CUSTOMMARY ELECTION CODE
LISTUGUJ MI'GMAQ GOVERNMENT

SECOND DRAFT

JULY 10TH, 2018

DRAFT

TABLE OF CONTENTS

SECTION I DEFINITIONS AND INTERPRETATION 1

1. DEFINITION 1

SECTION II GENERAL PROVISIONS 4

2. MAKE UP OF CHIEF AND COUNCIL 4
3. TERM 5
4. OATH OF OFFICE 5
5. BY-ELECTION 5
6. NEW ELECTION 5
7. COMPENSATION 6

SECTION III APPOINTMENT OF THE ELECTORAL PERSONNEL 6

8. ORDER IN COUNCIL 6

SECTION IV NOMINATIONS 7

9. NOTICE 7
10. OPENING AND NOMINATIONS 7
11. CLOSING 8
12. CONFIRMATION 8
13. NOTICE OF ELECTION AND LIST OF CANDIDATES 8

SECTION V PRE-ELECTION 8

14. ELECTORAL LIST 8
15. PREPARATION OF BALLOTS 9
16. WITHDRAWAL OF A CANDIDATE 9
17. ADVANCE POLLING 9
18. CONDUCT OF CANDIDATES DURING THE CAMPAIGN 10

SECTION VI ELECTION DAY 10

19. POLLING HOURS AND VOTING PROCEDURES 10
20. SECRECY OF THE VOTE 12
21. VOTE BY PROXY 13

SECTION VII COUNTING OF THE VOTES 13

22. PROCEDURE OF COUNTING THE VOTES 13
23. MAJORITY VOTE REQUIRED (ALTERNATIVE ELECTION OF CHIEF) 14
24. EVEN NUMBER OF VOTES 14
25. RECOUNT 14
26. ELECTION SUMMARY 14
27. RETENTION AND DESTRUCTION OF BALLOTS 15

SECTION VIII APPEAL 15

DRAFT

28. GROUNDS FOR APPEAL 15
29. DELAY 15
30. NOTICE OF APPEAL 15
31. APPEAL NOT RECEIVABLE 16
32. APPEAL RECEIVABLE 16
33. APPEAL BOARD 16

SECTION IX REMOVAL 17

34. GROUNDS FOR REMOVAL 17
35. PROCESS 17
36. PETITION 18
37. ORDER IN COUNCIL 18
38. APPEAL BOARD 19

SECTION X 20

REVIEW AND AMENDMENTS 20

39. GENERAL ASSEMBLY 20
40. REVIEW AND AMENDMENT PROCESS 20

DRAFT

LISTUGUJ MI'GMAQ GOVERNMENT
COSTUMMARY ELECTION CODE

SECTION I
DEFINITIONS AND INTERPRETATION

1. DEFINITION

In This Election Code, the following definitions apply:

1.1 "**CANDIDATE**" means a person who:

(a) Is a Member of Listuguj Mi'gmaq Government;

(b) Is of Mi'gmaq of Listuguj ancestry;

(c) Is or will be 18 years old at the date of the Election;

(d) Has been nominated as a Candidate according to this Election Code;

(e) Has not been found guilty of a criminal offence pursuant to the *Criminal Code* five (5) years prior to the date of the Election. Each Candidate must provide the appropriate evidence to the Electoral Officer, between the opening of the Nomination Meeting and at least twenty-four (24) hours before the opening of the advance poll, that he/she has not been found guilty of a criminal offence during the five (5) years prior to the Election. For more certainty, the Candidate who fails to provide such evidence or who has been found guilty of a criminal offence five (5) years prior to the Election shall be removed from the ballots by the Electoral Officer;

(f) Has not been removed from office pursuant to this Election Code three (3) years prior to the date of the Election;

(g) Is not the ED, the Electoral Officer or the Deputy Electoral Officer;

1.2 "**ED**" means the Executive Director of LMG. This position may also be referred to as Director General, Chief Executive Director or Senior Director;

1.3 "**CHIEF**" means the Chief of the LMG elected and in office according to this Election Code;

1.4 "**COUNCIL**" means the Chief and Councillors collectively;

1.5 "**COUNCIL MEMBER**" means the Chief, the Vice-Chief or one of the Councillor;

DRAFT

1.6 "**COUNCILLOR**" means each individual person elected as such according to this Election Code;

1.7 "**CRIMINAL CODE**" means the *Criminal Code*, R.S.C., 1985, c. C-46;

1.8 "**CRIMINAL OFFENCE**" includes any *Criminal Code* offence;

1.9 "**DEPUTY ELECTORAL OFFICER**" means a person designated by Order in Council to assist the Electoral Officer in implementing this Election Code. His or her mandate will end only after the completion of the appeal period proceedings (if applicable), Oath of Office ceremony and after all relevant documentation has been submitted to the ED. For the application of this Election Code, any responsibility recognized to the Electoral Officer pursuant to this Election Code can also be exercised by the Deputy Electoral Officer. The Deputy Electoral Officer shall be remunerated by the LMG after having reached an agreement concerning his/her fees and expenses with the ED;

