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Framework Agreement for Advancing Reconciliation

BETWEEN:

MANITOBA METIS FEDERATION INC.

as represented by its President

("MMF")

-and-

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

as represented by the Minister of Indigenous and Northern Affairs

("Canada")

(hereinafter referred to collectively as the "Parties" and individually as a "Party")

WHEREAS the Métis were one of the Aboriginal peoples who lived in the Northwest prior to Canada's westward expansion following Confederation;

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;

WHEREAS within what is now known as Manitoba the Métis Nation established a vibrant community with its own identity, language, culture, institutions and way of life centered in the Red River Valley (the "Manitoba Métis Community");

WHEREAS Canada's assertion of control over the Red River Settlement was met with armed Métis resistance that resulted in Canada and a Métis-controlled provisional government entering into negotiations and a constitutional compact that ultimately led to the Manitoba Métis Community becoming Canada's negotiating partner in the entry of Manitoba into Confederation and the passage of the *Manitoba Act, 1870*;

WHEREAS the *Manitoba Act, 1870* included a solemn constitutional obligation that Canada would provide 1.4 million acres of land to the children of the Métis who were living in the Red River Valley in a prompt and effectual manner for the purpose of ensuring the Manitoba Métis Community secured a lasting place in the province they were negotiating partners in creating;

WHEREAS in the period following Manitoba's entry into Confederation the constitutional commitment represented to the Manitoba Métis Community in section 31 of the *Manitoba Act, 1870* was not implemented by Canada with care or diligence;

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";

WHEREAS 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 rights and outstanding claims of Aboriginal peoples are determined, recognized and respected through honourable negotiations with the goal of reaching just and lasting settlements;

WHEREAS on April 15, 1981 the MMF commenced litigation against Canada in relation to, among other things, section 31 of the *Manitoba Act, 1870* for the purpose of securing a judicial declaration to assist it in extra-judicial negotiations with the Crown in pursuit of the overarching constitutional goal of reconciliation that is now reflected in section 35 of the *Constitution Act, 1982*;

WHEREAS on March 8, 2013, the Supreme Court of Canada released its decision in *Manitoba Metis Federation Inc. v. (versus) Canada (AG)* and held "[t]he unfinished business of reconciliation of the Métis people with Canadian sovereignty is a matter of national and constitutional import" and issued a declaration "[t]hat the federal Crown failed to implement the land grant provision set out in section 31 of the *Manitoba Act, 1870* in accordance with the honour of the Crown";

WHEREAS the Supreme Court of Canada recognized that the claim of the Manitoba Métis Community was "not a series of claims for individual relief" but a "collective claim for declaratory relief for the purposes of reconciliation between the descendants of the Métis people of the Red

River Valley and Canada" and went on to grant the MMF standing by concluding "[t]his collective claim merits allowing the body representing the collective Métis interest to come before the court";

WHEREAS the Manitoba Métis Community also asserts that it 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;

WHEREAS Canada is committed to working, on a nation-to-nation, government-to-government basis, with the Métis Nation, through bilateral negotiations with the MMF, in order to advance reconciliation and renew the relationship through cooperation, respect for Métis rights, and ending the status quo;

WHEREAS the Parties executed a Memorandum of Understanding on Advancing Reconciliation on May 27, 2016 and, based on that memorandum, have engaged in an exploratory discussions process to develop this mutually agreeable Framework Agreement;

WHEREAS Manitoba has been engaged and involved in the exploratory discussion process and has indicated it is also committed to advancing reconciliation with the Manitoba Métis Community as well as its willingness to continue to work with the MMF and Canada in activities conducted under the auspices of this Framework Agreement where Manitoba's interests are engaged;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

DEFINITIONS

In this Framework Agreement, the following definitions apply:

"Final Agreement" means the agreement contemplated under section 4.2 of this Framework Agreement.

"Framework Agreement" means this agreement.

"Incremental Agreements" means those agreements contemplated under section 4.3.2 of this Framework Agreement.

"Interim Measures" means the measures contemplated by section 4.3.1 of this Framework Agreement.

"Main Table" means the regular meetings of the Negotiators contemplated under section 3.2 of this Framework Agreement.

"Manitoba" means Her Majesty the Queen in Right of the Province of Manitoba.

"Negotiation Process" means the mutually agreeable process set out within this Framework Agreement.

"Negotiators" means the individuals designated by each Party to the agreement.

"Principals" means the MMF President and the Minister of Indigenous and Northern Affairs.

"Purpose" means the underlying rationale for entering into this Framework Agreement that the Parties hope to address through arrangements or agreements reached under this Framework Agreement, whether interim, incremental or final.

