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**SEABIRD ISLAND BAND
LAND CODE**

-In accordance with-

*The Framework Agreement on
First Nation Land Management*

Dated for reference: January 8, 2009

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Linda McNeil-Bobb
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A Commissioner for taking oaths
and affidavits
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PREAMBLE

WHEREAS the people of Seabird Island are represented by Council;

AND WHEREAS the people of Seabird Island, being diverse in heritage, have occupied and benefited from our traditional Sto:lo territory since time immemorial;

AND WHEREAS our land, resources and elements provide for our physical, mental, emotional and spiritual needs and the people of Seabird Island honour, respect and protect our relationship with them;

AND WHEREAS the people of Seabird Island develop our land and resources responsibly, promote economic sustainability and respect, protect and enhance our language and heritage to ensure that our Members will continue to thrive and prosper, consistent with our traditional ways;

AND WHEREAS the people of Seabird Island have strong leadership that focuses on the preservation of our culture, traditions and heritage and promotes social and economic development;

AND WHEREAS the people of Seabird Island pursue our economic goals through strong determined leadership and education of our youth, with the support and strength of our families and guided by our culture, the vision of our community and the wisdom of our elders;

AND WHEREAS Seabird Island has become a signatory to the Framework Agreement on First Nation Land Management between Her Majesty in right of Canada and a specific group of First Nations concluded on February 12, 1996, as amended, which agreement was ratified by Canada by the enactment of the *First Nations Land Management Act*;

AND WHEREAS pursuant to the *First Nations Land Management Act*, a first nation that wishes to establish a land management regime must adopt a land code applicable to its reserves;

NOW THEREFORE, this Land Code, governing the management and administration of the Seabird Island reserves, is adopted by the Seabird Island in accordance with the *First Nations Land Management Act*.

PART 1

PRELIMINARY MATTERS

1. Title

1.1 The title of this enactment is the Seabird Island Land Code.

2. Principles

2.1 The Land Code shall be interpreted in accordance with the principles set out in this article 2.

2.2 Nothing in this Land Code is intended to or does abrogate or derogate from any aboriginal, treaty or other rights and freedoms that pertain now or in the future to Seabird Island or Members.

2.3 Nothing in this Land Code is intended to or does abrogate the fiduciary relationship between Canada and Seabird Island and between Canada and Members.

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3. Interpretation

3.1 In this Land Code:

- (a) "Allotment" means:
 - (i) an Interest in Seabird Island Lands, granted pursuant to article 18, which gives a Member lawful possession of a part of Seabird Island Lands; or
 - (ii) an Interest or right in Seabird Island Lands allotted pursuant to section 20(1) of the *Indian Act* prior to the effective date of this Land Code.
- (b) "Allotment Application" means a written statement containing all of the information required pursuant to section 18.2.
- (c) "Arbitrator" means an independent third party appointed by Council to determine the validity of the results of a Referendum.
- (d) "Budget" means the annual estimate of revenues and expenditures in relation to the management and administration of Seabird Island Lands.
- (e) "Canada" means Her Majesty the Queen in right of Canada.
- (f) "CEAA" means the *Canadian Environmental Assessment Act*, S.C. 1992, c.37.
- (g) "Claimant" means a Member who claims to be entitled to an Allotment by testamentary disposition or succession pursuant to the *Indian Act*, as more particularly described in section 25.1.
- (h) "Community Lands" means any Seabird Island Lands in which no Allotment to a Member has been made.
- (i) "Council" means the council of Seabird Island within the meaning of the *Indian Act* and includes any successor to, or replacement of, the Council.
- (j) "*Criminal Code*" means the *Criminal Code*, R.S.C. 1985, c. C-46.
- (k) "*Criminal Records Review Act*" means the *Criminal Records Review Act*, R.S.B.C. 1996, c.86.
- (l) "deputy referendum officer" means a person appointed by a referendum officer for the purposes of a Referendum.
- (m) "Eligible Voter" means a Member who is 18 years or older:
 - (i) on the date of mailing or delivery of the Final Draft, for the purposes of subsection 8.4(e)(iii);
 - (ii) on the date a Referendum is held pursuant to subsection 27.1(c), for the purposes of article 27;

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- (iii) on the date of mailing or delivery of the written report to the Eligible Voters, for the purposes of subsection 28.4(b)(iii);
- (iv) on the commencement date of the Member's term as a member of the Land Advisory Committee, for the purposes of Part 4;
- (v) on the date scheduled for the General Band Meeting, for the purposes of Part 7; and
- (vi) on the date a Referendum is scheduled to be held, for the purposes of Part 8.
- (n) "*Expropriation Act*" means the *Expropriation Act*, R.S.C. 1985, c. E-21.
- (o) "Exchanged Lands" has the meaning provided in subsection 27.1(a).
- (p) "Finance Manager" means the person who oversees the finance department of Seabird Island and holds the title "Finance Manager" with Seabird Island.
- (q) "Financial Institution" means a deposit taking institution approved by the Financial Institutions Commission of B.C. or the Office of the Superintendent of Financial Institutions.
- (r) "First Draft", in respect of a proposed Seabird Island Law, means a draft that is posted in accordance with subsection 8.4(a).
- (s) "*First Nations Land Management Act*" means the *First Nations Land Management Act*, S.C. 1999, c. 24.
- (t) "First Nation Land Register" means the register established by the Minister pursuant to section 25(1) of the *First Nations Land Management Act*, or its successor or replacement.
- (u) "Final Draft", in respect of a proposed Seabird Island Law, means a Second Draft that has been revised, if appropriate, pursuant to subsection 8.4(d).
- (v) "Framework Agreement" means the Framework Agreement on First Nation Land Management between Canada and a specific group of First Nations concluded on February 12, 1996, as amended, which agreement was ratified by Canada by the enactment of the *First Nations Land Management Act*.
- (w) "General Band Meeting" means a meeting of Members held pursuant to Part 7.
- (x) "Holder" means the holder of an Interest or Permit in Seabird Island Lands subject to an expropriation or proposed expropriation pursuant to article 28.
- (y) "*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5.
- (z) "Individual Agreement" means the Individual Agreement on First Nation Land Management between Seabird Island and Canada entered into in accordance with clause 6.1 of the Framework Agreement.

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- (aa) "Interest", in relation to Seabird Island Lands, means any estate or interest in land but does not include title to the land. Without limiting the generality of the foregoing, an Interest includes:
 - (i) an Allotment;
 - (ii) a leasehold interest;
 - (iii) a mortgage of a leasehold interest; and
 - (iv) a right of way.
- (bb) "Land Code" means the Seabird Island Band Land Code.
- (cc) "Land Advisory Committee" means the committee established pursuant to Part 4.
- (dd) "Land Use Plan" means a plan that provides for the development, conservation and utilization of all or a portion of Seabird Island Lands.
- (ee) "Majority" means 50% plus one.
- (ff) "Member" means a person whose name appears on the "Band List" of Seabird Island maintained by Seabird Island pursuant to the *Indian Act*.
- (gg) "Membership Clerk" means the person at Seabird Island who is charged with the responsibility of maintaining the "Band List" of Seabird Island and holds the title of "Membership Clerk" with Seabird Island.
- (hh) "Minister" means the Minister of Indian Affairs and Northern Development.
- (ii) "natural resources" includes water, timber, minerals (precious and base), stone, sand, gravel, clay, soil, coal, petroleum, gas and gases and other naturally occurring substances.
- (jj) "Permit", in relation to Seabird Island Lands, means any right to the non-exclusive use or occupation of land and includes, for greater certainty, a licence but does not include an Interest.
- (kk) "Purchaser" means a Member, referred to in section 25.2, who purchases an Allotment pursuant to subsection 50(2) of the *Indian Act*.
- (ll) "Referendum" means a referendum held pursuant to Part 8.
- (mm) "referendum officer" means a person appointed by Council pursuant to subsection 58.2(c) for the purposes of a Referendum.
- (nn) "Seabird Island" means Seabird Island (also known as Seabird Island Band), a band within the meaning of the *Indian Act* and includes any successor to, or replacement of, the Seabird Island Band for the purposes of the *Indian Act*.
- (oo) "Seabird Island Lands" means:

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- (i) the reserve, set aside by Canada for the use and benefit of Seabird Island, as described in Annex G of the Individual Agreement;
- (ii) land, other than that provided for in subsection (i) above, set apart as land reserved for the sole use and benefit of Seabird Island; and
- (iii) land set apart as land reserved for the joint use and benefit of Seabird Island and one or more First Nation(s) provided Seabird Island and such First Nation(s) agree in writing to such land being managed in accordance with this Land Code;

including all the interests, rights, water, water beds, riparian rights, air space rights and natural resources on, in, under or belonging to those lands, to the extent that they are within the legislative authority of Canada and the administration thereof by Seabird Island is not precluded by any provision of the *First Nations Land Management Act*.

