PART 1 – APPELLANT INFORMATION

Complete each box with your personal information.

PART 2 – REASON(S) FOR APPEAL

You must describe how the Enrolment Committee made a mistake denying your Application. Describe

the following, as applicable:

a) What information or evidence in your application did the Enrolment Committee fail to consider?

b) Did the Enrolment Committee misinterpret the information or evidence you provided?

c) Consider the reason you were rejected and describe the information you provided which shows

that you met this criteria.

Eligibility for membership requires that:

a) You were alive on 22 September 2011;

b) You are of Canadian Indian ancestry, whether by birth or adoption;

c) (i) on or before 31 March 1949 you were a Member of a Newfoundland Pre-Confederation

Mi’kmaq Community; or

(ii) you are a descendant, whether by birth or adoption, of a person who was a Member of a

Newfoundland Pre-Confederation Mi’kmaq Community on or before 31 March 1949;

d) You were not registered on the Indian Register on 22 September 2011;

e) On 22 September 2011, you self-identified as a Member of the Mi’kmaq Group of Indians of

Newfoundland; and

f) On 22 September 2011, you were accepted by the Mi’kmaq Group of Indians of Newfoundland

as a Member of the Mi’kmaq Group of Indians of Newfoundland.

The Guidelines outline how the Enrolment Committee was supposed to assess whether or not you

meet the enrolment criteria. It is recommended that you refer to the Guidelines (located here:

http://qalipu.ca/site/wp-content/uploads/2011/07/application-guidelines-oct3008.pdf ) to ensure you

understand exactly what information and documentation the Enrolment Committee was looking for as

part of the original Application. This will also help you in better identifying the Enrolment Committee’s

error in denying your Application.

Feel free to attach additional pages to explain your reason(s) for appeal, as needed.

Please note that you are not allowed to submit any further documentation as part of your Appeal

Notice. The Appeal Master is only permitted to consider the information and documentation submitted

with your original Application.

Finally, we strongly recommend including the following 6 paragraphs at the end of your Notice of

Appeal:

1. Canada (as represented by the Minister of Indigenous Affairs and Northern Development), the

Federation of Newfoundland Indians, and the Qalipu Mi’kmaq First Nation Band violated

section 15 of the Canadian Charter of Rights and Freedoms by creating enrolment criteria, which evaluate applicants’ eligibility in a manner that is unfair and inequitable. That violation is

not saved by s. 1 of the Charter.

2. The evidentiary requirements for establishing ancestry creates an impossible burden for

applicants. This criterion is particularly problematic in light of the history of racism and

discrimination faced by generations of Mi’kmaq residing in Newfoundland and Labrador. It is

entirely reasonable that, rather than face discrimination, families hid their Aboriginal ancestry

and that individuals discovered their ancestry only after investigating their genealogy. The

differential evidentiary burdens based on an arbitrary date is inequitable and unjust.

3. With respect to the community acceptance criterion, band membership elsewhere in Canada

does not use similar criteria nor are prospective band members required to demonstrate

acceptance by the band. The “community acceptance” test has been deemed an inappropriate

criteria because it alienates people who may no longer be accepted by their communities for

reasons beyond differences in particular band culture. There is no principled reason for

presumptively and arbitrarily excluding individuals from Parliament’s protective authority on the

basis of a “community acceptance” test. It should not be necessary for an applicant to establish

that he or she is resident near a specific Mi’kmaq community. Moreover, it may not be possible

on account of an applicant’s unique circumstances with their community, employment,

finances, or otherwise to prove they regularly visit or communicate with the community or its

members. The inclusion of this criteria continues to perpetuate the injustice, lack of recognition,

and denial of constitutional rights that many Mi’kmaq have faced in Newfoundland since 1949.

4. Further, the implementation of the enrolment criteria and decisions to deny the applicant’s

membership in the Band violate section 15 of the Charter, are not saved by section 1 of the

Charter and/or do not reflect a proportionate balancing of the Charter protections to ensure that

they are limited no more than necessary given the enrolment criteria’s objectives.

5. Finally, the new self-identification requirements under the Supplemental Agreement must be

set aside and cannot, therefore, form the basis for denying an Application. Section 2.15(a) of

the Agreement for the Recognition of the Qalipu Mi’kmaq Band (“Original Agreement”) provides

provisions may be varied or amended to remove conflicts or inconsistences with any applicable

law. The Supplemental Agreement states the rationale for varying the self-identification

requirements lies in the parties wanting to conform to the Powley definition. In that regard, self-identification could not be of “recent vintage” or made “belatedly in order to benefit from a

section 35 right”.

6. The existence of the deadline means there must be a legally valid difference between

applicants who signed their Applications before or on September 22, 2011 and those who

signed after. The legal difference being that those who signed after – even a day later – are

Newfoundland Mi’kmaq of a recent vintage. The Supplemental Agreement fails to provide a

coherent distinction between these two groups of applicants. The consequence, therefore, is

that their declaration is no longer objectively sufficient for self-identification according to the

Powley test. Without a legal rationale, the Supplemental Agreement turns away applicants who

would have presumptively met the self-identification requirements under the Original

Agreement.

PART 3 – DECLARATION AND SIGNATURE

If you are 18 years of age or older and not suffering from a mental disability, sign and date the first box

only.

If you are a minor, your parent/legal guardian will have to sign and complete the second box only.

If you are a dependent adult, your legal guardian will have to sign and complete the second box only.

If the applicant is deceased, their estate manager will have to sign and complete the second box only.

Your signature must be witnessed and dated. While there is no signature line for your witness to sign,

we recommend that you have a witness sign and date your appeal notice directly below your

signature.

MAIL YOUR DECISION BEFORE MARCH 17, 2017

You must mail your notice of appeal to:

Office of the Appeal Master

Box 9100

Winnipeg, MB

R3C 0M9

before March 17, 2017.