

MONTREAL LAKE CREE NATION FINANCIAL MANAGEMENT REGULATIONS

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PREAMBLE

WHEREAS:

- 1 Montreal Lake Cree Nation [MLCN] is responsible for managing all funds in a consolidated budget.
- 2 The MLCN Band members expect the Chief and Council to set strategic goals and objectives for the Montreal Lake Cree Nation, make and adopt bylaws and regulations, provide direction to Band employees and provide accountable and fiscally responsible government to Band members including, but not limited to, the following:
 - (a) adopting the Annual budgets prepared by the Program Managers/ Directors / Coordinators and the Band administration and present the same to the Band membership at least annually;
 - (b) presenting the audited financial statement(s) and auditor's reports to the membership annually;
 - (c) developing a plan to retire any deficit in a timely fashion and present the same to the membership;
 - (d) approving major financial transactions provided the same will not create a deficit or compromise the Band's fiscal autonomy;
 - (e) promoting the community's language, culture and customs;
 - (f) promoting economic development, health and social development, education, recreation and healthy life styles on the Reserve;
 - (g) overseeing the administration of Band programs and Band employees where they have not delegated that authority to an Executive Director, Program Director, Board of Directors, Chief Executive Officer or a Band Manager;
 - (h) fostering and protecting aboriginal, inherent and treaty rights;
 - (i) represent the best interests of the Band when dealing with Canada, the Province, Municipal governments, other First Nations, the Prince Albert Grand Council, the Federation of Saskatchewan Indian Nations or the Assembly of First Nations; and
 - (j) be ambassadors of the Cree people and of the Montreal Lake Cree Nation.
- 3 The Chief and Council stand in a position of trust and authority with respect to the Band and its members.
- 4 The Chief and Council, in exercising their powers and discharging their duties, are required to act honestly and in good faith with a view to the best interests of the Band and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- 5 The same fiduciary obligation rests upon the Chief and Council with respect to Band assets [**"Band assets"** include anything purchased with Band funds or provided for the benefit of the Band and/or its members] as rests upon any public official empowered to make decisions about public property.
- 6 The Chief and Council must diligently avoid Conflicts of Interest or the appearance of Conflicts of Interest when dealing with Band assets. The Chief and other Band Council members should not participate in any discussion in which they have a Conflict of

Interest. “**Conflict of interest**” means a real or seeming incompatibility between one’s private interests and one’s public or fiduciary duties and includes any act or omission that is recognized by law or custom to be a Conflict of Interest.

- 7 The Chief and Councillors are required to disclose in writing to the Band Council or request to have entered in the minutes of a meeting of Band Council the nature and extent of his or her interest where he or she:
 - (a) is a party to a material contract or proposed material contract with the Band; or
 - (b) is a director or officer of or has a material interest in any person (see definitions of spouse and immediate family member set out in the MLCN *Executive Act* and/or Personnel Policy Manual), who is a party to a material contract or proposed material contract with the Band; or
 - (c) is a business partner, associate (see definition set out in Section 10) or close family friend of any person who is a party to a material contract or proposed material contract with the Band.

- 8 The disclosure required by with real and potential conflicts of interest *shall* be made:
 - (a) at the meeting at which a proposed contract is first considered; or
 - (b) if the Chief or Councillor was not then interested in a proposed contract, at the first meeting after he or she becomes interested; or
 - (c) if the Chief or Councillor becomes interested after a contract is made, at the first meeting after he or she becomes interested; or
 - (d) if a person who is interested in a contract later becomes Chief or a Councillor, at the first meeting after he or she becomes Chief or Councillor.

- 9 Any Corrupt Practice must be carefully avoided. “**Corrupt Practice**” means any act done by an elected Official or other person in a position of authority, whether Chief or Councillor or Band employee, who unlawfully and/or wrongly uses his or her name or position of authority or trust to procure some benefit or favour for him or herself or for another person contrary to his or her official or fiduciary duties and/or the rights of other persons and includes any act or omission that is recognized by law or custom to be a Corrupt Practice. The custom gifting of tobacco and cloth is not a corrupt practice.

- 10 To carry out the legislated decisions of Chief and Council, a Montreal Lake Cree Nation Public/Civil Service has been created with distinct areas of delegated responsibility, including but not limited to, Lands and Resources Management, Economic Development, Education, Health and Social Development, Public Works and Housing, Justice, Sports, Culture and Recreation as well as to certain Band-empowered entities including Child and Family Services. Where band-empowered entities are incorporated they are governed by a Board of Directors and responsible for reporting to the Members and/or shareholders depending upon whether they are a non-profit or business corporation.

- 11 The Band Council, as the legislative arm of the Montreal Lake Cree Nation Indian Government, sets policies, passes bylaws, establishes regulations and identifies procedures to be followed by the Montreal Lake Cree Nation Public/Civil Service.

- 12 The Montreal Lake Cree Nation Public/Civil Service, as the executive arm of the Montreal Lake Cree Nation, carries out and implements the Band programs that have been established by Chief and Council in accordance with Band policies, procedures and regulations that are ratified from time to time.
- 13 The legislative arm consists of Chief and Council. The executive arm consists of the Band employees who are divided into management and non-management staff.
- 14 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), if any, oversees the day-to-day operation of the Band Office. He or she reports to Chief and Council and is among the senior public servants at the Band level.
- 15 Each program [Lands and Resources Management, Economic Development, Education, Health and Social Development, Public Works and Housing, Justice, Sports, Culture and Recreation] is headed by a Program Manager (Director or Coordinator) who oversees the day-to-day operations of the respective program. He or she reports to Chief and Council and to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and is among the senior public servants at the Band level.
- 16 The division of powers between the legislative and executive arms increases the level of accountability and transparency of Band programs and services. Chief and Council have no mandate to do the tasks of the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or the respective Program Directors (Managers or Coordinators) nor are they responsible for the day-to-day operation of the Band or any of its programs.
- 17 The legislative (political) arm of the Band is responsible to the electorate. The executive arm is responsible to Chief and Council and the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) who ensure that the policies and procedures identified by Chief and Council are implemented and carried out.
- 18 The Chief and Council are responsible for:
- (a) ensuring the sound financial management of the First Nation;
 - (b) accountability to the Members through transparent policies and regular community meetings;
 - (c) accountability to the funding agencies, including the Aboriginal and Northern Affairs Development, Canada [AANDC] and Health Canada, First Nations and Inuit Health [FNIH] Branch, Saskatchewan Indian Gaming Authority [SIGA] their successors and assigns;\
 - (d) accountability to other stakeholders;

(e) that all MLCN Band Council members and employees who make decisions with respect to financial matters are qualified and/or have appropriate training and experience and perform their duties, whether legislated, assigned or delegated, in a responsible manner.

19 The Band Members have directed the Chief and Council, the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Program Directors (Managers or Coordinators) to ensure that the First Nation's financial conditions and performance do not jeopardize or compromise the Band Council's strategic results or priorities and at the same time to ensure that the Band's overall operations do not compromise the First Nation's financial autonomy. Band Council members who are responsible for creating a deficit will not be allowed to run for two (2) terms. Program Directors (Managers or Coordinators) who create a deficit will be subject to disciplinary action, including summary dismissal.

NOW THEREFORE, MLCN HAS ADOPTED THE FOLLOWING FINANCIAL MANAGEMENT REGULATIONS:

PART I INTERPRETATION & APPLICATION

Short Title

1.1 The regulations hereunder will be known as the MLCN Administrative and Financial Management Regulations.

Definitions

1.2 In these regulations,

(a) **“Account”** is a unit to record and summarise accounting transactions. All accounting transactions are recorded through journal entries that show the account name, amounts and whether those accounts are recorded in the debit or credit side of the account.

(b) **“Accounting cycle”** means a series of steps that are repeated every reporting period. The process starts with making accounting entries for each transaction and goes through closing the books. The following steps occur during the accounting period, as each transaction occurs:

- i. identify the transaction through an original source document such as an invoice, receipt, cancelled check, time card, deposit slip, purchase order which provides: date, amount, description (account or business purpose), name and address of other party (if applicable);
- ii. analyze the transaction: determine which accounts are affected, how and by how much;
- iii. make journal entries in chronological order: record the transaction in the journal as both a debit and a credit;
- iv. post to ledger: transfer the journal entries to ledger accounts [see Chart of Accounts];

The following steps occur at the end of the accounting period:

- v. trial balance: this is a calculation to verify that the sum of debits equals the sum of the credits;
- vi. adjusting entries: to prepare and post accrued and deferred items to journals and ledger T-accounts;
- vii. adjusted trial balance: to make sure debits still equal the credits after making period end adjustments;
- viii. financial statements: prepare income statement, balance sheet, statement of related earnings and statement of cash flows;
- ix. closing entries: prepare and post closing entries to transfer the balances from temporary accounts; after-closing trial balance: final trial balance after closing entries to make sure debits still equal credits

(c) **“Accounts payable” or “A/P”** is an account that contains money that MLCN owes to suppliers but hasn't paid yet. The A/P is a form of credit that suppliers offer to their purchasers by allowing them to pay for goods or services after they have already been received.

- (d) **“Accounts receivable” or “A/R”** is one of a series of accounting transactions dealing with the billing of a funder or other entity that owes money to MLCN for goods or services that have already been provided. This is typically done by generating an invoice and delivering it to the funder or other entity. To record a journal entry for services provided, one debits cash and credits the receivable in the journal entry. When the money is received, one debits cash and credits receivable in the journal entry. The ending balance on the trial balance sheet for A/Rs is always debit.
- (e) **“Adjusting Entries”** are journal entries that are made at the end of the accounting period to adjust expenses and revenues to the accounting period where they actually occurred. Generally speaking, they are adjustments based on reality, not on a source document. There are a number of basic types of adjusting entries:
- i. accrued revenues (accrued assets) which are revenues already earned but not yet paid or recorded;
 - ii. unearned revenues (deferred revenues) which are revenue received in cash and recorded as liabilities prior to being earned;
 - iii. accrued expenses (accrued liabilities) which are expenses already incurred but not yet paid or recorded;
 - iv. prepaid expenses (deferred expenses) which are expenses paid in cash and recorded as assets prior to being used;
 - v. depreciation of fixed assets;
 - vi. allowances for bad debts; and
 - vii. inventory adjustments.
- (f) **“Annual Financial Statement”** means the audited financial statement prepared in accordance with ISA (see below).
- (g) **“Annual Report”** means the annual report of the Band, including narrative and statistical program reports and the audited financial statement and attached letter from the auditor.
- (h) **“Appropriation”** means an allocation of a particular amount of money under a budget, a funding arrangement or proposal setting out the purpose(s) for which it *may* be used.
- (i) **“Audit Reporting Model” or “ARM”** – The key elements of the ARM are:
- i. Identifying the purpose of the financial statement;
 - ii. Determining whether the applicable financial reporting framework used for preparing the financial statements is acceptable.
 - iii. Determining the acceptability of the engagement.
 - iv. Determining whether the financial reporting framework is a fair presentation framework or a compliance framework.
 - v. Format and wording of the auditor’s report.

In most circumstances, the applicable reporting framework (as required by MLCN's incorporating legislation, will continue to be one of the accounting frameworks identified in the CICA (Canadian Institute of Chartered Accountants) Handbook – Accounting or the CICA Public Sector Accounting Handbook as Canadian GAAP (see below).

- (j) **“Auditor”** means the firm of chartered accountants appointed by the Band Council to prepare the audited financial statement of the Band.
- (k) **“Authorized signatories”** means any or all of the following: either one or both of the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Chief Financial Officer and one or more Band Councillors appointed by Band Council resolution as authorized signatories.
- (l) **“Band” or “First Nation”** means Montreal Lake Cree Nation.
- (m) **“Band Council”** means a quorum of the Chief and Council of MLCN as registered with AANDC who are elected for a three year term and who have the powers and duties set out in The MLCN Executive Act, if any, and the Indian Act. In addition, they are responsible for making strategic and policy decisions [as opposed to political or operational decisions] such as:
 - i. ordinary hours of work;
 - ii. work outside of normal hours;
 - iii. earned days off;
 - iv. travel policies and allowances;
 - v. accommodation expenses;
 - vi. meal allowances;
 - vii. per diem rates;
 - viii. policies with respect to commercial travel as opposed to use of personal or Band-owned vehicles;
 - ix. harassment policies;
 - x. salary advances;
 - xi. public/media relations with respect to MLCN; and
 - xii. personnel policies.
- (n) **“Budget”** means the annual budget of the Band that has been approved by the Band Council and presented to the membership at a community meeting.
- (o) **“Canadian Auditing Standards” or “CASs”** – the Canadian Auditing and Assurance Standards Board has adopted International Standards on Accounting (ISAs) as Canadian Auditing Standards (CSAs) for audits of financial statements and other historical financial information. CSAs now constitute Generally Accepted Accounting Standards (GAAS) for financial statement audits.

