evidence that an applicant is of Canadian Indian ancestry must include documentation or records establishing his descent from an ancestor who has been identified as an aboriginal person. The documentation or records may include, but would not be limited to the following:
 - (i) Extracts from census records, historical textbooks or other historical records such as church records, school records, personal journals or logs created prior to March 31, 1949 that identify a person as:
 - (a) Indian
 - (b) French Indian
 - (c) English Indian
 - (d) Micmac or variations thereof
 - (e) Montagnais or variations thereof
 - (f) Abenaki or variations thereof
 - (g) Naskapi
 - (h) savage or variations thereof
 - (i) aboriginal or of aboriginal descent
 - (ii) Affidavits based on the deponent's personal knowledge or, where the deponent is an elder, based on oral history passed down through the generations, establishing that, on or before March 31, 1949, an applicant's ancestor was an aboriginal person or of aboriginal descent.
15.
 - (i) Persons established to the satisfaction of the Enrolment Committee in genealogical research as being aboriginal or of aboriginal descent shall be deemed to be of Canadian Indian ancestry,
 - (ii) In making a determination as to whether the applicant or the applicant's ancestor is of Canadian Indian ancestry, the Enrolment Committee shall have regard to and give significant weight to the Genealogy Research projects sponsored by the Federation of Newfoundland Indians.

Member of a Newfoundland Pre-Confederation Mi'kmaq Community

16. The applicant must provide evidence that he or his ancestor was a member of a Mi'kmaq community that existed on the island of Newfoundland on or before March 31, 1949 ("Newfoundland Pre-Confederation Mi'kmaq Community").
17. Each of the communities listed in subsection 1.16 of the Agreement is considered to be a Newfoundland Pre-Confederation Mi'kmaq Community. Other communities may be considered to be Newfoundland Pre-Confederation Mi'kmaq Communities if the Enrolment Committee receives sufficient evidence that such Mi'kmaq communities existed on the island of Newfoundland on or before March 31, 1949.
18. Membership in a Newfoundland Pre-Confederation Mi'kmaq Community shall be established through a substantial connection with that community through either:
 - a) residency in or around that Mi'kmaq community

OR

 - b)
 - i) frequent visits and/or communications with resident members of that Mi'kmaq community

AND

 - ii) maintenance of the Mi'kmaq culture or way of life, that is, membership in an organization promoting Mi'kmaq interests; knowledge of Mi'kmaq customs, traditions and beliefs; participation in cultural or religious ceremonies; or, pursuit of traditional activities.
19. For greater certainty, evidence that an applicant or his ancestor was a resident in or around a Newfoundland Pre-Confederation Mi'kmaq Community shall be sufficient to establish that the applicant or his ancestor was a Member of that community.
20. Examples of the types of documents or records which may be considered as evidence of residence in or around a Newfoundland Pre-Confederation Mi'kmaq Community include:
 - extracts from pre-confederation census records,
 - extracts from historical textbooks or other historical records,
 - household papers such as personal correspondence, bills of sale, etc.,
 - deeds or other documents showing land ownership,
 - church records confirming place of birth and baptism,
 - Affidavits establishing residency.

21. Examples of the types of documents or records which may be considered for the purpose of subsection 18 (b) include
 - extracts from historical textbooks or other historical records,
 - family documents such as personal correspondence, cards, notes, photos, etc.,
 - church records,
 - documents from aboriginal organizations,
 - Affidavits establishing substantial connection with a Newfoundland Pre-Confederation Mi'kmaq Community according to the criteria contained in subsection 18(b).
22. In making a determination as to whether a person was a member of a Newfoundland Pre-Confederation Mi'kmaq Community, the Enrolment Committee shall have regard to and give significant weight to the Genealogy Research projects sponsored by the Federation of Newfoundland Indians.
23. An applicant claiming that his ancestor was a member of a Newfoundland Pre-Confederation Mi'kmaq Community must provide evidence of descent from that ancestor.

Self-identification

24. A signed application form constitutes sufficient evidence that the applicant self-identifies as a Member of the Mi'kmaq Group of Indians of Newfoundland.

Acceptance by the Mi'kmaq Group of Indians of Newfoundland

25. Acceptance by the Mi'kmaq Group of Indians of Newfoundland as a Member of the Mi'kmaq Group of Indians of Newfoundland shall be established through substantial connection with that group through either:

- a) residency in or around a Mi'kmaq Group of Indians on the island of Newfoundland

OR

- b) i) frequent visits and/or communications with resident members of the Mi'kmaq Group of Indians on the island of Newfoundland

AND

- ii) maintenance of the Mi'kmaq culture or way of life, that is, membership in an organization promoting Mi'kmaq interests; knowledge of Mi'kmaq customs, traditions and beliefs; participation in cultural or religious ceremonies; or, pursuit of traditional activities.

26. For the purpose of its assessment under paragraph 25(a), the Enrolment Committee must be satisfied that the applicant's home address (usual place of residence) as identified on the Application form is in or around the location of a Mi'kmaq Group of Indians on the island of Newfoundland listed in Annex B to the Agreement or is in or around the location of another Mi'kmaq Group of Indians on the island of Newfoundland, provided that the Enrolment Committee receives sufficient evidence that such a group exist.
27. The applicant claiming acceptance as a member of the Mi'kmaq Group of Indians of Newfoundland based on residency must provide a copy of one of the documents listed in Column A below or copies of two of the documents listed in Column B (or such other documents that the applicant may have available to confirm residency).

<u>Column A</u>	<u>Column B</u>
Notice of Assessment for Income Tax purposes Notice of Assessment for Municipal Tax purposes Real Property Lease or Rental Agreement Affidavit from a Municipal Official or Chief	Any Provincial permit/license showing current address Current Utility Bill (phone, cable, electrical, water)

28. For the purpose of its assessment under paragraph 25(b)(i), the Enrolment Committee may consider affidavits from at least two residents of the Mi'kmaq Group of Indians on the island of Newfoundland which describe in detail the applicant's visits to the community or communications with the residents as well as the frequency of the applicant's visits and communications.
29. Examples of the types of documents or records which may be considered for the purpose of subsection 25(b)(ii) include:
- extracts from textbooks or other published materials,
 - family documents such as personal correspondence, cards, notes, photos, etc.,
 - church records,
 - documents from aboriginal organizations,
 - Affidavits establishing substantial connection with the Mi'kmaq Group of Indians of Newfoundland according to the criteria contained in subsection 25(b)(ii).
30. For the purpose of its assessment under paragraph 25(b)(ii), the Enrolment Committee may consider evidence of membership in any existing Mi'kmaq organizations:
- provided by the FNI for the members on its general list;
 - provided by the FNI local councils for the members of the FNI local affiliates;
 - from the local governance of other Mi'kmaq groups of Indians on the island of Newfoundland for members of these groups.

Standards of Evidence

31. Except in circumstances where the Agreement or these guidelines provide more specific directions, individual components of evidence shall be assessed for relevance and reliability and shall be given such weight as the Enrolment Committee considers reasonable and appropriate in all the circumstances.
32. The Enrolment Committee must be satisfied that the evidence, considered in its entirety, is sufficient to establish on a balance of probabilities that the applicant complies with each component of the eligibility criteria set forth in subsection of 4.1 of the Agreement.
33. An applicant shall establish descent through the documentation listed below in descending order of preference.

For example, as proof of parentage, an applicant must include a copy of his Vital Statistics record of birth, a copy of the official Adoption Order if adopted under the provincial regime or documentation as described in section 10 if he was adopted in accordance with Mi'kmaq custom. However, the applicant may discover that there is no birth record on file with Vital Statistics for his deceased parent or grandparent whose ancestor is established to have been a member of a pre-confederation Newfoundland Mi'kmaq Community. In such a case, a church record of the parent's or grandparent's birth showing the names of the parents would be accepted as proof of parentage. If a church record is also unavailable, then it would be necessary to determine if the next listed type of documentation, school or census records, exist.

a) Vital Statistics Records

Birth certificates showing the names of the parents are considered the best evidence of parentage. If there is no birth certificate on file with Vital Statistics, a Vital Statistics marriage or death record showing the names of the parents may be accepted.

Note:- Birth documents issued in Quebec after January 1, 1994 must be issued by the Director of Vital Statistics of the Province of Quebec. A Birth and Baptismal Certificate is acceptable if the event took place prior to January 1, 1994 and the document was issued prior to January 1, 1994.

b) Court orders or court documents, when applicable

If a Vital Statistics record of birth does not identify a father, a court order declaring paternity may be accepted as proof of paternity. Other types of court documents such as Adoption Orders, orders that may be made in divorce proceedings or proceedings seeking parental, spousal or child support may be accepted to confirm relationships.

c) Church Records

Church records, including records of birth, baptism, marriage and death, may be accepted if the appropriate Vital Statistics records office verifies that it has no record of the event.

d) School or Census Records

School or census records may be accepted to document births, deaths, and marriages, if the appropriate Vital Statistics records office verifies that it has no record of the event and if no church records are available.

e) Family Records

Family records, such as correspondence, photos, recordings of genealogy, etc. may be considered to establish relationships.

f) Records held by a Mi'kmaq group of Indian on the island of Newfoundland

Lists of members, records of group meetings or group business may be considered to establish relationships.

g) Historical texts or historical records

Historical texts or historical records such as personal journals or logs (e.g. Howley, Jukes and Speck) may be considered to establish relationships.

h) Affidavits

Sworn affidavits may be accepted to establish relationships if no other documentation from the period of the birth of a person is available. Normally, there should be affidavits from two or more persons who have a personal and specific knowledge of the information to which they are attesting. The persons completing the affidavits should identify their familial or other relationship to the person and the circumstances under which they gained specific knowledge of the information to which they are attesting.

i) Oral History

Evidence from Mi'kmaq elders or other members of a Mi'kmaq group of Indian on the island of Newfoundland confirming their knowledge of Mi'kmaq oral history passed down to them through the generations may be accepted to confirm relationships and Mi'kmaq ancestry. If oral history evidence is provided in non-written form, it shall be recorded for or by the Enrolment Committee.

j) DNA Evidence

DNA evidence to establish parentage may be accepted when other evidence is conflicting or there is no other means to establish parentage.

Record Administration

34. A file shall be created containing the Applicant Record for each applicant.
35. The Applicant Record for each applicant shall include all documentation provided by the applicant in support of his application, all documentation considered by the Enrolment Committee in its assessment, all correspondence sent and received by the Enrolment Committee in relation to the applicant and the confirmation or written reasons for denial of enrolment.
36. All Applicant Records shall be transferred to the Office of the Indian Registrar at Indian and Northern Affairs Canada in accordance with subsections 4.2.18.6 and 4.2.21 of the Agreement.
37. At any time prior to the transfer of Applicant Records as per the preceding section, the Indian Registrar at Indian and Northern Affairs Canada shall, upon request, be provided with a copy of an Applicant Record by the Enrolment Committee.

**List of geographic locations of Mi'kmaq groups of Indians
on the Island of Newfoundland**

ABRAHAMS COVE
APPLETON
BADGER
BIRCHY BAY
BISHOP'S FALLS
BLACK DUCK BROOK
BLACK DUCK SIDING
BOSWARLOS
BOTWOOD
BROWN'S ARM
BUCHANS
BURGEO
CAMPBELLS CREEK
CAMPBELLTON
CAPE ST.GEORGE
COMFORT COVE
CORNER BROOK
COX'S COVE
DEER LAKE
FLAT BAY
FOX ISLAND RIVER
GALLANTS
GANDER
GANDER BAY SOUTH
GANDER BAY NORTH
GILLIAMS
GLENWOOD
GRAND FALLS/WINDSOR
HUGHES BROOK
HUMBER ARM SOUTH
IRISHTOWN/SUMMERSIDE
KIPPENS
LARK HARBOUR
LEADING TICKLES
LEWISPORTE
LOURDES

LOWER COVE
MAINLAND
MASSEY DRIVE
MATTIS POINT
McIVERS
MEADOWS
MILLERTOWN
MOUNT MORIAH
NORRIS ARM
NORTHERN ARM
PASADENA
PETERVIEW
PICCADILLY
POINT LEAMINGTON
PORT AU PORT EAST
PORT AU PORT WEST
RED ISLAND
SHEAVES COVE
SHIP COVE
ST. ALBANS
ST. FINTAN'S
ST. GEORGE'S
ST. TERESA'S
STEADY BROOK
STEPHENVILLE
STEPHENVILLE CROSSING
THREE ROCK COVE
WEST BAY
YORK HARBOUR

THE CUSTOM OF THE QALIPU MI'KMAQ FIRST NATION BAND

AS TO THE ELECTION OF CHIEF AND COUNCIL

**CUSTOM RULES GOVERNING QALIPU MI'KMAQ FIRST NATION BAND
ELECTIONS**

WHEREAS the Qalipu Mi'kmaq First Nation Band is a constituent Band of the Mi'kmaq Nation and has the inherent authority to adopt, by way of Custom, a method for choosing its Chief and Council, as recognized by subsection 2(1) of the Indian Act, R.S.C. 1985, c. 1-5, and as was recognized by the same subsection of the Indian Act, R.S.C. 1970, c. 1-6;

AND WHEREAS the Qalipu Mi'kmaq First Nation Band is desirous of having its Customary Election Rules codified so as to avoid conflicts, uncertainty and to provide written confirmation of the Qalipu Mi'kmaq First Nation Band's Customary Election Rules;

AND WHEREAS these Custom Rules for the Election of the Band Council of the Qalipu Mi'kmaq First Nation Band are those referenced in section 6.2 of the Agreement on the Recognition of an Indian Band on the island of Newfoundland, which Agreement annexed these Custom Rules as Annex 'C' thereof and was ratified by a majority of the votes cast in a ratification vote conducted in accordance with section 9.2 of that Agreement.

EFFECTIVE DATE

1. These Custom Election Rules came into full force and effect on the date of the establishment of the Qalipu Mi'kmaq First Nation Band.

DECLARATION AS TO INAPPLICABILITY OF SECTIONS OF THE INDIAN ACT

2. Provisions found in the Indian Act, R.S.C. 1985, c. 1-5, respecting the Band Elections of Chiefs and Band Councils, being sections 74, 75, 76, 77, 78, 79 and 80 inclusive, do not and shall not apply to the Qalipu Mi'kmaq First Nation Band.

INTERPRETATION

3. In these Rules,

“Advance Poll” means a Poll held after the Notice of Band Election is posted but prior to the Election Poll, for the purpose of allowing those Electors who are unable to attend at the Election Poll the opportunity to vote in the Band Election.

“Agent” means an individual appointed by a Candidate to be present and observe the activities at a Band Election Poll.

“Amendment Vote” means a vote held in accordance with these Custom Election Rules to add, amend or repeal a provision or provisions of these Custom Election Rules.

“Band” means the Qalipu Mi’kmaq First Nation Band.

“Band Election” means an election held according to the Custom of the Band as codified by these Custom Election Rules.

“Band By-Election” means a Band Election held for the purpose of filling a vacant Council position prior to the end of the term of office for that Council position.

“Band Web Page” means the internet web page related to the Band and maintained by the Council on behalf of the Band.

“Candidate” means an Eligible Nominee who was nominated for a Council position at a Nomination Meeting and who has filed Nomination Papers with the Electoral Officer.

“Chief” means Chief of the Band elected pursuant to these Custom Election Rules.

“Council” means the Council of the Band elected pursuant to these Custom Election Rules.

“Councilor” means a person elected to serve on the Council representing Electors within an Electoral Ward identified under Rule 5.2 pursuant to these Custom Election Rules.

“Custom Election Rules” means the provisions of the Qalipu Mi’kmaq First Nation Band Custom Election Rules.

“Deputy Electoral Officer” means any person appointed by the Electoral Officer for the purpose of a Band Election.

“Election Poll” means the Poll held on the date of the Band Election.

“Electoral Ward” means an area named in Rule 5.2 and shown on Schedule ‘A’ to these Custom Election Rules.

“Elector” means a person who:

- (a) is registered on the Membership List of the Band; and
- (b) is the full age of eighteen years.

“Electors’ List” means the list of electors eligible to vote in a Band Election, as prepared by the Electoral Officer in accordance with these Custom Election Rules.

“Electoral Officer” means a person appointed by the Council of the Band for the purposes of administering a Band Election or Elections in accordance with these Custom Election Rules.

“Eligible Nominee” means an Elector of the Band nominated for the position on the Council of the Band in accordance with these Custom Election Rules.

“Nomination Papers” means the document filed in accordance with these Custom Election Rules and which represents the written acceptance of an Eligible Nominee to be a Candidate in the Band Election.

“Notice of Amendment Vote” means the Notice of an Amendment Vote provided in accordance with these Custom Election Rules.

“Notice of Band Election” means the Notice of a Band Election provided in accordance with these Custom Election Rules.

“Notice of Call for Nominations” means the Notice of a Nomination provided in accordance with these Custom Election Rules.

“Poll” means the casting and recording of votes in accordance with these Custom Election Rules.

“Vice-Chiefs” mean the Western region Vice-Chief and the Central region Vice-Chief elected pursuant to these Custom Election Rules.

