Malahat

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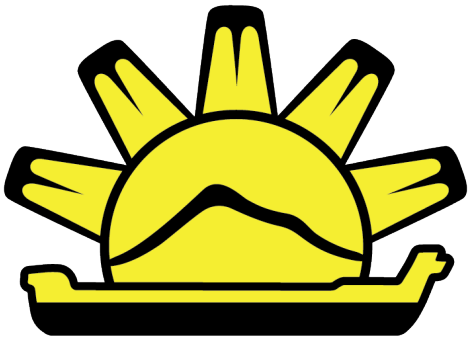
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Malahat

Draft Constitution of the Malahat Nation

Self-governance: Our Rules to Live By

4/15/2026

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Preamble

The Purpose of this document is to affirm Malahat Nation as stewards of our unceded ancestral lands. We celebrate our distinct culture, language, art, and spiritual beliefs. These teachings will be handed down to our youth to instill pride in our identity.

Since time immemorial, Malahat people have occupied our lands and waters and through this way of life we became self-sustaining people. Our Constitution will continue to provide a way for us as a Nation to exercise our inherent right to self-determination.

Our Constitution lays the foundation for our people to continue to manage and control our own destiny. It is based on our Aboriginal and Treaty rights, our laws, our responsibilities and our obligations to our future generations. As descendants of the signatories to the Douglas Treaty (1852), with this Constitution we will continue to occupy and protect our lands; we will continue to preserve our culture, language and way of life.

Supremacy of the Constitution

1. This Constitution is the supreme law of the Malahat Nation.

2. If any law enacted by the Malahat Nation is inconsistent with this Constitution, that law is, to the extent of the inconsistency, of no force or effect.

3. Each Schedule attached to this Constitution is part of the Constitution, unless a provision of the Constitution expressly states that a particular Schedule has the status of ordinary Malahat Nation Law.

Interpretation

4. In this Constitution “Modern Treaty” means the Malahat Treaty and Land Claims Agreement of [YEAR OF SIGNING] between Malahat Nation, Canada and British Columbia.

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5. With the exception of "Community Council," "Malahat Nation Council," "Councillor," "Chief," "Elders," and "Special Gathering" which are not defined in the Modern Treaty, all capitalized terms in this Constitution have the same meaning as in the Modern Treaty.

6. The oral traditions of Malahat Nation may be used in interpreting this Constitution.

7. The following SENĆOŦEN words are used with these general meanings:

   (a) SQAP'LH XWILENGEXW: People's Gathering

   (b) MÁLEXEŁ: Malahat

Citizenship

8. Every person enrolled under the Modern Treaty is entitled to be a Malahat Nation Citizen.

9. The Malahat Nation Council may make laws in respect of Malahat Nation Citizenship which may extend citizenship to persons beyond those enrolled under the Modern Treaty.

10. Malahat Nation Law will establish a process for persons without citizenship to apply to become Malahat Nation Citizens.

11. For greater certainty, any person of Malahat ancestry may apply to become a Malahat Nation Citizen.

Rights and Freedoms

12. Malahat Nation Citizens are entitled to the recognition and protection of the following rights and freedoms under the governance of the Malahat Nation:

   (a) the right to make political choices, to participate in political activities, and to express views on any public issue subject to reasonable limits;

   (b) the right to vote in referenda;

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(c) the right to access information, including the right to access Malahat Nation Laws;

(d) the right to fair, equitable and reasonable access to programs and services delivered by the Malahat Nation Government subject to available resources and in accordance with Malahat Law;

(e) the right to practice, protect and promote the culture, traditions and teachings of the Malahat Nation;

(f) the right to use, protect and preserve the ancestral languages of the Malahat Nation;

(g) collective rights including the right to participate in traditional and cultural activities, fishing, harvesting, and gathering and to use the land, water, and resources of the Malahat Nation;

(h) the right to enter and exit Malahat Nation lands;

(i) the right to equality including equal protection and benefit of the law but this does not prohibit laws, policies or programs aimed at improving the conditions of disadvantaged individuals or groups;

(j) the right to privacy and to the protection of personal information;

(k) the right to access available information about pollutants and contaminants released into the local environment;

(l) the right to reasonable access to current information on the state of the environment and natural resources;

(m) the right to be consulted and to participate in decision-making by the Malahat Nation Government on activities likely to have a significant effect upon the environment;

(n) the right to be consulted by the Malahat Nation Government, and Public Institutions on laws and administrative decisions:

i. that potentially impact in a significant way the collective rights of the Malahat Nation under this Constitution, the Douglas Treaties, the Modern Treaty, and the Constitution of Canada,

ii. that potentially impact in a significant way the individual rights of Malahat Nation Citizens under this Constitution, the Douglas Treaties the Modern Treaty, and the Constitution of Canada,

(o) the right to appeal administrative decisions and to challenge the validity of Malahat Nation Law in accordance with this Constitution and Malahat Nation Law; and

(p) such other rights as are set out in the Malahat Nation Modern Treaty.

