

**COMPREHENSIVE AGREEMENT-IN-PRINCIPLE**

This Agreement, made in duplicate, this 22<sup>nd</sup> day of January, 2001

**BETWEEN:**

**THE MEADOW LAKE FIRST NATIONS**

**(BIRCH NARROWS DENE NATION, BUFFALO RIVER DENE NATION, CANOE LAKE CREE NATION, CLEARWATER RIVER DENE NATION, ENGLISH RIVER FIRST NATION, FLYING DUST FIRST NATION, ISLAND LAKE FIRST NATION, MAKWA SAHGAIEHCAN FIRST NATION AND WATERHEN LAKE FIRST NATION)**

**as represented individually by their respective Chiefs and as represented collectively by the Meadow Lake Tribal Council, through the Tribal Council Chief and Tribal Council Vice Chiefs**

**AND**

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

**as represented by the Minister of Indian Affairs and Northern Development**

**PREAMBLE**

**WHEREAS:**

- A. On April 3, 1991, the Meadow Lake First Nations, Meadow Lake Tribal Council and Canada entered into a Framework Agreement to undertake negotiations respecting MLFN government arrangements;
- B. The Parties have, since that time, negotiated in respect of the agreed upon agenda items set out in section 2 of the Framework Agreement;
- C. Subsection 35(1) of the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;
- D. The aboriginal peoples of Canada are defined in subsection 35(2) of the *Constitution Act, 1982* to include the “Indian” people of Canada;
- E. The Members of each MLFN are Indian people as referred to in section 35 of the *Constitution Act, 1982*;
- F. The Members of each MLFN are descendant from Indian nations that historically had their own forms of government;
- G. The Members of each MLFN are descendant from Indian nations that executed or adhered to Treaty No. 6, 8 or 10 with the Crown;
- H. The MLFNs take the position that any inherent right of self-government that may exist attaches to the MLFNs either individually or collectively and the benefits of any such right accrue to the membership of each MLFN;
- I. The Government of Canada recognizes the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*;
- J. The Parties intend by a Final Agreement to set out arrangements consistent with the recognition that the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*, without taking any positions with respect to how an inherent right of self-government may ultimately be defined at law;

- K. The MLFNs have a special relationship with Canada which is grounded in the unique history of the Indian people with the Crown and reflected in Treaties No. 6, 8 and 10, subsection 91(24) of the *Constitution Act, 1867* and sections 25 and 35 of the *Constitution Act, 1982*;
- L. The Parties have negotiated this Agreement to establish the basis for continuing negotiations between them with the shared objective of concluding a Final Agreement;
- M. A Final Agreement will be negotiated within the context of and will respect Treaties No. 6, 8 and 10;
- N. A Final Agreement will be further negotiated within the context of and will respect and build upon the special relationship between the Parties;
- O. A Final Agreement will reflect and provide for a government-to-government relationship between the Parties within the framework of the Canadian Constitution;
- P. A Final Agreement will provide for the protection of the ability of a Party to pursue any lawful process or remedy in the future; and
- Q. Canada recognizes its responsibility to uphold the honour of the Crown in implementing a Final Agreement;

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

**PART I****DEFINITIONS****1.0 Definitions****1.01 Defined words and phrases**

In this Agreement:

**“Approval Procedure”** means the process by which a MLFN will seek the approval of a Final Agreement from MLFN Citizens to be determined in accordance with Subsection 74.02(1);

**“Authority”** means the ability to undertake actions, including the delivery or administration of programs and services, but does not include the ability to enact a law;

**“Canada”** means Her Majesty the Queen in right of Canada, and includes all departments of the Government of Canada;

**“Development”**, when used in Article 22.0, has the meaning provided for in Paragraph 22.01(a);

**“Eligible Citizen”** means a MLFN Citizen who, as of the date of any vote referred to in this Agreement:

- (a) is over the age of 18 years; and
- (b) has not been declared incapable of voting by reason of mental infirmity:
  - (i) by a court of competent jurisdiction, including any MLFN court that is established in accordance with a MLFN Law enacted pursuant to the Jurisdiction of a MLFN contemplated in the negotiations with respect to justice matters referred to in Section 33.01; or
  - (ii) in accordance with any provincial law which provides for a declaration of similar legal effect other than by a court;

**“Environment”**, when used in Article 22.0, has the meaning provided for in Paragraph 22.01(b);

**“Environmental Effect”**, when used in Article 22.0, Paragraph 32.01(7)(c) and Article 45.0 has the meaning provided for in Paragraph 22.01(c);

**“Final Agreement”** means an agreement between the Parties which will be based on this Agreement;

**“Implementation of a Final Agreement and a Tripartite Final Agreement”** has the meaning provided for in Section 66.01;

**“Inconsistency or Conflict”** has the meaning provided for in section 36.01;

**“Initial Meadow Lake First Nation Land Law”** or **“Initial MLFN Land Law”** means, in relation to a MLFN Government, the initial MLFN Law with respect to MLFN Lands enacted in accordance with Subsection 48.01(1);

**“Interest”** means, in relation to MLFN Lands, any estate, right or interest of any nature in or to land, other than an estate, right or interest in or to land held by a MLFN, but does not include title to, or fee simple interest in, that land;

**“Intergovernmental Relations and Implementation Plan”** means the plan which sets out those matters described in Section 70.02;

**“Intergovernmental Relations and Implementation Support Committee”** or **“IRIS Committee”** means the committee to be established by the Parties and Saskatchewan in accordance with Article 68.0;

**“Jurisdiction”** means the ability to enact a MLFN Law;

**“(a) Meadow Lake First Nation”** or **“(a) MLFN”** means any of Birch Narrows Dene Nation, Buffalo River Dene Nation, Canoe Lake Cree Nation, Clearwater River Dene Nation, English River First Nation, Flying Dust First Nation, Island Lake First Nation, Makwa Sahgaiehcan First Nation or Waterhen Lake First Nation;

**“Meadow Lake First Nations”** or **“MLFNs”** means Birch Narrows Dene Nation, Buffalo River Dene Nation, Canoe Lake Cree Nation, Clearwater River Dene Nation, English River First Nation, Flying Dust First Nation, Island Lake First Nation, Makwa Sahgaiehcan First Nation and Waterhen Lake First Nation collectively;

**“Meadow Lake First Nations / Meadow Lake Tribal Council” or “MLFNs / MLTC”** means the MLFNs and MLTC representing the collective interests of the MLFNs;

**“Meadow Lake First Nation Asset” or “MLFN Asset”** means, in respect of a MLFN, personal property, including money and real property owned by a MLFN, but does not include:

- (a) MLFN Indian Moneys, unless and until those MLFN Indian Moneys are transferred to the MLFN by Canada in accordance with Subsection 30.01(5); and
- (b) MLFN Lands;

**“Meadow Lake First Nation Citizen” or “MLFN Citizen”** means, in respect of a MLFN, any person who is a citizen or member of that MLFN pursuant to a MLFN Law enacted in accordance with Section 18.01 or, in the absence of such a MLFN Law, any person who is a Member of that MLFN in accordance with the laws which govern eligibility for membership in that MLFN;

**“Meadow Lake First Nation Constitution” or MLFN Constitution”** means, in respect of a MLFN, a law or series of laws approved by MLFN Citizens as a constitution;

**“Meadow Lake First Nations Financial Arrangements Agreement” or “MLFN-FAA”** means an agreement between the MLFNs/MLTC and Canada to be executed concurrently with a Final Agreement and to be renewed as contemplated in Section 64.10;

**“MLFN Government”** means:

- (a) a structure established by a MLFN in accordance with a MLFN Constitution to function as a First Nation level government of that MLFN; or
- (b) MLTC, or any other structure designated by the MLFNs collectively in accordance with the MLFN Constitutions and the MLTC Constitution, to function as a regional level government of the MLFNs, representing their collective interests;

**“Meadow Lake First Nation Indian Moneys” or “MLFN Indian Moneys”** means, in respect of a MLFN, those moneys held by Canada as “Indian Moneys” as defined in the *Indian Act* for the use and benefit of that MLFN unless and until those moneys are transferred by Canada to the MLFN following a request from the MLFN in accordance with Subsection 30.01(5);

**“Meadow Lake First Nation Lands” or “MLFN Lands”** means, in respect of a MLFN:

- (a) lands that are “reserves” as defined in the *Indian Act*, set apart for the use and benefit of that MLFN as of the date a Final Agreement comes into effect; and
- (b) such other lands as are designated as MLFN Lands in accordance with Section 44.03;

**“Meadow Lake First Nation Law” or “MLFN Law”** means a law enacted by a MLFN Government in accordance with the MLFN Constitution or, where appropriate, the MLTC Constitution, in relation to a subject area in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV, or as otherwise provided for in a Final Agreement;

**“Meadow Lake First Nation Public Body” or “MLFN Public Body”** means a body, board, commission or tribunal established by a MLFN Government in accordance with a MLFN Law;

**“Meadow Lake Tribal Council” or “MLTC”** means the structure:

- (a) constituted by the MLFNs on November 12, 1986, as evidenced in a document entitled the “Convention Act”;
- (b) to be reconstituted by the MLFNs collectively in accordance with the MLFN Constitutions and the MLTC Constitution at the time a Final Agreement is approved; and
- (c) to be designated by the MLFNs as a regional level of MLFN Government representing their collective interests in accordance with the MLTC Constitution and a Final Agreement, upon that Final Agreement coming into effect;

**“Meadow Lake Tribal Council Constitution” or “MLTC Constitution”** means a law or series of laws approved by the MLFNs collectively as a constitution;

**“Member”** means, in respect of a MLFN, a person whose name appears on the “band list” of that MLFN, as defined in the *Indian Act*;

**“Non-Resident Citizen”** means a MLFN Citizen who is not Ordinarily Resident on MLFN Lands;

**“Ordinarily Resident on MLFN Lands”** means, that in the settled routine of a person’s life, that person regularly, normally, or customarily lives on MLFN Lands;

**“Party”** means a party to this Agreement;

**“Person Without Legal Capacity”** means a MLFN Citizen Ordinarily Resident on MLFN Lands who:

- (a) has not yet attained the age of 18 years; or
- (b) has been legally declared mentally incompetent or incapable of managing his or her own affairs:
  - (i) by a court of competent jurisdiction, including any MLFN court that is established in accordance with a MLFN Law enacted pursuant to the Jurisdiction of a MLFN contemplated in the negotiations with respect to justice matters referred to in Section 33.01; or
  - (ii) in accordance with any provincial law which provides for a declaration of similar legal effect other than by a court;

**“Project”**, when used in Article 22.0, has the meaning provided for in Paragraph 22.01(d);

**“Proponent”**, when used in Article 22.0, has the meaning provided for in Paragraph 22.01(e);

**“Review”**, when used in Article 22.0, has the meaning provided for in Paragraph 22.01(f);

**“Saskatchewan”** means Her Majesty the Queen in right of Saskatchewan and includes all departments of the Government of Saskatchewan;

**“Statement”**, when used in Article 22.0, has the meaning provided for in Paragraph 22.01(g);

**“Traditional Territory”** means, in respect of a MLFN, land within the Province of Saskatchewan which the predecessor of that MLFN traditionally used, or used and occupied, prior to the predecessor of that MLFN executing or adhering to Treaty No. 6, 8 or 10;

**“Tripartite Agreement-in-Principle”** means the agreement among the MLFNs/MLTC, Canada and Saskatchewan, in the form attached as Schedule “A”; and

**“Tripartite Final Agreement”** means an agreement among the MLFNs/MLTC, Canada and Saskatchewan which will be based on the Tripartite Agreement-in-Principle.



1.02 Interpretation

In this Agreement:

- (a) words or phrases which are defined have been identified in the text by the capitalization of the first letter of the words or the first letter of each word in phrases;
- (b) the definition of words or phrases which are defined in one tense will apply to all tenses as the context so requires;
- (c) the singular includes the plural and vice versa, except in the case of a reference to a MLFN or the MLFNs in which case the definition provided for in Section 1.01 will apply;
- (d) headings are for ease of reference only, do not form part of this Agreement and will not be used in the interpretation of this Agreement; and
- (e) unless it is otherwise clear from the context, a reference to a “Part”, “Division”, “Article”, “Section”, “Subsection”, “Paragraph”, “Subparagraph”, “Clause” or “Schedule” means a part, division, article, section, subsection, paragraph, subparagraph, clause or schedule, respectively, of this Agreement.

1.03 Statutory references

- (1) The following acts are referred to in this Agreement and, when described by the title set out here, will be interpreted to mean the act as cited here:

- (a) acts of the Parliament of Canada:

*Access to Information Act*, R.S.C. 1985, c. A-1;  
*Atomic Energy Control Act*, R.S.C. 1985, c. A-16;  
*Canada Land Survey Act*, R.S.C. 1985, c. L-6;  
*Canadian Environmental Assessment Act*, S.C. 1982, c. 37 ;  
*Canadian Environmental Protection Act*, R.S.C. 1985, c.16 (4<sup>th</sup> Supp.)  
*Canadian Human Rights Act*, R.S.C. 1985, c. H-6;  
*Criminal Code of Canada*, R.S.C. 1985, c. C-46;  
*Divorce Act*, R.S.C. 1985, c.3 (2<sup>nd</sup> Suppl)  
*Explosives Act*, R.S.C. 1985, c. E-17;  
*Expropriation Act*, R.S.C. 1985, c. E-21;  
*Fisheries Act*, R.S.C. 1985, c. F-14;  
*Indian Act*, R.S.C. 1985, c. I-5;  
*Interpretation Act*, R.S.C. 1985, c. I-21;  
*Nuclear Safety and Control Act*, S.C. 1997, c.9, N-28.3;  
*Official Languages Act*, R.S.C. 1985, c. 31 (4<sup>th</sup> Suppl.);  
*Privacy Act*, R.S.C. 1985, c. P-21;  
*Statutory Instruments Act*, R.S.C. 1985, c. S-22; and  
*Transportation of Dangerous Goods Act*, 1992, S.C. 1992, c. 34;

- (b) acts of the Legislature of Saskatchewan:

*The Environmental Assessment Act*, S.S. 1979-80, Chap. E-10.1; and

- (c) acts constituting part of the Constitution of Canada:

*Constitution Act, 1867*;  
*Constitution Act, 1930*;  
*Constitution Act, 1982*; and  
*Canadian Charter of Rights and Freedoms*, being Part I of the  
*Constitution Act, 1982*.

- (2) All references to an Act referred to in Subsection (1) include all regulations made in accordance with that Act and any amendment, re-enactment or replacement, from time to time, of that Act.

1.04 Description of provisions of agreement

For ease of reference, the provisions of this Agreement are described in the following manner in this Agreement:

Part	I
Division	A
Article	1.0
Section	1.01
Subsection	1.01(1)
Paragraph	1.01(1)(a) or 1.01(a)
Subparagraph	1.01(1)(a)(i) or 1.01(a)(i)
Clause	1.01(1)(a)(i)(A) or 1.01(a)(i)(A).

**PART II****GENERAL PROVISIONS****2.0 Purpose and relationship of various agreements****2.01 Purpose of this Agreement**

- (1) The Parties have negotiated this Agreement to establish the basis for continuing negotiations between them with the shared objective of concluding a Final Agreement.
- (2) The Parties acknowledge that this Agreement contains and provides for:
  - (a) matters where the Parties have reached substantive and comprehensive agreement and it is anticipated that, with respect to these matters, there will need to be only technical revision to the provisions of this Agreement prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties; and
  - (b) matters where further discussions, negotiations or reviews will need to be undertaken, or authority and mandate sought, by the Parties prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties.
- (3) The Parties further acknowledge that in relation to this Agreement as a whole:
  - (a) there will need to be a detailed technical review to ensure that the provisions of a Final Agreement are clear and internally consistent; and
  - (b) given the understandings in Paragraphs (2)(a) and (b) and Paragraph (a), that there may as a consequence be the requirement for additional review and consideration of some aspects of some of the matters provided for in Paragraph (2)(a).

## 2.02 Purpose of Final Agreement

- (1) A Final Agreement will be negotiated within the context of the recognition that the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*.
- (2) A Final Agreement will:
  - (a) provide for MLFN government arrangements in a manner which:
    - (i) respects Treaties No. 6, 8 and 10; and
    - (ii) respects and builds upon the special relationship between the Parties;
  - (b) set out arrangements consistent with the recognition that the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*, without the Parties taking any positions with respect to how an inherent right of self-government may ultimately be defined at law; and
  - (c) reflect and provide for a government-to-government relationship between the Parties within the framework of the Canadian Constitution.
- (3) A Final Agreement will not affect the constitutional division of powers between Canada and Saskatchewan.

## 2.03 Tripartite Agreement-in-Principle

- (1) It is anticipated that a Tripartite Agreement-in-Principle, in the form attached as Schedule "A", will be executed concurrently with this Agreement.
- (2) It is anticipated that the Tripartite Agreement-in-Principle will establish the basis for continuing negotiations among the MLFNs/MLTC, Canada and Saskatchewan with the shared objective of concluding a Tripartite Final Agreement at the same time a Final Agreement is concluded.

#### 2.04 Tripartite Final Agreement

It is anticipated that a Tripartite Final Agreement will:

- (a) provide for recognition by Saskatchewan of, and concurrence by Saskatchewan with, the MLFN government arrangements to be provided for in a Final Agreement; and
- (b) reflect and provide for a government-to-government relationship among the MLFNs/MLTC, Canada and Saskatchewan and between the MLFNs/MLTC and Saskatchewan within the framework of the Canadian Constitution.

### **3.0 Approval and effect of this Agreement**

#### 3.01 Approval of this Agreement by MLFNs and MLTC

This Agreement has been approved by the MLFNs/MLTC in the following manner:

- (a) in the case of the MLFNs, by resolution of the Council of each MLFN duly passed at a properly constituted meeting following informal consultation with the Members of that MLFN; and
- (b) in the case of the MLTC, following the approval of this Agreement by the MLFNs in accordance with Paragraph (a), by a resolution of the Executive of MLTC duly passed at a properly constituted meeting.

#### 3.02 Approval of this Agreement by Canada

This Agreement has been approved by Canada having been signed by a minister authorized to do so on behalf of Canada.

#### 3.03 No legal obligations created

This Agreement does not create enforceable legal obligations between the Parties.

### **4.0 Matters relating to the conclusion, approval and status of Final Agreement**

#### 4.01 Approval, execution and coming into effect of a Final Agreement

- (1) A Final Agreement will not be executed until all of the requirements set out in Subsection 75.01(1) have been completed.

- (2) A Final Agreement will come into effect on the date the last of:
  - (a) the legislation anticipated to be enacted by the Parliament of Canada or any other legal measures to be undertaken by Canada to give legal effect to that Final Agreement, as contemplated in Section 76.01 has come into force; and
  - (b) any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties and Saskatchewan agree is necessary or desirable to give effect to a Final Agreement, as contemplated in Section 76.04 has come into force.
- (3) Matters relating to the consultation with, and involvement of, the MLFNs/MLTC during the drafting of:
  - (a) the legislation anticipated to be enacted by the Parliament of Canada referred to in Paragraph (2)(a) are dealt with in Section 76.02; and
  - (b) any legislation the Parties and Saskatchewan agree is necessary or desirable to be enacted by the Legislative Assembly of Saskatchewan of the nature referred to in Paragraph (2)(b) will be dealt with in a Tripartite Final Agreement in the manner contemplated in Subsection 76.04(3).
- (4) A Final Agreement does not create enforceable legal obligations between the Parties until it has come into effect.

#### 4.02 Status of Final Agreement

Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will discuss whether that Final Agreement will form a treaty within the meaning of section 25 and subsection 35(1) of the *Constitution Act, 1982*.

### **5.0 Protections under a Final Agreement**

#### 5.01 Relationship of Final Agreement to Treaties No. 6, 8 and 10

- (1) The Parties recognize and affirm that Treaties No. 6, 8 and 10 form the primary foundation of the relationship between Canada and a MLFN, the predecessor of which executed or adhered to that treaty.
- (2) A Final Agreement will be negotiated within the context of and respect Treaties No. 6, 8 and 10.

- (3) A Final Agreement will not be construed so as to abrogate or derogate from any treaty rights of a MLFN or the Members of a MLFN, recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*.
- (4) Where there is a conflict between Treaty No. 6, 8 or 10 and a provision of a Final Agreement, the treaty will prevail to the extent of the conflict in so far as that provision of the Final Agreement applies to Canada and a MLFN, the predecessor of which executed or adhered to that treaty, and the Members of that MLFN.
- (5) For the purposes of this Section, Treaty No. 6, 8 or 10 will be interpreted in accordance with legal principles established, from time to time, by Canadian courts, including any legal principles established by Canadian courts which require consideration of matters beyond the written provisions of that treaty.
- (6) Notwithstanding Subsection (4), a Final Agreement will further provide that Canada will not, in relation to a MLFN, enforce or rely in any other manner upon any right or power it may possess under the provision of Treaty No. 6, 8 or 10 to the effect that Canada reserves the right to deal with any settlers within the bounds of reserve lands as Canada shall deem fit prior to that MLFN enacting an Initial MLFN Land Law, except in accordance with Subsection 51.02(2).
- (7) Notwithstanding Subsection (4), a Final Agreement will provide that Canada will not, in relation to a MLFN, enforce, or rely in any other manner upon, any right or power that it may possess under:
  - (a) the provision in Treaty No. 6 to the effect that reserves are to be administered and dealt with for the Indian signatories by Canada;
  - (b) the provision in Treaty No. 6, 8 or 10 to the effect that Canada reserves the right to deal with any settlers within the bounds of reserve lands as Canada shall deem fit; and
  - (c) the provision in Treaty No. 6, 8 or 10 to the effect that reserves or interests therein may be sold or otherwise disposed of by Canada for the use and benefit of the Indians entitled thereto, with their consent first had and obtained,

as the case may be, upon that MLFN enacting an Initial MLFN Land Law.



5.02 Relationship of Final Agreement to existing aboriginal rights

- (1) A Final Agreement will not be construed so as to abrogate or derogate from any aboriginal rights of a MLFN or the Members of a MLFN, recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*.
- (2) A Final Agreement will not be construed so as to prejudice, limit or restrict the position either Party may take at any time with respect to any aboriginal rights of a MLFN or the Members of a MLFN.
- (3) A Final Agreement will not be construed as recognizing or denying any aboriginal rights of a MLFN or the Members of a MLFN.
- (4) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will further discuss the matter referred to in Subsection (3).

5.03 Relationship of Final Agreement to other rights and freedoms

- (1) A MLFN Citizen who is a Canadian citizen or permanent resident of Canada will continue to be entitled to all the rights and benefits of Canadian citizenship.
- (2) A Final Agreement will provide that the *Canadian Charter of Rights and Freedoms* applies to a MLFN Government.
- (3) A Final Agreement will not be construed so as to limit, prejudice or affect the application of section 25 of the *Canadian Charter of Rights and Freedoms*.
- (4) A Final Agreement will provide that, on MLFN Lands, MLFN Citizens and non-MLFN Citizens will have the benefit of the protection of human rights that is equivalent to the protection provided for in federal and provincial laws.
- (5) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will negotiate with respect to, and attempt to reach agreement on, matters relating to the application of the *Canadian Human Rights Act*.

5.04 Relationship of Final Agreement to rights of other aboriginal peoples

Nothing in a Final Agreement will affect any rights of any aboriginal peoples in Canada who are not party to the Final Agreement.

5.05 Continuation of fiduciary relationship

- (1) Subject to Subsection (2), the fiduciary relationship between Canada and a MLFN and any duty of care or obligation arising out of that relationship that may exist in law and be owed by Canada to that MLFN, or in respect of MLFN Lands, will continue following the coming into effect of a Final Agreement.
- (2) A duty of care or an obligation of Canada of the nature referred to in Subsection (1) may be altered as to its character, content or the manner in which it is discharged as a consequence of the coming into effect and implementation of a Final Agreement, including as a result of:
  - (a) the exercise of Jurisdiction by a MLFN; or
  - (b) the evolution of the government-to-government relationship between Canada and that MLFN.

5.06 Relationship of Final Agreement to future negotiations and processes

- (1) Subject to Subsections (2) to (4) inclusive, a Final Agreement will provide for the protection of the ability of a Party to pursue any lawful process or remedy against or with the other Party in respect of any matter, including any matter relating to:
  - (a) aboriginal or treaty rights of a MLFN or the Members of a MLFN;
  - (b) the Traditional Territory of a MLFN; and
  - (c) Non-Resident Citizens.
- (2) Where, following the coming into effect of a Final Agreement a MLFN wishes to exercise Jurisdiction in a subject area other than a subject in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV, the MLFN will proceed in accordance with Article 35.0.

- (3) Where, following the coming into effect of a Final Agreement, a dispute arises between the Parties that the Parties have agreed in that Final Agreement will proceed in accordance with the provisions of that Final Agreement contemplated in Part X, the Parties will proceed in accordance with those provisions.
- (4) Where a Final Agreement or other agreement provides that a matter will be the subject of future negotiations, the Parties and Saskatchewan will proceed in accordance with those provisions of that Final Agreement or that other agreement.
- (5) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, issues relating to any outstanding litigation among the Parties and Saskatchewan or between any two of them will be reviewed by the parties to that litigation.
- (6) The Parties and Saskatchewan acknowledge that this Agreement and a Tripartite Agreement-in-Principle will not prejudice or be presented as evidence in any litigation among a MLFN, the MLFNs, MLTC, Canada and Saskatchewan, or between any of them.
- (7) A Final Agreement will not restrict the ability of a MLFN or MLTC to participate in any other process that may be established to implement the inherent right of self-government by First Nations in Canada on a regional, provincial or national basis.

## **6.0 Inherent right of self-government**

### **6.01 Statement of the position of the MLFNs on attachment and benefit of inherent rights**

The MLFNs take the position that any inherent right of self-government that may exist attaches to the MLFNs either individually or collectively and the benefits of any such rights accrue to the membership of each MLFN.

### **6.02 Inherent right of self-government an existing aboriginal right**

The Government of Canada recognizes the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*.

6.03 Final Agreement to set out certain arrangements

A Final Agreement will set out arrangements consistent with the recognition that the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982* without the Parties taking any positions with respect to how an inherent right of self-government may ultimately be defined at law.

**PART III****RECOGNITION, LEGAL CAPACITY, GOVERNANCE, AND CONSTITUTIONS****OF MLFN GOVERNMENT****7.0 Final Agreement to provide for recognition of MLFN Government****7.01 Recognition of MLFN Governments by Canada**

A Final Agreement will provide for:

- (a) the recognition by Canada of the government of each MLFN; and
- (b) subject to Section 7.02, the recognition by Canada of MLTC as a regional level of MLFN Government.

**7.02 Status of MLTC**

- (1) Subject to the prior approval of the MLFNs, a Final Agreement will reflect the designation of MLTC as a regional level of MLFN Government representing the collective interests of the MLFNs in accordance with the MLTC Constitution and that Final Agreement.
- (2) The designation of MLTC as a regional level of MLFN Government referred to in Subsection (1), is a political decision by the MLFNs in accordance with and governed by the provisions of the MLFN Constitutions and the MLTC Constitution.
- (3) Notwithstanding any provision of a Final Agreement, the designation of MLTC as a regional level of MLFN Government referred to in Subsection (1) does not, in and of itself, constitutionally or otherwise, protect MLTC:
  - (a) as a continuing regional level of MLFN Government, representing the collective interests of the MLFNs; or
  - (b) from dissolution by the MLFNsin accordance with the MLTC Constitution.

**8.0 Capacities of a Meadow Lake First Nation and Meadow Lake Tribal Council**8.01 Capacities of a natural person

- (1) Each MLFN is a separate and distinct legal entity with the capacities, rights, powers and privileges of a natural person.
- (2) Without limiting Subsection (1), but subject to Subsection (3), a MLFN will have the capacity to:
  - (a) enter into contracts and agreements;
  - (b) acquire, hold and dispose of real or personal property, bequests or gifts or any interest therein;
  - (c) hold, borrow, lend, invest or otherwise spend moneys or provide guarantees in respect of the repayment of any moneys;
  - (d) create, operate or contribute to trusts and act as the settlor or trustee of a trust;
  - (e) be appointed as and act as guardian, executor, administrator, or trustee; and
  - (f) sue and be sued.
- (3) The capacities, rights, powers and privileges of a MLFN will be exercised by and through a MLFN Government.
- (4) MLTC, as a regional level of MLFN Government representing the collective interests of the MLFNs, may exercise those capacities, rights, powers and privileges of a MLFN delegated to it by that MLFN, either individually or collectively with other MLFNs, in accordance with the MLFN Constitution and the MLTC Constitution.

8.02 Exercise of capacities for government purposes

- (1) Without limiting Section 8.01, but subject to Section 8.03, a MLFN Government, including, to the extent provided in the MLTC Constitution, MLTC, may exercise the capacities, rights, powers and privileges of a MLFN provided for in Subsection 8.01(1) for the purpose of:
  - (a) protecting, assuring and enforcing any rights of a MLFN or MLFN Citizens, including any aboriginal or treaty rights of that MLFN or the Members of that MLFN, recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*; or
  - (b) entering into negotiations, agreements or other arrangements with other governments.
- (2) Where the exercise of the capacities, rights, powers and privileges of a MLFN provided for in Section 8.01 is for the purpose of enforcing any individual rights of a MLFN Citizen, those capacities, rights, powers and privileges will be exercised only with the consent of that MLFN Citizen.
- (3) Without limiting Section 8.01, a MLFN Government, including, to the extent provided in the MLTC Constitution, MLTC, may exercise the capacity of a MLFN provided for in Subsection 8.01(1) for purposes that are reasonably incidental to the rights, powers and privileges of that MLFN.

8.03 Capacity to enter into treaties

Without limiting Section 8.01, a MLFN Government including, to the extent provided for in the MLTC Constitution, MLTC, may enter into:

- (a) a “treaty” within the meaning of subsection 35(1) of the *Constitution Act, 1982* with Canada or a government of a province of Canada; or
- (b) a treaty which would not constitute a “treaty” within the meaning of subsection 35(1) of the *Constitution Act, 1982* or international law with another First Nation or other aboriginal government.

**9.0 Jurisdiction of a Meadow Lake First Nation**9.01 Jurisdiction of a MLFN

- (1) A Final Agreement will recognize the Jurisdiction of a MLFN in the subject areas set out in Part IV to the extent provided for in that Part.
- (2) The Jurisdiction of a MLFN will be recognized in a Final Agreement as vesting in that MLFN.
- (3) A MLFN will exercise Jurisdiction through:
  - (a) a MLFN Government; or
  - (b) another government, whether a First Nation government or not, in accordance with a delegation of Jurisdiction to it by a MLFN Government and in accordance with the MLFN Constitution or, where appropriate, the MLTC Constitution, and as provided for in Section 11.01.



**10.0 Framework for MLFN Government Arrangements**

*[Joint Note: The Parties will further review and finalize the technical wording of Article 10, and any resulting technical wording changes to Articles 11 to 16, prior to the form of a Final Agreement being concluded]*

**10.01 Anticipated need for other Governments, Bodies or Institutions to carry out governmental responsibilities on behalf of a MLFN**

- (1) Notwithstanding Subsection 9.01(2) which provides that the Jurisdiction of a MLFN will be recognized in a Final Agreement as vesting in that MLFN, each of the MLFNs acknowledge that:
  - (a) not all governmental responsibilities may practically be carried out at the First Nation level;
  - (b) the carrying out of some governmental responsibilities by the aggregation or pooling of those governmental responsibilities in another government, whether a First Nation government or not, or, where appropriate, in some other body or institution, whether a First Nation body or institution or not, will be required in relation to some aspects of the subject areas set out in Part IV to facilitate the shared objectives and goals of the Parties to promote, among other matters:
    - (i) the availability of, and access to, an appropriate range and quality of programs and services;
    - (ii) efficiency and effectiveness in the provision of the programs and services referred to in Subparagraph (i); and
    - (iii) a stable and effective government-to-government relationship between the Parties; and
  - (c) as a consequence of the acknowledgements set out in Paragraphs (a) and (b), not all Jurisdiction and Authority will be practically exercisable, in whole or in part, at the First Nation level.

- (2) The governmental responsibilities referred to in Subsection (1) may include:
  - (a) certain functions of government;
  - (b) certain programs and services; and
  - (c) governmental responsibilities, other than of the nature referred to in Paragraph (a) or (b).
- (3) Each MLFN, individually and collectively with the other MLFNs, will use best efforts to achieve the optimum aggregation or pooling of certain governmental responsibilities over time as contemplated in Subsection (1).
- (4) The carrying out of a governmental responsibility of the nature referred to in Subsection (3) will be achieved in accordance with the MLFN Constitutions and, where appropriate, the MLTC Constitution and in a manner which respects:
  - (a) the vesting of Jurisdiction in each of the MLFNs; and
  - (b) any understandings between the Parties in relation to the ongoing government-to-government relationship between them.
- (5) Where a MLFN has decided, in accordance with the MLFN Constitution, that another government, whether a First Nation government or not, or some other body or institution, whether a First Nation body or institution or not, will carry out a specific governmental responsibility on its behalf, the MLFN will delegate the requisite Jurisdiction or Authority to permit the carrying out of that governmental responsibility.
- (6) A delegation of Jurisdiction or Authority for the purposes of Subsection (5) will be made as provided for in Section 11.01 or 11.02.