The CSAs came into effect for audits of financial statements for the fiscal year ending December 31, 2010. Key changes include:

- i. additional requirements that result from either clarification of the existing requirements or to new requirements designed to improve audit quality
- ii. additional procedures in the areas of auditing estimates and related party transactions and where the auditor's experts are used
- iii. changes to the structure and wording of the auditor's report
- iv. increased emphasis on appropriate and timely communications with management and those charged with governance with respect to deficiencies in internal controls

(p) **“Capital Project”** means the construction, rehabilitation (alteration, extension or renovation) or replacement of the Band's capital assets and any other capital project in which the Band is an investor but does not include routine maintenance.

(q) **“Capital Revenues”** means revenues

- i. the Band receives from long term lease agreements;
- ii. the Band receives from specific land claims;
- iii. the Band receives from Treaty-related settlements that have not been allocated to specific trusts or are intended for a specific use or purpose;
- iv. of \$500,000.00 or more from any source in any given year

but does not include operational or block funding received from AANDC or Health Canada for program and service delivery.

(r) **“Chart of Accounts”** is a numerical listing of all identified accounts used by the First Nation to record transactions. As part of the accounting cycle, the chart of accounts is used in the journaling process (i.e., performing journal entries) and also serves as the title for each ledger. All accounts are filed under one of four categories:

- i. assets;
- ii. liabilities;
- iii. revenue; and
- iv. expenses.

(s) **“debits and credits”**: in a double entry accounting system, a debit is any entry recorded on the left and a credit is an entry recorded on the right. The type of account and which column the entry is posted in determines if it results in an increase or decrease:

Balance Sheet Quick Reference

Account type	Debits	Credits
Assets (cash)	Gain +	Loss -
Liabilities (accounts payable)	Loss -	Gain +

Income Statement Loss –Account Quick Reference

Account type	Debits	Credits
Revenue	Loss -	Gain +
Expenses	Gain +	Loss -
Income	Loss -	Gain +

- (t) **“Double entry accounting”** means the system used to record transactions using two sides, debit (left side) and credit (right side) such that the sum of debit amounts should equal the sum of credit amounts.
- (u) **“Finance and Audit Committee” or “FAC”** means the committee established pursuant to this Act.
- (v) **“Financial Administration”** means the management, supervision, control and direction of all matters related to the financial affairs of the Band.
- (w) **“Financial Assets”** means non-tangible, non-physical assets held by the Band, including any interest, any related security or collateral, in any
- i. debt, receivable, account, claim or other right to payment,
 - ii. contract or obligation that generates or secures anything referred to in paragraph (i), and
 - iii. security, other than a voting share of a corporation or an interest in a combination of entities, backed or secured by, or representing an interest in, a thing referred to in paragraph (i) or (ii) or in both paragraphs (i) and (ii));
- (x) **“Financial Competency”** means the ability to read and understand financial statements and to understand accounting issues reasonable expected to be raised by the Band’s financial statements.
- (y) **“Financial Institution”** means a bank or credit union.
- (z) **“Financial Records”** means all the records respecting the financial administration of the Band including relevant minutes of meetings of the Council and FAC and relevant BCRs.
- (aa) **“Financial Statements”** are official records that document the financial activities of a business. They provide a view into the financial condition as well as the profitability of the business and they are prepared as part of the accounting cycle. There are four basic types of financial statements:
- i. a **balance sheet financial statement** which gives a snapshot of a company’s financial condition at any given time;
 - ii. an **income statement** which reports on profits and losses from operations over a given period of time;

- iii. **a retained earnings statement** which shows the changes in the owner's equity in a business over a given period of time by highlighting the equity positions at the beginning and end of the reporting period;
 - iv. **a statement of cash flow** which reports on the cash flow from operations, financing and investment activities over a given period; it shows how money flowed into and out of the company and generally demonstrates the short-term viability of the company's cash position;
- (bb) **“Generally Accepted Accounting Principles” or “GAAP”** is the standard framework of guidelines for financial accounting. It includes the standards, conventions and rules accountants (CAs and CGAs) follow in recording and summarising transactions and in the preparation of financial statements. In any report of financial statements, the Auditor must indicate whether or not the information contained within the statements complies with GAAP:
- i. **Principles of regularity / consistency:** Do the financial statements conform to enforced rules and law?
 - ii. **Principle of sincerity:** Do they reflect in good faith the First Nation's financial status?
 - iii. **Principle of the permanence methods:** Do they allow coherence and comparison?
 - iv. **Principle of non-compensation:** Do they show the full details of the financial information and not seek to compensate a debt with an asset or a revenue with an expense?
 - v. **Principle of prudence:** Do the financial statements show things as they are? Typically a revenue is recorded only when it is certain and a provision should be entered for an expense which is probable.
 - vi. **Principle of continuity:** When stating financial information, one should assume that the business of the First Nation will not be interrupted.
 - vii. **Principle of periodicity:** Each accounting entry should be allocated to a given period and slip accordingly if it covers several periods.
- (cc) **“Generally Accepted Auditing Standards” or “GAAS”** means generally accepted auditing standards adopted by the Canadian Institute of Chartered Accountants, Certified General Accountants Association of Canada, or other organizations, against which the quality of audits are performed (field work and reporting standards) and *may* be judged. Among other things,
- i. The auditor must have adequate technical training & proficiency to perform the audit.
 - ii. The auditor must maintain independence (in fact and appearance) in mental attitude in all matters related to the audit.
 - iii. The auditor must exercise due professional care during the performance of the audit and the preparation of the report. The auditor must diligently perform the audit and report any misleading statements in the report.

- (dd) **“General Ledger”** means the ledger where all accounting transactions are posted in a double entry system using debits and credits for each. The general ledger provides data for the balance sheet and the income statement.
- (ee) **“Guarantee”** means a written promise or agreement made by a “Guarantor” to be liable for a debt, loan or obligation (i.e., performance of a contract) of another person if the latter defaults on the repayment or other obligation (i.e., fails to pay or fails to perform).
- (ff) **“Impress Fund”** means money set aside separately that is subject to being audited, and for which, by policy, the cash available to disburse *plus* the supporting documents (receipts or vouchers for monies already disbursed) equals an authorized fixed amount, the **“impress amount”**.
- (gg) **“Indemnity”** means either a promise to make a person whole from specified losses, damages, injuries or costs they *may* suffer or payment of compensation to am a person whole from a loss, damages, injuries or costs they have already incurred.
- (hh) **“Journal”** means a record that keeps accounting transactions in chronological order.
- (ii) a **“Journal Entry”** is a log of transactions used to document a business transaction that increases funds in one account and decreases funds in another account without cash being received or a cheque being written. A journal entry would be used to correct an error in recording a cash receipt or disbursement transaction. Journal entries are also important to keep track of historical costs in the area that benefited from a receipt or disbursement [i.e., to record certain transactions on an accrual basis of accounting at one year end which transactions would normally be reversed sometime the following year].
- (jj) **“ISAs” or “International Standards on Accounting”** – see Canadian Auditing Standards above.
- (kk) **“Members”** means persons who are registered as members of the Montreal Lake Cree Nation.
- (ll) **“Minute Book”** means the official record of motions and resolutions of the Band Council, copies of the most recent audited financial statement and program and annual reports. The minute book *shall* be made available to Band members upon request.
- (mm) **“MLCN”** is defined as Montreal Lake Cree Nation as represented by Chief and Council.

- (nn) **“Preparing the Trial Balance”** is the process of totalling the debits and credits in your chart of accounts, then making sure that the sum of all debits equals the sum of all credits. The trial balance is a vital step in the accounting cycle being the first step in the “end of the accounting Period” process.
- (oo) **“Program Manager (Director or Coordinator)”** means a person who manages, supervises or controls a department of the Band and includes the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director).
- (pp) **“Replacement”** includes substitution, in whole or in part, with another of the Band’s tangible capital assets.
- (qq) **“Senior Management Team”** is the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or and Program Managers (Directors or Coordinators).
- (rr) **“Tangible Capital Assets”** means all non-financial assets of the Band having physical substances that
 - i. are held for the use in the production or supply of goods or services, for rental to others, for administrative purposes or for the development, construction, repair or maintenance of other capital assets;
 - ii. have useful economic lives extending beyond one fiscal year;
 - iii. are to be used on a continuing basis;
 - iv. are not for sale in the ordinary course of operations; and
 - v. have a historic or replacement value of at least \$10,000.00.

Rules of Interpretation

1.3 The following rules of interpretation are intended to apply:

- (a) Except as otherwise provided, words in the singular include the plural and words in the plural include the singular.
- (b) If a word or expression is defined, other parts of speech and grammatical forms of the same word or expression have corresponding meanings.
- (c) The expression “*shall*” is to be construed as imperative and the expression “*may*” is to be construed as permissive.
- (d) Unless the context indicates otherwise, "including" means "including, but not limited to", and "includes" means "includes, but not limited to";
- (e) Where a provision in these regulations is expressed in the present tense, the provision applies to the circumstances as they arise;
- (f) Headings form no part of these regulations and *shall* be construed as being inserted for convenience of reference only; and
- (g) A reference to a document or an enactment includes any amendment or replacement of it and, in the case of an enactment, includes every regulation made under it.

- 1.4 In these regulations, references to a Part (i.e., Part I), section (i.e., section 1), subsection (i.e., subsection 2(1)), paragraph (i.e., paragraph 3(4)(a)) or subparagraph (i.e., subparagraph 3(4)(a)(i)) is a reference to the specified Part, section, subsection, paragraph or subparagraph of these regulations, except where otherwise stated.
- 1.5 The provisions of these regulations are severable, and where any provision of these regulations is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion *shall* be severed from the remainder of these regulations and the decision that it is invalid *shall not* affect the validity of the remaining portions of these regulations.
- 1.6 These regulations *shall* be construed as being remedial and *shall* be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

Posting of Public Notices

- 1.7 Unless expressly provided otherwise, if a public notice *shall* be posted under these regulations,
- (a) the notice *shall* be posted at least ten (10) days before the date of the meeting; and
 - (b) the public notice is properly posted if a written notice is placed in the reception area of the Band office and on bulletin Boards in other Band buildings (i.e., the health centre, school, store, etc.).

Calculation of Time

- 1.8 In these regulations, time *shall* be calculated in accordance with the following rules:
- (a) where the time limited for taking an action ends or falls on a holiday, the action *may* be taken on the next day that is not a holiday;
 - (b) where there is a reference to a number of days, not expressed as "clear 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;
 - (c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;
 - (d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
 - (e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Conflict of Laws

- 1.9 If there is a conflict between these regulations and another law or regulation of the Band, these regulations prevail to the extent of the conflict.

Scope and Application

- 1.10 These regulations apply to the financial administration of the Band.

PART II ADMINISTRATION DIVISION ONE - COUNCIL

Responsibilities of Council

- 2.1 The Council is responsible for all matters relating to the financial administration of the Band, whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under these regulations.
- 2.2 Notwithstanding subsection 2(1), the Council *may* delegate to any of its officers, employees, committees, contractors or agents any of its functions under these regulations except the following:
- (a) the approval of Council policies, procedures or directions;
 - (b) the appointment of members of the FAC;
 - (c) the appointment of the Chair of the FAC;
 - (d) the approval of budgets and financial statements of the Band; and
 - (e) the approval of borrowing of the Band.