13. The rights and freedoms guaranteed in this Constitution may be subject to reasonable limits prescribed by Malahat Nation Law if those limits balance the principles of individual rights, collective rights, democratic rights and sustainability.

14. The rights and freedoms guaranteed in this Constitution are in addition to any other rights and freedoms Malahat Nation Citizens may be entitled to in Canada.

15. The rights and freedoms guaranteed in this Constitution will not be construed so as to abrogate or derogate from any Aboriginal or treaty rights of Malahat Nation or Malahat Nation Citizens, including any rights under the Douglas Treaties.

Conservation and the Environment

16. Malahat Nation Government and Malahat Nation Public Institutions have the responsibility within their jurisdictional authority, to:

    (a) respect, protect, and promote the rights described in section 12; and

    (b) protect the environment for the benefit of present and future generations, through reasonable legislative or other measures that,

        i. prevent pollution and ecological degradation;

        ii. promote conservation; and

        iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

17. Malahat Nation Citizens and residents of Malahat Nation Lands have a responsibility to protect and heal the environment for present and future generations.

18. The Malahat Nation Government shall apply the precautionary principle, within its jurisdiction: When there is substantial, credible evidence of danger to human or environmental health, protective action should be taken despite continuing scientific uncertainty.

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Principles of Governance

19. The purposes of the Malahat Nation Government, Malahat Nation Public Institutions and their officials include:

(a) being loyal to the Malahat Nation;

(b) protecting the lands, waters and resources of the Malahat Nation;

(c) preserving Malahat Nation languages, culture, traditions, teachings and sacred places and things;

(d) considering the impact of decisions and actions beyond the Malahat Nation;

(e) being accountable to the Malahat Nation;

(f) adhering to this Constitution;

(g) promoting the unity and well-being of the Malahat Nation;

(h) providing good, effective and accountable government;

(i) cooperating with one another in mutual trust and good faith, consult and inform one another, and to coordinate their actions with one another;

(j) making decisions through a consistent, fair and transparent process;

(k) developing and maintaining communications with the community;

(l) striving to be effective and professional in their communication and business relationships with other governments; and

(m) fostering the development of a collective understanding of and respect for Malahat Nation Law.

Malahat Nation Government

Malahat Nation Council

20. The governing body of the Malahat Nation is the Malahat Nation Council.

21. The purposes of the Malahat Nation Council include:

(a) providing for services, laws and other matters for the benefit of the Malahat Nation and its Citizens;

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(b) providing for stewardship of the public assets of the Malahat Nation;

(c) managing Malahat Nation lands, waters and land use plans;

(d) approving the annual budget and financial plan for the Malahat Nation;

(e) fostering the economic, social and environmental well-being of the Malahat Nation and its Citizens; and

(f) establishing standing committees in accordance with Malahat Nation Law.

22. The members of the Malahat Nation Council are the Chief and the Councillors.

23. The Malahat Nation Council will meet a minimum of four (4) times a year, and more often at the request of the Chief or by decision of the Malahat Nation Council.

24. Unless provided otherwise in this Constitution or a Malahat Nation Law, where the Malahat Nation Council exercises a power that is not required to be exercised by law-making, it will do so by resolution of the Malahat Nation Council passed by a majority of the Council members present at a validly called meeting.

25. Malahat Nation Council will enact Malahat Nation Law to establish the general procedures to be followed by Malahat Nation Council and Malahat Nation Council committees in conducting their business.

26. Either the Chief or any Councillor may propose a Law to the Malahat Nation Council.

27. A member or former member of Malahat Nation Council must, unless specifically authorized otherwise by Malahat Nation Council,

(a) keep in confidence any record held in confidence by the Malahat Nation, until the record is released to the public as lawfully authorized or required or where otherwise authorized or required by law; and

(b) keep in confidence information considered in any part of a Malahat Nation Council meeting or Malahat Nation Council committee meeting that was lawfully closed to the public, until the Malahat Nation Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

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28. If the Malahat Nation suffers loss or damage because a person contravenes section 27 and the contravention was not inadvertent, the Malahat Nation may recover damages from the person for the loss or damage.

