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**MEMBERSHIP CODE
OF THE ABENAKIS OF ODANAK**

- 2 -

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TABLE OF CONTENTS

	Page
PREAMBLE	3
CHAPTER I - OBJECTS OF THE CODE	4
CHAPTER II - DEFINITIONS AND INTERPRETATION	5
CHAPTER III - RIGHTS AND OBLIGATIONS OF MEMBERS	7
CHAPTER IV - ELIGIBILITY	8
CHAPTER V - REGISTRATION PROCEDURE AND CONDITIONS	9
CHAPTER VI - LOSS OF MEMBERSHIP STATUS	12
CHAPTER VII - APPEALS	14
CHAPTER VIII - BAND REGISTER	16
CHAPTER IX - BAND REGISTRAR	17
CHAPTER X - AMENDMENTS TO THE CODE	19
CHAPTER XI - COMING INTO FORCE OF THE CODE	20
CHAPTER XII - INFORMATION	21
CHAPTER XIII - CONTENTS OF THE CODE	22
SCHEDULE "A" - MEMBERSHIP REGISTRATION APPLICATION FORM	23
SCHEDULE "B" - MEMBERSHIP REGISTRATION APPLICATION FORM	27
SCHEDULE "C" - MEMBERSHIP RE-REGISTRATION APPLICATION FORM	33
SCHEDULE "D" - APPEAL APPLICATION FORM	38

PREAMBLE

WHEREAS the Abenakis of Odanak deem it essential to adopt the present Membership Code in order to promote and defend their culture and their rights, and to specify therein the rules of eligibility and the rights and obligations of the members of the Abenakis of Odanak;

AND WHEREAS section 35 of the *Constitution Act, 1982* recognizes and affirms the aboriginal and treaty rights of the aboriginal peoples of Canada;

AND WHEREAS section 25 of the *Constitution Act, 1982* provides that the guarantee of individual rights and freedoms shall not abrogate or derogate from any aboriginal, treaty or other rights and freedoms of the aboriginal peoples of Canada;

AND WHEREAS a notice of intention of the Abenakis of Odanak to take control of their membership was published on November 2, 2002;

AND WHEREAS by consultation held between November 2 and December 14, 2002, a majority of the electors of Odanak has decided that the Abenakis of Odanak should take control of their membership;

AND WHEREAS the present Membership Code was drafted in consultation with the electors of Odanak and was approved by a majority of the electors between May 8, 2003 and December 3, 2004;

THE ABENAKIS OF ODANAK ENACT AS FOLLOWS:

CHAPTER I - OBJECT OF THE CODE

1.1 The objects of the present code are:

- a) to promote the unity, the cultural integrity and the social harmony of the Abenakis of Odanak;
- b) to guarantee the use of the lands of the Odanak reserve for the benefit of the members of the Abenakis of Odanak.

1.2 The present code shall be interpreted in keeping with its objects.

CHAPTER II - DEFINITIONS AND INTERPRETATION

2.1 In the present code, the following words and expressions mean:

“Abenakis of Odanak”, the entire membership of the community of the Abenakis of Odanak or one of its members, depending on the context;

“Adult Member”, a member aged eighteen (18) years old and over;

“Appeal committee”, the appeal committee of the Abenakis of Odanak referred to in Chapter VII of the present code;

“Band”, the Abenakis of Odanak band within the meaning of the *Indian Act* or another Indian band within the meaning of the said Act, depending on the context;

“Band List”, the band list maintained pursuant to the *Indian Act* for the Abenakis of Odanak band immediately before the coming into force of this code, or the band list maintained by a band or by the Department of Indian Affairs for any other band in Quebec, depending on the context;

“Band Register”, the register referred to in Chapter VIII of this code (includes the “Band List” referred to in section 10(9) of the *Indian Act*);

“Band Registrar”, the official referred to in Chapter IX of this code;

“Code”, this Membership Code;

“Council of the Abenakis of Odanak”, the council of the Abenakis of Odanak band;

“Elector”, an elector of the Abenakis of Odanak band within the meaning of the *Indian Act*;

“Indian Register”, the register referred to in Section 5 of the *Indian Act*;

“Member”, a person who is registered as a member of the Abenakis of Odanak band on the Band Register or, before the coming into force of this code, was registered or had the right to be registered on the Band List of the Abenakis of Odanak;

“Minister”, the Minister of Indian and Northern Affairs Canada;

“Natural Grandparents”, grandparents by blood relation;

