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FINAL DRAFT

April, 1987

MEMBERSHIP CODE OF THE FORT MCKAY INDIAN BAND

1. STATEMENT OF INTENT AND NOTICE

1.1 The Fort McKay Indian Band desires to determine and control the Membership of the Band.

1.2 The Council of the Band as the governing authority of the Band has given the membership and electors of the Fort McKay Indian Band appropriate notice of its intention to assume control of the membership of the Band and has established a written Membership Code.

1.3 The Code is intended to protect the interest of the Fort McKay Indian Band and promote the social unity, cultural integrity and harmony of the Band.

2. CONSENT OF THE BAND

2.1 The majority of the electors of the Band have given their consent by way of Petition to the Fort McKay Indian Band assuming control of the Membership List of the Band and have approved the Membership Code.

3. DEFINITIONS

FOR THE PURPOSE OF THIS MEMBERSHIP CODE:

- a) "BAND" - means the Fort McKay Indian Band.
- b) "BAND COUNCIL" - means the Chief and Council of the Fort McKay Indian Band.
- c) "BAND MEMBER" - means a person whose name appears on the Fort McKay Indian Band Membership List.
- d) "CHILD" - means a person defined as "child" pursuant to The Indian Act, R.S.C. 1970 - I-6, as amended.
- e) "ELECTOR" - means a person defined as an "elector" in the Customary Election Regulations of the Fort McKay Indian Band.
- f) "INDIAN" - means a person who pursuant to The Indian Act R.S.C. 1970 C.I-6, as amended, is registered as an Indian and whose name appears on the Indian Registry.

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g) "SPOUSE" - means a person who is a husband or wife through marriage.

4. PERSONS ELIGIBLE FOR MEMBERSHIP IN THE
FORT MCKAY INDIAN BAND

4.1 Current Membership

Persons whose names were actually entered or entitled to be entered on the Band List maintained by the Department of Indian Affairs prior to this Membership Code taking effect shall remain Band members and automatically without application have their names entered on the Band Membership List maintained by the Band.

4.2 Persons Eligible for Membership Under Amendment
to the Indian Act

(a) The following persons who lost Band membership and Indian Status prior to April 17, 1985 are entitled to apply for membership in the Fort McKay Indian Band:

- i) A woman Band member who married a person who was not an Indian;
- ii) A person born of a marriage entered into after the 4th day of September, 1951 whose mother and whose father's mother were not Indian Band members prior to the marriage, and who lost status and membership upon attaining the age of twenty-one years;
- iii) An illegitimate child of a female Indian Band member born prior to April 17, 1985 whose father was not an Indian and whose name, upon protest, was struck from the Band Membership List;
- iv) A person who, without application for enfranchisement, was declared by the Governor In-Council to be enfranchised;

(b) Persons entitled to membership pursuant to S. 4(2)(a) shall have their names entered on the Fort McKay Indian Band Membership List upon submitting satisfactory proof to the Band Council of the following:

- i) That their names were omitted from the Indian Registry and Fort McKay Indian Band Membership List as a result of the circumstances described in S. 4(2)(a).

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- ii) That their names have been re-entered on the Indian Registry maintained by the Department of Indian Affairs; and

4.3 Indian Spouses

An Indian spouse of a Band member is eligible to apply for membership to the Fort McKay Indian Band upon submitting satisfactory proof to the Clerk of the marriage and that the spouse is a Status Indian.

4.4 Children of Band Members

- (a) A child born after April 17, 1985 of parents both of whom are members of the Band, shall automatically have his name entered on the Band membership upon submitting satisfactory proof that both parents are members of the Fort McKay Indian Band.
- (b) A person born after April 17, 1985 of a Band member and an Indian person is eligible to apply for membership providing the application is submitted in writing by the parent who is a Band member and upon submitting satisfactory proof that the other parent is an Indian.
- (c) A person born of a Band member and a Non-Indian is eligible to apply for membership providing the application is approved in writing by the Band member parent.
- (d) In the event the Band member parent is deceased, incompetent, or unable to be located, the child's membership application may be approved by a Band member relative of the applicant, or may be submitted by the child upon his reaching the age of eighteen (18) years.

4.5 Transfers From Other Band

Indian persons who are members of another Indian Band are eligible to apply for membership.

4.6 Adoptions

An Indian child adopted by a Band member is eligible to apply for membership.

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5. PERSONS NOT ELIGIBLE FOR MEMBERSHIP IN THE
FORT MCKAY INDIAN BAND

5.1 Non-Indian

A non-Indian person cannot apply for membership.

5.2 Second Spouses

The second spouse of an Indian person who became a Band member by a previous marriage to a member of the Fort McKay Indian Band, pursuant to clause 4.3, is not eligible for membership even if that second spouse is a Status Indian.

6. CLERK OF THE BAND MEMBERSHIP LIST

6.1 The Clerk of the Band Membership List (hereinafter the "Clerk") shall be a Band member appointed for a three (3) year term by the Band Council. The terms of employment and remuneration are to be determined by the Band Council.

