



## MEMORANDUM OF UNDERSTANDING FOR ADVANCING RECONCILIATION

(Hereinafter referred to as the "Memorandum")

### BETWEEN:

**MÉTIS PROVINCIAL COUNCIL OF BRITISH COLUMBIA**

**MÉTIS NATION BRITISH COLUMBIA**

as represented by its President

("MNBC")

-and-

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

as represented by the Minister of Crown-Indigenous Relations

("Canada")

Each a "Party" and, collectively, the "Parties"

- A. **WHEREAS** the Métis were one of the Aboriginal peoples who lived in the Northwest prior to Canada's westward expansion following Confederation;
- B. **WHEREAS** these Métis people referred to themselves and were recognized by others as the Métis Nation, and trace their roots to the western fur trade;
- C. **WHEREAS** section 35 of the *Constitution Act, 1982*, states that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed" and "the 'aboriginal peoples of Canada' includes the Indian, Inuit and Métis peoples";
- D. **WHEREAS** since the release of *Powley* the Supreme Court of Canada has noted that section 35 of the *Constitution Act, 1982* calls for a process of reconciliation between

the Crown and Aboriginal peoples through which the constitutionally-protected Aboriginal rights and outstanding claims of Aboriginal peoples are determined, recognized and respected through honorable negotiations with the goal of reaching just and lasting settlements;

- E. **WHEREAS** the M N B C assert that the Métis community within British Columbia (BC) has Aboriginal rights protected within the meaning of section 35 of the *Constitution Act, 1982*, including but not limited to harvesting rights, which require reconciliation;
- F. **WHEREAS** Canada has, to date, made no determination that there are contemporary rights-bearing Métis communities in BC;
- G. **WHEREAS** Canada and the Métis Nation, as represented by the Métis National Council and its Governing Members, signed the *Canada-Métis Nation Accord* ("the Accord") in April 2017. The MNBC, as one of the five Governing Members, is a signatory to the Accord;
- H. **WHEREAS** the Accord marks a significant step towards a renewed nation-to-nation, government-to-government relationship based on recognition of rights, respect, co-operation and partnership, and outlines the ways in which Canada and the Métis Nation will work together to set priorities and co-develop distinctions-based policy in areas of shared interest, including, among other things, closing socio-economic gaps. In addition, the Accord establishes a Permanent Bilateral Mechanism to enable annual priority-setting and provide a national leaders' forum for joint policy development, and to measure progress on an on-going basis;
- I. **WHEREAS** Canada and the Métis Nation are committed to reconciliation and a nation-to-nation, government-to-government relationship through regionally tailored Recognition of Indigenous Rights and Self-Determination (RIRSD) discussions and/or negotiations between Canada and the Métis National Council's Governing Members in order to renew the relationship through cooperation, respect and recognition for Métis rights, and ending the status quo;
- J. **WHEREAS** by engaging in RIRSD discussions regionally, Canada and the MNBC wish to explore new ways to achieve lasting reconciliation, and commit to renewing and strengthening their nation-to-nation and government-to-government relationship;
- K. **WHEREAS** Canada and the MNBC recognize that any regional RIRSD discussions and/or negotiations are intended to be complemented and enhanced by processes provided through the Permanent Bilateral Mechanism, and to advance broader reconciliation with the Métis Nation;
- L. **AND WHEREAS** BC and the MNBC signed a Métis Nation Relationship Accord in May 2006 and Métis Nation Accord II in October 2016 to formalize their relationship and jointly commit to addressing social and economic issues for Métis people in BC.