Chief

29. The Chief is elected by receiving the highest number of votes cast by Malahat Nation Citizens eligible to vote in a democratic election, conducted according to Malahat Nation Law.

30. The Chief must be a Malahat Nation Citizen.

31. The Chief is the head and chief executive officer of the Malahat Nation.

32. In addition to the Chief's responsibilities as a member of Malahat Nation Council, the Chief has the following responsibilities:

    (a) to provide leadership to the Malahat Nation Council, including by recommending Laws, resolutions and other measures that, in the Chief's opinion, may assist the peace, order and good government of the Malahat Nation;

    (b) to communicate information to the Malahat Nation Council;

    (c) to preside at Malahat Nation Council meetings when in attendance;

    (d) to provide, on behalf of the Malahat Nation Council, general direction to Malahat Nation officers respecting implementation of policies, programs and other directions of the Malahat Nation Council;

    (e) to suspend Malahat Nation officers and employees in accordance with Malahat Nation Law;

    (f) to reflect the will of Malahat Nation Council and to serve as the voice of the Malahat Nation Council in representing its decisions and positions; and

    (g) to perform such additional functions and responsibilities as may be assigned by Malahat Nation Council resolution or established under Malahat Nation Law.

33. The Malahat Nation Council must, in accordance with its applicable procedure law, designate a Councillor as the member responsible for acting in the place of

the Chief when the Chief is absent or otherwise unable to act or when the office of Chief is vacant.

34. If both the Chief and Councillor designated pursuant to the procedure law are absent from a Malahat Nation Council meeting, the Council members present must choose a Council member to preside.

35. The Councillor designated pursuant to the procedure law, in section 33 or 34 has the same powers and duties as the Chief in relation to the applicable matter.

Councillors

36. Councillors will be elected by Malahat Nation Citizens who are eligible to vote in a democratic election, conducted according to Malahat Nation Law.

37. At a minimum, there will be three (3) elected Councillors, not including the Chief, excepting that if there is a vacancy due to death, resignation, dismissal or any other cause, Malahat Nation Law may provide for a lesser number of Councillors unless or until a replacement is elected.

38. Malahat Nation Law will specify the number of Councillors according to a formula based on the number of Malahat Nation Citizens on January 1st of an election year. In no case will the number of Councillors exceed twelve (12).

39. Terms of office for Councillors and the Chief will be specified by Malahat Nation Law and will begin at the start of the first Malahat Nation Council meeting following a general election and end immediately before the first Malahat Nation Council meeting following the next general election.

Community Council

40. The purpose and roles of the Community Council are to provide advice to Malahat Nation Council on Malahat Nation Laws prior to adoption, amendment or repeal of Malahat Nation Laws and to provide advice on other matters as may be requested from time to time by Malahat Nation Council.

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41. The members of the Community Council will consist of representatives from each of the Malahat Nation Citizens' major families as appointed according to customary practice and may also include additional members representing Elders and youth as appointed according to customary practice.

42. The Community Council will consist of not less than three (3) members and not more than nine (9) members.

43. Malahat Nation elected officials are not eligible for appointment to the Community Council.

44. The term of appointment as a member of the Community Council ends when the next general election occurs.

45. Malahat Nation Law will provide procedures for the conduct of meetings of the Community Council and ensure that a record of minutes of meetings is kept.

SQAP'LH XWILENGEXW (People's Gathering)

46. The Malahat Nation Government will hold at least two *SQAP'LH XWILENGEXW* (People's Gatherings) every calendar year.

47. The purpose of a *SQAP'LH XWILENGEXW* (People's Gathering) is to provide an opportunity, at least once per calendar year, for Malahat Nation Citizens to:

    (a) review the annual audit and a report on steps taken to implement the auditor's recommendations from the previous year;

    (b) review the annual report of the Malahat Nation Government as required in section 117;

    (c) review the progress of the Malahat Nation in realizing the vision reflected in the Preamble of this Constitution;

    (d) review the status of the recommendations made at previous *SQAP'LH XWILENGEXW* (People's Gatherings);

    (e) receive and consider reports from the Malahat Nation Government and Malahat Nation Public Institutions;

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(f) recommend mandates and policy objectives to the Malahat Nation Government;

(g) recommend the development of laws;

(h) recommend any changes to the current or proposed budget of the Malahat Nation;

(i) recommend changes to resolutions adopted, or actions taken, by the Malahat Nation Government;

(j) recommend the names of persons to be considered for appointment to any committee, Malahat Nation Public Institution, advisory body, dispute resolution body or other body of the Malahat Nation Government; and

(k) provide an opportunity for Malahat Nation Citizens to ask questions of Malahat Nation Government.

