

# A2

FINANCIAL ADMINISTRATION LAW

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STANDARDS



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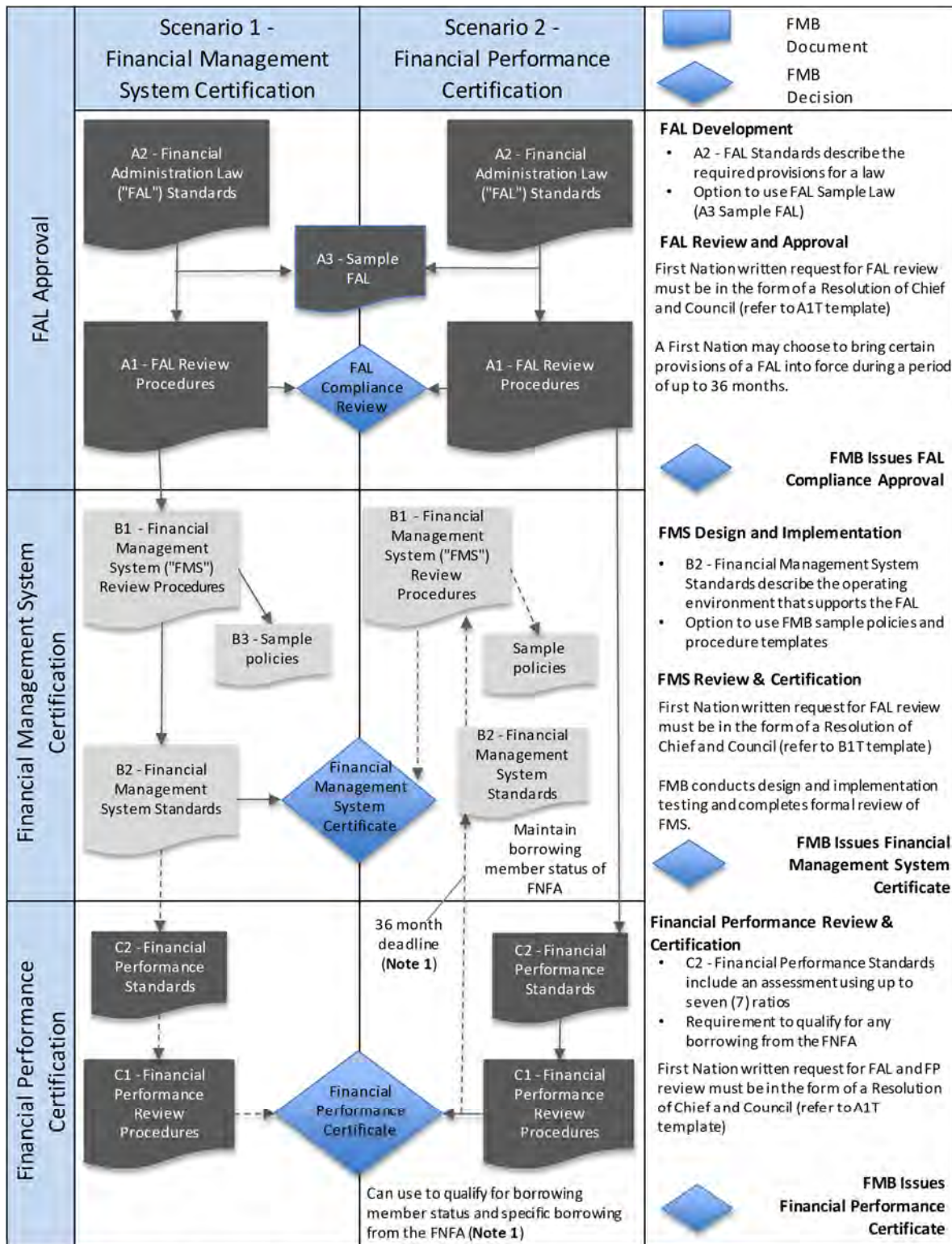
APRIL 1, ~~2016~~2019

TABLE 1 - LIST OF CORE DOCUMENTS

The following table lists the core documents made available by the First Nations Financial Management Board (“the FMB”) for First Nations to utilize in developing, implementing and improving their financial management.

| FINANCIAL ADMINISTRATION LAW        |    |  |   |
|-------------------------------------|----|--|---|
|                                     | A1 | FINANCIAL ADMINISTRATION LAW –<br><b>REVIEW PROCEDURES</b>                             | Procedures to apply when requesting a compliance approval of the First Nation’s Financial Administration Law.   |
| <input checked="" type="checkbox"/> | A2 | FINANCIAL ADMINISTRATION LAW –<br><b>STANDARDS</b>                                     | Standards that support sound financial administration practices for a First Nation government in Canada.  |
|                                     | A3 | <b>SAMPLE</b> FINANCIAL ADMINISTRATION<br>LAW  | Example of a law which meets the requirements of the A2 Financial Administration Law – Standards.   |
|                                     | A4 | FINANCIAL ADMINISTRATION LAW –<br><b>EXPLANATORY NOTES</b>                             | Provides assistance on the development of a Financial Administration Law by discussing the structure and substantive content of the A3 Sample Financial Administration Law.           |
|                                     | A5 | FINANCIAL ADMINISTRATION LAW –<br><b>SELF-ASSESSMENT</b>                               | Tool that can be utilized to compare existing or proposed Financial Administration Law(s) of the First Nation to the A2 Financial Administration Law – Standards.                     |
| FINANCIAL MANAGEMENT SYSTEM         |    |  |   |
|                                     | B1 | FINANCIAL MANAGEMENT SYSTEM –<br><b>CERTIFICATION PROCEDURES</b>                       | Procedures to apply when requesting a review of the First Nation’s financial management system.   |
|                                     | B2 | FINANCIAL MANAGEMENT SYSTEM –<br><b>STANDARDS</b>                                      | Standards that support sound financial practices for the operation, management, reporting and control of the financial management system of a First Nation.                           |
| FINANCIAL PERFORMANCE               |    |  |   |
|                                     | C1 | FINANCIAL PERFORMANCE –<br><b>CERTIFICATION PROCEDURES</b>                             | Procedures to apply when requesting a review of the First Nation’s financial performance.   |
|                                     | C2 | FINANCIAL PERFORMANCE –<br><b>STANDARDS</b>  | Standards that assess the historical financial performance of a First Nation over a five year period using up to <a href="#">sevensix</a> financial ratios.                           |
| LOCAL REVENUE FINANCIAL REPORTING   |    |  |   |
|                                     | D1 | LOCAL REVENUE FINANCIAL REPORTING –<br><b>STANDARDS</b>                                | Standards that establish requirements for the financial reporting of a First Nation’s local revenues and expenditures.  |
|                                     | D2 | LOCAL REVENUE FINANCIAL REPORTING –<br><b>ILLUSTRATIVE FINANCIAL STATEMENTS</b>        | Illustrative annual financial statements for a First Nation’s local revenues and expenditures designed to comply with the D1 Local Revenue Financial Reporting – Standards.           |
|                                     | D3 | LOCAL REVENUE FINANCIAL REPORTING –<br><b>ILLUSTRATIVE SEGMENT NOTE<br/>DISCLOSURE</b> | Illustrative segment note disclosure for inclusion in the annual financial statements of a First Nation designed to comply with the D1 Local Revenue Financial Reporting – Standards. |
|                                     | D4 | LOCAL REVENUE FINANCIAL REPORTING –<br><b>EXPLANATORY NOTES</b>                        | Explanatory notes to accompany D1 Local Revenue Financial Reporting – Standards.  |

FIGURE 1 – STEPS TO FMB CERTIFICATION



**Note 1:** A Financial Performance Certificate is required to enter into a new borrowing agreement with the FNFA. To remain in good standing with the FNFA, a Financial Management System Certificate must be obtained within 36 months from when the first nation receives proceeds for the first time from a debenture or equivalent financial instrument issued by the First Nations Finance Authority under the terms of a Borrowing Law and a Security Issuing Council Resolution.

## BACKGROUND CONTEXT

The *First Nations Fiscal Management Act* (“the Act”) establishes several ~~first-nation~~First Nation institutions – the First Nations Tax Commission (“the FNTC”), the First Nations Financial Management Board (“the FMB”) and the First Nations Finance Authority (“the FNFA”) - with mandates designed to permit ~~first-nations~~First Nations access to financial markets on a similar basis as municipalities and local governments in Canada.

Working in a collaborative framework these three institutions facilitate the voluntary development of ~~first-nations~~First Nations capacity to access these markets - by assisting them to use their available revenue streams to secure funding and by assisting them to implement a sound financial administration system in which investors and other stakeholders would have confidence - by negotiating on their collective behalf the borrowing of funds from these financial markets.

In order for a ~~first-nation~~First Nation to access these markets through this legislative program, the ~~first-nation~~First Nation must become a “borrowing member” of the FNFA. Before a ~~first-nation~~First Nation is eligible to be considered for membership in the FNFA, the FMB must issue a Financial Performance Certificate to the ~~first-nation~~First Nation indicating that the ~~first-nation~~First Nation was in compliance with the *Financial Performance Standards*. This Certificate supports a ~~first-nation’s~~First Nation’s application to become a borrowing member of the FNFA and its first financing from the FNFA.

The ~~first-nation~~First Nation must obtain a Financial Management System Certificate from the FMB within 36 months after the ~~first-nation~~First Nation receives proceeds for the first time from a debenture (or equivalent instrument) issued by the FNFA or before it may obtain a second loan from the FNFA. The FMB has issued the *Financial Management System Standards* for purposes of issuing a ~~first-nation~~First Nation a Financial Management System Certificate.

The FMB has also issued the *Financial Management System Certification Procedures* and the *Financial Performance Certification Procedures* to guide ~~first-nations~~First Nations who are applying for a certificate from the FMB. Table 2 of this document explains the steps that can be taken in this process towards certification.

A ~~first-nation~~First Nation will not be issued a Financial Management System Certificate or a Financial Performance Certificate by the FMB unless the ~~first-nation’s~~First Nation’s law or laws respecting financial administration have first been reviewed and issued a compliance approval under section 9 of the Act by the FMB. The ~~first-nation’s~~First Nation’s law or laws must meet the requirements of these *Financial Administration Law Standards* before they will be given a compliance approval. The FMB has issued the *Financial Administration Law Review Procedures* to guide ~~first-nations~~First Nations who are applying for compliance approval of their law or laws respecting financial administration. It may be necessary for a ~~first-nation~~First Nation to bring its already approved law or laws respecting financial administration up to date to meet the current *Financial Administration Law Standards* before it will be issued a Financial Management System Certificate. This may be necessary if there has been some significant period of time between the FMB’s approval of the ~~first-nation’s~~First Nation’s financial administration law and its request for a Financial Management System Certificate.