**NOW THEREFORE** the Parties agree as follows:

## **1. RIRSD DISCUSSIONS**

- 1.1 The Parties agree that the purpose of the RIRSD table is to engage in, without prejudice, non-binding discussions in order to arrive at shared solutions and mutually agreeable arrangements and/or agreements (interim, incremental or final) that advance reconciliation between the Parties consistent with the purpose of section 35 of the *Constitution Act, 1982*.
- 1.2 The Parties wish to explore the following subject areas under this Memorandum:
  - 1.2.1 Métis section 35 Rights under the *Constitution Act, 1982*.
  - 1.2.2 Children and Families
  - 1.2.3 Citizenship
  - 1.2.4 Early Learning and Child Care
  - 1.2.5 Education
  - 1.2.6 Economic Development
  - 1.2.7 Employment and Training
  - 1.2.8 Fiscal Relations and Capacity Funding
  - 1.2.9 Health
  - 1.2.10 Housing
  - 1.2.11 Justice
  - 1.2.12 Language, Culture and Heritage
  - 1.2.13 Revenue Sharing
  - 1.2.14 Self-Government
  - 1.2.15 Water and Land Stewardship
  - 1.2.16 Wildlife/Fisheries Resource Stewardship and Harvesting
  - 1.2.17 Dispute Resolution
  - 1.2.18 Other subject areas identified and agreed to by the Parties
- 1.3 The Parties will jointly prioritize the subject areas for discussion and/or negotiation.

## **2. RIRSD PROCESS**

- 2.1 The Parties commit to engaging in a discussion and/or negotiation process that fosters an open exchange of ideas, the discussion of interests, and the analysis of issues. Any statements made during the discussion and/or negotiation process, whether written or oral, will be without prejudice and will not be attributable to any Party.
- 2.2 Where the Parties agree, they will negotiate a non-binding term sheet for specific subject areas within a time frame to be determined by the Parties. The term sheets will set out key components and parameters and will form the basis for the Parties to seek a mandate and instructions from their respective principals to negotiate and conclude a reconciliation agreement(s).
- 2.3 The Negotiators will be responsible for the conduct and coordination of all negotiations and for keeping their Principals updated throughout the negotiations. The Negotiators will jointly determine and agree to a schedule of negotiation meetings and the locations of those meetings (work plan). It is expected that the Negotiators will meet, at a



minimum, once every 4 to 6 weeks. Unless otherwise agreed to by the Negotiators, the negotiating sessions will not be formally chaired.

- 2.4 Prior to beginning negotiations on any subject matter, the Parties will each make a presentation of their interests in relation to that subject matter. Roles and responsibilities of the Parties will be determined on the basis of the subject matter and the interests presented. Negotiations will be conducted at a Main Table.
- 2.5 The Main Table will be responsible for:
  - 2.5.1 Managing the discussion and/or negotiation process including work planning and setting of priorities;
  - 2.5.2 Negotiation of any arrangements or agreements to be brought to the Parties for their consideration;
  - 2.5.3 Implementing and managing openness and information sharing amongst the Parties throughout the negotiation process; and
  - 2.5.4 Implementing dispute resolution mechanisms, as agreed.
- 2.6 The Negotiators may establish ad hoc working groups to research and report on specific issues or concerns as they deem fit. Any such working groups will report to the Main Table.
- 2.7 In order to achieve timely results towards advancing reconciliation and fulfilling the purpose of the discussions and/or negotiations contemplated under this Memorandum, Negotiators may seek approvals from the Parties for the following types of arrangements or agreements over the course of the negotiations:
  - 2.7.1 Interim Measures: measures intended to protect the interests of the Métis community within BC during negotiations; and
  - 2.7.2 Incremental Agreements: agreements on individual or a group of matters in advance of, or in lieu of, a single, comprehensive Final Agreement.

### **3. INVOLVEMENT AND PARTICIPATION OF THE PROVINCE OF BRITISH COLUMBIA**

- 3.1 The Parties acknowledge the importance of having BC's participation in a process to advance reconciliation with the Métis community within BC, and agree that BC may be invited on terms agreeable to the Parties as an observer to meetings held under the auspices of this Memorandum, particularly regarding areas involving provincial jurisdiction.
- 3.2 The Parties may, on terms agreeable to them, allow BC to become a participant in the negotiation process should it indicate its willingness to do so, whether on a specific subject matter, interim measure, or any agreement being discussed and negotiated between the Parties.