**11.0 Governmental Responsibilities and the Delegation of Jurisdiction and Authority****11.01 Delegation of Jurisdiction**

- (1) Subject to Subsection (2), a MLFN, either individually or collectively with other MLFNs, may, by enacting a MLFN Law, delegate Jurisdiction to another government, whether a First Nation government or not, in accordance with, and to the extent provided for, in the MLFN Constitution or, where appropriate, the MLTC Constitution, provided that government:
  - (a) in the case of a First Nation government, has entered into an agreement with Canada to which Saskatchewan is a party or with which it concurs which, among other matters, recognizes the legal ability of that First Nation government to exercise the Jurisdiction being delegated;
  - (b) is politically and financially accountable to MLFN Citizens in a manner and to the extent provided for in the MLFN Constitution and, where appropriate, the MLTC Constitution; and
  - (c) has entered into a “delegation agreement” with the MLFN, or MLTC as appropriate, setting out the purpose for and the conditions upon which that Jurisdiction will be delegated to and exercised by that government including the requirement that that government follow principles of good governance as provided for in the MLFN Constitution or, where appropriate, the MLTC Constitution.
- (2) Notwithstanding Subsection (1), a MLFN may not delegate Jurisdiction in a manner which results in:
  - (a) an abandonment of Jurisdiction; or
  - (b) a lack of accountability, directly or indirectly, to MLFN Citizens with respect to the exercise of Jurisdiction.
- (3) A MLFN, either individually or collectively with other MLFNs, may, by enacting a MLFN Law, delegate Jurisdiction to MLTC in accordance with Subsections (1) and (2) and as further provided for in Sections 11.03 and 11.04.

### 11.02 Delegation of Authority

- (1) A MLFN may, individually or collectively with other MLFNs, delegate Authority to any government, body or institution, whether a First Nation government, body or institution or not, in accordance with, and to the extent provided for in, the MLFN Constitution or, where appropriate, the MLTC Constitution, provided that government, body or institution:
  - (a) is politically and financially accountable to MLFN Citizens in a manner and to the extent provided for in the MLFN Constitution or, where appropriate, the MLTC Constitution; and
  - (b) has entered into a “delegation agreement” with the MLFN or MLTC, as appropriate, setting out the purpose for and the conditions upon which that Authority will be delegated to and exercised by that body, institution or government.
- (2) A MLFN, either individually or collectively with other MLFNs, may delegate Authority to MLTC in accordance with Subsection (1) and as further provided for in Sections 11.03 and 11.04.

### 11.03 Responsibilities of and Delegation to MLTC upon the coming into effect of a Final Agreement

- (1) It is the intention of the MLFNs that certain governmental responsibilities will be carried out on their behalf by MLTC, as a regional level of MLFN Government representing their collective interests, by aggregating or pooling those governmental responsibilities in MLTC upon a Final Agreement coming into effect.
- (2) The MLFNs will delegate the requisite Jurisdiction or Authority to MLTC to permit the carrying out of the governmental responsibilities referred to in Subsection (1).

- (3) Subject to Subsections 10.01(4) and 10.01(5):
- (a) the specific governmental responsibilities that MLTC will carry out on behalf of the MLFNs, as contemplated in Subsection (1); and
  - (b) the requisite Jurisdiction or Authority that will need to be delegated to MLTC, of the nature referred to in Subsection (2)

upon a Final Agreement coming into effect, will be determined by the MLFNs, both individually and collectively with other MLFNs.

- (4) The aggregation or pooling of governmental responsibilities contemplated in Subsection (1) and the delegation of the requisite Jurisdiction or Authority of the nature referred to in Subsection (2) will be provided for or reflected in:
- (a) the MLFN Constitutions;
  - (b) the MLTC Constitution;
  - (c) a “delegation agreement” or “delegation agreements” between the MLFNs and MLTC of the nature referred to in Paragraph 11.01(1)(c) or 11.02(1)(b);
  - (d) in the case of delegated Jurisdiction, MLFN Laws of the nature referred to in Subsection 11.01(1);
  - (e) a schedule to a Final Agreement; and
  - (f) where the Parties agree necessary, elsewhere in that Final Agreement than in a schedule.

11.04 Further responsibilities of and delegation to MLTC following a Final Agreement coming into effect

- (1) Following a Final Agreement coming into effect, a MLFN, either individually or collectively with other MLFNs, may, in accordance with the MLFN Constitution or, where appropriate, the MLTC Constitution, decide that MLTC will carry out governmental responsibilities other than those governmental responsibilities referred to in Subsection 11.03(1).

- (2) A MLFN, either individually or collectively with other MLFNs, will delegate the requisite Jurisdiction or Authority to MLTC to permit the carrying out of any governmental responsibilities of the nature referred to in Subsection (1).
- (3) Subject to Subsections 10.01(4) and 10.01(5):
  - (a) any governmental responsibilities, of the nature referred to in Subsection (1), that MLTC will carry out on behalf of the MLFNs, as contemplated in that Subsection; and
  - (b) the requisite Jurisdiction or Authority that will need to be delegated to MLTC to permit the carrying out of any governmental responsibilities of the nature referred to in that Subsection

will be determined by the MLFN, individually and collectively with any other MLFNs which have decided that MLTC will carry out those governmental responsibilities.

- (4) A delegation of Jurisdiction or Authority for the purposes of Subsection (2) will be made as provided for in Section 11.01 or 11.02.

11.05 Further aggregation or pooling of governmental responsibilities and delegation of Jurisdiction or Authority by a government, body or institution

- (1) Subject to Subsection (2), where a government, body or institution, including MLTC, is carrying out governmental responsibilities on behalf of a MLFN, either individually or collectively with any other MLFNs, that government, body or institution may provide for the governmental responsibilities to be carried out by another government, body or institution.
- (2) Where a government, body or institution intends to proceed in accordance with Subsection (1), it will first obtain the approval of the MLFN, either individually or collectively with any other MLFN, which decided that that government, body or institution would carry out those governmental responsibilities, in accordance with the MLFN Constitution and, where appropriate, the MLTC Constitution.

- (3) Where a government, body or institution proceeds in the manner contemplated in Subsection (1), that government, body or institution will:
  - (a) in the case of a government, delegate the requisite Jurisdiction or Authority; or
  - (b) in the case of a body or institution delegate the requisite Authorityto permit the carrying out of those governmental responsibilities.
- (4) A delegation of Jurisdiction or Authority for the purposes of Subsection (3) will be made as provided for in Section 11.01 or 11.02 with necessary modifications.

11.06 Withdrawal of aggregated governmental responsibilities and related Jurisdiction or Authority

- (1) Subject to Subsections (2) and (3), a MLFN, either individually or collectively with other MLFNs, may withdraw all or part of governmental responsibilities that are being carried out by another government, body or institution.
- (2) Subject to Subsection (3), where a MLFN, either individually or collectively with other MLFNs, withdraws governmental responsibilities which are being carried out by another government, body or institution, the MLFN, either individually or collectively with other MLFNs which have decided that those government responsibilities will be withdrawn, will withdraw the requisite Jurisdiction or Authority which was delegated to permit the carrying out of those governmental responsibilities.
- (3) A withdrawal of governmental responsibilities, and a withdrawal of a delegation of Jurisdiction or Authority, of the nature referred to in Subsections (1) and (2) will be:
  - (a) effected in accordance with the MLFN Constitution and, where appropriate, the MLTC Constitution;
  - (b) effected in accordance with any “delegation agreement” or “delegation agreements”, of the nature referred to in Paragraph 11.01(1)(c) or 11.02(1)(b);

- (c) in the case of a withdrawal of a delegation of Jurisdiction, effected by the enactment of a MLFN Law, or MLFN Laws; and
  - (d) as provided for in any applicable provisions of a Final Agreement.
- (4) This Section applies, with necessary modifications, where a government, body or institution is carrying out governmental responsibilities on behalf of a MLFN, either individually or collectively with other MLFNs.

**12.0 Delegations of jurisdiction to enact laws or Authority by Canada or Saskatchewan to a MLFN**

**12.01 Delegation by Canada of jurisdiction to enact laws or Authority to the MLFNs or MLTC**

- (1) A MLFN, either individually or collectively with other MLFNs, and Canada may from time to time enter into agreements respecting:
- (a) delegation of jurisdiction to enact laws from the Parliament of Canada to that MLFN in respect of certain subject matters; or
  - (b) delegation of Authority from Canada to a MLFN .
- (2) An agreement of the nature referred to in Subsection (1) may apply to:
- (a) a subject area other than a subject area in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV; or
  - (b) a subject area in respect of which the Jurisdiction of a MLFN is not recognized in accordance with Part IV.



- (3) An agreement of the nature referred to in Subsection (1) may provide that:
- (a) the delegation of jurisdiction to enact laws from the Parliament of Canada to a MLFN; or
  - (b) the delegation of Authority from Canada to a MLFN
- may extend and apply to MLFN Lands and to all MLFN Citizens, and non-MLFN Citizens, on MLFN Lands.
- (4) An agreement of the nature referred to in Paragraph (1)(a) respecting delegation of jurisdiction to enact laws from the Parliament of Canada to a MLFN will be subject to any legislation of Parliament necessary to give effect to the delegation.
- (5) An agreement of the nature referred to in Paragraph (1)(b) may make provision for any Authority from Canada delegated to a MLFN to be exercised by a MLFN Government or MLFN Public Body.
- (6) Article 11.0 does not apply in respect of an exercise of jurisdiction to enact laws or Authority by a MLFN in accordance with an agreement between a MLFN, either individually or collectively with other MLFNs, and Canada unless that agreement provides that that Article, or any Section within that Article, applies.

12.02 Delegation by Saskatchewan to the MLFNs and MLTC of jurisdiction to enact laws or Authority

- (1) A MLFN, either individually or collectively with other MLFNs, and Saskatchewan may from time to time enter into agreements respecting:
- (a) delegation of jurisdiction to enact laws from the Legislative Assembly of Saskatchewan to a MLFN in respect of certain subject matters; or
  - (b) delegation of Authority from Saskatchewan to a MLFN.

- (2) An agreement of the nature referred to Subsection (1) may apply to:
  - (a) a subject area other than a subject area in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV;
  - (b) a subject area in respect of which the Jurisdiction of a MLFN is not recognized in accordance with Part IV.
- (3) An agreement of the nature referred to in Subsection (1) may provide that:
  - (a) the delegation of jurisdiction to enact laws from the Legislative Assembly of Saskatchewan to a MLFN ; or
  - (b) the delegation of Authority from Saskatchewan to a MLFN

may extend and apply to MLFN Lands and to all MLFN Citizens, and non-MLFN Citizens, on MLFN Lands.
- (4) An agreement of the nature referred to in Paragraph (1)(a) respecting delegation of jurisdiction to enact laws from the Legislative Assembly of Saskatchewan to a MLFN will be subject to any legislation of the Legislative Assembly of Saskatchewan necessary to give effect to the delegation.
- (5) An agreement of the nature referred to in Paragraph (1)(b) may make provision for any Authority from the Legislative Assembly of Saskatchewan delegated to a MLFN to be exercised by a MLFN Government or MLFN Public Body.
- (6) Article 11.0 does not apply in respect of an exercise of jurisdiction to enact laws or Authority by a MLFN in accordance with an agreement between a MLFN, either individually or collectively with other MLFNs, and Saskatchewan unless that agreement provides that that Article, or any Section within that Article, applies.

**13.0 Entry into, withdrawal from and dissolution of MLTC****13.01 MLTC Constitution to include provisions for entry or withdrawal of First Nations and dissolution of MLTC**

The MLTC Constitution will include provisions and processes by which:

- (a) a First Nation, which is not a MLFN, may enter MLTC;
- (b) a MLFN may withdraw from MLTC; and
- (c) the MLFNs may dissolve MLTC

provided that those provisions and processes will be consistent with the provisions of a Final Agreement contemplated in Section 14.02.

**14.0 Relationship between MLFN Governments and Canada and Saskatchewan****14.01 Ongoing government-to-government relationships**

- (1) A Final Agreement will reflect, and provide for, an ongoing government-to-government relationship between the MLFNs/MLTC and Canada within the framework of the Canadian Constitution.
- (2) It is anticipated that a Tripartite Final Agreement will reflect, and provide for, an ongoing government-to-government relationship among the MLFNs/MLTC, Canada and Saskatchewan, and between the MLFNs/MLTC and Saskatchewan within the framework of the Canadian Constitution.

**14.02 Changes affecting the government-to-government relationship between the Parties or among the MLFNs/MLTC, Canada and Saskatchewan**

- (1) Subject to Subsection (2), a Final Agreement may identify circumstances in respect of which:
  - (a) an aggregation or pooling of governmental responsibilities by a MLFN, either individually or collectively with other MLFNs, in another government or some other body or institution, and the delegation of the requisite Jurisdiction or Authority to permit the carrying out of that governmental responsibility; or

- (b) a withdrawal by a MLFN, either individually or collectively with other MLFNs, of a governmental responsibility being carried out by another government, or some other body or institution, and of the requisite Jurisdiction or Authority which was delegated to permit the carrying out of that governmental responsibility

will be deemed to affect one or more of the government-to-government relationships referred to in Section 14.01 in a substantial and material way.

(2) Where it is proposed that:

- (a) a MLFN amalgamate with another MLFN, as contemplated in Section 15.01;
- (b) a new First Nation be constituted from a MLFN, as contemplated in Section 15.01;
- (c) a First Nation, which is not a MLFN, enter MLTC;
- (d) a MLFN withdraw from MLTC;
- (e) the MLFNs dissolve MLTC;
- (f) the MLFNs decide that MLTC will no longer be designated as the regional level of MLFN Government; or
- (g) the MLFNs designate a new regional level of MLFN Government in the event:
  - (i) the MLFNs decide that MLTC will no longer be designated as the regional level of MLFN Government; or
  - (ii) such a number of MLFNs have withdrawn from MLTC so that MLTC is not reasonably able to continue to carry out the governmental responsibilities of a regional level of MLFN Government, including exercising the Jurisdiction and exercising the Authority delegated to it in accordance with Sections 11.03 and 11.04.

the government-to-government relationships referred to in Section 14.01 will be deemed to be affected in a substantial and material way.

- (3) Where a MLFN, either individually or collectively with other MLFNs, proposes to proceed in a manner that would be deemed to affect one or more of the government-to-government relationships referred to in Section 14.01 in a substantial and material way in accordance with Subsection (1) or (2), Canada and Saskatchewan will be given notice of that proposal.
- (4) A Final Agreement will provide the period of the notice that will be given to Canada and Saskatchewan in accordance with Subsection (3).
- (5) During the period of notice referred to in Subsection (4), the Parties and Saskatchewan will enter into good faith negotiations designed to reasonably address the change in one or more of the government-to-government relationships referred to in Section 14.01 that is the result of the circumstances of the nature referred to in Paragraph (1)(a) or (b) or a change of the nature referred to in Paragraph (2)(a) to (g) inclusive.
- (6) The negotiations referred to in Subsection (5) may, among other matters, result in the amendment of:
  - (a) those provisions of a Final Agreement dealing with:
    - (i) governance;
    - (ii) the fiscal relationship between the Parties;
    - (iii) Implementation of a Final Agreement and a Tripartite Final Agreement; and
    - (iv) the resolution of disputes between the Parties, among the MLFNs/MLTC, Canada and Saskatchewan or between the MLFNs/MLTC and Saskatchewan;
  - (b) a Tripartite Final Agreement;
  - (c) the Intergovernmental Relations and Implementation Plan;
  - (d) the MLFNs Financial Arrangements Agreement; or
  - (e) any agreement providing for the exercise of Jurisdiction by a MLFN Government or the delegation of jurisdiction to enact laws or Authority to a MLFN Government by Canada or Saskatchewan, other than a Final Agreement and a Tripartite Final Agreement.

- (7) A Final Agreement will provide that a proposal by a MLFN of the nature referred to in Subsection (3) will not be carried out or given effect to until the earlier of:
- (a) the expiration of the period provided for in Subsection (4); and
  - (b) the date the negotiations referred to in Subsection (5) have been completed and any resulting agreement has been approved and executed by the Parties and Saskatchewan.
- (8) A Final Agreement will further provide for:
- (a) the nature and scope of the negotiations referred to in Subsection (5);
  - (b) the process by which the negotiations referred to Subsection (5) will be conducted;
  - (c) without limiting Paragraph (b), the manner in which the Parties and Saskatchewan will proceed in the event that:
    - (i) a dispute arises between the Parties, among the MLFNs/MLTC, Canada and Saskatchewan or between the MLFNs/MLTC and Saskatchewan as to whether a particular event of the nature referred to in Paragraph (1)(a) or (b) may reasonably be interpreted as affecting one or more of the government-to-government relationships referred to in Section 14.01 in a substantial and material way;
    - (ii) a dispute arises between the Parties, among the MLFNs/MLTC, Canada and Saskatchewan or between the MLFNs/MLTC and Saskatchewan in the negotiations referred to in Subsection (5); or
    - (iii) an agreement between them is not concluded within the period provided for in a Final Agreement in accordance with Subsection (4);
  - (d) without limiting Subparagraph (c)(ii), the manner in which the Parties and Saskatchewan will proceed to ensure that there is no legal vacuum in the event an agreement between them is not concluded within the period to be provided for in a Final Agreement as contemplated in Subsection (4); and

- (e) mechanisms that will support the shared objective and goals of the Parties and Saskatchewan to promote stable and effective government-to-government relationships referred to in Section 14.01, including requirements relating to the timing of, and approval processes for, events of the nature referred to in Subsections (1) and (2).
- (9) The Parties and Saskatchewan:
- (a) acknowledge the importance of achieving an outcome in the negotiations referred to in Subsection (5) that is agreed to by each of them and not imposed by a third party;
  - (b) acknowledge that, notwithstanding Paragraph (a), in the event a dispute arises between the Parties, among Canada, the MLFNs/MLTC and Saskatchewan or between the MLFNs/MLTC and Saskatchewan in the negotiations referred to in Subsection (5), a process facilitated by an independent third party may be useful to assist the Parties and Saskatchewan in resolving that dispute and achieving an outcome in those negotiations;
  - (c) agree that, in the event a dispute arises between the Parties, among the MLFNs/MLTC, Canada and Saskatchewan or between the MLFNs/MLTC and Saskatchewan, in the negotiations referred to in Subsection (5), a process facilitated by an independent third party will be used, unless otherwise agreed, to assist in resolving that dispute and achieving an outcome in those negotiations; and
  - (d) agree that in the negotiations contemplated in Subparagraph (8)(c)(ii) to be undertaken prior to the form and content of a Final Agreement and Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will determine the nature, scope and application of the process to be facilitated by an independent third party referred to in Paragraph (c).

- (10) The Parties :
- (a) acknowledge that the predecessor of each MLFN executed or adhered to Treaty No. 6, 8 or 10; and
  - (b) agree that the processes to be provided for in a Final Agreement, and provisions of that Final Agreement contemplated in this Article, will not result in any change in the legal relationship established pursuant to Treaty No. 6, 8 or 10, without the agreement of both a MLFN affected by that change and Canada.
- (11) The MLFNs and Canada agree that a Final Agreement, as contemplated by this Agreement, will not result in any change in the legal relationship established pursuant to Treaties No. 6, 8 and 10.
- (12) Without limiting Subsection (8), any obligations of Canada, including any financial obligations of Canada to a MLFN or MLTC, will not be altered without the agreement of Canada in writing.

## **15.0 Amalgamation or division of First Nations and recognition of new First Nations**

### 15.01 Amalgamation or division of a MLFN

A MLFN may amalgamate with another MLFN, or a new First Nation may be constituted from a MLFN, in accordance with the MLFN Constitution.

### 15.02 MLFN may recognize new or other First Nations

- (1) A MLFN may recognize new or other First Nations in the manner and for the purposes that it deems appropriate, in accordance with the MLFN Constitution.
- (2) Without limiting Subsection (1), a MLFN may recognize a new First Nation created as a result of:
  - (a) the amalgamation of two or more First Nations; or
  - (b) the division of a First Nation.

### 15.03 Application of Section 17 of the *Indian Act*

- (1) Subject to Subsection (2), Canada will retain the authority provided for in Section 17 of the *Indian Act*.



- (2) Following a Final Agreement coming into effect, Canada will not exercise the authority referred to in Subsection (1):
- (a) in relation to a MLFN; or
  - (b) in a manner that otherwise impacts in a substantial and material way upon a MLFN, MLFN Citizens, MLFN Lands or MLFN Indian Moneys
- without the consent of the MLFN.

## **16.0 MLFN Constitution and MLTC Constitution**

### **16.01 MLFN Constitution**

- (1) Each MLFN will have a written constitution:
- (a) setting out the legal, political and administrative structures of its MLFN Government;
  - (b) reflecting principles of good governance; and
  - (c) ensuring political and financial accountability to MLFN Citizens.
- (2) Without limiting Subsection (1), a MLFN Constitution will have provisions respecting:
- (a) MLFN Citizenship;
  - (b) the principles, criteria and process by which a governmental responsibility may be aggregated or pooled in another government or, where appropriate, some other body or institution and how a governmental responsibility, which is being carried out by another government or some other body or institution, may be withdrawn from that government, body or institution, provided that:
    - (i) those principles and criteria will be consistent with Paragraph 10.01(1)(b) and Subsection 10.01(3); and
    - (ii) that process will be consistent with the provisions of a Final Agreement contemplated in Section 14.02;

- (c) the principles, criteria and process by which Jurisdiction or Authority may be delegated by a MLFN Government and how a delegation of Jurisdiction or Authority may be withdrawn, provided that:
  - (i) those principles and criteria will be consistent with Subsection 10.01(5); and
  - (ii) that process will be consistent with:
    - (A) in the case of a delegation of Jurisdiction, Section 11.01;
    - (B) in the case of a delegation of Authority, Section 11.02;
    - (C) in the case of a withdrawal of delegation of Jurisdiction or Authority, Section 11.06; and
    - (D) the provisions of a Final Agreement contemplated in Section 14.02;
- (d) the initial aggregation or pooling of governmental responsibilities in MLTC upon the coming into effect of a Final Agreement;
- (e) the initial Jurisdiction that will be delegated to MLTC upon the coming into effect of a Final Agreement;
- (f) the initial Authority that will be delegated to MLTC upon the coming into effect of a Final Agreement;
- (g) the amalgamation or division of a MLFN referred to in Section 15.01, provided that those provisions will be consistent with the provisions of a Final Agreement contemplated in Section 14.02;
- (h) the selection of leaders;
- (i) the enactment and public notification of MLFN Laws;
- (j) rights of appeal and redress;
- (k) the recognition and protection of rights and freedoms; and
- (l) the amendment of the MLFN Constitution.

- (3) A MLFN Constitution may provide for any other matters as determined by the MLFN including:
- (a) the carrying out of governmental responsibilities and the exercise of Jurisdiction, Authority or any capacities, rights, powers, and privileges of a MLFN in addition to those matters referred to in Paragraphs (2)(b) to (f) inclusive;
  - (b) the criteria and procedures for approval by MLFN Citizens of a decision by a MLFN Government to proceed with:
    - (i) a request that Canada transfer MLFN Indian Moneys in accordance with Subsection 30.01(5);
    - (ii) a request that Canada transfer property of the nature referred to in Subsection 30.03(3) to the MLFN in accordance with that Subsection; or
    - (iii) a request that Canada transfer title to MLFN Lands to the MLFN in accordance with Subsection 46.03(1);
  - (c) whether MLFN Lands may be sold or otherwise absolutely disposed of and, if so:
    - (i) the circumstances in which that may occur; and
    - (ii) the criteria and procedure for approval by MLFN Citizens of a decision by a MLFN Government to proceed with a sale or absolute disposition of MLFN Lands;
  - (d) the relationships between the MLFN and:
    - (i) other MLFN Governments; or
    - (ii) governments other than MLFN Governments, whether First Nation governments or not;
  - (e) the recognition of a new or other First Nation contemplated in Subsection 15.02(1);

- (f) a MLFN charter of rights; and
  - (g) the role, recognition and application of any customary law of a MLFN with respect to a subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV, provided that that role, recognition and application of customary law will be consistent with the outcome of the negotiations between the Parties and Saskatchewan on those matters referred to in Paragraph 33.01(2)(e).
- (4) A MLFN Constitution will be approved by Eligible Citizens of that MLFN in the same manner and at the same time as a Final Agreement.
  - (5) A MLFN Constitution will provide that in the event of a conflict between the MLFN Constitution and a MLFN Law, the MLFN Constitution will prevail to the extent of the conflict.
  - (6) A MLFN Constitution will be a MLFN Law.

#### 16.02 MLTC Constitution

- (1) MLTC will have a written Constitution:
  - (a) setting out the legal, political and administrative structures of MLTC;
  - (b) reflecting principles of good governance; and
  - (c) ensuring political and financial accountability to the MLFNs and MLFN Citizens.
- (2) Without limiting Subsection (1), the MLTC Constitution will have provisions respecting:
  - (a) the initial aggregation or pooling of governmental responsibilities in MLTC by the MLFNs upon the coming into effect of a Final Agreement;
  - (b) the initial Jurisdiction and Authority that will be delegated to MLTC by the MLFNs upon the coming into effect of a Final Agreement;

- (c) the principles, criteria and process by which a governmental responsibility may be aggregated or pooled by MLTC in another government or, where appropriate, some other body or institution and how a governmental responsibility, which is being carried out by another government or some other body or institution, may be withdrawn from that government, body or institution, provided that:
  - (i) those principles and criteria and that process will be consistent with the MLFN Constitutions;
  - (ii) those principles and criteria will be consistent with Paragraph 10.01(1)(b) and Subsection 10.01(3); and
  - (iii) that process will be consistent with the provisions of a Final Agreement contemplated in Section 14.02;
  
- (d) the principles, criteria and process by which Jurisdiction or Authority may be delegated by MLTC and how a delegation of Jurisdiction or Authority may be withdrawn, provided that:
  - (i) those principles and criteria and that process will be consistent with the MLFN Constitutions;
  - (ii) those principles and criteria will be consistent with Subsection 10.01(5); and
  - (iii) that process will be consistent with:
    - (A) in the case of a delegation of Jurisdiction, Section 11.01;
    - (B) in the case of a delegation of Authority, Section 11.02;
    - (C) in the case of a withdrawal of delegation of Jurisdiction or Authority, Section 11.06; and
    - (D) the provisions of a Final Agreement contemplated in Section 14.02;

- (e) provisions and processes by which:
    - (i) a First Nation, which is not a MLFN, may enter MLTC;
    - (ii) a MLFN may withdraw from MLTC; or
    - (iii) the MLFNs may dissolve MLTC

provided that those provisions and processes will be consistent with the provisions of a Final Agreement contemplated in Section 14.02;
  - (f) the selection of leaders;
  - (g) the structures of MLTC;
  - (h) the enactment and public notification of MLFN Laws enacted by MLTC;
  - (i) rights of appeal and redress;
  - (j) the recognition and protection of rights and freedoms; and
  - (k) the amendment of the MLTC Constitution.
- (3) The MLTC Constitution may provide for any other matters as determined by the MLFNs and MLFN Citizens including:
- (a) the carrying out of governmental responsibilities and the exercise of Jurisdiction, Authority or any capacities, rights, powers, and privileges of a MLFN being exercised by MLTC in addition to those matters referred to in Paragraphs (2)(a) to (d) inclusive; and
  - (b) the relationships between the MLTC and:
    - (i) other MLFN Governments; or
    - (ii) governments other than MLFN Governments, whether First Nation governments or not.

- (4) The MLTC Constitution will be approved in a manner to be determined by the MLFNs at the same time as a Final Agreement.
- (5) The MLTC Constitution will provide that in the event of a conflict between the MLTC Constitution and a MLFN Law, the MLTC Constitution will prevail to the extent of the conflict.
- (6) The MLTC Constitution will be a MLFN Law.

#### 16.03 Conflict with Final Agreement

In the event of a conflict between a MLFN Constitution or the MLTC Constitution and a Final Agreement, the Final Agreement will prevail to the extent of the conflict.

**PART IV**  
**JURISDICTION**  
**OF THE MEADOW LAKE FIRST NATIONS**

**DIVISION A: GENERAL**

**17.0 Jurisdiction of a Meadow Lake First Nation**

17.01 Recognition of the Jurisdiction of a MLFN

- (1) A Final Agreement will recognize the Jurisdiction of a MLFN in the subject areas set out in this Part to the extent provided for in this Part.
- (2) The Jurisdiction of a MLFN will be recognized in a Final Agreement as vesting in that MLFN.
- (3) A MLFN will exercise Jurisdiction through:
  - (a) MLFN Government; or
  - (b) another government, whether a First Nation government or not, in accordance with a delegation of Jurisdiction to it by a MLFN Government and in accordance with the MLFN Constitution or, where appropriate, the MLTC Constitution, and as provided for in Section 11.01.

17.02 General scope of the Jurisdiction of a MLFN

- (1) The Jurisdiction of a MLFN is exercisable on MLFN Lands.
- (2) Subject to Subsection (1), and unless otherwise provided in this Part, the Jurisdiction of a MLFN may be exercised in respect of:
  - (a) MLFN Citizens who are Ordinarily Resident on MLFN Lands;
  - (b) Non-Resident Citizens on MLFN Lands;
  - (c) non-MLFN Citizens on MLFN Lands; and
  - (d) any corporation, partnership, joint venture or other entity which does business or is otherwise present on MLFN Lands.



- (3) Subsections (1) and (2) do not apply with respect to an exercise of Jurisdiction by a MLFN Government in accordance with Article 18.0.
- (4) Subject to any applicable federal and provincial laws, this Section does not limit the ability of a MLFN Government:
  - (a) to make programs or services available to; or
  - (b) to operate facilities and institutions for  
MLFN Citizens whether or not they are Ordinarily Resident on MLFN Lands.
- (5) The Parties acknowledge the importance of assuring to non-MLFN Citizens Ordinarily Resident on MLFN Lands appropriate input into the decisions and activities of, and participation in, MLFN Government, and MLFN Public Bodies, having regard to the extent those decisions and activities and MLFN Laws directly and significantly affect them.
- (6) Upon understandings being reached on the Jurisdiction of a MLFN to be recognized in a Final Agreement, and the extent to which that Jurisdiction will apply to non-MLFN Citizens Ordinarily Resident on MLFN Lands, the Parties will discuss practical ways of assuring non-MLFN Citizens appropriate input into the decisions and activities of, and participation in, MLFN Government and MLFN Public Bodies, in a manner consistent with the principle provided for in Subsection (5).

#### 17.03 No effect on continuing or future negotiations

Nothing in this Part will be construed so as to limit:

- (a) any continuing negotiations provided for in this Agreement;
- (b) any continuing or future negotiations provided for in a Final Agreement; or
- (c) the possibility that:
  - (i) the subject areas in respect of which the Jurisdiction of a MLFN is recognized in accordance with this Part; or
  - (ii) the extent of Jurisdiction in a subject area in respect of which the Jurisdiction of a MLFN is recognized in accordance with this Part

may change as a result of the negotiations referred to in Paragraph (a) or (b).

**DIVISION B: MLFN CITIZENSHIP****18.0 MLFN Citizenship****18.01 Jurisdiction over MLFN Citizenship**

- (1) A MLFN has Jurisdiction with respect to MLFN Citizenship.
- (2) Subsections 17.02(1) and 17.02(2) do not apply with respect to an exercise of Jurisdiction by a MLFN Government in accordance with Subsection (1).
- (3) Until a MLFN enacts a MLFN Law in accordance with Subsection (1), the eligibility of persons to become MLFN Citizens will be determined in accordance with the membership code of that MLFN lawfully in effect as of the date a Final Agreement comes into effect.
- (4) A MLFN Law enacted in accordance with Subsection (1) dealing with the eligibility of persons to become MLFN Citizens, will provide that:
  - (a) a person who is a Member of that MLFN immediately prior to that law coming into force will be deemed to be a MLFN Citizen; and
  - (b) a person who, although not a Member of that MLFN immediately prior to that MLFN Law coming into force, is eligible for membership in the MLFN, will be deemed eligible for MLFN Citizenship.
- (5) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

**18.02 Jurisdiction does not confer certain status**

The eligibility of a person to become a MLFN Citizen in accordance with a MLFN Law enacted in accordance with Subsection 18.01(1) will not have the effect of conferring on that person Canadian citizenship or permanent resident status.

**18.03 Negotiations to be undertaken**

- (1) As provided for in Paragraph 37.05(c), the Parties will negotiate with respect to, and attempt to reach agreement on, the future application of those sections of the *Indian Act* providing for the entitlement of a person to be registered as an “Indian”, within the meaning of that *Act*.

- (2) In the course of the negotiations provided for in Paragraph 37.05(c), the Parties will explore and consider the implications and issues arising from the possible outcomes of those negotiations, with a view to securing agreement at the time a Final Agreement is concluded on how those implications and issues will be addressed following that Final Agreement coming into effect.

**DIVISION C: MLFN LANDS, AGRICULTURE, NATURAL RESOURCES AND THE ENVIRONMENT**

**19.0 MLFN Lands**

19.01 Jurisdiction over MLFN Lands

- (1) A MLFN has Jurisdiction over MLFN Lands to the extent provided for in Section 48.01.
- (2) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

**20.0 Agriculture**

20.01 Jurisdiction over agriculture

- (1) A MLFN has Jurisdiction with respect to agriculture.
- (2) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.