Effective April 1, 2016 all financial administration laws made under section 9 of the ~~the~~ Act must be made in accordance with the Act, the regulations and, in all material respects, the *Financial Administration Law Standards*. All laws made under section 9 of the Act must be reviewed and approved by the FMB before they come into force – whether or not the ~~first-nation~~First Nation intends to raise local revenues under the Act or become a borrowing member of the FNFA.

To assist ~~first-nations~~First Nations the FMB has prepared and made available ~~a~~Sample Financial Administration LawLaws which ~~meets~~meet the requirements of these *Financial Administration Law Standards* and which reflects sound financial administration practices of local, provincial and federal government in Canada. There are ~~two~~several versions of this Sample Law available – one version meets the standards required to be met by ~~first-nations~~First Nations already raising or intending to raise local revenues under the Act and ~~one~~another version meets the standards required to be met by ~~first-nations~~First Nations that are neither raising, nor intending to raise, local revenues under the Act.

The *Financial Administration Law Standards* contained in this document and ~~a~~Sample Financial Administration LawLaws developed by the FMB, are intended to support adoption of “sound practices” respecting ~~first-nation~~First Nation financial administration. They were prepared after review of laws, standards and other publications from the following sources:

- ❖ existing ~~first-nation~~First Nation financial administration laws publicly available to the FMB
- ❖ treaty provisions relating to financial administration
- ❖ financial administration requirements for local governments in Canada
- ❖ financial administration laws of Canada and of several provincial governments
- ❖ *First Nations Fiscal Management Act*, regulations to the Act and FNTC sample local revenue laws and standards
- ❖ section 83 of the *Indian Act* and ~~first-nation~~First Nation assessment, taxation, rates, budget and other laws made under the Act
- ❖ the elements of the *First Nations Land Management Act* and of the *First Nations Oil and Gas and Moneys Management Act* relevant to financial administration
- ❖ sample agreements between Canada and ~~first-nations~~First Nations and between provinces and ~~first-nations~~First Nations respecting programs and services funding
- ❖ COSO (Committee of Sponsoring Organizations of the Treadway Commission) Internal Control Over External Financial Reporting
- ❖ CPA (Chartered Professional Accountants) Canada Public Sector Accounting Handbook
- ❖ PSAB (Public Sector Accounting Board) Guide to Accounting for and Reporting Tangible Capital Assets
- ❖ CICA (Canadian Institute of Chartered Accountants) Study: Financial Reporting by First Nations
- ❖ CSA (Canadian Securities Administrators) requirements and guidelines.

The FMB Standards and ~~Sample Law~~Financial Administration Laws were established (and will continue to be updated as necessary) through an ongoing process of FMB internal review and revision that has involved

members of the former First Nations Financial Management Board Advisory Panel (which directed the original legislative development), members of the Board of Directors of the FMB and industry technical advisors, including lawyers and accountants experienced in ~~first-nation~~First Nation advisory services.

FMB has carried out case studies of the potential requirements of the standards and procedures with several representative ~~first-nations~~First Nations, to test document and system content and application. The FNTC and the FNFA have reviewed and provided comment on the FMB standards, procedures and sample laws to ensure they do not conflict with FNTC and FNFA authorities applicable to scheduled ~~first-nations~~First Nations including FNFA borrowing members.

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# FIRST NATIONS FINANCIAL MANAGEMENT BOARD

## FINANCIAL ADMINISTRATION LAW STANDARDS

### INTRODUCTION

#### 1.0 PURPOSE

1.1 Purpose of ~~Standards~~standards – The purpose of these standards is to identify elements of a financial administration law that support sound financial administration practices for a ~~first nation~~First Nation government in Canada and that comply with the requirements of the Act and its regulations.

#### 2.0 REVIEW PROCEDURES

2.1 Application of Procedures – The *Financial Administration Law Approval Procedures* apply to these *Financial Administration Law Standards*.

#### 3.0 INTERPRETATION OF STANDARDS

3.1 Definitions – Unless the context indicates otherwise, in these standards:

“Act” means the *First Nations Fiscal Management Act*;

“auditor” means the independent auditor of the ~~first nation~~First Nation appointed by the council;

~~“Board” means the First Nations Financial Management Board;~~

~~“Board standards” mean the standards made by the Board under the Act;~~

“borrowing member” means a ~~first nation~~First Nation that ~~has been accepted as~~ a borrowing member under ~~section 76 (2) of the Act and has not ceased~~;

~~“chief administrative officer” means the senior administrative officer, band manager or general manager responsible for the day-to-be a borrowing member under section 77 of the Act-day management or administration of the First Nation’s administrative system;~~

“code” means a code adopted by the ~~first nation~~First Nation under the *First Nations Oil and Gas and Moneys Management Act* or a land code adopted by the ~~first nation~~First Nation under the *First Nations Land Management Act*;

“council” means the council of the ~~first nation~~First Nation and includes the chief of the First Nation;

“councillor” means a member of the council of the ~~first nation~~First Nation and includes the chief of the ~~first nation~~First Nation;

**“director of finance”** means the senior financial officer or controller responsible for the day-to-day management or administration of the First Nation’s financial administration system;

**“FAL”** means a law or laws respecting financial administration of the ~~first nation~~First Nation;

**“financial administration”** includes financial management, financial performance and accountability;

**“financial competency”** means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the ~~first nation’s~~First Nation’s financial statements;

**“financial institution”** means the First Nations Finance Authority, a bank, credit union or caisse populaire;

**“~~first nation lands~~First Nations Finance Authority”** means ~~all reserves of the first nation within~~First Nation Finance Authority established under the ~~meaning of the Indian~~ Act;

**“~~first nation~~First Nation law”** means any law, including any bylaw or code, of the ~~first nation~~First Nation made by the council or the membership of the ~~first nation~~First Nation;

**“~~first nation’s tangible capital assets”~~ mean ~~all non-financial assets of the first nation having physical substance that~~**

~~a. are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,~~

~~b. have useful economic lives extending beyond an accounting period,~~

~~c. are to be used on a continuing basis, and~~

~~a. are not for sale in the ordinary course of operations;~~

**“First Nations Tax Commission** means the First Nations Tax Commission established under the Act;

**“fiscal year”** means the twelve (12) month period beginning on April 1<sup>st</sup> and ending on March 31<sup>st</sup> in the next year;

**“~~generally accepted accounting principles~~“FMB”** means the First Nations Financial Management Board;

**“FMB standards”** mean the standards made by the FMB under the Act;

**“GAAP”** means generally accepted accounting principles of the Chartered Professional Accountants of Canada, as amended or replaced from time to time;

**“including”** means ‘including, but not limited to’;

~~“land code” means a land code adopted by the first nation under the *First Nations Land Management Act*;~~

“local revenue account” means an account with a financial institution into which local revenues are deposited separately from other moneys of the ~~first nation~~ First Nation;

“local revenue law” means a local revenue law made by the ~~first nation~~ First Nation under ~~sections~~ subsection 5(l) of the Act;

“local revenues” means money raised under a local revenue law;

“other revenues” means other revenues as defined in section 3 of the *Financing Secured by Other Revenues Regulations* made under the Act;

“record” means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise; and

~~“related body” means~~

- ~~a. any agency of the first nation,~~
- ~~b. any corporation in which the first nation has a material or controlling interest,~~
- ~~c. any partnership in which the first nation or another related body of the first nation is a partner with a material or controlling interest, or~~
- ~~d. a trust of the first nation;~~

~~“senior financial officer” means the senior financial manager, controller, or director of finance responsible for the day-to-day management or administration of the first nation’s financial administration system;~~

~~“senior manager” means the band manager or general manager responsible for the day-to-day management or administration of the first nation’s administrative system;~~

“tax administrator” means the tax administrator responsible for the day-to-day management of local revenues and the local revenue account.

**3.2 Application of Act definitions** – Unless the context indicates otherwise, the words and expressions used in these standards and not otherwise defined have the same meanings as in the Act.

**3.3 Rules of interpretation** – In these standards, the following rules of interpretation apply:

- a. 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. a reference to a law, including a financial administration law, means the law as amended or replaced from time to time;
- d. a reference to a standard means the standard as amended or replaced from time to time; and
- e. headings, subheadings and notes are inserted for convenience of reference only, do not form part of these standards and in no way define, limit, alter or enlarge the scope or meaning of any provision of these standards.

**3.4 Mandatory provisions** – These standards establish requirements that a ~~first-nation's~~First Nation's *FAL* must satisfy unless a particular standard is expressed as permissive.

**3.5 Compliance in all material respects** – Before the ~~Board~~FMB may issue a compliance approval under section 9 of the Act for a ~~first-nation's~~First Nation's *FAL* it must determine if the *FAL* was made in accordance with the Act, the regulations and, in all material respects, these *Financial Administration Law Standards*.

~~**3.6 Editorial cross references** – To assist readers to work with these *Financial Administration Law Standards* and the ~~A3 – Sample Financial Administration Law~~, cross references to applicable provisions in the *Sample Law* have been noted at the end of provisions in these standards e.g. *Sample FAL 4* means section 4 of the version of the ~~A3 – Sample Financial Administration Law~~ to be used for first nations that are raising or intending to raise local revenues.~~

## 4.0 SOUND FINANCIAL ADMINISTRATION PRACTICES

**4.1 Sound practices required** – If a provision in these *Financial Administration Law Standards* is mandatory, the standard must be met so as to enable the ~~first-nation~~First Nation to carry out its financial administration in a manner that substantially accords with sound financial administration practices of governments in Canada.

**4.2 Applicable considerations** – When determining how a mandatory provision is to be met in its *FAL*, the ~~first-nation~~First Nation may take into consideration the unique characteristics of the ~~first-nation~~First Nation, including its social, economic, legal and geographic environments. The ~~Board~~FMB will take these considerations into account when determining if these standards have been met.

**4.3 Minimal required content** – These standards do not address all the subjects that a ~~first-nation~~First Nation may wish to include in its financial administration law – only those subjects which the ~~first-nation~~First Nation must include in its financial administration law in order to receive compliance approval of the law by the ~~Board~~FMB under section 9 of the Act.

**4.4 Permitted variations of content** – The ~~Sample Laws~~sample financial administration laws made available by the ~~Board~~FMB include subject matter that these standards require to be included in a financial administration law but these standards are often written in a manner that permits the ~~first-nation~~First Nation to address the required subject matter in different ways – permitted variations

that may not be obvious from a reading of ~~the Sample Law~~ a sample financial administration law. For a detailed discussion of each provision – of the version of the ~~Sample Law~~ sample financial administration law – to be used for ~~first nations~~ First Nations that are raising or intending to raise local revenues see A4 – *Sample Financial Administration Law - Explanatory Notes*.