- (pp) "Seabird Island Law" means a law in relation to Seabird Island Lands enacted under Part 2.
- (qq) "Seabird Island Register" means a register established by a Seabird Island Law to record transactions affecting Seabird Island Lands.
- (rr) "Second Draft", in respect of a proposed Seabird Island Law, means a First Draft that has been revised, if appropriate, pursuant to subsection 8.4(b).
- (ss) "Subject" means a person referred to in section 50.2 whom another person has reasonable grounds to believe has a conflict of interest.
- (tt) "Supplementary Budget" means changes to a Budget as adopted by Council.
- (uu) "voter declaration form" means a document that sets out:
 - (i) the name of the Eligible Voter;
 - (ii) the Seabird Island membership number of the Eligible Voter; and
 - (iii) the name, address and telephone number of a witness to the signature of the Eligible Voter.

3.2 Any reference in this Land Code to a statute includes the regulations made under the statute, and any reference in this Land Code to a statute or regulation or to a provision of a statute or regulation includes a reference to the statute, regulation or provision as amended or replaced from time to time.

3.3 A reference to a Part, article, section or subsection in this Land Code means a Part, article, section or subsection of this Land Code, unless otherwise stated.

3.4 If there is an inconsistency between this Land Code and any other enactment of Seabird Island, this Land Code prevails to the extent of the inconsistency.

3.5 If there is an inconsistency between this Land Code and the Framework Agreement, the Framework Agreement prevails to the extent of the inconsistency.



- 3.6 All headings in this Land Code are inserted as a matter of convenience and for reference only and in no way define, limit, enlarge, modify or explain the scope or meaning of this Land Code or any of its provisions.
- 3.7 Words in the singular include the plural, words in the plural include the singular and words in the masculine include the feminine, where the context so requires.
- 3.8 Where the time limited for the carrying out of an act expires or falls on a statutory holiday, the act may be carried out on the day next following that is not a statutory holiday.
- 3.9 Where the time limited for the carrying out of an act expires or falls on a day when the administration offices of Seabird Island are not open during regular business hours, the act may be carried out on the next day that the administration offices of Seabird Island are open during regular business hours.
- 3.10 Where there is a reference to "at least" a number of days between two events, in calculating that number of days, the day on which the first event happens is excluded and the day on which the second event happens is included.

4. Purpose

- 4.1 The purpose of this Land Code is to set out the rules, principles and administrative structures that apply to Seabird Island Lands and by which Seabird Island will exercise authority over those lands.

5. Ratification

- 5.1 The Framework Agreement is ratified and confirmed by Seabird Island when this Land Code takes effect.

PART 2

LAW ENACTMENT POWERS AND PROCEDURES

6. Application

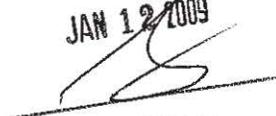
- 6.1 This Part 2 applies to the enactment of laws in respect of the management and administration of Seabird Island Lands.

7. Law Enactment Powers

- 7.1 Council has the power to enact laws respecting:
 - (a) Interests or Permits in relation to Seabird Island Lands;
 - (b) the development, conservation, protection, management, use and possession of Seabird Island Lands; and
 - (c) any matter arising out of, or ancillary to, the exercise of that power,

in accordance with the procedures set out in this Part 2.



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8. Law Making Procedure

8.1 A request to initiate the process for development of a Seabird Island Law may be made by a statement in writing, signed by the following persons:

- (a) a member of Council;
- (b) a member of the Land Advisory Committee; or
- (c) 25 or more Eligible Voters.

The written request shall contain a brief description of the subject matter to be addressed in the proposed Seabird Island Law.

8.2 Upon receipt of a written request signed in accordance with section 8.1, Council shall decide whether to accept or reject that request.

8.3 Seabird Island shall post the decision made pursuant to section 8.2 for at least 21 days:

- (a) at the administrative offices of Seabird Island; and
- (b) at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website.

8.4 Before a proposed Seabird Island Law may be enacted by Council, the following conditions must be satisfied in the order listed:

- (a) a draft of the proposed Seabird Island Law (the "First Draft") must be:
 - (i) posted at the administrative offices of Seabird Island for at least 30 days, with a request for written comments from Members which shall stipulate an expiry date for the receipt of those comments that is no earlier than seven days after the last day of said 30-day minimum posting period; and
 - (ii) posted at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website for at least 30 days, with a request for written comments from Members which shall stipulate an expiry date for the receipt of those comments no earlier than seven days after the last day of the said 30-day minimum posting period;
- (b) upon the expiration of the time for submitting comments provided for in subsections (a)(i) and (a)(ii) above, Council shall consider the comments received and make such revisions, if any, to the First Draft as it deems appropriate (the "Second Draft");
- (c) Seabird Island shall hold a General Band Meeting to review the Second Draft;
- (d) Council shall consider the comments received at the General Band Meeting held pursuant to subsection (c) above and make such revisions, if any, to the Second Draft as it deems appropriate (the "Final Draft");
- (e) Before the Final Draft may be enacted, Seabird Island shall:

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- (i) post the Final Draft at the administrative offices of Seabird Island for at least 14 days prior to the proposed date for its enactment;
- (ii) post the Final Draft at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website for at least 14 days prior to the proposed date for its enactment,
- (iii) deliver or mail, either by post or electronically, a copy of the Final Draft to all Eligible Voters at the last known physical or electronic address of each Eligible Voter at least 14 days prior to the proposed date for its enactment; and
- (iv) table the Final Draft at a duly convened Council meeting at least 14 days prior to the proposed date for its enactment.

8.5 Council may enact a Seabird Island Law without the preliminary steps required under section 8.4 if Council is of the opinion that that Seabird Island Law is needed urgently to protect the health or safety of Members or Seabird Island Lands, but a Seabird Island Law enacted on an urgent basis pursuant to this section 8.5 expires 50 days after its enactment, or on such earlier date as may be stipulated in that Seabird Island Law.

9. Approval, Certification and Publication of Seabird Island Laws

- 9.1 A Seabird Island Law is enacted if it is approved by resolution of Council.
- 9.2 The members of Council who sign the resolution approving a Seabird Island Law shall sign an original copy of that Seabird Island Law.
- 9.3 Within seven days after a Seabird Island Law has been enacted, Seabird Island shall post a copy of that Seabird Island Law for at least 30 days:
 - (a) in the administrative offices of the Seabird Island; and
 - (b) at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website.

10. Register of Seabird Island Laws

- 10.1 Seabird Island shall keep at its administrative offices a register of an original copy of all Seabird Island Laws, including Seabird Island Laws that have been repealed or are no longer in force, an original copy of all amendments to Seabird Island Laws and a copy of all resolutions of Council repealing a Seabird Island Law.
- 10.2 Council shall designate a law firm to maintain a copy of all documents required to be kept pursuant to section 10.1.
- 10.3 As soon as practicable after a Seabird Island Law is enacted, amended or repealed, Seabird Island shall forward a copy of that Seabird Island Law, amendment or resolution of Council repealing a Seabird Island Law, as the case may be, to the law firm designated pursuant to section 10.2.
- 10.4 Any person may, upon request, obtain a copy of a Seabird Island Law, an amendment of a Seabird Island Law or a resolution of Council repealing a Seabird Island Law upon payment

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of such fee as may be prescribed by Council, except that a Member may, upon request, obtain a copy thereof free of charge.

11. Effective Date of Seabird Island Laws

11.1 A Seabird Island Law takes effect on the date of the resolution of Council approving its enactment or on such later date as may be specified under that Seabird Island Law.

12. Repeal and Amendment of Seabird Island Laws

12.1 A Seabird Island Law may be repealed by resolution of Council effective on the date of the resolution of Council repealing that Seabird Island Law or such later date as may be specified in that resolution, provided that Council's intention to repeal that Seabird Island Law and the reasons therefor are:

- (a) provided to the Land Advisory Committee at least 30 days prior to the proposed date for the repeal of that Seabird Island Law;
- (b) posted at the administrative offices of Seabird Island for at least 14 days prior to the proposed date for the repeal of that Seabird Island Law; and
- (c) posted at another location other than the administrative offices of Seabird Island or electronically on Seabird Island's website for at least 14 days prior to the proposed date for the repeal of that Seabird Island Law.

12.2 As soon as practicable after a resolution repealing a Seabird Island Law has been adopted, Seabird Island shall forward a copy of that resolution, certified to be true by Council, to the law firm referred to in section 10.2.

12.3 A Seabird Island Law may be amended by the same procedure as that provided for the enactment of a Seabird Island Law set out in this Part 2.

12.4 An amendment of a Seabird Island Law takes effect on the date of the resolution of Council approving that amendment or on such later date as may be specified in that amendment.

PART 3

LAND RULES

13. Purpose

13.1 The purpose of this Part 3 is to set out the principles and rules pursuant to which Seabird Island will exercise its jurisdiction to manage and administer Seabird Island Lands.