48. Every Malahat Nation Citizen has the right to attend any Gathering and speak at a *SQAP'LH XWILENGEXW* (People's Gathering), subject to reasonable limits imposed by Malahat Nation Law for the safe and orderly conduct of *SQAP'LH XWILENGEXW* (People's Gatherings).

49. The Malahat Nation Council may also call Special Gatherings to consider any matters of importance to the Malahat Nation.

50. Any Malahat Nation Citizen may request a Special Gathering by presenting a petition to the Malahat Nation Council signed by at least 20% of those Malahat Nation Citizens eligible to vote, setting out the specific subject matter or issue and any resolutions to be presented at the Special Gathering.

51. In response to a request under section 50, Malahat Nation Council may:

(a) Call a Special Gathering within 30 days of receipt of the petition; or

(b) Refuse to call a Special Gathering if:

i. the subject matter described in the petition relates only to a single person or family and not the Malahat Nation Citizens as a whole or a broad class of Malahat Nation Citizens; or

ii. the petition is frivolous, vexatious or an abuse of process.

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52. Where Malahat Nation Council refuses to call a Special Gathering under section 51 (b) it will give reasons for that refusal in writing and post them in the main administration building of the Malahat Nation Government for at least 30 days.

Public Institutions

53. The Malahat Nation Council may by Malahat Nation Law establish one or more Malahat Nation Public Institutions to perform specific functions including protecting or advancing the interests of the Malahat Nation.

54. The Malahat Nation Council may recognize existing Malahat Nation societies and corporations as Malahat Nation Public Institutions.

Advisory Bodies

55. The Malahat Nation Council may, in accordance with Malahat Nation Law, establish one or more advisory bodies for the purpose of advising the Malahat Nation Government.

56. Advisory bodies will be composed of Malahat Nation Citizens; or non-Citizens with relevant knowledge or expertise as determined by the Malahat Nation Council, provided that every Malahat advisory body must include at least one Malahat Nation Citizen.

57. Advisory bodies are not Malahat Nation Public Institutions.

Elections and Processes for Obtaining Consent

58. The Malahat Nation Council will be democratically elected in general elections held at least every five years.

59. Only Malahat Nation Citizens may vote in elections for Malahat Nation Council.

60. Malahat Nation Law will prescribe:

    (a) criteria for Malahat Nation Citizens to be candidates for election to public office, including a restriction on those who have been finally convicted of

an indictable offence under the Criminal Code of Canada within 3 years immediately before the closing date for nomination in that election;

(b) the term of office for elected officials in accordance with section 39;

(c) processes and procedures for nomination for election;

(d) processes and procedures for elections including the appointment of an independent official responsible for overseeing elections and ensuring they are conducted in accordance with Malahat Nation Law;

(e) criteria, processes and procedures for determining who has been elected;

(f) processes and procedures in the event that two candidates for public office receive the same number of votes;

(g) criteria for Malahat Nation Citizens being eligible to vote;

(h) processes and procedures for maintaining a list of Malahat Nation Citizens eligible to vote;

(i) processes and procedures for referenda or other processes for seeking the consent of Malahat Nation Citizens where required by this Constitution or Malahat Nation Law;

(j) procedures and requirements for all candidates meetings during elections;

(k) processes and procedures for appealing decisions made under Malahat Nation Law governing elections, referenda and other processes for seeking the consent of Malahat Nation Citizens; and

(l) processes and procedures for the removal and replacement of elected officials.

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Malahat Nation Lands

61. The Malahat Nation Government will work to preserve the land, water and natural resources of the Malahat Nation.

62. The Malahat Nation Council will enact Malahat Nation Law governing land use on Malahat Lands within 180 days of the Effective Date.

63. No person may change the use of Malahat Lands existing on the Effective Date without the permission of Malahat Nation Council until a Malahat Nation Law governing land use is in force.

64. Malahat Nation Law governing land use will be reviewed within five (5) years after the Effective Date to determine if any amendments are required.