- 3.3 The Parties recognize that the participation and agreement of BC may be required on subject matters involving provincial jurisdiction. Where the MNBC and Canada agree, this Memorandum may be amended to include BC as a Party.

#### **4. COMMUNICATION, ENGAGEMENT AND CONSULTATION**

- 4.1 Canada and the MNBC recognize the importance of having broad participation from the Métis community within BC in a process to advance reconciliation.
- 4.2 The MNBC is responsible for engagement and consultation with the Métis community within BC, including Métis citizens, Chartered Communities, Regions, the MNBC Senate, the MNBC Governing Assembly, as well as other relevant stakeholders.
- 4.3 Canada will consult other Aboriginal groups whose asserted or established Aboriginal or Treaty rights might be adversely affected by arrangements or agreements negotiated under this Memorandum.
- 4.4 The Parties may agree to develop mutually agreeable communication materials or undertake joint information, engagement or consultation sessions with the public or other relevant stakeholders as required.
- 4.5 The Parties may, together or separately, notify and/or discuss with other governments, general matters that are under discussion at this table. Other governments may include other Aboriginal governments, municipal governments and provincial governments. The Parties agree that any such discussion will be limited to general approaches or topics and will not include any specific discussions or positions taken, including any content of the discussions, unless specifically agreed to by all Parties. Where possible, each Party also agrees to notify the other Party in advance, and to discuss its intentions and the particular matter involved. Where it is not possible to notify the other Party in advance, the Party shall notify the other Party as soon thereafter as is possible and inform the other Party of the nature of the general discussion held.

#### **5. FUNDING**

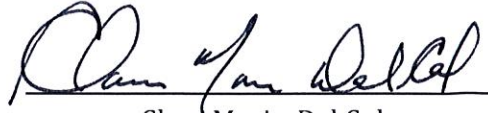
- 5.1 The Parties recognize that the MNBC requires reasonable capacity to participate in the discussion and/or negotiation process contemplated under this Memorandum.
- 5.2 To support the MNBC's participation in the discussion and/or negotiations process, Canada will determine and provide the appropriate level of funding based on work plans and budgets submitted by MNBC. Provision of funding is subject to yearly appropriations of funds by Parliament and Canada's funding policies and directives.
- 5.3 This Memorandum does not preclude the MNBC from applying for or accessing any funding, program or initiative that Canada may make available to other Aboriginal communities.

## **6. GENERAL**

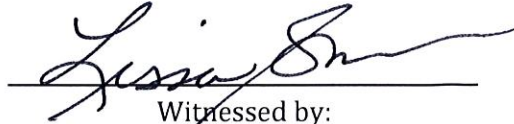
- 6.1 Nothing in this Memorandum is intended, or is to be interpreted, so as to define, create, recognize, deny, affect or amend any rights, duties or obligations of any of the Parties.
- 6.2 Nothing in this Memorandum creates any legally enforceable obligations.
- 6.3 All discussion and/or negotiations conducted under this Memorandum and all related documents are confidential, subject to settlement privilege, and without prejudice to legal positions the Parties may have or may take in any legal proceeding.
- 6.4 Nothing in this Memorandum is intended to constitute Crown consultation or accommodation obligations that may be owed by Canada to the British Columbia Métis community.
- 6.5 This Memorandum may be amended or replaced upon written agreement of the Parties.

IN WITNESS THEREOF, the Parties hereby execute the Memorandum as of July 25, 2018.

**On behalf of Métis Nation British Columbia:**



Clara Morin-Dal Col  
President



Witnessed by:  
Lissa Smith  
Vice President

**On behalf of Her Majesty the Queen in Right of Canada:**



The Honourable Carolyn Bennett  
Minister of Crown-Indigenous Relations