## **PART ONE – INTERPRETATION AND APPLICATION**

### **5.0 COMPREHENSION AND INTERPRETATION**

**5.1 Provisions for certainty** – A *FAL* includes any necessary provisions to provide greater certainty in the meaning of the *FAL* including the interpretation of its provisions. *{See Sample FAL 2(1)-(4), 3(1)-(3), 4(1), (2), 5}*

**5.2 Permitted definitions** – A *FAL* may include

- a. a provision that defines words and phrases used in the *FAL*, and
- b. a provision that, by reference, incorporates definitions used in the Act or other federal legislation. *{Sample FAL 2(1)-(4)}*

**5.3 Required definitions** – A *FAL* includes definitions if they are necessary to satisfy standard 5.1. *{Sample FAL 2(1)-(4)}*

**5.4 Clarity** – A *FAL* is written in a clear and unambiguous manner so that readers will understand what the law requires to be done or what actions the *FAL* permits to be taken. For example, a *FAL* should clearly specify in each instance, as appropriate, - **who** must do **what**, within **what time** period, in **what location** and in **what manner**.

**5.5 Internal logic** – The subject matter of a *FAL* is organized logically.

**5.6 Consistency** – The provisions of a *FAL* are consistent with each other.

### **6.0 CONFLICT BETWEEN LAWS**

**6.1 Between *FAL* and Act** – A *FAL* provides that, in the event of a conflict between the *FAL* and the Act or any regulations made under the Act, the Act or the regulations prevail to the extent of the conflict. *{Sample FAL 6(2)}*

**6.2 Between *FAL* and other ~~first nation~~ First Nation law** – A *FAL* provides that, in the event of a conflict between the *FAL* and any other ~~first nation~~ First Nation law, other than a code or a local revenue law, the *FAL* prevails to the extent of the conflict. *{Sample FAL 6(1)}*

**6.3 Between *FAL* and local revenue law** – A *FAL* provides that, in the event of a conflict between the *FAL* and a local revenue law, the local revenue law prevails to the extent of the conflict. *{Sample FAL 6(3)}*

## 7.0 APPLICATION

**7.1 Extent of application** – A *FAL* applies to the financial administration – including the receipt, control and expenditure – of all money and financial assets belonging to, or under the care or control of, the ~~first nation.~~ *{Sample FAL 7}* First Nation.

## PART TWO – ADMINISTRATION

### 8.0 FIRST NATION COUNCIL

**8.1 Responsibility** – A *FAL* makes the council responsible for the financial administration of the ~~first nation~~ First Nation whether or not any part of that function is assigned or delegated to an officer, employee, committee, contractor or agent under the *FAL*. *{Sample FAL 8(1)}*

**8.2 Delegation** – A *FAL* permits the council to delegate to an officer, employee, committee, contractor or agent any function of the council respecting the financial administration of the ~~first nation~~ First Nation except

- a. the approval of policies ~~or procedures or the giving of directions~~ respecting any financial administration matter which under the *FAL* are the responsibility of the council,
- b. the approval of First Nation budgets ~~and first nation borrowing~~,
- c. the approval of First Nation borrowing,
- ~~e.d.~~ d. the approval of First Nation financial statements ~~of the first nation~~, and
- ~~e.e.~~ e. the appointment of members, chairperson and vice-chairperson of the finance and audit committee. *{Sample FAL 8(2)}*

### 8.3 Policies, ~~and~~ procedures ~~and directions~~

**8.3.1 Authority to make** – A *FAL* allows the council to establish policies and procedures ~~and to give directions, not inconsistent with the FAL and generally accepted accounting principles,~~ respecting the financial administration of the ~~first nation.~~ *{Sample FAL 9(1)}*, First Nation but these must not be inconsistent with the *FAL* and with GAAP - except as permitted in standard 20.6.3*}*.

**8.3.2 Policies, etc. for assets** – A *FAL* requires the council to establish appropriate policies ~~or and~~ procedures ~~or to give directions~~ respecting the acquisition, management and safeguarding of ~~first nation~~ First Nation assets. *{Sample FAL 9(2)}*

**8.3.3 Documentation of policies, etc.** – A *FAL* requires the council to document all ~~its~~ the First Nation's policies, ~~and~~ procedures ~~and directions~~ respecting financial administration. *{Sample FAL 9(5)}*

**8.3.4 Making policies, etc. available** – A *FAL* requires the council to make available all ~~its~~the *First Nation's* policies, ~~and~~ procedures ~~and directions~~ to all affected persons. *{Sample FAL 9(5)}*

**8.3.5 Procedure requirements** - A *FAL* requires all procedures

a. to be consistent with, and made under the authority of, a policy approved by the council, and

b. to be approved by the chief administrative officer or the council.

## 9.0 REPORTING OF REMUNERATION AND EXPENSES

**9.1 Defined terms** – In standard 9.0:

“**entity**” means a corporation or a partnership, a joint venture or any other unincorporated association or organization, the financial transactions of which are consolidated in the financial statements of the ~~first nation~~*First Nation* in accordance with ~~generally accepted accounting principles~~*GAAP*;

“**expenses**” includes the costs of transportation, accommodation, meals, hospitality and incidental expenses; and

“**remuneration**” means any salaries, wages, commissions, bonuses, fees, honoraria and dividends and any other monetary and non-monetary benefits. *{Sample FAL 10(1)}*

**9.2 Annual report** – A *FAL* requires an annual report to be prepared listing for each councillor the remuneration paid and expenses reimbursed by the ~~first nation~~*First Nation*, and by any entity, whether such amounts are paid to the councillor while acting as councillor or in any other capacity. *{Sample FAL 10(2)}*

## 10.0 FINANCE AND AUDIT COMMITTEE

**10.1 Constitution**

**10.1.1 Committee established** – A *FAL* provides for the establishment, makeup and other characteristics of a finance and audit committee - which may be named as appropriate to reflect the committee's functions. *{Sample FAL 12(1)}*

**10.1.2 Reporting to council** – A *FAL* requires the finance and audit committee to report to the council and to provide council with advice and recommendations to support its decision-making process. *{Sample FAL 14(7) and 12(1)}*

**10.1.3 Membership** – A *FAL* requires a finance and audit committee

a. consisting of three ~~(3)~~ members, to have at least one ~~(1)~~ member who is a councillor, and

- b. consisting of four (4) or more members, to have at least two (2) members who are councillors. *{Sample FAL 12(5)}*

**10.1.4 Financial competency** – A *FAL* requires the finance and audit committee to have a majority of members who have financial competency. *{Sample FAL 12(2)}*

**10.1.5 Number of members** – A *FAL* requires the finance and audit committee to have no fewer than three (3) members. *{Sample FAL 12(2)}*

#### **10.1.6 Independent members**

##### **10.1.6 Membership requirements**

**10.1.6.1 Interpretation** – For purposes of standard 10.1.6, an individual is independent if the individual does not have a direct or indirect financial relationship with the ~~first nation~~First Nation government that could, in the opinion of council, reasonably interfere with the individual's exercise of independent judgment as a member of the finance and audit committee. *{Sample FAL 12(3)}*

**10.1.6.2 Members to be independent** – A *FAL* requires all members of the finance and audit committee to be independent as defined in standard 10.1.6.1. *{Sample FAL 12(2)}*

**10.1.6.3 ~~Policies required~~ Required policies and procedures** – A *FAL* requires the council to make policies ~~or~~and procedures ~~or give directions~~

- a. establishing criteria to determine if an individual is eligible to be a member of the finance and audit committee and is independent,
- b. requiring confirmation, before appointment, that each potential member of the finance and audit committee is eligible to be a member and is independent, and
- c. requiring each member of the finance and audit committee annually to sign a statement confirming that the member continues to meet the criteria referred to in paragraph a. *{Sample FAL 12(4)}*

## **10.2 Terms of office**

**10.2.1 Terms of office** – A *FAL* requires the finance and audit committee members to be appointed for terms that

- a. are of a sufficient period of time to permit the members to develop a critical understanding of the financial administration system of the ~~first nation~~First Nation, and
- b. are staggered to ensure the continuing effectiveness of the committee and to provide for succession planning. *{Sample FAL 12(6)}*



**10.2.2 Cause for removal** – A *FAL* provides for the events or circumstances when a finance and audit committee member may be removed from office. *{Sample FAL 12(7)}*

**10.2.3 Replacement member** – A *FAL* provides that, if a member of the finance and audit committee ~~member~~ is removed from office, resigns or dies before the member's term of office expires, the council must as soon as practicable appoint a new committee member to hold office for the remainder of the first member's term of office. *{Sample FAL 12(8)}*

**10.3 Permitted alternate member** – A *FAL* may permit the council to establish a policy authorizing the appointment of one alternate member of the finance and audit committee to attend committee meetings and to vote in the place of a member of the committee who is unable to attend the meeting or to vote on a matter due to a conflict of interest if the policy requires the alternate member to be a councillor who satisfies all the eligibility requirements for being a member of the ~~finance and audit~~ committee.

#### 10.4 Committee officers

**10.4.1 Appointment of officers** – A *FAL* requires the council to appoint a chairperson and a vice-chairperson of the finance and audit committee, one (1) of whom must be a councillor. *{Sample FAL 13(1)}*

**10.4.2 Notice of meeting** – A *FAL* requires the council to send notices and agendas of all council meetings to a non-councillor chairperson of the finance and audit committee. *{Sample FAL 13(2)}*

**10.4.3 Discretion of chairperson** – A *FAL* gives a non-councillor chairperson of the finance and audit committee the discretion

- a. to attend and speak at council meetings, and
- b. to request and be provided with any materials or information provided to council respecting matters before it. *{Sample FAL 13(2)}*

#### 10.5 Committee procedures

**10.5.1 Quorum** – A *FAL* requires the quorum of the finance and audit committee to be at least fifty (50%) percent of the total number of committee members including at least one councillor. *{Sample FAL 14(1)}*

**10.5.2 Voting rights** – A *FAL* allows each member of the finance and audit committee to have one (1) vote on any question before the committee, subject to any recusals of a committee member resulting from the member's conflict of interest. *{Sample FAL 14(2)}*

**10.5.3 Tied vote** – A *FAL* specifies the results of a tie vote or how the tie vote can be managed. *{Sample FAL 14(3)}*

**10.5.4 Senior officer attendance** – A *FAL* requires the ~~senior manager and the senior financial~~ chief administrative officer and the director of finance to attend all finance and audit committee meetings, subject to reasonable exceptions. *{Sample FAL 14(4),(5)}*

**10.5.5 Number of meetings** – A *FAL* establishes a minimum number of meetings of the finance and audit committee for each fiscal year, including requiring the committee to meet

- a. at least once every quarter, and
- b. as soon as ~~reasonably possible~~ practicable after receipt of the audited annual financial statements and report from the auditor. *{Sample FAL 14(6)}*

**10.5.6 Committee minutes and report** – A *FAL* requires the finance and audit committee

- a. to provide minutes of each committee meeting, and
- b. to report to council on the substance of the meeting within a reasonable time after the meeting. *{Sample FAL 14(7)}*

**10.5.7 Permitted rules** – A *FAL* may permit the finance and audit committee to make rules, not inconsistent with the *FAL* or any directions given by council, that the committee considers necessary for the conduct of its meetings. *{Sample FAL 14(8)}*

## 10.6 Committee ~~Functions~~ functions

**10.6.1 Financial functions** – A *FAL* assigns responsibility for the following matters to the finance and audit committee:

- a. to prepare or review, and recommend to the council for approval, draft annual budgets and multi-year financial plans for the ~~first nation~~ First Nation;
- b. to monitor the financial performance of the ~~first nation~~ First Nation against the annual budget and report significant variances to the council;
- c. to review the ~~first nation's~~ First Nation's quarterly financial statements before their recommendation to the council for its approval. *{Sample FAL 15(1), 27(2), 72(3)}*; and
- d. to review and make recommendations to the council respecting the First Nation's annual financial statements, including the annual financial statements respecting local revenues, and any special purpose reports.