6.2 The Clerk shall be responsible for maintaining the Band Membership List; receiving applications for membership; obtaining necessary proofs of eligibility; notifying the Band Council in writing of his decision as to the eligibility of the applicant; notifying the Band Council of any changes to the Band Membership List; and other duties as assigned by the Band Council from time to time.

7. MEMBERSHIP APPLICATION AND APPROVAL PROCEDURE

7.1 All applications for membership shall be submitted by the applicant or the Band member parent of the infant applicant in writing to the Clerk with all necessary documentation and proof required to establish the eligibility of the person for membership.

7.2 Upon review of the documentation, the Clerk shall notify the Band Council in writing as to whether the person is eligible to apply for membership in the Band.

7.3 Within sixty (60) days of receipt of the complete application from the Clerk, the Band Council upon being satisfied:

- i) that the applicant is duly eligible for membership;
- ii) that an applicant over the age of 18 years is of good character;

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- iii) that the application is supported in writing by ten (10) members of the Band;
- iv) that the applicants admission to membership will not be harmful to the interests of the Band;
- v) that the Band has sufficient land, housing and other resources to accommodate the needs of current and additional Band members

shall by way of a Motion, approve the membership application and direct the Clerk to immediately post the decision in public places in Fort McKay and immediately notify the applicant.

7.4 If no written objection to the approval of membership is received from a Band member by the Clerk within a thirty (30) day period commencing upon the posting of the decision, the Clerk shall, subject to S. 7.6, enter that person's name on the Membership List of the Band.

7.5 In the event that the application is denied, the applicant shall be immediately notified in writing of the decision. The Clerk shall immediately post the decision in public places in Fort McKay.

7.6 In the event at the time of approval the applicant is a member of another Indian Band, membership may be granted, subject to that person providing proof to the Clerk that he is no longer a member of any other Band.

8. ELDERS MEMBERSHIP REVIEW PANEL

8.1 In the event that a member of the Band, or applicant objects to the decision of the Council regarding the approval or denial of an application, the objection and the reasons therefore shall be made in writing to the Clerk within thirty (30) days of the posting of the decision. The Clerk shall immediately refer the objection to the Elders Membership Review Panel (hereinafter "the Panel").

8.2 The Panel shall consist of seven (7) elders being members of the Band over the age of fifty (50) years, all of whom shall be appointed by the Band Council. A quorum shall be any five (5) members of the Panel. A lawyer may also be appointed by the Band Council to advise and assist the Panel.

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8.3 Within sixty (60) days of receipt of the objection from the Clerk, the Panel shall hold a hearing to review the decision of the Band Council. Two (2) weeks notice of the time, date, and place of the hearing shall be given to all interested parties. The notice will also be publicly posted in Fort McKay.

8.4 At the hearing, all interested parties to the dispute may make representations in writing or verbally directly or through legal counsel to the Panel.

8.5 In reviewing the decision of the Band Council, the Panel shall apply the criteria indicated in S. 7.3 and either confirm or change the Band Council's decision regarding membership.

8.6 The decision of the Panel shall be rendered, in writing, within thirty (30) days of the final meeting of the Panel. The decision of the Panel, which shall be forwarded to all interested parties, shall be final and binding upon all parties and not subject to appeal to any Court or other body, including the Band Council.

8.7 Persons whose application has been rejected by the Band Council or the Elders Membership Review Panel, are eligible to reapply in three (3) years following the date of the decision.

9. VOLUNTARY DELETIONS FROM THE BAND MEMBERSHIP LIST

9.1 A member of the Fort McKay Indian Band who has reached the age of eighteen (18) years may, by written notice to the Band Council, apply to have his name deleted from the Membership List of the Fort McKay Indian Band.

9.2 The Band Council shall by Motion approve or deny the application.

10. AMENDMENTS TO THE MEMBERSHIP CODE OF THE
FORT MCKAY INDIAN BAND

10.1 Amendments to the Membership Code shall be prepared and presented to the members of the Band by the Band Council.

10.2 The Band Council shall provide to the members of the Band three (3) months notice of the proposed amendments to the Membership Code. Notice shall be publicly posted in Fort McKay.

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10.3 Amendments to the Code shall be consented to by a majority of the electors of the Band by way of referendum or Petition held three (3) months after the posting of the proposed amendments.

11. INTERPRETATION

11.1 This Code shall be interpreted and applied in accordance with the principles of fundamental fairness, the rules of natural justice, and in accordance with the Band's customs and traditions.

11.2 This Code shall not be applied or interpreted in any manner such that it abrogates or denies any of the Treaty and Aboriginal rights of the members of the Fort McKay Indian Band.

11.3 In the event that a clause of this Code is declared by a court to be inoperative, that clause shall be severed from the Code and the remaining clauses shall be in full force and effect.

12. EFFECTIVE DATE

12.1 The Membership Code of the Fort McKay Indian Band shall be effective from the date on which the Minister of Indian Affairs is notified that the Code has received approval from the majority of the electors of the Band.