Council Policies, Procedures and Directions

- 2.3 Subject to subsection 2.4, the Council
- (a) *may* establish policies and procedures and give directions respecting any matter relating to the financial administration of the Band;
 - (b) *shall* establish policies or procedures or give directions respecting the acquisition, management and safeguarding of the Band's assets;
 - (c) *shall* establish policies and procedures requiring related bodies to design and implement effective human resources and financial administration policies and procedures.
- 2.4 The Council *shall not* establish any policies or procedures or give any directions relating to the financial administration of the Band that are in conflict with these regulations or GAAP.
- 2.5 The Council *shall* ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls and that they are legislation compliant.
- 2.6 The Council *shall* document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who *may* be directly affected by them.
- 2.7 The Council *may*, by resolution, make regulations respecting
- (a) conflicts of interest;
 - (b) corrupt practice; or
 - (c) any other matter related to the financial administration of the Band as the Council, upon the recommendation of the FAC, deems necessary.
- 2.8 Any regulation made in accordance with subsection 2.7 *shall* be amended by resolution.

Reporting of Remuneration, Expenses and Contracts

- 2.9 Annually the senior financial officer *shall* prepare, and include with the annual financial statements, a special purpose report separately listing
- (a) the Chief,
 - (b) each Councillor,
 - (c) every immediate family member of the Chief and each Councillor,
 - (d) the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), and
 - (e) every immediate family member of the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director),
 - (f) the Chief Financial Officer, and
 - (g) every immediate family member of the Chief Financial Officer;
 - (h) every Program Director (Coordinator / Manager); and
 - (i) every immediate family member of the Program Director (Coordinator / Manager)
- and setting out, for each person listed above, the following information:
- (a) the total amount of remuneration, expenses and benefits received from the Band; and
 - (b) any contracts with the Band for the supply of goods or services.
- 2.10 Subsection (1) does not require the reporting of remuneration, expenses or benefits received
- (a) in common by all members of the Band;
 - (b) under a program or service universally accessible to all members of the Band on published terms and conditions; or
 - (c) from a trust arrangement according to the terms of the trust.

DIVISION TWO - FINANCE AND AUDIT COMMITTEE

FAC Established

- 2.11 The Finance and Audit Committee of the Band is established.
- 2.12 The Council *shall* appoint not less than five (5) nor more than twelve (12) persons to the FAC, a majority of whom *shall* be financially competent (i.e., able to read and understand various financial reports).
- 2.13 At least 20% of the FAC members *shall* be Councillors.
- 2.14 All candidates for the FAC *shall* undergo a criminal record check, the results of which are satisfactory to the Council, before they can be considered for an appointment to the FAC. No one *shall* sit on the FAC who has declared personal bankruptcy.
- 2.15 Subject to subsection 2.17, the Council *shall* appoint FAC members to hold office for staggered terms, as follows:

- (a) Councillors *shall* be appointed to the FAC as soon as practicable following Council elections and *shall* sit on the FAC until the next election;
 - (b) non-Councillors *shall* be appointed for three (3) year terms, beginning on September 1 and ending on August 31 three (3) years thereafter; and
 - (c) notwithstanding paragraphs (a) and (b), for their first terms only, Council *shall* appoint FAC members as soon as practicable after these regulations comes into effect, who will serve until
 - i. the next Council election, in the case of Councillors, and
 - ii. December 31 of the second full fiscal year after their appointment, in the case of non-Councillors.
- 2.16 The Council *may* terminate the appointment of a member of the FAC for cause, including where a member
- (a) is convicted of an offence under the Criminal Code;
 - (b) has unexcused absences from three (3) consecutive FAC meetings;
 - (c) declares personal bankruptcy;
 - (d) terminates or is terminated from their position with the Band; or
 - (e) fails to perform any of their duties under these regulations in good faith and in accordance with the terms of these regulations.
- 2.17 The Council *may* develop policies regarding the composition of the FAC and the criteria for eligibility for appointments to the FAC.

Chair

- 2.18 The FAC *shall* appoint one of their number to Chair the FAC, which nominee *shall* be approved by the Band Council.

Procedures

- 2.19 The quorum of the FAC is a majority of members, including at least one (1) Councillor.
- 2.20 Unless an FAC member is not permitted to participate in a decision because of a conflict of interest, every FAC member has one vote in all FAC decisions.
- 2.21 In the event of a tie vote in the FAC, the Chair *may* cast a second tie-breaking vote.
- 2.22 Subject to subsection 2.23, the Chief Financial Officer [“CFO”] *shall* be notified of all FAC meetings and *shall* attend those meetings, subject to reasonable exceptions.
- 2.23 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and/or CFO *may* be excluded from all or any part of a FAC meeting if
- (a) the subject matter relates to a confidential personnel or performance issue respecting the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or the CFO; or

- (b) it is a meeting with the auditor and the auditor has asked to meet the FAC without the Chief Financial Officer present.
- 2.24 If the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or CFO is excluded from all or any part of a FAC meeting in accordance with subsection 7(5), then the remainder of the FAC meeting *shall* be held in camera.
- 2.25 The FAC *shall* meet
- (a) at least once every three (3) months in each fiscal year as necessary to conduct the business of the FAC; and
 - (b) as soon as practical after it receives the audited annual financial statements and report from the auditor.
- 2.26 The FAC *shall* provide minutes of its meetings to the Council and report to the Council on the substance of each FAC meeting as soon as practicable after each meeting.
- 2.27 Subject to these regulations and any directions given by the Council, the FAC *may* make rules for the conduct of its meetings.
- 2.28 The FAC *may*, at the discretion of the Chair, retain a consultant to assist in the performance of any of its responsibilities or to increase the financial competence of its members.

Financial Planning Responsibilities

- 2.29 The FAC *shall* carry out the following activities in respect of the financial administration of the Band:
- (a) annually review, develop, and recommend to the Council for approval, multi-year financial plans, projections and priorities based on the most recent actual receipts and expenditures;
 - (b) review draft annual budgets and recommend them to the Council for approval;
 - (c) on an ongoing basis, monitor the financial performance of the Band against the budget and report any significant variations to the Council;
 - (d) review the quarterly financial statements and recommend them to the Council for approval;
 - (e) review the draft annual financial statement and recommend it to the Council for their approval; and
 - (f) consider all financial matters that Council refers to the FAC.
- 2.30 The FAC *may* make a report or recommendations to the Council on any matter respecting the financial administration of the Band that is not otherwise specified to be its responsibility under these regulations.

Audit Responsibilities

- 2.31 The FAC is responsible for the following audit activities in respect of the financial administration of the Band:

- (a) making recommendations to the Council on the selection, engagement and performance of an auditor;
- (b) receiving assurances on the independence of a proposed or appointed auditor;
- (c) reviewing, and making recommendations to the Council on, the planning, conduct and results of audit activities;
- (d) reviewing, and making recommendations to the Council, on the audited annual financial statements, including the auditor's memo or management letter, the audited local revenue account financial statements and any special purpose reports;
- (e) the post-audit and any internal management letter concerning material findings or recommendations of the auditor and any follow up to rectify identified internal control weaknesses;
- (f) periodically reviewing, and making recommendations to the Council, on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, officers and employees of the Band;
- (g) monitoring financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- (h) conducting a review of these regulations at least six months before the expiry of a borrowing member qualification certificate and, where appropriate, recommend amendments to the Council;
- (i) periodically reviewing, and making recommendations to the Council on the purpose and mandate of the FAC; and
- (j) any other matter the auditor brings to the FAC's attention.

Council Assigned Responsibilities

2.31 The Council *may* assign to the FAC or another committee of the Council the following activities in respect of the financial administration of the Band:

- (a) to develop, and recommend to the Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;
- (b) to review, and report to the Council on, the financial content of any reports of the Band;
- (c) to review, monitor and report to the Council on the appropriateness of the Band's accounting and financial reporting systems, policies and practices;
- (d) to review, and recommend to the Council for approval, any proposed significant changes in the Band's accounting or financial reporting systems, policies, procedures or directions;
- (e) to review, and report to the Council on the Band's risk management policies and control and information systems and, where appropriate, recommend improvements to the Council;
- (f) to review the adequacy of security of information, information systems and recovery plans and, where appropriate, recommend improvements to the Council; and
- (g) to review, monitor, and report to the Council on the adequacy and appropriateness of the Band's insurance coverage respecting significant risks to the Band.

DIVISION THREE - OFFICERS AND EMPLOYEES

Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director)

- 2.32 The Council *shall* appoint a person as the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) of the Band and *shall* set the terms and conditions of that appointment.
- 2.33 Reporting to the Council, the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) is responsible for leading the planning, organization, implementation and overall management of all the day-to-day operations of the Band including the following duties:
- (a) to oversee, supervise and direct the activities of all officers and employees of the Band;
 - (b) to oversee and administer the contracts of the Band;
 - (c) to liaise with legal counsel, government officials, and contractors and agents of the Band;
 - (d) to hire such employees of the Band as the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) considers necessary, at the recommendation of the Program Managers (Directors or Coordinators);
 - (e) to perform any other duties of the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) under these regulations;
 - (f) to assume the duties and responsibilities of the Chief Financial Officer, if one has not been appointed by the Council; and
 - (g) to carry out any other activities specified by the Council that are not contrary to these regulations or inconsistent with the Band Manager's duties specified in these regulations.
- 2.34 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *may* assign the performance of any of the Band Manager's duties or functions
- (a) to an officer or employee of the Band; and
 - (b) with the approval of the Council, to a contractor or agent of the Band,
- provided that the person reports directly to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or, in the absence of the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), to the Council.
- 2.35 Any assignment of duties or functions under subsection 2.34 does not relieve the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations

or Executive Director) of the responsibility to ensure that these duties or functions are carried out properly.

Human Resources Officer

2.36 The Council *may* appoint a person as human resources officer of the Band and *shall* set the terms and conditions of that appointment.

2.37 Reporting to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), the human resources officer is responsible for the overall management, organization and implementation of all of the Band's human resources, in accordance with the human resources manual, including the following duties:

- (a) to develop and recommend to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the Band;
- (b) to prepare and recommend to the Council for approval, the powers, duties and functions of all employees of the Band;
- (c) to pre-screen candidates and make recommendations to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) regarding the hiring of the employees of the Band, and to set the terms and conditions of their employment;
- (d) to prepare, recommend to the Council and maintain and revise as necessary the organization chart referred to in these regulations;
- (e) to perform employee evaluations in accordance with the human resources manual;
- (f) to perform any other duties of the human resources officer under these regulations; and
- (g) to carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the human resource officer's duties specified in these regulations.

2.38 The human resources officer *may*, with the approval of the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), assign the performance of any of the human resources officer's duties or functions

- (a) to an officer, employee or committee of the Band, and
- (b) to a contractor or agent of the Band,

provided that the person reports directly to human resources officer or, in the absence of the human resources officer, to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director).

2.39 Any assignment of duties or functions under subsection (3) does not relieve the human resources officer of the responsibility to ensure that these duties or functions are carried out properly.

Chief Financial Officer

- 2.40 The Council *shall* appoint a person as Chief Financial Officer [“CFO”] of the Band and *may* set the terms and conditions of that appointment.
- 2.41 Reporting to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), the CFO is responsible for the day-to-day management of the systems of the financial administration of the Band including the following duties:
- (a) to administer and maintain the accounts of the Band, including the local revenue account;
 - (b) to ensure that the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
 - (c) to prepare the draft annual budgets;
 - (d) to prepare the monthly, quarterly and annual financial information required by funders;
 - (e) to prepare the financial components of reports to the Council and of any short, medium and long term plans, projections and priorities referred to in these regulations;
 - (f) to actively monitor compliance with any agreements and funding arrangements entered into by the Band;
 - (g) to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;
 - (h) to administer and supervise the maintenance of the records of all receipts and expenditures of the Band to facilitate the annual audit;
 - (i) to identify, assess, monitor and report on financial reporting risks and fraud risks;
 - (j) to monitor and report on the effectiveness of mitigating controls for the risks referred to in paragraph (i) above, taking into consideration the cost of implementing those controls;
 - (k) to actively monitor compliance with all financial aspects of the Band's legal obligations, and with any policies, procedures and directions of the Council respecting the financial administration of the Band;
 - (l) to prepare or provide any documentation and financial information required by the Council or the FAC to discharge its responsibilities;
 - (m) to evaluate the financial administration systems of the Band and recommend improvements;
 - (n) to develop and recommend procedures for the safeguarding of assets, and ensure that approved procedures are followed;
 - (o) to develop and recommend procedures for identifying and mitigating financial reporting and fraud risks, and ensure that approved procedures are followed;
 - (p) to perform any other duties of the CFO under these regulations; and
 - (q) to carry out any other activities specified by the Council that are not inconsistent with the CFO's duties under these regulations.
- 2.42 The CFO *may* assign the performance of any of the duties or functions of the CFO to any officer, employee, contractor or agent of the Band but this assignment does not relieve the CFO of the responsibility to ensure that these duties or functions are carried out properly.