**10.6.2 Audit and oversight functions** – A *FAL* assigns responsibility for the following matters to the finance and audit committee:

- a. to make recommendations to the council respecting the selection, engagement and performance of the auditor;

- b. to receive assurances on the independence of an auditor;
- c. to make recommendations to the council respecting the planning, conduct and results of audit activities;
- ~~d. to review and make recommendations to the council respecting the first nation's audited annual financial statements, including the audited annual financial statements respecting local revenues, and any special purpose reports;;~~
- ~~e.d.~~ \_\_\_\_\_ to make recommendations to council respecting policies, ~~and~~ procedures ~~or directions~~ on reimbursable expenses and perquisites of councillors and employees;
- ~~f.e.~~ to monitor financial reporting risks and ~~risk of fraud risks~~ and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- ~~g.f.~~ to review the *FAL* and recommend draft amendments to the council; ~~and~~
- ~~h.g.~~ \_\_\_\_\_ to review and make recommendations to the council on the terms of reference of the committee. *{Sample FAL 16}*

**10.6.3 Permitted functions** – A *FAL* may assign responsibility to the finance and audit committee for any other matter respecting the financial administration of the ~~first nation~~First Nation that council considers would benefit from ~~finance and audit committee~~that committee's involvement. *{Sample FAL 17}*

**10.6.4 Committee discretion** – A *FAL* permits the finance and audit committee to make a report or recommendations to the council on any financial administration matter that is not otherwise specified to be its responsibility under the *FAL*. *{Sample FAL 15(2)}*

## 11.0 FIRST NATIONS OFFICERS AND EMPLOYEES

### ~~11.1 Senior Manager~~

### 11.1 Chief administrative officer

**11.1.1 Appointment** – A *FAL* or another ~~first nation~~First Nation law or resolution provides for the appointment and sets out the principal powers, duties and functions of the ~~senior manager~~chief administrative officer who must be given responsibility for leading the day-to-day management or administration of the ~~first nation.~~*{Sample FAL 18(1), (2)}*First Nation.

**11.1.2 Reporting relationship** – A *FAL* or another ~~first nation~~First Nation law or resolution requires the ~~senior manager~~chief administrative officer to report directly to the council. *{Sample FAL 18(2)}*

**11.1.3 Permitted positions** – For purposes of standard 11.1, the responsibilities of the ~~senior manager~~chief administrative officer may be performed by more than one person so long as each person reports directly to council.

**11.1.4 Duties and functions** – A *FAL* or another ~~first nation~~First Nation law or resolution requires the ~~senior manager~~chief administrative officer

- a. to oversee, supervise and direct the activities of all officers and employees of the ~~first nation~~First Nation,
- b. to oversee and administer the contracts of the ~~first nation~~First Nation,
- c. to identify, assess, monitor and report on financial reporting risks and risk of fraud risks, and
- d. to monitor and report on the effectiveness of mitigating controls for the risks referred to in paragraph c. taking into consideration the cost of implementing those controls. *{Sample FAL 18(2)}*

**11.1.5 Permitted functions** – A *FAL* or another ~~first nation~~First Nation law or resolution may permit the council to require the ~~senior manager~~chief administrative officer to carry out other activities if they are not contrary to the Act or inconsistent with the ~~senior manager's~~chief administrative officer's duties required in standard 11.1. *{Sample FAL 18(2)}*

**11.1.6 Permitted assignment** – A *FAL* may permit the ~~senior manager~~chief administrative officer to require an officer, employee, contractor or agent of the first nation to perform any of the ~~senior manager's~~chief administrative officer's duties or functions respecting financial administration of the ~~first nation~~First Nation but this assignment of duties or functions must not relieve the ~~senior manager~~chief administrative officer of the responsibility to ensure that these duties or functions are carried out properly. *{Sample FAL 18(3) and (4)}*

## **11.2 Senior Financial Officer**

### **11.2 Director of finance**

**11.2.1 Appointment** – A *FAL* provides for the appointment and sets out the principal powers, duties and functions of the ~~senior financial officer~~director of finance who must be ~~responsible~~given responsibility for the day-to-day management or administration of the ~~first nation's~~First Nation's financial administration system. *{Sample FAL 19(1), (2)}*

**11.2.2 Reporting relationship** – A *FAL* requires the ~~senior financial officer~~director of finance to report directly to the ~~senior manager~~chief administrative officer or the council. *{Sample FAL 19(2)}*

**11.2.3 Duties and functions** – A *FAL* requires the ~~senior financial officer~~ director of finance to carry out the following functions:

- a. to ensure the financial accounting systems, policies, procedures, ~~directions~~ and internal controls are appropriately designed and operating effectively;
- b. to administer and maintain all charts of accounts of the ~~first nation~~ First Nation;
- c. to prepare the annual budgets and multi-year financial plans of the ~~first nation~~ First Nation with advice and input from the tax administrator for any component respecting local revenues;
- d. to prepare the financial statements of the ~~first nation~~ First Nation;
- e. to prepare the financial components of reports to the council and financial information required by the council or the finance and audit committee;
- f. to actively monitor compliance with any agreements and funding arrangements entered into by the ~~first nation~~ First Nation;
- g. to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;
- h. to actively monitor compliance with the legal obligations of the ~~first nation~~ First Nation and any policies, ~~and~~ procedures ~~and directions~~ of the ~~council~~ First Nation respecting ~~the its~~ financial administration ~~of the first nation~~;
- i. to evaluate the financial administration systems of the ~~first nation~~ First Nation and recommend improvements;
- j. to develop and recommend procedures for the safeguarding of assets and ensure approved procedures are followed; and
- k. to develop and recommend procedures for identifying and mitigating financial reporting risks and risk of fraud ~~risks~~ and to ensure approved procedures are followed.

*{Sample FAL 19(2)}*

**11.2.4 Permitted functions** – A *FAL* may permit the ~~senior manager~~ chief administrative officer to require the ~~senior financial officer~~ director of finance to carry out other activities if they are not contrary to the Act or inconsistent with the ~~senior financial officer's~~ director of finance's duties set out in the *FAL*. *{Sample FAL 19(2)}*

**11.2.5 Permitted assignment** – A *FAL* may permit the ~~senior financial officer~~ director of finance to require an officer, employee, contractor or agent of the ~~first nation~~ First Nation to perform any of the ~~senior financial officer's~~ director of finance's duties or functions but this assignment of duties or functions must not relieve the ~~senior financial officer~~ director

of finance of the responsibility to ensure that these duties or functions are carried out properly. *{Sample FAL 19(3)}*

### 11.3 Tax ~~Administrator~~administrator

**11.3.1 Appointment** – If the ~~first nation~~First Nation is collecting local revenues, a *FAL* or a local revenue law provides for the appointment and sets out the principal powers, duties and functions of the tax administrator. *{Sample FAL 20(1)}*

**11.3.2 Reporting relationship** – A *FAL* requires the tax administrator ~~to report directly to the senior financial officer or the senior manager;~~ in the performance of the tax administrator's duties under the ~~first nation's~~First Nation's local revenue laws, the Act and the *FAL* ~~{Sample FAL 20(2)}~~, to report directly to one of the following: the director of finance, the chief administrative officer or the council.

**11.3.3 Required functions** – A *FAL* requires the tax administrator to carry out the following functions:

- a. to manage the local revenues and local revenue account on a day-to-day basis;
- b. to recommend to the ~~senior financial officer~~director of finance the draft and amended annual budget for the local revenues component of the annual budget;
- c. to recommend to the ~~senior financial officer~~director of finance the local revenues components of the multi-year financial plan;
- d. on request, to provide advice to the ~~senior manager, senior financial manager~~chief administrative officer, director of finance, finance and audit committee and the council respecting local revenues matters; and
- e. to monitor compliance with the Act, the ~~first nation's~~First Nation's local revenue laws and the *FAL* in the administration of local revenues and the local revenue account. *{Sample FAL 20(3)}*

**11.3.4 Permitted assignment** – A *FAL* may permit the tax administrator to require an officer, employee, contractor or agent of the first nation to perform any of the tax administrator's additional duties or functions set out in the *FAL* but this assignment of duties or functions must not relieve the tax administrator of the responsibility to ensure that these duties or functions are carried out properly. *{Sample FAL 20(4)}*

## 11.4 Employees

### 11.4 Human resources

**11.4.1 Approved functions** – A *FAL* requires the principal powers, duties and functions of all other employees of the ~~first nation~~First Nation, including those who report directly or indirectly to the tax administrator, to be set out in writing and approved by the council of

the ~~first nation~~First Nation or the ~~senior manager.~~ ~~[Sample FAL 18(2)]~~chief administrative officer.

**11.4.2 Organization chart** – A *FAL* requires the preparation and maintenance of a current organization chart which includes the following information:

- a. all governance, management and administrative systems of the ~~first nation~~First Nation, their organization and linkages;
- b. the specific roles and responsibilities of each level of the organization of these systems; and
- c. all governance, management and administrative positions at each level of the organization of these systems including ~~the council, finance and audit committee and all other committees of the council or first nation, officers and employees of the first nation and the principal lines of authority and responsibility between the council, the committees, officers and employees.~~ ~~[Sample FAL 21(1), (2)]~~
  - i. ~~the council, finance and audit committee and all other committees of the council or First Nation and the officers and employees of the first nation, and~~
  - ii. ~~the principal lines of authority and responsibility between the council, the committees, officers and employees.~~

**11.4.3 Chart access** – A *FAL* requires access to the organization chart to be provided to all persons affected by it including councillors, committee members, officers, employees, contractors and agents of the ~~first nation~~First Nation and ~~first nation~~First Nation members. ~~[Sample FAL 21(3)]~~

**11.4.4 HR policies/practices** – A *FAL* requires the ~~first nation's~~First Nation's human resource policies and practices to be designed and implemented to facilitate effective internal financial administration controls. ~~[Sample FAL 9(4), 21(4)]~~

**11.4.5 Personnel competence** – A *FAL* requires the ~~first nation~~First Nation to hire or retain qualified and competent personnel to carry out the financial administration activities of the ~~first nation.~~ ~~[Sample FAL 21(5)]~~First Nation.