“Non-member”, a person who is not a member of the Abenakis of Odanak;

“Notice”, a notice written, posted or published if addressed to the members of the Abenakis of Odanak, or sent by registered mail, served or posted and published, if

addressed to a person in particular;

“Register of Civil Status”, the register of Civil Status referred to in the Civil Code of Quebec or the equivalent in another State, Province or Country;

“Registrar of the Indians”, the official charged with keeping the Indian Register pursuant to the *Indian Act*;

“Reserve”, the Odanak Indian Reserve;

“Special General Assembly”, a general assembly of the members of the Abenakis of Odanak summoned specially for the purpose indicated in a notice posted at least fourteen (14) days before the assembly;

“Spouse”, a spouse by marriage or by common law;

“Status Indian”, a person who is registered on the Indian Register referred to in the *Indian Act*;

- 2.2 In this code, the masculine includes the feminine, and vice-versa.
- 2.3 The English and French versions of this code are equally authoritative.

CHAPTER III - RIGHTS AND OBLIGATIONS OF MEMBERS

3.1 This code recognizes every member's right to:

- a) programs and services offered by the Council of the Abenakis of Odanak, where the Ministry of Indian Affairs provides supplementary funds for members who are not Status Indians; it is understood, however, that the members who are not Status Indians have the right to legal possession of lands within the Reserve and to the transfer of property by way of succession;
- b) the support and backing of the Council of the Abenakis of Odanak in applications to political, industrial or commercial authorities, subject to the Council's right of supervision over the timeliness and contents of the applications;
- c) access to public information diffused by the Council of the Abenakis of Odanak or by all public organizations on the Reserve, within a reasonable delay and subject to the payment of any reasonable fees for photocopies, and shipping and handling prescribed by the Council of the Abenakis of Odanak.

3.2 In virtue of this code, all members shall:

- a) respect the provisions of this code and the decisions of the authorities charged with its application;
- b) respect the decisions made by the members in Special General Assembly under this code;
- c) respect their legal or contractual obligations towards the Abenakis of Odanak and the Council of the Abenakis of Odanak;
- d) promote the identity and the culture of the Abenakis of Odanak.

CHAPTER IV - ELIGIBILITY

- 4.1 Has the right to member status:
- a) every person who, at the time of the coming into force of this code, was registered on the band list of the Abenakis of Odanak;
 - b) every person who, after the coming into force of this code, has the right to be registered on the Indian Register as an Abenakis of Odanak pursuant to the *Indian Act* as it read at the time of the coming into force of this code;
 - c) every person who is not a member of another band and who has at least one natural grandparent that is or was a member.
- 4.2 Notwithstanding Section 4.1, a person whose registration on the band list or whose right to registration on the Indian Register depends on her marriage to a member before the 17th of April 1985, shall lose member status if, after the coming into force of this code, she marries a non-member.
- 4.3 May apply for member status:
- a) every Status Indian registered on the band list of another band in Quebec and who requests the transfer of this registration to the band register;
 - b) every person who has lost his member status pursuant to this code, for having renounced it voluntarily or for having become a member of another band, if the cause for which he lost member status has disappeared.

CHAPTER V - REGISTRATION PROCEDURE AND CONDITIONS

- 5.1 A person referred to in Section 4.1a) has the right to registration as a member on the Band Register without formality or conditions, and the Band Registrar, on his own authority, shall register that person as a member on the Band Register.
- 5.2 A person referred to in Section 4.1b) has the right to registration as a member on the Band Register upon filing a request to that effect accompanied by the proof of his registration on the Indian Register.
- 5.3 The Band Registrar shall register as a member on the Band Register a person referred to in Section 5.2 upon receiving a request to that effect accompanied by the proof of his registration on the Indian Register.
- 5.4 A person referred to in Section 4.1c) shall obtain the right to registration as a member on the Band Register by filing at the office of the Band Registrar:
- a) the membership registration application form appended as Schedule "A" to this code, duly completed and signed;
 - b) the documents required in accompaniment of the registration application form;
 - c) one or more extracts from the register of Civil Status establishing the line of natural filiation between himself and at least one of his grandparents who is or was a member;
 - d) if he has been a member of another band, a written document of that other band's registrar or of the Registrar of the Indians confirming that he is no longer a member of that other band.
- 5.5 The Band Registrar shall register as a member on the Band Register a person referred to in Section 5.4 upon proof that the prescribed formalities and conditions have been accomplished.
- 5.6 A person referred to in Section 4.3a) shall obtain the right to registration as a member on the Band Register once the following formalities and conditions are met:
- a) he files at the office of the Band Registrar:
 - (i) the membership registration application form appended as Schedule "B" to this code, duly completed and signed;
 - (ii) the documents required in accompaniment of the registration application form;
 - (iii) proof of his registration on the Indian Register;