**21.0 Natural Resources**

21.01 Jurisdiction over natural resources generally

- (1) A MLFN has Jurisdiction with respect to natural resources, on or forming part of, MLFN Lands to the extent provided for in Sections 21.02 to 21.07 inclusive, including, unless otherwise provided in those Sections:
  - (a) resource use planning, management and conservation;
  - (b) granting and transfer of rights and interests in natural resources;

- (c) access to MLFN Lands for the purpose of harvesting, extracting or removing natural resources;
  - (d) extraction, removal and disposition on MLFN Lands of natural resources;
  - (e) taking of rights and interests in natural resources without the consent of the holder thereof; and
  - (f) providing for a system for the registration and recording of rights and interests in natural resources.
- (2) Subject to Subsection (3), the Jurisdiction referred to in Subsection (1), as it relates to commercial matters , will be reviewed concurrently with the negotiations between the Parties and Saskatchewan referred to in Subsection 29.01(2).
- (3) The Jurisdiction referred to in Sections 21.02 to 21.07 inclusive does not extend to:
- (a) the transfer or assignment to a non-MLFN Citizen of any aboriginal or treaty rights of a MLFN or the Members of a MLFN recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982* in natural resources on or forming part of MLFN Lands;
  - (b) agriculture, which matter is dealt with in Article 20.0; or
  - (c) taxation by a MLFN Government, on which matter the Parties will proceed in accordance with Subsection 29.01(4).
- (4) Notwithstanding Sections 21.02 to 21.07 inclusive, a MLFN Law will not affect the ability of Canada to fulfil any legal obligation with respect to the collection of information for the production of statistics and reports on natural resources, their use, conservation and related activities.
- (5) The Parties and Saskatchewan recognize the mutual advantage of establishing resource management regimes that are compatible with one another.

### 21.02 Mines and minerals

- (1) A MLFN has Jurisdiction with respect to the management, regulation, prospecting for, extraction, development, refining, disposition and trade, barter or sale of mines and minerals, precious and base, including sand and gravel, on or forming part of MLFN Lands.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to:
  - (a) oil and gas, which matter is dealt with in Section 21.03;
  - (b) “atomic energy” and “prescribed substances” as defined in the *Atomic Energy Control Act*;
  - (c) “nuclear energy” and “nuclear substances” as defined in the *Nuclear Safety and Control Act*; or
  - (d) those matters dealt with in the *Explosives Act*.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

### 21.03 Oil and gas

- (1) A MLFN has Jurisdiction with respect to the management, regulation, exploration, extraction, refining, disposition and trade, barter or sale of oil and gas that form part of MLFN Lands.
- (2) The Jurisdiction referred to Subsection (1) does not extend to those matters dealt with in the *Explosives Act*.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.
- (4) Upon a MLFN exercising Jurisdiction in accordance with Subsection (1), the *Indian Oil and Gas Act* will no longer apply to that MLFN and MLFN Lands.

21.04 Water

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the Jurisdiction of a MLFN with respect to the control, use and management of water.
- B. The negotiations referred to in Subsection (1) will address:
  - (a) the Jurisdiction a MLFN may exercise with respect to the control, use and management of water;
  - (b) any matters within the subject area referred to in Paragraph (a) with respect to which a MLFN may not exercise Jurisdiction;
  - (c) any standards that a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) will provide for;
  - (d) the manner in which an Inconsistency or Conflict between a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) and any applicable federal or provincial laws will be resolved; and
  - (e) such other matters as the Parties may agree.
- (3) Notwithstanding Subsection (2), the Jurisdiction of a MLFN will not extend to navigation and shipping.
- (4) Matters relating to the common law riparian rights of a MLFN are dealt with in Subsections 46.02(2) to (5) inclusive.

21.05 Forest resources

- (1) A MLFN has Jurisdiction with respect to forest resources and activities related thereto, including conservation.
- (2) Subject to Subsection (3), in the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any federal law relating to plant health, the federal law will prevail to the extent of the Inconsistency or Conflict.

#### 21.06 Fish

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to and attempt to reach agreement on the Jurisdiction of a MLFN with respect to fish, fisheries and related matters.
- (2) The negotiations referred to in Subsection (1) will address:
  - (a) the Jurisdiction a MLFN may exercise with respect to:
    - (i) the protection and harvesting of fish and the management of fisheries;
    - (ii) the giving or non-commercial trade or barter between MLFN Citizens, and the commercial sale, of fish harvested in a fishery in respect of which a MLFN has Jurisdiction;
    - (iii) the management of the cultivation and rearing of fish or aquatic plants; and
    - (iv) the protection and management of spawning grounds and any other areas on which fish depend directly or indirectly in order to carry out their life processes, including nursery, rearing, food supply and migration areas;
  - (b) any matters within the subject area referred to in Paragraph (a) with respect to which a MLFN may not exercise Jurisdiction;
  - (c) any standards that a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) will provide for;
  - (d) the manner in which an Inconsistency or Conflict between a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) and any applicable federal or provincial laws will be resolved; and
  - (e) such other matters as the Parties may agree.

21.07 Wildlife

- (1) A MLFN has Jurisdiction with respect to the protection, harvesting and management of wildlife which is on MLFN Lands.
- (2) Subject to Subsection (3), in the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and a federal law concerning:
  - (a) migratory birds and their habitat; or
  - (b) endangered species and their habitatthe federal law will prevail to the extent of the Inconsistency or Conflict.
- (4) For the purposes of Subsection (1), “wildlife” means a vertebrate animal of any species, excluding fish, that is wild by nature in the Province of Saskatchewan and includes:
  - (a) any part, tissue, genetic material, egg, sperm, embryo or other form of developmental life; and
  - (b) any exotic wildlife found on MLFN Lands.



## 22.0 Environment

### 22.01 Definitions

In this Article, or as otherwise provided in Section 1.01:

- (a) **“Development”** means “development” as defined in *The Environmental Assessment Act*;
- (b) **“Environment”**, means:
  - (i) in Section 22.02, “environment” as defined in the *Canadian Environmental Protection Act*; and
  - (ii) in Section 22.03, “environment” as defined in the *Canadian Environmental Assessment Act*;
- (c) **“Environmental Effect”** means “environmental effect” as defined in the *Canadian Environmental Assessment Act*;
- (d) **“Project”** means:
  - (i) an undertaking or physical work which would be a “project” within the meaning of paragraph (a) of the definition of “project” contained in the *Canadian Environmental Assessment Act*; or
  - (ii) any proposed physical activity to be carried out on MLFN Lands not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed in accordance with MLFN Laws.
- (e) **“Proponent”** means “proponent” as defined in *The Environmental Assessment Act*;
- (f) **“Review”** means “review” as defined in *The Environmental Assessment Act*; and
- (g) **“Statement”** means “statement” as defined in *The Environmental Assessment Act*.

### 22.02 Environmental protection

- (1) A MLFN has Jurisdiction to manage, control, protect, preserve and conserve the Environment on, over or forming part of MLFN Lands including Jurisdiction with respect to pollution prevention, waste management, protection of air quality and local water quality and environmental emergencies.

- (2) A MLFN Law enacted in accordance with Subsection (1) will have the equivalent effect of environmental protection or will exceed the level of environmental protection provided by applicable federal and provincial laws.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.
- (4) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the manner in which environmental emergencies on MLFN Lands and lands adjoining MLFN Lands will be addressed.

#### 22.03 Environmental assessment

- (1) A MLFN has Jurisdiction with respect to the environmental assessment of Projects on MLFN Lands.
- (2) A MLFN Law enacted in accordance with Subsection (1) will meet or exceed the requirements of the *Canadian Environmental Assessment Act*.
- (3) A MLFN Law enacted in accordance with Subsection (1) will provide for the identification of Projects on MLFN Lands that are subject to an environmental assessment, provided that such an identification does not lead to the exclusion of a Project that would otherwise be subject to an environmental assessment under the *Canadian Environmental Assessment Act*.
- (4) A MLFN Law enacted in accordance with Subsection (1) will provide that a Project will not proceed until an environmental assessment is conducted and the proper authorization is obtained by the proponent.
- (5) A MLFN Law enacted in accordance with Subsection (1) will provide at a minimum:
  - (a) that the following factors are taken into consideration in the environmental assessment of a Project:
    - (i) the Environmental Effects of the Project, including the Environmental Effects of malfunctions or accidents that may occur in connection with the Project and any cumulative Environmental Effects that are likely to result from the Project in combination with other Projects that have been or will be carried out;

- (ii) the significance of the Environmental Effects referred to Subparagraph (i);
  - (iii) comments from the public with respect to the Project received in accordance with a MLFN Law enacted in accordance with Subsection (1); and
  - (iv) measures that are technically and economically feasible and would mitigate any significant adverse Environmental Effects of the Project;
- (b) that the following factors are taken into account where a Project is likely to have significant adverse Environmental Effects in addition to the factors set out in Paragraph (a):
- (i) the purpose of the Project;
  - (ii) alternative means of carrying out the Project that are technically feasible and the Environmental Effects of any such alternative means;
  - (iii) the need for, and the requirement of, any follow-up program in respect of the Project; and
  - (iv) the capacity of renewable resources that are likely to be significantly affected by the Project to meet the needs of the present and those of the future;
- (c) for rules for public participation and public access to the environmental information throughout the environmental assessment of a Project;
- (d) the opportunity for a full public review where a Project is likely to have significant adverse Environmental Effects;
- (e) for a requirement that decision-makers take the environmental assessment and, where applicable, the implementation of the mitigation measures, into consideration prior to taking any action or making any decision that would enable a Project to be carried out in whole or in part; and
- (f) for any decision-making authority in relation to a Project to ensure that the mitigation measures are implemented.

- (6) A MLFN Law enacted in accordance with Subsection (1) will provide for an environmental assessment process that ensures the implementation of the principle that proponents of Projects are responsible for costs associated with that environmental assessment process including the preparation of the environmental impact statement, mitigation measures, follow-up programs and public consultation.
- (7) Where a Project subject to an environmental assessment process pursuant to a MLFN Law enacted in accordance with Subsection (1) may reasonably be expected to have significant adverse Environmental Effects on land, other than MLFN Lands, the MLFN will ensure that Canada and Saskatchewan:
  - (a) receive timely notice of, and relevant information in the possession of the MLFN on the Project and the potential Environmental Effects of the Project; and
  - (b) are consulted and provided with an opportunity to participate in the environmental assessment applicable to the Project.
- (8) Where a MLFN establishes a review body as part of an environmental assessment process pursuant to a MLFN Law enacted in accordance with Subsection (1) for a Project that may reasonably be expected to have significant adverse Environmental Effects on land, other than MLFN Lands, Canada and Saskatchewan:
  - (a) may make representations to the review body; and
  - (b) will be entitled to nominate a member of the review body, except where the review body is a decision-making body.
- (9) Where a Project is subject to the *Canadian Environmental Assessment Act* and may reasonably be expected to have significant adverse Environmental Effects on MLFN Lands, Canada will ensure that the MLFN:
  - (a) receives timely notice of, and relevant information in the possession of Canada on the Project and the potential Environmental Effects of the Project, subject to the *Privacy Act*, except as the application of that *Act* may be modified in accordance with Article 40.0, including relevant information, available to the MLFN pursuant to any applicable provisions of the *Canadian Environmental Assessment Act*; and
  - (b) is consulted and provided with an opportunity to participate in the environmental assessment applicable to the Project.

- (10) Where Canada establishes a review body pursuant to the *Canadian Environmental Assessment Act* to provide advice or make recommendations with respect to the Environmental Effects of a Project that may reasonably be expected to have significant adverse Environmental Effects on MLFN Lands, the MLFN:
- (a) may make representations to the review body; and
  - (b) will be entitled to nominate a member of the review body, except where the review body is a decision-making body.
- (11) Where an environmental impact assessment of a Development is conducted by the Proponent of that Development pursuant to *The Environmental Assessment Act* and the Development may be expected to have a significant impact on MLFN Lands, it is anticipated that a Tripartite Final Agreement will provide that, in accordance with that *Act*:
- (a) the MLFN will receive timely notice that an environmental impact assessment is being conducted;
  - (b) the Review and Statement will be made available to the MLFN;
  - (c) the MLFN will receive notice of any information meetings conducted relating to the Development or of the appointment of persons to conduct an inquiry or inquiries with respect to the Development; and
  - (d) any written submissions made by the MLFN will be accepted and considered by the Minister responsible.
- (12) The Parties acknowledge that:
- (a) to assure certainty, accountability and predictability, unnecessary overlap and duplication should be avoided in the environmental assessment process; and
  - (b) where a Project is subject to more than one environmental assessment process, efforts should be made to harmonize the requirements of those processes with the objective of requiring only a single process to be undertaken with respect to that Project.

- (13) Until a MLFN enacts a MLFN Law in accordance with Subsection (1), the MLFN will ensure that:
- (a) a Project on MLFN Lands that would otherwise be subject to an environmental assessment under the *Canadian Environmental Assessment Act* is assessed before it is authorized by the MLFN; and
  - (b) the environmental assessment of a Project of the nature referred to in Paragraph (a):
    - (i) takes into consideration the factors set out in Paragraphs (5)(a) and, where applicable, (5)(b);
    - (ii) provides rules for public participation and public access to the environmental information throughout the environmental assessment of the Project and an opportunity for a full public review where a Project is likely to have significant adverse Environmental Effects; and
    - (iii) requires that decision makers:
      - (A) take the environmental assessment, and, where applicable, the implementation of the mitigation measures, into consideration prior to taking any action or making any decision that would enable the Project to be carried out in whole or in part; and
      - (B) ensure that the mitigation measures are implemented.
- (14) Subject to Subsection (15), a MLFN will use its best efforts to enact a MLFN Law in accordance with Subsection (1) as soon as reasonably possible after the MLFN enacts an Initial MLFN Land Law.
- (15) In determining when it is reasonably possible for a MLFN to proceed in accordance with Subsection (14), a MLFN will take into account, the human and financial resources necessary to administer and enforce a MLFN Law of the nature contemplated in that Subsection.
- (16) Subject to Subsection (12), the *Canadian Environmental Assessment Act* will continue to apply to a Project proposed to be undertaken on MLFN Lands.

- (17) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal law, the federal law will prevail to the extent of the Inconsistency or Conflict.

#### 22.04 Natural Disasters

Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the regulation, development and implementation of emergency plans to respond to natural disasters on MLFN Lands and lands adjoining MLFN Lands.

### **DIVISION D: CULTURAL ENVIRONMENT**

#### **23.0 Cultural matters**

##### 23.01 Jurisdiction over cultural matters

- (1) A MLFN has Jurisdiction with respect to the use, promotion, protection, preservation and enhancement of MLFN culture, including:
- (a) language;
  - (b) history and traditions;
  - (c) arts and crafts; and
  - (d) historic and sacred sites and objects.
- (2) The Jurisdiction referred to:
- (a) in this Part does not extend to intellectual property; and
  - (b) in Subsection (1) does not extend to broadcasting or telecommunications.
- (3) Subject to Subsection (6), in the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

- (4) Services provided on MLFN Lands by a federal institution, as defined in the *Official Languages Act*, will be provided in accordance with that *Act*.
- (5) A “federal institution” as defined in the *Official Languages Act* does not include a MLFN Government or MLFN Public Body.
- (6) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and the *Official Languages Act* in the circumstances described in Subsection (4), the *Official Languages Act* will prevail to the extent of the Inconsistency or Conflict.
- (7) Matters relating to the Jurisdiction of a MLFN with respect to historic and sacred sites and objects that are not on MLFN Lands will be discussed as part of the negotiations referred to in Paragraph 56.02(1)(a).
- (8) A MLFN may, in its discretion, seek to enter into agreements with any government, corporation or individual with respect to the return to the MLFN of any historic or sacred objects of that MLFN.

## **DIVISION E: SOCIAL AND HEALTH ENVIRONMENT**

### **24.0 Education**

#### 24.01 Jurisdiction over education

- (1) A MLFN has Jurisdiction with respect to education, including:
  - (a) pre-school education;
  - (b) elementary and secondary education;
  - (c) adult, technical and vocational education;
  - (d) post-secondary education;
  - (e) education with respect to the culture and language of a MLFN;



- (f) facilities and structures, mechanisms and entities to administer or deliver education services;
  - (g) the development and setting of curriculum; and
  - (h) the accreditation of persons for the purpose of teaching:
    - (i) the culture and language of a MLFN; and
    - (ii) matters other than the culture and language of a MLFN, provided that the requirements for the accreditation of such persons will be comparable to any requirements pursuant to provincial law for the accreditation of persons teaching the same subjects.
- (2) A MLFN Law enacted in accordance with Paragraph (1)(a) or (b) will provide for standards so as to permit:
- (a) the transfer of students to or from the school system in the Province of Saskatchewan at a similar level of achievement; and
  - (b) the admission of students to post secondary institutions in the Province of Saskatchewan.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

## **25.0 Health**

### **25.01 Jurisdiction over health**

- (1) A MLFN has Jurisdiction with respect to:
- (a) health services; and
  - (b) the regulation of the practice and the practitioners of traditional Indian medicine.

- (2) The Jurisdiction referred to Subsection (1) does not extend to the regulation of:
  - (a) persons who require licensing or certification pursuant to federal or provincial laws to practice their trade or profession; or
  - (b) products or substances which are regulated pursuant to federal or provincial laws.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law with respect to:
  - (a) subject to Paragraph (b), health services, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict;
  - (b) the determination of the organizational structures of health care facilities or institutions, the MLFN Law will prevail to the extent of the Inconsistency or Conflict; and
  - (c) the regulation of the practice and the practitioners of traditional Indian medicine on MLFN Lands, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

## **26.0 Child, family and dependent care and relationships**

### 26.01 Child, family and dependent care and adoption, custody and access

- (1) A MLFN has Jurisdiction with respect to:
  - (a) the provision of care to children, families, adults, and disabled and other dependent persons;
  - (b) the provision of child welfare services, including matters relating to the protection of children and the provision of preventative services;
  - (c) adoption of children who have not reached the age of 18 years;

- (d) custody of, and access to, children who have not reached the age of 18 years; and
  - (e) guardianship of, and parental responsibility for, children who have not reached the age of 18 years.
- (2) The Jurisdiction referred to in Paragraphs (1)(a) and (b) does not extend to the regulation of persons who require licensing or certification pursuant to federal or provincial laws to practice their trade or profession.
- (3) An application for custody of, or access to, a child made pursuant to a MLFN Law enacted in accordance with Paragraph (1)(d) will be stayed by commencement of proceedings pursuant to the *Divorce Act*, except with leave of a court of competent jurisdiction.
- (4) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will discuss issues arising from applications for custody of, or access to, children made pursuant to a MLFN Law enacted in accordance with Paragraph (1)(d) and similar proceedings commenced pursuant to provincial laws.
- (5) A MLFN will exercise Jurisdiction in accordance with Subsection (1) in relation to children in such a manner as to ensure that:
- (a) the best interests of a child who is subject to the exercise of that Jurisdiction is the paramount consideration; and
  - (b) where a child on MLFN Lands is in need of protection, action will be taken to protect that child.
- (6) Prior to exercising Jurisdiction in accordance with Paragraph (1)(b), the existing agreements relating to the provision of child and family services on MLFN Lands between the MLFNs/MLTC and Saskatchewan and between the MLFNs/MLTC and Canada will be reviewed and amended, as appropriate, to reflect that review.

### 26.02 Marriage

- (1) A MLFN has Jurisdiction with respect to:
  - (a) the legal capacity to marry; and
  - (b) the solemnization of marriage.
- (2) The application of a MLFN Law enacted in accordance with Subsection (1), where a marriage is not performed on MLFN Lands, but within the boundaries of the Province of Saskatchewan, and at least one of the parties to that marriage is a MLFN Citizen, will be discussed in the negotiations referred to in Paragraph 56.02(1)(b).
- (3) The Jurisdiction of a MLFN referred to in Subsection (1) does not extend to the annulment of a marriage or to divorce.
- (4) A marriage solemnized in accordance with a MLFN Law enacted in accordance with Paragraph (1)(b) will be deemed to be validly solemnized for the purposes of federal and provincial laws.
- (5) A marriage solemnized in accordance with a provincial law will be deemed to be validly solemnized for the purposes of MLFN Laws.

### 26.03 Family support and property

- (1) A MLFN has Jurisdiction with respect to:
  - (a) the support of:
    - (i) spouses;
    - (ii) cohabiting partners;
    - (iii) children;
    - (iv) parents;
    - (v) vulnerable family members; and
    - (vi) other dependent persons;

- (b) the division or use of property on MLFN Lands belonging to spouses or cohabiting partners, including matters relating to the use, sale or division of equity in a marital home or an Interest in MLFN Lands; and
  - (c) contracts entered into with respect to the matters described in Paragraphs (a) or (b).
- (2) A MLFN Law enacted in accordance with Subsection (1) will accord rights to, and provide for the protection of, spouses, cohabiting partners, children, parents, vulnerable family members and other dependent persons that are equivalent to the rights and protection enjoyed by similarly situated individuals in accordance with applicable federal or provincial laws.
  - (3) The application of a MLFN Law enacted in accordance with Subsection (1) to Non-Resident Citizens within the boundaries of the Province of Saskatchewan will be discussed in the negotiations referred to in Paragraph 56.02(1)(b).
  - (4) An application for spousal or child support made pursuant to a MLFN Law enacted in accordance with Subparagraph (1)(a)(i) or (iii) will be stayed by the commencement of proceedings pursuant to the *Divorce Act* except with leave of a court of competent jurisdiction.
  - (5) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will discuss issues arising from applications for support made pursuant to a MLFN Law enacted in accordance with Subsection (1) and similar proceedings commenced pursuant to provincial laws.

#### 26.04 Conciliation, mediation and counselling

A MLFN has Jurisdiction with respect to the recognition or establishment of authorities to provide conciliation, mediation and counselling with respect to the family and domestic affairs of MLFN Citizens and non-MLFN Citizens.

#### 26.05 Inconsistency or Conflict

- (1) Subject to Subsection (2), in the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection 26.01(1), 26.02(1) or 26.03(1) or, Section 26.04, and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

- (2) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Paragraph 26.01(1)(d), 26.02(1)(a) or 26.03(1)(a) and any applicable federal or provincial law, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.

26.06 Matters to be further considered

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will review and consider matters relating to conflict of laws between MLFN Laws enacted in accordance with this Article and federal or provincial laws, including:
  - (a) the principles to apply to determine which law will apply; and
  - (b) the principles to apply to determine which court or tribunal will have jurisdiction to hear and determine those matters.
- (2) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will review and consider further the persons to which a MLFN Law enacted in accordance with this Article will apply.
- (3) Matters relating to:
  - (a) the enforcement on MLFN Lands of any applicable federal or provincial laws relating to matters of the nature described in Subsections 26.01(1) and 26.03(1); and
  - (b) the enforcement beyond MLFN Lands of MLFN Laws enacted in accordance with Subsections 26.01(1) and 26.03(1)

will be addressed in the negotiations referred to in Section 33.01.

**27.0 Social development and support services****27.01 Jurisdiction over social development and support services**

- (1) A MLFN has Jurisdiction with respect to the provision of social development and support services to persons in need including:
  - (a) income support and welfare; and
  - (b) the establishment and regulation of structures and mechanisms, including MLFN Public Bodies to administer or deliver social development and support services.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to:
  - (a) matters relating to education, health, the support of spouses, cohabiting partners, children, parents, vulnerable family members and other dependant persons, recreation and sport, or other matters which are specifically provided for in Articles 24.0, 25.0, 26.0 and 28.0; or
  - (b) human resource and employment development on which matter the Parties will be proceeding in accordance with Subsection 29.01(2).
- (3) Subject to Subsection (4), in the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.
- (4) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and a federal law relating to the provision of income support programs and services established by Canada for the benefit of the general public, the federal law will prevail to the extent of the Inconsistency or Conflict.

**28.0 Recreation and sport**28.01 Jurisdiction over recreation and sport

- (1) A MLFN has Jurisdiction with respect to:
  - (a) recreation and sport activities, including the control or prohibition of public games, sports, races, athletic contests and other amusements; and
  - (b) the establishment and regulation of any structures or mechanisms, including MLFN Public Bodies, to administer or deliver recreation and sport activities.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to matters regulated or prohibited by the *Criminal Code*.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

**DIVISION F: THE ECONOMIC ENVIRONMENT****29.0 Economic subject matters**29.01 Negotiations to be undertaken

- (1) The Parties acknowledge that it is desirable to stimulate, develop and sustain a local economy on MLFN Lands and, for that purpose, that a MLFN possess, among other tools, a meaningful level of Jurisdiction.
- (2) Having regard to the acknowledgement of the Parties set out in Subsection (1), the Parties agree that, prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the Jurisdiction of a MLFN, and other agreed-upon matters, with respect to economic subject matters.



- (3) The negotiations referred to in Subsection (2) will address:
- (a) the Jurisdiction a MLFN may exercise with respect to economic subject matters including:
    - (i) matters related to business;
    - (ii) revenue generation;
    - (iii) human resource and employment development;
    - (iv) economic structures and institutions, other than federal incorporation or the creation or regulation of financial institutions; and
    - (v) such other matters as the Parties may agree;
  - (b) any matters within the subject area referred to in Paragraph (a) with respect to which a MLFN may not exercise Jurisdiction;
  - (c) any standards that a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) will provide for;
  - (d) the manner in which an Inconsistency or Conflict between a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) and any applicable federal or provincial laws will be resolved; and
  - (e) such other matters as the Parties may agree.
- (4) The negotiations referred to in Subsection (2) will further address:
- (a) the Jurisdiction a MLFN may exercise with respect to taxation; and
  - (b) taxation matters, other than those matters referred to Paragraph (a).
- (5) The matters referred to in Paragraphs (3)(b) to (d) inclusive will be addressed in the negotiations referred to in Paragraph (4)(a), with necessary modifications.

- (6) Following the conclusion of the negotiations between the Parties and Saskatchewan referred to in Subsection (2), or as part of those negotiations, the Parties and Saskatchewan will review and consider the commercial aspects of the subject areas in respect of which the Jurisdiction of a MLFN is recognized in accordance with this Part.

### **30.0 MLFN Assets and private property matters**

#### **30.01 MLFN Assets**

- (1) A MLFN has Jurisdiction with respect to:
  - (a) internal procedures of the MLFN relating to:
    - (i) the acquisition of property intended to become MLFN Assets; and
    - (ii) the administration, management and disposition of MLFN Assets; and
  - (b) the administration, management and disposition of MLFN Assets on MLFN Lands.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to matters relating to the financial administration of a MLFN, which matters are dealt with in Section 34.02.
- (3) The Jurisdiction of a MLFN relating to the acquisition of lands intended to become MLFN Lands and the administration, management and disposition of MLFN Lands and Interests therein is dealt with in Part VI.
- (4) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

- (5) When requested by a MLFN, MLFN Indian Moneys held by Canada will be transferred to the MLFN provided that, at the time the request is made, the MLFN provides to Canada a certificate that:
  - (a) the request is being made in accordance with the MLFN Constitution including, that all conditions precedent to the MLFN making the request, as may be provided for in the MLFN Constitution, have been satisfied; and
  - (b) the MLFN has enacted a law in accordance with Subsection (1) to administer those MLFN Indian Moneys following the transfer by Canada.
- (6) Upon a transfer of MLFN Indian Moneys to a MLFN by Canada in accordance with Subsection (5):
  - (a) Canada will have no further obligation or responsibility for the administration of those MLFN Indian Moneys; and
  - (b) those MLFN Indian Moneys will become MLFN Assets.

### 30.02 Negotiations to be undertaken

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the Jurisdiction of a MLFN with respect to specific types of private property on MLFN Lands not otherwise dealt with in this Part.
- (2) The negotiations referred to in Subsection (1) will address:
  - (a) the Jurisdiction a MLFN may exercise with respect to private property, including circumstances in which that Jurisdiction may be exercised;
  - (b) any matters within the subject area referred to in Paragraph (a) with respect to which a MLFN may not exercise Jurisdiction;
  - (c) any standards that a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) will provide for;

- (d) the manner in which an Inconsistency or Conflict between a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) and any applicable federal or provincial laws will be resolved; and
- (e) such other matters as the Parties may agree.

### 30.03 Administration of estates

- (1) A MLFN has Jurisdiction with respect to the administration of estates of MLFN Citizens who, at the time of their death, were Ordinarily Resident on MLFN Lands, including Jurisdiction with respect to:
  - (a) the form and validity of wills;
  - (b) devolution of estates on intestacy; and
  - (c) dependent relief.
- (2) A MLFN has Jurisdiction with respect to the administration of estates of Persons without Legal Capacity.
- (3) When requested by a MLFN, property held by Canada, or any employee or agent of Canada holding property in a representative capacity, for the benefit of:
  - (a) the heirs of a deceased MLFN Citizen; or
  - (b) a Person without Legal Capacity

will be transferred by Canada to the MLFN, as trustee for the person or persons beneficially entitled thereto.

- (4) Prior to the transfer referred to in Subsection (3) being made, the MLFN will provide to Canada:
- (a) a certificate from the MLFN that:
    - (i) the request is being made in accordance with the MLFN Constitution, including, that all conditions precedent to the MLFN making the request, as may be provided for in the MLFN Constitution, have been satisfied; and
    - (ii) the MLFN Government has enacted a law in accordance with Subsection (1) or (2) to administer that property;
  - (b) an undertaking by the MLFN that any property so transferred will be held and administered for the sole use and benefit of the person or persons beneficially entitled thereto;
  - (c) in the case of the estate of a deceased MLFN Citizen who, at the time of his or her death, was Ordinarily Resident on MLFN Lands:
    - (i) the consent of the heirs of the estate to the transfer; and
    - (ii) a release from the heirs of the estate in favour of Canada and the legal representative of the estate from any further obligation with respect to the administration of that property; and
  - (d) in any case other than the case of the estate of a deceased MLFN Citizen:
    - (i) the consent of the committee or legal guardian of the MLFN Citizen, as the case may be, whose property Canada has been administering prior to the transfer; and
    - (ii) a release in favour of Canada from the committee or legal guardian of the MLFN Citizen, as the case may be, whose property Canada has been administering from any further obligation with respect to the administration of that property.
- (5) For the purpose of Paragraph (4)(b), the beneficial entitlement of a person or persons to property of the nature described in that Paragraph will be determined in accordance with applicable federal or provincial law as of the date the property is transferred to the MLFN.

- (6) A MLFN Law enacted in accordance with Subsection (1) does not apply to the administration of the estate of a deceased MLFN Citizen who at the time of his or her death, was Ordinarily Resident on MLFN Lands, but who died prior to the date that MLFN Law came into force, unless all of the heirs of that deceased MLFN Citizen consent in writing to that MLFN Law applying.
- (7) A MLFN Law enacted in accordance with Subsection (2) does not apply to the administration of the estate of a Person without Legal Capacity who was a Person without Legal Capacity prior to the date that MLFN Law came into force unless the committee or legal guardian of that person consents in writing to that MLFN Law applying.
- (8) A MLFN Law enacted in accordance with Subsection (1) or (2) does not apply to property held by Canada, or any employee or agent of Canada holding property in a representative capacity, for the benefit of the heirs of a deceased MLFN Citizen or a Person without Legal Capacity where that property has not been transferred to the MLFN in accordance with Subsection (3).
- (9) Without limiting Subsection (6), (7) or (8), where a MLFN does not request Canada to transfer property held by Canada, or any employee or agent of Canada holding property in a representative capacity, for the benefit of:
- (a) the heirs of a deceased MLFN Citizen; or
  - (b) a Person without Legal Capacity
- in accordance with Subsection (3), that property will continue to be administered by Canada in accordance with the *Indian Act* until such time as it is transferred to the MLFN.
- (10) A MLFN has Jurisdiction with respect to the determination of:
- (a) presumption of death in relation to MLFN Citizens whose whereabouts is unknown but who, prior to their disappearance were Ordinarily Resident on MLFN Lands; and
  - (b) whether MLFN Citizens Ordinarily Resident on MLFN Lands are incapable of managing their own affairs

for the purposes of MLFN Laws.

- (11) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1), (2) or (10) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

## **DIVISION G: THE PHYSICAL ENVIRONMENT**

### **31.0 Traffic and transportation**

#### 31.01 Jurisdiction over local transportation matters

- (1) A MLFN has Jurisdiction with respect to the regulation of traffic and surface transportation and the design, construction, management and maintenance of surface transportation infrastructure.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to navigation and shipping.
- (3) A MLFN Law enacted in accordance with Subsection (1) relating to the standards of construction, maintenance or safety requirements of motor vehicles will provide for standards which are at least equivalent to any comparable standards established in accordance with any applicable federal or provincial laws.
- (4) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.