## 12.0 CONDUCT

**12.1 Council mandates** – A *FAL* requires a councillor, when exercising a power, duty or responsibility relating to the financial administration of the ~~first nation~~First Nation,

- a. to act honestly, in good faith and in the best interests of the ~~first nation~~First Nation,
- b. to exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances,

- c. to act in accordance with the *FAL*, any other applicable ~~first-nation~~First Nation law, the Act, its regulations and any applicable standards made under the Act, and
- d. to avoid conflicts of interests and to comply with provisions in the *FAL* ~~for,~~ or in the policies and procedures ~~established by~~of the ~~council~~First Nation for, the avoidance and mitigation of those conflicts. *[Sample FAL 22(1), Schedule A]*

**12.2 Employees, etc. mandates** – A *FAL* requires the officers, employees, committee members, contractors and agents, when exercising a power, duty or responsibility relating to the financial administration of the ~~first-nation~~First Nation,

- a. to act in accordance with the *FAL*, any other applicable ~~first-nation~~First Nation law, the Act, its regulations and any applicable standards made under the Act,
- b. to comply with all policies, and procedures ~~and directions~~ of the ~~council~~First Nation, and
- c. to avoid conflicts of interests and comply with provisions in the *FAL* ~~for,~~ or in the policies and procedures ~~established by~~of the ~~council~~First Nation for, the avoidance and mitigation of those conflicts. *[Sample FAL 23(2), Schedule A]*

~~12.3 Conduct obligation inclusions~~ – A *FAL* requires the obligations respecting conduct required under standard 12.2 to be included in the terms of any applicable employment contracts, appointments to the finance and audit committee, contracts for service and appointment of agents. *[Sample FAL 23(3)]*

~~12.4 Enforcement~~ – A *FAL* states the actions that may be taken if a councillor, officer, employee, committee member, contractor or agent fails to comply with the conduct obligations set out in the *FAL* and with any requirements of the first nation respecting the avoidance and mitigation of conflicts of interests. *[Sample FAL 22(2), 23(4)]*

~~12.5~~12.3 **Conflict of interest disclosures** – A *FAL* requires

- a. councillors to annually disclose relevant information respecting their private interests which could result in a conflict of interest, and
- b. councillors, officers, employees, committee members, contractors and agents to disclose as soon as practicable any circumstances which could result in an actual or potential conflict of interest. *[Sample FAL 22(1)(d), 23(2)(c), section 2 of Schedule A]*

~~12.6~~12.4 **Conflict of interest provisions** – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, the avoidance and mitigation of conflicts of interest including the following:

- a. defining the private interests of councillors, officers, employees, committee members, contractors and agents that could result in a conflict of interest;



- b. requiring the ~~disclosure of actual or potential conflicts of interest as they arise and~~ keeping of records of ~~such all conflict of interest~~ disclosures; ~~made by any person referred to in paragraph a.;~~
- c. specifying restrictions on the acceptance of gifts and benefits by any person referred to in paragraph a. that might reasonable be seen to have been offered in order to influence the making of a decision by that person;
- d. prohibiting any person referred to in paragraph a. who has a conflict of interest from attempting to influence a decision or from participating in the making of a decision respecting the matter in which the person has a conflict of interest; ~~and~~
- e. specifying how any undisclosed or any alleged but not admitted conflicts of interest of councillors are to be addressed. *[Sample FAL 22, 23, Schedule A]*

12.5 Conduct obligation inclusions – A FAL requires the obligations respecting conduct required under standard 12.2 to be included in the terms of any applicable employment contracts, appointments to the finance and audit committee, contracts for service and appointments of agents.

12.6 Enforcement – A FAL states the actions which may be taken if a councillor, officer, employee, committee member, contractor or agent fails to comply with

- a. applicable conduct obligations set out in the FAL, and
- e.b. applicable policy and procedural requirements of the First Nation respecting the avoidance and mitigation of conflicts of interests.

## **PART THREE – FINANCIAL MANAGEMENT**

### **13.0 FISCAL YEAR**

13.1 Defined fiscal year – A FAL establishes the fiscal year of the ~~first-nation~~First Nation as the period beginning on April 1<sup>st</sup> of one year and ending on March 31<sup>st</sup> in the next year. *[Sample FAL 24]*

### ~~14.0 FINANCIAL PLANS~~

### 14.0 STRATEGIC PLAN

14.1 Preparation ~~of multi-year plan~~ – A FAL requires the preparation of a ~~multi-year financial~~strategic plan for the ~~first-nation~~First Nation for purposes of informing financial ~~and community~~ decision-making. *[Sample FAL 25]*

14.2 Content ~~of plan~~ – The ~~strategic plan~~ referred to in standard 14.1 sets out the long-term vision for the First Nation and its members.

14.3 Periodic review - A FAL requires the strategic plan referred to in standard 14.1 to be reviewed on a regular, periodic basis and revised as necessary.

## 15.0 MULTI-YEAR FINANCIAL PLAN

~~15.1~~ **Preparation** – A *FAL* requires the annual preparation of a multi-year financial plan referred to in standard 14 for the First Nation for the purpose of informing financial decision-making in a manner that is consistent with and supports the objectives of the First Nation strategic plan referred to in standard 14.1.

~~14.2~~**15.2 Content** – The multi-year financial plan referred to in standard 15.1 includes the current year and the next four years and includes the following for each year:

- a. projected revenues, segregated by significant category;
- b. projected expenditures, segregated by significant category; and
- c. any anticipated surplus or authorized deficit. *{Sample FAL 25}*

## ~~15.0~~**16.0 BUDGETS**

~~15.1~~**16.1 Budget preparation** – A *FAL* requires the preparation of an annual budget for all financial matters of the ~~first-nation~~First Nation for the next fiscal year. *{Sample FAL 26, 27}*

**16.2 Management of deficits** – A *FAL* includes provisions respecting the management of and any limitations on budget deficits.

~~15.2~~**16.3 Budget for local revenue account** – A *FAL* requires the preparation, approval and amendment of the component of the annual budget respecting the ~~first-nation's~~First Nation's local revenues to comply with the Act, its regulations and the standards established by the First Nations Tax Commission. *{Sample FAL 30}*

### ~~15.3~~ **Budget Contents**

~~15.4~~**16.4 Budget content—contents** – A *FAL* requires the ~~first-nation~~First Nation annual budget

- a. to encompass all the operations for which the ~~first-nation~~First Nation is responsible,
- b. to identify each anticipated significant category of revenue and estimate the amount of revenue for each category,
- c. to identify each anticipated significant category of expenditure and estimate the amount of expenditure for each category, and
- d. to identify any anticipated surplus or authorized deficit and the application of year end surplus funds. *{Sample FAL 26(1)}*

~~15.4.2 Revenue categories for land code~~ – If the first nation has a land code in force, a *FAL* requires the revenue categories respecting moneys derived from first nation lands to be categorized and shown separately from other revenues with a sub-category for

~~any revenues from natural resources obtained from first nation lands. {Sample FAL 26(2), (3)}~~

### ~~15.5~~16.5 Budget ~~Process~~process

~~15.5.1~~16.5.1 **Approval of annual budget** – A *FAL* requires the council to approve ~~it~~the **First Nation** annual budget no later than March 31 for the next fiscal year. *{Sample FAL 27(3)}*

~~15.5.2~~16.5.2 **Amendment of final budget** – A *FAL* requires the council to approve any amendments of the component of the annual budget respecting the ~~first nation's~~**First Nation's** local revenues within the time required in section 10 of the Act and, in any event, as soon as ~~practical~~practicable after the start of the fiscal year. *{Sample FAL 27(4)–(6)}*

~~16.5.3~~ **Membership information or involvement-Council approval of amended budget** – A *FAL* requires the council to approve any change to the **First Nation** annual budget.

## 17.0 MEMBERSHIP INFORMATION/INVOLVEMENT

~~15.6~~17.1 **Required policies and procedures** – A *FAL* includes provisions respecting, or requires the council to make policies ~~or~~and procedures ~~or give directions~~ respecting, the means by which members of the ~~first nation~~**First Nation** will be involved in or informed about

a. ~~the~~the **First Nation** strategic plan referred to in standard 14.0,

a.b. ~~the~~the **First Nation** multi-year financial plan ~~for the first nation~~referred to in standard 15.0,

b. ~~the~~the **First Nation** annual budget, ~~and~~

c. ~~referred to in standard 16.0 including any anticipated~~ budget deficits ~~or, and~~

e.d. ~~extraordinary~~ expenditures. *{Sample FAL 31}*

~~15.6.2~~ **Council approval of amended budget** – A *FAL* requires the council to approve any change to the annual budget. *{Sample FAL 29}*

## ~~16.0~~18.0 FINANCIAL MANAGEMENT AND CONTROLS

### ~~16.1~~18.1 Funds and ~~Revenues~~revenues

~~16.1.1~~18.1.1 **Fund and revenue controls** – A *FAL* establishes, ~~or requires the council to make policies and procedures respecting,~~ the means for effectively managing and controlling all ~~first nation~~**First Nation** funds and revenues, including internal controls for financial institution accounts and asset management. *{Sample FAL 32(1)–(3), 33(1), (2), 52}*

~~16.1.2~~18.1.2 **Separate local ~~revenues~~revenue account** – A *FAL* requires the ~~first nation~~**First Nation** to place all local revenues in a separate local revenue account in a financial institution as required by section 13 of the Act. *{Sample FAL 32(2)}*

~~16.1.3~~**18.1.3 Cash management** – A *FAL* establishes provisions respecting, or requires the council to make policies ~~or and~~ procedures ~~or to give directions~~ respecting, effective cash management. *{Sample FAL 33, all of 42-49}*

## ~~16.2~~**18.2 Expenditures**

~~16.2.1~~**18.2.1 Expenditure controls** – A *FAL* establishes, ~~or requires the council to make policies and procedures respecting,~~ the means for managing effectively all ~~first-nation~~**First Nation** expenditures, including internal controls respecting financial institution accounts and the procurement of goods and services. *{Sample FAL 33–41, 94}*