Organizational Structure

- 2.43 The Council *shall* establish and maintain a current organization chart for the governance, management and administrative systems of the Band.
- 2.44 The Band *shall*, in its organization chart, job descriptions, or other written documents, set out the principal powers, duties and functions of all employees of the Band.
- 2.45 On request, the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *shall* provide a copy of the organization chart under subsection 2.43 to a Councillor, a member of a committee, an officer, employee or contractor or agent of the Band and a member of the Band.
- 2.46 In the course of discharging their responsibilities under these regulations, the human resources officer *shall* recommend to the Council, for approval and implementation, human resource policies and procedures that facilitate effective internal financial administration controls.
- 2.47 The Council *shall* take all reasonable steps to ensure that the Band hires or retains qualified and competent personnel people to carry out the financial administration activities of the Band.

DIVISION FOUR - CONDUCT EXPECTATIONS

Conduct of Councillors

- 2.48 When exercising a power, duty or responsibility relating to the financial administration of the Band, a Councillor *shall*
- (a) comply with these regulations, the Act, any other applicable law of the Band and any applicable standards;
 - (b) act honestly, in good faith and in the best interests of the Band;
 - (c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
 - (d) avoid conflicts of interest and comply with the requirements of the MLCN Conflict of Interest Policy.
- 2.49 If it has been determined by a court of competent jurisdiction that a Councillor has contravened this section, the Council *shall* post a public notice of the details of the determination for a period of not less than 31 days as soon as practicable after the contravention was determined.

Conduct of Officers, Employees, Contractors, etc.

- 2.50 Any officer, employee, contractor and agent of the Band, person acting under the delegated authority of the Council or the Band, or member of a committee of the Council or the Band who is not a Councillor, who exercises a power, duty or responsibility relating to the financial administration of the Band *shall*
- (a) comply with these regulations, any other applicable Band law and any applicable standards;

- (b) comply with all policies, procedures and directions of the Council; and
 - (c) avoid conflicts of interest and comply with any applicable requirements of the MLCN Conflict of Interest Policy including required disclosure of potential conflicts of interest.
- 2.51 The Council *shall* incorporate the relevant provision of this section into
- (a) the terms of employment or appointment of every officer or employee of the Band;
 - (b) the terms of every contract of a contractor of the Band;
 - (c) the terms of appointment of every member of a committee who is not a Councillor; and
 - (d) the terms of appointment of every agent of the Band.
- 2.52 If a person contravenes subsection 2.51, the following actions *may* be taken
- (a) an officer or employee *may* be disciplined, up to and including dismissal, in accordance with the human resources manual;
 - (b) a contractor's contract *may* be terminated;
 - (c) the appointment of a member of a committee *may* be revoked; and
 - (d) the appointment of an agent *may* be revoked.

PART III FINANCIAL MANAGEMENT

DIVISION ONE - FINANCIAL PLANS AND ANNUAL BUDGETS

Fiscal Year

- 3.1 The fiscal year of the Band is April 1 to March 31 of the following year.

Multi-Year Financial Plan

- 3.2 In preparation for drafting a multi-year financial plan, the following *shall* take place:
- (a) the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), Chief Financial Officer and Chief and Council *shall* prepare a long term strategic plan based on the last multi-year review. Each year thereafter, the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), Chief Financial Officer and Chief and Council and senior staff will evaluate the First Nation's progress in the previous fiscal year, review the vision, mission and value statements in relation to current and emerging needs and determine what they want the First Nation to accomplish in the following fiscal year.
 - (b) based on these objectives, the Senior Management Team *shall* prepare a general business plan.
 - (c) the program staff *shall* prepare business and work plans including stated goals and objectives, timelines and an evaluation strategy.
- 3.3 No later than March 31 of each year, the Council *shall* approve a multi-year financial plan that
- (a) has a planning period of five (5) years comprised of the current fiscal year and the four (4) succeeding fiscal years; and

- (b) in respect of projected revenues, sets out separate amounts for income from gaming, transfers from Canada or the provincial government, grants, business operations, and proceeds from borrowing.
- 3.4 Any staff member who is unable to meet the stated goals or objectives or the timelines must report the same to his/her Program Manager, Director or Coordinator and indicate the reasons for the delay or failure to perform.
- 3.5 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *shall* provide reports on program progress on a monthly basis. To do so, he/she *may* require narrative and/or statistical reports from the Program Managers (Directors or Coordinators) and financial reports from the finance staff. These *shall* be provided forthwith when requested.
- 3.6 After the Annual Plans [strategic, business, and work plans] have been reviewed and amended, where necessary, they will be consolidated and presented to the Chief and Council by the Program Managers (Directors or Coordinators) for ratification.
- 3.7 Once ratified, the Annual Plans become working documents and will be subject to quarterly reports with comparisons to achievements, actual costs, forecasts and resulting variances.

Accounting Systems

- 3.8 All administrative and financial records of the MLCN will be handled, as follows:
 - (a) the books, records and accounts of the MLCN program, will be kept in accordance with Canadian Generally Accepted Accounting Principles [GAAP];
 - (b) a filing system will be maintained which includes all minutes of the Band Council Meetings, minutes of all community meetings, copies of all band Council motions and resolutions [BCRs], copies of all vouchers and purchase orders, invoices and receipts, bank statements and cancelled cheques and copies of all correspondence sent or received by MLCN, and copies of all funding agreements.
 - (c) a filing system will be maintained which includes all materials related to personnel including but not limited to:
 - i. copies of résumés / curriculum vitae,
 - ii. letters of application,
 - iii. at least three (3) letters of reference (preferably professional as opposed to personal references) or reference checks from as many different sources including the most recent employer,
 - iv. copies of relevant degrees, certificates and diplomas,
 - v. proof of related experience,
 - vi. copies of signed letters of offer and/or contracts,
 - vii. copies of probationary and performance reviews,
 - viii. copies of critical reviews including supporting documentation and follow-up with respect to remedial action,

- ix. any documents/correspondence related to discipline including incident reports, witness and victim impact statements,
 - x. signed timesheets,
 - xi. requests for leave with supporting documentation,
 - xii. employee benefit application forms and beneficiary designations,
 - xiii. a copy of a treaty card (if applicable),
 - xiv. a photocopy of a current driver's licence and SGI abstract of any person that drives Band vehicles and/or transports Band members,\
 - xv. a signed CCRA T4-1 for each employee,
 - xvi. a current (i.e., less than 12 months old) criminal record check and, where appropriate, vulnerable sector check and child abuse registry check or a current declaration with respect to criminal history,
 - xvii. a signed Oath of Confidentiality,\
 - xviii. a current job description,
 - xix. a statement setting out the person's initial placement on salary grid and justification for any movement on the salary grid other than annual increments (i.e., change in education status, promotion, etc.).
- (d) a system for tracking and locating archived personnel files and financial records.

3.9 The accounting system *shall* be maintained daily to record all financial transactions. This system will record

- (a) all receipts and receivables;
- (b) all disbursements; and
- (c) details of employee earnings [year to date income and deductions, current gross and net salary, net compensable leaves, and payroll deductions.

3.10 The accounting staff will adhere to the following regulations:

- (a) all Journal Entries will be dated, numbered and maintained on file in numerical order;
- (b) any Adjusting Journal Entry will explain clearly why the entry is being adjusted;
- (c) an internal review will be made of all Journal Entries on a monthly basis.

3.11 The accounting staff will maintain a General Ledger [GL]:

- (a) A General Ledger will be maintained and updated monthly to facilitate a continual accounting of revenues received, expenses incurred and changes to assets, liabilities and MLCN equity;
- (b) A monthly listing of Accounts Receivable [ARs] and Accounts Payable [APs] will be prepared and balanced to the General Ledger control accounts, where applicable;
- (c) All Adjusting Journal Entries will be posted to the General Ledger control accounts, where applicable;
- (d) The Auditor appointed by the Band Council is responsible for making all year-end closing entries and ensuring that the General Ledger corresponds with the year-end Audited Financial Statements.

- 3.12 The accounting staff will ensure that the following reports are submitted in a timely fashion:
- (a) all financial reports required by funders [narrative and statistical reports are to be compiled by senior program staff];
 - (b) an annual Employee Benefits Report to AANDC;
 - (c) an annual Insurance Renewal Report from the insurance provider to the Band Council and the funders including, but not limited to, AANDC and Health Canada;
 - (d) such other reports as *may* be requested from time to time by the Band Council, the Program Managers, Directors or Coordinators and/or the funders;
- 3.13 The Chief Financial Officer or accounting staff will advise the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Band Council if any statistical, narrative or financial reports are outstanding that *may* compromise future funding.
- 3.14 With respect to Bank Statements:
- (a) The accounting staff will prepare Bank Reconciliation Statements within five (5) days of receipt of the bank statements and cancelled cheques.
 - (b) All cheques returned with the bank statements will be checked for accuracy against the bank statement and sorted in numerical order.
 - (c) The bank statement will be checked to ensure all deposits on the bank statement and the MLCN accounting records agree.
 - (d) All bank transaction fees such as interest, overdraft charges, service charges, etc., will be recorded in the cheque register;
 - (e) The Bank Reconciliation Statements, when completed, will be subject to a monthly internal review. Any discrepancies will be reported forthwith to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Chief.
 - (f) The bank statements and other financial documents will be retained on file by month for a period of at least ten (10) years. The documents will be archived after one (1) year.
 - (g) The returned and cancelled cheques will be filed numerically.
 - (h) The Bank Reconciliation Statements, after being approved by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), will be maintained on file by month with copies being distributed as required.
 - (i) Any documents authorizing transfers between bank accounts will be filed with the Bank Reconciliation Statements for both accounts. Transfers will be authorized by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and at least one other signing authority.
- 3.15 With respect to HRSDC Records of Employment:
- (a) The accounting staff will maintain a supply of HRSDC Records of Employment [ROE] sufficient to meet the First Nation's needs.

- (b) The accounting staff will complete electronic ROEs as required within the time from allowed by HRSDC.
- (c) A copy of all ROEs will be retained on the Employee's personnel file.
- (d) If assistance is required to complete the form, the accounting staff will contact HRSDC directly.
- (e) If the reason for the end of employment is classified as "other" [i.e., if the First Nation wants to leave it up to the Employee to make a case for EI benefits where personal problems resulted in poor performance which led to summary dismissal], the First Nation lawyer should be alerted and any queries from HRSDC with respect to the same directed to him/her.

Content of the Annual Budget

3.16 The annual budget *shall* encompass all the operations for which the Band is responsible and *shall* identify

- (a) each anticipated source of revenue or receipts and estimate the amount of revenue or receipts from each of these sources;
- (b) each anticipated category of expenditure or disbursements and estimate the amount of expenditure or disbursements for each category; and
- (c) any anticipated annual and accumulated surpluses or deficits and the application of year end surpluses.

3.17 The revenue or receipts category of moneys derived from gaming and grant proposals *shall* be shown separately in the annual budget from other revenues.

Annual Budget

3.18 On or before January 31st of each year, each Program Director (Manager, Coordinator) *shall* prepare and submit, to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Chief Financial Officer, a preliminary budget for the operation of their program for the next fiscal year, in accordance with the policies and procedures established by the Band from time to time.

3.19 On or before February 15th of each year, the Chief Financial Officer *shall* prepare and submit to the FAC for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.

3.20 On or before February 28th of each year, the FAC *shall* review

- (a) the draft annual budget and recommend an annual budget to the Council for approval,
- (b) the draft multi-year financial plan and recommend a multi-year financial plan to the Council,
- (c) comments submitted by Band members and *may* recommend to Council revisions to the budget and/or financial plan.