1.10 "**ELECTION**" means the process in which the thirteen (13) elected positions are filled through a customary democratic exercise by the Electors according to this Election Code and includes a by-election;

1.11 "**ELECTION CODE**" means this Election Code including any amendments thereto or any successor Election Code adopted by LMG;

1.12 "**ELECTOR**" means a Member who:

(a) Is registered on the LMG Electoral List;

(b) Is 18 years of age and over;

1.13 "**ELECTORAL LIST**" means the list of registered LMG Members who are Electors. The Electoral List shall be updated by the Membership Clerk before each Election;

1.14 "**ELECTORAL OFFICER**" means a person who is designated by Order in Council to make sure that the elections proceed according to this Election Code. His or her mandate will end only after the completion of the appeal period proceedings (if applicable), Oath of Office ceremony and after all relevant documentation has been submitted to the ED. The Electoral Officer shall be remunerated by the LMG after having reached an agreement concerning his/her fees and expenses with the ED;

1.15 "**GENERAL ASSEMBLY**" means a general assembly of the Members of LMG;

1.16 "**LISTIGUJ**" means the tract of land as shown on a map annexed to this Election Code.

DRAFT

1.17 "**LMG**" means the Listuguj Mi'gmaq Government;

1.18 "**MAJORITY VOTE**" means fifty percent plus one (50% +1 vote) of the votes cast for each position;

1.19 "**MEMBER**" means a person registered on the LMG membership list;

1.20 "**MEMBERSHIP CLERK**" means the employee of the LMG responsible for the registration of Members of the membership list;

1.21 "**NOTICE OF ELECTION**" means a notice prepared pursuant to paragraph SECTION IV13.1 of this Election Code and signed by the Electoral Officer, announcing:

(a) That an Election will be held, including the name of each position to be filled;

(b) The date of the advance poll;

(c) The date of the Election;

(d) The location of the polling station(s);

(e) The opening time and the closing time of the polling station and the time;

(f) The location of the counting of the votes; and

(g) The names, phones numbers and email addresses of the Electoral Officer and the Deputy Electoral Officer

1.22 "**ORDER IN COUNCIL**" means a resolution and order or a motion passed by a majority of members of the Council present during a duly called Council meeting;

1.23 "**SCRUTINEER**" means a person, designated in writing by a Candidate prior to the advance polling, authorized to represent this Candidate during his/her absence during the voting process and the counting of the votes mentioned in this Election Code;

1.24 "**VACANCY**" means when the Chief, the Vice-Chief or a Councillor, before the end of his/her term in office:

(a) Resigns, meaning that he/she informs the Council in writing or orally during a Council meeting of his/her resignation or if he/she misses more than three (3) consecutive regular Council meeting with no justification. For more certainty, such a resignation shall become official and effective on the date that the Council, in session, puts the resignation on its agenda and acknowledges the said resignation;

(b) Deceases;

DRAFT

(c) Is found guilty of a criminal offence pursuant to the *Criminal Code*. For more certainty, this vacancy will only become effective once all court appeals have been legally exhausted by the offender. However, during this period, the Council may, by Order in Council after consultation with the General Assembly, suspend the offender from his/her office. This vacancy shall apply even if the offense occurred before the Election of the offender;

(d) Whose election is invalidated by the Appeal Board pursuant to SECTION VIII of this Election Code;

(e) Is removed from office by the Appeal Board according to SECTION IX of this Election Code;

1.25 "**VICE-CHIEF**" means the Councillor appointed by an Order in Council, adopted during the first regular Council meeting held after the Election, who replaces the Chief when:

(a) He/she is absent for more than two consecutive weeks;

(b) He/she is incapable of fulfilling his/her mandate;

(c) He/she is suspended pursuant to a provision of this Election Code;

(d) The Chief's position becomes vacant (see the definition of Vacancy), until another Chief is elected according to this Election Code;

SECTION II
GENERAL PROVISIONS

2. MAKE UP OF CHIEF AND COUNCIL

2.1 The number of elected officials for the Council has been determined by the Electors to be thirteen (13).The elected positions for the Council are as follows:

(a) One (1) Chief;

(b) Twelve (12) Councillors;

2.2 The quorum during a Council meeting is established at seven (7) Council Members present at the meeting.

2.3 The Chief and Councillors shall be elected in accordance with this Election Code.

2.4 Each Council Member, including the Chief, may propose or second an Order in Council and vote on the said Order in Council when required to do so.

DRAFT

3. TERM

3.1 The term of office for the positions of Chief and Councillors shall be **four (4)** years commencing at the date of the Oath of Office ceremony.

3.2 Each general election is to be conducted on the first Saturday of June of each Election year.

4. OATH OF OFFICE

4.1 The Oath of Office's ceremony shall be organized and conducted by the Electoral Officer within ten (10) days following the date of the Election. The Oath of Office's ceremony takes place even if the election is contested pursuant to SECTION VIII of this Election Code.

4.2 The presence of all elected Candidates at the Oath of Office ceremony is mandatory.

4.3 Each Candidate shall read out loud the Oath of Office declaration and then sign the said declaration in witness. A copy of the said declaration is annexed to this Election Code.