THE COUNCIL

4. The Council of the Band shall consist of one (1) Chief, two (2) Vice-Chiefs and nine (9) Councilors.

ELIGIBILITY TO VOTE

- 5.1 All Electors of the Band are eligible to vote in Band Elections held in accordance with these Custom Election Rules.
- 5.2 There shall be nine (9) Electoral Wards named as follows, the boundaries of which are shown on Schedule 'A' attached hereto:
- | | |
|-----------------------------|-----------------------------|
| Flat Bay Electoral Ward | Benoits Cove Electoral Ward |
| Gander Bay Electoral Ward | Port Au Port Electoral Ward |
| Exploits Electoral Ward | St. George's Electoral Ward |
| Corner Brook Electoral Ward | Stephenville Electoral Ward |
| Glenwood Electoral Ward | |
- 5.3 Election of Vice-Chiefs shall involve
- (a) the election of a Western region Vice-Chief for whom Electors in the Flat Bay Electoral Ward, Corner Brook Electoral Ward, Benoits Cove Electoral Ward, Port au Port Electoral Ward, St. George's Electoral Ward, and Stephenville Electoral Ward, shall be eligible to vote; and
- (b) the election of a Central region Vice-Chief for whom Electors in the Gander Bay Electoral Ward, the Glenwood Electoral Ward and the Exploits Electoral Ward shall be eligible to vote.
- 5.4 Electors ordinarily resident within an Electoral Ward are eligible to vote for the position of Chief, the Vice-Chief for the region into which his/her Electoral Ward falls pursuant to Rule 5.3, and for the position of Councilor in his/her Electoral Ward. Electors not ordinarily resident within an Electoral Ward at the time of Band Elections are eligible to vote for the position of Chief, Councilor in the Electoral Ward in which he or she was last ordinarily resident or to which he or she was assigned upon becoming a member of the Band, and the Vice-Chief for the region into which that Electoral Ward falls pursuant to Rule 5.3.

ELECTION OF COUNCIL

- 6.1 The Chief of the Band shall be elected by the highest number of votes cast for the position of Chief in a Band Election held in accordance with these Custom Election Rules.
- 6.2 The Vice-Chiefs of the Band shall be elected by the highest number of votes cast for the position of Western region Vice-Chief and the position of Central region Vice-Chief by the Electors eligible to vote for each of those respective positions.

- 6.3 The Councilors of the Band shall be elected by the highest number of votes cast for the position of Councilor for each Electoral Ward listed in Rule 5.2 above in a Band Election held in accordance with these Custom Election Rules.

DISQUALIFICATION OF A CANDIDATE

7. Where a Candidate for Council receives the highest votes in a Band Election and said Candidate has been disqualified for a reason set out in these Custom Election Rules the Candidate receiving the next highest number of votes shall be declared as elected.

ELIGIBILITY TO BE NOMINATED

- 8.1 Only an Elector who has been ordinarily resident on the island portion of Newfoundland and Labrador for a full six months prior to the date set for the close of Nominations as specified in a Notice of Call for Nominations is eligible to be nominated for the office of Chief
- 8.2 Only an Elector who has been ordinarily resident on the island portion of Newfoundland and Labrador for a full six months prior to the date set for the close of Nominations as specified in a Notice of Call for Nominations is eligible to be nominated for the office of Vice-Chief
- 8.3 Only an Elector who has been ordinarily resident on the island portion of Newfoundland and Labrador for a full six months prior to the date set for the close of Nominations as specified in a Notice of Call for Nominations is eligible to be nominated for the office of Councilor.
- 8.4 In order for a member of Council to be eligible for nomination in a By-Election for a different position on the Council, he or she must resign, in writing, from his or her current Council position at least 7 clear days prior to the date set for the close of Nominations as specified in a Notice of Call for Nominations.

INTERPRETATION OF ORDINARILY RESIDENT

- 9.1 The following principles apply to the interpretation of the words "ordinarily resident" in respect of all matters pertaining to the right of an Elector to be nominated in a Band Election:
- a) subject to the other provisions of this section the question of whether an Elector is ordinarily resident on the Island portion of Newfoundland and Labrador shall be determined by reference to all the facts of the case;

- b) the place of ordinary residence of an Elector is, generally, that place which has always been, or which the Elector has adopted as his or her home;
- c) an Elector can have one place of ordinary residence only;
- d) temporary absence from a place of ordinary residence does not constitute a change in residency.

9.2 Subject to the principles of interpretation found in section 9.1, any person seeking to apply an interpretation to the words "ordinarily resident" may be guided by Schedule "B" attached hereto.

NOTICE OF CALL FOR NOMINATIONS

10.1 When a Band Election is to be held, the Electoral Officer shall publish a Notice of Call for Nominations in the form prescribed by the Council one in an edition of a newspaper distributed in each Electoral Ward where an Election Poll shall be conducted at least 7 clear days prior to the date set for the close of Nominations as specified in the Notice of Call for Nominations and shall post the Notice of Call for Nominations at least 7 clear days prior to the date set for the close of Nominations in the following locations:

- a) the Band Administration Office,
- b) on the Band Web Page;
- c) any other location that the Electoral Officer deems appropriate.

10.2 The Notice of Call for Nominations shall contain, at a minimum, the following information:

- a) the date and time by which Nomination Papers for the Chief, Vice-Chief and Councilor positions are to be received by the Electoral Officer to mark the close of nominations;
- b) the date set for the Band Election;
- c) the location to which Nomination Papers may be delivered;
- d) instructions as to how to receive a copy or view a copy of the Electors List;
- e) the name and contact information for the Electoral Officer;
- f) the Internet address of the Band Web Page.

ELECTOR'S LIST

- 11.1 Prior to the posting of the Notice of Call for Nominations the Electoral Officer shall prepare an Elector's List containing the names, in alphabetical order, of:
1. All eligible Electors for the position of Chief,
 2. All eligible electors for each of the positions of Vice-Chief,
 3. All eligible Electors for each of the positions of councilor.
- 11.2 Prior to the posting of the Notice of Calls for Nominations, the Electoral Officer shall post one or more copies of the Elector's List in relation to the positions of Chief, each position of Vice-Chief and for each position of Councilor in a conspicuous place at the administration offices of the Band and on the Band Web Page and any other locations deemed appropriate by the Electoral Officer.
- 11.3 Any Elector may apply to the Electoral Officer, in person, by telephone, by courier, mail or fax to have the Elector's List revised on the grounds that the name of an Elector is incorrectly set out therein or absent therefrom.
- 11.4 If the Electoral Officer is satisfied that the Elector's List should be corrected, the Electoral Officer shall make the necessary correction therein.

NOMINATIONS

- 12.1 No person may be nominated for Band Election as Chief unless he or she is an Elector ordinarily resident on the Island of Newfoundland and his or her nomination is moved and seconded by separate Electors, neither of whom is the person seeking nomination.
- 12.2 No person may be nominated for Band Election as Western region Vice-Chief unless he or she is an Elector ordinarily resident in either of the Electoral Wards identified in Rule 5.3(a) and his or her nomination is moved and seconded by separate Electors, neither of whom is the person seeking the nomination and each of whom is an Elector eligible to vote in an Electoral Ward identified in Rule 5.3(a).
- 12.3 No person may be nominated for Band Election as Central region Vice-Chief unless he or she is an Elector ordinarily resident in either of the Electoral Wards identified in Rule 5.3(b) and his or her nomination is moved and seconded by separate Electors, neither of whom is the person seeking the nomination and each of whom is an Elector eligible to vote in an Electoral Ward identified in Rule 5.3(b).

- 12.4 No person may be nominated for Band Election as Councilor unless he or she is an Elector ordinarily resident in the Electoral Ward in which he or she seeks to be a candidate and his or her nomination is moved and seconded by separate Electors, each of whom is an Elector eligible to vote in the same Electoral Ward as the person seeking nomination but is not the person seeking nomination.
- 12.5 No person may be nominated for Band Election as Chief, Vice-Chief or Councilor unless Nomination Papers, in a form approved by the Electoral Officer, identifying and executed by the nominee and the Electors who move and second the nomination, are received by the Electoral Officer at the date and time specified in the Notice of Call for Nominations.
- 12.6 No person may be nominated for more than one position on the Council in a Band Election. Where the Electoral Officer receives Nomination Papers nominating one person for more than one Council position, all such Nomination Papers shall be void and of no effect so that the nominee named therein shall not be a candidate in the Band Election for either position notwithstanding that, in all other respects, the Nomination Papers are completed in accordance with the form approved by him or her and these Rules.
- 12.7 Nomination Papers are considered filed with the Electoral Officer when they are received at the administration offices of the Band.
- 12.8 Nomination Papers that have not been completed in accordance with the form approved by the Electoral Officer or are completed contrary to these Rules shall be void and of no effect so that the nominee named therein shall not be a candidate in the Band Election for the position sought.
- 12.9 Once an Eligible Nominee, who was nominated in accordance with these Custom Election Rules, files duly executed Nomination Papers with the Electoral Officer said Eligible Nominee becomes a Candidate in the Band Election.
- 12.10 At the request of any Elector, an oath or affirmation in a form prescribed by the Council as to an Elector's eligibility to be nominated for a particular Council position shall be administered to any Elector wishing to file Nomination Papers.
- 12.11 No person who has refused to take the oath or affirmation referred to in Rule 12.10 when requested so to do shall be permitted to be a Candidate in a Band Election and shall be disqualified from the Band Election.

CLOSE OF NOMINATIONS

- 13.1 Following the expiration of the time for filing Nomination Papers, the Electoral Officer will revise the Notice of Band Election to include the list of Candidates for each Council position.
- 13.2 The death of a candidate for any position shall not cause the conduct of an Election under the Custom Election Rules to be deemed or declared invalid. Where there are more than two candidates for a position and the death of a candidate occurs following the filing of Nomination Papers but before the conclusion of voting at an Election Poll:
- (a) the name of the candidate shall not appear on the ballot if the death occurred prior to the ballots being printed;
 - (b) the name of the candidate shall be obliterated from the ballots if death occurred after the ballots had been printed; and
 - (c) any mail in ballots and ballots from the Advance Poll upon which an Elector has made a mark to signify his or her intent to vote for the deceased candidate shall be rejected by the Electoral Officer and the remaining votes shall be counted to determine the successful candidate.
- 13.3 Where there are two candidates for a position and the death of a candidate occurs following the filing of Nomination Papers but before the conclusion of voting at an Election Poll, the other candidate shall be declared by the Electoral Officer to have been acclaimed.

ACCLAMATION

- 14.1 When the Electoral Officer, following the date set for the close of nomination, determines that there only is one Eligible Nominee nominated to serve as Chief, the Electoral Officer shall declare the nominated person to be duly elected.
- 14.2 When the Electoral Officer, following the date set for the close of nomination, determines that there only is one Eligible Nominee nominated to serve as Vice-Chief for the Western Region, the Electoral Officer shall declare the nominated person to be duly elected.
- 14.3 When the Electoral Officer, following the date set for the close of nomination, determines that there only is one Eligible Nominee nominated to serve as Vice-Chief for the Central Region, the Electoral Officer shall declare the nominated person to be duly elected.

- 14.4 When the Electoral Officer, following the date set for the close of nomination, determines that there only is one Eligible Nominee nominated to serve as Councilor for an Electoral Ward, the Electoral Officer shall declare the nominated person to be duly elected.

Chief and Vice-Chiefs

15. In the event of more than the required number of persons being nominated to serve as Chief, Western region Vice-Chief, or Central region Vice-Chief, the Electoral Officer shall declare that an election will be held and shall name the date, time and the places where such Election Polls shall be taken as per the following:
- a)(i) in the event of an election for Chief, a polling station shall be established in one or more communities in each Electoral Ward listed in Rule 5.2.
 - (ii) in the event of an election for Western region Vice-Chief, a polling station shall be established in one or more communities in each Electoral ward listed in Rule 5.3(a);
 - (iii) in the event of an election for Central region Vice-Chief, a polling station shall be established in one or more communities in each Electoral ward listed in Rule 5.3(b).
 - b) the electoral officer shall have the discretion of establishing polls in other locations as he or she deems necessary.

COUNCILOR

16. In the event of more than the required number of persons being nominated to serve as Councilor in either of the Electoral Wards listed in Rule 5.2 above, the Electoral officer shall declare that an election will be held in that Electoral Ward and shall name the date, time and the places where such Election Polls shall be taken as per the following:
- a) a polling station shall be established in one or more communities in each of the Electoral Wards listed in Rule 5.2 where an election for Councilor is to be held;
 - b) the date, time and places of the polling station for position of Councilor shall be the same as the date, time and places of the polling for positions of Chief and Vice-Chief.

POLLING STATIONS

17. The Electoral Officer shall cause to be established polling stations in an Electoral Ward in a manner that will see voting for the positions of Chief, the Vice-Chief for

the region in which that Electoral Ward is situate and the Councilor for that Electoral Ward conducted at the same date, time and places.

NOTICE OF ELECTION

- 18.1 Whenever an Election Poll is to be taken, the Electoral Officer shall, without any unreasonable delay, and at least 21 clear days prior to the date of the Election Poll, post a Notice of Band Election, in the form prescribed by the Council, in the following locations:
- a) in one or more conspicuous places at the Band Administrative Offices; and
 - b) on the Band Web Page; and
 - c) any other location that the Electoral Officer deems appropriate.
- 18.2 The Notice of Election shall also be published in a minimum of two editions of a newspaper distributed in each Electoral Ward where an Election Poll shall be conducted prior to the date of the Election with the first notice being published following the date set for the close of Nominations and the latter publication occurring at least 5 clear days prior to the date of the Band Election.
- 18.3 The Notice of Election shall contain, at a minimum, the following information:
- a) the date, time and location of the Election Polls;
 - b) instructions as to how to receive a copy or view a copy of the Electors List;
 - c) the name and contact information for the Electoral Officer;
 - d) the Internet address of the Band Web Page.

ADVANCE POLL

- 19.1 The Notice of Band Election shall also provide notice of the date, time and location of an Advance Poll.
- 19.2 The Electoral Officer shall set the date for an Advance Poll to be held at least five clear days from the date the Notice of Election is posted and published and at least five clear days prior to the Election Poll.

MAIL IN BALLOT

- 20.1 An Elector who is qualified to vote at an election and who has reason to believe that he or she will find it difficult to vote at an advance poll or at the poll on polling day may apply to vote by mail in ballot.
- 20.2 An application to vote by mail in ballot shall be in a form approved by the Electoral Officer, received by the Electoral Officer at least 14 days before polling day, and containing such information that the Electoral Officer may require, including, but not limited to
- (a) the name of the Elector;
 - (b) the mailing address at which the Elector wishes to have the mail in ballot mailed to him or her;
 - (c) proof of the Elector's identity through documentation issued to him or her by the Band.
- 20.3 On receipt of an application under Rule 20.2, the Electoral Officer shall
- (a) ensure that the Elector's name is on the Electors' List for the polling division in which he or she would otherwise vote.
 - (b)
 - (i) if the application is in order, issue a mail in ballot to the Elector;
 - (ii) if the application is not in order, require the Elector to provide the additional information necessary to issue a mail in ballot; and
 - (c) once a mail in ballot is issued, note in the margin of the Electors' List that a mail in ballot has been issued.
- 20.4
- (a) Once a mail in ballot has been issued, an Elector may vote at an Advance Poll or at the poll on polling day if he or she returns the mail in ballot at the time that he or she attends at the poll to vote in the originally sealed envelop that was sent to him or her by the Electoral Officer.
 - (b) Once an Elector has returned a mail in ballot in accordance with Rule 20.4(a), the polling clerk shall:
 - (i) open the envelop to ensure that the mail in ballot is contained therein;
 - (ii) have the Elector swear an Affidavit that the mail in ballot returned is the same ballot that was received by him or her;

- (iii) mark the mail in ballot "VOID";
 - (iv) permit the Elector to vote at the poll; and
 - (v) mark the Elector as having voted.
- (c) An Elector who has been issued a mail in ballot but claims not to have received the ballot may vote on polling day only if the Electoral Officer confirms to the polling clerk that he or she has not received an envelope marked "DECLARATION" and purportedly signed by the Elector and the Elector swears an Affidavit before the polling clerk that he or she had applied for a mail-in ballot but had not received it.
- 20.5 (1) On receipt of the mail in ballot, the Elector shall mark the ballot with a pen or pencil of any color within the space on the mail in ballot containing the name of the candidate for whom he or she intends to vote.
- (2) After marking the mail in ballot, the Elector shall
- (a) place the marked ballot in an envelope marked "BALLOT";
 - (b) seal the envelope marked "BALLOT";
 - (c) place the envelope marked "BALLOT" in an envelope marked "DECLARATION" and containing the following words on the face of the envelope:

I, _____, hereby declare that this envelope contains a mail in ballot that I have marked.

Signed
 - (d) seal the envelope marked "DECLARATION" and place it in the return envelope; and
 - (e) seal the return envelope and mail or deliver it to the Electoral Officer.
- 20.6 All mail in ballots must be received by the Electoral Officer no later than 4:00 p.m. on the day preceding the day before the polling day or otherwise will not be counted.
- 20.7 Return envelopes received by the Electoral Officer shall be opened by him or her or a Deputy Electoral Officer, in the presence of such of the Candidates or their agent as may be present, immediately following 4:00 p.m. on the day preceding

the day before polling day and the envelope marked "DECLARATION" shall then be reviewed and the name of the Elector appearing shall be crossed off on the Electors' List.

- 20.8 The envelope marked "DECLARATION" shall be deposited unopened in a sealed ballot box specified for the Electoral Ward in which the Elector is eligible to vote according to Rule 5.4 and subject to Rule 20.9 and Rule 20.10, shall be opened until after the polls on polling day have closed.
- 20.9 If more than one envelope marked "DECLARATION" has been received from the same Elector, neither envelope shall be opened and neither mail in ballot shall be counted but the envelopes marked "DECLARATION" shall be saved separately.
- 20.10 Any envelope marked "DECLARATION" that has not been signed shall not be opened and the mail in ballot shall not be counted but the envelopes marked "DECLARATION" shall be saved separately.
- 20.11 The counting of the mail in ballots shall be conducted in accordance with Rule 27.1 of these Custom Election Rules.