14. Existing Interests and Permits

14.1 Interests and Permits in Seabird Island Lands approved, created, granted or issued pursuant to the *Indian Act* and existing as of the effective date of this Land Code shall continue to have effect in accordance with their terms and conditions.

14.2 Where an instrument that approved, created, granted or issued an Interest or Permit in Seabird Island Lands described in section 14.1 provides for an action to be taken by the Minister or

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Canada, the responsibility for such action after the date this Land Code takes effect shall be with Council, except that where such instrument pertains to an Interest or Permit in Seabird Island Lands that are subject to an Allotment, Council may, by resolution, transfer the responsibility for taking an action under such instrument to the holder of the Allotment.

14.3 Subject to section 14.1, all conditional surrenders and designations of Seabird Island Lands made pursuant to the *Indian Act* shall hereby be revoked.

15. No Interest or Right Created or Transferred

15.1 From the effective date of the Land Code, an Interest or Permit in Seabird Island Lands may only be created, granted, assigned, transferred, disposed of or otherwise dealt with by a written document in accordance with the requirements of this Part 3.

15.2 No person may acquire an Interest or Permit in Seabird Island Lands by use, occupation or any other means not authorized under this Land Code.

16. Registration of Interests and Permits in Seabird Island Lands

16.1 Except as against the person making it, an instrument purporting to create, grant, assign, transfer, dispose of or otherwise deal with an Interest or Permit in Seabird Island Lands after this Land Code takes effect does not operate to pass an Interest in Seabird Island Lands or convey a right to use or occupy Seabird Island Lands unless such instrument is registered in the First Nation Land Register and in the Seabird Island Register.

16.2 No instrument purporting to create, grant, assign, transfer, dispose of or otherwise deal with an Interest or Permit in Seabird Island Lands that requires the consent of Council or approval of Eligible Voters in a Referendum may be registered unless evidence of such consent or approval, is attached to such instrument.

16.3 All instruments purporting to create, grant, assign, transfer, dispose of or otherwise deal with an Interest or Permit in Seabird Island Lands shall be filed with Council, or with such person or body as may be designated by Council, and provided:

- (a) Council or its designate is satisfied that the instrument is in compliance with Seabird Island Laws and any Land Use Plan approved and adopted in accordance with article 21;
- (b) Council or its designate is satisfied that the registration requirements of the First Nation Land Register and those of the Seabird Island Register are met; and
- (c) any reasonable fees as may be prescribed by Council to defray the costs of registration are paid,

Seabird Island shall forward the instrument to the First Nation Land Register and the Seabird Island Register for registration.

16.4 For the purpose of this Land Code, an instrument purporting to create, grant, assign, transfer, dispose of or otherwise deal with an Interest or Permit in Seabird Island Lands is deemed to be registered in the Seabird Island Register, when it is registered in the First Nation Land Register, if at the time such instrument is filed for registration pursuant to section 16.3, the Seabird Island Register has not been established or no longer exists.

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17. Natural Resources

- 17.1 The provisions of this article 17 apply only to those natural resources forming part of Seabird Island Lands.
- 17.2 Subject to applicable law, all natural resources in, on or under Seabird Island Lands belong to Seabird Island and may not be removed unless such removal is authorized by a Seabird Island Law or an instrument validly granted pursuant to this Part 3.
- 17.3 Before Council grants a Permit which has, as its primary purpose, the removal of natural resources from Seabird Island Lands, Council shall:
- (a) present to the Land Advisory Committee a summary of the terms of the proposed grant and seek and consider its comments and advice; and
 - (b) ensure that the proposed grant is consistent with any applicable Land Use Plan approved and adopted pursuant to article 21.
- 17.4 Seabird Island shall not remove natural resources from Seabird Island Lands subject to an Allotment unless the holder(s) of that Allotment has consented in writing to the proposed removal.
- 17.5 Council shall not grant a Permit to remove natural resources from Seabird Island Lands subject to an Allotment unless the holder(s) of that Allotment has consented in writing to the proposed grant.

18. Allotment

- 18.1 Only Members can hold or receive an Allotment.
- 18.2 A Member may apply for an Allotment by submitting to Seabird Island a written statement containing the following information:
- (a) a description of the Seabird Island Lands for which the Allotment is sought;
 - (b) the history of any prior use or occupation of the Seabird Island Lands for which the Allotment is sought by that Member or a family member of that Member; and
 - (c) any other information deemed relevant by the Member seeking the Allotment or as may be requested by Council.
- 18.3 Upon receipt of an Allotment Application, Seabird Island shall:
- (a) post the Allotment Application at the administrative offices of Seabird Island for at least 30 days, with a request for written comments from Members which shall stipulate an expiry date for the receipt of those comments that is no earlier than seven days after the last day of said 30-day minimum posting period;
 - (b) post the Allotment Application at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website for at least 30 days, with a request for written comments from Members which shall stipulate an expiry date for the

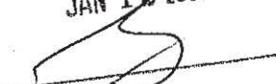
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receipt of those comments that is no earlier than seven days after the last day of said 30-day minimum posting period; and

- (c) provide the Land Advisory Committee with a copy of the Allotment Application with a request that any comments from the Land Advisory Committee shall be provided to Council within 30 days of receipt of that Allotment Application by the Land Advisory Committee.
- 18.4 When the time periods for which comments on an Allotment Application are to be provided pursuant to section 18.3 have expired, Council shall consider that Allotment Application, together with all comments received and shall render a decision on that Allotment Application in writing. A decision of Council to approve an Allotment Application may be conditional, subject to the satisfaction of conditions provided for in the decision.
- 18.5 A decision of Council on an Allotment Application shall be mailed or delivered to the Member who made the Allotment Application and posted for at least days:
- (a) at the administrative offices of Seabird Island; and
 - (b) at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website.
- 18.6 An Allotment shall be granted by Council resolution.
- 18.7 An Allotment does not include the natural resources on, in, under or belonging to the lands subject to that Allotment.
- 18.8 If a holder of an Allotment ceases to be a Member, Council shall by resolution cancel that Allotment and the lands previously subject to that Allotment become Community Lands.
- 19. Grant of an Interest or Permit in Community Lands**
- 19.1 Subject to this article 19, Council may, by resolution, grant, assign, transfer, dispose of or otherwise deal with an Interest or Permit in Community Lands.
- 19.2 Before Council grants an Interest or Permit in Community Lands, Council shall present to the Land Advisory Committee a summary of the terms of that proposed Interest or Permit and seek its comments and advice.
- 19.3 Where Council proposes to grant an Interest or Permit in Community Lands, Council shall not grant such Interest or Permit unless:
- (a) it is satisfied that an environmental assessment of the project subject to the proposed grant has been completed, if such assessment is required under the Individual Agreement or any other environmental assessment agreement agreed to by Seabird Island;
 - (b) it is satisfied that the proposed grant is not inconsistent with any Land Use Plan approved and adopted in accordance with article 21; and
 - (c) except as provided for in section 19.4, if the proposed grant is for a term exceeding 25 years, calculated by including any renewal or extension period, it has obtained the

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approval of Eligible Voters in a Referendum to the terms of that proposed Interest or Permit, which may be presented in a summary form to the Eligible Voters for approval.

19.4 Council may grant a right of way or Permit in Community Lands for telecommunication, water, electricity, gas, sewer or other like utility purposes and purposes ancillary thereto for any length of term without first obtaining the approval of Eligible Voters provided for in subsection 19.3(c).

20. Grant of an Interest or Permit in Seabird Island Lands Subject to an Allotment

20.1 Subject to this article 20, a holder of an Allotment may assign or transfer his or her right to hold that Allotment, grant a mortgage of his or her interest in that Allotment or grant, assign, transfer, dispose of or otherwise deal with an Interest or Permit in the lands subject to that Allotment.

20.2 A holder of an Allotment may only assign or transfer his or her right to hold that Allotment to a Member or Seabird Island. Upon the assignment or transfer by a Member to Seabird Island of his or her right to hold an Allotment, the lands previously subject to that Allotment become Community Lands.

20.3 A holder of an Allotment may only grant a mortgage of his or her Allotment to a Member or Seabird Island.

20.4 A holder of an Allotment wishing to grant an Interest or Permit in the lands subject to that Allotment must obtain the prior written consent of Council.

20.5 Council shall provide its written consent required pursuant to section 20.4 provided it is satisfied that:

- (a) an environmental assessment of the project subject to the proposed grant has been completed, if such assessment is required under the Individual Agreement, any other environmental assessment agreement agreed to by Seabird Island, or by law;
- (b) the proposed grant by the holder of the Allotment is not inconsistent with any Land Use Plan approved and adopted in accordance with article 21; and
- (c) the use contemplated by the proposed grant by the holder of the Allotment is not detrimental to the interests of Seabird Island.