4.4 During this ten (10) days transitional period, the previous Council cannot, under no circumstances, hold a Council meeting or adopt an Order in Council. However, any financial remuneration or any arears due by LMG to the past Council Member shall be paid in full until the date of the Oath of Office's ceremony of the newly elected Council members.

5. BY-ELECTION

5.1 Every time one or more elected position at the Council becomes vacant (see definition of vacancy), within a year prior to the end of the mandate for this position, a by-election shall be called.

5.2 However, if the number of vacancies exceeds the quorum of **seven (7)** elected positions, a by-election must be called immediately by the ED in order to fill the said vacancies and re-establish quorum in the manner stipulated in paragraph 2.1 of this Election Code.

5.3 A by-election is held pursuant to an Election as stipulated in this Election Code by making all necessary adjustments. The successful Candidate elected in a by-election shall hold office for the reminder of the original term of office of that vacant position as stipulated in paragraph **Error! Reference source not found.** of this Election Code.

DRAFT

6. NEW ELECTION

6.1 If a new Election is ordered after an Election Appeal pursuant to SECTION VIII of this Election Code, the term of the newly elected Candidate(s) shall commence on the date of the Oath of Office's ceremony following such new Election and shall hold for the reminder of the original term of office for the position(s) that was the object of contestation during the said Election Appeal.

7. COMPENSATION

7.1 The position of Chief is a full time position. The Chief or the Vice-Chief, only when he/she replaces the Chief, is entitled to receive an honorarium during his/her term in office. The said honorarium cannot exceed the salary of the ED. **[Note to client: verify if this is accurate]** Furthermore, the Chief is also entitled to all social benefits available to a regular Employee of LMG. The said honorarium is set by an Order in Council, adopted during the first regular Council meeting held after the Election and cannot be increased during the term of the Chief's mandate. For more certainty, the honorarium paid to the Chief during his/her mandate is not deemed to be assimilated to a salary pursuant to the labour law standards in effect in Canada and in the Province of Quebec and the Chief is not and shall not be considered as an employee of LMG.

7.2 If the Chief was an Employee of LMG or of any other employer at the date of his/her Election, he/she must take a leave of absence without pay for the duration of his/her term, for a maximum of four (4) years. If he/she is elected for a second term, he/she must resign from his/her employment before the date of the Oath of Office ceremony.

7.3 Each Councillor is entitled to an honorarium per Council meeting as a compensation for his/her time devoted to his/her office. The said honorarium is set by a Order in Council, adopted during the first regular Council meeting held after the Election and cannot be increased during the term of the Councillor's mandate.

7.4 The Chief, Vice-Chief and Councillors are entitled to get their travel expenses reimbursed pursuant to LMG policies and regulations concerning such reimbursements.

7.5 The Chief, Vice-Chief or a Councillor suspended pursuant to this Election Code continues to be entitled to receive his/her compensation stipulated in paragraphs 7.1 or 7.3 of this Election Code, but he/she shall not be entitled to any reimbursement of travel expense during the time of suspension.

DRAFT

SECTION III
APPOINTMENT OF THE ELECTORAL PERSONNEL

8. ORDER IN COUNCIL

8.1 Chief and Council shall proceed with the appointment of the Electoral Officer and the Deputy Electoral Officer by adopting an Order in Council to that effect at least ninety (90) days before the date of the Election.

8.2 In order to be nominated for the positions of Electoral Officer or Deputy Electoral Officer, a person shall:

(a) Be at least eighteen (18) years old at the date of the Election;

(b) Not have been convicted of an indictable offence pursuant to the *Criminal Code* five (5) years prior to the date of the Election;

(c) Not be the Chief, a Councillor or the ED;

SECTION IV
NOMINATIONS

9. NOTICE

9.1 Not later than eighty (80) days prior to the Election, the Electoral Officer shall post a notice of nomination meeting. The said notice has to be displayed, at least seven (7) days before the date of the nomination meeting, in several public places well visible and distributed to known addresses of Electors residing in Listuguj or by emails to those Electors residing outside Listuguj who have made that request in writing to the Electoral Officer.

10. OPENING AND NOMINATIONS

10.1 On the date and time indicated on the notice, the Electoral Officer shall open the Nomination Meeting. At this time, any Elector present can nominate one Candidate for each position for which an Election is being called. Each nomination by an Elector must be seconded by another Elector. Each Elector can only nominate or second one Candidate for each Position that has to be filled at the Election.

10.2 The Chief or Councillor whose position is not part of that specific Election cannot be nominated as a Candidate unless he/she has previously resigned following the conditions mentioned in the definition of “Vacancy” pursuant to this Election Code.

10.3 The nomination period shall remain officially open for at least thirty (30) minutes. Once there is no more nomination proposed by the Electors and that all positions for the Election have at least one Candidate nominated for that position, a motion to close the nomination period shall be proposed by an Elector and seconded by

DRAFT

another one and be approved by the Majority of the Electors present at the Nomination Meeting.