CANDIDATE FEE

- 21.1 A non-refundable Candidate Fee of twenty-five dollars (\$25.00) shall be deposited with the Electoral Officer at the time a Candidate files his or her Nomination Papers. Payment of the Candidate Fee must be in cash, money order, bank draft or certified cheque. The Electoral Officer may extend the time required for payment of the Candidate Fee if, taking into consideration the circumstances of the Candidate, the Electoral Officer deems the requirement to pay the Candidate Fee at the time a Candidate files his or her Nomination Papers to be unreasonable. In such a case, the Candidate must deposit the Candidate Fee within the extended time limit prescribed by the Electoral Officer.
- 21.2 A Candidate who does not pay the Candidate Fee within the time prescribed by Rule 21.1 or within an extended time prescribed by the Electoral Officer pursuant to Rule 21.1 shall be disqualified from the Band Election.

CALCULATION OF TIME

22. For the purpose of these Custom Election Rules the following rules shall apply to the calculation of time and matters of interpretation with respect to the calculation of time shall be the responsibility of the Electoral Officer:

- a) When calculating clear days, the first and last day shall be excluded. For example, the day of the posting of a notice of a meeting and the day of the meeting are excluded from the calculation.
- b) When calculating time, federal and provincial statutory holidays will be excluded from the calculation.
- c) When calculating time and an event falls on a Sunday or federal or provincial statutory holiday, the event will be extended to the next day.
- d) When calculating time referred to as weeks, months or years the time period shall expire on the week, month or year anniversary of the first event. For example, if a notice of an event must be posted for at least three months and it is posted on January 1st the earliest the event can take place is April 1st or if a term of office is two years from the date of an election and the election is held on June 1, 2000, the term of office expires on June 1, 2002.

BALLOT PREPARATION

- 23. Ballot papers shall be prepared by the Electoral Officer in the form prescribed by the Council a separate ballot containing the names of the Candidates for Chief, a separate Ballot containing the names of Candidates for Vice-Chief and a separate ballot containing the names of Candidates for position of Councilor for each Electoral Ward listed in Rule 5.2, which names shall be listed on the ballot papers in alphabetical order.

CANDIDATE WITHDRAWAL

24. Any Candidate may withdraw at any time after the filing of his or her Nomination Papers with the Electoral Officer, but not later than forty-eight (48) hours before the time of the opening of the Poll, by filing with the Electoral Officer a written withdrawal of his or her nomination, signed by the Candidate in the presence of the Electoral Officer, a justice of the peace, a notary public or a commissioner of oaths, and any votes cast for any such Candidate shall be null and void.

THE POLL

- 25.1 All Polls shall be held in places determined by the Electoral Officer in accordance with these Custom Election Rules.
- 25.2 The Electoral Officer shall procure or cause to be procured as many ballot boxes as required, and shall cause to be prepared a sufficient number of ballot papers for the purpose of the Band Election.
- 25.3 The Electoral Officer shall, before the Poll is open, cause to be delivered to the Deputy Electoral Officers the ballot papers, materials for marking the ballot papers, and a sufficient number of directions for voting.
- 25.4 The Electoral Officer or the Deputy Electoral Officers shall provide a compartment at each polling place where the Electors can mark their ballot papers away from observation, and the Electoral Officer may appoint a person to maintain order at such polling place.
- 25.5 The Poll shall be kept open from 12:01 p.m. until 8:00 p.m. of the same day, but where it appears to the Electoral Officer that it would be inconvenient to the Electors to have the poll closed at 8:00 p.m., the Electoral Officer may order that it be kept open until not later than 10:00 p.m. of the same day.
- 25.6 A Candidate may authorize a maximum of two persons to serve as his or her Agent during the Poll. An Agent must present, upon request, to the Electoral Officer, written verification signed by the Candidate that the he or she has been authorized to serve as the Candidate's Agent.
- 25.7 A Candidate shall be entitled to not more than two Agents in a polling place at any one time.
- 25.8 Voting at all Band Elections shall be by secret ballot in the manner set forth in these Custom Election Rules.
- 25.9 The Electoral Officer or a Deputy Electoral Officer shall, immediately before the commencement of the Poll, open the ballot box and call such persons as may be

present to witness that it is empty; the Electoral Officer shall then properly seal the box to prevent it being opened without breaking the seal and shall place it in view for the reception of the ballots, and the seal shall not be broken during the time appointed for taking the Poll.

25.10 In the case of the Advance Poll, the seal shall not be broken until the closure of the Election Poll.

VOTING

26.1 Where an Elector presents himself for the purpose of voting, the Electoral Officer or Deputy Electoral Officer shall, if satisfied that the name of such person is entered on the Elector's List at the polling place, provide the Elector with a ballot paper on which to register his or her vote.

26.2 It shall be within the discretion of the Electoral Officer or Deputy Electoral Officer to request identification from the Elector for the purpose of confirming the identity of the Elector.

26.3 The Electoral Officer or Deputy Electoral Officer shall, in the appropriate column of the Elector's List, make a mark opposite the name of every voter receiving a ballot paper.

26.4 The Electoral Officer or Deputy Electoral Officer may, and when requested to do so shall, explain the mode of voting to a voting Elector.

26.5 Each Elector receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his or her ballot paper by placing a "x", check mark or other mark that does not identify the Voter opposite the name of the Candidate or Candidates for whom he or she desires to vote; the Elector shall then fold the ballot paper so as to conceal the names of the Candidates and the marks on the face of the paper but so as to expose the initials of the Electoral Officer or Deputy Electoral Officer, and on leaving the compartment shall forthwith deliver the ballot paper to the Electoral Officer or Deputy Electoral Officer, who shall, without unfolding the ballot paper, verify his or her initials and at once deposit it in the ballot box in the presence of the Elector and of all other persons entitled to be present in the polling place.

26.6 While any Elector is in the compartment for the purpose of marking his or her ballot paper, no other person shall, except as provided in Rule 26.7 be allowed in the same compartment or in any position from which he or she can see the manner in which such Elector marks his or her ballot paper.

26.7 One person of the Elector's choice, including the Electoral Officer or Deputy Electoral Officer, shall be permitted to accompany the Elector in the voting booth

if the Elector is unable to read or is incapacitated by blindness or other physical cause.

- 26.8 The Electoral Officer or the Deputy Electoral Officer shall state in the Elector's List, in the column for remarks, opposite the name of such Elector, the fact that the ballot paper was marked by another person at the request of the Elector, or the fact that another individual accompanied the Elector in the voting booth, along with the name of the other person and the reasons for the request.
- 26.9 An Elector who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used shall, upon returning it to the Electoral Officer or Deputy Electoral Officer, be entitled to obtain another ballot paper, and the Electoral Officer or Deputy Electoral Officer shall thereupon write the word "cancelled" upon the spoiled ballot paper.
- 26.10 Any Elector who has received a ballot paper and who leaves the polling place without delivering the ballot paper to the Electoral Officer or Deputy Electoral Officer, in the manner provided, or if after receiving the ballot paper refuses to vote, shall forfeit his or her right to vote at the Band Election, and the Electoral Officer or Deputy Electoral Officer shall make an entry in the Elector's List in the column for remarks opposite the name of such Elector to show that he or she received the ballot paper and declined to vote.

CLOSE OF POLL/COUNTING OF VOTES

- 27.1 Immediately after the close of the Election Poll the Electoral Officer or Deputy Electoral Officer shall, in the presence of such of the Candidates or their agents as may be present, open the ballot boxes and
- a) examine the ballot papers and reject all ballot papers
 - i) that have not been supplied by the Electoral Officer or Deputy Electoral Officer;
 - ii) by which votes have been given for more Candidates than are to be elected, or
 - iii) upon which anything appears by which the voter can be identified.
 - b) declare a ballot paper containing more votes than is permitted for the office in question to be void.
 - c) subject to review on recount or on a Band Election appeal, take a note of any objection made by any Candidate or his or her agent to any ballot

paper found in the ballot box and decide any questions arising out of the objection;

- d) number such objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed", as the case may be, with his or her initials;
- e) count the votes given for each Candidate from the ballot papers not rejected and make a written statement of the number of votes given to each Candidate and the number of ballot papers rejected and not counted by him or her, which shall be then signed by him or her and such other persons authorized to be present as may desire to sign the statement.

27.2 Immediately after the completion of the counting of all valid votes the Electoral Officer shall publicly declare to be elected the Candidate or Candidates having the highest number of votes in accordance with these Custom Election Rules, and the Electoral Officer shall also post in the same places that the Notice of Band Election was posted under Rule 18.1 and publish in the same newspapers in which the Notice of Band Election was published under Rule 18.2, a statement signed by him or her showing the number or votes cast for each Candidate.

27.3 Where it appears that two or more Candidates have equal number of votes, the Electoral Officer shall carry out a recount of the ballots. If after the recount there is still an equal number of votes for each candidate, the relevant position of council shall be deemed vacant and a by-election shall be held within 30 days.

DISPOSITION OF BALLOT PAPERS

28.1 The Electoral Officer shall deposit all ballot papers in an envelope, seal said envelope, and initial over the seal of the envelope and shall retain them in his or her possession until they can be destroyed in accordance with Rule 28.3.

28.2 The Electoral Officer shall deposit all envelopes marked "Declaration", whether opened or unopened, in an envelope, seal said envelope, and initial over the seal of the envelope and shall retain them in his or her possession until they can be destroyed in accordance with Rule 28.3.

28.3 Where no appeal has been commenced pursuant to Rule 29, the Electoral Officer shall destroy the ballot papers and envelopes marked "Declaration" 60 days following the polling day in the presence of two witnesses who shall make a written declaration that they witnessed the destruction of those papers.

BAND ELECTION APPEALS

- 29.1 Within 30 days after a Band Election, any candidate of the Band Election or any Elector who gave or tendered his vote at the Band Election may lodge an appeal by forwarding by registered mail to the Electoral Officer particulars duly verified by affidavit supporting one or more of the following grounds for appeal:
- a) there was corrupt practice in connection with the Band Election; or
 - b) there was a violation of these Custom Election Rules that might have affected the result of the Band Election; or
 - c) an Elector nominated to be a candidate in the Band Election was ineligible to be nominated.
- 29.2 Where an appeal is received by the Electoral Officer pursuant to Rule 29.1, that officer shall, within 7 days of the receipt of the appeal, forward a copy of said appeal, together with all supporting documents, by registered mail to each Candidate.
- 29.3 Any Candidate may, within 14 days of the receipt of the copy of the appeal forward to the Electoral Officer by registered mail a written answer to the particulars set out in the appeal together with all supporting documents relating thereto duly verified by affidavit.
- 29.4 The Electoral Officer may, if the material that has been filed is not adequate for deciding the validity of the Band Election complained of, conduct such further investigation into the matter as the Electoral Officer deems necessary, in such manner as he or she deems expedient.
- 29.5 Such investigation may be held by the Electoral Officer or by any person designated by the Electoral Officer for the purpose.
- 29.6 Where the Electoral Officer designates a person to hold such an investigation that person shall submit a detailed report of the investigation to the Electoral Officer for his or her consideration.
- 29.7 The Electoral Officer may set aside the Band Election of a Chief, Vice-Chief or Councilor if the Electoral Officer is satisfied that:
- a) there was corrupt practice in connection with the Band Election;
 - b) there was a violation of these Rules that might have affected the result of the Band Election; or

- c) an Elector nominated to be a candidate in the Band Election was ineligible to be nominated in accordance with these Rules.

SECURITY OF VOTING

- 30.1 Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.
- 30.2 No person shall interfere or attempt to interfere with an Elector when marking his or her ballot paper or obtain or attempt to obtain at the polling place information as to how an Elector is about to vote or has voted.

Tenure of Office

- 31.1 Subject to this section, the Council of the Band, i.e. Chief, Vice-Chiefs and Councilors, shall hold office for three years from the date of the Band Election. If the Chief, a Vice-Chief or Councilor is elected pursuant to a Band By-Election, the Chief, Vice-Chief or Councilor shall hold office for the remainder of the term associated with the Council position being filled.
- 31.2 The Council shall appoint an Electoral Officer prior to the end of the term of office for the Council, at the latest three weeks prior to the end of the Council's term of office, and shall instruct the Electoral Officer to issue a Notice of Call for Nominations in accordance with these Custom Election

Rules

- 32.1 (a) Where no appeal has been commenced under Rule 29.1 in respect of the election of Chief, a Vice-Chief or a Councilor, the newly elected Chief, Vice-Chiefs and Councilors shall take office at 12:01 a.m. on the thirty-first day following the Band Election.
- (b) Where an appeal has been commenced under Rule 29.1 in respect of the election of Chief, a Vice-Chief or a Councilor, the position shall be filled by the successful candidate as of 12:01 a.m. on the thirty-first day following the Band Election but the tenure shall be subject to a determination made by the Electoral Officer pursuant to Rule 32.2(b).
- 32.2 The office of the Chief, Vice-Chief or Councilor becomes vacant when the person who holds office:

- a) is convicted of an indictable offense under the Criminal Code of Canada for activity that was not condoned by the Qalipu Mi'kmaq First Nation Band as part of its political activism in relation to collective rights;
- b) is determined by the Electoral Officer on a Rule 29 appeal to have been:
 - (i) engaged in a corrupt practice in connection with the Band Election;
 - (ii) engaged in a violation of these Custom Election Rules that might have affected the result of the Band Election; or
 - (iii) ineligible to be nominated.
- c) dies or resigns his or her office; or
- d) is or becomes ineligible to hold office by virtue of any provision of these Custom Election Rules.

32.3 The office of the Chief, Vice-Chief or Councilor becomes vacant when the person who holds office becomes ordinarily resident off the Island portion of Newfoundland and Labrador.

32.4 Where the office of the Chief, Vice-Chief, or Councilor becomes vacant more than twelve months before the date when another Band Election would ordinarily be held, a special Band By-Election shall be held in accordance with these Custom Election Rules to fill the vacancy.

32.5 Any person elected in a By-Election for the office of Chief, a Vice-Chief or a Councilor shall only be entitled to complete the term of his or her predecessor.

PENALTY

33. Every person who violates any of the provisions of these Rules is subject to such penalty as may be set out in a Band Council by-law for this purpose pursuant to Section 81 of the Indian Act, R.S.C. 1985, c. I-5.

AMENDMENTS

34.1 The provisions found in these Custom Election Rules may be added to, repealed or amended by way of a referendum of the Band held in accordance with the Qalipu Mi'kmaq First Nation Band referendum regulations attached hereto as Schedule C.

34.2 The Notice of Amendment Vote shall, at a minimum, contain the following information:

- a) the date, time and location of the vote to amend or repeal a provision or provisions of these Custom Election Rules; and
- b) instructions as to how to receive or view a copy of the Elector's List; and
- c) the internet address of the Band Web Page; and
- d) either a copy of the proposed amendment(s) or a summary of the proposed amendment(s) along with instructions as to how a complete copy of the proposed amendment(s) can be obtained or viewed

34.3 The Notice of Amendment Vote shall be posted as follows:

- a) in one or more conspicuous places in the administrative offices of the Band; and
- b) in newspapers distributed in each of the Electoral Wards, for a minimum of two days, with the first notice being in an edition at least three (3) months prior to the date the Amendment Vote and an additional notice being in an edition between two and four weeks prior to the Amendment Vote; and
- c) on the Band Web Page; and
- d) any other location that the Council deems appropriate.

CITATION

35. These Custom Election Rules may be cited as the Qalipu Mi'kmaq First Nation Band Custom Election Rules.

POSTPONEMENT OF NOMINATION MEETING, BAND ELECTION OR AMENDMENT VOTE

36.1 If a death of a member of the Band occurs from the date of the posting of the date of the Election Poll, it shall be within the discretion of the Electoral Officer to postpone the Election Poll to the next day following the funeral or memorial service or to another date deemed to be appropriate by the Electoral Officer.