3.21 On or before March 31st of each year, the Council *shall* review and ratify the annual budget for the Band for the next fiscal year.

- 3.22 The Chief and Council will present the budget, audited financial statement and annual report to the Members at a series of community meetings to be held in each Reserve community on or before October 15th.
- 3.23 Once the Annual Budget has been presented to Members, any request for alteration to the budget will require a motion of the Band Council and the motion must include the rationale for the alteration and explain where the money will come from and what the consequences will be.

Additional Requirements for Budget Deficits

- 3.24 The Band Council *shall* make every reasonable effort to ensure that the draft annual budget contains no proposed deficits.
- 3.25 If, after the Council has followed all established practices and procedures and has exercised due diligence, a draft annual budget contains a proposed deficit, the Council *shall* ensure that the multi-year financial plan of the Band demonstrates how and when this deficit will be addressed and how it will be serviced.

Amendments to Annual Budgets

- 3.26 The annual budget of the Band *shall not* be changed without the approval of the Council.

Informing and Involving Members of the Band

- 3.27 The Council *shall* post a public notice of each Council meeting where any of the following is presented for approval:
- (a) the multi-year strategic plan
 - (b) the multi-year financial plan;
 - (c) the annual budget;
 - (d) an amendment to the annual budget, including budget deficits and extraordinary expenditures;
 - (e) capital projects;
 - (f) borrowing for new capital projects; and
 - (g) proposed amendments to these regulations.
- 3.28 Members of the Band *may* attend that part of the Council meeting when the matters referred to in subsection 3.27 are being considered, and the Council *shall* consider any comments made by members in attendance before making a final decision.
- 3.29 A notice provided under subsection 3.27 *shall* state whether and how members *may* be involved in the decision under consideration.

DIVISION TWO - FINANCIAL INSTITUTION ACCOUNTS

Financial Institution Accounts

- 3.30 No account *may* be opened for the receipt and deposit of money of the Band unless the account is
- (a) in the name of the Band;
 - (b) opened in a financial institution, where practicable, located on Reserve; and

- (c) authorized by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer.
- 3.31 Where moneys exist, the Band *shall* establish the following accounts in a financial institution
- (a) a **general account** for money from any sources other than AANDC and Health Canada;
 - (b) a **local revenue account** for money from local revenues, which funds *shall* be kept separate from other moneys of the Band;
 - (c) a **trust account**;
 - (d) a **capital trust fund account**.
- 3.32 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer *may* establish any other accounts not referred to in subsection 3.31 as *may* be necessary and appropriate to manage the Band's financial assets.

Establishment of Capital Trust Funds

- 3.33 The Band *shall* establish the three capital trust funds set out at subsections 3.34, 3.35 and 3.36 below for the purpose of ensuring that the principal portion of all capital revenues are held in perpetuity for future generations of Band members, which funds *may* be invested in accordance with these regulations.
- 3.34 The Band's **Capital Fund** *shall* be established on the following terms and conditions:
- (a) all accumulated investment income *shall* remain in the fund for future investments approved by Council;
 - (b) surplus funds *shall* only be invested in securities issued or guaranteed by Canada or a province, or
 - (c) investments guaranteed by a bank, trust company or credit union;
 - (d) any advance from this fund *shall* bear interest at a rate of 1% above the Bank of Canada's prime rate as of January 1 of the year in which the advance is made; and
 - (e) no withdrawal over \$500,000 *shall* be made from this fund unless it has been approved by a majority of Band members at a duly constituted general meeting.
 - (f) no withdrawal over \$1,000,000 *shall* be made from this fund unless it has been approved by a majority of Band members in a duly constituted referendum.
- 3.35 The Band's **Infrastructure Fund** *shall* be established on the following terms and conditions:
- (a) investments from the fund *shall* be made as follows:
 - i. no withdrawal over \$500,000 *shall* be made from this fund for an infrastructure or tangible capital asset project unless it has been approved by a majority of members at a duly constituted general meeting,
 - ii. no withdrawal over \$1,000,000 *shall* be made from this fund for an infrastructure or tangible capital asset project unless it has been approved by a majority of members in a duly constituted referendum.

- (b) moneys in this fund *shall not* be used to reduce operating deficits or for debt reduction;
- (c) any advance from this fund *shall* bear interest at a rate of 2% below the Bank of Canada's prime rate as of January 1 of the year in which the advance is made, and *shall* be repayable within 15 years;
- (d) surplus funds *shall* only be invested in
 - i. securities issued or guaranteed by Canada or a province, or
 - ii. investments guaranteed by a bank, trust company or credit union; and
- (e) all annual earnings from this fund *shall* be reinvested in this Capital Infrastructure Fund to ensure the availability of funding for future infrastructure development.

3.36 The Band's **Economic Development Fund** *shall* be established on the following terms and conditions:

- (a) moneys held in this fund *shall* only be used for:
 - i. investments in share capital of private and public companies;
 - ii. investments in conventional secured mortgage loans;
 - iii. investments in joint ventures;
 - iv. investments in secured business loans; or
 - v. any other business venture that the Council deems to be economically beneficial to the Band or related entities;
- (b) surplus funds *shall* only be invested in
 - i. securities issued or guaranteed by Canada or a province, or
 - ii. investments guaranteed by a bank, trust company or credit union;
- (c) no withdrawal over \$500,000 *shall* be made from this fund unless it has been approved by a majority of members at a duly constituted general meeting.
- (d) no withdrawal over \$1,000,000 *shall* be made from this fund unless it has been approved by a majority of members in a duly constituted referendum.
- (e) any advance from this fund *shall* bear interest at a rate of 1% above the Bank of Canada's prime rate as of January 1 of the year in which the advance is made and *shall* be repayable within 60 months or within a term approved by the Council; and
- (f) all annual earnings from this fund *shall* be reinvested in this Economic Development Fund to ensure the availability of funding for future economic development.

3.37 As soon as practicable, the Council *shall*, by resolution, allocate all capital revenues into one or more of the trust funds established under this section.

Accounts Management

3.38 The Chief Financial Officer *shall* exercise reasonable due diligence to ensure the safekeeping of all money received by the Band.

3.39 The Chief Financial Officer *shall* ensure that all moneys received by the Band are deposited as soon as practicable into the appropriate accounts described above.

- 3.40 The Council *shall not* authorize payment of money from an account described unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under these regulations.

DIVISION THREE – EXPENDITURES

Prohibited Expenditures

- 3.41 Money or financial assets in a trust account *shall not* be used for a purpose other than that permitted under the terms of the trust.
- 3.42 Money in a local revenue account *shall not* be used for any purpose other than that permitted under a local revenue law.

No Expenditure Without Appropriation

- 3.43 Subject to sections 3.45 and 3.46, money *shall not* be paid out of any account unless the expenditure is authorized under an appropriation [i.e., a contribution agreement, designation, a line item in an approved budget and/or set out in a BCR and recorded in the minutes of the meeting where the appropriation was made].
- 3.44 Subsection 3.43 does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

Extraordinary Expenditures

- 3.45 Notwithstanding subsection 3.46, a quorum of the Council *may* authorize an initial expenditure of up to 5% of the annual budget for a reasonable purpose that was not and could not have been anticipated in the budget if the expenditure is not expressly prohibited by or under these regulations, and, subject to further review, the Council *may* authorize a further expenditure, provided that the total expenditure under this section is no more than 10% of the annual budget.

Emergency Expenditures

- 3.46 Notwithstanding subsection 3.43, a quorum of the Council *may* authorize an expenditure of up to 20% of the annual budget for an emergency purpose that was not anticipated in the budget if the expenditure is not expressly prohibited by or under these regulations or another Band law.
- 3.47 As soon as practicable after making an expenditure under subsection 3.46, the Council *shall* review the expenditure and, where the Council deems it to be necessary and advisable, the Council *may* authorize a further expenditure for that emergency purpose.

Appropriations

- 3.48 An amount that is appropriated in a budget *shall not* be expended for any purpose other than that described in the appropriation.
- 3.49 The total amount expended by the Band in relation to an appropriation *shall not* exceed the amount specified in the budget for the Band for that appropriation.

Payments After Fiscal Year End

- 3.50 Money appropriated in a budget for a fiscal year *shall not* be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.
- 3.51 No money *may* be paid out of any account without
- (a) a requisition for each payment as required under this section; or
 - (b) the existence of an annual or ongoing contract for goods or services, the payments under which have been approved by the Chief Financial Officer or Council in accordance with the budget.
- 3.52 No requisition *may* be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.
- 3.53 No requisition *may* be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it will not be sufficient to meet the commitments chargeable against it.
- 3.56 A requisition *may* apply to one or more expenditures chargeable against one or more appropriations.
- 3.57 A requisition *shall* identify the appropriation or trust account out of which payment is to be made and *shall* be signed by the applicable Program Director (Manager or Coordinator).
- 3.58 If a requisition is for the payment of performance of work or services or the supply of goods, the requisition *shall* include a statement by a director confirming that
- (a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable, or
 - (b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.
- 3.59 The Council *shall* authorize payment out of, or sign a requisition for payment from, a trust account, a local revenue account, any account described in these regulations, and any appropriation.

Form of Payment

- 3.60 Payments by the Band *may* be made by impress fund, cheque, draft, electronic transfer or other similar instrument signed or authorized by any two (2) authorized signatories.

DIVISION FOUR - GENERAL MATTERS

Financial Management Practices and Controls

- 3.61 The Band *shall*, through the Financial Planning Policy, establish and follow sound financial management practices and controls.

Write Off and Extinguishment of Debts

- 3.62 The Chief Financial Officer *may* write off or extinguish all or part of a debt or obligation of up to \$500 that is owed to the Band so long as it does not conflict with these regulations, any other applicable law or instrument, or the policies, procedures or directions of the Council.
- 3.63 All or part of a debt or obligation in excess of \$500 that is owed to the Band *may* be written off or extinguished only
- (a) if approved by the Council, or
 - (b) if done under the authority of a policy or direction of the Council.

DIVISION FIVE - BORROWING

Limitations on Borrowing

- 3.64 Except as specifically authorized in these regulations, the Band *shall not* borrow money or grant security.
- 3.65 The Council *may* authorize
- (a) a Councillor and the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director); or
 - (b) a Councillor and the Chief Financial Officer
 - (c) to borrow moneys or grant security in the name of the Band, as specifically approved by the Council, or in accordance with the policies, procedures or directions made by the Council.

Financial Agreements

- 3.67 If recommended by the FAC for the purpose of efficient management of the Band's financial assets, the Council *may* enter into agreements with financial institutions and related services agreements in the name of the Band.

Borrowing for Repayment of Debts

- 3.68 The Band *may not* borrow money to repay or refinance a debt of the Band, unless the Chief Financial Officer prepares a report stating it is in the best interests of the Band to do so.

Use of Borrowed Money

- 3.67 Subject to this section and any local revenue law, money borrowed by the Band for a specific purpose *shall not* be used for any other purpose.
- 3.68 All or some of the money borrowed for a specific purpose by the Band and not required to be used immediately for that purpose *may* be temporarily invested in accordance with these regulations until required for that purpose.
- 3.69 If some of the money borrowed for a specific purpose is no longer required for that purpose, that money *shall* be applied to repay the debt from the borrowing as soon as is practicable.

Execution of Security Documents

3.70 Subject to subsection 3.71, a security granted by the Band *shall* be signed by the Chief, the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *and* the Chief Financial Officer.

- 3.71 A security granted by the Band in respect of local revenues *shall* be signed by
- (a) a quorum of the Council;
 - (b) the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director); and
 - (c) the Chief Financial Officer.

Operational Controls

3.72 The Council *shall* establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of the Band's operations.

3.73 The Council *shall* review the auditor's opinion on the adequacy of the accounting procedures and internal control measures employed to preserve and protect the Band's financial assets and *shall* consider all of the auditor's recommendations.