10.4 If there is no Candidate for a position to be filled, the Electoral Officer must immediately reopen the nomination period for the purpose of getting nominations for that position that has no Candidate only. If there is no Candidate at the end of this second nomination period, the Electoral Officer shall adjourn the Nomination Meeting and reconvene the following day in order to fill the position left with no Candidate.

11. CLOSING

11.1 Before closing the Nomination Meeting, The Electoral Officer shall ask the Electors present if there is any question related to this Election Code that has yet to be resolved. However, no amendment to this Election Code can be proposed during the Nomination Meeting. Once all questions have been resolved, if any, the Electoral Officer shall close the Nomination Meeting.

12. CONFIRMATION

12.1 Once the nomination period is closed pursuant to paragraph 10.3 of this Election Code, each person nominated as a Candidate for a position has to confirm his/her acceptation as such by paying a fee of five hundred dollars (500$) for the position of Chief and two hundred and fifty dollars (250$) for the position of Councillor payable in cash only to the Electoral Officer. Such payment must be done not later than the fifth day following the date of the nomination meeting at 5pm (Atlantic Standards). For more certainty, any nominated person who will not have paid the fee on time, will have deemed to refuse his/her nomination.

12.2 At the end of the period provided in section 12.1 of this Election Code, if only one Candidate has been nominated for the position of Chief, the Electoral Officer shall declare that Candidate to be elected as such. If the number of Candidates nominated for the position of Councillors does not exceed the numbers to be elected, declare those Candidates to be elected as such;

12.3 Where more than the required number of Candidates are nominated for each position to be filled, declare that an Election will be held.

13. NOTICE OF ELECTION AND LIST OF CANDIDATES

13.1 Where an Election is to be held pursuant to paragraph 12.312.3 of this Election Code, the Electoral Officer shall, within seven (7) days following the end of the period mentioned in section 12.1 of this Election Code, prepare a Notice of Election and a list of the Candidates for each position to be filled, post the said notice and list in several public places well visible and distribute them to known addresses of Electors residing in Listuguj or by emails to those Electors residing outside Listuguj who have made that request in writing to the Electoral Officer.

DRAFT

SECTION V
PRE-ELECTION

14. ELECTORAL LIST

14.1 Before the Nomination Meeting, the Electoral Officer shall request from the Membership Clerk, the Electoral List.

14.2 The Electoral Officer shall post in several public places well visible and allow access to the Electoral List to any Elector.

14.3 Any Elector can make a request, in writing to the Electoral Officer, to have the Electoral List revised for the following reasons:

(a) The name of an Elector has been omitted,

(b) The name of an Elector has been incorrectly spelled, or

(c) The name of the person who is not an Elector is on the Electoral List.

14.4 Only the Membership Clerk, at the request of the Electoral Officer, is entitled to make corrections on the Electoral List. Accordingly, any request by an Elector to have the Electoral List modified shall be done in writing to the Electoral Officer.

14.5 Every time the Electoral list is revised, the Electoral Officer shall post its latest version.

14.6 Only those Electors registered on the Electoral List shall be entitled to vote at the Election.

15. PREPARATION OF BALLOTS

15.1 The Electoral Officer shall prepare the ballots on time for the advance poll. The ballots should have the legal name of each Candidate for each position to be filled, written in alphabetical order.

15.2 If two (2) or more Candidates for the same position have the same name, the Electoral Officer shall find a way to clearly distinguish the said Candidates.

16. WITHDRAWAL OF A CANDIDATE

16.1 Any Candidate can withdraw, at any time, by providing to the Electoral Officer a written statement to this effect, signed in the presence of the Electoral Officer.

16.2 Once the withdrawal is official, the Electoral Officer shall remove the name of the Candidate from the ballots. If the ballots are already printed and cannot be reissued on time for the advance polling, the Electoral Officer and the Electoral Officers shall inform the Electors, orally and by posting a notice, signed by the

DRAFT

Electoral Officer, to that effect in the polling booth, on advance poll day or on Election day as the case may be.

17. ADVANCE POLLING

17.1 Advance polling shall take place fourteen (14) days prior to the Election date in Listuguj. The voting procedure during the advance poll shall be the same described during the Election day pursuant to SECTION VI of this Election Code by making the appropriate adjustments if necessary.

17.2 Any Elector can vote during the advance poll;

17.3 The advance polling station shall be opened with no interruption from 9:00 am until 6:00 pm (Atlantic Standards).

17.4 The ballots casted during the advance poll shall remain in a concealed ballot box until the counting of the votes on Election day.

18. CONDUCT OF CANDIDATES DURING THE CAMPAIGN

18.1 Each Candidate and his/her supporters are encouraged to conduct their campaign in a civil, responsible and respectful fashion in respect of the provisions found in this Election Code.

18.2 Each Candidate must abstain, at all time, from offering to an Elector any alcohol, drug/narcotic, money, gift, promise for employment or contract with LMG or its subsidiary, or any other similar benefit in exchange for a vote in his/her favor.