20.6 Council's written consent given pursuant to section 20.5 shall not be deemed to be a representation and warranty from Council that the proposed grant for which the consent is given is in compliance with all applicable law.

20.7 In addition to the requirement under section 20.4, but subject to section 20.8, a holder of an Allotment wishing to grant an Interest or Permit in the lands subject to that Allotment for a term exceeding 49 years must obtain the prior approval of Eligible Voters in a Referendum to the terms of that proposed Interest or Permit, which may be presented in a summary form to the Eligible Voters for approval.

20.8 A holder of an Allotment may grant a right of way or Permit in the lands subject to that Allotment for telecommunication, water, electricity, gas, sewer or other like purposes and purposes ancillary thereto for any length of term without first obtaining the approval of Eligible Voters provided for in section 20.7.

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20.9 Seabird Island shall hold a Referendum required pursuant to section 20.7 provided that a holder of an Allotment:

- (a) submits a written request to Council to hold the Referendum; and
- (b) pays such reasonable fees as may be prescribed by Council to defray the costs of the Referendum.

21. Land Use Plan

21.1 Subject to availability of funding, Council shall, in consultation with the Land Advisory Committee, cause the development of a Land Use Plan as soon as practicable after the effective date of this Land Code. The Land Use Plan shall designate any cultural, traditional or heritage sites to be protected from development or other disturbances.

21.2 Subject to section 21.4, a Land Use Plan comes into effect when it has been adopted by resolution of Council, on the date of that resolution or on such later date as may be provided for in that resolution.

21.3 Before Council passes a resolution to adopt a Land Use Plan, Council must obtain the approval of Eligible Voters in a Referendum of that Land Use Plan.

21.4 A Land Use Plan is of no force and effect unless section 21.3 has been complied with prior to its adoption by Council.

21.5 Once a Land Use Plan has been adopted by Council pursuant to this article 21, it may not be amended unless the amendment has been approved by Eligible Voters in a Referendum and adopted by resolution of Council.

22. Extension of the Application of Subsection 89(1.1) of the *Indian Act*

22.1 The application of subsection 89(1.1) of the *Indian Act* is extended to all leasehold interests and leases in Seabird Island Lands.

23. Transfer of Interests and Permits

23.1 A holder of an Interest or Permit in Seabird Island Lands may grant, assign, transfer, dispose of or otherwise deal with his or her interest or right in such Interest or Permit to any person, subject to the restrictions and in accordance with the requirements of this Part 3.

24. Grant of Sub Interests

24.1 A holder of an Interest or Permit in Seabird Island Lands may grant a sub interest or licence in respect of that Interest or Permit, subject to the terms and conditions of that Interest or Permit, and in accordance with the requirements of this Part 3.

25. Transfer on Death

25.1 A Member who claims to be entitled to an Allotment by testamentary disposition or succession pursuant to the *Indian Act* (the "Claimant") is not entitled to that Allotment until:

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A rectangular stamp with the word "VERIFIED" in large, bold, capital letters. Below it, the date "JAN 12 2009" is stamped. A handwritten signature in blue ink is written across the bottom of the stamp. Below the signature, the number "273329.12" is printed.

- (a) the Claimant has filed with Council, or with such person or body as may be designated by Council, an instrument duly executed by the personal representative of the estate of the deceased Member who held that Allotment transferring that Allotment to the Claimant; and
- (b) the instrument referred to in subsection (a) above is registered in the First Nation Land Register and the Seabird Island Register.

25.2 A purchaser of an Allotment pursuant to subsection 50(2) of the *Indian Act* (the "Purchaser") is not entitled to that Allotment until:

- (a) the Purchaser has filed with Council, or with such person or body as may be designated by Council, an instrument duly executed by a person authorized under the *Indian Act* to execute a transfer of that Allotment, transferring that Allotment to the Purchaser; and
- (b) the instrument referred to in subsection (a) above is registered in the First Nation Land Register and the Seabird Island Register.

For greater certainty, only a Member can be a Purchaser.

26. Treatment of Interests in Seabird Island Lands Upon Marriage Breakdown

- 26.1 Council shall enact a Seabird Island Law within 12 months of the effective date of this Land Code setting out rules and procedures applicable to the use, occupation and possession of Seabird Island Lands and the division of Interests or rights in Seabird Island Lands on the breakdown of a marriage involving at least one Member.
- 26.2 The Seabird Island Law referred to in section 26.1 shall be developed in consultation with the Land Advisory Committee.
- 26.3 The Seabird Island Law referred to in section 26.1 shall not discriminate on the basis of sex but may distinguish as between Members and non Members for the purpose of determining what type of Interests in Seabird Island Lands may be held by a person.

27. Exchange of Community Lands

- 27.1 Subject to federal expropriation, no part of Seabird Island Lands shall be alienated so as to remove its status as Seabird Island Lands except for an exchange of Community Lands for other lands in circumstances where:
 - (a) as compensation for the Community Lands, Seabird Island receives land that Canada has agreed in writing will be set apart as a reserve for the use and benefit of Seabird Island (the "Exchanged Lands");
 - (b) Canada consents in writing to the manner and form of the land exchange;
 - (c) the land exchange is approved by Eligible Voters in a Referendum;
 - (d) prior to the holding of the Referendum referred to in subsection (c) above, Seabird Island has provided the following information to the Eligible Voters:

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- (i) a description of the Community Lands to be exchanged, including the appraised value of such lands;
- (ii) a description of the Exchanged Lands, including the size and appraised value of such lands;
- (iii) a description of any other compensation to be received in the land exchange;
- (iv) a copy or summary of the land exchange agreement, if available; and
- (v) a copy of Canada's agreement and consent required pursuant to subsections (a) and (b) above.

27.2 Nothing herein shall restrict Seabird Island from receiving other compensation in a land exchange, such as money or one or more other parcels of land, in addition to the Exchanged Lands. Such other parcels of land may be held by or on behalf of Seabird Island in fee simple or some other manner.

27.3 A copy of each instrument transferring title to Community Lands pursuant to a land exchange shall be registered in the First Nation Land Register and the Seabird Island Register.

28. Expropriation of Interests or Permits in Seabird Island Lands by Seabird Island

28.1 Except as provided in sections 28.2 and 28.3, Seabird Island may expropriate any Interest or Permit in Seabird Island Lands that, in the opinion of Council, is necessary for community works or other Seabird Island community purposes.

28.2 An Interest or right in Seabird Island Lands obtained under section 35 of the *Indian Act* or held by Canada is not subject to expropriation by Seabird Island under this Land Code.

28.3 An Interest or Permit in Seabird Island Lands in which Seabird Island has agreed in writing that such Interest or Permit is exempt from expropriation by Seabird Island may not be expropriated by Seabird Island under this Land Code.

28.4 No expropriation pursuant to section 28.1 may take place until the following conditions have been met:

- (a) Council has enacted a Seabird Island Law setting out:
 - (i) the procedure governing the expropriation process, including provisions for reasonable notice and service of such notice on a Holder;
 - (ii) the method of determining fair compensation to be paid to a Holder, which compensation shall be based on the heads of compensation set out in the *Expropriation Act*; and
 - (iii) the procedure for resolving disputes between Seabird Island and a Holder in respect of Seabird Island's right to expropriate or the amount of compensation payable by Seabird Island to a Holder.

(b) Prior to each expropriation:

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- (i) Council has passed a resolution declaring that, in its reasonable opinion, the most limited interest or right is being expropriated, or being considered for expropriation, for the community work or other Seabird Island community purpose for which the proposed expropriation is required;
- (ii) Seabird Island has attempted in good faith to negotiate an agreement with the Holder for the transfer of the Interest or Permit that is being considered for expropriation but has failed to reach such an agreement;
- (iii) Seabird Island has prepared a written report setting out the community work or other Seabird Island community purpose for which the proposed expropriation is required and the necessity for the proposed expropriation and has mailed or delivered such written report to all Eligible Voters and posted such report for at least 30 days at the administrative offices of Seabird Island and at another location other than the administrative offices of Seabird Island or electronically on Seabird Island's website; and
- (iv) if the proposed expropriation involves Seabird Island Lands subject to an Allotment, the proposed expropriation thereof has been approved by Eligible Voters in a Referendum.

29. Trespass

29.1 A person who trespasses on Seabird Island Lands is guilty of an offence punishable on summary conviction.

30. Surveys

30.1 Except as may be permitted by law, no persons shall cause surveys to be made of Seabird Island Lands without the consent of Council.

30.2 A survey plan of Seabird Island Lands becomes effective when it is recorded in the Canada Lands Survey Records.

31. Dispute Resolution

31.1 Except as otherwise provided in this Part 3, disputes in relation to Interests or Permits in Seabird Island Lands shall be determined by a court of competent jurisdiction, unless the parties to the dispute otherwise agree and, if they do so agree, the dispute may be resolved through mediation or arbitration under an agreed process.