~~16.2.2~~**18.2.2 Local revenues expenditures** – A *FAL* requires expenditures of local revenues only to be made if and as permitted under a law made under ~~section~~**paragraph** 5(1)(b) of the Act or as permitted in section 13.1 of the Act. *{FAL Sample 34(2)}*

~~16.2.3~~**18.2.3 Appropriations for expenditures** – A *FAL* requires expenditures of ~~first-nation~~**First Nation** funds only to be made if and as permitted under the **First Nation annual budget** ~~of the first-nation~~ in effect at the time of the expenditure, with such reasonable exceptions to address unforeseen events for which the *FAL* provides or for which a council policy or procedure established under authority of the *FAL* provides. *{Sample FAL 36–40}*

## ~~16.3~~**18.3 Borrowing**

~~16.3.1~~**18.3.1 Debt provisions** – A *FAL* includes provisions respecting, ~~or requires the council to make policies and procedures respecting,~~ the incurring of debt by the ~~first-nation~~**First Nation**, debt management and use of borrowed funds. *{Sample FAL 50, 51, 53–57}*

~~16.3.2~~**18.3.2 Granting of security** – A *FAL* includes provisions respecting, ~~or requires the council to make policies and procedures respecting,~~ the granting of security by the ~~first-nation~~**First Nation**. *{Sample FAL 50, 51(3), 58}*

~~16.3.3 Management of deficits~~ – A *FAL* includes provisions respecting the management ~~of and any limitations on budget deficits.~~ *{Sample FAL 28}*

## ~~17.0~~**19.0 RISK MANAGEMENT**

~~17.1~~**19.1 Risk management of for-profit activities** – A *FAL* includes provisions that, or requires the council to establish policies ~~or and~~ procedures ~~or give directions~~ that, limit or manage the risks associated with a ~~first-nation~~**First Nation** carrying on for-profit activities. *{Sample FAL 60}*

~~17.2~~**19.2 Guarantees and indemnities** – A *FAL* includes provisions respecting the granting of ~~first-nation~~**First Nation** guarantees and indemnities, including any limits on amounts and any approvals required. *{Sample FAL 61, 105}*

### ~~17.3~~19.3 Investments

~~19.3.1~~ **Types of investment management strategy** – A *FAL* includes provisions respecting, or requires the council to establish policies and procedures respecting, an effective investment management strategy for First Nation funds.

~~17.3-19.3.2~~ **Restricted investments** – A *FAL* specifies the type of investments in which first nation funds may be invested including a requirement that the following First Nation government transfer funds and local revenues may only be invested in investments specified in ~~section~~ paragraph 82(3)(a), (b), (c) or (d) of the Act and in investments in securities issued by the First Nations Finance Authority or a municipal finance authority established by a province:

- ~~a.~~ government transfer funds;
- ~~b.~~ local revenue funds; and
- ~~c.~~ other revenues funds if the first nation has a loan from the First Nations Finance Authority secured by other revenues. *{Sample FAL 62, 63}*

~~17.3-219.3.3~~ **Identification of financial institutions** – A *FAL* includes provisions identifying, or requires the council to establish policies and procedures identifying, the financial institutions or types of financial institutions in which the ~~first nation~~ First Nation may invest funds. *{Sample FAL 63}*

### ~~17.4~~19.4 Lending

~~17.4-119.4.1~~ **Lending and collection** – A *FAL* includes provisions respecting, or requires the council to establish policies ~~or~~ and procedures ~~or give directions~~ respecting, effective management of the lending of ~~first nation~~ First Nation funds and the collecting of funds loaned. *{Sample FAL 64, 65(2)}*

~~19.4.2~~ **Permitted lending to ~~first nation~~ First Nation members** – A *FAL* may establish permit the establishment of a program for the lending of ~~first nation~~ First Nation funds to ~~first nation~~ First Nation members if the program

- ~~a.~~ provides for universal accessibility,
- ~~b.~~ has published terms and conditions, and
- ~~a-c.~~ is transparent. *{Sample FAL 64}*

### ~~17.5~~19.5 Insurance

~~17.5-119.5.1~~ **Required insurance** – A *FAL* includes provisions respecting requirements for liability, property and other insurance of the ~~first nation~~ First Nation, including insurance respecting assets under the ~~first nation's~~ First Nation's care or control. *{Sample FAL 67(1)}*

~~17.5.2~~**19.5.2 Permitted insurance** – A *FAL* may include provisions respecting liability insurance obtained for the benefit of councillors, officers or employees of the ~~first nation.~~ *{Sample FAL 67(2)}*First Nation.

## 19.6 Operations and information technology

### 17.6 ~~Required operations~~ controls

~~17.6.1~~**19.6.1 Operations controls** – A *FAL* contains provisions respecting, or requires the council to establish policies ~~or~~ and 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 ~~first nation's~~First Nation's operations. *{Sample FAL 59}*

~~17.6.2~~**19.6.2 Information Required information technology controls** – A *FAL* contains provisions respecting, or requires the council to establish policies ~~or~~ and procedures ~~or give directions~~ respecting, internal controls for information technology used by the ~~first nation~~First Nation in its operations in order to ensure the integrity of the financial administration system ~~and, its records and data base.~~ *{Sample FAL 87}*.

### 17.7 Fraud risks

~~17.7.1~~**19.7.1 Definitions** – In standard 17.7.1:

~~“fraudulent financial reporting”~~ means an intentional act in financial reporting that is designed to deceive users Risk of financial reports and that may result in a material omission from or misstatement of financial reports;

~~“fraudulent non-financial reporting”~~ means an intentional act in non-financial reporting that is designed to deceive users of non-financial reports; and

~~“misappropriation of assets”~~ means the theft of first nation assets in circumstances where the theft may result in a material omission or misstatement in financial reports. *{Sample FAL 68(1)}*

~~17.8~~**19.7 Procedures for fraud risks** – A *FAL* ~~contains provisions respecting, or~~ requires the council to establish policies and procedures for respecting, the identification and assessment of the ~~following types~~ risk of potential fraud into the first nation:First Nation.

~~a. fraudulent financial reporting;~~

~~a. fraudulent non-financial reporting;~~

~~b. misappropriation of assets; and~~

~~c. corruption and illegal acts.~~ *{Sample FAL 68(2)}*

## 18.020.0 FINANCIAL REPORTING

**18.120.1 Controls for reliable reporting** – A *FAL* contains provisions respecting, or requires the council to establish policies ~~or and~~ procedures ~~or give directions~~ respecting, the establishment and implementation of an effective system of internal controls that ensures the reliable reporting of the ~~first nation's~~ First Nation's financial results. *{Sample FAL All of 69-80}*

### 18.220.2 Separate accounting ~~and reporting~~

**18.2.120.2.1 Local revenues** – A *FAL* requires local revenues of the ~~first nation~~ First Nation to be accounted for ~~and reported on~~ separately from its other moneys in accordance with the requirements of the ~~Board's standards for financial reporting of local revenues.~~ *{Sample FAL 70(1), 74(1)}* FMB's Local Revenue Financial Reporting Standards.

**18.2.220.2.2 Other revenues** – A *FAL* requires all other revenues of the ~~first nation~~ First Nation to be accounted for separately from its other moneys if the ~~first nation~~ First Nation has a loan from the First Nations Finance Authority secured by other revenues. *{Sample FAL 70(2)(a)}*

**18.2.320.2.3 Other revenue account information** – A *FAL* requires a ~~first nation~~ First Nation referred to in standard 18.2.2.2 to provide accounting information about its other revenues to the First Nations Finance Authority and to the ~~Board~~ FMB on request. *{Sample FAL 70(2)(b)}*

**18.320.3 Monthly reporting** – A *FAL* provides for the preparation of monthly financial information respecting the financial affairs of the ~~first nation~~ First Nation and for ~~its~~ the provision of the information to the council ~~and one or more of the following: the council,~~ the finance and audit committee. *{Sample FAL 71}* or the chief administrative officer.

**18.420.4 Quarterly reporting** – A *FAL* provides for the preparation of quarterly financial statements respecting the financial affairs of the ~~first nation~~ First Nation and for their provision to the ~~councillors~~ council and the finance and audit committee. *{Sample FAL 72}*

### 18.520.5 Annual ~~financial statements~~ reporting

**18.5.120.5.1 Preparation** – A *FAL* provides for the preparation of annual financial statements respecting the financial affairs of the ~~first nation~~ First Nation and for their provision to the ~~councillors~~ council and the finance and audit committee. *{Sample FAL 73}*

**18.5.2 Preparation requirements** GAAP requirement – A *FAL* requires annual financial statements ~~for~~ of the ~~first nation~~

**18.5.320.5.2 First Nation** to be prepared in accordance with ~~generally accepted accounting principles, and~~ GAAP.

- a. ~~if the first nation has a land code in force, to include the same revenue categories respecting revenues from first nation lands as are required by standard 15.3.2 to be included in the first nation's budgets. [Sample FAL 73]~~

**20.5.3 Local revenues financial report** - A *FAL* requires the financial report of local revenues of the First Nation – whether reported as a distinct segment in the audited annual financial statements of the First Nation or as separate annual financial statements - to be prepared at least once each calendar year in accordance with the FMB's *Local Revenue Financial Reporting Standards*.

## **18.6.20.6 Special purpose reports**

**18.6.20.6.1 Permitted special purpose reports** – A *FAL* may require the ~~senior financial officer~~director of finance to prepare and the auditor to ~~review~~report on any special purpose reports required by an agreement or a law. *[Sample FAL 75, 78(4)]*

**18.6.220.6.2 Required special purpose reports** – A *FAL* requires the ~~senior financial officer~~director of finance to prepare and the auditor to ~~review~~report on the following special purpose reports for each fiscal year:

- a. the report referred to in standard 9.0;
- b. a report setting out all payments made by the ~~first nation~~First Nation to honour guarantees and indemnities; and
- c. a report setting out all debts and obligations forgiven by the ~~first nation~~First Nation during the fiscal year;
- d. ~~if a first nation has a land code in force, a report setting out moneys of the first nation derived from first nation lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from first nation lands, referred to in standard 15.3.2. [Sample FAL 75, 78(4)]~~

**20.6.3 Special accounting framework** – A *FAL* may permit the preparation of a special purpose report on a basis of accounting other than GAAP.

## **19.021.0 AUDITS**

**21.1 Interpretation** – In standard 21.0, a reference to annual financial statements includes a reference to annual financial statements respecting local revenues - unless otherwise stated.