DIVISION SIX - FINANCIAL REPORTS

Financial Reports

3.74 The accounting staff *shall* prepare financial reports for the previous month and present them on or about the fifteenth of the following month. The financial report will include:

- (a) An Expenditure Report:
 - i. Current Month Expenditure;
 - ii. Current Year to Date Expenditures;
 - iii. Projected Expenditures for Balance of Year;
 - iv. Total Current and Projected Expenditures;
 - v. Approved Annual Budget;
 - vi. Variances Between Expenditures and Year to Date Budget;
 - vii. Current Month Variance, if any;
 - viii. An explanation of any Variances.
- (b) A Revenue Report:
 - i. Current Month Revenue;
 - ii. Year to Date Revenue;
 - iii. Total Projected Revenue;
 - iv. An Explanation, if necessary.
- (c) A Surplus / Deficit Summary.
 - i. The accounting staff will conduct a monthly internal review of the financial reports and report any discrepancies against the projected expenditures / revenue to the Band Manager (Chief Administrative Officer, Chief

Executive Officer, Director of Operations or Executive Director) and the Band Council.

- ii. The accounting staff will suggest solutions to deal with any budget variances to the Band Council.

- 3.75 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or Chief Financial Officer will present the monthly financial reports to the Chief and Council for their review and discussion.
- 3.76 All decisions by the Chief and Council in regards to budget variances will be maintained on file and as well as records of any action taken by the staff to address the same.
- 3.77 The accounting staff will retain copies of all Monthly Financial Statements on file.
- 3.78 With respect to Financial Correspondence and Band Council motions and resolutions [BCRs]:
- (a) The accounting staff will be responsible for maintaining on file all Band Council motions or resolutions that affect the accounting records, such as bank transfers, program transfers, bank loans, capital purchases, tender proposals, etc.
 - (b) The accounting staff will be responsible for maintaining on file all correspondence that affects the accounting records of the MLCN;
 - (c) The accounting staff will be responsible for maintaining on file all contracts and legal documents that affect the financial affairs of the MLCN.
- 3.79 With respect to Reports to Funders:
- (a) The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) will ensure that all financial reports required by funding agencies are completed and submitted on time;
 - (b) All financial reports will be signed by the Chief Financial Officer (or Finance Clerk) and approved by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director).
 - (c) The accounting staff will retain copies of all funding agency reports filed by agency [i.e., MSS and AANDC] and date [i.e., reverse chronological order].
 - (d) Quarterly financial reports *shall* be submitted to the FAC, Chief and Council and to the funders in the form and with the required content within 45 days of the end of each quarter.
 - (e) Program staff *shall* be responsible for preparing all other reports (i.e., narrative and statistical reports) and submitting them in a timely fashion.

DIVISION SEVEN - PAYDAYS & SALARY ADVANCES

Paydays and Salary Advances

- 3.80 Pay days will be every second Thursday (bi-weekly), 26 times per year.
- 3.81 Early releases of monies already earned will be dealt with as per the MLCN Personnel Policy Manual.

- 3.82 Overpayments will be dealt with as per the Personnel Policy Manual.
- 3.83 All salary cheques will be supported by a time sheet signed off by the employee's immediate supervisor, and will be retained on file with any supporting documentation, by cheque number.

DIVISION EIGHT – CASH AND CHEQUES

Receipts

- 3.84 A receipt, completed at least in duplicate, on pre-numbered forms, *shall* be issued for all cash received. The original *shall* be given to the payee, and the duplicate *shall* be retained as a permanent record of the amount, the date, the source and the purpose of the payment. All pre-numbered receipts *shall* be accounted for.
- 3.85 All cash and cheques received *shall* be deposited without undue delay, in the chartered bank, which has been designated by the Band Council.
- 3.86 **No funds received by the First Nation are to be deposited to the credit of an individual nor cashed and the monies retained by an individual.**

DIVISION 9 - PURCHASES

Purchases

- 3.87 Purchases *may* be approved by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director), provided that:
- (a) The necessary funds were identified in the budget;
 - (b) The goods or services are/were required for program and service delivery;
 - (c) The purchase is made in accordance with regulations and procedures established by the Band Council; or
 - (d) The decision is recorded in the minutes of the Band Council if the purchase is for an amount over \$5,000.00 or was not included in the approved budget.
- 3.88 Without relinquishing their responsibility for the control of finances, the Band Council has delegated some authority to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Chief Financial Officer (or Finance Clerk) to jointly approve purchases up to a limit of \$5,000.00 where they fall within the approved budget.
- 3.89 All purchases of supplies and services are to be authorized in writing by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer (or Finance Clerk), through a purchase order forwarded to the supplier, and the duplicate and triplicate copies *shall* be retained at the Band office.

- 3.90 The duplicate copy of the purchase order *shall* be attached to the invoice being processed for payment, upon receipt or delivery of the goods and services provided that the quality, quantity, unit price and total charge have been verified.
- 3.91 The triplicate copy of the purchase order *shall* be filed, in numerical order, to facilitate the accounting of all purchase order numbers.
- 3.92 Program Managers, through a purchase order forwarded to the supplier, *shall* be authorized to approve emergency supplies after hours sufficient to provide necessities] in an amount not to exceed \$500.00.
- 3.93 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or Chief Financial Officer are authorized and required to sign all purchase orders. A second signature is required and that *may* include a Program Manager (Director or Co-ordinator).

DIVISION 10 - CHEQUES

Cheques

- 3.94 All cheque requisitions, once completed, must be submitted to the accounting staff.
- 3.95 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or Chief Financial Officer will sign all cheque requisitions. The accounting staff will determine the program to be charged and verify that the necessary funding is available.
- 3.96 Cheques will then be processed and distributed. Salary cheques will be processed and distributed on designated pay days. The latter *may* be done by EFT.
- 3.97 Disbursements or payments *shall* be made by pre-numbered cheques.
- 3.98 All cheque requisitions must have proper and sufficient documentation (copies of purchase orders, original invoices/receipts, signed expense claim forms, signed time sheets, etc.) attached prior to being presented to the designated signing authorities for signature. Without exception, unless the necessary documentation is attached, no cheque will be approved or issued.
- 3.99 All cheques payable to persons or entities other than the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *shall* be signed by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and by one of two designated signing authorities. Cheques made payable to any of the designated signing authorities *shall not* be signed by that particular signing authority. Cheques payable to the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *shall* be signed by two designated signing authorities.

- 3.100 The signing authorities *shall* exercise professional judgement when determining whether or not to sign each cheque. Determining factors should be the presence or absence of proper authorization and supporting documents.
- 3.101 When a cheque is reported lost, destroyed, stolen or has not presented for payment within six (6) months of the date of issue, it *shall* be cancelled and a stop payment notice sent to the bank. A duplicate cheque *may* then be issued, provided the payee indemnifies the Band Council and the First Nation against further loss.
- 3.102 All cancelled cheques *shall* be clearly marked “void” and the signature lines removed, then retained on file in numerical order.
- 3.103 Copies of all paid invoices and purchase orders will be marked paid with the date of payment and the cheque number recorded on each. These will then be retained on file in cheque number order. A separate file folder *shall* be retained for each month for easy access and retrieval.
- 3.104 The Chief Financial Officer (or Finance Clerk) will be responsible to maintain an adequate supply of cheques to meet the needs of the First Nation.

DIVISION 11 - EXPENSE CLAIMS

Expense Claims

- 3.105 All staff travel, including travel by band Council Members and Elders for which any expenses will be reimbursed *shall* be pre-authorized in writing by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) or Chief Financial Officer and the approval *shall* indicate what will be covered, the applicable rates and the maximum financial benefit that can be derived.
- 3.106 The travel expense rates, as outlined in the Band approved policies *shall* apply.

Out of Province:

- (a) A *per diem* of \$250.00 per day, plus exchange where applicable. The *per diem* is intended to cover all meals, incidentals and accommodation-related expenses. Where the expense has been approved, a cheque for the per diems will be issued on the last business day prior to departure and the person will be paid one extra day for all travel related to their out of province attendance;
- (b) The actual cost of any airline, bus or train travel will be covered by the First Nation;
- (c) Bus and taxi fare will be reimbursed upon presentation of original receipts;
- (d) When an employee, Council member or Elder is required or authorized to use his/her own vehicle, he/she will be reimbursed at the current mileage rate.

In Province

- (a) When work-related travel (other than travel between ordinary place of residence and place of work) with a personal vehicle is required within an eighty (80) km

[fifty (50) mile] radius of the First Nation Office, there is no per diem payable but mileage and meals will be paid at the rates set out below.

- (b) When work-related travel with a personal vehicle is required beyond a eighty (80) km [fifty (50)] mile radius of the First Nation Office the following per diem rates will apply:
- i. a per diem of \$50.00 for four hours or less outside of ordinary hours of work and of \$100.00 for four or more hours outside of ordinary hours of work
 - ii. an additional ½ day / day for travel *may* be allowed beyond a two hundred and forty (240) km [150 mile] radius of the ordinary place of work.
 - iii. pre-approved private vehicle use: \$0.465/km
 - iv. meal rates:

breakfast	\$13.00
lunch	\$18.00
supper	\$25.00
 - v. incidentals: (per overnight trip) \$15.00
 - vi. accommodation:

(hotel – no receipt)	\$125.00
(hotel – with receipt)	cost recovery
(private home)	\$35.00

3.107 All travel claims must be signed by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) prior to being submitted for reimbursement and accompanied by supporting documentation.

3.108 When using Band-owned vehicles, travel expenses will be reimbursed based on actual gas receipts provided those correspond to the consumption expected for strictly work-related travel and no personal use which use is strictly prohibited.

3.109 Pursuant to the Personnel Manual, failure to attend a meeting, conference or workshop in whole or in part, unless authorized to do so, will mean that no expenses will be paid for any travel, accommodation, meals, incidentals, per diems, registration fees, etc. and any that have been disbursed will be recovered from the Employee, Band Council member or Elder.

DIVISION 12 - INVENTORIES

Inventories

3.110 Inventories of all equipment and supplies owned by MLCN *shall* be maintained. If any equipment is provided to employees or Band Council members, it is intended for work-related purposes only and the Employee or band Council Member will be personally liable for making good [replacement or repair] any loss or damage to the article, normal wear and tear accepted.

3.111 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) *shall* obtain adequate insurance coverage: all peril insurance, including anti-theft, to adequately protect the capital assets of the First Nation including the contents and replacement value of the buildings; liability insurance, and errors and omissions insurance for professional employees.

DIVISION 13 – RISK MANAGEMENT

Risk-Management of For-Profit Activities

- 3.112 Subject to subsections 3.113 and 3.114, the Band *shall not*
- (a) carry on business as a proprietor;
 - (b) acquire an interest in a partnership as a general partner; or
 - (c) act as a trustee respecting property used for, or held in the course of, carrying on a business.
- 3.113 The Band *may* carry on a business that
- (a) is ancillary or incidental to the provision of programs or services or other functions of the governance of the Band; or
 - (b) derives income from the granting of a lease or license of or is in respect of an interest in, or natural resources on or under, the Band's lands or lands owned in fee simple by or in trust for the Band, or any other property of the Band.
- 3.114 The Band *may* carry on business activities for the primary purpose of profit *if* the Council determines that the business activities
- (a) do not result in a material liability for the Band; or do not otherwise expose the Band's financial assets, property or resources to significant risk as evidenced by a risk vs benefit analysis. Various factors should be considered:
 - i. **Event:** What could happen?
 - ii. **Probability:** How likely is it to happen?
 - iii. **Impact:** How bad will it be if it happens?
 - iv. **Risk = Probability x Impact**
 - v. **Mitigation:** How can you reduce the Probability (and by how much)?
 - vi. **Contingency:** How can you reduce the Impact (and by how much)?
 - vii. **Reduction = Mitigation x Contingency**
 - viii. **Exposure = Risk – Reduction**
- 3.115 The Council *may* impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

Guarantees and Indemnities

- 3.116 The Band *shall not* give a guarantee unless the Council has considered the report of the Chief Financial Officer set out in s. 3.117.
- 3.117 Before the Council authorizes a guarantee under subsection (1), the Chief Financial Officer *shall*, after consulting with and receiving recommendations from the FAC, prepare a report for Council identifying any risks associated with giving the guarantee and assessing the ability of the Band to honour the guarantee should it be required to do so.
- 3.118 The Band *shall not* give an indemnity unless it is
- (a) authorized to do so pursuant to a Band Council Resolution to provide an indemnity to a named representative of the Band, a category of representatives of

- the Band or all representatives of the Band in accordance with the terms specified in the resolution;
- (b) necessary and incidental to and included in another agreement to which the Band is a party; or
 - (c) in relation to a security granted by the Band that is authorized under these regulations or another law of the Band.

