

## **METLAKATLA JUSTICE TRIBUNAL TERMS OF REFERENCE**

### **1. PURPOSE**

1.1 To establish and authorize the Metlakatla Justice Tribunal ("Tribunal") to make policies, procedures and rules, necessary to carry out its duties:

- i) pursuant to Section 12 of the Metlakatla Election Code ("Code"), which was approved by referendum of the Members of the Metlakatla First Nation, pursuant to the Indian Act, and
- ii) pursuant to Section 25 of the Metlakatla's Conflict of Interest Policy ("Policy"), which was established under the Metlakatla First Nation Financial Administration Law, 2011, (as amended from time to time) and as set out in the Metlakatla First Nation Human Resources Manual and the Metlakatla Stewardship Society Human Resources Manual.

1.2 To provide an effective, clear and objective forum for resolving:

- i) a) appeals under the Code, and
- ii) b) appeals under the Policy'

1.3 To ensure that greater responsibility regarding self-government issues and conflicts are kept within and controlled by Metlakatla First Nation; and

1.4 To provide a formal dispute process which instills confidence in the Metlakatla First Nation to resolve its own election and conflict of interest disputes.

### **2. ESTABLISHMENT OF TRIBUNAL**

2.1 The Tribunal is hereby established to:

- a) supervise and administer all election appeals in accordance with the provisions established in the Code;
- b) hear, evaluate and determine conflict of interest decisions and orders made under the Conflict of Interest Policy passed pursuant to the *Financial Administration Law* in accordance with the Policy;

- c) establish and amend as necessary, policies, procedures and rules for the operation of the Tribunal, the conduct of the Tribunal's hearings and the carrying out of its duties in a manner that is not inconsistent with these Terms of Reference, the Code and the Policy;
- d) review the Code and Policy from time to time and provide advice and recommendations to Council to improve, update or revise them as may be appropriate; and
- e) carry out such other duties and responsibilities as may be assigned to the Tribunal by Council Resolution or Metlakatla First Nation Law.

### **3. METLAKATLA GOVERNING COUNCIL**

- 3.1 The Metlakatla Governing Council shall appoint members to the Tribunal, including the appointment of a Chair of the Tribunal. No person shall be appointed who is the subject of criminal or professional disciplinary proceedings in any jurisdiction, or who has a criminal or professional disciplinary record in any jurisdiction.

Any person appointed to the Tribunal who is subsequently found to be or have been the subject of criminal or professional disciplinary proceedings in any jurisdiction, or who has a criminal or professional disciplinary record in any jurisdiction shall have their appointment to the Tribunal revoked by the Metlakatla Governing Council and shall no longer serve as a member of the Tribunal.

- 3.2 Council will not be involved in the day to day operations of the Tribunal.
- 3.3 Upon recommendation of the Tribunal, Council may, by resolution or other appropriate procedures, amend, revise, change, grant relief or provide exception to these Terms of Reference, the Policy or the Code.

### **4. COMPOSITION OF TRIBUNAL AND TERM OF OFFICE**

- 4.1 The Metlakatla Justice Tribunal shall be a permanent body made up of more than two (2) but no more than five (5) individuals who are Metlakatla First Nation Members.
- 4.2 In addition, the Executive Director of the Metlakatla Governing Council shall be a non-voting member of the Metlakatla Justice Tribunal and shall act as its administrative Clerk.

- 4.3 The Metlakatla Justice Tribunal shall appoint a Vice-Chair, who shall act as Chair in the absence of the Chair, from among its members.
- 4.4 The Tribunal members shall serve a five year term and shall be appointed based upon criteria developed by Council.

## **5. MEETINGS**

- 5.1 The Tribunal will establish its own rules of procedure, consistent with the Code and among other things, the Tribunal may, at its own discretion, call witnesses, secure legal advice and seek evidence in the course of its review of the grievance, appeal or dispute.

## **6. CONFLICT OF INTEREST**

- 6.1 Tribunal Members shall adhere to the Metlakatla Conflicts of Interest Policy, as it is amended from time to time.

## **7. CONFIDENTIALITY**

- 7.1 Tribunal members will not release information received by them in their work with the Tribunal or information relating to the deliberations, proceedings or other matters of the Tribunal, other than is necessary to render a decision, unless:
- a) the information is public or required to do so under Metlakatla First Nation Law or another applicable law or;
  - b) required to do so by Council resolution.

## **8. ANNUAL REPORT**

- 8.1 The Tribunal shall prepare an annual report to Council summarizing its activities.
- 8.2 The Annual Report shall be submitted to Council within sixty (60) days of the end of each calendar year.

## **9. REVIEW AND AMENDMENT OF TERMS OF REFERENCE**

- 9.1 The Tribunal must review these Terms of Reference annually.
- 9.2 Where the Tribunal recommends amendments to these Terms of Reference, it must do so by resolution of the Tribunal at a duly convened meeting of the Tribunal.

- 9.3 Amendment recommendations pursuant to section 9.2 shall be forwarded to Council for review and if approved become effective on the date established by Council.
- 9.4 Nothing in these Terms of Reference restricts the right of Council to amend these Terms of Reference on its own initiative and without input from the Tribunal.

**10. BINDING NATURE OF DECISIONS**

10.1 A decision or order of the Metlakatla Justice Tribunal is binding upon the Parties to the proceeding before the Metlakatla Justice Tribunal.

Dated this \_\_\_\_\_ day of September, 2013

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Harold Leighton - Chief

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Wayne J Haldane

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Alrita J Leask

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Alvin W Leask, Jr

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David J Leask

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James L Nelson

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Cynthia Smith