– 10 –

- (iv) proof of his registration on the band list of another band in Quebec;
 - (v) a request in writing for a transfer of this registration to the Band Register, with proof that a certified copy of that request was sent to the Registrar of the Indians or the Band Registrar of his original band, as the case may be;
- b) he has been a resident on the Reserve for at least twelve (12) months, except if he was already a member before the coming into effect of this *Code*; (*amended by Sp. Gen. Ass. of 20090530*)
 - c) his registration as a member on the Band Register is accepted by at least half ($\frac{1}{2}$) plus one (1) of the members having voted on the issue during a Special General Assembly.
- 5.7 A person referred to in Section 4.3b) obtains the right to re-registration as a member on the Band Register once the following formalities and conditions are met:
- a) he files at the office of the Band Registrar the membership re-registration application form appended as Schedule “C” to this code, duly completed and signed and accompanied by the documents required by the re-registration application form and, as the case may be:
 - (i) a motivated revocation of his voluntary renunciation of his member status, or
 - (ii) proof of his registration on the band list of another band in Quebec, and a request in writing for a transfer of this registration to the Band Register with a proof that certified copy of the request was sent to the Registrar of the Indians or the Band Registrar of his original band, as the case may be;
 - b) he has been a resident on the Reserve for at least twelve (12) months;
 - c) his registration as a member on the Band Register is accepted by at least half ($\frac{1}{2}$) plus one (1) of the members having voted on the issue during a Special General Assembly.
- 5.8 The Band Registrar, without delay, shall forward the registration application contemplated in Section 5.6a) or the re-registration application contemplated in Section 5.7a) to the Council of the Abenakis of Odanak.
- 5.9 As soon as it receives the registration application referred to in Section 5.6a) or the re-registration application referred to in Section 5.7a), the Council of the Abenakis of Odanak shall call a Special General Assembly to deliberate and vote on the application.
- 5.10 The Band Registrar shall register as a member on the Band Register a person referred to in Section 5.6 or 5.7 upon proof that the prescribed formalities and conditions are

met.

- 5.11 The Band Registrar shall inform in writing all persons who apply for registration or re-registration as members on the Band Register, as to whether their application for membership is approved or refused.
- 5.12 The application for registration as a member on the Band Register of a minor person is done by the father, mother or the tutor of the said person.
- 5.13 Subject to Section 5.1, the Band Registrar has no obligation to register on the Band Register the name of a person who has a right to registration as a member, unless a request to that effect is presented to the Band Registrar in conformity with this chapter.

CHAPTER VI - LOSS OF MEMBERSHIP STATUS

- 6.1 Subject to the present chapter, a person loses member status:
- a) if he voluntarily renounces it by written notice sent to the Band Registrar;
 - b) if he becomes a member of another band;
 - c) if, in the case of a person referred to in Section 4.2, she marries a non-member after the coming into force of this code; or
 - d) if it was the result of an error or fraud that he was registered as a member.
- 6.2 As soon as he receives a voluntary renunciation referred to in Section 6.1 a), the Band Registrar shall send to the person concerned a notice informing him that unless he gives a written counter-order within thirty (30) days of the notice, the person's name will be struck from the Band Register.
- 6.3 If, at the expiry of the delay prescribed at Section 6.2, the Band Registrar has not yet received a written counter-order, he shall immediately make the necessary amendments to the Band Register.
- 6.4 As soon as he is in possession of documentary proof, other than a solemn declaration, showing at face value that a person finds himself in one of the situations contemplated in Sections 6.1 b), 6.1 c) or 6.1 d), the Band Registrar shall send to that person a copy of the said documentary proof accompanied by a notice:
- a) informing him of the reasons for which he could be deprived of his member status;
 - b) inviting him to present orally or in writing, within a reasonable delay stated within the notice taking into account the reasons invoked or any other circumstance, arguments showing why he should not be deprived of his member status and documents in support of these arguments;
 - c) informing him that if he presents no arguments within the prescribed delay, his name could be struck from the Band Register without any other formality.
- 6.5 If the person does not have a known address, the notice mentioned in Section 6.4 shall be published once in a daily and in a weekly regional newspaper at the same time as it is being posted at the office of the Council of the Abenakis of Odanak. Moreover, the notice shall call upon any member having knowledge of the concerned person's address to transmit it to the Band Registrar without delay.
- 6.6 The Band Registrar, as soon as he has received and considered the arguments of the person referred to in Section 6.4, or at the expiry of the prescribed delay if the person has not made any arguments, shall render a decision and if need be shall make the

necessary amendments to the Band Register under reserve of an appeal pursuant to this code.