**21.2 Application** – This standard 21.0 applies to the audit of the annual financial statements of the First Nation.

**19.121.3 Audit standards** – A *FAL* requires the annual financial statements to be audited in accordance with Canadian generally accepted ~~audit~~auditing standards, ~~established by the Chartered Professional Accountants of Canada. [Sample FAL 78(2)].~~



## 19.2.21.4 Auditor

~~19.2.421.4.1~~ **Appointment** – A *FAL* provides for the appointment and dismissal of the first nation's auditor. *{Sample FAL 76}*

~~19.2.221.4.2~~ **Qualifications** – A *FAL* requires the auditor

- a. to be independent of the ~~first nation~~ First Nation, and
- b. to be a public accounting firm or public accountant
  - i. in good standing with the Chartered Professional Accountants of Canada, ~~the Canadian Institute of Chartered Accountants, the Certified General Accountants Association of Canada or the Society of Management Accountants of Canada and their respective counterparts and its respective counterpart~~ in the province or territory in which the public accounting firm or public accountant is practicing, and
  - ii. ~~licensed or otherwise authorized to practice public accounting in the province or territory in which the majority of the reserve lands of the~~ first nation First Nation are located. *{Sample FAL 76(3)}*

~~19.2.3~~ **Engagement letter** – A *FAL* requires the auditor's engagement letter to ~~require~~ include the auditor

~~19.2.421.4.3~~ to confirm in writing that the financial statements and the audit comply with Board content required by Canadian generally accepted auditing standards and all applicable laws, or,

- a. ~~to the extent they are not in compliance, to identify in writing consequential non-compliance matters.~~ *{Sample FAL 76(2)}*

~~19.2.521.4.4~~ **Duties** – A *FAL* requires the auditor to provide

- a. an audit ~~opinion report~~ on the annual financial statements of the ~~first nation~~ First Nation referred to in standard 20.5, and
- b. an audit ~~opinion report~~ or a review ~~comments~~ engagement report on the special purpose reports referred to in standard ~~18~~ 20.6. *{Sample FAL 78(4)}*

~~19.2.621.4.5~~ **Auditor authority** – A *FAL* gives the auditor the authority necessary to enable the auditor to carry out its audit responsibilities, including the following:

- a. to have access to all records, including all books, accounts and vouchers, council minutes, council resolutions, ~~first nation~~ First Nation laws and agreements to which the ~~first~~ First nation is a party, and to question persons respecting any such information;

- b. to receive notices of all finance and audit committee meetings and, at the auditor's discretion, to attend and be heard at those meetings;
- c. to communicate to the finance and audit committee, as the auditor considers appropriate, any matters which the finance and audit committee should consider;
- d. with reasonable exceptions (such as a meeting called to consider the retention or dismissal of an auditor), to attend the council meeting where the annual audit, including the annual financial statements, will be considered and approved and to receive notice of that meeting;
- e. to be heard at any council and ~~first-nation~~First Nation members meeting that the auditor has the right to attend or to which the auditor has been invited and that raises issues of concern to the auditor as auditor of the ~~first-nation~~First Nation.

*{Sample FAL 77}*

**19.321.5 Completion** ~~Audit completion~~ **date** – A *FAL* requires the audit of the annual financial statements, other than those prepared for local revenues, to be completed not more than one hundred twenty (120) days after the end of the fiscal year. *{Sample FAL 78(1)}*

## 22.0 APPROVAL/ACCESS TO AUDITED STATEMENTS

**19.422.1 Review and approval** – A *FAL* requires the council to review and approve the ~~first nation's~~First Nation's audited annual financial statements, other than those prepared for local revenues, not more than one hundred twenty (120) days after the end of the fiscal year. *{Sample FAL 79(2)}*

**19.522.2 Signatories** – A *FAL* requires the ~~First Nation's~~First Nation's audited annual financial statements to be signed by

- a. the chief of the ~~first-nation~~First Nation or the council chairperson,
- b. the chairperson of the finance and audit committee, and
- ~~c. the senior financial officer. {Sample FAL 80(1)}~~
- c. the director of finance.

## 22.3 Access to audited statements/report

**19.522.3.1 First ~~nation~~Nation member access** – A *FAL* requires members of the ~~first nation~~First Nation to be given access to ~~all~~the ~~First Nation's~~First Nation's audited annual financial statements and special purpose reports. *{Sample FAL 80(1),(2)}*

## 19.6 Local revenues report

**19.6.1 Audit** – ~~A FAL requires separate annual financial statements respecting~~ **Access to audited local revenues** ~~of the first-nation to be prepared and audited at least once each~~

calendar year in accordance with the Board's financial reporting standards for local revenues.. *[Sample FAL 74, 78(3)]*

**19.6.2 Access to audit report** – A *FAL* requires the First Nation's audited annual financial statements report of local revenues, including the audit report if any, to be made available to persons referred to in sections subsection 14(2) of the Act. *[Sample FAL 74, 80(3)]*

**19.6.3 Optional reporting**—Despite standard 19.7.1, a *FAL* may permit the financial reporting of local revenues to be included as a distinct segment of the activities that appear in the audited annual financial statements of the first nation if the Board's financial reporting standards for local revenues permit the first nation to elect that financial reporting option. *[Sample FAL 74(4), 80(3)]*,

**19.6.4.2.3.2 Access where optional reporting**—If a *FAL* permits a first nation to exercise the option referred to in standard 19.7.3, a *FAL* requires the audited annual financial statements of the first nation to be made available to the persons referred to in section 14(2) of the Act. *[Sample FAL 80(3)]*

## 20.023.0 ANNUAL REPORT

**20.123.1 Annual report** – A *FAL* requires the first nation First Nation to prepare and publish an annual report on the operations and financial performance of the first nation First Nation for each fiscal year. *[Sample FAL 81(1), (2)]*

**20.223.2 Publication date** – A *FAL* requires the annual report of the first nation First Nation to be published not later than one hundred eighty (180) days after the end of the fiscal year. *[Sample FAL 81(1)]*

**23.3 Content of report** – A *FAL* requires the annual report of the first nation First Nation

- a. to include the following:
  - i. a description of the services and operations of the first nation; First Nation, and
  - ii. a progress report on any established financial objectives and performance measures of the first nation; First Nation, and
- b. to include or to incorporate by reference
  - iii.i. all audited annual financial statements of the first nation First Nation for the previous fiscal year; and
  - iv.ii. the special purpose reports referred to in standard 1820.6. *[Sample FAL 81(2)]*

**20.323.4 Provision of report** – A *FAL* requires the annual report of the first nation First Nation to be provided

- a. to First Nation members ~~of the first nation~~ on request, and
- ~~b. to the Board if the first nation has a certificate issued by the Board under section 50(3) of the Act, and~~
- ~~e.~~ b. \_\_\_\_\_ to the First Nations Finance Authority if the ~~first nation~~First Nation is a borrowing member. *[Sample FAL 81(3)]*

**20.423.5 Remedy for non-compliance** – A *FAL* includes provisions respecting, or requires the council to establish policies, and procedures ~~or give directions~~ respecting, an accessible process and remedy available to ~~first nation~~First Nation members who have requested but have not been provided with ~~the annual report of the first nation.~~ *[Sample FAL 81(4)]*

- a. the annual report of the First Nation, or
- b. access to the audited annual financial statements and special purpose reports incorporated by reference in the annual report.

## 21.024.0 RECORDS AND INFORMATION

**21.124.1 Ownership of records** – A *FAL* includes provisions, or requires the council to establish policies ~~or and~~ procedures ~~or give directions~~, to ensure that the records of the ~~first nation~~First Nation, however produced, used or received remain the property of the ~~first nation.~~ *[Sample FAL 82 (1), (2)]*First Nation.

### 21.2 Operations Manual

**21.2.1 Operations manual** – A *FAL* requires the preparation and maintenance of a current operations manual for the first nation's administrative systems. *[Sample FAL 83(1)]*

**21.2.2 Access to manual** – A *FAL* requires the operations manual to be made available to councillors, committee members, officers and employees and, as appropriate, to contractors or agents – subject to reasonable exceptions for those parts of the manual that are appropriate for only limited distribution. *[Sample FAL 83(2), (3)]*

**21.324.2 Record keeping, storage, etc.** – A *FAL* includes provisions respecting, or requires the council to establish policies ~~or and~~ procedures ~~or give directions~~ respecting, the preparation, maintenance, security, storage, access to and disposal of records of the ~~first nation.~~ *[Sample FAL 84]*First Nation.

**21.424.3 Requirements for confidentiality, etc.** – A *FAL* includes provisions respecting, or requires the council to establish policies ~~or and~~ procedures ~~or give directions~~ respecting, the confidentiality, control and release of ~~first nation~~First Nation information that is in the possession of the ~~first nation~~First Nation, the council, councillors, committee members, employees, contractors or agents of the ~~first nation.~~ *[Sample FAL 85(1), (2)]*First Nation.

**21.524.4 Local revenue account records** – A *FAL* requires a complete set of all records respecting the local revenue system of the ~~first nation~~First Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations*, to be kept by the ~~senior financial officer~~director of finance or the tax administrator. *{Sample FAL 86(1)}*

**21.624.5 Other revenues account records** – If the ~~first nation~~First Nation has a loan from the First Nations Finance Authority that is secured by other revenues, a *FAL* requires a complete set of all records respecting other revenues of the ~~first nation~~First Nation, including all records referred to in section 5 of the *Revenue Management Implementation Regulations* as amended by the *Financing Secured by Other Revenues Regulations*, to be kept by the ~~senior financial officer~~. *{Sample FAL 86(2)}*director of finance.

## **PART FOUR – TANGIBLE CAPITAL ASSETS ~~INCLUDING CAPITAL PROJECTS~~**

### **22.025.0 TANGIBLE CAPITAL ASSETS ~~INCLUDING CAPITAL PROJECTS~~MANAGEMENT**

#### **25.1 Definition – In Part Four:**

**“First Nation tangible capital assets”** means all non-financial assets of the First Nation having physical substance that

- a. are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets.
- b. have useful economic lives extending beyond an accounting period.
- c. are to be used on a continuing basis, and
- d. are not for sale in the ordinary course of operations;

**“life-cycle management program”** means a program of inspection, planning, maintenance, replacement and oversight of First Nation tangible capital assets; and

**“tangible capital asset project”** means the acquisition, construction, rehabilitation, repair or replacement of a First Nation tangible capital asset but does not include routine maintenance.