SECTION VI
ELECTION DAY

19. POLLING HOURS AND VOTING PROCEDURES

19.1 The polling station shall be opened with no interruption from 8:00 am until 6:00 pm (Atlantic Standards).

19.2 The Electoral Officer shall, before the opening of the voting, bring to the Deputy Electoral Officer the ballots and the necessary accessories in the marking of the ballots.

19.3 The Electoral Officer shall, at the polling station, supply a polling booth where the Electors can mark their ballots sheltered from any disruption. At the discretion of the Electoral Officer, a police officer can be present to guard and to maintain the order at the polling station.

19.4 Each Candidate is entitled to a maximum of two (2) Scrutineers/observers present at the polling station from the opening until the closing. A Scrutineer/observer or any Elector present at the polling station cannot interfere during the voting

DRAFT

procedures, display any electoral material in support of a Candidate or influence in any way the vote of an Elector. The Electoral Officer may ask for the expulsion of any person who is not respecting the orderly conduct at the polling station.

19.5 The Electoral Officer shall, immediately after the opening of the voting, open the ballot box and ask the Electors and Scrutineers present at the polling station to verify and demonstrate that it is empty. Then he/she has to seal it appropriately by way that it cannot be opened without breaking the seal, and he/she shall place it well in view for the receiving ballots. The seal must not be broken and the ballot box must not be opened throughout the duration of the poll.

19.6 The ballot box must be constructed of metal, wood, or other non-transparent material. The box must have a lock and key.

19.7 From the opening of the polling station, no Candidate shall be permitted to have any type of campaign display within fifty (50) meters of the said polling station or at any community public buildings.

19.8 Any Elector who presents himself/herself to vote at the polling stations must bring a government issued photo identification (Indian Status Card, driving license, health card, etc.) for the purpose of proving his/her identity.

19.9 For each Elector, the Electoral Officer must verify that his/her name is registered on the Electoral List, and he/she will be handed a ballot so that he/she can record his/her vote.

19.10 The Electoral Officer has to record the name of each Elector who receives a ballot on the Electoral List.

19.11 An Elector who fails or refuses to properly identify himself/herself when required, as specified in paragraph 19.8 of this Election Code, shall not receive a ballot to vote until he/she complies with the directive.

19.12 The Electoral Officer or an Electoral Officer shall, when requested by an Elector, explain the election procedures.

19.13 When a person receives a ballot, he/she shall immediately proceed to the polling booth in order to mark his/her ballot to the name of the Candidate or Candidates for whom he/she wants to vote for. He/she shall then fold the ballot in a manner that conceals the name of the Candidates and the marks that appear on the ballot, except to see the initials of <u>both the Electoral Officer and of the Deputy Electoral Officer</u> before leaving the polling booth. Before the person inserts the ballot in the ballot box, the Electoral Officer shall verify and approve that their initials appear on the ballot.

19.14 When an Elector is in the polling booth to mark his/her ballot, no one should, except in the case in paragraph 19.15 of this Election Code, be admitted in the same

DRAFT

polling booth nor should anyone be in a position which would allow him/her to see how the Elector marks his/her ballot.

19.15 At the request of any Elector who is incapable of voting by the method as provided in paragraph 19.13 of this Election Code, the Electoral Officer or an Electoral Officer may authorize another Elector chosen by the Elector who made that specific request to accompany him/her in the polling booth to assist in marking his/her ballot, as instructed by the Elector.

19.16 In such a case, the Electoral Officer or an Electoral Officer shall prepare a written report mentioning:

(a) The name of the Elector who made the request as provided in paragraph 19.15 of this Election Code;

(b) The name of the Elector who assisted the Elector mentioned above; and

(c) The reason(s) why such an action was permitted.

19.17 Upon request, any Elector has the right to nullify and return his/her ballot, and receive another ballot for the purpose of voting. The Electoral Officer shall note the reason for cancellation. The Electoral Officer shall then write the word “null” on the ballot and keep it in a sealed envelope, as stipulated in paragraph 27 of this Election Code.

19.18 An Elector whose name does not appear on the Electoral List can be authorize to vote if the Electoral Officer is convinced without a doubt that the said Elector’s name has been omitted on the Electoral List. In all cases, the Elector must provide a proper identification pursuant to paragraph 19.8 of this Election Code.

19.19 At the request made to the Electoral Officer by an Elector residing in Listuguj who is incapable to vote in person at the polling station, during the advance polling or on the Election day, The Electoral Officer may, in the presence of a witness, who must be an Elector authorized by the incapable Elector, go to the residence of such an Elector so he/she may cast her his/her vote on the appropriate ballot(s). His/her ballot(s) shall than be placed by the Electoral Officer into an envelope in front of the witness and then seal the said envelop. The said envelop shall be placed into the ballot box by the Electoral Officer immediately after returning to the polling station in presence of the same witness.

19.20 In such a case, the Electoral Officer has to prepare a written report mentioning:

(a) The name and address of the Elector who made the request as provided in paragraph 19.19 of this Election Code;

(b) The name of the witness authorized by the Elector mentioned above; and

(c) The reason(s) why such an action was permitted.