**32.0 Public and private works and community services and infrastructure**

*[Joint note: the issue of the transfer of assets on MLFN Lands built with federal funding will be dealt with in the fiscal discussions]*

**32.01 Jurisdiction over works and infrastructure**

- (1) A MLFN has Jurisdiction with respect to public and private works and community infrastructure including:
  - (a) public buildings and housing;
  - (b) the supply of water;
  - (c) energy supply and distribution including, hydro-electricity;
  - (d) waste and sewage disposal and recycling;
  - (e) fire protection and prevention services; and
  - (f) animal control, protection and prohibition.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to:
  - (a) matters relating to water, on which matters the Parties will proceed in accordance with Section 21.04;
  - (b) federal public works; or
  - (c) such works as, although wholly situate within the Province of Saskatchewan, are before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more provinces, within the meaning of paragraph 92(10)(c) of the *Constitution Act, 1867*.
- (3) For the purposes of Paragraph (2)(b), “federal public works” includes any work or property under the management or control of a Minister, board or agency of the Government of Canada or any corporation acting on behalf of that Minister, board or agency.



- (4) A MLFN Law enacted in accordance with Subsection (1) will provide for standards which are at least equivalent to any comparable standards established in accordance with any applicable federal or provincial laws.
- (5) A MLFN Law enacted in accordance with Subsection (1) will be consistent with Article 22.0.
- (6) Subject to Subsection (7), in the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.
- (7) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and:
  - (a) any applicable federal or provincial law with respect to agriculture, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict;
  - (b) any applicable federal law with respect to environmental protection, the federal law will prevail to the extent of the Inconsistency or Conflict; or
  - (c) any applicable federal law with respect to the assessment of the Environmental Effect of a Project, the federal law will prevail to the extent of the Inconsistency or Conflict.

## **DIVISION H: THE JUSTICE ENVIRONMENT**

### **33.0 Justice matters**

#### **33.01 Negotiations to be undertaken**

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the Jurisdiction of a MLFN with respect to justice matters.

- (2) The negotiations referred to in Subsection (1) will address:
- (a) the Jurisdiction a MLFN may exercise with respect to justice matters including:
    - (i) establishment of offences and related penalties for the purpose of enforcing a MLFN Law;
    - (ii) establishment of civil remedies as a consequence of a violation of a MLFN Law;
    - (iii) administration of justice, including:
      - (A) policing and MLFN Public Bodies for the enforcement of laws;
      - (B) courts, tribunals and other dispute resolution mechanisms;
      - (C) structures and mechanisms, including MLFN Public Bodies, other than those established for the purposes referred to in Clauses (A) and (B);
      - (D) corrections, other structures and institutions and programs for the care and rehabilitation of MLFN Citizens convicted of a violation of a MLFN Law;
      - (E) prosecution of offences;
      - (F) conduct of civil proceedings; and
      - (G) legal representation of persons appearing before structures and institutions of the nature referred to in Clauses (A) to (D) inclusive;
    - (iv) the enforcement of judgments, including the enforcement of judgments or orders in relation to matters referred to in Subsection 26.06(3);
    - (v) preventative and legal information services;

- (vi) public order, peace and safety, other than “criminal law” or “procedure in criminal matters” within the meaning of subsection 91(27) of the *Constitution Act, 1867*; and
- (vii) such other matters as the Parties may agree;
- (b) any matter within the subject area referred to in Paragraph (a) with respect to which a MLFN may not exercise Jurisdiction;
- (c) any standards that a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) will provide for;
- (d) the manner in which an Inconsistency or Conflict between a MLFN Law enacted in accordance with the Jurisdiction a MLFN may exercise with respect to the subject area referred to in Paragraph (a) and any applicable federal or provincial laws will be resolved;
- (e) the role, recognition and application of any customary law of a MLFN following a Final Agreement coming into effect with respect to a subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with this Part; and
- (f) such other matters as the Parties may agree.

## **DIVISION I: THE MLFN GOVERNMENT ENVIRONMENT**

### **34.0 MLFN Governments**

#### **34.01 Constituting of MLFN Government**

- (1) Subject to Article 16.0, a MLFN has Jurisdiction with respect to the constituting of MLFN Government.
- (2) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

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34.02 Structures, operation and procedures of MLFN Government

- (1) A MLFN has Jurisdiction with respect to the structures, administration, management, operation and procedures of MLFN Government including:
  - (a) the establishment of MLFN Public Bodies for public purposes;
  - (b) the powers, duties, responsibilities, remuneration, indemnification and other similar matters in relation to elected officials, employees and appointees of MLFN Government and MLFN Public Bodies;
  - (c) conflicts of interest;
  - (d) financial administration of MLFN Government;
  - (e) elections and referenda; and
  - (f) structures, administration, management, operation and procedures relating to protection and assurance of the rights of MLFN Citizens and non-MLFN Citizens on MLFN Lands.
- (2) The Jurisdiction referred to in:
  - (a) Paragraph (1)(a) does not extend to federal incorporation; and
  - (b) Paragraph (1)(f) will be reviewed following the conclusion of the negotiations between the Parties and Saskatchewan on those matters set out in Clauses 33.01(2)(a)(iii)(A) to (D) inclusive.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal law, the MLFN Law will prevail to the extent of the Inconsistency or Conflict.

**DIVISION J: OTHER MATTERS****35.0 Jurisdiction in subject areas not dealt with****35.01 Commitment for negotiations in subject areas not dealt with in this Part**

- (1) Where, following the coming into effect of a Final Agreement, there is a subject area which:
  - (a) relates to public health, order, peace or safety of MLFN Citizens and non-MLFN Citizens on MLFN Lands;
  - (b) is integral to the culture, identity, tradition, language or institutions of a MLFN;
  - (c) is not a subject area in respect of which the Jurisdiction of a MLFN is recognized in accordance with this Part; and
  - (d) is not a subject area, or a matter within a subject area, to which the Jurisdiction of a MLFN does not extend in accordance with this Part

the MLFNs/MLTC may request that Canada and Saskatchewan enter into negotiations with respect to the Jurisdiction of the MLFNs, on MLFN Lands, in that subject area.

- (2) Where the MLFNs/MLTC make a request to Canada and Saskatchewan in accordance with Subsection (1), the Parties and Saskatchewan will discuss whether the subject area in respect of which the request is made is a subject area to which Paragraphs (1)(a) and (b) apply and to which Paragraphs (1)(c) and (d) do not apply.
- (3) Subject to Paragraph (5)(a), where the MLFNs/MLTC make a request to Canada and Saskatchewan in accordance with Subsection (1), Canada and Saskatchewan will enter into negotiations with the MLFNs/MLTC with respect to the Jurisdiction of the MLFNs in that subject area.
- (4) Subject to Paragraph (5)(b) and Section 35.03, upon the conclusion of the negotiations referred to in Subsection (2) a Final Agreement may be amended to reflect the outcome of those negotiations.

- (5) Each of the Parties and Saskatchewan will need to obtain approval, in accordance with their respective policies and processes in place from time to time:
- (a) with respect to their respective authority and mandate in the negotiations referred to in Subsection (3), prior to those negotiations commencing; and
  - (b) of the outcome of the negotiations referred to in Subsection (3), prior to a Final Agreement being amended in accordance with Subsection (4).

#### 35.02 Resolution of disputes

A Final Agreement will provide for the manner in which the Parties and Saskatchewan will proceed in the event that a dispute arises:

- (a) between the Parties;
- (b) among the MLFNs/MLTC, Canada and Saskatchewan; or
- (c) between the MLFNs/MLTC

as a result of, or arising out of the discussions referred to in Subsection 35.01(2) or the negotiations referred to in Subsection 35.01(3).

#### 35.03 Process for amendment of Final Agreement

The provisions of a Final Agreement contemplated in Section 78.01 will apply to an amendment of the Final Agreement of the nature referred to in Subsection 35.01(4).

#### 35.04 MLFN will not exercise Jurisdiction until agreement reached

A MLFN will not exercise Jurisdiction in a subject area except in accordance with a Final Agreement or any amendment of a Final Agreement.

35.05 Matter to be reviewed

Prior to the form and content of a Final Agreement and Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will review and consider the provisions of Subsection 35.01(1), having regard to the outcome of the negotiations which have not been undertaken as of the date this Agreement was executed.

35.06 No limitation on amendments

This Article does not limit or prejudice the ability of the Parties, at any time and where they so agree, from entering into negotiations with the objective of amending a Final Agreement.

**PART V****APPLICATION OF LAWS AND RELATED MATTERS****36.0 Definitions**36.01 Defined words and phrases

In this Agreement:

**“Inconsistency or Conflict”** means, in respect of a MLFN Law and any applicable federal or provincial law, a conflict as determined by the principles under the Constitution of Canada, with necessary modifications, that apply to the determination that there is a conflict between federal and provincial laws, including the determination that there is an actual conflict in operation between federal and provincial laws.

**37.0 General provisions with respect to application of laws**37.01 Continued application of federal and provincial laws

- (1) Subject to Subsections (2) and 37.02(1), any federal and provincial laws that apply to a MLFN, MLFN Lands or to MLFN Citizens and non-MLFN Citizens on MLFN Lands, will continue to apply, following a Final Agreement coming into effect.
- (2) Subject to Subsection 37.02(1) and Section 37.03, where a MLFN enacts a MLFN Law, any applicable federal and provincial laws in respect of the subject area to which that MLFN Law relates that would otherwise apply to the MLFN, MLFN Lands or to MLFN Citizens and non-MLFN Citizens on MLFN Lands, will continue to apply except as provided for in Part IV.

37.02 Laws must be valid to apply

- (1) Where, following a Final Agreement coming into effect, a federal or provincial law is to apply to a MLFN, MLFN Lands or to MLFN Citizens and non-MLFN Citizens on MLFN Lands in accordance with Section 37.01, the federal or provincial law will only apply to the extent that it is legally valid.



- (2) A MLFN Law will apply to a MLFN, MLFN Lands or to MLFN Citizens and non-MLFN Citizens on MLFN Lands where the essential aspect or purpose of that MLFN Law deals with a subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV to the extent that that MLFN Law is properly enacted:
  - (a) in accordance with the MLFN Constitution and where applicable, the MLTC Constitution; and
  - (b) as provided for in a Final Agreement.
- (3) A MLFN Law is not invalid only because it has an incidental impact on a subject matter in respect of which the Jurisdiction of a MLFN is not recognized in accordance with Part IV.
- (4) A MLFN Law is not invalid only because the law relates to a subject matter which, in one aspect or for one purpose, is a subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV and, in another aspect or for another purpose, is not a subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV.

### 37.03 Continued application of the *Indian Act*

Upon a Final Agreement coming into effect, the *Indian Act* will continue to apply except as provided for in Section 37.04.

### 37.04 Certain sections of *Indian Act* to no longer apply

- (1) Certain sections of the *Indian Act*, and any regulations made in accordance with those sections, will no longer apply upon:
  - (a) a Final Agreement coming into effect;

- (b) a MLFN making a request that Canada transfer to the MLFN:
    - (i) MLFN Indian Moneys in accordance with Subsection 30.01(5);
    - (ii) property held by Canada or an employee or agent of Canada in a representative capacity to a MLFN in accordance with Subsection 30.03(3); or
    - (iii) legal title in MLFN Lands in accordance with Subsection 46.03(1); or
  - (c) a MLFN exercising Jurisdiction in accordance with Part IV in certain subject matters.
- (2) The sections of the *Indian Act* referred to in Paragraphs (1)(a) to (c) inclusive will be determined in accordance with Section 37.05.

#### 37.05 Negotiations to be undertaken

Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will negotiate with respect to, and attempt to reach agreement on:

- (a) those sections of the *Indian Act*, and any regulations made in accordance with those sections, to which Subsection 37.04(1) applies;
- (b) those sections of the *Indian Act*, and any regulations made in accordance with those sections, which will continue to apply and the circumstances in which those sections and regulations will continue or cease to apply;
- (c) without limiting Paragraph (b), matters relating to the future application of those sections of the *Indian Act* providing for the entitlement of a person to be registered as an “Indian” within the meaning of that *Act* and the circumstances in which those sections will continue or cease to apply;
- (d) the effect of an amendment to a section of the *Indian Act*, or a regulation made in accordance with a section of the *Indian Act*, or an amendment to the *Indian Act* that adds a new section or new regulation not in force on the date a Final Agreement comes into effect;

- (e) the effect of the repeal of a section of the *Indian Act*, or a regulation made in accordance with the *Indian Act*;
- (f) the effect of the repeal or amendment of a MLFN Law which, by virtue of its enactment, resulted in certain sections of the *Indian Act*, and regulations made in accordance with those sections, no longer applying as contemplated in Paragraph 37.04(1)(c); and
- (g) such other matters as the Parties may agree.

### **38.0 General Provisions with respect to Inconsistency or Conflict of Laws**

#### **38.01 Federal laws enacted for peace, order and good government and the protection of human rights**

- (1) Notwithstanding any other provision of a Final Agreement, in the event of an Inconsistency or Conflict between a MLFN Law and a federal law enacted for the peace, order and good government of Canada, the federal law will prevail to the extent of the Inconsistency or Conflict.
- (2) Notwithstanding any other provision of a Final Agreement, in the event of an Inconsistency or Conflict between a MLFN Law and any applicable federal law relating to the protection of human rights of all Canadians, the federal law will prevail to the extent of the Inconsistency or Conflict.

*[Joint Note: the Parties have agreed that there may be a need for discussion between the CAIP and a Final Agreement of any other circumstances under which a conflict between a federal and MLFN Law might be resolved otherwise than in accordance with the specific conflict rules set out in Part IV.]*

38.02 Inconsistencies or Conflicts where MLFN Law has incidental impact

*[Joint note: The Parties have agreed that there is a need for further discussion between the CAIP and a Final Agreement as to whether the references to an applicable federal or provincial law in Subsection (1), Paragraph (2)(b) and Paragraph (3)(b) should be followed by the phrase “as that federal or provincial law relates to that subject matter” or a variation of that phrase as it appears in the text which follows.]*

- (1) Where a MLFN Law has an incidental impact on a subject matter in respect of which the Jurisdiction of a MLFN is not recognized in accordance with Part IV and in so doing creates an Inconsistency or Conflict with an applicable federal or provincial law as that federal or provincial law relates to that subject matter, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.
  
- (2) Where a MLFN Law that relates to one subject matter has an incidental impact on another subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV and:
  - (a) Inconsistencies or Conflicts between a MLFN Law that relates to that other subject matter and any applicable federal law are to be resolved by the federal law prevailing; and
  - (b) that MLFN Law creates an Inconsistency or Conflict with an applicable federal law, as that federal law relates to that other subject matter, as a result of that incidental impactthe federal law will prevail to the extent of the Inconsistency or Conflict.
  
- (3) Where a MLFN Law that relates to one subject matter has an incidental impact on another subject matter in respect of which the Jurisdiction of a MLFN is recognized in accordance with Part IV and:
  - (a) Inconsistencies or Conflicts between a MLFN Law that relates to that other subject matter and any applicable provincial law, as it relates to that other subject matter, are to be resolved by the provincial law prevailing; and
  - (b) that MLFN Law creates an Inconsistency or Conflict with an applicable provincial law, as that provincial law relates to that other subject matter, as a result of that incidental impactthe provincial law will prevail to the extent of the Inconsistency or Conflict.

38.03 Inconsistencies or Conflicts where the subject matter of a MLFN Law has more than one essential aspect or purpose

*[Joint note: The Parties have agreed that there is a need for further discussion between the CAIP and a Final Agreement as to whether the references to an applicable federal or provincial law in Paragraph (1)(b), Paragraph (2)(b) and Paragraph (3)(b) should be followed by the reference to that federal or provincial law relating to a particular subject matter, as described in the text.]*

- (1) In the event of an Inconsistency or Conflict between:
  - (a) a MLFN Law that relates to a subject matter having more than one essential aspect or purpose, one aspect or purpose of which relates to a subject matter in respect of which the Jurisdiction of a MLFN is not recognized in accordance with Part IV; and
  - (b) any applicable federal or provincial law, as that federal or provincial law relates to a subject matter, in respect of which the Jurisdiction of a MLFN is not recognized in accordance with Part IV

the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.

- (2) In the event of an Inconsistency or Conflict between:
  - (a) a MLFN Law that relates to a subject matter having more than one essential aspect or purpose, one aspect or purpose of which relates to a subject matter in respect of which:
    - (i) the Jurisdiction of a MLFN is recognized in accordance with Part IV; and
    - (ii) Inconsistencies or Conflicts between a MLFN Law that relates to that subject matter and any applicable federal law are to be resolved by the federal law prevailing; and

- (b) any applicable federal law, as that federal law relates to a subject matter in respect of which:
  - (i) the Jurisdiction of a MLFN is recognized in accordance with Part IV; and
  - (ii) Inconsistencies or Conflicts between a MLFN Law that relates to that subject matter and any applicable federal law are to be resolved by the federal law prevailing

the federal law will prevail to the extent of the Inconsistency or Conflict.

- (3) In the event of an Inconsistency or Conflict between:
  - (a) a MLFN Law that relates to a subject matter having more than one essential aspect or purpose, one aspect or purpose of which relates to a subject matter in respect of which:
    - (i) the Jurisdiction of a MLFN is recognized in accordance with Part IV; and
    - (ii) Inconsistencies or Conflicts between a MLFN Law that relates to that subject matter and any applicable provincial law are to be resolved by the provincial law prevailing; and
  - (b) any applicable provincial law, as that provincial law relates to a subject matter in respect of which:
    - (i) the Jurisdiction of a MLFN is recognized in accordance with Part IV; and
    - (ii) Inconsistencies or Conflicts between a MLFN Law that relates to that subject matter and any applicable provincial law are to be resolved by the provincial law prevailing

the provincial law will prevail to the extent of the Inconsistency or Conflict.

### 38.04 International Agreements

- (1) In the event of an Inconsistency or Conflict between a MLFN Law and any federal or provincial law that reflects, fulfills or implements, or enables Canada to fulfil or implement, an obligation of Canada under international law or an international agreement, in whole or in part, the federal or provincial law will prevail to the extent of the Inconsistency or Conflict.
- (2) A federal or provincial law of the nature referred to in Subsection (1) includes a federal or provincial law in force prior to Canada incurring an obligation under international law or an international agreement.

## **39.0 Harmonization of Laws, Programs, Services and Standards**

### 39.01 Need to harmonize

- (1) The Parties and Saskatchewan acknowledge that federal, provincial and MLFN Laws may need to be harmonized.
- (2) The Parties and Saskatchewan further acknowledge that there is a need for the MLFNs/MLTC, Canada and Saskatchewan to harmonize programs and services to MLFN Citizens, and program and service standards, to ensure the most efficient and effective use of resources.
- (3) The Parties and Saskatchewan recognize that, for the most effective exercise of Jurisdiction by a MLFN, it may be necessary for a MLFN and Canada or Saskatchewan to reach co-operative arrangements.
- (4) A Final Agreement may provide for the process by which the Parties and Saskatchewan will attempt to reach arrangements of the nature referred to in Subsection (3).

### 39.02 Party not to affect programs and services of other Party

- (1) Where a MLFN is not delivering a program or service, that MLFN may not affect the application, eligibility criteria, delivery, or other terms and conditions of a program or service of Canada without the consent of Canada.
- (2) Where Canada is not delivering a program or service on MLFN Lands, Canada may not affect the application, eligibility criteria, delivery, or other terms and conditions of a public program or service of a MLFN without the consent of that MLFN.

- (3) Subsections (1) and (2) will not be interpreted or construed to affect the manner in which an Inconsistency or Conflict between a MLFN Law and a federal law is to be resolved in accordance with Part IV or Article 38.0.

#### **40.0 Information exchange between the Parties**

##### **40.01 Freedom of information and privacy**

- (1) The Parties may enter into agreements in respect of the collection, protection, retention, use, disclosure, and confidentiality of personal, general or other information.
- (2) For the purposes of the *Access to Information Act* and the *Privacy Act*, information that a MLFN Government provides to Canada in confidence will be deemed to be information received or obtained by Canada in confidence from another government.
- (3) Canada may provide information to a MLFN Government in confidence if that MLFN Government has enacted a MLFN Law or has entered into an agreement with Canada in accordance with which the confidentiality of the information will be protected.
- (4) Subject to Subsection (6), Canada is not required to disclose any information to a MLFN Government that it is required to withhold pursuant to any federal or provincial law.
- (5) Subject to Subsection (6), where a federal law allows the disclosure of certain information only if specified conditions for disclosure are satisfied, Canada is not required to disclose that information to a MLFN Government unless those conditions are satisfied.
- (6) Subject to Subsection (7), where a MLFN Government requests disclosure of information from Canada that request will be evaluated as if it were a request by a provincial government.
- (7) Canada is not required to disclose to a MLFN Government information that is only available to a particular provincial government or governments.
- (8) Notwithstanding any other provision in this Section, the Parties are not required to disclose any information that may be withheld under a privilege at law or, in the case of Canada, in accordance with sections 37 to 39 inclusive of the *Canada Evidence Act*.



**41.0 Registry and notification of MLFN Laws**41.01 Passage, Enactment and Publication of MLFN Laws

The MLFNs/MLTC will:

- (a) maintain a public registry of all MLFN Laws, including the MLFN Constitutions and the MLTC Constitution:
  - (i) in the English language; and
  - (ii) in the Cree or Dene language as the MLFNs/MLTC determine appropriate; and
- (b) provide Canada and Saskatchewan with copies of each MLFN Law as soon as possible after that MLFN Law is enacted.

**42.0 MLFN Laws not bylaws within meaning of *Indian Act***42.01 MLFN Law not a bylaw

- (1) A MLFN Law is not a “bylaw” within the meaning of the *Indian Act*.
- (2) Without limiting Subsection (1), the Minister of Indian Affairs and Northern Development has no power or authority to approve or disallow a MLFN Law.

**43.0 Application of the *Statutory Instruments Act***43.01 *Statutory Instruments Act* does not apply

The *Statutory Instruments Act* does not apply to a MLFN Law.

**PART VI****MLFN LANDS****44.0 Extent and status of MLFN Lands**44.01 Present extent of MLFN Lands

MLFN Lands, as of the date a Final Agreement is executed, will be described in a schedule to that Final Agreement.

44.02 Traditional Territory of a MLFN

Matters addressing the interests of the Parties and Saskatchewan with respect to access by a MLFN to, involvement of a MLFN in decision making over, use by a MLFN of and participation by a MLFN in the benefits derived from the area in the Province of Saskatchewan that the MLFN regards as its Traditional Territory will be addressed in the negotiations referred to in Paragraph 56.02(1)(a).

44.03 Additions to MLFN Lands

- (1) Additions to MLFN Lands after a Final Agreement comes into effect will be in accordance with any agreement between the Parties, or between Canada and a MLFN, which provides for any such additions to MLFN Lands.
- (2) Without limiting Subsection (1), an agreement between Canada and a MLFN may provide that lands acquired by the MLFN may be transferred to Canada for the purpose of being designated as MLFN Lands.
- (3) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, the process for an addition to MLFN Lands, including the nature and extent of any involvement of Saskatchewan in matters relating to an addition to MLFN Lands.

#### 44.04 Status of MLFN Lands

It is the intent of the Parties that MLFN Lands will continue to be “lands reserved for Indians” within the meaning of subsection 91(24) of the *Constitution Act, 1867* following a Final Agreement coming into effect.

#### 44.05 Final Agreement without prejudice

A Final Agreement will not prejudice the position any Party or Saskatchewan may take as to any aboriginal title of a MLFN in any lands, including MLFN Lands.

#### 44.06 Removal of any residual provincial interest in MLFN Lands

The Parties agree to pursue negotiations with Saskatchewan, the aim of which will be to set the terms by which Saskatchewan may transfer to:

- (a) Canada, for the benefit of a MLFN; or
- (b) a MLFN, in the event title to MLFN Lands has been transferred from Canada to a MLFN in accordance with Subsection 46.03(1),

the rights with respect to MLFN Lands that Saskatchewan holds pursuant to paragraph 11 of the *Natural Resources Transfer Agreement*, confirmed as Schedule 3 to the *Constitution Act, 1930*.

### **45.0 Environmental Condition of MLFN Lands**

#### 45.01 Audit of environmental condition of MLFN Lands

- (1) Prior to the form and content of a Final Agreement and Tripartite Final Agreement being agreed to by the negotiators for the Parties and Saskatchewan, the Parties will ensure that an audit of the environmental condition of MLFN Lands is undertaken.
- (2) The audit referred to in Subsection (1) will be undertaken by an agreed-upon qualified individual, firm or corporation that is independent of the Parties.

- (3) The audit referred to in Subsection (1) will identify:
- (a) physical activities that have been or are being carried out on MLFN Lands;
  - (b) physical works that have existed or then exist on MLFN Lands; and
  - (c) physical activities and physical works other than those of the nature referred to in Paragraphs (a) and (b) that have had, are having or are likely to have significant adverse Environmental Effects on MLFN Lands
- in respect of which remedial action or mitigation measures are required.
- (4) Within 12 months of this Agreement being executed, or such other period as the Parties may agree, the Parties will negotiate with respect to, and attempt to reach agreement on the:
- (a) process and methodology; and
  - (b) standards
- for the audit referred to in Subsection (1).
- (5) In order to facilitate the audit referred to in Subsection (1):
- (a) Canada will, subject to the *Privacy Act*, provide to the individual, firm or corporation undertaking the audit and to MLTC, all information in its possession on the physical activities and physical works referred to in Paragraphs (3)(a) to (c) inclusive that is relevant to determining the environmental condition of MLFN Lands; and
  - (b) MLTC will, subject to considerations relating to privacy, provide to the individual, firm or corporation undertaking the audit and to Canada, all information in its possession and in the possession of a MLFN, on the physical activities and physical works referred to in Paragraphs (3)(a) to (c) inclusive that is relevant to determining the environmental condition of MLFN Lands.

45.02 Remedial actions and mitigation measures to be contained in Intergovernmental Relations and Implementation Plan

- (1) Subject to Subsections (4) and (5), where the audit referred to in Subsection 45.01(1) determines that remedial actions or mitigation measures are required to address adverse Environmental Effects on MLFN Lands by those physical activities and physical works of the nature referred to in Paragraphs 45.01(3)(a) and (b), the Intergovernmental Relations and Implementation Plan will identify:
  - (a) subject to Subsection (3), the remedial action or mitigation measures as an activity to be carried out;
  - (b) the Party responsible for carrying out that activity;
  - (c) the time period within which the activity is to be carried out; and
  - (d) which Party will bear the costs associated with carrying out that activity or the steps that need to be undertaken by the Parties to ensure that any third party (including Saskatchewan) responsible for the physical activity or physical work bears responsibility for the costs of the remedial action or mitigation measures.
  
- (2) Subject to Subsection (5), where the audit referred to in Subsection 45.01(1) determines that remedial actions or mitigation measures are required to address adverse Environmental Effects on MLFN Lands by those physical activities and physical works of the nature referred to in Paragraph 45.01(3)(c), the Intergovernmental Relations and Implementation Plan may identify:
  - (a) subject to Subsection (3), the remedial action or mitigation measures as an activity to be carried out;
  - (b) the time period within which the activity would desirably be carried out; and
  - (c) the steps that need to be undertaken by the Parties to ensure that any third party (including Saskatchewan) responsible for the physical activity or physical work bears responsibility for the costs of the remedial actions or mitigation measures.

- (3) In determining, in respect of a physical activity or work of the nature referred to in Subsection 45.01(1), the extent of the remedial action or mitigation measures to be identified as an activity to be carried out in the Intergovernmental Relations and Implementation Plan, the Parties will give consideration, among other factors, to the extent to which the remedial actions or mitigation measures identified in the audit referred to in that Subsection are technically and economically feasible.
- (4) Subject to Subsection (5), in determining which Party will or should bear the costs associated with carrying out remedial actions or mitigation measures in respect of physical activities and physical works of the nature referred to in Paragraphs 45.01(3)(a) and (b) in accordance with Paragraph (1)(d), the Parties will proceed in accordance with the principle that the Party legally responsible for adverse Environmental Effects should bear the costs of carrying out those remedial actions or mitigation measures.
- (5) Subsections (1) and (2) are not intended, and will not be construed, to:
  - (a) create any legal obligation on the part of any Party (including, in the case of Canada, any fiduciary obligation) which does not otherwise exist; or
  - (b) release any Party from any legal obligation that Party may otherwise have, (including, in the case of Canada, any fiduciary obligation)

to bear, or take the steps that need to be undertaken to ensure that a third party (including Saskatchewan) bears, responsibility for the costs of any remedial action or mitigation measures that are determined to be required by the audit referred to in Subsection 45.01(1) to address adverse Environmental Effects on MLFN Lands by those physical activities and physical works of the nature referred to in Subsection 45.01(3).

#### 45.03 Limitation

Section 45.02 does not apply to a physical activity or physical work in respect of which:

- (a) remedial actions or mitigation measures are provided for in an agreement between the Parties or between a MLFN and Canada or a third party, including Saskatchewan; or
- (b) a MLFN has received, or is entitled to receive, compensation for the adverse Environmental Effects of that physical activity or physical work in accordance with an agreement between the Parties or between a MLFN and Canada or a third party, including Saskatchewan.

**46.0 Title in MLFN Lands**46.01 Legal title not transferred

- (1) As requested by the MLFNs, title to:
  - (a) MLFN Lands as of the date a Final Agreement comes into effect will remain in Canada; and
  - (b) any lands which become MLFN Lands following a Final Agreement coming into effect will be vested in Canadafor the use and benefit of a MLFN.
- (2) Subsection (1) does not change the interest of a MLFN in MLFN Lands.

46.02 MLFN has all incidents of ownership

- (1) Notwithstanding Section 46.01, but subject to Section 50.02, Subsections 50.04(1) and 51.03(1) and the negotiations regarding matters relating to the acquisition of MLFN Lands without consent referred to in Section 53.01, a MLFN will have the full rights, powers, responsibilities and privileges of an owner in relation to MLFN Lands, other than the vesting of legal title.
- (2) Without limiting Subsection (1), a MLFN will have full common law riparian rights with respect to the use and occupation of MLFN Lands adjacent to any river, stream, lake, pond, swamp, marsh or other body of water but, the principle of *ad medium filum aquae* will be inapplicable to that MLFN unless the affected beds and shores are MLFN Lands.

- (3) Where MLFN Lands are adjacent to any river, stream, lake, pond, swamp, marsh or other body of water, the common law riparian rights referred to in Subsection (2) will be unenforceable by injunction, mandamus, prohibition or similar prerogative writ for the purposes of preventing or delaying any water project provided that:
- (a) Canada and the MLFN whose common law riparian rights have been affected were notified at least six months in advance of any decision in relation to the approval of that water project; and
  - (b) a MLFN whose common law riparian rights have been affected by that water project has been afforded active and meaningful participation in any decision by a decision making authority concerned with the approval or operation of that water project.
- (4) Nothing in Subsection (3) limits the right of a MLFN to seek or obtain monetary compensation from Saskatchewan, including costs associated with obtaining compensation, for damages suffered as a result of any interference with, loss of, or damage to, the common law riparian rights of that MLFN.
- (5) For the purposes of Subsection (3), a “water project” means:
- (a) any drain, dyke, dam or other work that is proposed to divert or impound water, or any alteration, addition to, or elimination of, any drain, dyke, dam or other work;
  - (b) any act which results in the emission of water or other substance into any river, stream, lake, pond, swamp, marsh or other body of water; or
  - (c) any use of water

that affects, or if constructed or carried out could reasonably be anticipated to affect, the existing quantity, quality or rate of flow, in a discernable way, of water in any river, stream, lake, pond, swamp, marsh or other body of water and which, if constructed or carried out on lands in respect of which Saskatchewan may exercise jurisdiction, would require a licence or other approval in accordance with provincial laws.



46.03 MLFN may request transfer of title

- (1) Notwithstanding Section 46.01, but subject to Subsections (2) and (3), if requested by a MLFN, Canada will transfer title to MLFN Lands to the MLFN.
- (2) In the event a request is made by a MLFN to Canada in accordance with Subsection (1), the MLFN will provide to Canada a certificate evidencing that:
  - (a) the request is being made in accordance with the MLFN Constitution or other MLFN Law, including, that all conditions precedent to the MLFN making the request, as may be provided for in the MLFN Constitution or other MLFN Law, have been satisfied;
  - (b) prior to the MLFN making the request:
    - (i) a vote of all Eligible Citizens was held to determine whether the MLFN should make that request; and
    - (ii) of those voting on the question referred to in Subparagraph (i), at least a majority of Eligible Citizens voted in favour of the MLFN making that request; and
  - (c) the MLFN has enacted an Initial MLFN Land Lawand Canada will be entitled to rely on that certificate without recourse by the MLFN or any MLFN Citizen.
- (3) Prior to Canada transferring title to MLFN Lands to a MLFN in accordance with Subsection (1), the Parties will discuss any matters incidental to the transfer of title as the Parties may agree.

**47.0 Management and control of MLFN Lands before Jurisdiction exercised****47.01 Indian Act continues to apply**

- (1) Prior to a MLFN enacting an Initial MLFN Land Law, but subject to this Part, MLFN Lands and Interests in MLFN Lands will be managed and controlled in accordance with all applicable federal laws, including the *Indian Act*, and a Final Agreement.
- (2) Without limiting Subsection (1), but subject to this Part, prior to a MLFN enacting an Initial MLFN Land Law, the responsibilities of the Government of Canada, including the Minister of Indian Affairs and Northern Development and the Governor in Council, with respect to MLFN Lands provided for in the *Indian Act* will continue.
- (3) Matters relating to the liability of Canada in relation to MLFN Lands and Interests in MLFN Lands are dealt with in Part XI.