3.119 Subject to a Band Council Resolution, the Council *shall* establish policies or procedures or give directions respecting guarantees and indemnities as follows:

- (a) specifying circumstances under which an indemnity *may* be given without Council approval;
- (b) designating the persons who *may* give an indemnity on behalf of the Band and specifying the maximum amount of any indemnity which *may* be given by them;
- (c) specifying any terms or conditions under which a guarantee or indemnity *may* be given; and
- (d) specifying the records to be maintained of all guarantees and indemnities given by the Band.

Authority to Invest

3.120 Except as specifically authorized in these regulation, the Band *shall not* invest the Band's financial assets.

3.121 The Council *may* authorize the Chief Financial Officer to invest the Band's financial assets

- (a) as specifically approved by the Council; or
- (b) on the recommendation of the FAC and, where the FAC deems necessary, with the advice of a financial planner.

Approved Investments

3.122 Money in a trust account or capital trust fund that is not immediately required for expenditures *may* be invested by the Band in one or more of the following:

- (a) securities issued or guaranteed by Canada, a province or the United States of America,
- (b) fixed deposits, notes, certificates and other short term paper of, or guaranteed by a financial institution including swaps in United States of America currency,
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada,
- (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two recognized security-rating institutions,
- (e) any class of investments permitted under an Act of a province relating to trustees, or
- (f) any other investments or class of investments prescribed by a regulation under the Act.

3.123 If the Band has established an investment account under section 3.122, the Band *may* invest money in that account in

- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which the Band is a shareholder;
- (b) a trust in which the Band is a beneficiary; or
- (c) a limited partnership in which the Band is a partner.

3.124 Despite any other provision in this section, government transfer funds and local revenue funds *may* only be invested in the following, all of which *shall* mature or be callable within five years, and 25% of which *shall* be callable within 90 days

- (a) securities issued or guaranteed by Canada or a province,
- (b) investments guaranteed by a bank, trust company, or credit union, or
- (c) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union.

Investments in Member Activities

3.125 The Band *may* only make a loan to a member of the Band or to an entity in which a member of the Band has an interest if the loan is made from a program of the Band that has been approved by the Council and that meets the requirements of this section.

3.126 Before the Council establishes a program under this section, the Chief Financial Officer *shall* prepare a report for Council identifying any risks associated with the program and the costs of administering the program.

3.127 A program referred to in subsection 3.125 *shall* satisfy the following criteria:

- (a) the program *shall* be universally available to all members of the Band;
- (b) the terms and conditions of the program *shall* be published and accessible to all members of the Band;
- (c) all loans made from the program and all payments received from those loans *shall* be set out in an annual report that includes details about the amounts loaned, the purposes of the loans, the names of those receiving a loan and repayments of principal and interest on the loans; and
- (d) all loans *shall* be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

3.128 The Council *shall* make policies or procedures or give directions for the operation of the program referred to in this section.

Administration of Investments

3.129 The Council, on the recommendation of the FAC and in accordance with these regulations, *may* do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.

3.130 The Council *shall* establish policies or procedures or give directions respecting the terms and conditions under which loans *may* be made including a requirement that all loans be

recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

Risk Assessment and Management

- 3.131 At least annually, and more often if necessary, the FAC, with input from the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer, *shall* identify and assess
- (a) any significant risks to the Band's financial assets;
 - (b) any significant risks to the Band's tangible capital assets as defined in Part IV;
 - (c) any significant risks to the Band's operations; and
 - (d) the adequacy of the Band's insurance coverage.

Insurance

- 3.132 On recommendation of the FAC, the Council *shall* procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified pursuant to these regulations and any other risks associated with any assets, property or resources under the ownership, care or control of the Band.
- 3.133 The Council *may* purchase and maintain insurance for the benefit of a Councillor or an officer or their personal representatives against any liability arising from that person being or having been a Councillor or an officer.

DIVISION 14 – AUDIT

Annual Financial Statements

- 3.134 At the end of each fiscal year the Chief Financial Officer *shall* prepare the annual financial statements of the Band for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.
- 3.135 The annual financial statements *shall* include the following information
- (a) the financial information of the Band and its related bodies for the fiscal year; and
 - (b) the financial information for the local revenue account that is required to meet the AANDC's Local Revenue Account Financial Reporting Standards.
- 3.136 The annual financial statements *shall* include the following special purpose reports:
- (a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;
 - (b) a report setting out the information required in the section titled Reporting of Remuneration, Expenses and Contracts;
 - (c) a report setting out all debts or obligations forgiven by the Band in accordance with these regulations;
 - (d) a report setting out the details of all loans from program monies including details about the amounts loaned, the purposes of the loans, the names of those receiving a loan and repayment of the principal and interest on the loans.
 - (e) any other report required under the Act or an agreement.

- 3.137 Where possible, the Chief Financial Officer *shall* provide draft annual financial statements to the FAC for review within 60 days following the end of the fiscal year for which they were prepared.
- 3.138 The FAC *shall* present draft annual financial statements to the Council for review within 90 days following the end of the fiscal year for which they were prepared.

Appointment of Auditor

- 3.139 At an annual general meeting, the Council *shall*, by resolution, appoint an auditor to hold office for each fiscal year until the date the auditor's successor is appointed. The terms and conditions of the appointment of the auditor *shall* be set out in an engagement letter signed by the Council and *shall* include the auditor's obligation to confirm that the annual financial statements and the audit of them comply with these regulations, the Act, and AANDC standards, and all other applicable laws.
- 3.140 To be eligible for appointment as the auditor of the Band, an auditor *shall*
- (a) be a member in good standing of the Canadian Institute of Chartered Accountants, or an association of accountants or auditors incorporated under the laws of a province or territory, and
 - (b) be independent of the Band, its related bodies, Councillors, officers and members.

Audit Requirements

- 3.140 The auditor *shall* audit the annual financial statements of the Band in accordance with GAAS and with any applicable AANDC reporting requirements.
- 3.141 When conducting the audit, the auditor *shall* provide to the Council a management letter containing
- (a) an audit opinion of the annual financial statements;
 - (b) an audit opinion or review comments on the special purpose reports referred to in subsection 3.136; and
 - (c) a general review and opinion of the adequacy of the accounting procedures and internal control measures employed to preserve and protect the Band's financial assets.

Auditor's Authority

- 3.142 To conduct an audit of the annual financial statements of the Band, the auditor *shall* be given access to all records of the Band for examination or inspection and given copies of these records on request; and any Councillor, officer, employee, contractor or agent of the Band to ask any questions or request any information.
- 3.143 Upon the request of the auditor, every person referred to in subsection 3.142 *shall* make available all records referred to in paragraph (1)(a) that are in that person's care or control; and provide the auditor with full information and explanation about the affairs of the Band as necessary for the performance of the auditor's duties.
- 3.144 The auditor *shall* be given notice and minutes of, and any other communication relating to

- (a) every meeting of the FAC;
- (b) every Council meeting where matters relating to the annual audit, including the approval of the annual financial statements, will be considered; and
- (c) every meeting of members of the Band where the financial administration of the Band will be considered.

3.145 The notice under subsection 3.144 *shall* be the same as that provided to a Councillor or member, as the case *may* be.

3.146 Subject to subsection 3.148, the auditor *may* attend any meeting for which the auditor *shall* be given notice under this section and *shall* be given the opportunity to be heard at those meetings on any subject that concerns the auditor as auditor of the Band.

3.147 The auditor *may* call a meeting of the FAC to discuss any subject that concerns the audit of the Band.

3.148 The auditor *may* be excluded, by a recorded vote, from all or any part of a meeting of the FAC or the Council to which the auditor has been invited, if the subject matter relates to the retaining or dismissal of the auditor.

Review of Audited Annual Financial Statements

3.149 The audited annual financial statements *shall* be provided to the FAC for its review and consideration no later than 105 days after the fiscal year end for which the statements were prepared.

3.150 The Council *shall* review and approve the audited annual financial statements no later than July 29 of the fiscal year for which the statements were prepared.

Access to Annual Financial Statements

3.151 Before the annual financial statements *may* be published or distributed, they *shall*

- (a) be approved by the Council;
- (b) be signed by
 - i. a quorum of the Council, including the Chief of the Band,
 - ii. the Chair of the FAC, and
 - iii. the CFO; and
- (c) include the auditor's audit report of the annual financial statements and the auditor's audit opinion or review comments of the special purpose reports referred to in these regulations.

3.152 The audited annual financial statements and special purpose reports *shall* be presented to the members of the Band at the annual general meeting; and available for inspection by members of the Band at the principal administrative offices of the Band during normal business hours.

Annual Report

- 3.153 Not later than 120 days after the end of each fiscal year, the Council *shall* prepare an annual report on the operations and financial performance of the Band for the previous fiscal year.
- 3.154 The annual report referred to above *shall* include the following:
- (a) a description of the services and operations of the Band;
 - (b) a progress report on any established financial objectives and performance measures of the Band;
 - (c) the audited annual financial statements of the Band for the previous fiscal year including special purpose reports (see 3.136).; and
 - (d) program reports.
- 3.155 The annual report referred to above *shall* be made available to members of the Band at the principal administrative offices of the Band.

Audit

- 3.156 The Chief and Council will engage an Auditor to audit the First Nation's financial records at the fiscal year end. The draft audit *shall* be completed and submitted to the FAC and Chief and Council on or before June 30th, for the fiscal year ending proceeding March 31st. The Auditor's report should provide an opinion with respect to the financial statements and advise whether those have been prepared in accordance with Generally Accepted Accounting Principals, whether they are free of material misstatements, and whether they show a true and fair view of the operating results, financial position and cash flows of the First Nation.
- 3.157 The following terms and conditions *shall* form part of the engagement letter with the Auditor:
- (a) The audit will be conducted in accordance with accepted accounting principles [GAAP], and is to include a general review of accounting procedures, and such tests of accounting records as the Auditor considers necessary and appropriate in the circumstances.
 - (b) The Auditor will have the right of access at all reasonable hours to the accounting records, supporting vouchers and documents, including minutes of Chief and Council meetings, and will perform the audit at the First Nation office.
 - (c) Financial statements are to report all Band financial activities under the authority of the Chief and Council, and will consist of:
 - i. a description of the audit work performed and identify the responsibilities of the Auditor and the First Nation in relation to the financial statements;
 - ii. detail the scope of the audit work, provide a general description of the work and examples of the procedures performed and any limitations the audit faced based on the nature of the work;
 - iii. a balance sheet;
 - iv. a statement of revenue and expenditures;
 - v. details of surplus or deficits;
 - vi. a consolidated balance sheet and statement of revenue and expenses;

- vii. the Auditor is required to express an opinion as to the accuracy of the financial statements as a reflection of the financial position of the First Nation's financial records, in accordance with GAAP. The Auditor *shall* also state any recommendations that the First Nation should follow thereafter. Where applicable, the Auditor should provide an explanation of any reasons for the qualified or adverse opinion.

3.158 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer (or Finance Clerk) are responsible for ensuring that all financial records are completed and ready for audit as soon as possible after the fiscal year end (no later than May 15th each year to ensure the timely preparation of the year end audit).

3.159 The Chief Financial Officer (or Finance Clerk) will have available for the Auditors all records and documentation required for a timely and cost effective audit, such as:

- (a) Receipt, payment and purchase order journals;
- (b) General and subsidiary ledgers;
- (c) Band Council motions, resolutions and minutes
- (d) Correspondence, letters of offer, contracts of employment, contracts for goods or service, final releases, etc.
- (e) Cancelled cheques, bank statements and reconciliations;
- (f) Receipts, deposits, purchase orders books or separation slips;
- (g) Payroll records and T-4 documentation;
- (h) Grant documentation and budgets;
- (i) A list of receivables/payable as of March 31st.
- (j) Schedule of salaries, honoraria and travel;
- (k) Inventory list;
- (l) Adjusting journal entries;
- (m) All monthly statements and reports;
- (n) Any other documentation as requested by the Auditor.