"Shared Objectives" means the mutually agreeable overarching goals of the Parties that they agree to consider and advance through

any arrangements or agreements reached under this Framework Agreement, whether interim, incremental or final.

1. THE PURPOSE OF THE NEGOTIATIONS

1.1 The Parties agree that the Purpose of the Negotiation Process contemplated under this Framework Agreement is to:

1.1.1 jointly develop a renewed nation-to-nation, government-to-government relationship between the Crown and the Manitoba Métis Community that advances reconciliation between the Parties consistent with the purpose of section 35 of the *Constitution Act, 1982*; and

1.1.2 to arrive at a shared solution that advances reconciliation between the Parties consistent with the purpose of section 35 of the *Constitution Act, 1982* and the Supreme Court of Canada's decision in *Manitoba Metis Federation Inc. v. (versus) Canada (AG)*.

1.2 The Parties agree that the Purpose set out in section 1.1 will be advanced through engaging in the Negotiation Process described in this Framework Agreement with a view to arriving at mutually agreeable arrangements or agreements as further described below.

2. THE SHARED OBJECTIVES OF THE PARTIES

2.1 The Parties agree that the following Shared Objectives will inform the negotiations of future arrangements or agreements, whether interim, incremental or final:

2.1.1 recognizing and supporting a democratic, well-governed and accountable Manitoba Métis Community government, including the acknowledgment of Métis jurisdiction and law-making authority.

2.1.2 improving the cultural, social, physical, emotional and economic well-being of the Manitoba Métis Community;

2.1.3 enabling the participation of the Manitoba Métis Community in an economy that is sustainable, innovative, integrated and prosperous;
and

2.1.4 establishing and structuring effective inter-governmental processes between the Manitoba Métis Community government and Canada that facilitate nation-to-nation, government-to-government relationships.

2.2 The Parties recognize that how these Shared Objectives will be advanced will be determined through the Negotiations Process established under this Framework Agreement.

3. THE NEGOTIATION PROCESS

3.1 The Parties commit to engaging in an interest-based Negotiation Process that fosters an open exchange of ideas, the frank discussion of interests and the joint analysis of issues. As a general principle, informal discussions are encouraged. Any statements made during the Negotiation Process, whether written or oral, will be without prejudice and will not be attributable to any Party.

3.2 The Negotiators will be responsible for the conduct and coordination of all negotiations and 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. It is expected that the Negotiators will meet, at a minimum, once every 6 to 8 weeks. Unless otherwise agreed to by the Negotiators, the negotiating sessions will not be formally chaired.

3.3 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.

3.4 The Main Table will be responsible for:

3.4.1 managing the Negotiation Process including work planning and setting of priorities;

3.4.2 negotiation of any arrangements or agreements to be brought to the Parties for their consideration;

3.4.3 implementing and managing openness and information sharing amongst the Parties throughout the Negotiation Process; and

3.4.4 implementing dispute resolution mechanisms as agreed.

3.5 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.

4. ENGAGING IN A RESULTS-ORIENTED NEGOTIATION PROCESS

4.1 The Parties are committed to focusing their respective efforts and resources on negotiating arrangements that are timely, results-oriented and aimed at achieving a shared and balanced solution that addresses the Purpose and Shared Objectives of this Framework Agreement. While not intended to be exhaustive or restrictive, the Parties have identified a series of subject matters that may be discussed as a part of the Negotiations Process, which are listed in Appendix A.

4.2 The goal of the Negotiation Process identified in section 4.1 shall be realized through a Final Agreement, which the Parties recognize may be comprised of a series of arrangements or agreements, that effectively achieves the Purpose and Shared Objectives of this Framework Agreement.

4.3 In order to achieve timely results toward advancing reconciliation and fulfilling the Purpose and Shared Objectives of the negotiations contemplated under this Framework Agreement, Negotiators may seek approvals from the Parties for the following types of arrangements or agreements over the course of the negotiations:

4.3.1 Interim Measures: Measures intended to protect the interests of the Manitoba Métis Community during negotiations.

4.3.2 Incremental Agreements: Agreements on individual or a group of matters listed in Appendix A in advance of, or in lieu of, a single, comprehensive Final Agreement.

4.4 Consistent with the results-oriented negotiation approach set out above, the Parties will focus their initial efforts and resources on reaching the following Interim Measures within one year of the signing of this Framework Agreement:

4.4.1 A consultation agreement or framework between the MMF and Canada that sets out a mutually agreeable process for addressing federal Crown consultation, and, where required, accommodation owing to the Manitoba Métis Community, including the provision of consultation capacity funding and the establishment of a MMF Consultation Office.