**47.02 Continuation of fiduciary relationship**

Matters relating to the continuation of the fiduciary relationship between Canada and a MLFN and any duty of care or obligation of Canada arising out of that relationship in respect of MLFN Lands are dealt with in Section 5.05.

**48.0 Jurisdiction****48.01 Jurisdiction of MLFN over MLFN Lands**

- (1) Subject to Articles 49.0 to 52.0 inclusive, and the negotiations regarding matters relating to the acquisition of MLFN Lands without consent referred to in Section 53.01, a MLFN has Jurisdiction with respect to MLFN Lands including:
  - (a) the use, possession and management of MLFN Lands;
  - (b) zoning, development planning and land use planning;
  - (c) the creation, transfer and disposition of Interests in MLFN Lands;
  - (d) access to and residency on MLFN Lands;
  - (e) trespass and nuisance on MLFN Lands;

- (f) matters relating to buildings and other structures on MLFN Lands, other than the matters provided for in Article 32.0;
  - (g) the taking of Interests in MLFN Lands for community purposes;
  - (h) surveys of the boundaries of Interests in MLFN Lands; and
  - (i) providing for or establishing a land registry.
- (2) The Jurisdiction referred to in Subsection (1) does not extend to:
- (a) agriculture, which matter is dealt with in Article 20.0; or
  - (b) natural resources, which matters are dealt with in Article 21.0.
- (3) In the event of an Inconsistency or Conflict between a MLFN Law enacted in accordance with Subsection (1) and any applicable federal or provincial law, the MLFN law will prevail to the extent of the Inconsistency or Conflict.

#### 48.02 Surveys

- (1) The Jurisdiction referred to in Paragraph 48.01(1)(h) does not extend to the certification of surveyors.
- (2) A MLFN will not exercise Jurisdiction in accordance with Paragraph 48.01(1)(h) unless and until that MLFN has entered into an agreement with Canada relating to such matters as the Parties agree are necessary to ensure:
- (a) the integration of surveys carried out in accordance with that MLFN Law and surveys carried out in accordance with any applicable federal and provincial laws;
  - (b) the establishment or identification of a public registry for surveys of MLFN Lands; and
  - (c) the ongoing integrity of the survey fabric as it relates to MLFN Lands.
- (3) A MLFN Law enacted in accordance with Paragraph 48.01(1)(h) will establish standards relating to surveys which are at least equivalent to any standards of that nature established in accordance with the *Canada Land Surveys Act*.

## **49.0 Initial exercise of Jurisdiction**

### 49.01 Initial MLFN Land Law

Recognizing that matters relating to land management are inter-related and cannot practically be dealt with in isolation, the Initial MLFN Land Law will make sufficient provision to deal with those sections of the *Indian Act* set out in a Schedule to a Final Agreement that will cease to apply to, MLFN Lands, upon that exercise of Jurisdiction, as contemplated in Paragraph 37.04(1)(c).

### 49.02 Management systems to be in place

An Initial MLFN Land Law will provide that it will not come into force until the MLFN has in place such management systems as the MLFN determines necessary to administer that MLFN Law and to manage MLFN Lands and Interests in MLFN Lands.

### 49.03 Canada no longer to manage and control MLFN Lands

Upon an Initial MLFN Land Law coming into force, Canada will not have any authority with respect to the management and control of MLFN Lands or Interests in MLFN Lands, except as provided for in Section 50.02 or as a Final Agreement may provide as a result of the negotiations referred to in Section 53.01.

### 49.04 Canada to do what is required to effect transfer of management and control

Subject to Subsection 46.01(1), Section 50.02 and the provisions of a Final Agreement resulting from the negotiations referred to in Section 53.01, immediately following an Initial MLFN Land Law coming into force, Canada will undertake all actions necessary to effect the transfer of management and control of MLFN Lands to the MLFN.

## **50.0 Absolute dispositions of MLFN Lands**

### 50.01 General principles

- (1) MLFN Lands will not be sold or otherwise dealt with in such a manner that the rights and interests of a MLFN and MLFN Citizens in MLFN Lands are absolutely disposed of.

- (2) Notwithstanding Subsection (1), a MLFN Constitution may provide whether MLFN Lands may be sold, or a fee simple interest in MLFN Lands absolutely disposed of, and if so, the circumstances in which a sale or absolute disposition may occur.
- (3) Where a MLFN Constitution permits MLFN Lands to be sold, or a fee simple interest in MLFN Lands absolutely disposed of, a sale or absolute disposition may be made only in accordance with:
  - (a) the process and other requirements provided for in the MLFN Constitution; and
  - (b) Sections 50.02 to 50.06 inclusive.
- (4) This Article does not apply to:
  - (a) the granting of an Interest in MLFN Lands, which matter is dealt with in Article 51.0; or
  - (b) the taking of MLFN Lands or an Interest in MLFN Lands without the consent of a MLFN, which matter will be dealt with in the negotiations referred to in Section 53.01.

#### 50.02 Dispositions of MLFN Lands while Canada retains title

- (1) While Canada retains title to MLFN Lands, a MLFN may, where provided for, and in accordance with, the MLFN Constitution, request that Canada make a disposition of MLFN Lands, other than the granting of an Interest, including a voluntary exchange of land in accordance with Section 50.04.
- (2) At the time a request is made by a MLFN to Canada in accordance with Subsection (1), the MLFN will provide to Canada:
  - (a) particulars of the proposed disposition, sufficient to permit Canada to carry out the request; and
  - (b) a certificate evidencing that the request is being made in accordance with the MLFN Constitution.

- (3) Upon a MLFN satisfying its obligations set out in Subsection (2), Canada will proceed to make the disposition of the MLFN Lands on the terms set out in the request.
- (4) Canada will be entitled to rely on the certificate referred to in Paragraph (2)(b) without recourse by a MLFN or any MLFN Citizen.

#### 50.03 Disposition of MLFN Lands if a MLFN assumes title

If a MLFN requests the transfer of title to MLFN Lands from Canada in accordance with Subsection 46.03(1), at any time after Canada has transferred title in MLFN Lands to the MLFN, the MLFN may, to the extent provided for, and in accordance with, the MLFN Constitution, make a disposition of MLFN Lands, other than the granting of an Interest, including a voluntary exchange of land in accordance with Subsection 50.04(5).

#### 50.04 Voluntary exchange of MLFN Land

- (1) Subject to a MLFN Constitution, a MLFN may exchange or trade a parcel of MLFN Land for another parcel of land in Canada of greater or equivalent size or value in accordance with this Section.
- (2) Where:
  - (a) a MLFN wishes to exchange or trade a parcel of MLFN Lands for another parcel of land;
  - (b) the MLFN wishes the parcel of land in respect of which a parcel of MLFN Lands is being exchanged or traded to be designated as MLFN Lands; and
  - (c) at that time, Canada has title to MLFN Lands,

the MLFN may, in accordance with the MLFN Constitution, request that Canada make that exchange or trade.

- (3) At the time a request is made by a MLFN to Canada in accordance with Subsection (2), the MLFN and Canada will determine:
  - (a) whether the parcel of land with respect to which the MLFN proposes to exchange or trade a parcel of MLFN Land should and may be designated as MLFN Lands; and
  - (b) where the MLFN and Canada agree that the parcel of land referred to in Paragraph (a) should and may be designated as MLFN Lands, the actions of the MLFN, Canada and Saskatchewan or any other third party that are necessary prior to Canada proceeding, or to enable Canada to proceed with, the exchange or trade.
- (4) Upon a MLFN, Canada, Saskatchewan and any third party completing the actions identified in accordance with Paragraph (3)(b), Canada will proceed to make the exchange or trade of the MLFN Lands on the terms set out in the request.
- (5) If a MLFN should decide to request the transfer of title to MLFN Lands from Canada in accordance with Subsection 46.03(1), at any time after Canada has transferred title in MLFN Lands to the MLFN, the MLFN may, in accordance with the MLFN Constitution, exchange or trade a parcel of MLFN Lands for another parcel of land in Canada.
- (6) Where a parcel of MLFN Lands has been exchanged or traded for another parcel of land in accordance with Subsection (5), the parcel of land received in exchange or trade may, if the Parties so agree, be designated as MLFN Lands.
- (7) In the negotiations referred to in Subsection 44.03(3), matters relating to whether parcels of land received in exchange or trade for parcels of MLFN Lands that the Parties agree should and may be designated as MLFN Lands in accordance with Paragraph (3)(a) or Subsection (6) will be discussed.

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50.05 Minimum requirements of a MLFN Constitution

- (1) Where a MLFN Constitution provides that a MLFN may make a request of Canada for:
- (a) the disposition of MLFN Lands in accordance with Subsection 50.02(1); or
  - (b) the voluntary exchange or trade of MLFN Lands in accordance with Subsection 50.04(2)

the MLFN Constitution will further provide that, in addition to any other requirements, prior to the MLFN making that request, a vote of all Eligible Citizens will be held to determine whether the request should be made and, of those voting on the question, at least a majority of the Eligible Citizens must vote in favour of the MLFN making that request.

- (2) Where a MLFN Constitution provides that, following a MLFN requesting the transfer of title to MLFN Lands from Canada in accordance with Subsection 46.03(1), a MLFN may:
- (a) dispose of MLFN Lands in accordance with Section 50.03; or
  - (b) exchange or trade MLFN Lands in accordance with Subsection 50.04(5)

the MLFN Constitution will further provide that, in addition to any other requirements, prior to the MLFN proceeding in the manner referred to in Paragraph (a) or (b), a vote of all Eligible Citizens will be held to determine whether the MLFN should make the disposition, or exchange or trade, of MLFN Lands and, of those voting on the question, at least a majority of the Eligible Citizens must vote in favour of the MLFN making that disposition or exchange or trade.



**50.06 Disposition of MLFN Lands through seizure**

MLFN Lands and rights and interests of a MLFN or a MLFN Citizen in MLFN Lands may not be pledged, mortgaged, hypothecated or otherwise encumbered as security for a debt and are not subject to seizure under legal process, except where:

- (a) the security or seizure is in favour of a MLFN Government or a MLFN Citizen;
- (b) the security is a leasehold interest and the seizure is of that leasehold interest; or
- (c) the security or seizure is of a class or type other than of the nature referred to in Paragraph (a) or (b) and is authorized in the MLFN Constitution.

**51.0 Interests in MLFN Lands****51.01 Information on Interests to be provided**

Prior to the form and content of a Final Agreement and Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, Canada will provide to MLTC:

- (a) a list of all Interests in MLFN Lands that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register; and
- (b) any other information in the possession of Canada that materially affects those Interests in MLFN Lands,

it being understood that in supplying the information referred to in Paragraphs (a) and (b), Canada makes no representation or warranty as to the completeness or accuracy of that information.

**51.02 Existing Interests**

- (1) An Interest in MLFN Lands which exists as of the date a Final Agreement comes into effect will continue in accordance with its terms.

- (2) Canada will obtain the consent of a MLFN prior to making any decision with respect to any existing Interest in MLFN Lands, provided that, where the MLFN refuses to consent to Canada making a decision with respect to an Interest in MLFN Lands and the result of Canada acting in accordance with that refusal would cause Canada to breach any then existing legal obligation of Canada to the holder of that Interest, Canada may proceed to make the decision without regard to the refusal of the MLFN.
- (3) Subject to Subsection (1), an Interest in MLFN Lands which exists as of the date an Initial MLFN Land Law comes into force will be subject to MLFN Laws, including the MLFN Constitution.
- (4) Without limiting Section 49.04, upon a MLFN giving notice in writing to Canada of its intention to enact an Initial MLFN Land Law, Canada will undertake all actions necessary to transfer or assign to the MLFN all of the rights and responsibilities of Canada in any Interest in MLFN Lands in respect of which Canada was the grantor.
- (5) A transfer or assignment of the nature referred to Subsection (4) will become effective on the date the Initial MLFN Land Law comes into force.
- (6) An Interest in MLFN Lands which exists as of the date an Initial MLFN Land Law comes into force may be unilaterally replaced, varied or amended by the MLFN to the same extent that Canada possessed such power immediately prior to the transfer or assignment by Canada of rights of Canada in the Interest as grantor to the MLFN in accordance with Subsections (4) and (5).
- (7) Nothing in this Section prevents a MLFN and the holder of an Interest in MLFN Lands which exists as of the date an Initial MLFN Land Law comes into force from agreeing to a different form of Interest or to further or other rights and responsibilities as between them to those provided for in the instrument creating the Interest.

- (8) Where Canada proceeds to make a decision in accordance with Subsection (2) with respect to any existing Interest in MLFN Lands, despite the refusal of the MLFN to consent to Canada making that decision, on the basis that the result of Canada acting in accordance with that refusal would cause Canada to breach any then existing legal obligation of Canada to the holder of that Interest, the matter of whether Canada acting in accordance with the refusal of the MLFN would have caused such a breach may be reviewed in the dispute resolution process to be provided for in a Final Agreement.

### 51.03 Creation of new Interests

- (1) Following a Final Agreement coming into effect but prior to an Initial MLFN Land Law coming into force, and subject to the negotiations regarding matters relating to the acquisition of MLFN Lands without consent referred to in Section 53.01, Canada may, with the consent of a MLFN (but subject to the rights of the holders of any prior existing Interest in MLFN Lands) create new Interests in MLFN Lands in accordance with the *Indian Act*.
- (2) Following the coming into effect of an Initial MLFN Land Law, a MLFN may create new Interests in MLFN Lands:
  - (a) subject to Paragraph 51.04(b), of a nature and on such terms and conditions as the MLFN determines appropriate; and
  - (b) in accordance with such processes and other requirements as may be provided in the MLFN Constitution or other MLFN Law, including the Initial MLFN Land Law.

### 51.04 Priorities as between Interests

An Initial MLFN Land Law will provide for a manner of determining priorities as between two or more Interests in the same MLFN Lands, provided that:

- (a) priorities between Interests in MLFN Lands created prior to the MLFN enacting that Initial MLFN Land Law will be resolved in accordance with the laws governing priorities in effect immediately before that Initial MLFN Land Law came into force; and
- (b) an Interest in MLFN Lands created prior to the MLFN enacting that Initial MLFN Land Law will have priority over an Interest in MLFN Lands created after that Initial MLFN Land Law was enacted unless the holder of the prior Interest otherwise agrees.

51.05 Expropriation of Interests

- (1) Subject to Subsection (2), where a MLFN Law makes provision for the taking of an Interest in MLFN Lands without the consent of the holder thereof, that MLFN Law will provide for the payment of compensation by the MLFN to the holder of that Interest in the amount based on:
  - (a) the market value of the Interest being taken;
  - (b) the damages attributable to disturbance by the MLFN to the holder of that Interest;
  - (c) damages for any reduction in the value of the remaining Interest to the holder of that Interest; and
  - (d) the value of the loss of any special economic advantage arising out of or incidental to the occupation or use of the MLFN Lands by the holder of that Interest to the extent that this value is not otherwise compensated in accordance with Paragraphs (a) to (c) inclusive;
- (2) A MLFN may not expropriate any Interest in MLFN Lands held by Canada, Saskatchewan, any utility, including electric, telephone, oil or natural gas utility, or any railway, whether that Interest has itself been acquired by expropriation from a MLFN or otherwise.

51.06 MLFN Lands registry

- (1) Until:
  - (a) a MLFN exercises Jurisdiction in accordance with Paragraph 48.01(1)(i) to establish a land registry; or
  - (b) agreement is reached between the Parties on an alternative registry system to the land registries maintained by Canada in accordance with the *Indian Act*,

Interests in MLFN Lands will be registered in a sub-registry of the land registries maintained by Canada in accordance with the *Indian Act*.

- (2) The sub-registry maintained by Canada, or any other registry in which Interests in MLFN Lands are recorded, in accordance with Subsection (1) will accommodate the registration of Interests in MLFN Lands, whether or not those Interests are of a nature contemplated by the *Indian Act*, provided those Interests are created in accordance with a MLFN Law.

## **52.0 Continued access by Canada and Saskatchewan**

### **52.01 Access where reasonably necessary**

Agents, servants, employees, contractors of Canada or Saskatchewan or other persons acting in accordance with any federal or provincial laws will have access to MLFN Lands where that access is reasonably necessary for the purpose of those persons carrying out a lawful function, provided that:

- (a) Canada or Saskatchewan will give notice to a MLFN of the need for and purpose of that access, where reasonable to do so in the circumstances;
- (b) those persons will comply with MLFN Laws, where compliance with MLFN Laws does not unduly interfere with those persons carrying out their lawful functions; and
- (c) without limiting Paragraph (b), the payment of any fees or compensation for or in respect of the access to MLFN Lands by those persons will be determined in accordance with the applicable federal or provincial law.

## **53.0 Acquisition of MLFN Lands without consent**

### **53.01 Negotiations to be undertaken**

Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, matters relating to the acquisition of MLFN Lands without the consent of a MLFN.

**PART VII****TRADITIONAL TERRITORIES AND NON-RESIDENT CITIZENS****54.0 Participation by Saskatchewan****54.01 Provisions of the Tripartite Agreement-in-Principle**

The Tripartite Agreement-in-Principle provides that Saskatchewan will participate as a party in the negotiations referred to in Subsections 56.02(1), subject to Section 56.04, and 56.03(1).

**55.0 General Acknowledgments of the Parties and Saskatchewan****55.01 General Acknowledgements with respect to Traditional Territories**

The Parties and Saskatchewan acknowledge that:

- (a) prior to the predecessor of a MLFN entering into a treaty relationship with Canada by way of Treaty No. 6, 8, or 10 or an adhesion to that Treaty, the predecessor of that MLFN traditionally used, or used and occupied, lands other than or beyond the boundaries of MLFN Lands;
- (b) in accordance with Treaty No. 6, 8, or 10, a MLFN and the Members of that MLFN have specific rights, some of which are exercisable beyond the boundaries of MLFN Lands;
- (c) Subsection 35(1) of the *Constitution Act, 1982* recognizes and affirms, among other matters, the existing treaty rights of the aboriginal peoples of Canada;
- (d) any agreement resulting from the negotiations referred to in Paragraph 56.02(1)(a) will respect Treaties No. 6, 8 and 10 and will not be construed so as to abrogate or derogate from any treaty rights of a MLFN or the Members of a MLFN recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*; and
- (e) other First Nations, Aboriginal peoples, communities, Saskatchewan residents and others who will not be parties to a Final Agreement or Tripartite Final Agreement have or may have interests in the lands which a MLFN regards as its Traditional Territory.

55.02 General acknowledgements with respect to Non-Resident Citizens

The Parties and Saskatchewan acknowledge that:

- (a) a large proportion of MLFN Citizens are Non-Resident Citizens;
- (b) a Final Agreement generally will provide for the exercise of Jurisdiction by a MLFN in the subject areas set out in Part IV on MLFN Lands;
- (c) notwithstanding Paragraph (b), there may be subject areas in respect of which it is appropriate for a MLFN to exercise Jurisdiction or Authority or to deliver programs and services beyond the boundaries of MLFN Lands but within the Province of Saskatchewan for the benefit of Non-Resident Citizens;
- (d) subsequent to the negotiations referred to in Paragraph 56.02(1)(b), Non-Resident Citizens in the Province of Saskatchewan should continue to have access to, and be provided with, programs and services that are the same as or reasonably comparable to those programs and services provided to other residents of the Province of Saskatchewan;
- (e) where appropriate, the negotiations referred to in Paragraph 56.02(1)(b) should clarify the roles and responsibilities of a MLFN, Canada and Saskatchewan;
- (f) there are practical limits on the ability of a MLFN to exercise Jurisdiction or Authority beyond the boundaries of MLFN Lands or to deliver programs and services to Non-Resident Citizens;
- (g) in the negotiations referred to in Paragraph 56.02(1)(b), the rights of Non-Resident Citizens will not be prejudiced; and
- (h) Non-Resident Citizens should be assured as much involvement as is practically possible in MLFN Government decisions which directly and significantly affect them.

55.03 Parties and Saskatchewan may have different views

- (1) Each of the Parties and Saskatchewan may have different legal views on the rights and interests of a MLFN in relation to what the MLFN regards as its Traditional Territory and the matters to be discussed in the negotiations referred to in Paragraph 56.02(1)(b) with respect to Non-Resident Citizens.
- (2) Without limiting Subsection (1), it is the position of the MLFNs, without it being the intention of Canada or Saskatchewan to in any way accept that position, that in accordance with Treaty No. 6, 8, or 10, as appropriate, a MLFN and the Members of that MLFN possess rights and interests that should assure the MLFN and the Members of that MLFN an enhanced level of access to, control over and participation in the benefits derived from what the MLFN regards as its Traditional Territory and any other areas of land described in that Treaty.
- (3) Without limiting Subsection (1), it is the position of the MLFNs, without it being the intention of Canada or Saskatchewan to in any way accept that position, that the resolution of matters to be discussed in the negotiations referred to in Subsection 56.02(1) will be of importance to the future responsibilities, functioning and viability of MLFN Government.
- (4) Without limiting Subsection (1), it is the position of Saskatchewan, without it being the intention of the MLFNs/MLTC or Canada to in any way accept that position, that the benefits to be derived from lands and resources under the administration and control of Saskatchewan should be available for all residents of the Province of Saskatchewan, including MLFN Citizens.
- (5) Without limiting Subsection (1), it is further the position of Saskatchewan without it being the intention of the MLFNs/MLTC or Canada to in any way accept that position, that the outcomes of the negotiations referred to in Subsection 56.02(1) should be resolved in a manner that is fiscally neutral to Saskatchewan.



- (6) Each of the Parties and Saskatchewan will participate:
- (a) in the negotiations referred to in Subsection 56.02(1), subject to Section 56.04; and
  - (b) in the negotiations referred to in Subsection 56.03(1),
- in accordance with their respective policies, in place from time to time.
- (7) An agreement resulting from the negotiations referred to in Subsection 56.02(1) or 56.03(1) will be without prejudice to the legal views of either of the Parties or Saskatchewan.

### **56.0 Commitment to Process of Future Negotiations**

#### **56.01 Matters not dealt with at the time a Final Agreement and Tripartite Final Agreement comes into effect**

Matters relating to what a MLFN regards as its Traditional Territory and matters relating to the Non-Resident Citizens of that MLFN will not be fully addressed at the time a Final Agreement and Tripartite Final Agreement come into effect.

#### **56.02 Commitment to Negotiations**

- (1) Having regard to the acknowledgements set out in Article 55.0, but subject to Subsections (2) to (4) inclusive and the provisions of any agreement reached in the negotiations referred to in Subsection 56.03(1) that has been approved by the Parties and Saskatchewan in accordance with Section 56.04, the Parties and Saskatchewan will negotiate to:
- (a) address the interests of the Parties and Saskatchewan with respect to access by a MLFN to, involvement of a MLFN in decision-making over, use by a MLFN of and participation by a MLFN in the benefits derived from the area in the Province of Saskatchewan that the MLFN regards as its Traditional Territory; and

- (b) address matters relating to Non-Resident Citizens, including:
  - (i) the identification of any subject areas in respect of which a MLFN may exercise Jurisdiction or Authority beyond the boundaries of MLFN Lands but within the boundaries of the Province of Saskatchewan for the benefit of Non-Resident Citizens and, with respect to those subject areas, the determination of the manner and extent to which a MLFN may exercise Jurisdiction or Authority;
  - (ii) the provision of federal, provincial and MLFN programs and services to Non-Resident Citizens in the Province of Saskatchewan; and
  - (iii) such other matters concerning Non-Resident Citizens as the Parties and Saskatchewan may agree.
- (2) In the negotiations referred to in Paragraph (1)(a), the Parties and Saskatchewan will determine the geographic area in the Province of Saskatchewan in respect of which they will negotiate the matters referred to in that Paragraph, provided that nothing in this Subsection constitutes an agreement by the Parties and Saskatchewan that, in any agreement that may be reached in those negotiations, that geographic area, or any portion of that geographic area, will or will not be acknowledged by the Parties and Saskatchewan as constituting the Traditional Territory of a MLFN.
- (3) Nothing in Paragraph (1)(b) limits the Parties, in those negotiations, discussing matters relating to the Non-Resident Citizens that are beyond the boundaries of the Province of Saskatchewan.
- (4) In the event the Parties proceed in accordance with Subsection (3), nothing obliges Saskatchewan to participate in those discussions.

56.03 Matters to be immediately addressed

- (1) Within six months of this Agreement and a Tripartite Agreement-in-Principle being executed (or such further period as the Parties and Saskatchewan may agree), the Parties and Saskatchewan will negotiate and attempt to reach agreement on the:
  - (a) detailed agenda;
  - (b) process and methodology including the involvement of Non-Resident Citizens and third parties as appropriate;
  - (c) time frame;
  - (d) the manner in which possible fiscal implications will be dealt with as between Canada and Saskatchewan; and
  - (e) subject to Section 56.06, funding for the participation of the MLFNs for the negotiations referred to in Subsection 56.02(1).
- (2) In the negotiations referred to in Subsection (1), the Parties and Saskatchewan will have regard to, among other matters:
  - (a) the special relationship that the MLFNs have with Canada which is grounded in the unique history of the Indian people with the Crown and reflected in Treaties No. 6, 8 and 10, subsection 91(24) of the *Constitution Act, 1867* and sections 25 and 35 of the *Constitution Act, 1982*;
  - (b) the need to ensure that the possible financial implications of the negotiations referred to in Subsection 56.02(1) are resolved as between Canada and Saskatchewan in a manner that is clear, fair, affordable, and durable; and
  - (c) the obligations of Saskatchewan to all residents of the Province of Saskatchewan.
- (3) Upon the negotiators for the Parties and Saskatchewan reaching an agreement on the matters to be negotiated in accordance with Subsection (1), each of the Parties and Saskatchewan will seek approval of that agreement in accordance with Section 56.04.

**56.04 Parties and Saskatchewan to seek approval**

- (1) Each MLFN will seek approval of any agreement reached by the negotiators for the Parties and Saskatchewan in the negotiations referred to in Subsection 56.03(1) from the Council of that MLFN, following consultation with MLFN Citizens.
- (2) Following approval of any agreement reached by the negotiators for the Parties and Saskatchewan in the negotiations referred to in Subsection 56.03(1) by the MLFNs in accordance with Subsection (1), MLTC, where appropriate, will seek approval of that agreement from the Executive of MLTC.
- (3) Following approval of any agreement reached by the negotiators for the Parties and Saskatchewan in the negotiations referred to in Subsection 56.03(1) by the MLFNs and MLTC, where appropriate, in accordance with Subsections (1) and (2), Canada will seek approval of that agreement from Cabinet.
- (4) Following approval of any agreement reached by the negotiators for the Parties and Saskatchewan in the negotiations referred to in Subsection 56.03(1) by the MLFNs and MLTC, where appropriate, in accordance with Subsections (1) and (2), Saskatchewan will seek approval of that agreement from Cabinet.

**56.05 No legal obligations created**

An agreement on the matters to be negotiated in accordance with Subsection 56.03(1) that has been approved by the Parties and Saskatchewan in accordance with Section 56.04 will not create enforceable legal obligations among the Parties and Saskatchewan.

**56.06 Funding to the MLFNs for the purposes of the negotiations**

- (1) Canada will provide funding for the participation of the MLFNs in the negotiations contemplated by this Agreement to follow the execution of this Agreement.
- (2) The amount of funding to be provided by Canada to the MLFNs for the participation of the MLFNs in the negotiations referred to in Subsection 56.02(1), and the terms upon which that funding will be provided, will be determined having regard to the results of the negotiations on those matters referred to in Paragraphs 56.03(1)(a) to (d) inclusive.
- (3) Saskatchewan will make a contribution toward the funding of the participation of the MLFNs in the negotiations referred to in Paragraph 56.02(1)(b).

**57.0 Involvement of Non-Resident Citizens****57.01 Non-Resident Citizens to be involved**

- (1) Non-Resident Citizens will be involved in the negotiations referred to Paragraph 56.02(1)(b) in an appropriate manner.
- (2) The appropriate manner for the involvement of Non-Resident Citizens in the negotiations referred to in Paragraph 56.02(1)(b) will be determined in the negotiations referred to in Subsection 56.03(1).

**58.0 Existing Interests and Involvement of Third Parties****58.01 Negotiations will not impact on existing interests**

In any agreement resulting from the negotiations referred to in Paragraph 56.02(1)(a), existing interests in, upon or under the lands within the geographic area determined by the Parties and Saskatchewan in accordance with Subsection 56.02(2) will be protected in accordance with the respective terms of those existing interests, subject to any agreement among the holder of an existing interest, a MLFN and Canada or Saskatchewan as appropriate which modifies those terms.

**58.02 Involvement of Third Parties**

Other First Nations, Aboriginal peoples, communities, Saskatchewan residents and others who will not be parties to a Final Agreement or Tripartite Final Agreement, but who possess existing interests in, upon or under the lands within the geographic area determined by the Parties in accordance with Subsection 56.02(2) will be involved in the negotiations referred to in Paragraph 56.02(1)(a) in an appropriate manner.

**59.0 Negotiations without prejudice to MLFNs negotiating with other provinces****59.01 Negotiations without prejudice**

- (1) The negotiations referred to in Section 56.02(1) will be without prejudice to the ability of the MLFNs to negotiate similar issues with other provinces or territories in Canada.
- (2) Nothing obligates Canada or Saskatchewan to participate in any negotiations of the nature referred to in Subsection (1).

**60.0 New land use transactions in determined geographic area while negotiations are underway****60.01 Canada and Saskatchewan to provide notice during negotiation period**

- (1) Following the Parties and Saskatchewan determining the geographic area which will be the subject of the negotiations referred to in Paragraph 56.02(1)(a) in accordance with Subsection 56.02(2), Canada or Saskatchewan, as the case may be, will make best efforts to provide information to, notify, consult with and involve in an appropriate manner, a MLFN, the MLFNs or MLTC, as appropriate, through existing forums or processes, or any other forum or process that is mutually agreed upon between the Parties or between the MLFNs/MLTC and Saskatchewan, regarding:
  - (a) major developments that are commenced or intended to be commenced within that geographic area that are under the administration and control of Canada or Saskatchewan, as the case may be; and
  - (b) major developments, other than major developments of the nature referred to in Paragraph (a), that are commenced on lands within that geographic area and that are subject to regulation by Canada or Saskatchewan, as the case may be.
- (2) At the same time as the negotiations referred to in Subsection 56.03(1), or at such other time as the Parties and Saskatchewan may agree prior to the determination of the geographic area which will be the subject of the negotiations referred to in Paragraph 56.02(1)(a) in accordance with Subsection 56.02(2), the Parties and Saskatchewan will discuss practical ways of assuring that the commitment provided for in Subsection (1) is met, including discussing the nature, type and extent of development which will constitute a “major development” for the purposes of Subsection (1).

**PART VIII****FISCAL RELATIONSHIP AND FINANCIAL ARRANGEMENTS****61.0 Purpose of this Part****61.01 Purpose to provide basis for negotiation of ongoing government-to-government fiscal relationship**

The purpose of this Part is to provide a basis for:

- (a) the establishment of an ongoing government-to-government fiscal relationship between the Parties as part of a Final Agreement; and
- (b) as part of the ongoing government-to-government fiscal relationship referred to in Paragraph (a), the negotiation of financial arrangements between the Parties, including the MLFN Financial Arrangements Agreement.

**61.02 Respect for treaties and special relationship**

The ongoing government-to-government fiscal relationship between the Parties will be part of a Final Agreement, which Final Agreement will be negotiated:

- (a) within the context of and respect Treaties No. 6, 8 and 10; and
- (b) within the context of and will respect and build upon the special relationship between the Parties.

**62.0 Shared Objectives****62.01 Shared objectives to guide negotiations**

The shared objectives of the Parties to guide the negotiation of a Final Agreement and the MLFN-FAA that will come into effect on the date a Final Agreement comes into effect, as appropriate, are:

- (a) to manage the ongoing government-to-government fiscal relationship between the Parties, based on mutual respect and cooperation, by various means including:
  - (i) the establishment of financial arrangements between the Parties through negotiation and agreement; and
  - (ii) mechanisms and approaches to assure effective shared decision-making between the Parties with respect to that relationship;
- (b) to facilitate, over time, the MLFNs moving towards increased economic and financial self-sufficiency and the lessening of the dependency of MLFN Governments on funding provided by other governments;
- (c) to establish financial arrangements between the Parties that take into account the exercise of Jurisdiction by the MLFNs over time;
- (d) to facilitate access to, or provision of, programs and services, including community infrastructure, by and for MLFN Citizens who are Ordinarily Resident on MLFN Lands, that are reasonably comparable to those programs and services generally provided in non-aboriginal communities of a similar size in the Province of Saskatchewan, within an appropriate regional context;
- (e) to reflect the primary financial accountability of a MLFN Government to MLFN Citizens and to provide for financial accountability of MLFN Governments to Canada for the expenditure of public funds;
- (f) to establish financial arrangements between the Parties which will:
  - (i) provide reasonably stable, predictable and flexible funding to MLFN Governments;
  - (ii) include adjustment factors to address population and price changes;
  - (iii) include agreed-upon funding for:
    - (A) structures and the operation of MLFN Governments and MLFN Public Bodies; and
    - (B) programs and services;



- (iv) promote effective and efficient:
  - (A) structure and operation of MLFN Governments and MLFN Public Bodies; and
  - (B) provision of programs and services; and
- (g) establish a fair, timely and cost-efficient mechanism for resolving disputes arising from the ongoing government-to-government fiscal relationship between the Parties.

