

## **CHARTER OF THE FIRST NATIONS LENDERS' AUTHORITY**

### **Section I – Authority:**

1.1. Whereas First Nations people have consistently and historically exercised ultimate and exclusive jurisdiction over their respective Territories.

1.2. Whereas the First Nations peoples of Canada have existing, inherent and inalienable rights which includes the right of self-determination; the right to control economic development within their respective Territories; and the right to promote and preserve peace, order and good governance within their respective Territories;

1.3. Whereas the aforementioned right of self-determination has been recognized by the Canada Constitution Act, 1982;

1.4. Whereas on the basis that short-term lending service businesses have a significant impact on economic development and peace, order and good governance within First Nations Territories, the First Nations Peoples of Canada have the right to conduct, operate and regulate short-term lending service businesses within their respective Territories.

1.5. Whereas the regulation of short-term lending service businesses within First Nations Territories falls within the right of self-determination and is recognized by requirements of the constituting laws of Canada;

1.6. Whereas the conduct and operation of short-term lending service businesses is a legitimate means of generating revenue to address the foregoing needs in pursuit of the goal of economic development and self-determination.

1.7. Whereas legitimately operated short-term lending service businesses, and the regulation thereof, is consistent with applicable laws and regulations within First Nations' Territories and the promotion of self-government and economic self-sufficiency.

1.8. Whereas the oversight and regulation of short-term lending service businesses within First Nations' Territories is good public policy and shall provide consumers with protections, to ensure fairness, transparency, and efficiency.

1.9. Whereas it is essential that the First Nations peoples of Canada have oversight on short term lending service businesses operating within their respective Territories, in a manner commensurate with applicable laws and regulations.

1.10. Whereas it is essential for the sustainable growth of the short-term lending services operating within First Nations' Territories that public confidence in in their industry be maintained through the creation of a regulatory body which oversees the activities of its members;

1.11. Whereas the adoption of the foregoing Charter is a necessary condition for the legitimate operation of short-term lending service businesses within First Nations' Territories and is in the best interests of the First Nations people of Canada.

1.12. Whereas the establishment of a "First Nations Lenders' Authority" and a Board of Governance is integral to the oversight of the "First Nations Lenders' Authority" and to uphold the goals of self-government and economic self-sufficiency within First Nations' Territories.

1.13. Whereas this Charter was read, deliberated upon and passed on February 15, 2019, in the Mohawk Territory of Kahnawake.

## **Section II – Purpose:**

2.1. The purpose of this Charter is to:

a) Create an independent body known as the **"First Nations Lenders' Authority"** (the "Authority") and to provide it with the mandate to oversee short-term lending service businesses within First Nations' Territories as a means of promoting and supporting economic development, self-sufficiency and peace, order and good governance within First Nations' Territories;

b) Ensure that short-term lending service businesses within First Nations' Territories are operated honestly, equitably and in the best interests of consumers and the First Nations peoples of Canada

## **Section III – Application:**

3.1. This Charter applies to all short-term lending service businesses that operate within and from a First Nations' Territory, and to all persons and vendors located within the respective Territory that may be in the business of providing short-term lending services. Short-term lending services include the business of providing goods, services, or credit to customers from or within the Territory in exchange for interest, finance charges, fees, rent, or other forms of consideration in the Territory, including transactions originating from or within the Territory. Short-term lending services includes installment loans.

## **Section IV – Creation of the Board of Governance:**

4.1. The Authority hereby charters, creates and establishes the Board of Governance (the "Board"). The Board has the mandate of implementing this Charter relating to short-term lending service businesses.

4.2. The Board will have the rights and responsibilities set forth in this Charter and will oversee that short-term lending service businesses are conducted in the best interests of First Nations peoples and in accordance with the applicable laws and regulations within their respective Territories and with the utmost principles of honesty and integrity.

4.3. The Board shall maintain its initial principal place of business and office within the Mohawk Territory of Kahnawake. The Board may, however, with a majority vote from its members, establish other places of business in such other locations as the Board may, from time to time, determine to be in the best interests of its members.