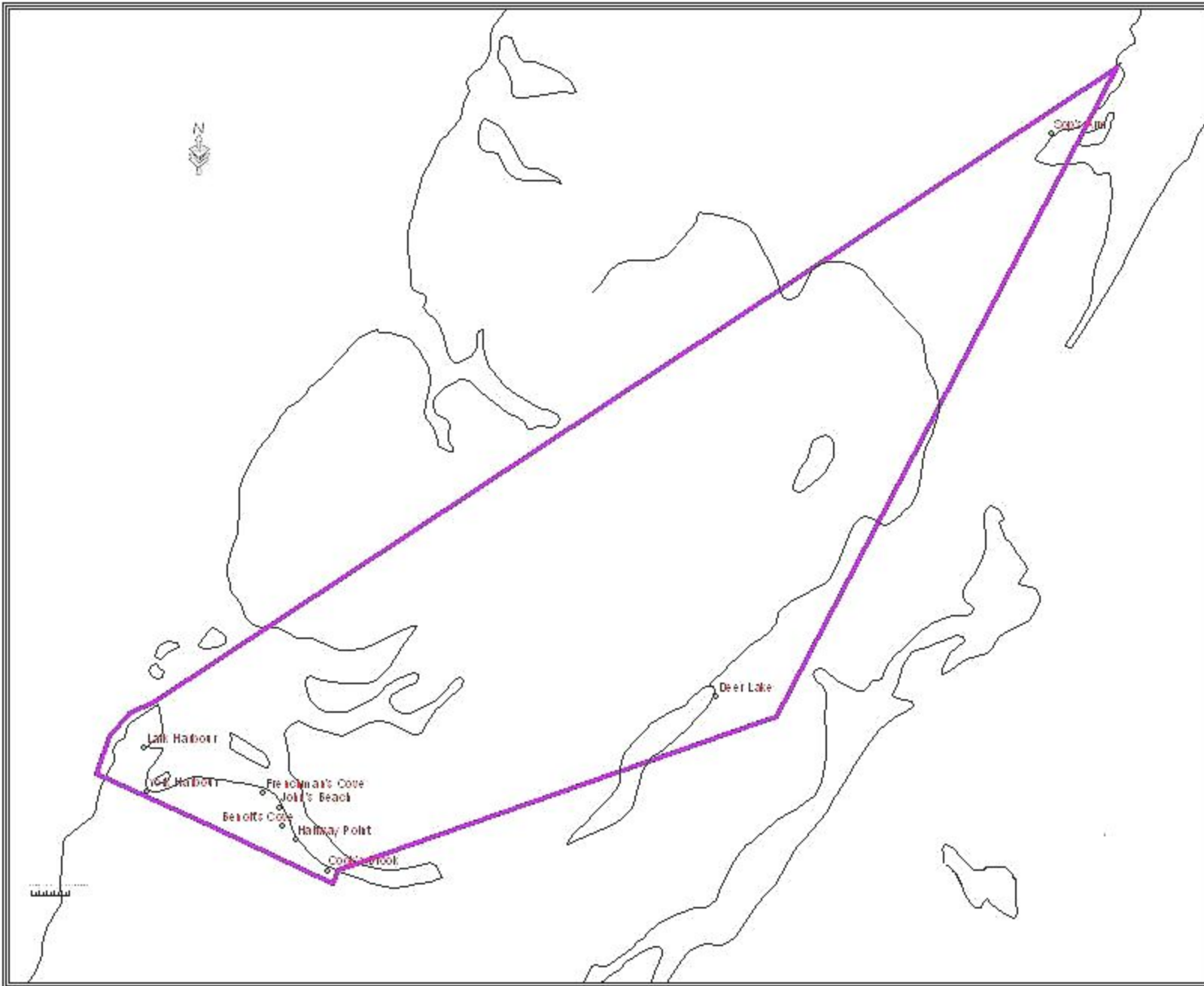
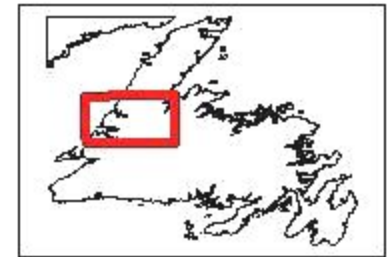
36.2 It shall be within the discretion of the Electoral Officer to reschedule an Election Poll to the next following day or to another date deemed appropriate by the Electoral Officer when, in the opinion of the Electoral Officer, the weather conditions pose a risk to the Electors.

- 36.3 Where an Electoral Officer postpones an Election Poll for any of the reasons permitted in accordance with these Custom Election Rules, the Electoral Officer shall ensure that sufficient notice is provided for the rescheduled Election Poll.
- 36.4 Where a death of a member of the Band occurs within one (1) week of an Amendment Vote or where the weather on the date of the Amendment Vote is deemed by the Council to pose a risk to the Electors, the Council may reschedule the Amendment Vote to the next following day or to another date deemed appropriate by the Council.
- 36.5 Where the Council postpones an Amendment Vote for any of the reasons permitted in accordance with these Custom Election Rules, it shall ensure that sufficient notice is provided for the rescheduled Amendment Vote.
- 36.6 Where an Election Poll or an Amendment Vote is postponed in accordance with these Custom Election Rules to the next following day, notice provided on the original date for the Election Poll or Amendment Vote shall be deemed to be sufficient.

FEDERATION OF NEWFOUNDLAND INDIANS

Schedule A - Part 1

ELECTORAL WARDS - BENOIT'S COVE

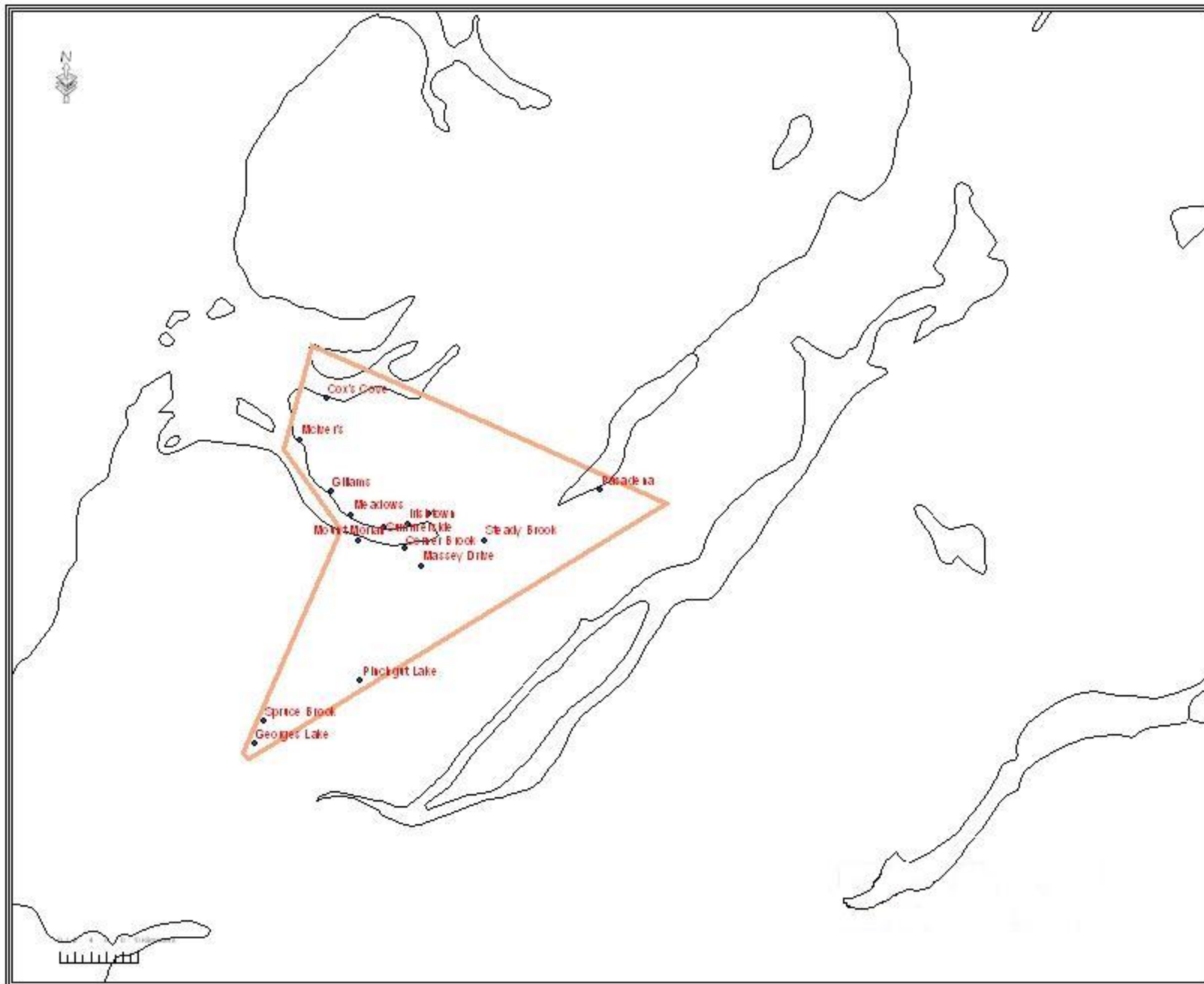
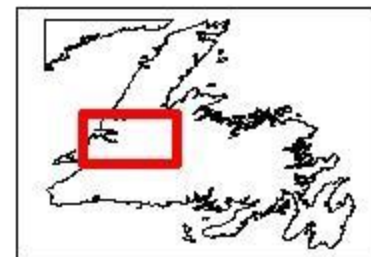


 Benoit's Cove

- BENOIT'S COVE
- COOK'S BROOK
- DEER LAKE
- FRENCHMAN'S COVE
- HALFWAY POINT
- JOHN'S BEACH
- LARK HARBOUR
- SOP'S ARM
- YORK HARBOUR



ELECTORAL WARDS - CORNERBROOK

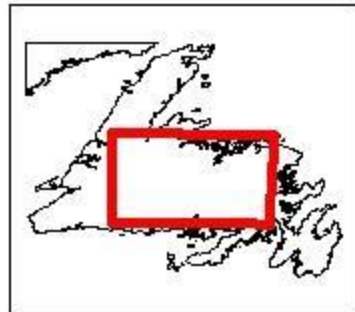
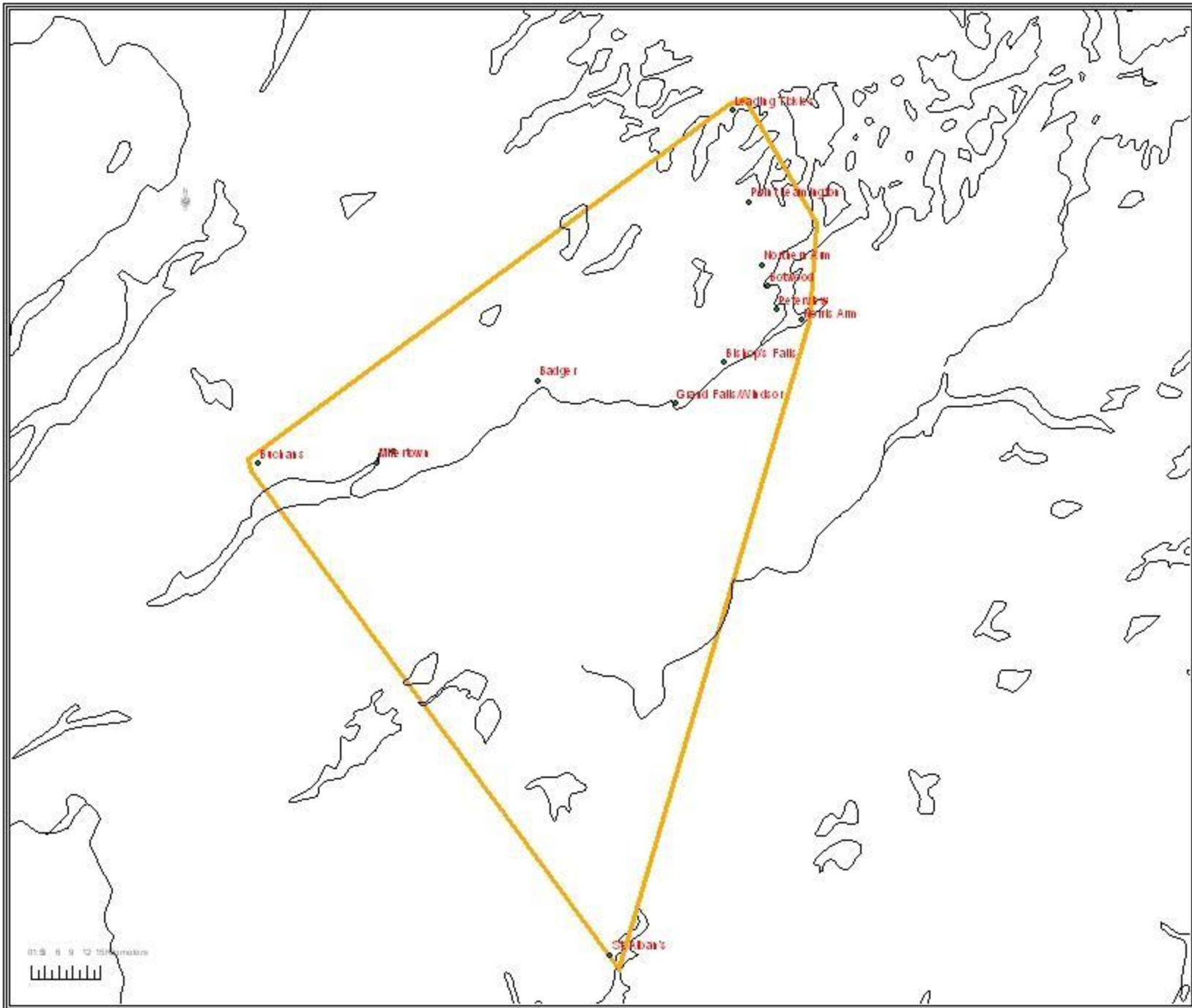


 Corner Brook

- CORNER BROOK
- COX'S COVE
- GEORGES LAKE
- GILLIAMS
- HUGHES BROOK
- IRISHTOWN
- MASSEY DRIVE
- MCIVERS
- MEADOWS
- MOUNT MORIAH
- PASADENA
- PINCHGUT LAKE
- SPRUCE BROOK
- STEADY BROOK
- SUMMERSIDE



ELECTORAL WARDS - EXPLOITS

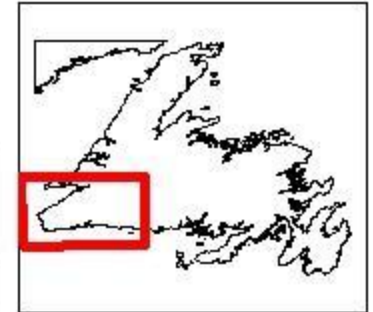
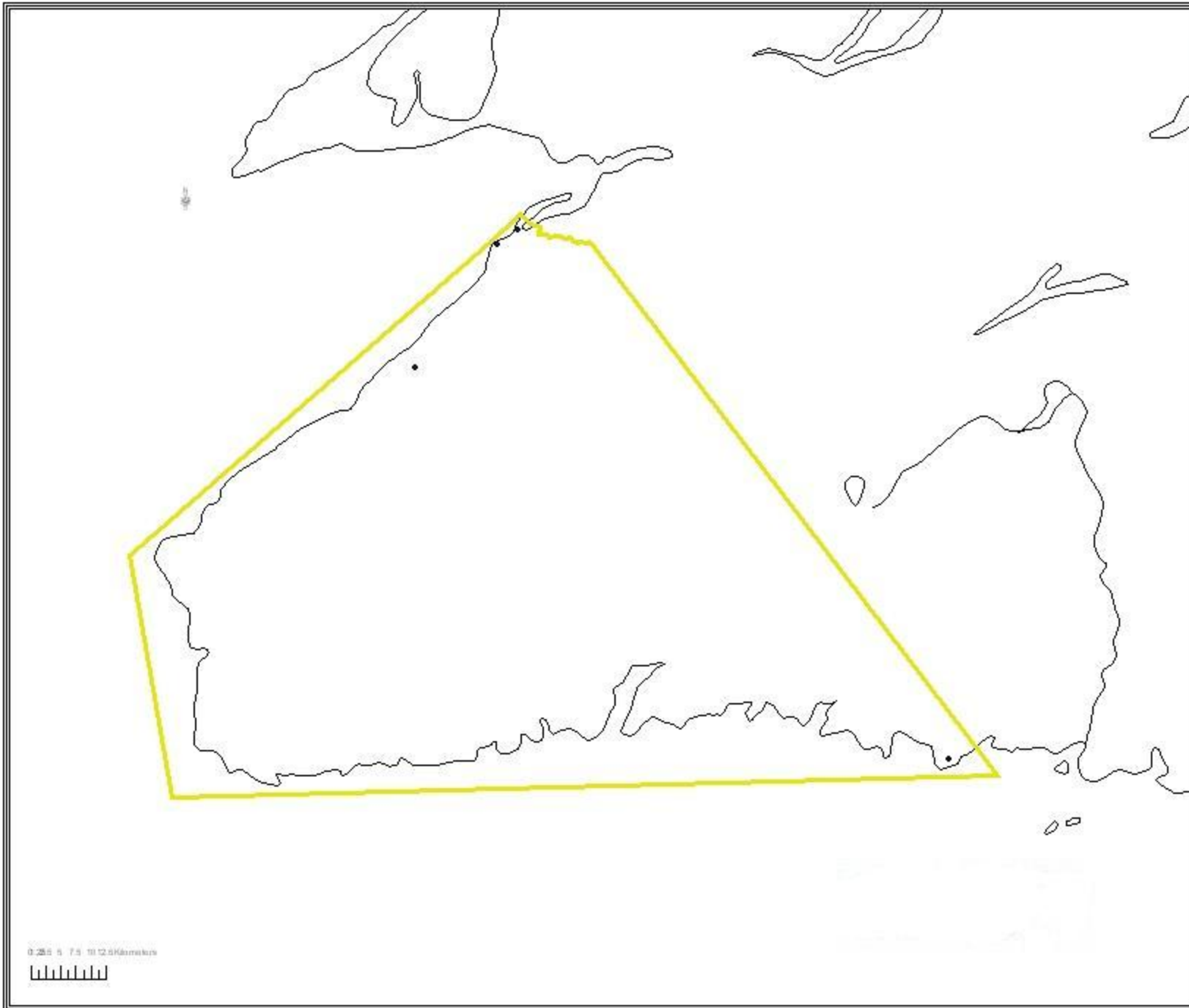


 Exploits

- BADGER
- BISHOP'S FALLS
- BOTWOOD
- BUCHAN'S
- BUCHAN'S JUNCTION
- GRAND FALLS/WINDSOR
- LEADING TICKLES
- MILLERTOWN
- NORRIS ARM
- NORTHERN ARM
- PETERVIEW
- POINT LEAMINGTON
- ST. ALBAN'S