### **63.0 General Provisions**

#### **63.01 Responsibilities of the Parties**

- (1) The Parties acknowledge the importance of establishing financial arrangements between them in which the roles and responsibilities of the Parties are clear and are respectful of, and appropriate to, the relationships between them.
- (2) The Parties will undertake negotiations concerning their future roles and responsibilities with respect to the ongoing government-to-government fiscal relationship between them in accordance with Article 65.0.
- (3) In the negotiation of financial arrangements between the Parties in accordance with a Final Agreement:
  - (a) the Parties acknowledge that the ongoing government-to-government fiscal relationship between them will form part of a Final Agreement, which Final Agreement will be negotiated:
    - (i) within the context of and will respect Treaties Nos. 6, 8 and 10; and
    - (ii) within the context of and will respect and be appropriate to the special relationship between them; and

- (b) Canada acknowledges that:
  - (i) Canada is the primary source of funding for the operation of the MLFNs and the provision of MLFN programs and services to Members of the MLFNs on MLFN Lands under current arrangements; and
  - (ii) upon a Final Agreement coming into effect, Canada will have a continuing responsibility to provide funding to MLFN Governments in accordance with that Final Agreement.

63.02 Eligibility to access existing or new programs and benefits

- (1) Nothing in a Final Agreement, or the MLFN-FAA, will limit or affect the eligibility of a MLFN Government, or a MLFN Citizen, to access or derive additional financial resources or otherwise benefit from:
  - (a) federal, provincial or other programs and services for aboriginal people, registered Indians or other Indians; or
  - (b) federal, provincial or other programs and services of general application in accordance with the terms and conditions established for those programs and services from time to time.
- (2) Subsection (1) does not apply to programs, services or benefits for which funding is specifically provided in the MLFN-FAA.

63.03 No limits on other financial agreements

- (1) Nothing in a Final Agreement, or the MLFN-FAA, will limit the ability of a MLFN Government to maintain or enter into a separate financial arrangement with Canada, Saskatchewan or another government, whether a First Nation government or not, in respect of programs and services.
- (2) Subsection (1) does not apply to agreed-upon programs and services for which funding is specifically provided in the MLFN-FAA.

**63.04 Accountability requirements**

- (1) A MLFN Government will maintain a system of program and financial accountability that is comparable to standards generally accepted for governments and institutions of a similar size and scope in Canada.
- (2) Funding transferred by Canada to MLFN Governments in accordance with the financial arrangements between the Parties will be subject to the accountability requirements of the Parliament of Canada.

**63.05 No financial obligation created**

The recognition of the Jurisdiction of a MLFN in accordance with Part IV, or the exercise of Jurisdiction by that MLFN, does not create or imply any financial obligation for Canada.

**63.06 Respect for Parliamentary role and privileges**

- (1) Financial arrangements between the Parties will respect and not limit or prejudice any of the prerogatives of the Parliament of Canada.
- (2) The funding to be provided by Canada to MLFN Governments in accordance with financial arrangements between the Parties will be subject to the appropriation of funds by the Parliament of Canada.

**64.0 MLFN Financial Arrangements Agreement****64.01 Negotiation of the MLFN-FAA**

- (1) Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will negotiate with respect to and attempt to reach agreement on the MLFN-FAA by which, among other matters, funding will be provided to MLFN Governments.
- (2) Notwithstanding Section 74.01, the Parties will not seek approval of a Final Agreement until the negotiators for the Parties have agreed to the form and content of the MLFN-FAA.

64.02 MLFN-FAA to facilitate comparability

The MLFN-FAA, negotiated, reviewed and renewed in accordance with this Article, will, among other matters, provide funding to MLFN Governments to enable the provision of agreed-upon programs and services, including community infrastructure, to MLFN Citizens who are Ordinarily Resident on MLFN Lands and, where applicable, non-MLFN Citizens, at levels that are reasonably comparable to those generally prevailing in non-aboriginal communities of similar size in the Province of Saskatchewan, within an appropriate regional context.

64.03 Matters to be addressed in the MLFN-FAA

The MLFN-FAA will address, among other matters:

- (a) the determination and amounts of funding to be provided to MLFN Governments as agreed between the Parties for:
  - (i) structures and the operation of MLFN Governments and MLFN Public Bodies;
  - (ii) programs and services; and
  - (iii) actions and activities to be undertaken in accordance with the Intergovernmental Relations and Implementation Plan;
- (b) the terms and conditions in accordance with which the funding referred to in Paragraph (a) will be provided to MLFN Governments;
- (c) amendment of the MLFN-FAA to include additional programs and services to those programs and services referred to in Subparagraph (a)(ii);
- (d) payment of funds by Canada to MLFN Governments;
- (e) the manner in which the requirements of MLFN Governments for funding to respond to emergencies and extraordinary circumstances will be addressed by the Parties;
- (f) information sharing between the Parties;
- (g) without limiting Section 63.04 or Paragraph (b), program and financial accountability requirements;

- (h) without limiting Paragraph (b), the identification of what events constitute default by a Party and the remedies available to the other Party; and
- (i) such other matters as the Parties may agree.

#### 64.04 Factors to be taken into account

- (1) In the negotiation and the negotiation of the renewal of the MLFN-FAA, the Parties will take into account the factors set out in Subsection (3).
- (2) The factors set out in Subsection (3) will be taken into account by the Parties in the negotiation, and the negotiation of the renewal of, the MLFN-FAA in a fair and balanced way, and in a way which assures that no one factor will unduly influence those negotiations.
- (3) The factors to be taken into account in the negotiation, and the negotiation of the renewal, of the MLFN-FAA are:
  - (a) the costs necessary to establish and operate the structures of MLFN Government and MLFN Public Bodies;
  - (b) the extent of Jurisdiction that the MLFNs have exercised or intend to exercise in the period to be covered by the MLFN-FAA;
  - (c) the extent of Authority of a MLFN Government provided for in a Final Agreement or any agreement between the Parties or between a MLFN and Canada anticipated by a Final Agreement, that the MLFNs have exercised or intend to exercise in the period to be covered by the MLFN-FAA;
  - (d) any obligations of a MLFN Government in accordance with a Final Agreement, the MLFN-FAA or any other agreement between the Parties or between a MLFN and Canada referred to in or anticipated by the Final Agreement including any obligation to:
    - (i) meet federal or provincial standards in the exercise of Jurisdiction;
    - (ii) provide any program or service;
    - (iii) meet agreed-upon standards in the provision of any program and service; or

- (iv) meet any agreed-upon standard other than standards of the nature referred to in Subparagraphs (i) and (iii);
- (e) the desirability of reasonably stable, predictable and flexible financial arrangements between the Parties;
- (f) efficiency and effectiveness in:
  - (i) the structure and the operation of MLFN Governments and MLFN Public Bodies; and
  - (ii) the provision of programs and services;
- (g) the level, type and condition of public works and community infrastructure on MLFN Lands;
- (h) population changes in, and other demographic characteristics of, MLFN Citizens and other persons receiving programs and services from a MLFN Government;
- (i) the location and accessibility of MLFN Lands;
- (j) actions and activities to be undertaken in accordance with the Intergovernmental Relations and Implementation Plan;
- (k) other funding or support provided, directly or indirectly, to a MLFN Government by other governments;
- (l) the prevailing fiscal policies of Canada;
- (m) necessary training requirements for:
  - (i) the operation of MLFN Governments; and
  - (ii) the provision of programs and services by MLFN Governments on MLFN Lands;
- (n) any agreements reached as a result of negotiations undertaken by the Parties in accordance with the Final Agreement;

- (o) revenues and revenue capacity of MLFN Governments, other than revenues of the nature referred to in Paragraph (k), in accordance with, and to the extent provided for, in any agreement between the Parties; and
- (p) such other factors as the Parties may agree.

64.05 Starting point for negotiation of the MLFN-FAA

- (1) The amount of funding to be provided to MLFN Governments for the provision of agreed-upon programs and services provided for in the initial term of the MLFN-FAA will not be less than the amount of ongoing base funding that MLFN Governments received for those programs and services funded by Canada in the fiscal year immediately preceding the fiscal year in which the form and content of a Final Agreement is concluded by the negotiators for the Parties.
- (2) The amount of funding referred to in Subsection (1) will be subject to adjustments to take into account changes to the ongoing base funding between:
  - (a) the fiscal year immediately preceding the fiscal year in which the form and content of a Final Agreement is concluded by the negotiators for the Parties; and
  - (b) the fiscal year in which the Final Agreement comes into effect.

64.06 Funding to be transferred through flexible block transfer arrangements

- (1) Funding from Canada will be provided to MLFN Governments under the MLFN-FAA through a block transfer or through such other mechanisms as may be agreed to by the Parties.
- (2) MLFN Governments will have the discretion to allocate, re-allocate and manage funding provided in accordance with the MLFN-FAA within the block transfer referred to in Subsection (1), subject to any terms and conditions of a Final Agreement or the MLFN-FAA.

64.07 Objective to achieve consolidation of funding

The Parties share the objective of consolidating federal transfers to MLFN Governments through the MLFN-FAA, at an agreed-upon time.

64.08 Status of MLFN-FAA

- (1) The MLFN-FAA:
  - (a) will be attached to, but not form part of, a Final Agreement;
  - (b) will be a contract between the Parties;
  - (c) will not be a “treaty” and will not create treaty rights within the meaning of subsection 35(1) of the *Constitution Act, 1982*;
  - (d) will not abrogate or derogate from any aboriginal rights or treaty rights of a MLFN or the Members of a MLFN, recognized and affirmed by subsection 35(1) of the *Constitution Act, 1867*; and
  - (e) will not be used to interpret a Final Agreement.
- (2) In the event of an inconsistency between a Final Agreement and the MLFN-FAA, the Final Agreement will prevail to the extent of the inconsistency.

64.09 Duration

- (1) The MLFN-FAA will commence on the date a Final Agreement comes into effect.
- (2) The MLFN-FAA will have a duration of five years or such other period as the Parties may agree.

64.10 Review and renewal of MLFN-FAA

- (1) Unless the Parties otherwise agree, one year prior to the expiry of the MLFN-FAA, the Parties will undertake a review of the MLFN-FAA and enter into negotiations for the renewal of the MLFN-FAA.
- (2) The MLFN-FAA renewed in accordance with Subsection (1) will come into effect at such time as the Parties may agree.
- (3) A Final Agreement will provide understandings between the Parties that will govern in the event that the review and renewal of the MLFN-FAA is not concluded for any reason by the expiration of the MLFN-FAA.



**65.0 Negotiations prior to the conclusion of the form and content of a Final Agreement**65.01 Negotiations to be undertaken

- (1) Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will negotiate with respect to, and attempt to reach agreement on, the following matters:
  - (a) the desirability of, and possible approaches to, including in a Final Agreement the shared objectives of the Parties for the ongoing government-to-government fiscal relationship between them;
  - (b) the desirability of and possible approaches to setting priorities as between the factors set out in Subsection 64.04(3);
  - (c) the process for the review and renewal of the MLFN-FAA in accordance with Section 64.10;
  - (d) the review of mechanisms and approaches to ensure effective shared decision-making between the Parties with respect to the ongoing government-to-government fiscal relationship between them;
  - (e) the understandings between the Parties that will govern in the event the renewal of the MLFN-FAA is not concluded for any reason by the date the MLFN-FAA expires;
  - (f) the future roles and responsibilities of the Parties with respect to the ongoing government-to-government fiscal relationship between them;
  - (g) the identification of the departments of the Government of Canada which the Parties agree are, or should be, involved in the ongoing government-to-government fiscal relationship between them;
  - (h) a process to resolve disputes between the Parties arising out of the ongoing government-to-government fiscal relationship between them;

- (i) the identification of agreed-upon programs and services for the purposes of the MLFN-FAA;
  - (j) the approach and methodology, including the identification of the appropriate regional context, that will be used in measuring the reasonable comparability of programs and services, including community infrastructure, provided by MLFN Governments referred to in Section 64.02;
  - (k) the application of agreed-upon comparability measures determined in accordance with Paragraph (j) in determining the amount of funding to be provided to MLFN Governments in accordance with the MLFN-FAA;
  - (l) population, price and other adjustment factors;
  - (m) the ownership of capital assets on MLFN Lands which have been, are being or will be constructed with funding provided by or through Canada;
  - (n) capital funding mechanisms and associated planning requirements;
  - (o) the manner in which references to Treaties No. 6, 8 and 10, and to the special relationship between the Parties, as those references relate to the ongoing government-to-government fiscal relationship between the Parties, will be addressed; and
  - (p) such other issues as the Parties may agree.
- (2) Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will negotiate with respect to, and attempt to reach agreement on, the placement, as between that Final Agreement and the MLFN-FAA, of the matters arising from the outcome of the negotiations referred to in Subsection (1).

#### 65.02 Exploration of approaches to comparability

Concurrently with the negotiations on the matters referred to in Paragraph 65.01(1)(j), the Parties will explore and discuss approaches to comparability, including:

- (a) historical expenditures;
- (b) per capita expenditures;

- (c) access to programs and services; and
- (d) social and economic well-being.

65.03 Examination of future sharing arrangements

- (1) Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will explore and consider:
  - (a) the Jurisdiction of a MLFN in economic matters in accordance with the negotiations referred to in Subsection 29.01(2);
  - (b) the fiscal capacity of MLFN Governments to generate revenues;
  - (c) the status and treatment of any future revenues of a MLFN Government;
  - (d) the socio-economic situation and requirements of a MLFN and the MLFNs collectively; and
  - (e) such other matters as the Parties may agree.
- (2) The examination referred to in Subsection (1) will be undertaken:
  - (a) within the context of and will respect Treaties No. 6, 8 and 10;
  - (b) within the context of and will respect and build upon the special relationship between the Parties;
  - (c) recognizing that the MLFNs currently share, and intend to continue to share, the cost of MLFN Government; and
  - (d) recognizing the desirability that financial arrangements between them should reflect incentives and potential for a MLFN, individually and collectively with other MLFNs, to move towards economic and financial self-sufficiency and revenue generation.

**PART IX****INTERGOVERNMENTAL RELATIONS  
AND IMPLEMENTATION OF A FINAL AGREEMENT  
AND A TRIPARTITE FINAL AGREEMENT****66.0 Definitions**66.01 Defined words and phrases

In this Agreement:

**“Implementation of a Final Agreement and a Tripartite Final Agreement”** means the carrying out of those agreed-upon actions or activities to be undertaken to:

- (a) meet specific commitments set out in a Final Agreement or a Tripartite Final Agreement;
- (b) support the ongoing government-to-government relationships to be reflected in, and provided for by, a Final Agreement and a Tripartite Final Agreement; and
- (c) establish and develop MLFN Governments in the manner contemplated in a Final Agreement.

**67.0 Support to government-to-government relationship and Implementation of a Final Agreement and a Tripartite Final Agreement**67.01 Shared commitment of the Parties

The Parties acknowledge that the government-to-government relationship between them reflected in and provided for by a Final Agreement requires a shared commitment to, among other things, undertake those actions or activities to:

- (a) meet specific commitments set out in that Final Agreement;
- (b) support the ongoing government-to-government relationship between the Parties; and
- (c) establish and develop MLFN Governments in the manner contemplated in that Final Agreement.

**67.02 Joint mechanisms to be established**

The shared commitment of the Parties referred to in Section 67.01 will be reflected, among other ways, in:

- (a) the establishment of the Intergovernmental Relations and Implementation Support Committee, in accordance with Article 68.0;
- (b) the development and maintenance of the ongoing relationship between the Parties at the political level, in the manner contemplated by Article 69.0; and
- (c) the preparation of the Intergovernmental Relations and Implementation Plan, in accordance with Article 70.0.

**67.03 Parties may establish own internal mechanisms and processes**

In addition to the joint mechanisms referred to in Section 67.02, each Party may, in its discretion, establish such internal mechanisms and processes as it feels necessary or appropriate to ensure the shared commitment of the Parties referred to in Section 67.01 is achieved.

**67.04 Parties to discuss co-ordination requirements**

- (1) The MLFNs/MLTC acknowledge in principle the importance of appropriate coordination in key areas of governance such as intergovernmental relations, fiscal relationship, implementation processes and dispute resolution.
- (2) The MLFNs/MLTC will consider further the requirements for co-ordination of the nature referred to in Subsection (1) in the context of the development and finalization of the MLFN Constitutions and MLTC Constitution.
- (3) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will discuss and attempt to reach agreement on the requirements for co-ordination of the nature referred to in Subsection (1) as they relate to the government-to-government relationship between the Parties.

**67.05 Role of Saskatchewan in implementation**

It is anticipated that a Tripartite Final Agreement will provide:

- (a) that Saskatchewan will participate with the Parties:
  - (i) on the IRIS Committee, including appointing a representative to the IRIS Committee, in accordance with Article 68.0; and
  - (ii) in the preparation of the Intergovernmental Relations and Implementation Plan in accordance with Article 70.0; and
- (b) for the practical ways of assuring that mechanisms and processes are in place to develop and maintain the ongoing relationship at the political level between the MLFNs/MLTC and Saskatchewan, following that Tripartite Final Agreement coming into effect.

**68.0 Intergovernmental Relations and Implementation Support Committee****68.01 Commitment to establish Intergovernmental Relations and Implementation Support Committee**

- (1) A Final Agreement will provide for the establishment of the Intergovernmental Relations and Implementation Support Committee.
- (2) The IRIS Committee will:
  - (a) support the ongoing government-to-government relationships to be reflected in, and provided for by, a Final Agreement and a Tripartite Final Agreement;
  - (b) monitor and support the actions and activities identified in the Intergovernmental Relations and Implementation Plan;
  - (c) undertake any action or activity identified in a Final Agreement and the Intergovernmental Relations and Implementation Plan that is appropriate to be performed by the IRIS Committee; and
  - (d) perform other intergovernmental relations activities identified in a Final Agreement, a Tripartite Final Agreement or as may be agreed to.

- (3) A Final Agreement will provide for:
- (a) the time frame for the establishment of the IRIS Committee;
  - (b) the duration of the IRIS Committee;
  - (c) the composition of, and participation in, the IRIS Committee;
  - (d) without limiting Subsection (2), the mandate, responsibilities and authority of the IRIS Committee, including:
    - (i) the responsibility of the IRIS Committee to undertake reviews of the progress of Implementation of a Final Agreement and a Tripartite Final Agreement in accordance with Subsection 70.06(1);
    - (ii) the responsibility of the IRIS Committee to undertake reviews and, where the IRIS Committee determines appropriate, make adjustments to or recommendations to the Parties for amendment of the Intergovernmental Relations and Implementation Plan in accordance with Subsection 70.06(5); and
    - (iii) the role of the IRIS Committee in the resolution of disputes;
  - (e) the procedures to be followed by the IRIS Committee, including the reporting obligations of the IRIS Committee and the ability of the IRIS Committee to establish its own procedures; and
  - (f) such other matters as may be agreed.

#### 68.02 Costs of the Intergovernmental Relations and Implementation Support Committee

Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will negotiate with respect to, and attempt to reach agreement on, the manner in which:

- (a) the costs incurred by the representatives of the Parties in participating on the IRIS Committee; and
- (b) any other agreed-upon costs relating to the operation and responsibilities of the IRIS Committee

will be addressed.

**69.0 Ongoing relationship at the political level**69.01 Discussions to be undertaken

- (1) The Parties recognize that the government-to-government relationship between them to be reflected in and provided for by a Final Agreement entails an ongoing relationship at the political level.
- (2) Prior to the form and content of a Final Agreement being concluded by the negotiators for the Parties, the Parties will discuss practical ways of assuring that mechanisms and processes are in place to develop and maintain that ongoing relationship at the political level following that Final Agreement coming into effect.
- (3) The mechanisms and processes contemplated in Subsection (2) will not create legal obligations between the Parties.

**70.0 Intergovernmental Relations and Implementation Plan**70.01 Intergovernmental Relations and Implementation Plan to be in place

Notwithstanding Section 74.01, the Parties will not seek approval of a Final Agreement until the form and content of the Intergovernmental Relations and Implementation Plan has been agreed to.

70.02 Matters to be addressed in Intergovernmental Relations and Implementation Plan

- (1) The Intergovernmental Relations and Implementation Plan will set out:
  - (a) those agreed-upon actions or activities to be undertaken to:
    - (i) meet specific commitments set out in a Final Agreement and a Tripartite Final Agreement;
    - (ii) support the ongoing government-to-government relationship to be reflected in, and provided for by, a Final Agreement and a Tripartite Final Agreement; and
    - (iii) establish and develop MLFN Governments in the manner contemplated in a Final Agreement;



- (b) who is responsible for each action or activity referred to in Paragraph (a);
  - (c) the roles and responsibilities to be assumed by MLFN Governments and departments of the Government of Canada which the Parties agree are, or should be, directly involved in the Implementation of a Final Agreement and a Tripartite Final Agreement;
  - (d) the identification of those actions and activities required for the effective and timely Implementation of a Final Agreement and a Tripartite Final Agreement which are:
    - (i) of an ongoing or continuing nature; or
    - (ii) singular in nature and to be carried out within a prescribed period of time; and
  - (e) the period of time within which those actions or activities of the nature referred to in Subparagraph (d)(ii) are to be carried out.
- (2) Without limiting Subsection (1), the Intergovernmental Relations and Implementation Plan will set out actions and activities, who is responsible for carrying out those actions and activities, and the period of time within which those actions and activities will be carried out in relation to:
- (a) human resource training, including the completion of a training needs assessment and the development and implementation of a plan to address training needs required for the Implementation of a Final Agreement and a Tripartite Final Agreement;
  - (b) where a Final Agreement provides a commitment to further negotiations upon that Final Agreement coming into effect and that Final Agreement does not otherwise provide, the implementation of that commitment including details relating to the agenda, time frame, process and financial support requirements with respect to those further negotiations;
  - (c) the development by MLFN Governments of initial bodies of MLFN Laws and procedures of government, to support the establishment and operation of MLFN Government and the establishment of the public registry of all MLFN Laws in accordance with Paragraph 41.01(a);

- (d) a joint communication strategy to enhance the awareness of MLFN Citizens, members of other First Nations and the general public of a Final Agreement;
- (e) the process for the review, adjustment and amendment of the Intergovernmental Relations and Implementation Plan contemplated in Section 70.06;
- (f) the implementation and management of the processes provided for in a Final Agreement to resolve disputes; and
- (g) such other matters as may be agreed.

#### 70.03 Status of Intergovernmental Relations and Implementation Plan

- (1) The Intergovernmental Relations and Implementation Plan:
  - (a) will be taken into account in the negotiation of the MLFN Financial Arrangements Agreement in the manner contemplated in Subparagraph 64.04(3)(j);
  - (b) will be attached to, but not form part of, a Final Agreement;
  - (c) will not be a contract between the Parties, except as otherwise agreed to by the Parties;
  - (d) will not be a “treaty” and will not create treaty rights within the meaning of subsection 35(1) of the *Constitution Act, 1982*;
  - (e) will not abrogate or derogate from any aboriginal rights or treaty rights of a MLFN or the Members of a MLFN, recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*; and
  - (f) will not be used to limit or interpret the provisions of a Final Agreement or a Tripartite Final Agreement.
- (2) In the event of an inconsistency between a Final Agreement or a Tripartite Final Agreement and the Intergovernmental Relations and Implementation Plan, the Final Agreement or the Tripartite Final Agreement will prevail to the extent of the inconsistency.

70.04 Duration of Intergovernmental Relations and Implementation Plan

The Intergovernmental Relations and Implementation Plan will commence on the date a Final Agreement comes into effect and continue until such time as may be agreed otherwise.

70.05 Understandings regarding the continuation of the intergovernmental relationship

If it is agreed, in accordance with Section 70.04, that the Intergovernmental Relations and Implementation Plan should no longer continue, the ongoing government-to-government relationships to be reflected in, and provided for by, a Final Agreement and a Tripartite Final Agreement, including the ongoing relationship at the political level referred to in Subsection 69.01(1) and anticipated to be referred to in a Tripartite Final Agreement, will continue.

70.06 Review, adjustment and amendment of the Intergovernmental Relations and Implementation Plan

- (1) The IRIS Committee will, from time to time, undertake reviews in accordance with Subsections (2) to (4) inclusive.
- (2) Each review undertaken by the IRIS Committee will:
  - (a) assess and support those actions or activities to be undertaken to:
    - (i) meet specific commitments set out in a Final Agreement and a Tripartite Final Agreement;
    - (ii) support the ongoing government-to-government relationships to be reflected in, and provided for by, a Final Agreement and a Tripartite Final Agreement; and
    - (iii) establish and develop MLFN Governments in the manner contemplated in a Final Agreement; and
  - (b) consider whether changes are necessary to support the Implementation of a Final Agreement and a Tripartite Final Agreement.
- (3) The IRIS Committee will undertake a review of the nature referred to in Subsection (2) from time to time when it considers it advisable, but in any event, not less than once every five years.

- (4) The IRIS Committee may, in undertaking a review of the nature referred to in Subsection (2), determine the terms of reference of that review and may, in its discretion, retain independent experts or facilitators to assist it in undertaking that review.
- (5) In addition to, or as a result of a review of, the nature referred to in Subsection (2), the IRIS Committee may:
  - (a) make recommendations to:
    - (i) add an action or activity to the Intergovernmental Relations and Implementation Plan for the timely and effective Implementation of a Final Agreement and a Tripartite Final Agreement; or
    - (ii) delete an action or activity from the Intergovernmental Relations and Implementation Plan as not being necessary for the timely and effective Implementation of a Final Agreement and a Tripartite Final Agreement

whether that action or activity is of an ongoing or continuing nature or is singular in nature and to be carried out within a prescribed period of time;
  - (b) make recommendations, other than recommendations of the nature referred to in Paragraph (a), that will assist in the timely and effective Implementation of a Final Agreement and a Tripartite Final Agreement; and
  - (c) make adjustments to the Intergovernmental Relations and Implementation Plan where that adjustment does not result in addition or deletion of an action or activity.
- (6) Where the IRIS Committee makes a recommendation in accordance with Paragraph (5)(a) and it is agreed that an action or activity should be added to or deleted from the Intergovernmental Relations and Implementation Plan, the Intergovernmental Relations and Implementation Plan will be amended accordingly.
- (7) A Final Agreement will provide for the process by which a review of the nature referred to in Subsection (2) or an adjustment or an amendment of the Intergovernmental Relations and Implementation Plan will be effected.

70.07 Resolution of disputes

Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will, in the negotiations referred to in Subsection 72.01(1), negotiate with respect to, and attempt to reach agreement on, the manner in which a dispute will be resolved in the event a dispute arises between them from the Implementation of a Final Agreement and a Tripartite Final Agreement, including a dispute as to:

- (a) the interpretation of the Intergovernmental Relations and Implementation Plan; or
- (b) whether an action or activity should be added to or deleted from the Intergovernmental Relations and Implementation Plan in accordance with Subsection 70.06(6).

70.08 Funding by Canada for agreed-upon costs

- (1) Funding by Canada for agreed-upon costs anticipated to be incurred by the MLFNs and MLTC in carrying out the Implementation of a Final Agreement and a Tripartite Final Agreement, as reflected in the Intergovernmental Relations and Implementation Plan, will be provided in accordance with the MLFN-FAA.
- (2) Where the Intergovernmental Relations and Implementation Plan is adjusted or amended in accordance with Paragraph 70.06(5)(c) or Subsection 70.06(6), the Parties acknowledge that the funding provided to MLFN Governments in accordance with the MLFN-FAA may have to be adjusted accordingly.

**PART X****DISPUTE RESOLUTION****71.0 Fundamental principles****71.01 Best efforts to be made by the Parties**

- (1) Each Party will, in good faith, use its best efforts to prevent or, alternatively, minimize disputes with the other Party.
- (2) Where a dispute arises between the Parties, the Parties will use their best efforts to resolve that dispute in:
  - (a) an expeditious and cost effective manner; and
  - (b) a non-adversarial, collaborative and informal atmosphere.

**72.0 Dispute Resolution Process****72.01 Negotiations to be undertaken**

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on:
  - (a) various methods by which a dispute between the Parties might be resolved;
  - (b) without limiting Paragraph (a), the role of the Intergovernmental Relations and Implementation Support Committee in the resolution of a dispute between the Parties;
  - (c) the procedures that will be followed in resolving a dispute between the Parties by means of a method of the nature referred to in Paragraph (a);

- (d) the use of judicial proceedings where there is a dispute between the Parties, including the ability of a Party to:
    - (i) commence judicial proceedings in respect of a dispute between the Parties to which this Part applies;
    - (ii) use judicial proceedings to prevent the loss of a right to commence proceedings due to the expiration of a limitation period or to obtain interlocutory or interim relief pending resolution of the dispute in accordance with the provisions of a Final Agreement contemplated in this Part; and
    - (iii) seek relief before or during arbitration proceedings and to appeal an award made as a result of an arbitration, where arbitration is an agreed-upon method for resolving a dispute between the Parties in accordance with the outcome of the negotiations between the Parties and Saskatchewan on the matters referred to in Paragraph (a);
  - (e) the manner in which:
    - (i) the costs of resolving a dispute between the Parties in accordance with the provisions of a Final Agreement contemplated in this Part; and
    - (ii) the costs incurred by a Party in participating in resolving a dispute between the Partieswill be borne; and
  - (f) such other matters as the Parties may agree.
- (2) The negotiations referred to in Subsection (1) will address the manner in which a dispute between the Parties with respect to:
- (a) the interpretation of a Final Agreement;

- (b) whether a particular event of the nature referred to in Paragraph 14.02(1)(a) or 14.02(1)(b) may reasonably be interpreted as affecting the government-to-government relationship referred to in Section 14.01 in a substantial and material way;
  - (c) the negotiations referred to in Subsection 14.02(5);
  - (d) the Implementation of a Final Agreement and a Tripartite Final Agreement, including:
    - (i) the interpretation of the Intergovernmental Relations and Implementation Plan; and
    - (ii) whether a course of action or activity should be added to or deleted from the Intergovernmental Relations and Implementation Plan in accordance with Subsection 70.06(6);
  - (e) the ongoing government-to-government fiscal relationship between them;
  - (f) the interpretation of the MLFN Financial Arrangements Agreement; and
  - (g) such other disputes as the Parties may identify
- will be resolved.
- (3) The negotiations referred to in Subsection (1) will further address the procedure to be followed where, in any judicial or administrative proceeding, an issue arises in respect of:
    - (a) the interpretation or validity of a Final Agreement;
    - (b) the validity, or applicability, of a MLFN Law; or
    - (c) the validity, or applicability, of the legislation, or any other legal measures, referred to in Subsection 76.01(1).



72.02 General framework for dispute resolution

- (1) The Parties desire and expect that most disputes between them will be resolved by informal discussions between them.
- (2) Except as otherwise provided, and subject to the outcome of the negotiations on the matters referred to in Subsection 72.01(1), the Parties intend that disputes between them not resolved by the Parties informally will proceed, until resolved, through the following stages:
  - (a) collaborative, unassisted efforts;
  - (b) consensual resolution through a process facilitated by an independent third party; and
  - (c) adjudication in arbitration proceedings.
- (3) Subject to the outcome of the negotiations on the matters referred to in Subsection 72.01(1), the Parties intend that the resolution of a dispute between them will be a progressive process.
- (4) Notwithstanding Subsections (2) and (3), but subject to the outcome of the negotiations on the matters referred to in Subsection 72.01(1), where a dispute arises between the Parties which cannot be resolved informally by them, the Parties intend that, where they agree, they will be able to refer the dispute:
  - (a) directly to a specific method of dispute resolution to be provided for in a Final Agreement; or
  - (b) to a method of dispute resolution other than a method of dispute resolution of the nature referred to in Paragraph (a), including to a court of competent jurisdiction

in order to resolve that dispute in an expeditious and cost effective manner.

72.03 Disputes involving Saskatchewan

- (1) It is anticipated that a Tripartite Final Agreement will provide that a dispute among the MLFNs/MLTC, Canada and Saskatchewan, or between a Party and Saskatchewan, with respect to the interpretation or implementation of a Tripartite Final Agreement will be resolved in accordance with the dispute resolution process to be provided for in a Final Agreement.
- (2) It is further anticipated that a Tripartite Final Agreement will provide that where, in any judicial or administrative proceeding, an issue arises in respect of:
  - (a) the interpretation or validity of that Tripartite Final Agreement; or
  - (b) the validity or applicability of any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties and Saskatchewan agree is necessary or desirable, or a court of competent jurisdiction determines is required, to give legal effect to a Final Agreement as contemplated in Section 76.04

the Parties and Saskatchewan will proceed in accordance with the procedures determined in accordance with Subsection 72.01(3), with necessary modifications.