#### **Section V – Structure of the Board:**

5.1. The Board will consist of three (3) persons from a recognized Indigenous group in Canada (i.e., First Nations, Inuit, Metis).

#### **Section VI – Eligibility:**

6.1. No person is eligible for appointment, or to continue service on, the Board, who:

- a) Is not a member of recognized Indigenous group, over the age of eighteen (18) years of age;
- b) Has any financial interest in, or management responsibility for, an establishment involved in short-term financial service businesses or related service businesses within a First Nation's Territory, or;
- c) Has been convicted of an indictable offence, except if a full pardon has been granted.

#### **Section VII – Interim Board:**

7.1. Until members of the Board are elected pursuant to the provisions of First Nation's Elections laws, a body of not more than three (3) persons will function as an interim board. The Interim Board will have all the rights and responsibilities provided herein.

#### **Section VIII – Chairperson:**

8.1. The Board will, by majority vote, appoint one (1) of its members as Chairperson. The Chairperson will preside over meetings of the Board and will ensure that the Board follows the principles and procedures provided herein.

#### **Section IX – Vice-Chairperson:**

9.1. The Board will, by majority vote, appoint one (1) of its members as Vice Chairperson. The Vice-Chairperson will serve as Chairperson during meetings of the Board in the absence of the Chairperson.

9.2. The Chairperson and Vice-Chairperson will be considered as members of the Board for all purposes provided for herein.

## **Section X – Term of Board:**

10.1. The Board shall have uninterrupted existence and succession in its own name, unless dissolved by the Authority pursuant to applicable laws.

10.2. Members of the Board shall serve a term of office of three (3) years.

10.3. Upon expiry of a member's term of office, subject to the other provisions of this Charter, the member is eligible to be re-appointed for another term. There is no limitation on the number of consecutive terms a member may serve.

## **Section XI – Removal from Board:**

11.1. A Board Member may be removed from office before the expiry of his or her term by unanimous resolution of the other members.

## **Section XII – Resignation from Board:**

12.1. A Board Member may resign from office before the expiry of his or her term by providing written notice to the Board at least thirty (30) days before the date on which the resignation becomes effective.

## **Section XIII – Quorum:**

13.1. A quorum will be a simple majority of the total number of its members, one (1) of whom must be either the Chairperson or Vice-Chairperson.

## **Section XIV – Meetings:**

14.1. The Board will meet at the call of the Chairperson or a majority of its members, but, no less than once every quarter or every ninety (90) days.

14.2. Notice of a Board meeting, with particulars of the agenda, will be provided to all Board Members, not less than ten (10) business days before the date of the meeting.

## **Section XV – Rights and Responsibilities of the Board:**

15.1. In addition to any of the rights and responsibilities that may be provided herein, the Board will have the authority:

- a) To establish the strategic direction for the Authority's lending operations;
- b) To fulfill its oversight responsibilities with respect to the members' lending and credit functions;
- c) To monitor and inspect all financial service businesses and short-term lending service businesses operating within the Territory;

- d) To take such steps as are necessary to ensure the provisions of this Charter and the applicable laws and regulations are observed; and
- e) To address any other matters necessary to carry out the functions of the Authority.

### **Section XVI – Compensation:**

16.1. Board Members shall be compensated for the time required to provide the services associated with their offices, as determined by the Authority.

### **Section XVII – Administrative Support:**

17.1. The Board may employ support staff and will retain professional and legal assistance that is required to fulfill its mandate.

### **Section XVIII – Hiring Preference:**

18.1. Short-term lending service businesses will in recruiting, training and hiring employees, give preference to qualified persons who are Mohawks of Kahnawake in all job categories, particularly management positions.