ELECTORAL WARDS - FLAT BAY

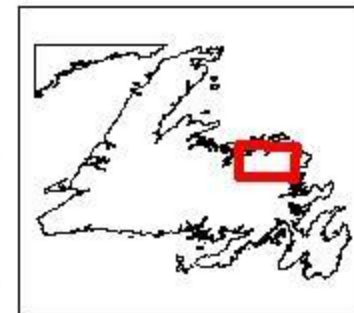
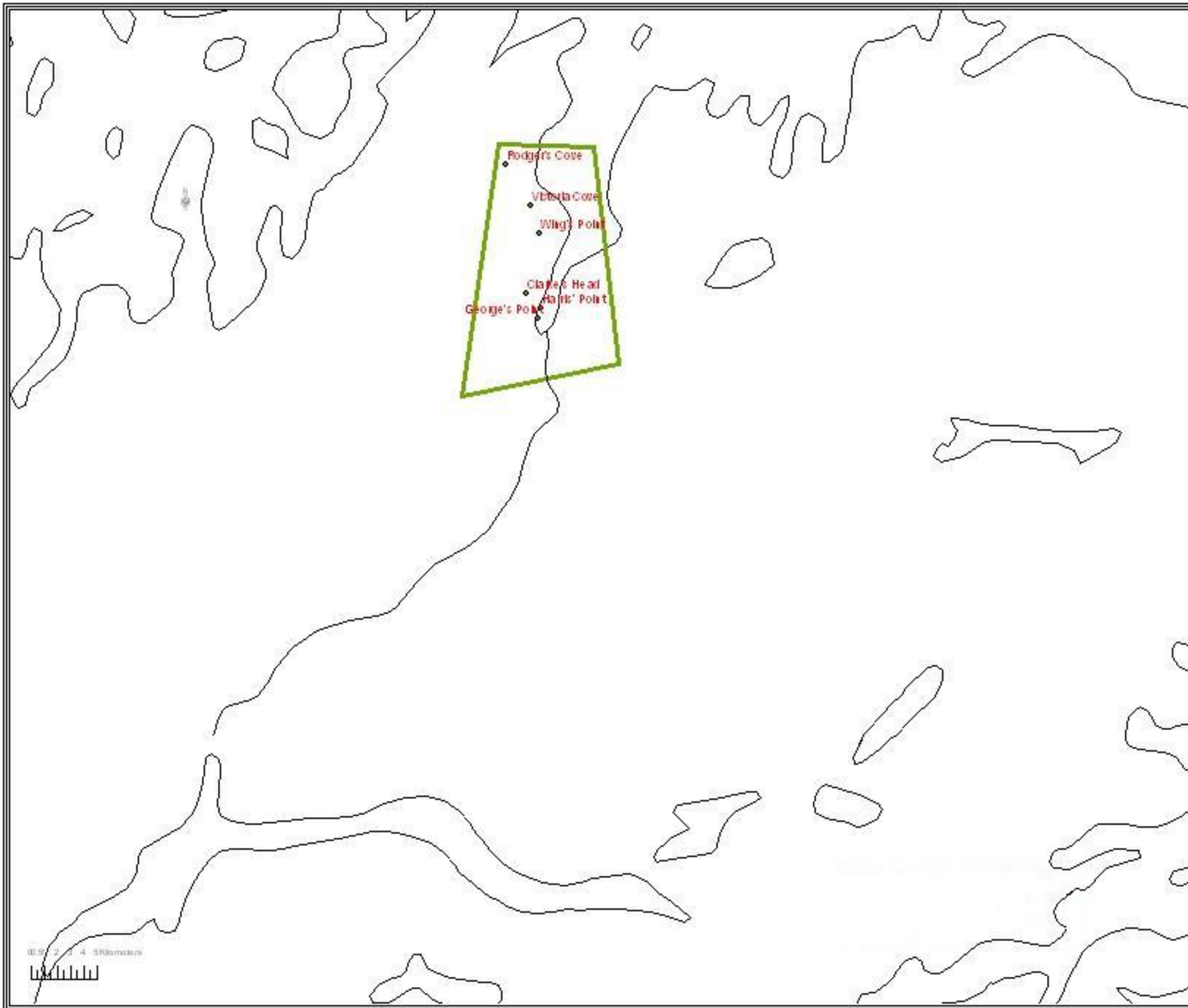


Flat Bay

- BURGEO
- FLAT BAY
- ST. FINTAN'S
- ST. TERESA'S



ELECTORAL WARDS - GANDER BAY

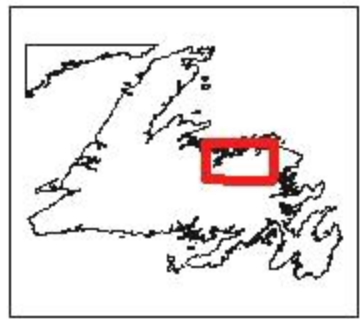
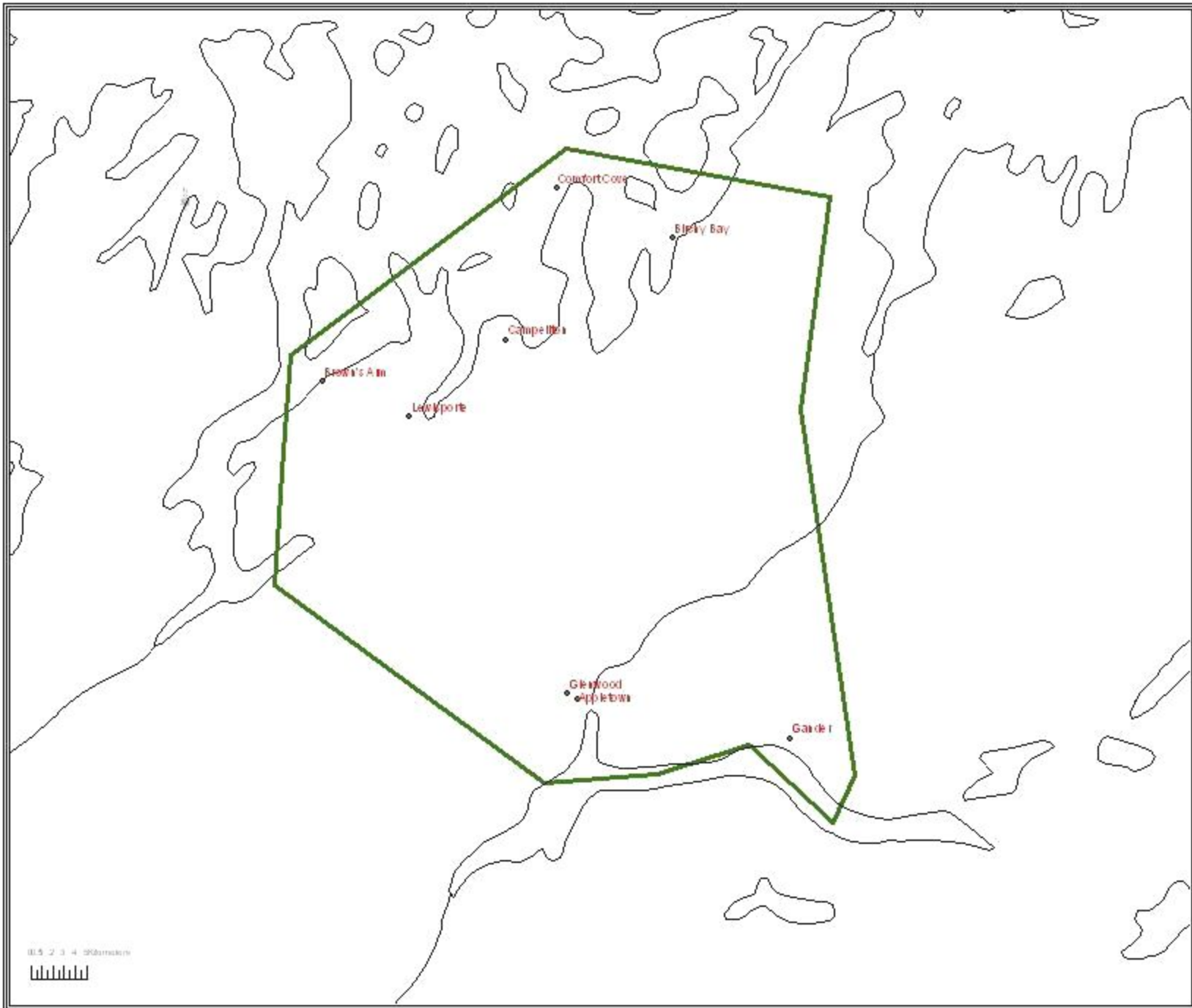


 Gander Bay

- CLARKE'S HEAD (GBN)
- GEORGE'S POINT (GBS)
- HARRIS POINT (GBS)
- RODGER'S COVE (GBN)
- VICTORIA COVE (GBN)
- WING'S POINT (GBN)



ELECTORAL WARDS - GLENWOOD

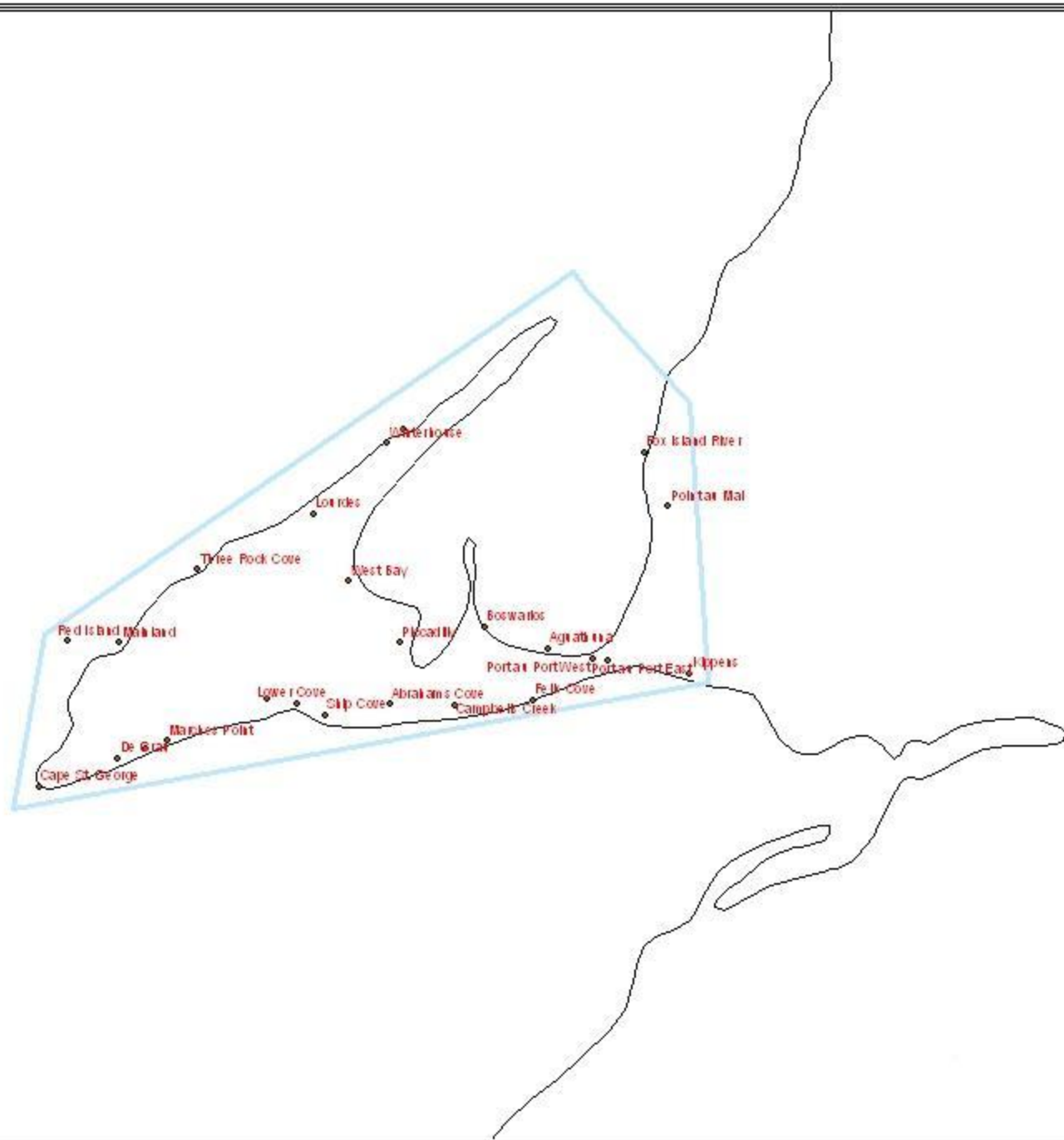
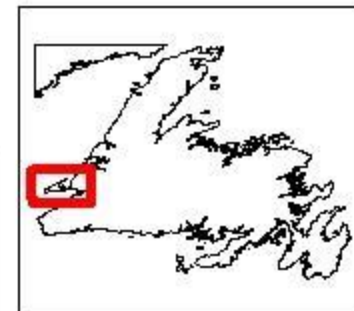


 Glenwood

- APPLETON
- BIRCHY BAY
- BROWN'S ARM
- CAMPBELTOWN
- COMFORT COVE
- GANDER
- GLENWOOD
- LEWISPORTE



ELECTORAL WARDS - PORT AU PORT

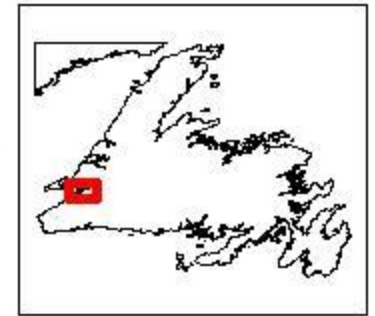


Port Au Port

- ABRAHAM'S COVE
- AQUATHUNA
- BLACK DUCK BROOK & THE BAR
- BOSWARLOS
- CAMPBELLS CREEK
- CAPE ST. GEORGE
- DE GRAU
- FELIX COVE
- FOX ISLAND RIVER
- KIPPENS
- LOURDES
- LOWER COVE
- MAINLAND
- MARCHES POINT
- PICCADILLY
- POINT AU MAL
- PORT AU PORT EAST
- PORT AU PORT WEST
- RED BROOK
- RED ISLAND
- SHEAVES COVE
- SHIP COVE
- THREE ROCK COVE
- WEST BAY
- WINTERHOUSE