PART 4

LAND ADVISORY COMMITTEE

32. Establishment of Land Advisory Committee

32.1 Within one month of the effective date of this Land Code, Seabird Island shall establish a Land Advisory Committee.

32.2 Seabird Island shall allocate funds in the Budget each year for the Land Advisory Committee to carry out its mandates provided for in section 33.1.

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33. Mandates of Land Advisory Committee

33.1 The Land Advisory Committee shall:

- (a) provide advice and make recommendations to Council on the development of a Land Use Plan, Seabird Island Laws, resolutions, policies and practices in respect of management and administration of Seabird Island Lands;
- (b) provide advice and make recommendations to Council on proposed transactions involving Community Lands;
- (c) assist in the flow of information on issues relating to Community Lands between Members and Council;
- (d) canvass the views of Members on the Seabird Island Law required to be enacted by Council pursuant to section 26.1, and generally on issues related to the administration and management of Seabird Island Lands as it deems appropriate or as requested by Council; and
- (e) provide such assistance as may be required in the holding of General Band Meetings and Referendum votes.

33.2 The Land Advisory Committee may establish rules and policies, not inconsistent with this Land Code, for the purpose of carrying out its duties and responsibilities.

34. Composition and Eligibility for Appointment

34.1 The Land Advisory Committee shall be composed of a minimum of seven and a maximum of 11 Eligible Voters.

34.2 Council shall appoint two members from Council to be on the Land Advisory Committee.

34.3 In addition to the persons appointed pursuant to section 34.2, Seabird Island shall appoint a minimum of five and a maximum of nine Eligible Voters to be on the Land Advisory Committee.

34.4 Seabird Island shall endeavour to constitute a Land Advisory Committee that is representative of the entire Seabird Island membership and shall endeavour to appoint a minimum of two elders on the Land Advisory Committee. To that end, Seabird Island shall, as part of the appointment process, invite Eligible Voters to apply for an appointment on the Land Advisory Committee and advise Eligible Voters of the criteria to be considered by Seabird Island in making such an appointment.

35. Term of Office

35.1 The two members of the Land Advisory Committee appointed pursuant to section 34.2 shall serve on the Land Advisory Committee for so long as they remain members of Council, unless Council removes that person and appoints a replacement Council member in his or her place.

35.2 Except as provided for in section 35.3, members of the Land Advisory Committee appointed pursuant to section 34.3 shall serve for a term of four years unless re-appointed for a further term.

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- 35.3 For the first members of the Land Advisory Committee appointed pursuant to section 34.3, Seabird Island shall appoint half of those members to serve for a term of two years.
- 35.4 Prior to the expiry of the term of a member on the Land Advisory Committee appointed pursuant to section 34.3, Seabird Island shall either re-appoint that member for a further term of four years or appoint another person as a replacement.
- 35.5 If, on the expiry date of the term of a member of the Land Advisory Committee appointed pursuant to section 34.3, no re-appointment or replacement appointment has been as contemplated by section 35.4, then that member shall be deemed to have been re-appointed as a member of the Land Advisory Committee for a further term of four years.
- 35.6 A member on the Land Advisory Committee ceases to be a member of the Land Advisory Committee when:
- (a) the term of that member expires in accordance with this article 35;
 - (b) the member dies or resigns;
 - (c) the member ceases to be an Eligible Voter; or
 - (d) the member is removed in accordance with section 35.7.
- 35.7 On the recommendation from the Land Advisory Committee, Seabird Island may remove a member from the Land Advisory Committee.
- 35.8 A vacancy that occurs among the members of the Land Advisory Committee may be filled by another person appointed by Seabird Island.
- 35.9 A person appointed as a member of the Land Advisory Committee to fill a vacancy pursuant to section 35.8 ceases to be a member of the Land Advisory Committee on:
- (a) the end of the term of the member whose departure created the vacancy; or
 - (b) the date on which that person ceases to hold office pursuant to section 35.6,
- whichever is earlier.
- 36. Proceedings of Land Advisory Committee**
- 36.1 Members of the Land Advisory Committee shall meet together at least four times in each calendar year for the conduct of business, and adjourn and otherwise regulate their meetings as they think fit. Meetings held at regular intervals may be held at the place, at the time and on such notice, if any, as the members of the Land Advisory Committee may determine from time to time, and Council shall be notified accordingly.
- 36.2 The following person shall preside as chair at a meeting of the Land Advisory Committee:
- (a) the member of Council on the Land Advisory Committee who is appointed by Council to be chair of the Land Advisory Committee;

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- (b) if the person referred to in subsection (a) above is not present at the meeting within 15 minutes after the time set for holding the meeting, then the other member of Council who is on the Land Advisory Committee; and
 - (c) if neither of the persons referred to in subsection (a) or (b) is present at the meeting within 15 minutes after the time set for holding the meeting, then any other member of the Land Advisory Committee chosen by the members who are present.
- 36.3 Either Council or a quorum of the members of the Land Advisory Committee may call a meeting of the Land Advisory Committee.
- 36.4 Other than for meetings held at regular intervals as determined by the members of the Land Advisory Committee pursuant to section 36.1, reasonable notice of each meeting of the Land Advisory Committee, specifying the place, day and time of that meeting must be given to each member of the Land Advisory Committee, unless such notice is waived by the person entitled to receive notice.
- 36.5 Except as provided for in section 36.7, the quorum for a Land Advisory Committee meeting is a majority of the sitting members.
- 36.6 If, within 20 minutes from the time set for the holding of a Land Advisory Committee meeting, a quorum is not present, the meeting may proceed except that no resolutions of the Land Advisory Committee may be passed at such meeting. Alternatively, the members of the Land Advisory Committee who are present may adjourn the meeting to a time and date within two weeks thereof.
- 36.7 If, at a meeting adjourned pursuant to section 36.6, a quorum is not present within 20 minutes from the time set for the holding of the meeting, the person or persons present constitute a quorum.

PART 5

FINANCIAL MANAGEMENT AND ACCOUNTABILITY

37. Application

- 37.1 This Part 5 applies only to financial matters relating to the management and administration of Seabird Island Lands.

38. Establishment of Bank Accounts

- 38.1 Seabird Island shall maintain one or more accounts at one or more Financial Institutions and shall deposit with such Financial Institution(s) all monies received by Seabird Island from the management and administration of Seabird Island Lands, including but not limited to the following:
- (a) transfer payments provided by Canada for the management and administration of Seabird Island Lands;
 - (b) capital and revenue monies of Seabird Island transferred by Canada;
 - (c) monies received for the grant, assignment, transfer, disposition or other dealings of an Interest or Permit in Seabird Island Lands; and

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(d) all fees, fines, charges and levies collected under Seabird Island Laws.

39. Authorizing Officers

- 39.1 Only members of Council or persons authorized by Council may authorize payments on behalf of Seabird Island.
- 39.2 All cheques to be issued on behalf of Seabird Island or transfers drawn on the accounts of Seabird Island shall be signed by at least two people who have been authorized to do so pursuant to a resolution of Council.

40. Budget

- 40.1 The fiscal year of Seabird Island begins April 1 of each year and ends on March 31 of the following year.
- 40.2 Council shall, prior to the beginning of each fiscal year, adopt a Budget for the fiscal year and may adopt one or more Supplementary Budgets during the fiscal year.
- 40.3 Within a reasonable period of time after a Budget or a Supplementary Budget has been adopted by Council, the Finance Manager:
- (a) shall provide a copy of that Budget or Supplementary Budget, as the case may be, to the Land Advisory Committee; and
 - (b) make a copy of that Budget or Supplementary Budget, as the case may be, available at the administrative offices of Seabird Island for inspection by Members during regular office hours.
- 40.4 If Council fails to adopt a Budget for a fiscal year prior to the beginning of that fiscal year, the Budget of the previous fiscal year, as amended by any Supplementary Budgets, shall apply until a new Budget is adopted.

41. Financial Records and Statements

- 41.1 Seabird Island shall keep and maintain financial records related to the management and administration of Seabird Island Lands in accordance with Canadian generally accepted accounting principles and public sector auditing and accounting standards.
- 41.2 Within 90 days after the end of each fiscal year, the Finance Manager shall cause to be prepared financial statements in comparative form, containing:
- (a) a balance sheet;
 - (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the Budget and any Supplementary Budgets for that fiscal year; and
 - (c) any other information necessary for a fair presentation of the financial position of Seabird Island.
- 41.3 The accounting, auditing and reporting requirements of this Land Code may be prepared together and consolidated with other accounts, audits and reports of Seabird Island.

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42. Audit

- 42.1 Council shall appoint a duly accredited auditor to audit, at least once every fiscal year, the financial statements and records of Seabird Island kept and maintained under this Part 5, and Council shall determine the auditor's remuneration.
- 42.2 Council shall request the auditor to prepare and submit to Council a report on Seabird Island's financial statements stating whether, in the opinion of the auditor, the financial statements present fairly the financial position of Seabird Island in accordance with Canadian generally accepted accounting principles and public sector auditing and accounting standards, applied on a basis consistent with that applied in the previous fiscal year, within 120 days after the end of Seabird Island's fiscal year.
- 42.3 In carrying out his or her duties and responsibilities, the auditor shall have the right to access the records of Seabird Island at all reasonable times.