DRAFT

19.21 Any Elector who is inside the polling station at the closing of the poll, will be entitled to vote.

20. SECRECY OF THE VOTE

20.1 Any person present at the polling station and at the counting of the ballots has to respect the secrecy of the vote.

20.2 With the exceptions of paragraphs 19.15 and 19.19 of this Election Code, no one shall intervene near an Elector when he/she marks his/her ballot, nor attempt to obtain information on the manner in which an Elector has voted while in the polling station.

20.3 The Electoral Officer must order and give instructions that he/she deems necessary to enforce the secrecy of the vote.

20.4 Implementation of the secrecy of the vote at the polling stations shall be determined by the Electoral Officer.

20.5 The Electoral Officer may ask for the expulsion of any person who is not respecting the secrecy of the vote at the polling station.

21. VOTE BY PROXY

21.1 No Elector may vote by proxy or authorize another person to vote on his/her behalf with the exception provided in paragraph 19.15 of this Election Code.

SECTION VII
COUNTING OF THE VOTES

22. PROCEDURE OF COUNTING THE VOTES

22.1 Immediately after the closing of the polling station on Election Day, the Electoral Officer shall, in the presence of those persons in attendance, seal and secure the ballot boxes. The Electoral Officer shall remain with the ballot boxes at all time until the counting of the votes.

22.2 The counting of the vote of the advance polling and of the Election Day shall begin the following day at 9:00 am (Atlantic Standards).

22.3 The Electoral Officer shall examine each ballot, and reject any ballot that has:

(a) No mark;

(b) More votes marked than the number of Candidates required to be elected. However, a ballot shall be accepted with less votes than the number of Candidates required.

(c) A mark other than an “X” or a check “√” mark;

DRAFT

(d) Not the initials of the Electoral Officer and the Deputy Electoral Officer.

22.4 After completing the counting of the votes and establishing the successful Candidate(s), the Electoral Officer shall publicly declare to be elected for the position(s) of Chief and Councillor(s), the Candidate(s) having the highest number of votes.

23. MAJORITY VOTE REQUIRED (ALTERNATIVE ELECTION OF CHIEF)

23.1 After completing the counting of the votes for the position of Chief, if a Candidate has obtained the Majority Vote, the Electoral Officer shall publicly declare elected for the position of Chief this Candidate. If none of the Candidates for the position of Chief has obtained the Majority Vote, a second election shall be held within seven (7) days after the Election day between the two (2) Candidates who received the highest number of votes.

23.2 The voting procedures described in the SECTION VI and the counting of votes in SECTION VII shall apply for the second election.

23.3 At the term of the second election, after completing the counting of the votes and having established the successful Candidate, the Electoral Officer shall publicly declare to be elected for the position of Chief, the Candidate who obtained the Majority Vote.

24. EVEN NUMBER OF VOTES

24.1 If two (2) or more candidates have an even number of votes that would have them both declared elected for the same position, The Electoral Officer shall write down the name of each Candidate with the even number of votes on a piece of paper and insert them in a recipient. He/she shall then pull one piece of paper off the recipient and declare the Candidate whose name is mentioned on the selected piece of paper elected for the position.

25. RECOUNT

25.1 After the counting of the vote but before the Electoral Officer announces the results, if there is ten (10) and less votes between an elected Candidate and another Candidate, the latter may request the Electoral Officer to proceed with the recounting of the votes for the position he/she was a Candidate. In such a case, the Electoral Officer must proceed with the recount.

25.2 After the recounting of the votes is completed, the Electoral Officer shall announce the final results pursuant to this Section.

DRAFT

26. ELECTION SUMMARY

26.1 The Electoral Officer has to prepare a summary indicating the total number of votes for each Candidate, the number of rejected ballots and the names of the Candidates duly declared elected.

26.2 The summary has to be signed by the members of the Electoral Officer, posted at the Long Point First Nation Office and other public buildings in Listuguj. An official copy of the summary shall also be submitted to the ED.

27. RETENTION AND DESTRUCTION OF BALLOTS

27.1 The Electoral Officer shall keep the ballots in sealed envelopes under lock and key at a secure location as determined by the Electoral Officer during the fifteen (15) days appeal period or until the end of the appeal process. He/she shall thereafter destroy the ballots in the presence of two (2) witnesses who declare in writing being witnesses to the destruction.

27.2 However, the official Election List used during the Election has to be transmitted to the ED who shall keep it in a safe location.

SECTION VIII
APPEAL

28. GROUNDS FOR APPEAL

28.1 An Elector may appeal the result of the election if he/she has reasonable grounds to believe:

(a) That there was a fraud or corruption practices during the Election that undermined or tainted the election process to the extent that the Election should be declared null and void; or

(b) That an infringement of one (1) or more provisions of this Election Code occurred and, as a result, changed the outcome of the vote for at least one (1) or more positions to be filled; or

(c) That the Electoral Officer made an error in the counting of the votes for at least one (1) or more positions to be filled or he/she refused or omitted to proceed with the recount of the votes pursuant to paragraph SECTION VII25.1 of this Election Code;

(d) That a Candidate for a specific position was ineligible, even if he/she was not elected;

DRAFT

29. DELAY

29.1 The delay to appeal the result of the Election is fifteen (15) days, starting on the day after the Election day.

30. NOTICE OF APPEAL

30.1 A request to appeal the result of an election must be done in writing, addressed to the Electoral Officer and signed by the Elector requesting the appeal. The appeal notice must clearly state the ground for appeal mentioned in paragraph 28.1 of this Election Code and provide as much background and factual information as can be provided. Furthermore, any physical evidence supporting the Elector's claim must be attached to the said notice.