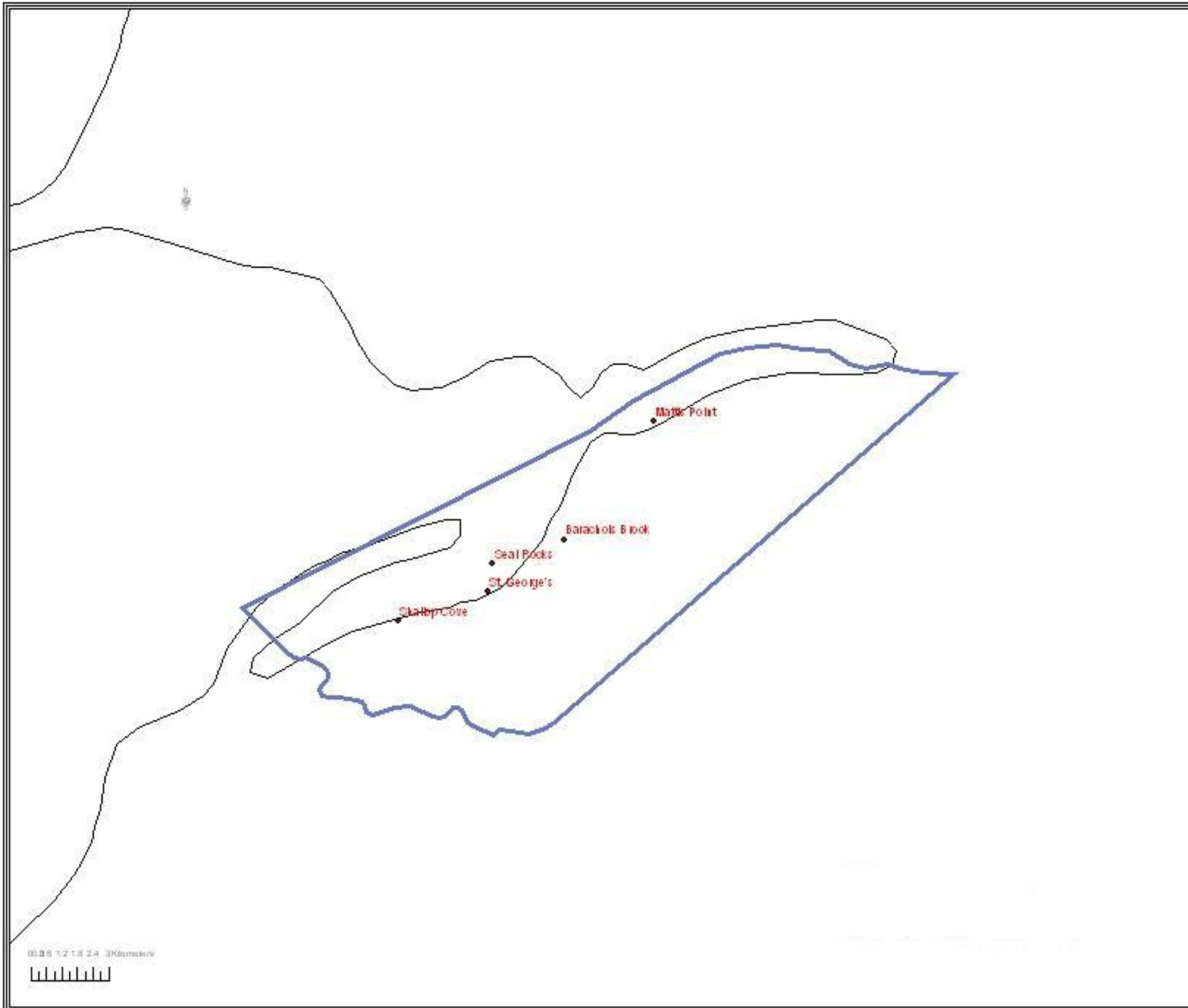


ELECTORAL WARDS - ST. GEORGE'S

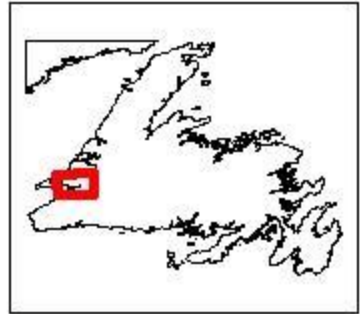


 St. George's

BARACHOIS BROOK (LSD)
MATTIS POINT (LSD)
SEAL ROCKS
SHALLOP COVE
ST. GEORGE'S

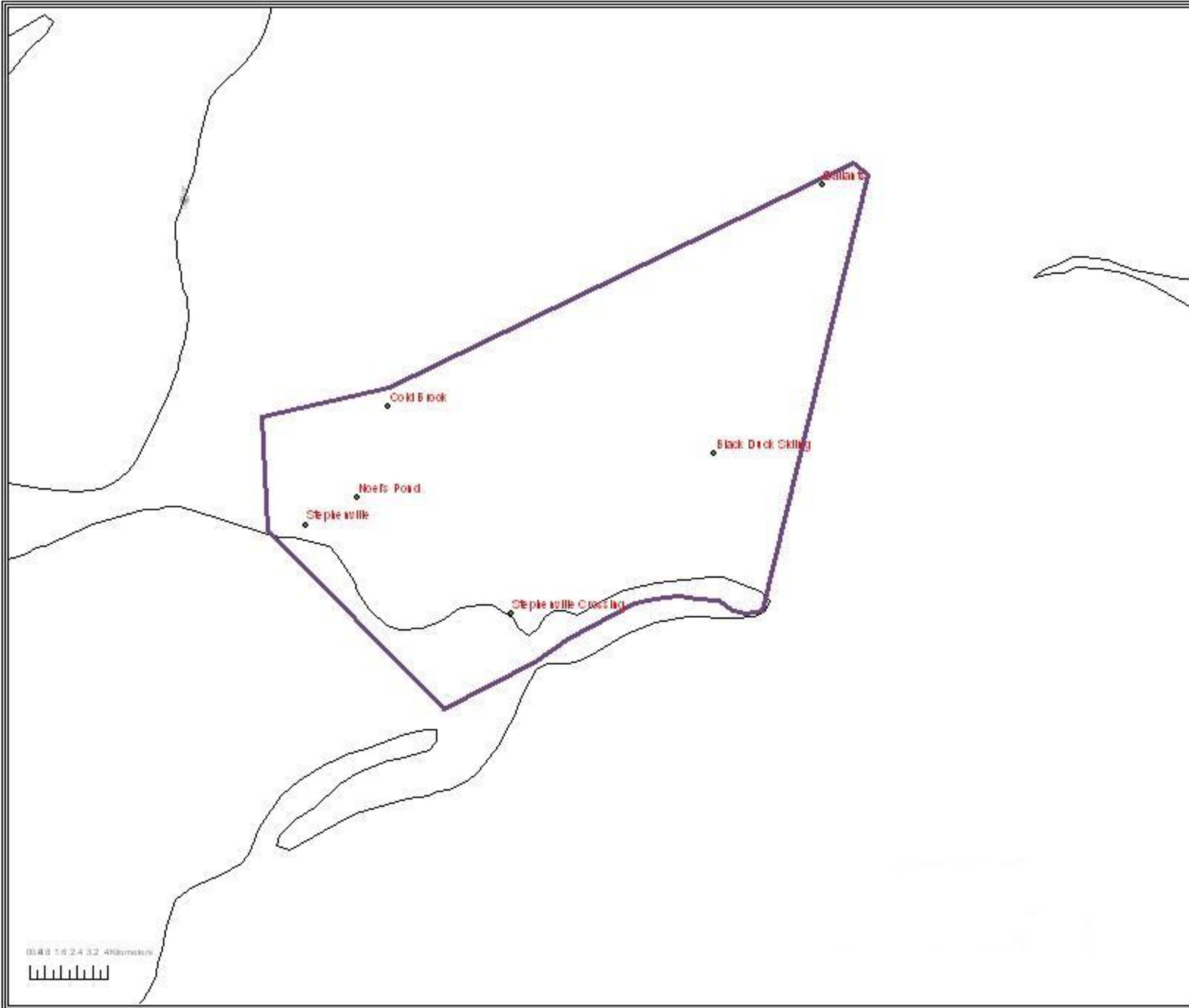


ELECTORAL WARDS - STEPHENVILLE



 Stephenville

- BLACK DUCK SIDING (LSD)
- COLD BROOK (LSD)
- GALLANTS (LSD)
- NOEL'S POND (LSD)
- STEPHENVILLE
- STEPHENVILLE CROSSING



SCHEDULE “B”

GUIDELINES FOR DETERMINING RESIDENCY ON THE ISLAND PORTION OF NEWFOUNDLAND AND LABRADOR FOR THE PURPOSES OF BAND ELECTIONS

These guidelines are to assist you in your task as Electoral Officer should the questions of residency arise during the Band Election.

- A. An Elector who is away from the Island portion of Newfoundland and Labrador for educational or training reasons and who intends to return to the Island portion of Newfoundland and Labrador (especially where family is on the Island) is considered ordinarily resident on the island for Band Election purposes.
- B. An Elector who has a house on the Island portion of Newfoundland and Labrador and moves either alone or with his or her family to a seasonal type job off the island but who intends to return to the island at the end of his or her seasonal employment is considered ordinarily resident on the island. The same guideline applies to the members of the Elector’s family.
- C. An Elector with a full time job off the Island portion of Newfoundland and Labrador, who maintains his or her primary residence off the Island portion of Newfoundland and Labrador, is considered to be ordinarily resident off the Island portion of Newfoundland and Labrador for Band Election purposes, no matter how frequently he or she visits the Island portion of Newfoundland and Labrador. This shall apply to the situation of R.C.M.P. officers and military personnel working off the island portion of Newfoundland and Labrador notwithstanding the fact that their employer as a matter of policy may consider their residence to be situated on the island portion of Newfoundland and Labrador.
- D. An Elector who is separated from his or her family, which is on the Island portion of Newfoundland and Labrador, and who maintains his or her primary residence off the Island portion of Newfoundland and Labrador, is considered to be ordinarily resident off the Island portion of Newfoundland and Labrador for Band Election purposes.
- E. An Elector who maintains his or her primary residence off the Island portion of Newfoundland and Labrador and who returns to the Island portion of Newfoundland and Labrador for short visits with friends or relatives are considered to be ordinarily resident off the Island portion of Newfoundland and Labrador for Band Election purposes.

SCHEDULE 'C'

QALIPU MI'KMAQ FIRST NATION BAND REFERENDUM REGULATIONS

1.0 DEFINITIONS

- 1.1 **“Advance Voting Day”** shall be a date set by the Council for the holding of an advance poll for a referendum question or addition, amendment, or repeal to the Code.
- 1.2 **“Band”** means the Qalipu Mi'kmaq First Nation Band.
- 1.3 **“Council”** means the Council of the Band.
- 1.4 **“Deputy Electoral Officer”** means a person appointed by the Council to assist the Electoral Officer in administering a referendum.
- 1.5 **“Electoral Officer”** is a person appointed by the Council for the purposes of administering a referendum.
- 1.6 **“Electoral Ward”** means an area named in Rule 5.2 and shown on Schedule 'A' of the Code.
- 1.7 **“List of Voters”** means the List of all Band members eighteen years of age or over on Voting Day.
- 1.8 **“Question”** means the question posed on the referendum ballot to which a Voter can answer in the affirmative or the negative.
- 1.9 **“Regulations”** means the Qalipu Mi'kmaq First Nation Band Referendum Regulations
- 1.10 **“Rules”** means the Qalipu Mi'kmaq First Nation Band Custom Election Rules.
- 1.11 **“Voter”** means a person on the List of Voters.
- 1.12 **“Voting Day”** shall be the date set by the Council for the holding of a referendum vote or addition, amendment, or repeal to the Code.

2.0 REFERENDUM CALL

- 2.1 Where it appears to the Council that an expression of opinion of the Voters is desirable on a matter of concern to the Band or that the Rules should be added to, amended, or repealed, the Council may direct that a referendum be held to obtain the expression of opinion or determine support amongst the Band members for the addition, amendment or repeal sought to the Rules.
- 2.2 Except where specifically modified by the Regulations, the provisions of Rules 20, 25, 26, 27, 28, 30, 33, and 36 of the Rules relating to the holding of elections and Rule 34 relating to a referendum held to add to, amend, or repeal the Rules shall be read with such changes in wording as may be necessary to make them applicable to a referendum held under section 2.1 of these Regulations.
- 2.3 Except where Rule 34 of the Rules applies, when the Council directs that a referendum be held, the Electoral Officer shall publish a Notice of Referendum in the form prescribed by the Council once in an edition of a newspaper distributed in each Electoral Ward at least 7 clear days prior to the Advance Voting Day and shall post the Notice of Referendum at least 7 clear days prior to the Advance Voting Day in the following locations:
 - a) the Band Administration Office,
 - b) on the Band Web Page;
 - c) any other location that the Electoral Officer deems appropriate.
- 2.4 The Notice of Referendum referenced in section 2.3 shall contain, at a minimum, the following information:
 - a) the date set for the referendum;
 - b) the Question to be submitted to the Voters;
 - c) that the Polling stations shall be kept open from 12:01 p.m. to 8:00 p.m.;
 - d) the location of polls, including advance polls, for the referendum;
 - e) instructions as to how to receive a copy or view a copy of the List of Voters;
 - f) the name and contact information for the Electoral Officer;
 - g) the Internet address of the Band Web Page

- 2.5 At least 7 clear days before the Advance Voting Day, the Electoral Officer will ensure that the List of Voters is prepared from the membership list of the Band.
- 2.6 On request, the Electoral Officer will confirm whether the name of a person is on the List of Voters.
- 2.7 The Electoral Officer will revise the List of Voters where it is demonstrated that:
 - 2.7.1 the name of a Voter has been omitted from the List of Voters;
 - 2.7.2 the name of a Voter is incorrectly set out in the List of Voters; or
 - 2.7.3 the name of a person not qualified to vote is included in the List of Voters.

3.0 POLLING STATIONS

- 3.1 Voters eligible to vote in a referendum shall vote at a polling station within the Electoral Ward in which they are ordinarily resident at the time of the referendum. A Voter not ordinarily resident in an Electoral Ward at the time of the referendum is eligible to vote in the Electoral Ward in which he or she was last ordinarily resident or to which he or she was assigned upon becoming a member of the Band.
- 3.2 The Electoral Officer shall ensure that the Question is posted or available for examination by Voters at each polling station.
- 3.3 A polling station shall be established in one or more communities in each Electoral Ward listed in Rule 5.2 of the Rules.
- 3.4 The polling stations shall be kept open from 12:01 p.m. to 8:00 p.m. local time on the Advance Voting Day and the Voting Day, but where it appears to the Electoral Officer that it would be inconvenient to the Voters to have the poll closed at 8:00 p.m., the Electoral Officer may order that it be kept open until not later than 10:00 p.m. of the same day.

4.0 BALLOTS

- 4.1 Ballot papers shall be prepared by the Electoral Officer with the Question contained thereon with an appropriate space within which the Voter can mark the ballot by placing a "X", check mark or other mark to indicate the Voter's intent to respond to the Question in the affirmative or the negative.

- 4.2 A Voter who has been issued a ballot, whether at a polling station or by mail through the mail in ballot procedure, shall mark the ballot by placing a "X", check mark or other mark that does not identify the Voter with a pen or pencil of any color within the space on the ballot clearly indicating that the Voter's response to the Question is in the affirmative or the negative.
- 4.3 A Voter who is qualified to vote in a referendum and who has reason to believe that he or she will find it difficult to vote on the Advance Voting Day or the Voting Day may apply to vote by mail in ballot.
- 4.4 An application to vote in a referendum by mail in ballot shall be in a form approved by the Electoral Officer, received by the Electoral Officer at least 7 days before the Advance Voting Day, and contain such information that the Electoral Officer may require, including, but not limited to
- (a) the name of the Voter;
 - (b) the mailing address at which the Voter wishes to have the mail in ballot mailed to him or her;
 - (c) proof of the Voter's identity through documentation issued to him or her by the Qalipu Mi'kmaq First Nation Band.
- 4.5 Return envelopes received by the Electoral Officer shall be opened by him or her or a Deputy Electoral Officer in the presence of at least two persons immediately following 4:00 p.m. on the day preceding Voting Day and the remaining provision of Rule 20.7 of the Rules shall apply.
- 4.6 The envelope marked "DECLARATION" shall be deposited unopened in a sealed ballot box specified for the Electoral Ward in which the Voter is eligible to vote according to Rule 5.4 and subject to Rule 20.9 and 20.10 of the Rules, shall be opened and counted in accordance with section 5 of these Regulations.

5.0 COUNTING OF RESULTS

- 5.1 Immediately after each poll is closed, the ballot boxes shall be opened by the Deputy Electoral Officer in the presence of at least two persons and the ballots therein counted and the Deputy Electoral Officer shall:
- 5.1.1 reject any Ballot that does not have the initials of a Deputy Electoral Officer on the back;
 - 5.1.2 reject all Ballots:

5.1.2.1 that have not been marked or have been marked incorrectly;

5.1.2.2 upon which anything appears by which a Voter can be identified;

5.1.3 record all votes marked in the affirmative or the negative to the Question.

5.2 A Ballot rejected under Article 5.1 is void and will not be counted as a vote cast either in the affirmative or the negative to the Question.

5.3 As soon as is practicable after the results of the voting on the Referendum Question are known from all polling stations, the Electoral Officer will, in a form approved by the Council, post in the same places and publish in the same newspapers in which the Notice of Referendum was posted and published a statement which shall indicate:

5.3.1 The number of Voters who were entitled to vote;

5.3.2 The number of Voters who voted;

5.3.3 The number of votes cast in favor of and against the Question; and

5.3.4 The number of rejected ballots.

5.4 Where the number of votes in the affirmative and the negative to the Question is equal, the Question shall be deemed to have been answered in the negative.

6.0 REVIEW PROCEDURE

6.1 A Voter may, in the manner set out in subsection 6.2 below, request a review of the referendum by the Electoral Officer where the Voter believes that:

6.1.1. there was a contravention of these Regulations that may affect the result of the Referendum; or

6.1.2 there was corrupt practice in connection with the referendum.

6.2 Within 30 days after a referendum, any Voter who gave or tendered his vote at the referendum may request a review of the conduct of the referendum by forwarding by

registered mail to the Electoral Officer particulars duly verified by Affidavit supporting one or more of the following grounds for the review:

6.2.1 there was a contravention of these Regulations that may affect the result of the Referendum; or

6.2.2 there was corrupt practice in connection with the referendum.

6.3 Where a request for a review is received by the Electoral Officer pursuant to subsection 6.2 that officer shall, within 7 days of the receipt of the request for the review, forward a copy of said request, together with all supporting documents to the Council.

6.4 The Electoral Officer may, if the material that has been filed is not adequate for deciding the validity of the referendum complained of, conduct such further investigation into the matter as the Electoral Officer deems necessary, in such manner as he or she deems expedient.

6.5 Such investigation may be held by the Electoral Officer or by any person designated by the Electoral Officer for the purpose.

6.6 Where the Electoral Officer designates a person to hold such an investigation, that person shall submit a detailed report of the investigation to the Electoral Officer for his or her consideration.

6.7 The Electoral Officer may set aside the Referendum if the Electoral Officer is satisfied that:

6.7.1 there was a contravention of these Regulations that may affect the result of the Referendum; or

6.7.2 there was corrupt practice in connection with the referendum.

7. EFFECTIVE DATE

These regulations came into full force and effect on the date of the establishment of the Band.

FINANCIAL MANAGEMENT BY-LAW

OF THE QALIPU MI'KMAQ FIRST NATION BAND

WHEREAS the Chief and Council of the Band wishes to establish a comprehensive By-Law to govern financial accountability of the Band to its' Members.

THEREFORE the Chief and Council of the Qalipu Mi'kmaq First Nation Band at a duly convened meeting resolves to adopt the following as its By-Law in respect of financial accountability of the Band to its Members.

I. GENERAL

Definitions

1. The following terms, whenever used in this By-Law, will have the meanings respectively ascribed:

"Agencies" means board, tribunal, body, group, commission, committee, of the Qalipu Mi'kmaq First Nation Band or any corporate body controlled by the Qalipu Mi'kmaq First Nation Band including a society, non-profit corporation or business corporation.

"Agreement" means any written contract between the Qalipu Mi'kmaq First Nation Band and another party or parties, including the Federal and Provincial governments, or a third party pursuant to which money is either paid to the Qalipu Mi'kmaq First Nation Band or paid by the Qalipu Mi'kmaq First Nation Band to the other party or parties.

"Band" means the Qalipu Mi'kmaq First Nation Band.

"Band Council Resolution" means a resolution of the Qalipu Mi'kmaq First Nation Band passed by a quorum of Council at a duly convened meeting of the Council.

"Committee" means a committee of the Band.

"Council" means Chief and Council of the Band.

"Councilor" means any member of the Council.

"Employee" means any employee or contractor of the Band.

"Financial Officer" means the financial officer employed by the Band.

"General Manager" means the General Manager employed by the Band.

"Member" means a member of the Band.

"Membership" means the membership of the Band.

"Notice" means advanced written notice as to the date, time and place of a Regular meeting of Council or General Meeting posted on the web site of the Band.