**PART XI****LIABILITY AND INDEMNIFICATION****73.0 Liability and indemnification**73.01 No release

- (1) No release is provided by any Party to the other Party, or any person or entity acting on behalf of the other Party, from any claims, liability or demands that may arise from the acts, omissions or negligence of that other Party or any person or entity acting on behalf of that other Party either before or after a Final Agreement comes into effect.
- (2) Without limiting Subsection (1), a Final Agreement will not release one Party from a legal obligation owed to the other Party that existed prior to that Final Agreement coming into effect, except to the extent expressly provided for in that Final Agreement, the MLFN Financial Arrangements Agreement or the Intergovernmental Relations and Implementation Plan.
- (3) Without limiting Subsection (1):
  - (a) the transfer of title in MLFN Lands from Canada to a MLFN, following a request by that MLFN in accordance with Subsection 46.03(1);
  - (b) any exercise of Jurisdiction by a MLFN Government in accordance with Section 48.01; or
  - (c) the transfer or assignment by Canada to a MLFN of the rights and responsibilities of Canada in any Interest in MLFN Lands in respect of which Canada was the grantor in accordance with Subsection 51.02(4)

will not constitute or be interpreted as constituting a release in favour of Canada by that MLFN for any wrongful or negligent act or any omission on the part of Canada in relation to the discharge of its responsibilities for MLFN Lands provided for in the *Indian Act*, or breach of any legally applicable duty of care or obligation in respect of MLFN Lands, prior to that event occurring.

- (4) Without limiting Subsection (1), a Final Agreement will not prejudice any claims or grievances a MLFN or MLTC may have against Canada as of the date a Final Agreement comes into effect.
- (5) Nothing in Subsection (4) constitutes an admission by Canada of the validity of any claims or grievances a MLFN or MLTC may have as of the date a Final Agreement comes into effect.

73.02 No assumption of liability of one Party for acts of the other Party

- (1) Nothing in a Final Agreement will be construed to the effect that one Party has assumed or will assume any liability for any acts, omissions or negligence of the other Party or any person or entity acting on behalf of the other Party.
- (2) Without limiting Subsection (1), a MLFN Government will not be liable for:
  - (a) any actions of Canada or any person or entity acting on behalf of Canada;
  - (b) any failure on the part of Canada or any person or entity acting on behalf of Canada to comply with applicable laws;
  - (c) any failure on the part of Canada or any person or entity acting on behalf of Canada to make any necessary remittances or deductions;
  - (d) any injury, including death, to persons, damage or loss to property or infringement of rights caused by, or related to the exercise of jurisdiction or Authority by Canada, or any person or entity acting on behalf of Canada or for the breach of a Final Agreement, the MLFN Financial Arrangements Agreement or the Intergovernmental Relations and Implementation Plan by Canada or any person or entity acting on behalf of Canada;
  - (e) any omission or wrongful act of Canada or any person or entity acting on behalf of Canada;
  - (f) any claims, demands, actions and costs whatsoever that may arise directly or indirectly out of any omission or wrongful or negligent act of Canada or any person or entity acting on behalf of Canada in the exercise of jurisdiction or Authority; or

- (g) the failure or partial failure of Canada or any person or entity acting on behalf of Canada to fulfil an obligation of Canada under a Final Agreement, the MLFN Financial Arrangements Agreement or the Intergovernmental Relations and Implementation Plan.
- (3) Without limiting Subsection (1), Canada will not be liable for:
- (a) any actions of a MLFN Government or any person or entity acting on behalf of a MLFN Government;
  - (b) any failure on the part of a MLFN Government or any person or entity acting on behalf of a MLFN Government to comply with applicable laws;
  - (c) any failure on the part of a MLFN Government or any person or entity acting on behalf of a MLFN Government to make any necessary remittances or deductions;
  - (d) any injury, including death, to person, damage or loss to property or infringement of rights caused by, or related to the exercise of Jurisdiction or Authority by a MLFN Government, or any person or entity acting on behalf of a MLFN Government or for the breach of a Final Agreement, the MLFN Financial Arrangements Agreement or the Intergovernmental Relations and Implementation Plan by a MLFN Government or any person or entity acting on behalf of a MLFN Government;
  - (e) any omission or wrongful act of a MLFN Government or any person or entity acting on behalf of a MLFN Government;
  - (f) any claims, demands, actions, and costs whatsoever that may arise directly or indirectly out of any omission or wrongful or negligent act of a MLFN Government or any person or entity acting on behalf of a MLFN Government in the exercise of Jurisdiction or Authority; or
  - (g) the failure or partial failure of a MLFN Government or any person or entity acting on behalf of a MLFN Government to fulfil an obligation of a MLFN Government under a Final Agreement, the MLFN Financial Arrangements Agreement or the Intergovernmental Relations and Implementation Plan.

- (4) For the purposes of Subsection (1) through (3) inclusive:
- (a) a reference to “Canada” includes any elected official or employee of Canada;
  - (b) a reference to “a MLFN Government” includes any elected official or employee of that MLFN Government; and
  - (c) a reference to an “entity” includes any body, institution or government and any elected official or employee of any body, institution or government.

73.03 No agency

Nothing in this Agreement or a Final Agreement will constitute one Party the agent of another.

73.04 Indemnification

- (1) Canada will save harmless and fully indemnify a MLFN Government, its officers, employees and agents from and against all claims, liabilities, and demands arising directly or indirectly:
- (a) from an omission or wrongful or negligent act of the nature referred to in Subsection 73.02(2);
  - (b) from a failure of Canada to disclose information in the possession of Canada that materially affects the outcome of the environmental survey referred to in Section 45.01 where, as a result of that failure, a MLFN incurs a loss or is held liable to a third party;
  - (c) from a failure of Canada to disclose information in the possession of Canada that materially affects the administration of an Interest in MLFN Lands where, as a result of that failure, a MLFN incurs a loss or is held liable to a third party; or

- (d) following the transfer or assignment by Canada to a MLFN of the rights and responsibilities of Canada in an Interest in MLFN Lands in respect of which Canada was the grantor in accordance with Subsection 51.02(4), that a MLFN is held liable in respect of to the holder of that Interest as a result of an act on the part of Canada for which Canada is responsible to the holder of that Interest at law and which occurred prior to that transfer or assignment.
- (2) A MLFN will save harmless and fully indemnify Canada, its officers, employees and agents from and against all claims, liabilities, and demands arising directly or indirectly from an omission or wrongful or negligent act of the nature referred to in Subsection 73.02(3).

73.05 Further review and consideration

Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will review and consider further the provisions of this Article having regard to:

- (a) the other provisions of a Final Agreement, once the Parties, or the Parties and Saskatchewan, have reached agreement; and
- (b) the provisions of a Tripartite Final Agreement, once the Parties and Saskatchewan have reached agreement.

**PART XII****APPROVAL, COMING INTO EFFECT AND AMENDMENT OF FINAL AGREEMENT****74.0 Approval of Final Agreement and Tripartite Final Agreement****74.01 When approval to be sought**

Subject to Subsection 64.01(2) and Section 70.01, upon the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will each seek approval of that Final Agreement in accordance with Sections 74.02 to 74.04 inclusive.

**74.02 Approval by MLFN Citizens**

- (1) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will determine the Approval Procedure.
- (2) A MLFN will, within an agreed-upon period from the date the form and content of a Final Agreement and a Tripartite Final Agreement are concluded by the negotiators for the Parties and Saskatchewan, initiate the Approval Procedure.
- (3) During the course of carrying out the Approval Procedure, each MLFN will be responsible for ensuring that MLFN Citizens are provided with a full explanation of a Final Agreement, and any other related documents that may be agreed to by the Parties, including the MLFN Constitution, prior to voting on the ballot question set out in the Approval Procedure.
- (4) The MLFN Citizens will have approved a Final Agreement, and any other related documents that may be agreed to by the Parties, including the MLFN Constitution, in accordance with the Approval Procedure, in the event the question asked on the ballot question, as provided for in the Approval Procedure, has been answered in the affirmative by an agreed-upon number of the MLFN Citizens eligible to vote, as determined by that Approval Procedure.



- (5) Upon the MLFN Citizens approving a Final Agreement, and the other related documents referred to in Subsection (4), in accordance with the Approval Procedure, the Council of that MLFN will pass a resolution evidencing that approval of that Final Agreement.
- (6) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties will negotiate with respect to, and attempt to reach agreement on, the manner in which the Parties will proceed in the event:
  - (a) a MLFN does not initiate the Approval Procedure in accordance with Subsection (2);
  - (b) a MLFN initiates the Approval Procedure in accordance with Subsection (2) but does not complete that Approval Procedure within any agreed-upon period of time provided for; or
  - (c) the MLFN Citizens of one or more of the MLFNs do not approve a Final Agreement and the other related documents referred to in Subsection (4), in accordance with the Approval Procedure.
- (7) For the purposes of Section 74.03 and Paragraphs 74.04(1)(a) and 75.01(1)(a), the MLFNs will be deemed to have approved a Final Agreement, and the other related documents agreed to by the Parties referred to in Subsection (4):
  - (a) when the Council of each MLFN has passed a resolution of the nature referred to in Subsection (5); or
  - (b) in circumstances to which Paragraph (a) does not apply, in accordance with the outcome of the negotiations referred to in Subsection (6).

#### 74.03 Approval by MLTC

- (1) MLTC will, within an agreed-upon period of time following the MLFNs approving a Final Agreement in accordance with Subsection 74.02(7), place before its Executive, at a duly called and properly constituted meeting, a resolution approving a Final Agreement and any other related documents that may be agreed to by the Parties, including the MLTC Constitution.

- (2) MLTC will have approved a Final Agreement and the other related documents referred to in Subsection (1) in the event the resolution referred to in that Subsection is properly passed.

#### 74.04 Approval by Canada

- (1) Canada will seek authority from Cabinet to execute a Final Agreement upon the last of the following events occurring:
  - (a) the MLFNs have approved the Final Agreement, and the other related documents referred to in Subsection 74.02(4), in accordance with Subsection 74.02(7); and
  - (b) MLTC has approved the Final Agreement, and the other related documents referred to in Subsection 74.03(1) in accordance with Subsection 74.03(2).
- (2) Canada will have approved a Final Agreement in the event the Cabinet authority referred to in Subsection (1) is received.

#### 74.05 Costs of approval

Canada will bear the costs incurred by the MLFNs and MLTC in seeking approval of the Final Agreement and the other related documents that may be agreed to by the Parties referred to in Subsections 74.02(4) and 74.03(1), in an amount to be agreed to by the Parties prior to the form and content of a Final Agreement and Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan.

#### 74.06 Approval of a Tripartite Final Agreement

It is anticipated that:

- (a) each Party will seek approval of a Tripartite Final Agreement at the same time that Party seeks approval of a Final Agreement;
- (b) Sections 74.02 to 74.05 inclusive will apply to the approval of a Tripartite Final Agreement by each MLFN, MLTC and Canada, as appropriate, with the necessary modifications; and

- (c) prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, Saskatchewan will advise the Parties as to the manner in which Saskatchewan will seek approval of a Final Agreement and a Tripartite Final Agreement.

## **75.0 Execution of Final Agreement and Tripartite Final Agreement**

### **75.01 When Final Agreement will be executed**

- (1) A Final Agreement will be executed when all of the following have been completed:
  - (a) the MLFNs have approved the Final Agreement, the Tripartite Final Agreement, and the other related documents referred to in Subsection 74.02(4);
  - (b) MLTC has approved the Final Agreement, the Tripartite Final Agreement and the other related documents referred to in Subsection 74.03(1);
  - (c) each MLFN has provided to Canada a copy of a resolution authorizing the Council of the MLFN to execute:
    - (i) the Final Agreement;
    - (ii) the Tripartite Final Agreement;
    - (iii) the MLFN-FAA; and
    - (iv) such further or other documents as may be necessary from time to time to implement a Final Agreement

certified by the Chief of the MLFN as having been properly passed at a duly constituted meeting;

- (d) MLTC has provided to Canada a copy of a resolution authorizing the Executive of MLTC to execute:
    - (i) the Final Agreement;
    - (ii) the Tripartite Final Agreement;
    - (iii) the MLFN-FAA; and
    - (iv) such further or other documents as may be necessary from time to time to implement a Final Agreement

certified by the Tribal Chief of MLTC as having been properly passed at a duly constituted meeting;
  - (e) the MLFNs/MLTC have provided to Canada confirmation in an agreed-upon form that the MLFNs/MLTC have received legal advice on the Final Agreement, the Tripartite Final Agreement, the MLFN Constitutions, the MLTC Constitution, the MLFN-FAA and the Intergovernmental Relations and Implementation Plan from a lawyer entitled to practise law in a province or territory in Canada;
  - (f) Canada has approved the Final Agreement and the Tripartite Final Agreement;
  - (g) Saskatchewan has approved the Final Agreement and the Tripartite Final Agreement;
  - (h) the Parties have executed the MLFN-FAA; and
  - (i) the Parties and Saskatchewan have approved the Intergovernmental Relations and Implementation Plan.
- (2) The negotiations referred to in Subsection 74.02(6) may affect the completion of the requirements set out in Subsection (1), other than the requirements set out in Paragraphs (1)(f) and (1)(g).

**75.02 When Tripartite Final Agreement to be executed**

It is anticipated that a Tripartite Final Agreement will be executed at the same time as a Final Agreement.

**76.0 Legal measures to give legal effect to Final Agreement****76.01 Legal measures to be recommended by Canada**

- (1) It is anticipated that Canada will recommend legislation to the Parliament of Canada, and undertake any other legal measures, necessary to give legal effect to a Final Agreement.
- (2) The legislation referred to in Subsection (1) will provide that:
  - (a) where there is any doubt as to the meaning of that legislation, the Final Agreement may be examined as an aid in interpretation; and
  - (b) in the event of an Inconsistency or Conflict between that legislation and any federal, provincial or MLFN law, the legislation will prevail to the extent of the Inconsistency or Conflict.
- (3) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will explore and consider the legislation, or other legal measures, that may be required by Canada to ensure that a Final Agreement is legally effective.

**76.02 Requirement to consult and involve MLFNs/MLTC and Saskatchewan during drafting of legislation**

- (1) Canada will consult and involve the MLFNs/MLTC and Saskatchewan during the drafting of the legislation referred to in Subsection 76.01(1) in accordance with Subsections (2) and (3) prior to the legislation being tabled in the Parliament of Canada.
- (2) The consultation and involvement of the MLFNs/MLTC and Saskatchewan referred to in Subsection (1) during the drafting of the legislation referred to in Subsection 76.01(1) will include:
  - (a) ensuring the MLFNs/MLTC and Saskatchewan have a reasonable period of time to consult on drafts of that legislation;

- (b) ensuring the MLFNs/MLTC and Saskatchewan have a reasonable period of time to prepare comments about drafts of that legislation and present those comments to Canada; and
  - (c) giving any comments presented by the MLFNs/MLTC or Saskatchewan about drafts of that legislation full and fair consideration.
- (3) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will negotiate with respect to, and attempt to reach agreement on, guidelines for the consultation by Canada with, and the involvement of, the MLFNs/MLTC and Saskatchewan during the drafting of the legislation referred to in Subsection 76.01(1).
- (4) Canada will advise, consult and involve the MLFNs/MLTC and Saskatchewan with respect to any legal measures, other than the legislation referred to in Subsection 76.01(1), that Canada intends to undertake to ensure a Final Agreement is legally effective in accordance with that Subsection.

#### 76.03 Future amendments of legislation

- (1) Once the legislation referred to in Subsection 76.01(1), is enacted by the Parliament of Canada and proclaimed in force, Canada will not recommend any amendment to that legislation unless and until Canada has consulted with, and involved the MLFNs/MLTC and Saskatchewan, during the drafting of that amendment in accordance with Section 76.02, with necessary modifications.
- (2) Where Canada has undertaken any legal measures, other than the enactment of the legislation referred to in Subsection 76.01(1), to ensure a Final Agreement is legally effective, Canada will advise, consult and involve the MLFNs/MLTC and Saskatchewan in the event Canada intends to amend, replace or repeal any of those other legal measures.

#### 76.04 Legal measures to be recommended by Saskatchewan

- (1) It is anticipated that a Tripartite Final Agreement will provide that Saskatchewan will recommend legislation to the Legislative Assembly of Saskatchewan, and undertake any other legal measures, necessary to give legal effect to a Final Agreement, where either:

- (a) the Parties and Saskatchewan agree that legislation or other legal measures are necessary or desirable for that purpose; or
  - (b) a court of competent jurisdiction determines that a Final Agreement, or any provision of that Final Agreement, is not legally effective as a result of legislation or other legal measures that are or were required by Saskatchewan.
- (2) Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties and Saskatchewan, the Parties and Saskatchewan will explore and consider the legislation or other legal measures that may be required by Saskatchewan to ensure that a Final Agreement is legally effective.
- (3) It is anticipated that a Tripartite Final Agreement will provide that Section 76.02 will apply, with necessary modifications, with respect to the consultation by Saskatchewan with, and involvement of, the MLFNs/MLTC and Canada during the drafting of any legislation of the Legislative Assembly of Saskatchewan that the Parties and Saskatchewan agree is necessary or desirable, or a court of competent jurisdiction determines is required, to give legal effect to a Final Agreement.
- (4) It is further anticipated that, where the Parties and Saskatchewan agree that it is necessary or desirable that Saskatchewan undertake any legal measures, other than the enactment of legislation by the Legislative Assembly of Saskatchewan, or a court of competent jurisdiction determines that those other legal measures are required, to give legal effect to a Final Agreement, a Tripartite Final Agreement will provide that Saskatchewan will advise, consult and involve the MLFNs/MLTC and Canada when Saskatchewan intends to undertake those other legal measures.

## **77.0 Coming into effect of a Final Agreement and Tripartite Final Agreement**

### **77.01 When Final Agreement comes into effect**

A Final Agreement will come into effect on the date the last of:

- (a) the legislation anticipated to be enacted by the Parliament of Canada, or any other legal measures to be undertaken by Canada, to give legal effect to that Final Agreement, as contemplated in Section 76.01 has come into force; and

- (b) any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties and Saskatchewan agree is necessary or desirable to give effect to a Final Agreement, as contemplated in Section 76.04 has come into force.

77.02 When Tripartite Final Agreement comes into effect

It is anticipated that a Tripartite Final Agreement will come into effect at the same time as a Final Agreement comes into effect.

**78.0 Amendment of Final Agreement**

78.01 Final Agreement to provide for amendment

A Final Agreement will provide for:

- (a) the process by which a proposed amendment to that Final Agreement will be approved by the Parties and Saskatchewan, and executed by the Parties;
- (b) the manner in which the Parties and Saskatchewan will proceed to ensure that an amendment of that Final Agreement will be legally effective;
- (c) the process by which an amendment of that Final Agreement will come into effect; and
- (d) the places in which copies of an amendment of that Final Agreement will be deposited following that amendment coming into effect.



**PART XIII****MISCELLANEOUS PROVISIONS****79.0 Entire Agreement****79.01 Final Agreement is entire agreement**

- (1) A Final Agreement will constitute the entire agreement between the Parties relating to its subject matter in respect of MLFN government arrangements.
- (2) A Final Agreement will provide that no representation, inducement, promise, understanding, condition or warranty not set out in that Final Agreement, or in the documents referred to in Section 79.02, has been made or relied upon by a Party in entering into that Final Agreement.

**79.02 Final Agreement replaces previous agreements**

A Final Agreement will merge, supersede and terminate any and all pre-existing agreements and understandings relating to or flowing from negotiations entered into pursuant to the terms of the Framework Agreement between the Parties signed April 3, 1991, including without limitation:

- (a) the Framework Agreement;
- (b) all sub-Agreements in Principle entered into between the Parties;
- (c) this Agreement; and
- (d) all correspondence and other documents exchanged between the Parties relating to the agreements referred to in Paragraphs (a) to (c) inclusive.

**79.03 No merger of rights**

It is the intention of the Parties that the rights of a MLFN and the Members of a MLFN, provided in any treaty to which the predecessor of the MLFN was a signatory or adherent and in a Final Agreement, will not merge in any legislation enacted, or any other legal measures undertaken, to ensure a Final Agreement is legally effective.

**79.04 Further assurances**

The Parties covenant each with the other to do such things and to execute such further documents and take all necessary measures to carry out and implement the terms of a Final Agreement.

**80.0 Judicial determinations of validity****80.01 Parties to act**

- (1) If a court of competent jurisdiction finally determines any provision of a Final Agreement to be invalid or unenforceable:
  - (a) the Parties will make best efforts to amend that Final Agreement to remedy or replace the provision;
  - (b) the provision will be severable from that Final Agreement to the extent of the invalidity or unenforceability; and
  - (c) the remainder of the provision and that Final Agreement will:
    - (i) remain in full force and effect; and
    - (ii) be construed, to the extent possible, to give effect to the intent of the Parties if it may continue without altering the intent, effect or purpose of the provision.
- (2) In the event a court of competent jurisdiction finally determines any provision of the legislation or other legal measures referred to in Subsection 76.01(1) to be invalid, Canada will make best efforts to provide for the amendment of that legislation or those other legal measures, if necessary, to remedy the invalidity or replace the invalid provision.
- (3) It is anticipated that a Tripartite Final Agreement will provide that Subsection (2) will apply with necessary modifications where a court of competent jurisdiction finally determines to be invalid, any provision of any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties and Saskatchewan agree is necessary or desirable, or a court of competent jurisdiction determines is required, to give legal effect to a Final Agreement as contemplated in Section 76.04.

**81.0 Recourse and remedies**81.01 Limits on recourse

- (1) A MLFN, MLTC, Canada and Saskatchewan will not have a claim or a cause of action by reason of any provision of a Final Agreement or the legislation, or other legal measures, referred to in Subsection 76.01(1) being found by a court of competent jurisdiction to be invalid.
- (2) A MLFN, MLTC, Canada and Saskatchewan will not challenge, or support a challenge to, the validity of any provision of a Final Agreement or the legislation, or other legal measures, referred to in Subsection 76.01(1).
- (3) It is anticipated that a Tripartite Final Agreement will provide that Subsections (1) and (2) apply with necessary modifications with respect to:
  - (a) that Tripartite Final Agreement; and
  - (b) any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties and Saskatchewan agree is necessary or desirable, or a court of competent jurisdiction determines is required, to give legal effect to a Final Agreement, as contemplated in Section 76.04.

81.02 Parties not relieved of obligations by breach

A breach of a Final Agreement by a Party will not relieve that Party from its obligations under that Final Agreement.

**82.0 Duration of a Final Agreement and legislative change**82.01 Final Agreement to be of continuing force and effect

A Final Agreement will be of continuing force and effect.

### 82.02 Constitutional or legislative changes

Where any amendment not contemplated by a Final Agreement is enacted to the Constitution of Canada, the *Indian Act* or to any other legislation of Canada or Saskatchewan, the result of which amendment is a material impact on that Final Agreement, the Parties and Saskatchewan agree to enter into good faith negotiations designed to determine and implement any necessary amendments to:

- (a) that Final Agreement;
- (b) the MLFN-FAA;
- (c) the Intergovernmental Relations and Implementation Plan;
- (d) a Tripartite Final Agreement;
- (e) the legislation, or other legal measures, referred to in Subsection 76.01(1); or
- (f) any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties and Saskatchewan agree is necessary or desirable, or a court of competent jurisdiction determines is required, to give legal effect to a Final Agreement as contemplated in Section 76.04

required to address or alleviate the effect of that constitutional or legislative change.

## **83.0 Interpretation of a Final Agreement**

### 83.01 How a Final Agreement is to be interpreted

- (1) The several Parts, and the provisions of those Parts, of a Final Agreement and any Schedules attached to that Final Agreement will be interpreted as one agreement and, with necessary modifications, in accordance with the *Interpretation Act*.
- (2) A Final Agreement will be governed by and construed in accordance with all applicable laws.
- (3) There will not be any presumption that doubtful expressions in a Final Agreement will be resolved in favour of any Party.

- (4) Where a provision of a Final Agreement, which appears in one Part, is repeated in one or more other Parts or two or more times within the same Part, that provision will be interpreted and construed as having the same meaning and effect in each Part, or each time within the same Part, as the case may be.

#### **84.0 Languages of the Final Agreement and Tripartite Final Agreement**

##### **84.01 Authoritative versions of Final Agreement**

There will be Cree, Dene, English and French versions of a Final Agreement and Tripartite Final Agreement provided that the English and French versions will be the authoritative versions of each agreement.

#### **85.0 Deposit of a Final Agreement and a Tripartite Final Agreement**

##### **85.01 Where Final Agreement and Tripartite Final Agreement to be deposited by the MLFNs and MLTC**

Each MLFN and MLTC will cause a copy of a Final Agreement and a Tripartite Final Agreement to be deposited in their respective administrative offices.

##### **85.02 Where Final Agreement and Tripartite Final Agreement to be deposited by Canada**

Canada will cause a copy of a Final Agreement and a Tripartite Final Agreement to be deposited in:

- (a) the Library of Parliament;
- (b) the Library of the Department of Indian Affairs and Northern Development that is situated in the National Capital Region;
- (c) the regional office of the Department of Indian Affairs and Northern Development that is situated in Regina, Saskatchewan; and
- (d) such other locations as Canada might determine.

**85.03 Where Final Agreement and Tripartite Final Agreement to be deposited by Saskatchewan**

Saskatchewan will cause a copy of a Final Agreement and a Tripartite Final Agreement to be deposited in:

- (a) the legislative library of the Legislative Assembly of Saskatchewan; and
- (b) such other locations as Saskatchewan might determine.

**86.0 Notices between the Parties****86.01 Method of giving notice**

- (1) A notice required or permitted to be given in accordance with a Final Agreement may be:
  - (a) delivered personally;
  - (b) transmitted by fax; or
  - (c) mailed by prepaid registered post in Canada.
- (2) A notice will be considered to have been given, made, or delivered, and received:
  - (a) if delivered personally or by courier, at the start of the business on the next business day after the business day on which it was received by the addressee or a responsible representative of the addressee;
  - (b) if transmitted by fax and the sender receives confirmation of the transmission, at the start of business on the business day next following the day on which it was transmitted; or
  - (c) if mailed by prepaid registered post in Canada, when the postal receipt is acknowledged by the addressee

provided that during an actual or anticipated postal disruption or stoppage, postal delivery will not be used by any Party.

- (3) The Parties and Saskatchewan will provide to each other addresses for delivery of a notice required or permitted to be given by a Final Agreement and will deliver any notice to the address provided by each other Party and Saskatchewan.

- (4) For the purposes of a Final Agreement, a Party or Saskatchewan may register a change of its address or fax number by giving a notice of the change to the other Parties and Saskatchewan.

#### 86.02 Notices under a Tripartite Final Agreement

It is anticipated that a Tripartite Final Agreement will provide that Section 86.01 will apply to the giving of notice required under that agreement, with the necessary modifications.

### **87.0 Assignment and enurement**

#### 87.01 Assignment

- (1) No Party may assign its obligations under a Final Agreement.
- (2) The aggregation or pooling of a governmental responsibility by a MLFN, either individually or collectively with other MLFNs, and the delegation of the requisite Jurisdiction or Authority to permit the carrying out of that governmental responsibility in accordance with Part III will not constitute an assignment for the purposes of Subsection (1).
- (3) A delegation of jurisdiction to enact laws or Authority by Canada will not constitute an assignment for the purposes of Subsection (1).

#### 87.02 Enurement

Upon a Final Agreement coming into effect, that Final Agreement will enure to the benefit of and be binding upon:

- (a) each of the MLFNs, its successors and any person or entity, or government, body or institution, acting on its behalf;
- (b) the MLTC, its successors, including any other regional level of MLFN Government that may be designated by the MLFNs, and any person or entity, or government, body or institution, acting on its behalf; and
- (c) Her Majesty the Queen in right of Canada, Her heirs, successors and any person or entity, or government, body or institution, acting on Her behalf.

**88.0 Warranties**88.01 Warranties by the Parties

- (1) In a Final Agreement each of the MLFNs will warrant that:
  - (a) there are no actions or proceedings outstanding against that MLFN seeking orders or judgments of any kind from any court to prohibit it from executing that Final Agreement or a Tripartite Final Agreement nor are there any existing orders or judgments to such effect;
  - (b) the execution and delivery of that Final Agreement or a Tripartite Final Agreement and the compliance with their respective terms will not conflict with or breach any terms of any other agreement to which that MLFN is then a party or constitute default thereunder; and
  - (c) it is not under any legal impediment from executing that Final Agreement or a Tripartite Final Agreement.
- (2) In a Final Agreement MLTC will warrant that:
  - (a) there are no actions or proceedings outstanding against MLTC seeking orders or judgments of any kind from any court to prohibit it from executing that Final Agreement or a Tripartite Final Agreement nor are there any existing orders or judgments to such effect;
  - (b) the execution and delivery of that Final Agreement or a Tripartite Final Agreement and the compliance with their respective terms will not conflict with or breach any terms of any other agreement to which MLTC is then a party or constitute default thereunder; and
  - (c) it is not under any legal impediment from executing that Final Agreement or a Tripartite Final Agreement.
- (3) In a Final Agreement, Canada will warrant that:
  - (a) there are no actions or proceedings outstanding against Canada seeking orders or judgments of any kind from any court to prohibit it from executing that Final Agreement or a Tripartite Final Agreement nor are there any existing orders or judgments to such effect;



- (b) the execution and delivery of that Final Agreement or a Tripartite Final Agreement and the compliance with their respective terms will not conflict with or breach any terms of any other agreement to which Canada is then a party or constitute default thereunder; and
  - (c) it is not under any legal impediment from executing that Final Agreement or a Tripartite Final Agreement.
- (4) It is anticipated that a Tripartite Final Agreement will provide for a warranty by Saskatchewan of a similar nature to those provided in Subsections (1) to (3) inclusive, with the necessary modifications.

## **89.0 Participation in benefits by elected officials**

### **89.01 Members of Government Bodies**

No member of the House of Commons, Senate of Canada, the Council of a MLFN, the Executive of MLTC or other elected official of a MLFN Government will be admitted to any share or part of a Final Agreement or to any benefit, provided that where that person is a MLFN Citizen or a non-MLFN Citizen on MLFN Lands, that person will be admitted to any share or part of a Final Agreement enjoyed by any other similar person.

## **90.0 Schedules**

### **90.01 Schedules to this Agreement**

The following Schedule is attached to this Agreement:

“A” Form of Tripartite Agreement-in-Principle.

**SCHEDULE "A"**

**FORM OF**

**TRIPARTITE AGREEMENT-IN-PRINCIPLE**

This Agreement, made in triplicate, as at the 22<sup>nd</sup> day of January, 2001

**AMONG:**

**THE MEADOW LAKE FIRST NATIONS**

**(BIRCH NARROWS DENE NATION, BUFFALO RIVER DENE NATION,  
CANOE LAKE CREE NATION, CLEARWATER RIVER DENE NATION,  
ENGLISH RIVER FIRST NATION, FLYING DUST FIRST NATION,  
ISLAND LAKE FIRST NATION, MAKWA SAHGAIEHCAN FIRST NATION,  
AND WATERHEN LAKE FIRST NATION)**

**as represented individually by their respective Chiefs and as represented collectively by the  
Meadow Lake Tribal Council, through the Tribal Council Chief and  
Tribal Council Vice Chiefs**

**AND**

**HER MAJESTY THE QUEEN IN RIGHT OF  
CANADA,  
as represented by the Minister of Indian Affairs and  
Northern Development**

**AND**

**HER MAJESTY THE QUEEN IN RIGHT OF  
SASKATCHEWAN  
as represented by the Premier of Saskatchewan**

**PREAMBLE****WHEREAS:**

- A. Subsection 35(1) of the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;
- B. The Members of each MLFN are descendant from Indian nations that historically had their own forms of government;
- C. The Members of each MLFN are descendant from Indian nations that executed or adhered to Treaty No. 6, 8 or 10 with the Crown;
- D. The MLFNs have a special relationship with Canada which is grounded in the unique history of the Indian people with the Crown and reflected in Treaties No. 6, 8 and 10, subsection 91(24) of the *Constitution Act, 1867* and sections 25 and 35 of the *Constitution Act, 1982*;
- E. The Government of Canada recognizes the inherent right of self government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*;
- F. The MLFNs/MLTC and Canada intend by a Final Agreement to set out arrangements consistent with the recognition that the inherent right of self-government is an existing aboriginal right within the meaning of subsection 35(1) of the *Constitution Act, 1982*, without taking any positions with respect to how an inherent right of self government may ultimately be defined at law;
- G. The MLFNs/MLTC and Canada have entered into the Comprehensive Agreement-in-Principle on the same date as this Agreement;
- H. The MLFNs/MLTC and Canada anticipate that there will be continuing negotiations between them with the shared objective of concluding a Final Agreement;
- I. As reflected in a memorandum of understanding dated October 30, 1996 between the MLFNs/MLTC and Saskatchewan, Saskatchewan recognizes the inherent right of the MLFNs to govern themselves within the Canadian Constitution;

- J. By that memorandum of understanding, the MLFNs/MLTC and Saskatchewan further agreed to the participation by Saskatchewan in the negotiations between the MLFNs/MLTC and Canada relating to the Comprehensive Agreement-in-Principle to identify and discuss issues of concern to Saskatchewan and to secure Saskatchewan's involvement, in an appropriate manner, in the negotiation of a Final Agreement and to facilitate the recognition and implementation of MLFN government arrangements;
- K. While the primary relationship is, and will continue to be, between a MLFN and Canada, there will also be an ongoing government-to-government relationship, as well as a continuation of a day to day working relationship, between that MLFN and Saskatchewan;
- L. A Tripartite Final Agreement will respect Treaties No. 6, 8 and 10;
- M. A Tripartite Final Agreement will be further negotiated within the context of and will respect and build upon the special relationship between the MLFNs and Canada;
- N. A Tripartite Final Agreement will reflect and provide for government-to-government relationships among the Parties, or between any two of them, within the framework of the Canadian Constitution; and
- O. The Parties are entering into this Agreement to establish the basis for continuing negotiations between them with the shared objective of concluding a Tripartite Final Agreement.