30.2 The notice must be received by hand or by registered mail to the Electoral Officer within the fifteen (15) days delay.

30.3 Once received, the Electoral Officer shall determine whether or not the appeal is receivable or not within forty-eight (48) hours after reception of the notice of appeal.

31. APPEAL NOT RECEIVABLE

31.1 If the appeal is not receivable, the Electoral Officer shall inform in writing the Elector who signed the notice of his/her decision. A copy of the response shall be posted in public places in Listuguj along with the notice of appeal.

32. APPEAL RECEIVABLE

32.1 If the appeal is received, the Electoral Officer shall then complete the forming of the Appeal Board as contemplated in section 33 of this Election Code.

33. APPEAL BOARD

33.1 The following persons shall form the Appeal Board:

(a) One person appointed by Order in Council at the same time as the appointment of the Electoral Officer and the Deputy Electoral Officer;

(b) One person appointed jointly by the Electoral Officer and the Deputy Electoral Officer;

(c) One person appointed by the two persons identified above at paragraphs (a) and (b);

33.2 The Appeal Board shall investigate and verify the claim of the Elector who signed the notice of appeal, hear the parties involved in the claim without delay and deal with the appeal, including the written decision concerning the Appeal, within two

DRAFT

(2) weeks of its appointment. Rules of natural justice and procedural fairness shall apply.

33.3 The members of the Appeal Board shall be remunerated by the LMG after having reached an agreement concerning their fees and expenses with the ED.

33.4 After having considered the claim, the facts and the evidence presented by the parties involved, the Appeal Board shall decide in writing:

(a) To dismiss the claim and confirm the Election;

(b) If the issue is the counting of the votes, provide the accurate results after having recounted the votes;

(c) To confirm the claim and order a new election for one (1) or more position depending on the claim;

33.5 The decision of the Appeal Board is final.

33.6 The written decision shall be transmitted to the parties involved in the appeal and to the ED and copies of the said decision shall be made available for any Elector at the LMG administration office.

33.7 The mandate of the Appeal Board shall be terminated on the day the written decision is transmitted pursuant to paragraph 33.6 of this Election Code.

SECTION IX
REMOVAL

34. GROUNDS FOR REMOVAL

34.1 The Chief or a Councillor may be removed from office during his/her term if:

(a) He/she violates a provision of the “Code of Conduct”, a copy of which is annexed to this Election Code;

(b) He/she refused or neglected to participate to the Oath of Office Ceremony or to sign the Oath of Office declaration pursuant to Article 4 of this Election Code;

(c) In the case of the Chief, he/she refuses to take a leave of absence or resign from his/her employment pursuant to paragraph 7.2 of This Election Code;

(d) He/she violates paragraphs SECTION V18.1 or SECTION V18.2 of this Election Code;

DRAFT

35. PROCESS

35.1 Any attempt to proceed with the removal of the Chief or a Councillor from office shall be initiated by:

(a) A petition submitted within thirty (30) days, by an Elector who voted at the Election by which the Chief or the Councillor named in the said petition was elected, requesting that a General Assembly be held in order to appoint an Appeal Board for the purpose removing the Chief, Vice-Chief or the Councillor named in the petition; or

(b) A Order in Council requesting that a General Assembly be held in order to appoint an Appeal Board for the purpose removing the Chief or the Councillor named in the Order in Council;

35.2 The petition or the Order in Council must include the name of one Council Member only. For more certainty, if an Elector or the Council wishes to ask for the removal of more than one Council Member, he/she must submit one petition for each position and the Council must adopt one Order in Council for each position as well.

36. PETITION

36.1 The petition stipulated in paragraph 35.1(a) of this Election Code must include the following:

(a) The ground(s) under paragraph 35.1 of this Election Code on which the removal of the Chief or a Councillor is requested, including all evidence in support of such a request;

(b) The signing, by at least 50 % + 1 Elector of the Electors who voted at the Election by which the Chief, the Vice-Chief or the Councillor was elected, including their name written in block letters, their membership number, their signature and the date;

(c) An affidavit signed by the Elector who introduced the petition declaring that the petition is accurate;

(d) Any other information in support of the removal;

36.2 The petition, once completed, shall be transmitted by the Elector who introduced the said petition, by hand, to the ED who shall then call a General Assembly within seven (7) days of receiving the petition for the purpose of appointing an Appeal Board.

36.3 Upon reception of the petition, the ED shall inform the Council and provide the Chief, the Vice-Chief and the Councillors a copy of the petition and all documents attached.