- 6.7 The Band Registrar shall transmit without delay his decision to the person referred to in Section 6.4 by registered mail or shall serve it at his domicile or if the person has no known address, shall post a notice at the office of the Council of the Abenakis of Odanak and have it published simultaneously in a daily and a weekly regional newspaper.
- 6.8 The loss of a person's member status pursuant to the present chapter in no way affects the member status of the spouse or parents of the said person.
- 6.9 Nothing in the present chapter shall oblige the Band Registrar to investigate in order to obtain the documentary proof referred to in Section 6.4.

CHAPTER VII - APPEALS

- 7.1 The following decisions of the Band Registrar may be appealed:
- a) his decision to register or to refuse to register a person as a member on the Band Register (chap. V), it being understood, however, that the decisions of the Special General Assembly under Sections 5.6 and 5.7 are final and without appeal;
 - b) his decision to strike or not to strike a name from the Band Register following loss of membership status (chap. VI);
 - c) his decision to correct or not to correct an alleged error or omission on the Band Register (chap. VIII);
 - d) his decision on any procedural matter or on any question of delay related to the above mentioned decision-making processes.
- 7.2 May avail oneself of the right to appeal:
- a) the person being the object of the procedure or decision of the Band Registrar, or if that person is a minor, the father, the mother or the tutor of the said person on his behalf;
 - b) except for a decision referred to in Section 7.1d), any group of at least ten (10) adult members, on the condition that seven (7) of them file, with the appeal application form, a solemn declaration attesting to the sincerity of the reasons for the appeal.
- 7.3 The Appeal Committee of the Abenakis of Odanak has the authority to hear all appeals formed pursuant to the present chapter and to decide them.
- 7.4 The Appeal Committee is a standing committee of three (3) people whose decisions are made by a majority vote. Its quorum is two (2) people.
- 7.5 The members of the Appeal Committee are nominated by the General Assembly of members of the Abenakis of Odanak, amongst the adult members. They can be dismissed, for cause only, by the members assembled in a Special General Assembly.
- The following persons were nominated as members of the Appeal Committee for a two(2)-year mandate, by the Sp. Gen. Ass. of 20090530:*
- Richard Côté*
Michel O'Bomsawin
Manon Hamel
- 7.6 The duration of the Appeal Committee members' mandate is two (2) years.

- 7.7 An appeal is effected by filing, at the office of the Band Registrar, the appeal application form appended as Schedule "D", setting out the reasons for the appeal.
- 7.8 The appeal application form shall be signed by all the appellants. If the appeal is filed by a group of adult members, the appeal application form shall also be accompanied by the solemn declaration of at least seven (7) of them.
- 7.9 The appeal application must be filed within thirty (30) days of the challenged procedure or decision.
- 7.10 Once filed, the appeal application form shall be immediately countersigned by the Band Registrar and registered by him on the Band Register before being transmitted to the Appeal Committee.
- 7.11 The Appeal Committee shall hear the appellants and as the case may be the person being the object of the challenged procedure or decision within a delay of thirty (30) days after the registration of the appeal application, and may receive any other documentary proof or testimony.
- 7.12 The Appeal Committee shall render its decision within thirty (30) days of the end of the appeal hearing. This decision must be motivated.
- 7.13 The decision of the Appeal Committee shall be sent to the appellants, to the person being the object of the challenged procedure or decision, and to the Band Registrar.
- 7.14 The decision of the Appeal Committee is final and without appeal.
- 7.15 Once the delays for appeal have expired, or once a decision is rendered on an appeal, the Band Registrar, if need be, shall make the necessary amendments to the Band Register with respect to the decision appealed form.