**22.125.2 Council obligations** – A *FAL* includes provisions to ensure that ~~the first nation’s~~First Nation tangible capital assets are

- a. recorded in an assets register,
- b. adequately safeguarded,
- c. maintained in accordance with a ~~lifecycle~~life-cycle management program as described in Part Four, and
- d. planned, financed, managed and constructed to acceptable community standards. *{Sample FAL 88 – 96}*

**22.225.3 Reserve Tangible capital asset reserve fund** – A *FAL* requires the council to invest in and manage a *First Nation* tangible capital asset reserve fund to be applied for the purposes set out in standard 22.0. *[Sample FAL 90] Part Four.*

## 26.0 LIFE-CYCLE MANAGEMENT PROGRAM

**26.1 Life-cycle planning management program** – A *FAL* requires documented *lifecycle* life-cycle inspection, planning *for and oversight of First Nation* tangible capital assets *including and tangible capital asset projects.*

**22.326.2 Contents of program** – The life-cycle management program referred to in standard 26.1 *must include* the following:

- a. the development, maintenance and updating of *an assets* a register *which includes the following information for each asset: location, ownership, year of acquisition, inspection dates, expected useful life at time of acquisition and, on inspection, residual value and insurance coverage for First Nation tangible capital assets;*
- b. *the annual* regular, periodic inspection of *all First Nation* tangible capital assets *which includes;*
- ~~b.c.~~ *for routine maintenance of First Nation tangible capital assets, preparation of the following information for each asset: present use, state of repair and suitability for use, remaining useful life and estimated replacement cost, estimated dates and costs of future rehabilitation, operating and maintenance costs for last five years, maintenance records and insurance coverage;*
  - i. *the* a plan for annual scheduling *for tangible capital assets of routine* required maintenance *as well as for the next fiscal year;*
  - ii. *short, medium* and long term forecasting of estimated costs *of rehabilitation or replacement; and*
  - iii. *a budget for required maintenance for the next fiscal year;*
- d. *for tangible capital asset projects, preparation of the following:*
- e. *a plan for annual scheduling of assets; and*
- d. *the preparation of annual budgets for rehabilitation and replacement of tangible capital assets including new construction. [Sample FAL 88-92, 93]*

**22.4 Capital project budgeting** – A *FAL* requires

- i. *projects for the next fiscal year;*
- ii. *short and long term forecasting of estimated costs for maintenance of projects; and replacement of tangible capital assets;*

~~b. the annual budgeting of maintenance and replacement of tangible capital assets, and~~

~~iii. a budget for projects for the next fiscal year; and~~

~~e.e. the annual review by the finance and audit committee of any scheduled the proposed scheduling and budgets for routine maintenance and tangible capital asset projects and their budgets. [Sample FAL all of 89–93].~~

~~26.3 Contracts and tendering provisions~~**Required policies and procedures** - A FAL includes provisions respecting, or requires the council to establish policies and procedures respecting

~~a. a life-cycle management program for First Nation tangible capital assets, and~~

~~b. tangible capital asset projects.~~

## 27.0 CONTRACTS AND TENDERING

~~22.527.1~~**Required policies and procedures** – A FAL includes provisions respecting, or requires the council to establish policies and procedures ~~or give directions~~ respecting, the ~~following matters relating to the construction procurement, contract and rehabilitation of buildings risk management and other improvements to land, including administration of tangible capital infrastructure: asset projects.~~

## 28.0 project planning, design, engineering, safety **FIRST NATION MEMBER INFORMATION OR INVOLVEMENT**

~~a. Required policies 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;~~

~~h. holdbacks, work approvals, payment and audit procedures. [Sample FAL 94]~~

~~22.628.1~~**First nation member information or involvement** – A FAL includes provisions respecting, or requires the council to establish policies ~~or and~~ procedures ~~or give directions~~ respecting, the involving or informing of ~~first nation~~**First Nation** members in tangible capital asset projects and ~~borrowings~~**borrowing** for ~~the construction of new tangible capital asset~~**those** projects. *[Sample FAL 55, 96]*

## PART FIVE – MISCELLANEOUS

### 23.029.0 BOARD FMB STANDARDS

**23.129.1 Compliance with Board FMB standards** – If the ~~first-nation~~First Nation is a borrowing member or has a certificate issued by the ~~Board FMB~~ under the Act, a FAL requires the ~~first-nation~~First Nation to remain in compliance with all applicable ~~Board FMB~~ standards. *{Sample FAL 97(1)}*

**23.229.2 Council obligation where non-compliant** – A FAL of a ~~first-nation~~First Nation referred to in standard 229.1 requires that, on the council becoming aware that the ~~first-nation~~First Nation is not operating in compliance with a ~~Board FMB~~ standard referred to in standard 2329.1, the council must, without delay, take such measures as are required for the ~~first-nation~~First Nation to rectify any such non-compliance and to operate in compliance with the standard. *{Sample FAL 97(2)}*

### 24.030.0 DELEGATED AUTHORITY ~~ON INTERVENTION~~FOR LOCAL REVENUES

**24.1 Local revenues intervention** – A FAL provides, without limiting section 53 of the Act, that if

~~a. the first nation is~~

**30.1 Application** – This standard 30.0 applies to a First Nation only if it is

~~b.a.~~ making local revenue laws under subsection 5(1) of the Act, or

~~e.b.~~ using its local revenues to secure a loan from the First Nations Finance Authority, ~~and~~

~~d. the Board~~**Local revenues notice** – A FAL provides, without limiting section 53 of the Act, that if the FMB gives notice to the ~~first-nation~~First Nation under section 53 of the Act that third-party management of the ~~first-nation's~~First Nation's local revenues is required,

**24.230.2** the council of the ~~first-nation~~First Nation delegates to the ~~Board~~-FMB

a. the powers and authorities described in subsection 53(2) of the Act, and

b. any other of the council's powers required to give effect to third-party management of the ~~first-nation's~~First Nation's local revenues under the Act. *{Sample FAL 98(1)}*

### 31.0 DELEGATED AUTHORITY FOR OTHER REVENUES

**31.1 Application** – This standard 31.0 applies to a First Nation only if it is using its other revenues to secure a loan from the First Nations Finance Authority.

**24.331.2 Other revenues intervention notice** – A FAL provides, without limiting section 53 of the Act as adapted by the Financing Secured by Other Revenues Regulations, that if ~~the FMB~~ gives



~~notice to the First Nation under section 53 of the Act that third-party management of the First Nation's other revenues is required, the council of the First Nation delegates to the FMB s~~

~~a. the first nation is using its other revenues to secure a loan from the First Nations Finance Authority, and~~

~~b. the Board gives notice to the first nation under section 53 of the Act that third-party management of the first nation's other revenues is required,~~

~~the council of the first nation delegates to the Board~~

~~e.a. the powers and authorities described in subsection 53(2) of the Act as adapted by the Financing Secured by Other Revenues Regulations, and~~

~~d.b. \_\_\_\_\_ any other of the council's powers required to give effect to third-party management of the ~~first nation's~~First Nation's other revenues under the Act. *{Sample FAL 98(1)}*~~

## 25.0 — LAND MANAGEMENT ISSUES

~~25.1 Provisions respecting land code — If the first nation has a land code in force, a FAL requires the first nation to comply with the *First Nations Land Management Act* and any land code made by the first nation as required or permitted under that Act. *{Sample FAL 99(1)}*~~

~~25.2 Accountability to first nation members — If the first nation has a land code in force, a FAL provides a method, or requires the council to establish a policy that provides a method, for ensuring the accountability to first nation members for the management of first nation land and moneys derived from first nation land as required under the first nation's land code to satisfy section 6(1)(e) of the *First Nations Land Management Act*. *{Sample FAL 99(2)}*~~

## 26.0 — OIL AND GAS MONEYS MANAGEMENT ISSUES

~~26.1 Provisions respecting oil and gas — If the first nation has a financial code in force under the *First Nations Oil and Gas and Moneys Management Act*, a FAL requires the first nation to comply with the *First Nations Oil and Gas and Moneys Management Act* and any financial code made by the first nation as required or permitted under that Act *{Sample FAL 100}*~~

## 27.032.0 FINANCIAL MISCONDUCT

~~27.132.1 Reporting misconduct — A FAL establishes the means by which a person may report any alleged misappropriation or irregularity in the financial administration of the ~~first nation~~First Nation and how these reports must be considered. *{Sample FAL 101(1), 102}*~~

~~27.232.2 Obligation to report — A FAL requires~~

- ~~a. councillors, officers and employees, and~~
- ~~b. contractors and agents engaged in financial administration activities~~

to report any circumstances referred to in standard [27.32.1](#). *{Sample FAL 101}*

[27.332.3](#) **Protection for whistleblowers** – A *FAL* includes provisions protecting a person from reprisals for reporting any circumstances referred to in standard [27.32.1](#). *{Sample FAL 103}*

[27.432.4](#) **Procedural requirements** – A *FAL* includes provisions respecting, or requires the council to establish policies ~~or~~and procedures ~~or give directions~~ respecting, the reporting of circumstances referred to in standard [27.31.1](#), the conduct of inquiries or investigations into these reports and the fair treatment of persons against whom reports have been made. *{Sample FAL 102, 103}*

[27.532.5](#) **Enforcement** – A *FAL* requires compliance with the *FAL* and provides the means to enforce compliance. *{Sample FAL 23(2), 23(4), 104}*

[27.632.6](#) **Recovery of moneys** – A *FAL* provides for the recovery of amounts expended or forfeited due to the failure of a person to comply with the requirements of the *FAL*. *{Sample FAL 104}*

## [28.033.0](#) **FAL REVIEW**

[28.133.1](#) **Periodic review** – A *FAL* provides for periodic review of the *FAL*, including

- a. the assessment of its effectiveness in establishing sound financial administration for the ~~first nation~~[First Nation](#), and
- b. the identification of any changes to the *FAL* that may better serve that objective. *{Sample FAL 106(1)}*

[28.233.2](#) **First nation ~~member~~members information or involvement** – A *FAL* includes provisions respecting, or requires the council to establish policies ~~or~~and procedures ~~or give directions~~ respecting, the means by which ~~membership~~[First Nation members](#) will be informed about or involved in the approval of any proposed amendments to the *FAL*. *{Sample FAL 106(2)–(4)}*

## ~~29.0~~ **PROVISION OF LAW TO FIRST NATIONS FINANCE AUTHORITY**

~~29.1~~ **Provision to FNFA** – ~~If a first nation intends to become a borrowing member, a *FAL* requires the council to provide a copy of its financial administration law to the First Nations Finance Authority as soon as practical after the *FAL* is approved by the Board.~~ *{Sample FAL 107}*

## [30.034.0](#) **COMING INTO FORCE**

[30.134.1](#) **Permitted ~~dated~~day of coming into force** – A *FAL* may set out the ~~dated~~day on which the *FAL* comes into force. *{Sample FAL 108}*

[30.234.2](#) **Limitations on ~~dated~~day of coming into force** – ~~The date set for the coming A *FAL* may not come into force of the *FAL* will not be any~~ earlier than the day after the *FAL* is given compliance approval by the ~~Board.~~*{Sample FAL 108}* FMB under section 9 of the Act.



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