DRAFT

36.4 The ED, the Council or the General Assembly is not qualified to decide if the petition is receivable or not. This issue shall only be decided by the Appeal Board.

37. ORDER IN COUNCIL

37.1 The Order in Council stipulated in paragraph 35.1(b) of this Election Code must include the following:

(a) The ground(s) under paragraph 34.1 of this Election Code on which the removal of the Chief or a Councillor is requested, including all evidence in support of such a request;

(b) The signature of a majority of the Quorum;

(c) Any other information in support of the removal;

37.2 The Executive Assistant of LMG or any other employee of LMG appointed by the Council shall be responsible to post the notice and organize the General Assembly within seven (7) days following the adoption of the Order in Council.

38. APPEAL BOARD

38.1 The General Assembly, once opened, shall appoint an Appeal Board composed of three (3) persons among a list of six (6) names previously selected by an Order in Council adopted at the same time as the appointment of the Electoral Officer and the Deputy Electoral Officer. When selecting the six (6) persons, the Council shall make sure that each of them possess the appropriate qualifications required to make a decision pertaining to the removal of an elected Council Member.

38.2 Once the three (3) persons are duly appointed by a Majority Vote of the Electors present at the General Assembly, the General Assembly shall be adjourned until the ED is able to reach the three appointees in order to get confirmation that they will accept the mandate. If all of them accept the mandate, the General Assembly shall be closed. If one or more appointees decline their nomination, the Electors present shall appoint by Majority Vote other persons to replace those who declined the mandate and repeat the process until the ED can confirm that the Board of Appeal is effective with three (3) persons as they are described in paragraph 38.1 of this Election Code.

38.3 The Appeal Board shall investigate and verify the claim of the Elector who introduced the petition pursuant to paragraph 35.1(a) or of the Council pursuant to paragraph 35.1(b) of this Election Code, hear the parties involved in the claim and deal with the appeal within a reasonable time. Rules of natural justice and procedural fairness shall apply.

38.4 For the purpose of confirming that the names on the petition were Electors who voted at the last Election and that the percentage of Electors who signed the petition meets the requirement stipulated in the paragraph 36.1(b) of this Election

DRAFT

Code, the ED shall release to the Appeal Board the Electoral List that was transmitted to him/her pursuant to paragraph SECTION VII27.2 of this Election Code.

38.5 The members of the Appeal Board shall be remunerated by the LMG after having reached an agreement concerning their fees and expenses with the ED.

38.6 After having considered the claim, the facts and the evidence presented by the parties involved, the Appeal Board shall decide in writing:

(a) To dismiss the claim against the Chief or the Councillor named in the petition or the Order in Council, including if the petition or the Order in Council did not meet the requirements stipulated in paragraphs 36.1 and 37.1 of this Election Code;

(b) To order the removal of the Chief, the Vice-Chief or the Councillor named in the petition or the Order in Council and to declare his/her position to be vacant;

38.7 The decision of the Appeal Board is final.

38.8 The written decision shall be transmitted to the parties involved in the appeal, to the Council and to the ED. Copies of the said decision shall be made available for any Elector at the LMG administration office.

38.9 The mandate of the Appeal Board shall be terminated on the day the written decision is transmitted to the parties.

SECTION X
REVIEW AND AMENDMENTS

39. GENERAL ASSEMBLY

39.1 At least one year prior to the next general election, the Council may call a special general assembly of Members (the Assembly) for the purpose of reviewing this Election Code.

39.2 The Council must also call for the Assembly upon reception of a petition signed by a minimum of XXX Electors requesting a review or amendments of this Election Code;

39.3 A designated employee of LMG appointed by the Council shall be responsible to post the notice and organize the Assembly;

39.4 As soon as possible and at least fifteen (15) days before the date of the Assembly, a public notice announcing the Assembly shall be posted in several public places and sent to each residence in Listuguj. The said notice shall include the date, time

DRAFT

and location of the Assembly and the name and coordinates of the person appointed to organize the Assembly.

39.5 The Assembly shall begin at the time indicated on the notice and shall be opened by the Council or by the ED.

40. REVIEW AND AMENDMENT PROCESS

40.1 The Chief and Council or the ED opens the Assembly and shall have the agenda approved by the Electors present at the meeting.

40.2 At this point, the person appointed to chair the Assembly shall ask if the Council or the Electors have any amendment to propose to this Election Code.

40.3 Any Elector or any person duly mandated by the Council may propose any amendment to this Election Code during the Assembly.

40.4 The person chairing the assembly shall make sure that each proposed amendment is done in writing.

40.5 Each proposed amendment must be approved by a Majority Vote of the Electors present at the assembly of Members.

40.6 Once approved each amendment comes to force immediately. For more certainty, unless otherwise provided in this Election Code, all approved amendments shall apply to the up-coming Election.

40.7 At the end of the Assembly, the person chairing the Assembly shall propose its closing.

40.8 Within fifteen (15) days after the Assembly, the ED shall have an updated version of this Election Code drafted that includes all the amendments approved during the Assembly. This amended Election Code shall be made available to any Elector at his/her request as soon as it becomes available.

DRAFT