43. Annual Report

- 43.1 Seabird Island shall publish an annual report on financial issues pertaining to the administration and management of Seabird Island Lands for each fiscal year.
- 43.2 Each annual report shall include:
 - (a) a review of the Interests and Permits in Seabird Island Lands granted by Council in the fiscal year covered by the report;
 - (b) a copy of the financial statements with a summary of the auditor's report attached thereto; and
 - (c) any other matter as may be determined by Council.

44. Access to Information

- 44.1 Seabird Island shall maintain a copy of each annual report at its administrative offices for at least 12 months following its publication.
- 44.2 A Member may have reasonable access to an annual report published within the immediate preceding 12 months during the business hours of the administrative offices of Seabird Island and may, upon request, obtain a copy of such annual report free of charge.

PART 6

CONFLICT OF INTEREST

45. Application

- 45.1 The rules in this Part 6 apply to the following persons:
 - (a) a member of Council who is dealing with any matter before Council pertaining to the management or administration of Seabird Island Lands;
 - (b) a member of the Land Advisory Committee; and

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- (c) an employee or contractor of Seabird Island carrying out duties in respect of the management and administration of Seabird Island Lands.

46. Definitions

46.1 For the purposes of this Part 6, the following terms shall have the following meanings, respectively:

- (a) "Child" of a person includes a child to whom that person acts as a parent.
- (b) "Common Law Spouse" means a person who has lived and cohabited with another person in a marriage-like relationship for a period of at least six months immediately before the relevant date.
- (c) "Immediate Family" means, in respect of a person:
 - (i) that person's Spouse, grandparent, parent, step-parent, sibling, Child and grandchild;
 - (ii) a sibling of that person's parent;
 - (iii) the Spouse of that person's grandparent, parent, sibling, Child and grandchild;
 - (iv) a sibling of the parent of that person's Spouse; and
 - (v) any relative with whom that person ordinarily resides.
- (d) "Separated Spouse" means a person who has, immediately prior to the relevant date, lived separate and apart for more than one year, with the intention of living separate and apart, from the person to whom that person is legally married.
- (e) "Spouse" means:
 - (i) a person who is legally married to another person but does not include a Separated Spouse; and
 - (ii) a Common Law Spouse.

47. Conflict of Interest

- 47.1 A person to whom this Part 6 applies has a conflict of interest when such person is being asked to deliberate or decide on a matter where there is the opportunity to further his or her private interest or to further or hinder the private interest of a member of his or her Immediate Family.
- 47.2 A person to whom this Part 6 applies has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that such person's ability to deliberate or decide on the matter would likely be affected by his or her private interest or the private interest of a member of his or her Immediate Family.
- 47.3 Private interest does not include an interest that a person or a member of his or her Immediate Family has in a matter by virtue of the fact that such person or his or her Immediate Family member is a Member.

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48. Conflict of Interest Prohibition

48.1 Subject to article 51, a person to whom this Part 6 applies must not exercise his or her power or carry out his or her responsibility provided for in this Land Code in respect of any matter in which such person has a conflict of interest or an apparent conflict of interest.

49. Procedure on Conflict of Interest

49.1 A person to whom this Part 6 applies who has reasonable grounds to believe that he or she has a conflict of interest must, as soon as reasonably practicable, disclose in writing the general nature of the conflict of interest:

- (a) to Council and the Land Advisory Committee, if that person is a member of Council or the Land Advisory Committee; or
- (b) to Council, the Land Advisory Committee and that person's supervisor, if that person is an employee or contractor of Seabird Island.

49.2 If the disclosure required pursuant to section 49.1 occurs at a meeting, the person making the disclosure:

- (a) must physically withdraw from that meeting while the matter is under consideration;
- (b) must not vote or participate in the consideration of the matter;
- (c) may return to that meeting once the consideration and voting on the matter is finished; and
- (d) may be counted in the quorum at that meeting whether or not he or she votes on any of the matters considered at that meeting.

49.3 If a person has complied with section 49.2, the person taking minutes of the meeting must record:

- (a) the disclosure;
- (b) the general nature of the conflict of interest disclosed; and
- (c) the withdrawal of the person from the meeting and the return, if applicable, of the person to the meeting.

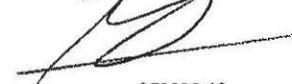
49.4 Subject to section 49.5, a person to which this Part applies is liable to account to Seabird Island for any profit that accrues to that person as a result of a matter in which that person has a conflict of interest.

49.5 A person to which this Part applies is not liable to account for and may retain the profit referred to in section 49.4 provided that the matter in which that person has a conflict of interest is approved by Council, the Land Advisory Committee or that person's supervisor, as the case may be, after that person has complied with section 49.1 and subsections 49.2(a) and 49.2(b).

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50. Conflict of Interest in Doubt

50.1 If a person to which this Part applies is in doubt whether he or she has a conflict of interest, he or she may, in writing, request a decision on whether he or she is in compliance with this Part:

- (a) from Council, if that person is a member of Council and the matter in question is before Council;
- (b) from the Land Advisory Committee, if that person is a member of the Land Advisory Committee and the matter in question is before the Land Advisory Committee; or
- (c) from that person's supervisor, if that person is being asked to decide or deliberate on the matter in question in his or her capacity as an employee or contractor of Seabird Island.

50.2 If a person to which this Part applies has reasonable grounds to believe that another person to which this Part applies has a conflict of interest (the "Subject"), such person may, in writing, request a decision on whether the Subject is in compliance with this Part:

- (a) from Council, if the Subject is a member of Council and the matter in question is before Council;
- (b) from the Land Advisory Committee, if the Subject is a member of the Land Advisory Committee and the matter in question is before the Land Advisory Committee; or
- (c) from the Subject's supervisor, if the Subject is being asked to decide or deliberate on the matter in question in his or her capacity as an employee or contractor of Seabird Island.

50.3 A decision of Council, the Land Advisory Committee or the Subject's supervisor, as the case may be, made pursuant to section 50.1 or 50.2 shall be final.

51. Failure to Establish Quorum due to Conflict

51.1 Where, as a result of a conflict of interest, a quorum of Council cannot be established at the time that a matter is referred to Council for decision, Council may refer such matter for decision by Eligible Voters in a Referendum.

51.2 Where, as a result of a conflict of interest, a quorum of the Land Advisory Committee cannot be established at the time that a matter is referred to the Land Advisory Committee for consideration or decision, the Land Advisory Committee shall refer such matter to Council for consideration or decision, as the case may be.

PART 7

GENERAL BAND MEETING

52. Application

52.1 This Part 7 applies to meetings of Members required to be held pursuant to this Land Code or to such other meetings of Members as Council determines are advisable to hold in relation to the management and administration of Seabird Island Lands.

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53. Purpose

- 53.1 The purpose of a General Band Meeting is for Seabird Island to provide information to Members and for Members to have an opportunity to comment on the subject matter for which the meeting was called.
- 53.2 No vote of the Members shall be conducted at a General Band Meeting.

54. Holding a General Band Meeting

- 54.1 Seabird Island shall hold at least four General Band Meetings every calendar year.
- 54.2 Before a General Band Meeting may be held, Seabird Island shall:
 - (a) deliver or mail, either by post or electronically, a notice of General Band Meeting to all Eligible Voters at the last known physical or electronic address of each Eligible Voter;
 - (b) post a notice of General Band Meeting at the administrative offices of Seabird Island for at least 14 days prior to the date of the General Band Meeting; and
 - (c) post a notice of General Band Meeting at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website for at least 14 days prior to the date of the General Band Meeting.
- 54.3 A notice of General Band Meeting shall provide the date, time, place and the agenda for the meeting.

PART 8

REFERENDUM

55. Application

- 55.1 This Part 8 applies only to a referendum required to be held by this Land Code or a referendum on a matter relating to the management and administration of Seabird Island Lands which Council considers it advisable to hold.

56. Majority Required for Approval in a Referendum

- 56.1 Any question put to a Referendum shall be approved if a Majority of the Eligible Voters who cast ballots in that Referendum vote "YES" to the question submitted at that Referendum.

57. Vote by Eligible Voters Only

- 57.1 Only Eligible Voters are entitled to vote in a Referendum.

58. Holding of Referendum

- 58.1 Seabird Island shall hold a Referendum when so required by this Land Code or when Council considers it advisable to do so.

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58.2 At least 47 days prior to the day on which a Referendum is to be held, Council shall, by resolution:

- (a) set the day on which the Referendum is to be held;
- (b) determine the question or questions to be asked in the Referendum; and
- (c) appoint a referendum officer to conduct the Referendum.