CHAPTER VIII - BAND REGISTER

- 8.1 A Band Register shall be maintained and kept up to date by the Band Registrar.
- 8.2 The Band Register shall consist of the band list of the Abenakis of Odanak kept at the Ministry of Indian Affairs up until the coming into force of this code to which, once this list is sent to the Abenakis of Odanak by order of the Minister, the Band Registrar shall add to or strike off, or which he shall amend pursuant to this code.
- 8.3 The Band Register shall contain:
- a) the name of every person registered as a member pursuant to this code;
 - b) his date of birth;
 - c) the date upon which his name was registered or re-registered on the Band Register;
 - d) the date upon which his name was struck from the Band Register;
 - e) the date of all registration applications or re-registration applications and of all appeal applications, and the names of the persons having made the applications;
 - f) the date of all decisions made by the Band Registrar, the Appeal Committee or the Special General Assembly pursuant to this code;
 - g) a copy of this code.
- 8.4 Any member and any person who has filed a registration application or a re-registration application or an appeal application may consult the Band Register at the office of the Band Registrar in the presence of the Band Registrar, during the opening hours of the office.
- 8.5 Any member and any person who has filed a registration application or a re-registration application or an appeal application may ask the Band Registrar to correct an error or an omission that they have noticed on the Band Register.
- 8.6 Upon an appeal application by the person who has requested a correction under Section 8.5, the Appeal Committee shall decide within thirty (30) days all disputes in the matter of such request.

CHAPTER IX - BAND REGISTRAR

- 9.1 The position of Band Registrar is created pursuant to this code.
- 9.2 The Band Registrar shall be nominated and remunerated by the Council of the Abenakis of Odanak and may be dismissed by the said Council for cause only.
- 9.3 The mandate of the Band Registrar is of an undetermined term.
- 9.4 The Band Registrar shall carry out the following functions and have the following responsibilities:
- a) keeping and updating the Band Register and making upon it the registrations and amendments required pursuant to this code;
 - b) following up on all requests for corrections of errors or omissions on the Band Register that are presented to him under Section 8.5;
 - c) making available the Band Register to all those who have access to consult it, during the opening hours of the office;
 - d) providing assistance to all persons who require it in the exercise of a right under this code;
 - e) providing, in the cases referred to in this code, the forms for registration applications, re-registration applications, and appeal applications appearing as Schedules to this code;
 - f) receiving, dating, countersigning, registering and processing or transmitting without delay registration applications, re-registration applications and appeal applications that are filed at his office pursuant to this code;
 - g) rendering the decisions incumbent upon him pursuant to this code;
 - h) keeping in the archives a copy of all registration applications, re-registration applications and appeal applications and all decisions rendered or received by him pursuant to this code;
 - i) issuing the required notices pursuant to this code, in the prescribed manner;
 - j) posting as soon as possible at the office of the Council of the Abenakis of Odanak all registration applications, re-registration applications and appeal applications and all decisions pursuant to this code;
 - k) carrying out all other tasks connected to the above mentioned functions and responsibilities.

- 9.5 The Band Registrar shall process or transmit a registration application, re-registration application or appeal application only once he is satisfied that the said application is complete and sincere, and to this end he shall be authorized to take reasonable measures to verify the truthfulness of the information therein contained.
- 9.6 All decisions of the Band Registrar pursuant to this code must be motivated, and shall not be rendered unless the person being the object of the said decision had a reasonable opportunity to present arguments.

CHAPTER X - AMENDMENTS TO THE CODE

- 10.1 This code may be amended by the members assembled in a Special General Assembly summoned by the Council of the Abenakis of Odanak, of its own authority, or upon written request by at least fifteen percent (15%) of the adult members, on condition that the proposed amendments were posted with the notice of assembly.
- 10.2 All amendments, in order to come into force, must have been approved by a majority of two thirds (2/3) of the adult members having voted on the issue during a Special General Assembly.

CHAPTER XI - COMING INTO FORCE OF THE CODE

- 11.1 This code shall come into force on the date on which the Council of the Abenakis of Odanak advises the Minister that the Abenakis of Odanak are assuming control of the membership of the Abenakis of Odanak and provides him with a copy of this code.

CHAPTER XII - INFORMATION

- 12.1 As soon as this code comes into force, the Council of the Abenakis of Odanak shall take the appropriate steps to inform the electors of the objects and contents of the said code.

CHAPTER XIII - CONTENTS OF THE CODE

13.1 The following schedules form part of this code:

Schedule "A": Membership registration application form (Sections 4.1c) and 5.4)

Schedule "B": Membership registration application form (Sections 4.3a) and 5.6)

Schedule "C": Membership re-registration application form (Sections 4.3b) and 5.7)

Schedule "D": Appeal application form (Section 7.7)

Band control confirmed by the Minister on September 4, 2008.

Coming into force of this code: January 12, 2005.