65. Any proposed change to land use or acquisition of new land by Malahat Nation will be subject to a community consultation process as prescribed by Malahat Nation Law.Malahat Nation Law will prescribe land transactions that require the consent of Malahat Nation Citizens eligible to vote, including Malahat Lands that are owned by the Malahat Nation Government, Malahat Nation Public Institutions, or corporations controlled by the Malahat Nation Government where the transaction is not to a Malahat Nation Citizen, the Malahat Nation Government, a Malahat Public Institution, or to a corporation controlled by the Malahat Nation Government.

66. Malahat Nation Law described in Section 65 will be developed in consultation with Malahat Nation Citizens and may only be adopted or amended by a majority vote in accordance with a Malahat Nation Law referred to in section 60(i)

67. The Malahat Nation Government will prepare an annual report on the status of Malahat Lands and any dispositions of Malahat Lands by the Malahat Nation Government during the previous year.

68. The annual report on the status of Malahat Lands will be made available for inspection by Malahat Nation Citizens at the Malahat Nation administration building and presented at a *SQAP'LH XWILENGEXW* (People's Gathering).

69. All Malahat Lands remain subject to Malahat Nation jurisdiction regardless of dispositions or interests granted in those lands unless they are removed from Malahat Lands by the process provided under the Modern Treaty.

70. The Malahat Nation Government may not make a decision or take any action which would result in land ceasing to be Malahat Lands without the consent of Malahat Nation Citizens eligible to vote in accordance with a Malahat Nation Law referred to in section 60(i).

Malahat Nation Laws

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72. The Malahat Nation has the right to self-government, and has jurisdiction and authority over those matters prescribed by the Modern Treaty and other agreements with Canada and British Columbia as may be entered into from time to time.

73. Malahat Nation Law regarding referenda and other processes for seeking consent referred to in section 60(i) may only be adopted or amended by a majority (more than 50 percent) vote at a *SQAP'LH XWILENGEXW* (People's Gathering), attended by a minimum of 10 percent of Citizens eligible to vote.

74. The process for development, repeal or amendment of a Malahat Nation Law may be initiated by:

(a) a resolution of the Malahat Nation Council, setting out the specific subject matter of the proposed law;

(b) the approval by a majority (more than 50 percent) at a *SQAP'LH XWILENGEXW* (People's Gathering), attended by a minimum of 10 percent of Citizens eligible to vote, of a proposal made by any Malahat Nation Citizen eligible to vote, setting out the request for development of a Malahat Nation Law addressing a specific subject matter or issue; or

(c) as set out in Malahat Nation Law

75. In response to a request under section 74(b) the Malahat Nation Council will within 120 days:

(a) proceed with the process of developing the proposed law; or

(b) refuse to proceed with developing the proposed law and provide notice of the reasons for that refusal by posting the reasons in the main administration building of the Malahat Nation for 30 days following the decision.

76. Any member of the Malahat Nation Council may propose that the Malahat Nation Council pass a resolution to initiate the process for development of a Malahat Nation Law.

77. Upon initiation of the process for development of a Malahat Nation Law, Malahat Nation Government will provide notice to Malahat Nation Citizens of the subject matter of the proposed law and the general nature of provisions to be included in the proposed law.

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78. A Malahat Nation Law will determine the process whereby the notice in section 77 will be issued to Malahat Nation Citizens.

79. The notice in section 77 will request written comments from Malahat Nation Citizens on the subject matter and the content of the proposed law, and will specify a date at least 30 days from the date of the notice for Malahat Nation Citizens to provide comments to Malahat Nation Council.

80. Upon expiration of the time for submitting comments, Malahat Nation Government will prepare a draft law, taking into consideration:

    (a) the comments received;

    (b) the needs of the community; and

    (c) other relevant matters.

81. Laws are enacted by receiving four readings and approval by majority vote of a quorum of Malahat Nation Council.

82. In the first reading a quorum of Malahat Nation Council will decide by majority vote whether to accept the introduction of a law for consideration.

83. In the second reading a quorum of Malahat Nation Council will:

    (a) debate the purpose and provisions of the law;

    (b) consider possible amendments; and

    (c) decide by majority vote whether to allow the law to be considered for later adoption either with or without amendments.

84. In the third reading a quorum of Malahat Nation Council will:

    (a) consider any comments received on the proposed law in public hearings, if applicable;

    (b) consider any further amendments; and

    (c) decide by majority vote whether to consider the law for final adoption.

85. In the fourth reading a quorum of Malahat Nation Council will decide by majority vote whether to pass the law.

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86. Copies of the proposed law as amended for each reading will be made available for inspection by any member of the public at the Malahat Nation administration building.

87. No law may receive first to fourth reading within a 24-hour period, except in the case of laws to enact emergency measures.