### **Section XIX – Operating Procedures:**

19.1. The Board may adopt certain procedures as it considers necessary to implement the principles of this Charter and to maintain conformity with applicable laws and regulations, including procedures respecting:

- a) the type of loans that may be provided in a short-term lending service business;
- b) the days and hours during which a short-term lending service business may operate;
- c) the terms and conditions for each loan, including, but not limited to, time, loan periods, minimum payments, pre-payments, and late fees or penalties;
- d) the maximum amount that may be borrowed in the form a short- term loan;
- e) the maintenance of public order, security and the safety of persons in and around short-term lending establishments involved in short- term financial service businesses;
- f) the maximum rate of interest and fees that may be imposed for short-term loans;
- g) the minimum hiring standards required for short-term lending businesses' personnel and employees;
- h) the identification of those activities that will, for the purposes of applicable laws and regulations, be deemed to be “short-term lending related activities”;
- i) the background and security investigations and credential verifications employed to determine an applicant's eligibility for a loan based on the applicant's income, credit history and identification;

- j) the background and security investigations and credential verifications of personnel, staff, vendors and companies contracted to conduct business with or on behalf of short-term lending service businesses;
- k) any other procedures necessarily related to the conduct and operation of short-term lending service businesses or related activities within the Territory.

## **Section XX – Lending Guidelines:**

20.1. The Board sets forth the following Lending Guidelines applicable to all short-term lending service businesses operating within the Territory (“Lenders”):

- a) To maintain a complaint policy and respond to customer complaints in a timely manner. Customers who are not satisfied with the response from the Lender may avail himself or herself of an appeal process with the Authority;
- b) To disclose all interest rates, finance charges and fees in a transparent manner to the customer;
- c) To provide a means for customers to notify the Lender that he or she would like to be removed from any mailing or call lists;
- d) To be transparent in all written correspondence, either through email, text message or otherwise, to customers;
- e) To be transparent in all advertising materials distributed to the customer;
- f) To refrain from employing a threatening or harassing tone with customers whose accounts are found to be in arrears;
- g) To respect the privacy of customers and not share or disseminate private or confidential information to third parties without obtaining prior consent from the customer, according to the Lender’s Privacy Policy;
- h) To not discriminate against or refuse the provision of a loan or credit to an applicant for any reason other than what affects his or her ability to repay the loan;
- i) To provide loans to customers who can repay the loan, as determined by verifying the customer’s income and credit history, as applicable;
- j) To refrain from providing a loan or credit to an applicant who appears on a “Government Watch List” or whose identity seems questionable after appropriate verification of the applicant’s credentials;
- k) To allow customers to pre-pay the principal amount to reduce his or her total loan payments. The Lender must inform the customer of this option before entering into any loan agreements;
- l) To maintain records of all customer accounts for a minimum of five (5) years. The Authority reserves the right to examine the Lender’s records at any time; and
- m) To obtain the consent from the customer before processing any electronic debits of his or her subject account.

## **Section XXI – Certification Process:**

21.1. The First Nations Lenders' Authority, acting with a minimum quorum of two (2) out of three (3) members of the Board of Governance, shall have the sole and exclusive right to grant certification within the First Nations Lenders' Authority based on "best practices of the industry" and the appropriate due diligence being performed by the First Nations Lenders' Authority, upon receipt of an application for certification to grant official status under their seal of approval.

Upon the granting of certification status by the First Nations Lenders' Authority, the Board of Governance, duly authorized, shall issue a formal Certificate in recognition of that status, acknowledging that the recognized member complies with all the rules and regulations of the Charter of the First Nations Lenders' Authority.

Membership Application Forms are to be submitted to the First Nations Lenders' Authority for approval and ultimate certification.

## **Section XXII – Penalties:**

22.1. A breach of any applicable laws or regulations in the Territory is an offence punishable by a fine or imprisonment, or both, and may be referred to the officially recognized Police Service, responsible for enforcement of laws in the Territory, known as the "Kahnawake Peacekeepers".

**AND HERETO INTERVENED THE THREE (3) FOUNDING MEMBERS OF THE BOARD OF GOVERNANCE, WHO, BY THEIR SIGNATURES, ENACT THE CHARTER OF THE "FIRST NATIONS LENDERS' AUTHORITY".**

FEBRUARY 15<sup>th</sup>, 2019