"Quorum" means the majority of the Council of the Band

Compliance With By-Law

2. The Council, Employees and Committee members will act in accordance with this By-Law.
3. The Council, Employees and Committee members will not disclose confidential financial information unless authorized by this By-Law.

II. FINANCIAL DECISION-MAKING PROCESS

4. Council, Employees and Committee members will be provided with all financial information necessary to carry out their roles and responsibilities.

General Meetings

5. The Band will hold General Meetings not less than four times a year.
6. Council will communicate and consult to the extent possible with Membership on all-important financial issues that affect the Band .
7. Council and program managers will provide regular performance reports at General Meetings.

Open Meetings

8. Council will provide notice of Council and General Meetings to Membership.
9. Regular meetings of Council and General Meetings will be open to Members. No Member will be excluded from a regular meeting of Council or General Meeting except for improper conduct.

Minutes of Meetings

10. Council will keep minutes of all Council and General Meetings. The minutes of Council and General Meetings will be made available to Membership immediately following the next regular meeting. Council will provide copies of minutes to Members upon request. Minutes of Council meetings held *in camera* will not be disclosed to Members.

Finance Portfolio

11. Council will appoint a Councilor to hold the Finance Portfolio for the Band.

Finance Committee

12. Council may appoint a special committee on financial matters (the "Finance Committee"). The Councilor who holds the Finance Portfolio will be the chairperson for the Finance Committee. A Finance Committee will be comprised of five Members appointed by Chief and Council from time to time. Two members of the financial committee shall be elected Councillors of the Qalipu Mi'kmaq First Nation Band, two members shall be band members at large with financial background and/or interest or knowledge, and the fifth member shall be the band's financial officer. The Chief of the Band and General Manager will be an ex officio members of the Finance Committee and shall not be entitled to vote at all meetings. Three members of the Finance Committee will constitute a quorum provided the quorum is comprised of at least one member at large and the Financial Officer.

13. The general duties of the Finance Committee are as follows:
- (a) the preparation of the annual budget in accordance with the priorities approved by Council;
 - (b) the preparation of the annual audit of the Newfoundland Mi'kmaq Band;
 - (c) to consult with Membership, if necessary or directed to do so, before making recommendations to Council;
 - (d) to report to Council from time to time as often as the interests of the Band may require; and
 - (e) the reporting and recommending to Council in relation to Band finances.

Annual Budget

14. Council will receive and approve the Annual Budget for each fiscal year by Band Council Resolution.
15. Each program manager of the Band will prepare the program budget for the operation of the program, and will submit the prepared budget to the Finance Committee. For each program budget, the Finance Committee or Council during the approval process may increase allocation of funds, reduce allocation of funds, or reallocate funds to different programs or sectors. The Finance Committee will consolidate program budgets into an annual budget for the Band.
16. The Annual Budget will be made available by Council to its Membership.
17. Council may amend the Annual Budget at any time before or after its implementation by Band Council Resolution.
18. A copy of the Annual Budget will be made available by Council to its Membership and shall:
 - (a) be made available during reasonable business hours of any business day at the Band office for inspection by any Member upon a request for such inspection made to the General Manager; and
 - (b) be provided to any Member upon a written request made to the General Manager and payment of a reasonable photocopy fee, if requested by the General Manager.

Expenditures

19. All payments and financial commitments of the Band will be in accordance with the Annual Budget or in accordance with Band Council Resolution.

Monthly Financial Statement

20. No later than the 15th day of each month, the Financial Officer will prepare and deliver to the General Manager a Financial Statement in respect of all Band finances for the preceding month showing:
 - (a) an itemization of all revenue monies received and expenditures made;
 - (b) standing of the general ledger balances; and
 - (c) any other information that may be required or requested by the General Manager.
21. Each monthly Financial Statement prepared and delivered by the Financial Officer to the General Manager will be presented to Council by the General Manager or Financial Officer at the next regular meeting of Council.
22. Program Managers may be requested by Council to make a financial activity report to Council for the next regular meeting of Council.

Audit

23. Based on the recommendations of the Finance Committee Council will appoint by Band Council Resolution an Auditor at the Annual General Meeting to audit the books and records of the Band.
24. The Auditor will be a member of a recognized professional accounting association authorized to conduct audits.
25. The Auditor is entitled to access the following Band information:
 - (a) all books, records, accounts and vouchers;
 - (b) information from any Program Manager necessary for the completion of the audit;
 - (c) Council resolutions, bylaws and minutes;
 - (d) administration and financial regulations; and
 - (d) All agreements and contracts; and
 - (e) All other related documents required by the Auditor to complete the Audit.
26. The Auditor is entitled to attend any Finance Committee, Council or General Meeting, and to receive every notice and other communication relating to such meetings that a Finance Committee Member and Councilor are entitled to receive, and is entitled to be heard at any Finance Committee, Council or General Meeting that he or she attends on any part of the business of such meeting that concerns him or her as Auditor for the Band, or that concerns Financial Statements of the Band.
27. Council and the Finance Committee will provide the Auditor with instructions concerning the Audit, and through the Financial Officer, will assist the Auditor in the completion of the Audit.
28. The Audit will include all transactions involving Band finances. The Audit must be in accordance with generally accepted auditing procedures. The Audit will include a general review of the adequacy of the accounting procedures and systems of control employed to preserve and protect the assets of the Band.
29. The Audit may be accepted by Council by Band Council Resolution prior to June 30 of each year.
30. The Auditor shall present the Audit to Council and Membership at the Annual General Meeting of the Band.
31. An original copy of every annual Audit will be kept at all times by the Band as part of the permanent financial records of the Band.
32. A copy of the Audit will be:
 - (a) available during reasonable business hours of any business day at the Band office for the inspection by any Member upon a request for such inspection made to the General Manager; and

- (b) copy provided to any Member upon a written request to the General Manager and upon payment of a reasonable photocopy fee, if required by the General Manager.

III. CONFLICT OF INTEREST GUIDELINES

- 33. In this By-Law "Related Person" means a spouse, parent, parent-in-law, sibling, child, grandchild, dependents, aunt, uncle, niece, nephew, any person with whom they currently reside.
- 34. In this By-Law "Financial Benefit" includes, but is not limited to:
 - (a) employment benefits;
 - (b) contract benefits;
 - (c) educational, medical or other social benefits;
 - (d) honorariums;
 - (e) the payment of any money; or
 - (f) the allocation or divestiture of Band assets.
- 35. A "Conflict of Interest" will arise when:
 - (a) A Councilor, Employee, or Committee member exercises an official power or performs an official duty or function in the execution of his or her office, job or committee and at the same time knows or ought to know that in the performance of the duty or function or in the exercise of the power there is opportunity to receive a Financial Benefit for themselves or to provide a Financial Benefit to a Related Person; or
 - (b) a Councilor's, Employee's or Committee members personal interests supersede or compete with their dedication to the best interests of the Band.
- 36. A Conflict of Interest will not arise if a Financial Benefit is intended or extended at the same time:
 - (a) to Membership;
 - (b) to a group of Members who are identifiable by reference to age, gender, financial circumstances, or medical needs; or
 - (c) to Council as a whole.
- 37. Prior to approving a Financial Benefit to a Councilor, the Council will determine whether the Financial Benefit is consistent with this By-Law and is consistent with standards of other federal governing boards.
- 38. All Council discussion and resolutions concerning Financial Benefits payable to Council or Councilor's will be made at General Meetings.
- 39. Councilors, Employees, and Committee members will arrange their private affairs and conduct themselves in a manner to avoid a Conflict of Interest.
- 40. Councilors, Employees and Committee members with a Conflict of Interest will, without delay, declare the Conflict of Interest to the Council by completing a "Conflict of Interest Declaration form" in the manner prescribed by the Band.

41. Where Councilors, Employees or Committee members are unsure of whether they have a Conflict of Interest, the Councilor, Employee or Committee member will raise the perceived Conflict of Interest with the Council, and the Council will decide whether a Conflict of Interest does exist with the Band.
42. A Councilor, Employee, or Committee Member with a Conflict of Interest will not exercise their powers as a Councilor, Employee, or Committee Member, and will:
 - (a) not take part in the discussion of or vote on any question in respect of the matter;
 - (b) immediately leave the meeting or the part of the meeting during which the matter is under consideration;
 - (c) not sign a Band Council Resolution or letter in respect of the matter;
 - (d) not attempt in any way, whether before, during or after the meeting, to influence the opinion or vote of the Council on any question in respect of the matter; and
 - (e) not attempt in any way to influence Employee's or Committee members in carrying out their duties.
43. Where a Conflict of Interest is discovered after consideration of the matter, the Conflict of Interest must be declared in writing to Council.
44. Any Councilor who fails to or makes an incomplete disclosure of a Conflict of Interest will pay to the Band a sum of money equal to the value of any and all Financial Benefits the Councilor or Related Person received and benefited from the undisclosed Conflict of Interest notwithstanding any other disciplinary action the Council may take.
45. Nothing in this by-law prevents or restricts the Band from adopting additional Conflict of Interest guidelines and/or policies provided that such does not conflict with the provisions contained herein.

IV. FINANCIAL INFORMATION DISCLOSURE

Purpose

46. The purpose of this By-Law is to make the Band more accountable to Membership by giving Membership a general right of access to financial records of the Band in the custody or under the control of the Band. This By-Law also sets out specific limited exceptions to the Membership's right of access to certain financial records.

How to Make A Request For Disclosure

47. To obtain access to a financial record, a Member must make a written request to the Band for a copy of the financial record or make a verbal request to examine the financial record.
48. The General Manager must make every effort to assist Members who make a request for the disclosure of financial records provided such requests are reasonable and in relation to the current fiscal year.
49. The Qalipu Mi'kmaq First Nation Band may charge a member requesting disclosure a reasonable photocopying fee.

Band Response

50. The General Manager must respond openly, accurately and completely to the Member within 30 days from the date a request is received unless more time is required. If more time is required, the General Manager will inform the applicant when the response can be reasonably fulfilled.
51. In a response under section 49, the General Manager must advise the Member in writing:
- (a) whether or not the Member is entitled to have the financial record or part of the record disclosed to him or her;
 - (b) if access to the financial record or to part of the record is refused,
 - (i) the reasons for the refusal, and
 - (ii) the Member may request a review of the General Manager's decision by Council pursuant to Part V of this By-Law.
52. If the Member is entitled to have the financial record disclosed to him or her and it can be reasonably reproduced, a copy of the financial record must be provided with the General Manager response. The Band may charge the applicant a reasonable photocopy charge.
53. If the Member is entitled to have the financial record disclosed to him or her and it cannot be reasonably reproduced, the Member must be permitted to examine the financial record at the Band office during regular business hours of any business day.

Exceptions To Disclosure

54. The General Manager must refuse to disclose to an applicant financial information that:
- (a) would reveal the deliberations of Council or any of its committees, including any advice, recommendations, or By-Law considerations submitted or prepared for submission to the Council or any of its committees unless those deliberations concerned the applicant;
 - (b) legal opinions which are subject to solicitor client privilege;
 - (c) other privileged documents which could reasonably expect to reveal information received in confidence from a government, Band, Society, Corporation, or harm the conduct of negotiations relating to aboriginal self-government or treaties;
 - (d) could reasonably be expected to harm the financial or economic interests of the Band; or
 - (e) would be an unreasonable invasion of a third party's personal privacy, including but not limited to, personal financial information relating to eligibility for or receipt of employment benefits, health benefits, income assistance, education benefits or social service benefits, unless the financial information pertains to the payment of money, honorariums, contract fees, and employment benefits of a Councilor received from the Band for which the General Manager must fully disclose upon request by a Member.

Third Party Disclosure

55. The Band may disclose a Band Members' financial information to another government body if the financial information is required to ensure that the Member is complying with all eligibility requirements for Financial Benefits of programs administered by the Band and only with the consent of the Band Member.

V. DISPUTE RESOLUTION

Administrative Decisions

56. A Member may appeal a decision of the General Manager or Band administration which adversely affects them within 30 days by providing Council a written notice to appeal and containing the reasons of appeal.
57. No right of appeal shall exist if the decision of the general Manager or Band administration was based on the unavailability of funds.
58. Upon receipt of a written notice to appeal from a Member, Council will hear the Member's appeal within 30 days at a Council meeting held in accordance with sections 8 and 9.
59. The decision of Chief and Council shall be final.
60. The Band shall not be responsible for any costs associated with individuals' appeal of a decision of the General Manager or Band administration.

Mediation and Arbitration

61. In the event of a dispute between Council and Membership in respect of this By-Law, the dispute may be resolved by either mediation or arbitration if both Council and the members mutually agree to submit to mediation and arbitration.

Agreements

62. The Council may approve on behalf of the Qalipu Mi'kmaq First Nation Band such agreements of funding arrangements with the federal and provincial governments or with any other party for the provision of funding for the Newfoundland Mi'kmaq Band , its agencies and other bodies.
63. Where an agreement or arrangement has been approved under section 62, the Council of the Qalipu Mi'kmaq First Nation Band may approve such agreements or sub agreements for management of money received and the delivery of programs and services for its membership with any other party or agency.
64. The reporting and accountability provisions of this Financial Management By-Law shall be applicable to funds managed and programs and services delivered by other parties pursuant to an agreement or sub agreement.

APPROVED AND PASSED at a duly convened meeting of the Council of the Qalipu Mi'kmaq First Nation Band this ____ day of _____, _____.

Chief

Vice Chief

Vice Chief

Councilor

Councilor

Councilor

Councilor

Councilor

Councilor

Councilor

Councilor

Councilor

Sections of the Indian Act applicable to a band without a reserve

Section 1	short title of Act
Section 2	definitions - with the exception of the definition of “designated lands”, “reserve”, and “surrendered lands”
Section 3	administration of the Act
Section 4	application of the Act
Section 4.1	provisions which apply to all band members
Section 5	Indian register
Section 6	persons entitled to be registered
Section 7	persons not entitled to be registered
Section 8	band lists
Section 9	band lists maintained in Department
Section 10	band control of membership
Section 11	membership rules for Departmental band list
Section 12	entitlement to have name entered on band list with consent of band
Section 13	limitation to one band list
Section 13.1	decision to leave band list control with the Department
Section 13.2	return of control of band list to the Department
Section 13.3	entitlement retained
Section 14(1)(2)	copy of band list provided to band council
Section 14.1	inquiries relating to Indian register or band lists
Section 14.2	protests in request of band list, Indian Register
Section 14.3	appeal regarding band list, Indian Register
Section 16	transferred member’s interest
Section 17	Minister may constitute new bands
Section 42(1)(upon Minister’s order only)	powers of Minister with respect to property of deceased Indians
Section 43	(upon Minister’s order only) powers of Minister regarding wills and estates
Section 44(1)(2)	(upon Minister’s order only) jurisdiction of court with consent of Minister regarding testamentary matters
Section 45	(upon Minister’s order only) provision for making wills
Section 46(1)(a)	(upon Minister’s order only) Minister may declare will void
(b)(c)(e)(f)(2)	
Section 47	(upon Minister’s order only) appeals from decision of Minister under sections 42, 43 or 46 (testamentary matters)
Section 48(1)(2)	(upon Minister’s order only) distribution of property on intestacy
(3)(a)(4)(5)(6)(7)(8)	
(9)(10)(11)(12)(15)	
Section 50.1	regulations by Governor-in-Council
Section 51	(upon Minister’s order only) powers of Minister regarding mentally incompetent Indians
Section 52	(upon Minister’s order only) property of infant children

Annex E

Section 52.1(1) (2)(b)(3)	property of infant children
Section 52.2	money of infant children of Indians
Section 52.3	attaining majority
Section 52.4	relief regarding payment of money of infant
Section 52.5	effect of payment made pursuant to section 52.1 or 52.2
Section 59(b)	adjustment of contracts in respect of loans made to Indians from band funds
Section 61	Indian monies to be held for use and benefit of band
Section 62	sale of capital assets
Section 63	payment of moneys to Indians
Section 64(1)(a)(f) (h)(j)(k)(l)(2)	expenditure of capital moneys
Section 64.1	limitation in respect of paragraphs 6(1)(c)(d) and (e)
Section 65	expenditure of capital moneys
Section 66(1)(2) (2.1)	expenditure of revenue moneys
Section 67	recovery of expenses
Section 68	maintenance of dependants
Section 69	management of revenue moneys by band
Section 70	loans to Indians (excluding loans to clear and break land within reserves)
Section 72	treaty money payable out of Consolidated Revenue Fund.
Section 73(1)(g)(h) (m)(2)(3)	provision for regulations
Sections 74 to 80	(upon Minister's order only) elections
Section 81(1)(p.3) (p.4)(q)(r)	provision for by-laws
Section 82	copies of by-laws to be sent to Minister
Section 83(1)(b)(c) (e)(e.1)(f)(g) (2)(4)(5)(6)	money by-laws
Section 86	evidence of by-law duly made
Section 88	application of general provincial laws to Indians
Section 90	property deemed situated on reserve
Section 92(1)(a)(b) (2)(3)(4)	Departmental employees prohibited from trading
Section 101	certificate of analysis for prosecution under the Act
Section 102	penalty for offence against any provision of the Act
Section 103	seizure of goods
Section 104	disposition of fines
Section 105	description of Indians in proceeding issued under the Act
Section 106	jurisdiction of magistrates
Section 107	appointment of justices

Section 108 commissioners for taking oaths

FNI RATIFICATION VOTING GUIDELINES

1.0 DEFINITIONS

- 1.1 **“Advance Voting Day”** shall be a date set by the parties for the conduct of an advance poll amongst FNI members eighteen years of age and over to ratify the terms of the Agreement-in-Principle.
- 1.2 **“Agreement-in-Principle”** means an agreement initialed on behalf of the Government of Canada and the FNI establishing terms and conditions relating to the future recommendation of the Minister of Indian Affairs and Northern Development to the Governor-in-Council to issue an Order-in-Council recognizing the group of Indians meeting the criteria set out therein as a Band for the purpose of the *Indian Act*.
- 1.3 **“Deputy Ratification Officer”** means any person appointed by the parties to the Agreement-in-Principle, in consultation with the Ratification Officer, to perform the duties specified for that position in these Guidelines and to assist the Ratification Officer in the performance of his or her duties.
- 1.4 **“FNI”** means The Federation of Newfoundland Indians.
- 1.5 **“List of Voters”** means the List of all FNI members eighteen years of age or over on Voting Day determined from the Preliminary List of Voters and any amendments made pursuant to Section 2.3 of these Guidelines.
- 1.6 **“Preliminary List of Voters”** means the list of all FNI members identified by the FNI to be eighteen years of age and over on Voting Day.
- 1.7 **“Ratification Officer”** means the person appointed by the parties to the Agreement-in-Principle to direct and supervise the conduct of a vote of FNI members eighteen years of age and over to ratify the terms of the Agreement-in-Principle.
- 1.8 **“Voter”** means a person on the List of Voters.
- 1.9 **“Voting Day”** shall be the date set by the parties for the conduct of a vote amongst FNI members eighteen years of age and over to ratify the terms of the Agreement-in-Principle.