88. As soon as practical the Malahat Nation Council will adopt a Malahat Nation Law that will:

(a) describe the process for the enactment of Malahat Nation Laws under normal circumstances;

(b) describe the process for enactment of emergency measures; and

(c) describe the process for amending an existing Malahat Nation Law.

89. Emergency measures enacted under the process referenced in section 88(b) may only be placed into effect in order to:

(a) address an imminent threat to public health, safety, or welfare;

(b) prevent a loss of Malahat Nation assets, including lands and funds;

(c) meet a deadline for the enactment of a law that is established by a court, Canada or British Columbia; or

(d) protect human health or the environment from an imminent threat.

90. Emergency measures will be:

(a) temporary in nature and will expire within 180 days of coming into effect; or

(b) temporary in nature and will be replaced by an ordinary law within 180 days of coming into effect.

91. The preamble of laws to enact emergency measures will:

(a) state the nature of the emergency; and

(b) justify why emergency measures are necessary in these circumstances.

92. At least one public hearing will be held about any proposed law that would amend a Malahat Nation land use plan with respect to land use or density.

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93. Public hearings may be held about other laws as prescribed by Malahat Nation Law or by decision of the Malahat Nation Government.

94. If a public hearing is to be held in respect of a Malahat Nation Law:

(a) the public hearing will be held between second and third reading;

(b) advance notice of the public hearing will be provided to Malahat Nation Citizens and Non-Citizen Residents, as prescribed by Malahat Nation Law; and

(c) all individuals and Malahat Nation Citizens who believe their interests may be affected by the proposed law will be provided a reasonable opportunity to provide input at the public hearing.

95. The Malahat Nation Government will:

(a) maintain a public registry of Malahat Nation Laws and the Constitution in the English language; and

(b) establish procedures for coming into force and publication of Malahat Nation Law.

Malahat Nation Code of Conduct and Conflict of Interest

96. All elected members of the Malahat Nation Council will take an oath of office sworn at the *SQAP'LH XWILENGEXW* (People's Gathering).

97. Members of the Malahat Nation Council will conduct themselves at all times with integrity and respect for their positions and will place the interests of the Malahat Nation ahead of their own in the discharge of their duties and responsibilities.

98. Malahat Nation Law will provide for a code of conduct and conflict of interest rules that are comparable to those generally accepted for governments of communities in Canada of similar size to Malahat Nation and that are in keeping with the culture, traditions and customs of the Malahat Nation.

99. If and when a conflict of interest does arise, the elected official or Malahat Nation Public Officer will:

(a) declare that a conflict has arisen;

(b) identify the conflict; and

(c) will take no further part in the discussion or decision on the matter, or attempt to influence the discussion or decision in any way.

100. If an elected official or Malahat Nation Public Officer has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 99, except in exceptional circumstances prescribed by Malahat Nation Law, the elected official or Malahat Nation Public Officer will take no further part in the discussion or decision on the matter, or attempt to influence the discussion or decision in any way.

101. Every declaration of a conflict of interest and the general nature thereof shall be recorded in the minutes of the Malahat Nation Council meeting.

102. A person who contravenes section 100 is disqualified from holding office unless the contravention was done inadvertently or because of an error in judgment made in good faith.

103. The Malahat Nation Government will be administered in a manner that:

(a) adheres to the highest ethical standards;

(b) effectively and efficiently uses the resources of the Malahat Nation;

(c) provides services on an equitable and impartial basis; and

(d) responds to the needs of Malahat Nation Citizens in a timely and accessible manner.

104. If an employee of the Malahat Nation becomes an elected official that employee will resign from employment by the Malahat Nation before taking office.

105. A member of the Malahat Nation Council shall not use property owned by Malahat Nation for personal or business purposes nor purchase property owned by Malahat Nation, unless such purposes or purchases are equally available to all Citizens, and the transaction is approved in accordance with Malahat Nation Law.

106. A member of the Malahat Nation Council must not, directly or indirectly, solicit or accept a fee, gift, service or personal benefit that is connected with the member's performance of the duties of office or could reasonably be inferred to influence a member of the Malahat Nation Council in the discharge of their duties.

107. Section 106 does not apply to

(a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,

(b) a gift or compensation authorized by Malahat Nation Law, or

(c) a gift that is received on behalf of Malahat Nation.