3.160 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer (or Finance Clerk) will meet with the Auditors no later than March 31st each year to discuss information that will be required by the Auditors for the audit. The Chief Financial Officer (or Finance Clerk) will be responsible to ensure all information required for the audit is available prior to the audit being done.

3.170 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and Chief Financial Officer (or Finance Clerk) will arrange a date for the audit to commence and establish a date by which the draft audit must be ready for presentation to the Chief and Council. Once these have been arranged, a letter of engagement must be prepared stipulating the time frames and conditions. A copy of this will be maintained on file at the First Nation office.

- 3.171 The Chief Financial Officer (or Finance Clerk) and accounting staff will ensure that they are available as required by the Auditors during the audit period.
- 3.172 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) and the Chief Financial Officer (or Finance Clerk) will review the draft audit with the Auditors to ensure its accuracy prior to review with the Chief and Council.
- 3.173 The Chief Financial Officer (or Finance Clerk) and the Auditor will review the draft audit with the Chief and Council. Once the Chief and Council is satisfied that the audit reflects accurately the financial situation of the First Nation the Auditor will be directed to prepare the audit for the Chief and Council' ratification.
- 3.174 When the audit is finalized, it will be ratified and signed by the Chief and Council.
- 3.175 Copies of the signed audit will be distributed to funding agencies, as approved by the Chief and Council.
- 3.176 The Accountant will be responsible to maintain a copy of the signed audit on file.
- 3.177 The Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) will review the management letter from the Auditor and Chief and Council will provide the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director) with direction to deal with any concerns.
- 3.178 The Accountant will make all necessary adjustments to the General Ledger to ensure it accurately reflects the opening balances for the new fiscal year.
- 3.179 The Accountant will implement all necessary changes arising from the management letter from the Auditor as directed by the Band Manager (Chief Administrative Officer, Chief Executive Officer, Director of Operations or Executive Director).
- 3.180 The audit will be presented to the General Membership at a General Membership Meeting or otherwise made available to the General Membership, as directed by the Chief and Council.

DIVISION 15 - INFORMATION AND INFORMATION TECHNOLOGY

Ownership of Records

- 3.181 All records of the Band that are produced by or on behalf of the Band or kept, used or received by any person on behalf of the Band are the property of the Band.
- 3.182 The Council *shall* establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of the Band.

Operations Manual

- 3.183 The Band Manager *shall* prepare and maintain a current operations manual respecting every element of the Band's administrative systems, including any financial administration systems referred to in these regulations.
- 3.184 The operations manual under subsection 3.184 *shall* be made available to Councillors, members of the FAC and all other Council committees and officers and employees of the Band, subject to reasonable exceptions determined at the discretion of the Band Manager.
- 3.185 If any part of the operations manual under subsection 3.184 is relevant to the services being provided by a contractor or agent of the Band, that part of the operations manual *may* be made available to the contractor or agent.

Record Keeping and Maintenance

- 3.186 The Chief Financial Officer *shall* ensure that the Band prepares, maintains, stores and keeps secure all records of the Band that are required under these regulations or any other applicable law.
- 3.187 No record of the Band *shall* be destroyed or disposed of except as permitted and in accordance with these regulations, any other applicable law, and the policies, procedures or directions of the Council. **Any person responsible for shredding or otherwise destroying Band records shall not be allowed to run for elected office for three (3) terms or work for the Band for seven (7) years.**
- 3.188 Subject to subsection 3.189, all HR and financial records *shall* be stored for at least seven years after they were created.
- 3.189 The Band *shall* keep in its financial records an original copy of every set of audited annual financial statements.
- 3.190 The Council *shall* establish policies and procedures or give directions respecting access of any person to the Band's records.

Confidentiality of Information

- 3.191 No person *may* be given access to records of the Band containing confidential information except as permitted in and in accordance with the policies, procedures and directions of the Council, and all applicable privacy laws.
- 3.192 All persons who have access to records of the Band *shall* comply with all policies, procedures or directions of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Information Technology

- 3.193 The Council *shall* establish policies or procedures or give directions respecting information technology used by the Band in its operations to ensure the integrity of the Band's financial administration system and its database.

PART IV CAPITAL PROJECTS

Band Council's General Duties

- 4.1 The Council *shall* take reasonable steps to ensure that
- (a) the Band's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;
 - (b) the rehabilitation, maintenance or replacement of the Band's tangible capital assets is done in accordance with section 4.3; and
 - (c) capital projects for the construction of buildings or other improvements are financed, planned; managed and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of the Band's lands are located.

Reports on Capital Projects

- 4.2 At least quarterly, the Chief Financial Officer *shall* report to the FAC on the following subjects:
- (a) the status of a capital project including
 - i. year to date borrowings, loans and payments,
 - ii. a comparison of expenditures to date with the project budget,
 - iii. a detailed description of any identified legal, financial, technical, scheduling or other problems, and
 - iv. the manner in which a problem identified in subparagraph (iii) has been or will be addressed; and
 - (b) any steps taken to ensure compliance with subsection 4.1 for every capital project.

Life-Cycle of Tangible Capital Assets Management Program

- 4.3 The Band Manager *shall* establish and keep current a register of all the Band's tangible capital assets that identifies each of these assets and includes the following information
- (a) location and purpose of the asset;
 - (b) ownership and restrictions over ownership of the asset;
 - (c) year of acquisition;
 - (d) last inspection date of the asset;
 - (e) expected life of the asset at the time of acquisition;
 - (f) assessment of condition of the asset and its remaining useful life;
 - (g) estimated residual value of the asset;
 - (h) insurance coverage for the asset; and
 - (i) any other information required by the Council.
- 4.4 On or before December 31 of each year, the Band Manager *shall* arrange for the inspection and review of the state of each of the Band's tangible capital assets to establish or update information respecting the following matters, as applicable
- (a) its present use;
 - (b) its condition and state of repair;
 - (c) its suitability for its present use;
 - (d) its estimated remaining life;
 - (e) its estimated replacement cost;

- (f) estimated dates and costs of its required future rehabilitation;
- (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five fiscal years;
- (h) maintenance records for all periods up to the date of inspection; and
- (i) property and liability insurance covering the capital asset and its use or operation.

4.5 On or before December 31 of each year, the Chief Financial Officer *shall* prepare and provide to the FAC the following:

- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of the Band's tangible capital assets for the next fiscal year;
- (b) and 10 year forecasts and, where applicable, 30 year forecasts of the estimated cost for maintenance, rehabilitation, or replacement of the Band's tangible capital assets;
- (c) the proposed budget for rehabilitation of the Band's tangible capital assets for the next fiscal year, setting out
 - i. each proposed rehabilitation project and its schedule,
 - ii. the estimated cost, including contingencies of each proposed rehabilitation project, and
 - iii. the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project,
- (d) the proposed budget for replacement of the Band's tangible capital assets for the next fiscal year setting out
 - i. each proposed replacement project and its schedule,
 - ii. the description of each asset to be replaced,
 - iii. the estimated cost, including contingencies, of each proposed replacement project, and
 - iv. the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by Finance and Audit Committee

4.6 Each year, on or before the earlier of January 15, or AANDC's deadline for submitting a capital plan or capital plan update, the FAC *shall* review the information, schedules and budget prepared under subsection 4.5 for the following purposes

- (a) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;
- (b) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and
- (c) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.

4.7 On or before January 15 of each year, the FAC *shall* review, and make recommendations to the Council regarding, any plans for new construction of the Band's tangible capital assets including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital Projects - Contracts and Tenders

- 4.8 The FAC, with the approval of the Council, *shall* establish policies or procedures or give directions respecting the management of capital projects including the following
- (a) project planning, design, engineering, safety and environmental requirements;
 - (b) project costing, budgeting, financing and approval;
 - (c) project and contractor bidding requirements;
 - (d) tender, contract form and contract acceptance;
 - (e) course of construction insurance;
 - (f) project performance guarantees and bonding;
 - (g) project control, including contract management; and
 - (h) holdbacks, work approvals, payment and audit procedures.
- 4.9 All of the Band's capital projects *shall* be managed in accordance with the policies, procedures or directions referred to in subsection (1).

Capital Project Consultants

- 4.10 The Band Manager *may* retain the services of a professional engineer or other consultant to assist the Band Manager, the FAC and the Council to carry out their obligations under this Part.

PART V MISCELLANEOUS

Compliance with Standards

- 5.1 The Band *shall* comply with all applicable accounting standards.
- 5.2 If the Council becomes aware that the Band is not complying with an accounting standard referred to in subsection 5.1, the Council *shall* as soon as practicable take any required actions to bring the Band into compliance with the accounting standard.

Reports of Breaches and Financial Irregularities, etc.

- 5.3 Subject to subsections 5.4 and 5.5, if any person has reason to believe that
- (a) an expenditure, liability or other transaction of the Band is not authorized by or under these regulations or another law of the Band,
 - (b) there has been a perceived theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the Band,
 - (c) a provision of these regulations has been contravened, or
 - (d) a person has failed to comply with the MLCN Conflict of Interest Regulation,

the person *may* disclose the circumstances to the auditor, the Chief, the Chair of the FAC, the Chief Financial Officer or the Band Manager, whoever is most appropriate under the circumstances.

- 5.4 If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor *shall* report them to the auditor, the Chief, the Chair of the FAC, the Chief Financial Officer or the Band Manager whoever is most appropriate under the circumstances.

- 5.5 If an officer, employee, contractor or agent of the Band becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case *may* be, *shall* report them to the auditor, the Chief, the Chair of the FAC, the Chief Financial Officer or the Band Manager, whoever is most appropriate under the circumstances.

Inquiry into Report

- 5.6 If a report is made to under subsection 5.4 or 5.5, the person to whom the report is made *shall* inquire into the circumstances reported and report the findings to the Chair of the FAC as soon as practicable.
- 5.7 The FAC *may* make a further inquiry into any findings reported to it under this section but, in any event, *shall* make a report to the Council respecting any circumstances reported to the FAC under this section including the Committee's recommendations, if any.

Protection of Parties

- 5.8 All reasonable steps *shall* be taken by the CAO, the CFO, the auditor, the members of the FAC and the Council to ensure that the identity of the person who makes a report under section 5.7 is kept confidential to the extent practicable in all the circumstances.
- 5.9 A person who makes a report in good faith under section 5.4 or 5.5 *shall not* be subjected to any form of reprisal by the Band or by a Councillor, officer, employee, contractor or agent of the Band as a result of making that report.
- 5.10 The Band Manager and the Chair of the FAC *shall* take all necessary steps to ensure that subsection 5.9 is not contravened and *shall* report any contravention or suspected contravention to the Council.
- 5.11 The Council *shall* establish policies or procedures or give directions for
- (a) the recording and safeguarding of reports made under section 104 and any records prepared during the inquiry or investigation into those reports;
 - (b) the inquiry or investigation into reports made under section 104; and
 - (c) the fair treatment of a person against whom a report has been made under section 104.

Liability for Improper Use of Money

- 5.12 A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to these regulations is personally liable to the Band for that amount.
- 5.13 Subsection 5.12 does not apply if the Councillor relied on information provided by an officer or employee of the Band and the officer or employee was guilty of dishonesty, negligence or malicious or willful misconduct when providing the information.

- 5.14 An amount owed to the Band under subsection 5.12 *may* be recovered for the Band by the Band, a member of the Band or a person who holds a security under a borrowing made by the Band.
- 5.15 It is a good defence to any action brought against an officer or employee of the Band for unauthorized expenditure, investment or use of the Band's financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in his or her opinion, the expenditure, investment or use would be unlawful.

Indemnification Against Proceedings

- 5.16 Subject to subsection 5.17, the Council *may*, by resolution, provide an indemnity to a named representative of the Band, a category of representatives of the Band or all representatives of the Band in accordance with the terms specified in the resolution.
- 5.17 The Council *shall not* pay a fine that is imposed as a result of the conviction of a representative of the Band for an offence, unless the offence is a strict or absolute liability offence.

Periodic Review of These Regulations

- 5.18 At least every five (5) years, the FAC, working with the Band Manager and the Chief Financial Officer *shall* conduct a review of these regulations to determine if they facilitates effective and sound financial administration of the Band; and to identify any amendments to these regulations that *may* better serve this objective.