4.4.2 A mutually agreeable process to engage with the MMF in relation to any potential disposal of federal Crown lands within Manitoba where those lands may form a part of any future arrangement or agreement reached under this Framework Agreement.

4.5 Consistent with the results-oriented negotiation approach set out above, the Parties will focus their initial efforts and resources on reaching the following Incremental Agreements within two years of the signing of this Framework Agreement:

4.5.1 An agreement that recognizes the role, functions and jurisdictions of the Manitoba Métis Community government, including its relationship with other governments. This agreement will address:

- i. core self-government functions, including citizenship, citizenship registration and appeals, citizen rights and interests, jurisdiction, a constitution that recognizes the government's structures at the local, regional and provincial levels, leadership selection and elections; and

- ii. provisions establishing the new nation-to-nation, government-to-government relationship between the Manitoba Metis Community government and other governments, including fiscal arrangements, legal status and capacity, and dispute resolution mechanisms.

4.5.2 The establishment of a "Lasting Place" Trust for the benefit of the Manitoba Métis Community to be used for potential future reconciliation arrangements between the federal Crown and the Manitoba Métis Community in relation to section 31 of the *Manitoba Act, 1870*. This agreement will address issues relating to the establishment of the trust, its purpose, beneficiaries and structure, potential financial options as well as other capacity building initiatives relating to the creation of a trust.

4.5.3 An agreement on Métis harvesting, which harmonizes existing laws and regulations of the Parties in relation to Métis harvesting rights protected by section 35 of the *Constitution Act, 1982*.

5. INVOLVEMENT AND PARTICIPATION OF MANITOBA

5.1 The Parties recognize the importance of having Manitoba's participation in a process to advance reconciliation with the Manitoba Métis Community and agree that Manitoba shall be invited as an observer to all negotiation meetings held under the auspices of this Framework Agreement.

5.2 The Parties also agree that Manitoba may become a participant in the Negotiation Process where it indicates its willingness to become involved as a participant in the Negotiation Process, whether on a specific subject matter, interim measure or any agreement being discussed and negotiated between the Parties. Where the MMF, Canada and Manitoba agree this Framework Agreement may be amended to include Manitoba as a Party.

5.3 Matters in relation to the federal Crown's failure to implement the Métis land grant provisions set out in section 31 of the *Manitoba Act, 1870* in a manner consistent with the honour of the Crown that are addressed in the Negotiations Process, will be discussed and concluded on a bilateral basis between the MMF and Canada. For greater certainty, any obligations flowing from this aspect of the negotiations shall be solely borne by Canada.

6. COMMUNITY AND PUBLIC AWARENESS AND CONSULTATION

6.1 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.

6.2 The MMF is responsible for engagement and consultation with the Manitoba Métis Community, including Métis citizens, Locals, Regions, the MMF Cabinet, the MMF Assembly as well as other relevant stakeholders.

6.3 Canada will consult other Aboriginal groups whose credibly asserted or established Aboriginal or Treaty rights might be affected by arrangements or agreements negotiated under this Framework Agreement.

7. FUNDING AND CAPACITY

7.1 The Parties recognize that the MMF requires reasonable capacity to participate in the Negotiation Process contemplated under this Framework Agreement. To support the MMF's participation in the Negotiations Process, Canada agrees to seek authority to provide funds in support of institutional capacity to address the items outlined in sections 4.4 and 4.5 of this Framework Agreement.

7.2 In addition to the commitment set out in section 7.1 of this Framework Agreement, and subject to federal eligibility and program requirements, MMF may access federal policies, funding and initiatives, that support the participation of Aboriginal groups in land, resources and self-government negotiations with Canada, which are subject to yearly appropriations of funds by Parliament.

8. GENERAL

8.1 Nothing in this Framework Agreement 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.

8.2 Nothing in this Framework Agreement creates any legally enforceable obligations.

8.3 All negotiations conducted under this Framework Agreement 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.

8.4 Nothing in this Framework Agreement is intended to constitute Crown consultation or accommodation obligations that may be owed by Canada to the Manitoba Métis Community.

8.5 This Framework Agreement may be amended with the written consent of the Parties.

This Framework Agreement is signed and agreed to by the Parties on the dates set out below.

MANITOBA METIS FEDERATION INC.

Per:

David Chartrand
President
Manitoba Metis Federation Inc.

Date

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Per:

The Honourable Carolyn Bennett

Minister of Indigenous and Northern Affairs

Government of Canada

Date

Date modified: 2017-08-31