108. If the Malahat Nation Government enters into a contract in which

(a) a member of the Malahat Nation Council, or

(b) a person who was a member of the Malahat Nation Council at any time during the previous 6 months,

has a direct or indirect pecuniary interest, this must be reported as soon as reasonably practical at a Malahat Nation Council meeting that is open to the public.

109. A member or former member of the Malahat Nation Council must not use information or a record for the purpose of gaining or furthering a direct or indirect pecuniary interest if that information or record:

(a) was obtained in the performance of the member's office, and

(b) is not available to the general public

Financial Administration and Accountability

110. The Malahat Nation Government will manage the financial affairs of the Malahat Nation in accordance with Malahat Nation Law.

111. The Malahat Nation Government will manage the financial affairs of the Malahat Nation in a manner that:

(a) is responsible, open, transparent and accountable to Malahat Nation Citizens;

(b) provides for effective and efficient use of the financial resources of the Malahat Nation; and

(c) meets standards comparable to those generally accepted for governments in Canada.

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112. Any elected official or Malahat Nation Public Officer authorized to spend Malahat funds will at all times be held accountable to the Malahat Nation for those funds and will be required to provide records of expenditures in accordance with Malahat Nation Law.

113. The Malahat Nation Government may not incur a liability

(a) if at the time the Malahat Nation Government proposes to incur the liability the annual cost of servicing the aggregate liabilities of the Malahat Nation for the year, as determined in accordance with Malahat Nation Law, exceeds 25% of the annual calculation revenue of the Malahat Nation for the previous year, as determined in accordance with Malahat Nation Law, or

(b) incurring the liability would cause the annual costs referred to in paragraph 113(a) to exceed the limit established by paragraph 113(a)

unless the Malahat Nation first obtains the consent of Malahat Nation Citizens, eligible to vote, in accordance with Malahat Nation Law.

114. At all times, the Malahat Nation Government will have in place a financial plan that covers at a minimum the next three years. The financial plan will be updated as necessary every year.

115. The Malahat Nation Government will conduct an annual audit in accordance with principles and standards prescribed by Malahat Nation Law.

116. The Malahat Nation Government will present the annual audit to the Malahat Nation Citizens once per calendar year at a *SQAP'LH XWILENGEXW* (People's Gathering).

117. The government will present the annual report of the Malahat Nation Government which will be in written form and include:

(a) a report on the Nation's services and operations for the previous year;

(b) a progress report on performance of the Malahat Nation Government with respect to objectives and measures under (c);

(c) a statement of objectives and measures that will be used as the basis for determining the Nation's performance during the current year and following year;

(d) a schedule of debts;

(e) a statement of remuneration and expenses for every member of the Malahat Nation Council and employees earning over $50,000;

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(f) a statement of the total number of months of compensation given in any severance agreements;

(g) a schedule listing the liability of any guarantee and indemnity agreements;

(h) a schedule showing aggregate payments made exceeding $25,000 to suppliers for the provisions of goods and services; and

(i) a statement of variances from the approved annual budget for general operations and capital projects with explanatory notes.

Dispute Resolution

118. The Malahat Nation Council may, in accordance with Malahat Nation Law, establish one or more bodies to carry out one or more of the following functions:

(a) hear appeals of administrative decisions;

(b) address disputes between Malahat Nation Government bodies;

(c) hear challenges to the validity of Malahat Nation Law; and

(d) perform other functions of dispute resolution as assigned by Malahat Nation Government.

119. If no body is established under sections 118 (a) or (c), challenges to the validity of Malahat Nation Laws and appeals of administrative decisions will be heard in the Supreme Court of British Columbia.

120. Any body described in section 118 will:

(a) be independent;

(b) resolve disputes and appeals in an efficient and cost effective manner;

(c) have the authority to conduct hearings, make recommendations, and render decisions in relation to disputes and appeals; and

(d) have the power to refer matters outside the competence or jurisdiction of the body to a court with jurisdiction over that matter.

121. Any body tasked with hearing appeals of administrative decisions or challenges to the validity of Malahat Nation Laws will have the authority to render binding decisions.

122. Malahat Nation Law will provide for a right of appeal from any body established under section 118 (a) or (c) to the Supreme Court of British Columbia.

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123. Malahat Nation Law will provide for:

(a) a process for appointing the members of any bodies established under section 118;

(b) suitable criteria for eligibility for appointment to those bodies; and

(c) a process for dealing with conflict of interest in relation to any matter considered by those bodies.