2.0 LIST OF VOTERS AND REVISIONS

- 2.1 At least forty-five (45) days before the Voting Day the Ratification Officer, with the assistance of the FNI, will ensure that the Preliminary List of Voters is prepared from the membership list of the local FNI Mi'kmaq Groups and the FNI general list.
- 2.2 On request, the Ratification Officer will confirm whether the name of a person is on the List of Voters.
- 2.3 The Ratification Officer will revise the List of Voters where it is demonstrated that:
 - 2.3.1 the name of a Voter has been omitted from the List of Voters;
 - 2.3.2 the name of a Voter is incorrectly set out in the List of Voters; or
 - 2.3.3 the name of a person not qualified to vote is included in the List of Voters.
 - 2.3.4 the name of a person was added to the FNI membership list following the development of the Preliminary List of Voters.
- 2.4 For the purposes of Section 2.3, a person may demonstrate:
 - 2.4.1 that the name of a Voter has been omitted from, or incorrectly set out in, the List of Voters by presenting to the Ratification Officer evidence that the person is a FNI member and is at least eighteen (18) years of age; and
 - 2.4.2 that the name of a person not qualified to vote has been included in the List of Voters by presenting to the Ratification Officer evidence that that person is not a FNI member or is not at least eighteen (18) years of age.

3.0 PRELIMINARY PROCEDURES

- 3.1 The Ratification Officer, in consultation with the FNI, will:
 - 3.1.1 designate the place of the voting station or stations;
 - 3.1.2 prepare sufficient copies of the Ballot,
 - 3.1.3 obtain a sufficient number of ballot boxes;

- 3.1.4 provide a voting booth at each voting station where the Voter can mark the Ballot in secret;
- 3.1.5 provide a sufficient number of lead pencils for marking the Ballot;
- 3.1.6 ensure that samples of the Ballot Question are posted or available for examination by Voters at each voting station; and
- 3.1.7 ensure that a commissioner for taking oaths or notary public is available as required.

4.0 VOTING PROCEDURES

- 4.1 All voting will be by secret ballot only.
- 4.2 Voting stations will be kept open from 8:00 a.m. until 8:00 p.m. on the Advanced Voting Day and the Voting Day.
- 4.3 A Deputy Ratification Officer will:
 - 4.3.1 open the ballot box and ask a Voter to witness that the ballot box is empty before any vote is cast;
 - 4.3.2 properly seal the ballot box;
 - 4.3.3 place the ballot box in view for the reception of the Ballots;
 - 4.3.4 execute a "Ratification Officer Declaration" in the form attached as Appendix "A"; and
 - 4.3.5 ensure that a witness executes a "Statement of Witness" in the form attached as Appendix "B".
- 4.4 For each person who attends at a voting station for the purpose of voting, the Deputy Ratification Officer will ensure that the person's name is on the List of Voters before providing the Voter with a Ballot.
- 4.5 The Deputy Ratification Officer will place a line through, without obliterating, the name of every Voter on the List of Voters who receives a Ballot.
- 4.6 The Deputy Ratification Officer will explain the method of voting upon request.
- 4.7 If requested by a Voter who:

4.7.1 is not able to read;

4.7.2 is incapacitated by blindness or other physical cause; or

4.7.3 requires help for any other reason

one person of the Voter's choice, including the Deputy Ratification Officer, shall be permitted to accompany the Voter in the voting booth if the Voter is unable to read or is incapacitated by blindness or other physical cause.

4.8 In the circumstances described in Section 4.7, the Deputy Ratification Officer, after the Voter has been assisted in placing his or her mark, shall state on the List of Voters, in the column for remarks, opposite the name of such Voter, the fact that the ballot paper was marked by another person at the request of the Voter, or the fact that another individual accompanied the Voter in the voting booth, along with the name of the other person and the reasons for the request.

4.9 Except as provided in Section 4.7, every Voter receiving a Ballot will:

4.9.1 proceed immediately to a voting booth;

4.9.2 mark the Ballot in a manner clearly indicating the Voter's response to the Ballot Question but does not identify the Voter;

4.9.3 fold the Ballot so that the Ballot Question and any marks on the face of the Ballot are concealed and the initials of the Ratification Officer on the back of the Ballot are exposed; and

4.9.4 immediately give the folded Ballot to the Deputy Ratification Officer who, without unfolding it, will:

4.9.4.1 verify his or her initials on the back of the Ballot;

4.9.4.2 deposit the Ballot into the ballot box.

4.10 A Voter who receives a defective or improperly printed Ballot, or who inadvertently spoils his or her Ballot when marking it, will, upon returning it to the Deputy Ratification Officer, be entitled to receive another Ballot.

4.11 A Voter who receives a Ballot and does not return it to the Deputy Ratification Officer will forfeit the right to vote. The Deputy Ratification Officer will make an entry on the List of Voters stating that the Voter left the voting booth without delivering the Ballot.

- 4.12 At the time set for closing the poll, the Deputy Ratification Officer will declare the poll closed, and entry will be denied to the voting station. All remaining Voters at the voting station at that time will be permitted to vote.

5.0 ORDERLY VOTING

- 5.1 Where in his or her discretion the Ratification Officer or a Deputy Ratification Officer considers it necessary, he or she is authorized to retain such security personnel as may be necessary to ensure that peace and good order are maintained at the voting station.
- 5.2 The Deputy Ratification Officer will allow only one Voter at a time into a voting booth for marking his or her Ballot.
- 5.3 A Voter who is inside a voting station at the time that the voting station is to close will be entitled to vote.
- 5.4 No person shall:
 - 5.4.1 interfere or attempt to interfere with a Voter when he or she is voting; or
 - 5.4.2 obtain or attempt to obtain information as to how a Voter is about to vote or has voted.
 - 5.4.3 In an audible voice promote or advance a voting position within the polling station.

6.0 COUNTING OF RESULTS

- 6.1 Immediately after each poll is closed, all ballot boxes shall be sealed by the Deputy Ratification Officer at that poll, retained by the Deputy Ratification Officer and as soon as practicable transferred by the Deputy Ratification Officer to a central location where the Ratification Officer, following the receipt of all ballot boxes used on the Advance Voting Day and the Voting Day, in the presence of a representative of each party to the Agreement-in-Principle, will, once all ballot boxes from all polling stations have been received:
 - 6.1.1 open all ballot boxes;
 - 6.1.2 pool all the Ballots;

- 6.1.3 examine the Ballots;
- 6.1.4 reject any Ballot that does not have the initials of a Deputy Ratification Officer on the back;
- 6.1.5 reject all Ballots:
 - 6.1.4.1 that have not been marked in a manner that clearly indicates the Voter's response to the Ballot Question; or
 - 6.1.4.2 upon which anything appears by which a Voter can be identified;
- 6.1.6 conduct a count of all ballots that have not been rejected and record all votes given in favour of and against the Ballot Question; and
- 6.1.7 reseal all the Ballots in a box.
- 6.2 A Ballot rejected under Section 6.1.4 or Section 6.1.5 is void and will not be counted as a vote cast.
- 6.3 As soon as is practicable after the results of the voting are known, the Ratification Officer will:
 - 6.3.1 execute the "Certification by Ratification Officer", substantially in the form attached as Appendix "C";
 - 6.3.2 ensure that the representative of the FNI who was present when the Ballots were counted executes the "Certification by the FNI", substantially in the form attached as Appendix "D"; and
 - 6.3.3 ensure that each of Canada and the FNI is provided with a copy of the Certifications referenced in Section 6.3.1 and Section 6.3.2.
- 6.4 The Ratification Officer will keep the Ballots used in the voting in the sealed box referenced in Section 6.1.7 and retain them.
- 6.5 Sixty (60) days after the Voting Day, unless a review has been requested by the parties or the parties have been notified that legal proceedings concerning the Ratification Vote have been commenced, the Ballots used in the voting shall be destroyed.

7.0 PROCEDURAL AMENDMENTS

- 7.1 In order to give effect to and carry out the objectives and purpose of the Ratification Vote, the Ratification Officer and the FNI may agree on a departure from the procedural requirements of the Voting Guidelines where they deem it necessary and where they believe it will not result in any substantive change. The Ratification Officer and the FNI will provide a written statement signed by both of them indicating the nature and basis of such departure and will deliver a copy of the statement to the Department of Indian Affairs and Northern Development immediately following the Voting Date.

APPENDIX "A"
VOTING GUIDELINES

DEPUTY RATIFICATION OFFICER DECLARATION

I, _____, Ratification Officer/Deputy Ratification Officer, of _____, in the Province of Newfoundland and Labrador, DO SOLEMNLY DECLARE THAT:

1. I was present at _____ on _____, 200_ when members of the Federation of Newfoundland Indians voted in a Ratification Vote concerning the Agreement-in-Principle for the recognition of an Indian Act band for the Mi'kmaq of Newfoundland initialed by the Chief Negotiators for the Federation of Newfoundland Indians and Canada on _____ 2006.
2. Immediately before the Ratification Vote began, I opened the ballot box to be used for the Ratification Vote.
3. I saw that the ballot box was empty and I asked persons who were present to witness that the ballot box was empty.
4. I then properly sealed the ballot box, in front of the persons who were present, and placed it in view for the reception of Ballots.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force as if made under oath.

Declared before me _____)
)
)
at _____, this _____)
)
day of _____, 200_ _____)
)
) Ratification Officer/
) Deputy Ratification Officer
)

A Commissioner for Oaths in and for the)
Province of Newfoundland and Labrador)
)
My commission expires _____)

APPENDIX "B"
VOTING GUIDELINES

STATEMENT OF WITNESS

Date

I, _____, was present at _____ on
, 200__ when members of the Federation of Newfoundland Indians voted in a
Ratification Vote concerning the Agreement-in-Principle for the recognition of an Indian
Act band for the Mi'kmaq of Newfoundland initialed by the Chief Negotiators for the
Federation of Newfoundland Indians and Canada on _____ 2006.

Before any votes were cast in the Ratification Vote, I witnessed that the ballot box was
empty and that the Deputy Ratification Officer properly sealed the ballot box and placed
it in view for the reception of Ballots.

Witness

CERTIFICATION BY RATIFICATION OFFICER

I, _____, Ratification Officer, of _____, in the Province of Newfoundland and Labrador, DO SOLEMNLY DECLARE THAT:

1. I was present at _____, on _____, 200_ and counted the ballots from a Ratification Vote conducted in accordance with the Ratification Voting Guidelines of members of the Federation of Newfoundland Indians concerning the Agreement-in-Principle for the recognition of an Indian Act band for the Mi'kmaq of Newfoundland initiated by the Chief Negotiators for the Federation of Newfoundland Indians and Canada on _____ 2006.
2. A true copy of the Notice of the ratification vote is attached as Exhibit "1" to this Declaration.
3. In accordance with Section 10.5 of the Agreement-in-Principle, the Notice of the ratification vote was posted at least forty-five (45) days prior to the Voting Day.
4. I attended each Information Meeting set out in the Notice of the ratification vote in accordance with Section 10.6 of the Agreement-in-Principle.
5. The voting procedure was conducted in accordance with the Ratification Voting Guidelines.
6. The results of the Ratification Vote are as follows:
 - (a) the names of _____ Voters appeared on the List of Voters prepared pursuant to Section 2.0 of the Voting Guidelines, and the number of Voters who were entitled to cast a vote was _____;
 - (b) _____ votes were cast in the Ratification Vote by Voters;
 - (c) _____ votes were cast in favour of the Ballot Question;
 - (d) _____ votes were cast against the Ballot Question; and

(e) _____ Ballots were rejected and were not counted as votes cast in (b), above, in accordance with Section 6.1.3 and Section 6.1.4 of the Voting Guidelines;

7. The Agreement-in-Principle was *approved/not approved* by the Voters.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me _____)
)
)
at _____, this _____)
)
day of _____, 200_____) _____
) Ratification Officer
)
)

A Commissioner for Oaths in and for the)
Province of Newfoundland and Labrador)
)
My commission expires _____)

APPENDIX "D"
VOTING GUIDELINES

CERTIFICATION BY THE FEDERATION OF NEWFOUNDLAND INDIANS

I, _____, member of the Board of Directors of the Federation of Newfoundland Indians, and authorized to represent the FNI for the purposes of this certificate, DO SOLEMNLY DECLARE THAT:

1. I was present at _____, on _____, 200__, when the ballots were counted from a Ratification Vote conducted in accordance with the Ratification Voting Guidelines of members of the Federation of Newfoundland Indians concerning the Agreement-in-Principle for the recognition of an Indian Act band for the Mi'kmaq of Newfoundland initialed by the Chief Negotiators for the Federation of Newfoundland Indians and Canada on _____ 2006.
2. A true copy of the Notice of the ratification vote is attached as Exhibit "1" to this Declaration.
3. In accordance with Section 10.5 of the Agreement-in-Principle, the Ratification Officer posted the Notice of Ratification Vote at least forty-five (45) days prior to the Voting Day.
4. Representatives of the Federation of Newfoundland Indians attended each Information Meeting held pursuant to Section 10.6 of the Agreement-in-Principle.
5. The results of the Ratification Vote are as follows:
 - (a) the names of _____ Voters appeared on the List of Voters prepared pursuant to Section 2.0 of the Voting Guidelines, and the number of Voters who were entitled to cast a vote was _____ ;
 - (b) _____ votes were cast in the Ratification Vote by Voters;
 - (c) _____ votes were cast in favour of the Ballot Question;
 - (d) _____ votes were cast against the Ballot Question; and
 - (e) _____ Ballots were rejected and were not counted as votes cast in (b), above, in accordance with Section 6.1.3 and Section 6.1.4 of the Voting Guidelines; and

6. The Agreement-in-Principle was *approved/not approved* by the Voters.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me _____)
)
)
at _____, this _____)
)
day of _____, 200_____) _____
)
)
)
_____)
A Commissioner for Oaths in and for the)
Province of Newfoundland and Labrador)
)
My commission expires _____)
 |

**IN THE FEDERAL COURT OF CANADA
TRIAL DIVISION**

BETWEEN:

**THE FEDERATION OF NEWFOUNDLAND INDIANS,
CALVIN WHITE, CLIFTON GAUDON, LAWRENCE JEDDORE,
CALVIN FRANCIS, WILSON SAMMS, MARIE SPARKES**

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Defendant

RELEASE

1. For valuable consideration, the Plaintiffs hereby release and forever discharge the Defendant, her officers, servants, employees and agents of and from any and all claims, actions, causes of action, demands, rights, damages, costs and losses of whatsoever kind, whether at law or in equity and whether known or unknown, which the Plaintiffs had, now have or may have against the Defendant, her officers, servants, employees and agents, arising out of or related to the matters raised in the captioned action (the "Action") and, without limiting the generality of the foregoing, from all claims, actions and causes of action in any way relating to or arising from the failure at any time by the Defendant to recognize either of the Plaintiffs as an Indian and/or provide him with benefits comparable to those available to Indians under federal legislation, federal programs or as a result of any federal financial contribution to provincial programs designed to benefit Indians, whether such claims were made or could have been made in any proceeding including the Action

2. The Plaintiffs agree not to make any claim or take any proceedings whatsoever against the Defendant, her officers, servants, employees and agents with respect to matters which are at issue in the said Action or in any way relate to or arise from the failure at any time by the Defendant to recognize either of the Plaintiffs as an Indian and/or provide him with benefits comparable to those available to Indians under federal legislation, federal programs or as a result of any federal financial contribution to provincial programs designed to benefit Indians, whether such claims were made or could have been made in any proceeding including the Action.

3. The Plaintiffs further agree not to make any claim or take any proceedings against any person, persons or corporation who might claim contribution or indemnity

from Her Majesty in relation to the matters which are asserted in the Action or which in any way relate to or arise from the failure at any time by the Defendant to recognize either of the Plaintiffs as an Indian and/or provide him with benefits comparable to those available to Indians under federal legislation, federal programs or as a result of any federal financial contribution to provincial programs designed to benefit Indians, whether such claims were made or could have been made in any proceeding including the Action.

4. The Plaintiffs acknowledge that the settlement of this litigation shall constitute no admission of liability by the Defendant.

5. The Plaintiffs acknowledge that they have received independent legal advice from their counsel as to the terms of the settlement.

IN WITNESS WHEREOF, THE PLAINTIFFS have hereunder, personally or corporately, by their lawful representative and by their counsel, executed this release.

Signed by Plaintiffs and their Solicitor