58.3 Within five days of his or her appointment, the referendum officer shall appoint one or more persons to be a deputy referendum officer to assist in the Referendum.

59. Voters' List

59.1 At least 40 days prior to the first day on which a Referendum is to be held, the Membership Clerk shall provide the referendum officer with a voters' list which shall contain:

- (a) in alphabetical order, the names of all Eligible Voters who reside on Seabird Island Lands and the names of all Eligible Voters who do not reside on Seabird Island Lands;
- (b) the Seabird Island membership number of each Eligible Voter; and
- (c) the last known mailing addresses of all Eligible Voters who do not reside on Seabird Island Lands.

59.2 On request by a Member, the referendum officer or deputy referendum officer shall confirm whether the name of a person is on the voters' list.

59.3 The referendum officer shall revise the voters' list where it is demonstrated to his or her satisfaction that:

- (a) the name of an Eligible Voter has been omitted from the list;
- (b) the name of an Eligible Voter is incorrectly set out in the list;
- (c) the name of a person not qualified to vote is included in the list; or
- (d) the residency of an Eligible Voter is incorrectly set out in the list.

60. Notification of Referendum

60.1 At least seven days prior to the day on which an information meeting for a Referendum is to be held and at least 30 days prior to the first day on which a Referendum is to be held, the referendum officer shall:

- (a) post a notice of Referendum and the names of all Eligible Voters in the administrative offices of Seabird Island; and
- (b) mail or deliver to every Eligible Voter who does not reside on Seabird Island Lands for whom an address is available:
 - (i) a notice of the Referendum;

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- (ii) a mail-in ballot, initialled on the back by the referendum officer;
- (iii) an outer, postage-paid return envelope, pre-addressed to the referendum officer;
- (iv) a second, inner envelope marked "Ballot" for insertion of the completed ballot;
- (v) a voter declaration form;
- (vi) a letter of instruction regarding voting by mail-in ballot; and
- (vii) any relevant information or documents pertaining to the question or questions to be asked in the Referendum.

60.2 A notice of Referendum shall state:

- (a) the question or questions to be submitted to the Eligible Voters;
- (b) the day on which the Referendum will be held;
- (c) the location of each polling station and the hours that it will be open for voting;
- (d) that Eligible Voters may vote either in person at a polling station or by mail-in ballot;
- (e) the name and telephone number of the referendum officer; and
- (f) the date, time and location of the information meeting to be held pursuant to section 61.1.

60.3 At the request of an Eligible Voter who resides on Seabird Island Lands, the referendum officer shall provide the Eligible Voter with the material referred to in subsection 60.1(b).

60.4 The referendum officer shall indicate on the voters' list the Eligible Voter to whom he or she has mailed, delivered or otherwise provided a mail-in ballot and keep a record of the date on which, and the addresses to which, each mail-in ballot was mailed or delivered.

60.5 An Eligible Voter to whom a mail-in ballot was mailed, delivered or provided is not entitled to vote in person at a polling station other than in accordance with section 64.8.

61. Information Meeting

61.1 Before the day on which a Referendum is to be held, the referendum officer shall ensure that a least one information meeting is held to provide Eligible Voters with information regarding the subject matter of the Referendum. The referendum officer shall ensure that copies of all information and documents mailed or delivered to Eligible Voters who do not reside on Seabird Island Lands pursuant to subsection 60.1(b)(vii) shall be available at the information meeting.

62. Preparation for Referendum

62.1 The referendum officer shall:

- (a) prepare sufficient ballots, initialled on the back by the referendum officer, stating the question or questions to be submitted to the Eligible Voters;

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- (b) procure a sufficient number of ballot boxes; and
- (c) before the poll is open on the day of a Referendum, cause to be delivered to the deputy referendum officer the ballots and a sufficient number of lead pencils for marking the ballots.

63. Voting by Mail-In Ballot

63.1 An Eligible Voter may vote by mail-in ballot by:

- (a) marking the ballot by placing a cross or check mark, clearly indicating the Eligible Voter's response to the question or questions stated on the ballot;
- (b) folding the ballot in a manner that conceals the question or questions and any marks, but exposes the initials on the back;
- (c) placing the ballot in the inner envelope and sealing that envelope;
- (d) completing and signing the voter declaration form in the presence of a witness who is at least 18 years of age;
- (e) placing the inner envelope and the completed, signed and witnessed voter declaration form in the outer envelope; and
- (f) delivering or, subject to section 63.6, mailing the outer envelope to the referendum officer before the time at which the polls close on the day of a Referendum.

63.2 Where an Eligible Voter is unable to vote in the manner set out in section 63.1, the Eligible Voter may enlist the assistance of another person to mark the ballot and complete and sign the voter declaration form in accordance with section 63.3.

63.3 A witness referred to in subsection 63.1(d) shall attest to:

- (a) the fact that the person completing and signing the voter declaration form is the person whose name is set out in the form; or
- (b) where the Eligible Voter enlisted the assistance of another person under section 63.2, the fact that the Eligible Voter is the person whose name is set out in the form and that the ballot was marked according to the directions of the Eligible Voter.

63.4 An Eligible Voter who inadvertently spoils a mail-in ballot may obtain another ballot by returning the spoiled ballot to the referendum officer.

63.5 An Eligible Voter who loses a mail-in ballot may obtain another by delivering to the referendum officer a written affirmation that the Eligible Voter has lost the mail-in ballot, which affirmation must be signed by the Eligible Voter in the presence of the referendum officer, deputy referendum officer, a justice of the peace, a notary public or a commissioner of oaths.

63.6 Mail-in ballots that are not received by the referendum officer before the time at which the polls close on the day of a Referendum are void and shall not be counted as a vote cast.

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64. Voting at Polling Stations

- 64.1 The referendum officer shall establish at least one polling station on Seabird Island Lands.
- 64.2 The referendum officer or the deputy referendum officer shall provide a compartment at each polling place where the elector can mark his or her ballot free from observation.
- 64.3 The referendum officer or the deputy referendum officer shall, immediately before the opening of the poll on the day of a Referendum, open the ballot box to be used and call upon such persons who may be present to witness that it is empty and shall then lock and properly seal the box and place it in view of the reception of the ballots.
- 64.4 Polling stations shall be kept open from 9:00 a.m., local time, until 8:00 p.m., local time, on the day of a Referendum.
- 64.5 An Eligible Voter who is inside a polling station at the time that the polling station is to close is entitled to vote.
- 64.6 Subject to section 60.5, where a person attends at a polling station for the purpose of voting, the referendum officer or deputy referendum officer shall, if the person's name is set out in the voters' list, provide that person with a ballot.
- 64.7 The referendum officer or the deputy referendum officer shall place on the voters' list a mark opposite the name of every Eligible Voter receiving a ballot.
- 64.8 An Eligible Voter to whom a mail-in ballot was mailed, delivered or provided under subsection 60.1(b) may obtain a ballot and vote in person at a polling station if:
- (a) the Eligible Voter returns the mail-in ballot to the referendum officer or deputy referendum officer; or
 - (b) where the Eligible Voter has lost the mail-in ballot, the Eligible Voter provides the referendum officer or deputy referendum officer with a written affirmation that the Eligible Voter has lost the mail-in ballot, which affirmation must be signed by the Eligible Voter in the presence of the referendum officer, deputy referendum officer, a justice of the peace, a notary public or a commissioner of oaths.
- 64.9 The referendum officer or the deputy referendum officer shall explain the mode of voting to an Eligible Voter when requested to do so by such Eligible Voter.
- 64.10 On the application of an Eligible Voter who is:
- (a) not able to read; or
 - (b) incapacitated by blindness or other physical cause,

the referendum officer or the deputy referendum officer shall assist that Eligible Voter by marking his or her ballot in the manner directed by the Eligible Voter and shall place such ballot in the ballot box.

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64.11 The referendum officer or the deputy referendum officer shall make an entry in the voters' list opposite the name of the Eligible Voter that the ballot was marked by him or her at the request of the Eligible Voter and the reason therefor.

64.12 Except as provided in section 64.10, every Eligible Voter receiving a ballot shall:

- (a) proceed immediately to the compartment provided for marking the ballot;
- (b) mark the ballot by placing a cross or check mark, clearly indicating the Eligible Voter's response to the question or questions stated on the ballot;
- (c) fold the ballot in a manner that conceals the question or questions and any marks, but exposes the initials on the back; and
- (d) forthwith deliver it to the referendum officer or the deputy referendum officer for deposit in the ballot box.

64.13 An Eligible Voter who receives a soiled or improperly printed ballot, or inadvertently spoils his or her ballot in marking it, shall, upon returning the ballot to the referendum officer or the deputy referendum officer, be entitled to another ballot.