Ratification

124. Ratification of this Constitution requires that:

(a) Malahat People, as defined in the Modern Treaty, have a reasonable opportunity to review this Constitution;

(b) a Constitution Ratification Vote, by way of secret ballot;

(c) more than 50 percent of the Eligible Voters, on the Final Constitution Ratification Voters List, cast a ballot in the Constitution Ratification Vote; and

(d) more than 50 percent of votes cast are in favour of ratifying this Constitution.

125. Once ratified in accordance with section 124 this Constitution comes into force on the Effective Date.

Amendment

126. A proposal to amend the Constitution may be initiated by either:

(a) a written request submitted to the Malahat Nation Council and signed by at least 35 percent of the Malahat Nation Citizens eligible to vote; or

(b) a resolution adopted by the Malahat Nation Council.

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127. The Malahat Nation Council will make a law setting out the process by which the Malahat Nation Citizens may propose an amendment to this Constitution.

128. The proposed amendment passes on the following basis:

(a) in the period from Effective Date of the Modern Treaty to the 5th anniversary of the Effective Date of the Modern Treaty, with the approval of at least 40 percent of the Malahat Nation Citizens eligible to vote;

(b) in the period from the 5th anniversary of the Effective Date of the Modern Treaty to the 10th anniversary of the Effective Date of the Modern Treaty, with the approval of at least 50 percent of the Malahat Nation Citizens eligible to vote;

(c) any time after the 10th anniversary of the Effective Date of the Modern Treaty, with the approval of at least 60 percent of the Malahat Nation Citizens eligible to vote.

129. An amendment to the Constitution takes effect on the date that the referendum results are final, or on a later date determined in accordance with the request or resolution that initiated the proposal.

130. Notwithstanding sections 126 to 129, a quorum of Malahat Nation Council may by majority vote pass a technical or grammatical amendment to this Constitution to correct a clear error, agree to correct factual information of a non-substantive nature, or correct any editing, grammatical, or typographical errors in the Constitution.

Transitional Provisions

131. In this section:

(a) “Malahat Land Code” means [TBD];

(b) “first election” means the election required by section 137

(c) “former Band Council” means the Band Council that was organized under the Indian Act R.S.C. 1985, c 1-5.

132. The Malahat Land Code and all bylaws passed by resolution of the former Band Council and in effect immediately before the Effective Date remain effective for a period of 180 days after Effective Date or until they are altered, repealed, or

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replaced by the Malahat Nation Government but are only applicable to Malahat Nation Indian Reserves.

133. As of the Effective Date:

(a) the individual who held the office of Chief of the Band Council immediately before the Effective Date is the Chief of Council;

(b) an individual who held the office of Councilor of the Band Council immediately before the Effective Date is a member of Council; and

(c) for greater certainty, Chief and Council will have the authority to act as both the Malahat Nation Government and Council during the transition period. Every person who assumes office in the Malahat Nation Government in accordance with section 133 serves for a term that expires upon the swearing in of the successful candidates in the first election.

136. If, at any time between the Effective Date and the date of the first election, a vacancy exists in the office of Chief, Council will elect one (1) of its members to fill that vacant office until the first election.

137. An election of the Malahat Nation Government will be held no later than 180 days after the Effective Date.

138. Elected officials must take office within one (1) year of the Effective Date.

139. The Malahat Nation Government may make any additional transition rules consistent with the Modern Treaty to deal with any matter that, in the opinion of the Malahat Nation Government, is not adequately addressed in this Constitution.

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Schedule A: Oath of Office for Elected Officials of Malahat Nation Government

I, _____, _____ for
(name) (position)

the Malahat Nation, declare that:

1. I satisfy the criteria to hold the office as an elected official of the Malahat Nation Government in accordance with Malahat Nation Law; and

2. I have not, by myself or any other person, knowingly contravened Malahat Nation Law respecting vote buying or intimidation in relation to my election to office.

In carrying out my duties as an elected official of the Malahat Nation Government I will:

1. Exercise the powers and perform the duties of my office in good faith and in the best interests of the Malahat Nation;

2. Respect and abide by the Malahat Nation Constitution, Malahat Nation Law and policy, including Malahat Nation Law prescribing a code of conduct and conflict of interest rules, and decisions of the Malahat Nation Government;

3. Keep all matters confidential that the Malahat Nation Government requires be kept confidential.

4. Conduct myself in a spirit of cooperation and respect for the collective decisions of the Malahat Nation and act in the best interests of the Malahat Nation over my own personal interests; and

5. Immediately resign my position in the event that, according to Malahat Nation Law I am found to be in breach of this oath of office.

Signature: _____

Witness: _____

Date: _____

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