64.14 An Eligible Voter who has received a ballot and:

- (a) leaves the compartment for marking ballots without delivering the same to the referendum officer or the deputy referendum officer in the manner provided; or
- (b) refuses to vote,

shall forfeit his or her right to vote on the Referendum and the referendum officer or the deputy referendum officer shall make an entry on the voters' list opposite the name of that Eligible Voter that he or she did not return the ballot or refused to vote, as the case may be.

64.15 The referendum officer or the deputy referendum officer shall allow only one Eligible Voter in the compartment for marking the ballot at any one time.

64.16 No person shall interfere, or attempt to interfere, with an Eligible Voter when marking his or her ballot or obtain, or attempt to obtain, at the polling place information as to how an Eligible Voter is about to vote or has voted.

64.17 The referendum officer and the deputy referendum officer shall maintain peace and good order during the voting.

65. Counting of Votes

65.1 As soon as is practicable after the close of the polls on the day of a Referendum, the referendum officer shall, in the presence of the deputy referendum officer and a member of Council, open each envelope containing a mail-in ballot that was received before the close of the polls on the day of the Referendum and, without unfolding the ballot,

- (a) set aside the ballot if:

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- (i) it was not accompanied by a voter declaration form or the voter declaration form is not signed and witnessed;
 - (ii) the name of the Eligible Voter set out in the voter declaration form is not on the voters' list; or
 - (iii) the voters' list shows that the Eligible Voter has already voted; or
- (b) place a mark on the voters' list opposite the name of the Eligible Voter set out in the voter declaration form and deposit the ballot in a ballot box.
- 65.2 As soon as is practicable after the mail-in ballots have been deposited under section 65.1, the referendum officer shall, in the presence of the deputy referendum officer and any member of Council who is present, open all ballot boxes and:
- (a) examine the ballots;
 - (b) set aside any ballot that does not have the initials of the referendum officer or the deputy referendum officer on the back;
 - (c) reject all ballots:
 - (i) that have been marked incorrectly; or
 - (ii) upon which anything appears by which an Eligible Voter can be identified;
 - (d) count the votes given in favour of and against the question or questions submitted in the Referendum; and
 - (e) prepare a statement in writing of the number of votes so given and of the number of ballots rejected.
- 65.3 The statement referred to in subsection 65.2(e) shall be signed by the referendum officer and by a member of Council and shall be filed with Council.
- 65.4 A ballot set aside under subsection 65.2(b) is void and shall not be counted as a vote cast.
- 65.5 As soon as is practicable after the results of the voting are known, the referendum officer shall:
- (a) prepare a statement in triplicate, signed by the referendum officer and a member of Council, indicating the number of votes cast in favour of and against the question or questions submitted in the Referendum and the number of rejected ballots; and
 - (b) deliver a copy of that statement to Council.
- 65.6 The referendum officer shall deposit the ballots used in the voting in a sealed envelope and retain them.
- 65.7 If the referendum officer has not received from Council notice of a request for a review of a Referendum within 30 days after the day of that Referendum, the referendum officer shall destroy the ballots used in the voting.

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66. Review Procedure

66.1 An Eligible Voter may, in the manner set out in this article 66, request a review of a Referendum by an Arbitrator where the Eligible Voter believes that:

- (a) there was a contravention of this Part 8 that may affect the result of the Referendum; or
- (b) there was corrupt practice in connection with the Referendum.

66.2 A request for a review of a Referendum shall be made in writing and forwarded to Seabird Island by registered mail within seven days after the day of the Referendum. The written request shall be accompanied by a statutory declaration, sworn before a notary public or a commissioner for taking oaths, setting forth the grounds for requesting the review and the facts substantiating these grounds and shall be accompanied by any documents relied on to support the request for the review.

66.3 Within 14 days after the receipt by Seabird Island of a request for a review provided pursuant to section 66.2, Seabird Island shall forward, by registered mail, a copy of the request to the referendum officer who conducted the Referendum.

66.4 Within 14 days after the receipt by the referendum officer of the request for a review provided pursuant to section 66.3, the referendum officer shall forward to Seabird Island, by registered mail, a statutory declaration, sworn before a notary public or a commissioner for taking oaths, responding to the grounds stated in the request.

66.5 Within 14 days after the receipt of the statutory declaration from the referendum officer provided pursuant to section 66.4, Council shall appoint an Arbitrator and provide the Arbitrator with the information received by Seabird Island pursuant to sections 66.3 and 66.4 and shall request a decision in writing from the Arbitrator either confirming or invalidating the Referendum result.

66.6 The Arbitrator shall provide a written decision together with reasons and shall deliver a copy of the written decision to Seabird Island and to the Eligible Voter who requested the review.

66.7 Seabird Island shall post the decision of the Arbitrator for at least seven days:

- (a) at the administrative offices of Seabird Island; and
- (b) at a location other than the administrative offices of Seabird Island or electronically on Seabird Island's website.

66.8 The Arbitrator may, prior to rendering a decision, hold a hearing on the matter.

66.9 The Arbitrator may, in his or her discretion, give directions for any matter related to the hearing, including but not limited to:

- (a) fixing the date, time and place for the hearing of the review;
- (b) designating the method for taking evidence; and
- (c) designating those persons who are to be notified and the method of notification.



- 66.10 If a hearing is held, the Arbitrator may, in his or her discretion, make an order respecting the payment of costs of the hearing.
- 66.11 The determination of the Arbitrator shall be final and not subject to appeal.

PART 9

AMENDING THE LAND CODE

67. Procedure

- 67.1 All proposed amendments to the Land Code must be approved by Eligible Voters in a Referendum.

68. Effective Date of Amendment

- 68.1 Amendments to the Land Code approved by Eligible Voters in a Referendum take effect as of the first day of the month following the day of the Referendum approving the amendments, or such later date as may be provided for in such amendments.

69. Record and Access to Land Code and Amendments

- 69.1 Seabird Island shall maintain at the administrative offices of Seabird Island a copy of the Land Code and all amendments to the Land Code.
- 69.2 Any person may, upon request, obtain a copy of the Land Code and all amendments to the Land Code upon the payment of such fee as may be prescribed by Seabird Island except that a Member may, upon request, obtain a copy of the foregoing free of charge.

PART 10

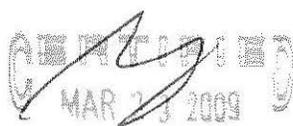
OTHER MATTERS

70. Council May Delegate

- 70.1 Council is responsible for the administration of this Land Code.
- 70.2 Subject to sections 70.3 and 70.4, Council may delegate its duties, responsibilities and power under this Land Code to such person(s) or committee(s) as it deems appropriate.
- 70.3 Council may not delegate its law making powers provided for under Part 2.
- 70.4 Where this Land Code provides that Council shall by resolution carry out a duty or task, or exercise a power, Council may not delegate such duty, task or responsibility to exercise such power.

71. Fees, Forms and Policies

- 71.1 Seabird Island may prescribe fees and forms and, in consultation with the Land Advisory Committee, establish policies, not inconsistent with the provisions of this Land Code, in the implementation of this Land Code.



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71.2 Notwithstanding anything to the contrary provided for in this Land Code, where Seabird Island prescribes a form for any matter provided for in this Land Code, no application, instrument or request will be accepted unless it is made in the prescribed form.

71.3 Notwithstanding anything to the contrary provided for in this Land Code but subject to sections 10.4 and 72.2, where Seabird Island prescribes a fee for any matter provided for in this Land Code, no application or request will be accepted unless it is accompanied by the prescribed fee.

72. Register of Resolutions

72.1 Seabird Island shall maintain at the administrative offices of Seabird Island the originals of all resolutions passed pursuant to this Land Code.

72.2 Any person may, upon request, obtain a copy of all resolutions referred to in section 72.1 upon the payment of such fee as may be prescribed by Seabird Island except that a Member may, upon request, obtain a copy of the foregoing free of charge.

73. Indemnification

73.1 Seabird Island will indemnify and save harmless all Council members, Land Advisory Committee members, employees, officers and contractors of Seabird Island from and against any and all liability, damages, costs (including reasonable counsel fees and disbursements), charges and expenses arising out of or related to any act or omission done or permitted by them to be done in connection with their duties in administering and managing Seabird Island Lands, save in the case of fraud, wilful misconduct or gross negligence.

74. Insurance

74.1 Seabird Island may purchase and pay for such insurance as may be available at a reasonable cost, as determined by Council, to cover the liability of the Council members, Land Advisory Committee members, employees, officers and contractors of Seabird Island to which the indemnity provided for in section 73.1 applies.

75. Bonding

75.1 Every person with responsibilities for administering revenue derived from Seabird Island Lands must be bondable.

76. Offences

76.1 Unless a Seabird Island Law provides for otherwise, the summary conviction procedures of Part XXVII of the *Criminal Code* apply to offences under this Land Code or a Seabird Island Law.

77. Effective Date of Land Code

77.1 Once the Land Code has been certified as valid by the verifier appointed pursuant to the *First Nations Land Management Act*, it will take effect on a date specified by resolution of Council.

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