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

**1.0 Definitions**

1.01 In this Agreement:

- (a) words and phrases with specific meanings have been identified in the text by the capitalization of the first letter of the words or the first letter of each word in phrases; and
- (b) except as provided in Section 1.02, words and phrases with specific meanings have the same meaning as the meanings of the same words and phrases when defined in the Comprehensive Agreement-in-Principle.

1.02 In this Agreement:

- (a) **"Agreement"** means this Agreement;
- (b) **"Comprehensive Agreement-in-Principle"** means the agreement between the MLFNs/MLTC and Canada entered into on the same date as this Agreement;
- (c) **"Party"** means a party to this Agreement; and
- (d) **"Tripartite Final Agreement"** means an agreement between the Parties which will be based upon this Agreement.

**2.0 Purpose of this Agreement**

2.01 The Parties have negotiated this Agreement to establish the basis for continuing negotiations among them with the shared objective of concluding a Tripartite Final Agreement.

**3.0 Purpose of a Tripartite Final Agreement**

3.01 A Tripartite Final Agreement will provide for recognition by Saskatchewan of, and concurrence by Saskatchewan with, the MLFN government arrangements to be provided for in a Final Agreement.

3.02 A Tripartite Final Agreement will reflect and provide for government-to-government relationships among the Parties, and between any two of them, within the framework of the Canadian Constitution.

**4.0 Recognition by Saskatchewan**

4.01 Without limiting Section 3.01, a Tripartite Final Agreement will provide for the recognition by Saskatchewan of:

- (a) the government of each MLFN; and
- (b) MLTC as a regional level of MLFN Government.

4.02 Notwithstanding Paragraph 4.01(b):

- (a) the designation of MLTC as a regional level of MLFN Government is a political decision by the MLFNs in accordance with and governed by the provisions of the MLFN Constitutions and the MLTC Constitution; and
- (b) the designation of MLTC as a regional level of MLFN Government referred to in Paragraph (a) does not in and of itself, constitutionally or otherwise protect MLTC:
  - (i) as a continuing regional level of MLFN Government, representing the collective interests of the MLFNs ; or
  - (ii) from dissolution by the MLFNsin accordance with the MLTC Constitution.

4.03 Without limiting section 3.01, the Tripartite Final Agreement will provide for:

- (a) the recognition by Saskatchewan that each MLFN is a separate and distinct legal entity with the capacities, rights, powers and privileges of a natural person;
- (b) the concurrence by Saskatchewan that the capacities, rights, powers and privileges of a MLFN will be exercised by and through a MLFN Government; and

- (c) without limiting Paragraphs (a) and (b), the recognition and concurrence by Saskatchewan that a MLFN Government, including, to the extent provided for in the MLTC Constitution, MLTC, may exercise:
  - (i) the capacities of a MLFN for purposes that are reasonably incidental to the rights, powers and privileges of that MLFN; and
  - (ii) any capacities of a MLFN, other than the capacities referred to in Paragraph (a), that may be identified in a Final Agreement, as contemplated in Sections 8.02 and 8.03 of the Comprehensive Agreement-in-Principle.

## **5.0 Jurisdiction of the MLFNs and the Applicability of Federal and Provincial Laws**

5.01 Without limiting Section 3.01, a Tripartite Final Agreement will provide for:

- (a) the recognition by Saskatchewan of the Jurisdiction of a MLFN, to the extent provided for in that Final Agreement;
- (b) the recognition by Saskatchewan that the Jurisdiction of a MLFN, will vest in that MLFN;
- (c) the concurrence by Saskatchewan that a MLFN will exercise Jurisdiction through:
  - (i) a MLFN Government; or
  - (ii) another government, whether a First Nations government or not, in accordance with a delegation of Jurisdiction to it by a MLFN Government in accordance with the MLFN Constitution and, where appropriate, the MLTC Constitution and as provided for in a Final Agreement;
- (d) the concurrence by Saskatchewan that the Jurisdiction of a MLFN, is exercisable on MLFN Lands, except as provided for in that Final Agreement or any other agreement among the Parties; and

- (e) subject to Paragraph (d), and unless otherwise provided in a Final Agreement, the concurrence by Saskatchewan that the Jurisdiction of a MLFN may be exercised in respect of:
    - (i) MLFN Citizens who are Ordinarily Resident on MLFN Lands;
    - (ii) Non-Resident Citizens on MLFN Lands;
    - (iii) non-MLFN Citizens on MLFN Lands; and
    - (iv) any corporation, partnership, joint venture or other entity which does business or is otherwise present on MLFN Lands.
- 5.02 Without limiting Section 3.01, a Tripartite Final Agreement will provide for the concurrence by Saskatchewan that, subject to any applicable federal and provincial laws, a MLFN Government may:
- (a) make programs or services available to; or
  - (b) operate facilities and institutions for
- MLFN Citizens whether or not they are Ordinarily Resident on MLFN Lands.
- 5.03 Without limiting Section 3.01, the Tripartite Final Agreement will provide for the concurrence by Saskatchewan:
- (a) that, subject to Paragraph (b), any valid and applicable federal and provincial laws that apply to a MLFN, MLFN Lands or to MLFN Citizens and non-MLFN Citizens on MLFN Lands will continue to apply following a Final Agreement coming into effect;
  - (b) that where a MLFN enacts a MLFN Law, any valid and applicable federal and provincial laws in respect of the subject area to which that MLFN Law relates that would otherwise apply to the MLFN, MLFN Lands or to MLFN Citizens and non-MLFN Citizens on MLFN Lands will continue to apply except as provided for in a Final Agreement; and
  - (c) with the manner in which a Final Agreement provides for the resolution of Inconsistencies or Conflicts between a MLFN Law and any valid and applicable federal or provincial law.



**6.0 Legal Measures to be recommended by Canada and Saskatchewan**

- 6.01 It is anticipated that Canada will recommend legislation to the Parliament of Canada, and undertake any other legal measures, necessary to give legal effect to a Final Agreement.
- 6.02 It is anticipated that Saskatchewan will recommend legislation to the Legislative Assembly of Saskatchewan, and undertake any other legal measures, necessary to give legal effect to a Final Agreement where either:
- (a) the Parties agree that legislation or other legal measures are necessary or desirable for that purpose; or
  - (b) a court of competent jurisdiction determines that a Final Agreement or any provision of a Final Agreement is not legally effective as a result of legislation, or other legal measures, that are or were required by Saskatchewan.
- 6.03 Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties, the Parties will explore and consider the legislation or other legal measures that may be required by Canada and Saskatchewan respectively to ensure that a Final Agreement is legally effective.
- 6.04 Where the Parties agree it is necessary or desirable, or a court of competent jurisdiction determines it is required, that the Legislative Assembly of Saskatchewan enact legislation to give legal effect to a Final Agreement, Saskatchewan will consult with and involve the MLFNs/MLTC and Canada during the drafting of that legislation.
- 6.05 The provisions of a Final Agreement relating to the consultation with and involvement of the MLFNs/MLTC and Saskatchewan during the drafting of the federal legislation referred to in Section 6.01, will apply to the consultation by Saskatchewan with and involvement of the MLFNs/MLTC and Canada referred to in Section 6.04, with necessary modifications.
- 6.06 Where the Parties agree it is necessary or desirable, or a court of competent jurisdiction determines it is required, that Saskatchewan undertake legal measures to give legal effect to a Final Agreement, other than by means of the Legislative Assembly of Saskatchewan enacting legislation, Saskatchewan will advise, consult with and involve, as appropriate, the MLFNs/MLTC and Canada.
- 6.07 Saskatchewan will advise, consult and involve, as appropriate, the MLFNs/MLTC and Canada with respect to any legal measures referred to in Section 6.06.

**7.0 Approval and Effect of this Agreement**

7.01 This Agreement has been approved:

- (a) by each MLFN, by resolution of the Council of that MLFN duly passed at a properly constituted meeting of the Council, following informal consultation with the Members of that MLFN;
- (b) by MLTC, following the approval of this Agreement by the MLFNs in accordance with Paragraph (a), by a resolution of the Executive of MLTC duly passed at a properly constituted meeting;
- (c) by Canada, having been signed by a minister authorized to do so by Cabinet; and
- (d) by Saskatchewan, having been signed by a minister authorized to do so by Cabinet.

7.02 This Agreement does not create enforceable legal obligations among the Parties.

**8.0 Approval and Coming into Effect of a Tripartite Final Agreement**

8.01 A Tripartite Final Agreement will not be executed until it has been approved by each of the Parties.

8.02 Each MLFN and MLTC will seek approval of the Tripartite Final Agreement at the same time and in the same manner as provided for the approval of a Final Agreement with necessary modifications.

8.03 Canada will seek approval of a Tripartite Final Agreement at the same time and in the same manner as it seeks authority to enter into the Final Agreement.

8.04 Saskatchewan will seek approval of a Tripartite Final Agreement upon the MLFNs and MLTC approving that Tripartite Final Agreement in accordance with Section 8.02.

8.05 A Tripartite Final Agreement will be executed at the same time as a Final Agreement.

8.06 A Tripartite Final Agreement will come into effect at the same time as the Final Agreement comes into effect.

8.07 A Tripartite Final Agreement will not create legal obligations among the Parties until it has come into effect.

**9.0 General Protection of Rights and Remedies**

- 9.01 A Tripartite Final Agreement will provide for the protection of the ability of a Party to pursue any lawful process or remedy against or with another Party in respect of any matter, including any matter relating to:
- (a) aboriginal rights or treaty rights of a MLFN or the Members of a MLFN;
  - (b) the Traditional Territory of a MLFN; and
  - (c) Non-Resident Citizens.
- 9.02 Section 9.01 is subject to any provision of a Final Agreement relating to:
- (a) the desire of a MLFN to exercise Jurisdiction in a subject area other than a subject area in respect of which the Jurisdiction of that MLFN is recognized in accordance with that Final Agreement;
  - (b) the manner in which disputes between and among the Parties that the Parties have agreed are to be resolved in accordance with a Tripartite Final Agreement; and
  - (c) future negotiations to be undertaken by the Parties following a Final Agreement and a Tripartite Final Agreement coming into effect.
- 9.03 Prior to the form and content of a Tripartite Final Agreement being concluded by the negotiators for the Parties, issues relating to any outstanding litigation among the Parties or between any two of them will be reviewed by the parties to that litigation.
- 9.04 The Parties acknowledge that a Comprehensive Agreement-in-Principle and this Agreement will not prejudice or be presented as evidence in any litigation among a MLFN, the MLFNs, MLTC, Canada and Saskatchewan, or between any of them.
- 9.05 A Tripartite Final Agreement will not restrict the ability of a MLFN or MLTC to participate in any other process that may be established to implement the inherent right of self-government by First Nations in Canada on a regional, provincial or national basis.

**10.0 Relationship of Tripartite Final Agreement to existing aboriginal rights**

- 10.01 A Tripartite Final Agreement will not be construed so as to abrogate or derogate from any aboriginal rights or treaty rights of a MLFN or the Members of a MLFN recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*.
- 10.02 A Tripartite Final Agreement will not be construed so as to prejudice, limit or restrict the position any Party may take at any time with respect to any aboriginal rights or treaty rights of a MLFN or the Members of a MLFN.
- 10.03 A Tripartite Final Agreement will not be construed as recognizing or denying any aboriginal rights of a MLFN or the Members of a MLFN.
- 10.04 Prior to the form and content of a Tripartite Final Agreement being concluded by the negotiators for the Parties, the Parties will further discuss the matter referred to in Section 10.03.

**11.0 Amendments to Final Agreement**

- 11.01 Where the MLFNs/MLTC and Canada amend a Final Agreement, the recognition of, and concurrence with, that Final Agreement given by Saskatchewan in accordance with a Tripartite Final Agreement does not extend to that amendment without the written consent of Saskatchewan or the necessary amendment of that Tripartite Final Agreement.

**12.0 Commitment to Negotiations on MLFN Jurisdictions**

- 12.01 Where, following the coming into effect of a Final Agreement and a Tripartite Final Agreement, there is a subject area which:
- (a) relates to public health, order, peace or safety of MLFN Citizens and non-MLFN Citizens on MLFN Lands;
  - (b) is integral to the culture, identity, tradition, language or institutions of a MLFN;
  - (c) is not a subject area in respect of which the Jurisdiction of a MLFN is recognized in accordance with a Final Agreement and a Tripartite Final Agreement; and

- (d) is not a subject area, or a matter within a subject area, to which the Jurisdiction of a MLFN does not extend in accordance with a Final Agreement

the MLFNs/MLTC may request that Canada and Saskatchewan enter into negotiations with respect to the Jurisdiction of the MLFNs, on MLFN Lands, in that subject area.

12.02 It is anticipated that a Final Agreement will provide for the manner in which the Parties will proceed in the event that the MLFNs/MLTC make a request of the nature referred to in Section 12.01.

12.03 The provisions of a Final Agreement referred to in Section 12.02 will apply to Saskatchewan as if set out in a Tripartite Final Agreement.

### **13.0 MLFN Constitutions and MLTC Constitution**

Each MLFN Constitution and the MLTC Constitution will provide that, in the event of a conflict between a MLFN Constitution or the MLTC Constitution and the Tripartite Final Agreement, the Tripartite Final Agreement will prevail to the extent of the conflict.

### **14.0 Harmonization of Laws, Programs, Services and Standards**

14.01 The Parties acknowledge that federal, provincial and MLFN laws may need to be harmonized.

14.02 The Parties further acknowledge that there is a need for the MLFNs/MLTC, Canada and Saskatchewan to harmonize programs and services to MLFN Citizens, and program and service standards, to ensure the most efficient and effective use of resources.

14.03 The Parties recognize that, for the most effective exercise of Jurisdiction by a MLFN, it may be necessary for a MLFN and Saskatchewan or Canada to reach co-operative arrangements.

- 14.04 Without limiting Section 14.03, Saskatchewan and MLTC or a MLFN, or Saskatchewan, Canada and MLTC or a MLFN where appropriate, will make best efforts to enter into co-operative arrangements with respect to agreed upon subject matters including:
- (a) water;
  - (b) environmental protection;
  - (c) waste dangerous goods transportation, storage, treatment and disposal;
  - (d) compatible land use;
  - (e) forestry practices;
  - (f) threats to forest resources by insects, disease and fire, including discussions relating to appropriate standards;
  - (g) fish and fisheries;
  - (h) the protection, harvesting and management of wildlife, including discussions relating to appropriate standards;
  - (i) education;
  - (j) marriage;
  - (k) the recording of adoptions; and
  - (l) child and family services.
- 14.05 Prior to the form and content of a Tripartite Final Agreement being agreed to by the Parties, the MLFNs/MLTC and Saskatchewan will negotiate with respect to, and attempt to reach agreement on any further subject matters that may be added to Section 14.04.
- 14.06 A Final Agreement and a Tripartite Final Agreement may provide for the process by which a MLFN, Saskatchewan or Canada reach arrangements of the nature referred to in Section 14.03.

**15.0 Environmental Assessment**

- 15.01 Where an environmental impact assessment of a Development is conducted by the Proponent of that Development pursuant to *The Environmental Assessment Act* and the Development may be expected to have a significant impact on MLFN Lands, Saskatchewan will ensure that, in accordance with the *Act*:
- (a) the MLFN receives timely notice that the environmental impact assessment is being conducted;
  - (b) the Review and Statement are made available to the MLFN;
  - (c) the MLFN receives notice of any information meetings conducted relating to the Development or of the appointment of persons to conduct an inquiry or inquiries with respect to the Development; and
  - (d) any written submissions made by the MLFN are accepted and considered by the Minister responsible.
- 15.02 The Parties acknowledge that:
- (a) to assure certainty, accountability and predictability, unnecessary overlap and duplication should be avoided in the environmental assessment process; and
  - (b) where a Project is subject to more than one environmental assessment process, efforts should be made to harmonized the requirements of those processes with the objective of requiring only a single process to be undertaken with respect to that Project.
- 15.03 Where a Project subject to an environmental assessment process pursuant to a MLFN Law may reasonably be expected to have significant adverse Environmental Effects on land, other than MLFN Lands, the MLFN will ensure that Saskatchewan:
- (a) receives timely notice of, and relevant information in the possession of the MLFN on, the Project and potential Environmental Effects; and
  - (b) is consulted and provided with an opportunity to participate in the environmental assessment applicable to the Project.

15.04 Where a MLFN establishes a review body as part of an environmental assessment process pursuant to a MLFN Law for a Project that may reasonably be expected to have significant adverse Environmental Effects on lands, other than MLFN Lands, Saskatchewan:

- (a) may make representations to the review body; and
- (b) will be entitled to nominate a member of the review body, except where the review body is a decision-making body.

**16.0 MLFN decisions on Governance that impact on the Government-to-Government relationship between the Parties**

16.01 It is anticipated that a Final Agreement will reflect, and provide for, an ongoing government-to-government relationship between the MLFNs/MLTC and Canada within the framework of the Canadian Constitution.

16.02 A Tripartite Final Agreement will reflect, and provide for, an ongoing government-to-government relationship among the MLFNs/MLTC, Canada and Saskatchewan, and between the MLFNs/MLTC and Saskatchewan within the framework of the Canadian Constitution.

16.03 It is anticipated that a Final Agreement:

- (a) may identify circumstances in respect of which:
  - (i) an aggregation or pooling of a governmental responsibility by a MLFN, either individually or collectively with other MLFNs, in another government, or some other body or institution, and the delegation of the requisite Jurisdiction or Authority to permit the carrying out of that governmental responsibility; or
  - (ii) a withdrawal, by a MLFN, either individually or collectively with other MLFNs, of a governmental responsibility being carried out by another government, or some other body or institution and of the requisite Jurisdiction or Authority which was delegated to permit the carrying out of that governmental responsibility

will be deemed to affect one or more of the government-to-government relationships referred to in Sections 16.01 and 16.02;



- (b) will identify changes, other than of the nature referred to in Paragraph (a), which will be deemed to affect one or more of the government-to-government relationships referred to in Sections 16.01 and 16.02, in a substantial and material way; and
- (c) will provide, among other matters, for:
  - (i) the giving of notice to Canada and Saskatchewan by a MLFN, where that MLFN, either individually or collectively with other MLFNs, proposes to proceed in a manner that would be deemed to affect one or more of the government-to-government relationships referred to in Sections 16.01 and 16.02, in a substantial and material way, in accordance with Paragraph (a) or (b);
  - (ii) the entry into good faith negotiations by the Parties, designed to reasonably address the change in one or more of the government-to-government relationships referred to in Sections 16.01 and 16.02 that is the result of the circumstances of the nature referred to in Paragraph (a) or a change of the nature referred to in Paragraph (b);
  - (iii) the actions the Parties may take as a result of the negotiations referred to in Subparagraph (ii) to amend any agreements among them or between any two of them, including a Final Agreement or a Tripartite Final Agreement;
  - (iv) the manner in which the Parties will proceed in the event that a dispute arises among or between any of the Parties out of the provisions of a Final Agreement referred to in this Section; and
  - (v) the manner in which the Parties will proceed in the event an agreement in the negotiations referred to in Subparagraph (ii) is not concluded within the period that is anticipated to be provided for in a Final Agreement.

16.04 The provisions of a Final Agreement referred to in Section 16.03 will apply to Saskatchewan, as if set out in a Tripartite Final Agreement.

### **17.0 Access to MLFN Lands**

Agents, servants, employees, contractors of Saskatchewan or other persons acting in accordance with any provincial laws will have access to MLFN Lands in accordance with a Final Agreement.

**18.0 Liability and Indemnity**

- 18.01 Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties, the Parties will negotiate with respect to and attempt to reach agreement on matters respecting liability and indemnification among the Parties to be included in the Tripartite Final Agreement.
- 18.02 The negotiations referred to in Section 18.01 will relate to the subject matter set out in Part XI of the Comprehensive Agreement-in-Principle with necessary modification.

**19.0 Dispute Resolution**

- 19.01 A Tripartite Final Agreement will provide that the provisions of a Final Agreement dealing with the resolution of disputes between a MLFN or MLTC and Canada, will apply, with necessary modifications, to the resolution of disputes among the Parties, or between any two of them with respect to:
- (a) the interpretation of a Tripartite Final Agreement;
  - (b) whether a particular event of the nature referred to in Subparagraph 16.03(a)(i) or (ii) may reasonably be interpreted as affecting the government-to-government relationships among the Parties, or between any two of them in a substantial and material way;
  - (c) the negotiations referred to in Subparagraph 16.03(c)(ii);
  - (d) the Implementation of a Final Agreement and a Tripartite Final Agreement; and
  - (e) such other disputes as the Parties may identify.
- 19.02 A Tripartite Final Agreement will provide that where, in any judicial or administrative proceeding, an issue arises in respect of:
- (a) the interpretation or validity of a Tripartite Final Agreement; or
  - (b) the validity or applicability of any legislation of the Legislative Assembly of Saskatchewan, or any other legal measures to be undertaken by Saskatchewan, that the Parties agree are necessary or desirable, or a court of competent jurisdiction determines is required, to give legal effect to a Final Agreement, as contemplated in Sections 6.02 and 6.03
- the Parties will proceed in accordance with the procedures set out in a Final Agreement, with necessary modifications.

**20.0 Role of Saskatchewan in implementation**

- 20.01 While recognizing that the primary responsibility for implementation of a Final Agreement will be that of Canada and the MLFNs, Saskatchewan will participate with the MLFNs/MLTC and Canada:
- (a) on the Intergovernmental Relations and Implementation Support Committee including appointing a representative to the IRIS Committee; and
  - (b) in the preparation of the Intergovernmental Relations and Implementation Plan.
- 20.02 As a general principle, Saskatchewan will participate on the IRIS Committee and in its activities as those activities relate to agreed-upon actions or activities to be undertaken by the Parties, or by the MLFNs/MLTC and Saskatchewan, and, to that extent, Article 68.0 of the Comprehensive Agreement-in-Principle will apply to Saskatchewan, with necessary modifications.
- 20.03 Specific commitments of Saskatchewan set out in a Tripartite Final Agreement will be included in the Intergovernmental Relations and Implementation Plan and, to that extent, Article 70.0 of the Comprehensive Agreement-in-Principle will apply to Saskatchewan with necessary modifications.
- 20.04 Notwithstanding Sections 20.01 to 20.03 inclusive, Saskatchewan will only be responsible for carrying out those actions and activities, whether set out in the Intergovernmental Relations and Implementation Plan or otherwise, which are identified with the concurrence of Saskatchewan, as being the responsibility of Saskatchewan or which Saskatchewan expressly agrees to undertake.
- 20.05 Saskatchewan will fund its own participation in the IRIS Committee.
- 20.06 Prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties, the MLFNs/MLTC and Saskatchewan will discuss practical ways of assuring that mechanisms and processes are in place to develop and maintain the ongoing relationship at the political level between them following a Final Agreement and a Tripartite Final Agreement coming into effect.
- 20.07 The mechanisms and processes contemplated in Section 20.06 will not create legal obligations between the MLFNs/MLTC and Saskatchewan.

**21.0 Financial obligations of Saskatchewan**

21.01 Notwithstanding Section 3.01, a Tripartite Final Agreement will provide that nothing in a Final Agreement, the MLFN Financial Arrangements Agreement, the Intergovernmental Relations and Implementation Plan or that Tripartite Final Agreement will, either expressly or impliedly, create a financial obligation for Saskatchewan, without the consent of Saskatchewan.

**22.0 Traditional Territories and Non-Resident Citizens.****22.01 General Acknowledgments with respect to Traditional Territories**

The Parties acknowledge that:

- (a) prior to the predecessor of a MLFN entering into a treaty relationship with Canada by way of Treaty No. 6, 8, or 10 or an adhesion to that Treaty, the predecessor of that MLFN traditionally used, or used and occupied, lands other than or beyond the boundaries of MLFN Lands;
- (b) in accordance with Treaty No. 6, 8, or 10, a MLFN and the Members of that MLFN have specific rights, some of which are exercisable beyond the boundaries of MLFN Lands;
- (c) Subsection 35(1) of the *Constitution Act, 1982* recognizes and affirms, among other matters, the existing treaty rights of the aboriginal peoples of Canada;
- (d) any agreement resulting from the negotiations referred to in Paragraph 22.05(1)(a) will respect Treaties No. 6, 8 and 10 and will not be construed so as to abrogate or derogate from any existing treaty rights of a MLFN or the Members of a MLFN recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982*; and
- (e) other First Nations, Aboriginal peoples, communities, Saskatchewan residents and others who will not be parties to a Final Agreement or Tripartite Final Agreement have or may have interests in the lands which a MLFN regards as its Traditional Territory.

22.02 General Acknowledgements with respect to Non-Resident Citizens

The Parties acknowledge that:

- (a) a large proportion of MLFN Citizens are Non Resident Citizens;
- (b) a Final Agreement generally will provide for the exercise of Jurisdiction by a MLFN in the subject areas set out in Part IV on MLFN Lands;
- (c) notwithstanding Paragraph (b), there may be subject areas in respect of which it is appropriate for a MLFN to exercise Jurisdiction or Authority or to deliver programs and services beyond the boundaries of MLFN Lands but within the Province of Saskatchewan for the benefit of Non Resident Citizens;
- (d) subsequent to the negotiations referred to in Paragraph 22.05(1)(b), Non-Resident Citizens in the Province of Saskatchewan should continue to have access to, and be provided with, programs and services that are the same as or reasonably comparable to those programs and services provided to other residents of the Province of Saskatchewan;
- (e) where appropriate, the negotiations referred to in Paragraph 22.05(1)(b) should clarify the roles and responsibilities of a MLFN, Canada and Saskatchewan;
- (f) there are practical limits on the ability of a MLFN to exercise Jurisdiction or Authority beyond the boundaries of MLFN Lands or to deliver programs and services to Non-Resident Citizens;
- (g) in the negotiations referred to in Paragraph 22.05(1)(b), the rights of Non-Resident Citizens will not be prejudiced; and
- (h) Non-Resident Citizens should be assured as much involvement as is practically possible in MLFN Government decisions which directly and significantly affect them.

22.03 Parties may have different views

- (1) Each of the Parties may have different legal views on the rights and interests of a MLFN in relation to what the MLFN regards as its Traditional Territory and the matters to be discussed in the negotiations referred to in Paragraph 22.05(1)(b) with respect to Non-Resident Citizens.

- (2) Without limiting Subsection (1), it is the position of the MLFNs, without it being the intention of Canada or Saskatchewan to in any way accept that position, that in accordance with Treaty No. 6, 8, or 10, as appropriate, a MLFN and the Members of that MLFN possess rights and interests that should assure the MLFN and the Members of that MLFN an enhanced level of access to, control over and participation in the benefits derived from what the MLFN regards as its Traditional Territory and any other areas of land described in that Treaty.
- (3) Without limiting Subsection (1), it is the position of the MLFNs, without it being the intention of Canada or Saskatchewan to in any way accept that position, that the resolution of matters to be discussed in the negotiations referred to in Subsection 22.05(1) will be of importance to the future responsibilities, functioning and viability of MLFN Government.
- (4) Without limiting Subsection (1), it is the position of Saskatchewan, without it being the intention of the MLFNs/MLTC or Canada to in any way accept that position, that the benefits to be derived from lands and resources under the administration and control of Saskatchewan should be available for all residents of the Province of Saskatchewan, including MLFN Citizens.
- (5) Without limiting Subsection (1), it is further the position of Saskatchewan without it being the intention of the MLFNs/MLTC or Canada to in any way accept that position, that the outcomes of the negotiations referred to in Subsection 22.05(1) should be resolved in a manner that is fiscally neutral to Saskatchewan.
- (6) Each of the Parties will participate:
  - (a) in the negotiations referred to in Subsection 22.05(1), subject to Section 22.07; and
  - (b) in the negotiations referred to in Subsection 22.06(1),in accordance with their respective policies, in place from time to time.
- (7) An agreement resulting from the negotiations referred to in Subsection 22.05(1) or 22.06(1) will be without prejudice to the legal views of either of the Parties or Saskatchewan.

22.04 Matters not dealt with at the time a Final Agreement and Tripartite Final Agreement comes into effect

Matters relating to what a MLFN regards as its Traditional Territory and matters relating to the Non-Resident Citizens of that MLFN will not be fully addressed at the time a Final Agreement and Tripartite Final Agreement come into effect.

22.05 Commitment to Negotiations

- (1) Having regard to the acknowledgments set out in Sections 22.02 and 22.03 but subject to Subsections (2) to (4) inclusive and the provisions of any agreement reached in the negotiations referred to in Subsection 22.06(1) that has been approved by the Parties in accordance with Section 22.07, the Parties will negotiate to:
  - (a) address the interests of the Parties with respect to access by a MLFN to, involvement of a MLFN in decision-making over, use by a MLFN of and participation by a MLFN in the benefits derived from the area in the Province of Saskatchewan that the MLFN regards as its Traditional Territory; and
  - (b) address matters relating to Non-Resident Citizens, including:
    - (i) the identification of any subject areas in respect of which a MLFN may exercise Jurisdiction or Authority beyond the boundaries of MLFN Lands but within the boundaries of the Province of Saskatchewan for the benefit of Non Resident Citizens and, with respect to those subject areas, the determination of the manner and extent to which a MLFN may exercise Jurisdiction or Authority;
    - (ii) the provision of federal, provincial and MLFN programs and services to Non-Resident Citizens in the Province of Saskatchewan; and
    - (iii) such other matters concerning Non Resident Citizens as the Parties may agree.
- (2) In the negotiations referred to in Paragraph (1)(a), the Parties will determine the geographic area in the Province of Saskatchewan in respect of which they will negotiate the matters referred to in that Paragraph, provided that nothing in this Subsection constitutes an agreement by the Parties that, in any agreement that may be reached in those negotiations, that geographic area, or any portion of that geographic area, will or will not be acknowledged by the Parties as constituting the Traditional Territory of a MLFN.

- (3) Nothing in Paragraph (1)(b) limits the Parties, in those negotiations, discussing matters relating to the Non-Resident Citizens that are beyond the boundaries of the Province of Saskatchewan.
- (4) In the event the Parties proceed in accordance with Subsection (3), nothing obliges Saskatchewan to participate in those discussions.

#### 22.06 Matters to be immediately addressed

- (1) Within six months of a Comprehensive Agreement-in-Principle and this Agreement being executed (or such further period as the Parties may agree), the Parties will negotiate and attempt to reach agreement on the:
  - (a) detailed agenda;
  - (b) process and methodology including the involvement of Non-Resident Citizens and third parties as appropriate;
  - (c) time frame;
  - (d) the manner in which possible fiscal implications will be dealt with as between Canada and Saskatchewan; and
  - (e) subject to Section 22.09, funding for the participation of the MLFNs for the negotiations referred to in Subsection 22.05(1).
- (2) In the negotiations referred to in Subsection (1), the Parties will have regard to, among other matters:
  - (a) the special relationship that the MLFNs have with Canada which is grounded in the unique history of the Indian people with the Crown and reflected in Treaties No. 6, 8 and 10, subsection 91(24) of the *Constitution Act, 1867* and sections 25 and 35 of the *Constitution Act, 1982*;
  - (b) the need to ensure that the possible financial implications of the negotiations referred to in Subsection 22.05(1) are resolved as between Canada and Saskatchewan in a manner that is clear, fair, affordable, and durable; and
  - (c) the obligations of Saskatchewan to all residents of the Province of Saskatchewan.



- (3) Upon the negotiators for the Parties reaching an agreement on the matters to be negotiated in accordance with Subsection (1), each of the Parties will seek approval of that agreement in accordance with Section 22.07.

#### 22.07 Parties to seek approval

- (1) Each MLFN will seek approval of any agreement reached by the negotiators for the Parties in the negotiations referred to in Subsection 22.06(1) from the Council of that MLFN, following consultation with MLFN Citizens.
- (2) Following approval of any agreement reached by the negotiators for the Parties in the negotiations referred to in Subsection 22.06(1) by the MLFNs in accordance with Subsection (1), MLTC, where appropriate, will seek approval of that agreement from the Executive of MLTC.
- (3) Following approval of any agreement reached by the negotiators for the Parties in the negotiations referred to in Subsection 22.06(1) by the MLFNs and, where appropriate, MLTC, in accordance with Subsections (1) and (2), Canada will seek approval of that agreement from Cabinet.
- (4) Following approval of any agreement reached by the negotiators for the Parties in the negotiations referred to in Subsection 22.06(1) by the MLFNs and MLTC, where appropriate, in accordance with Subsections (1) and (2), Saskatchewan will seek approval of that agreement from Cabinet.

#### 22.08 No legal obligations created

An agreement on the matters to be negotiated in accordance with Subsection 22.06(1) that has been approved by the Parties in accordance with Section 22.07 will not create enforceable legal obligations among the Parties.

#### 22.09 Funding to the MLFNs for the purposes of the negotiations

- (1) Canada will provide funding for the participation of the MLFNs in the negotiations contemplated by this Agreement to follow the execution of this Agreement.
- (2) The amount of funding to be provided by Canada to the MLFNs for the participation of the MLFNs in the negotiations referred to in Subsection 22.05(1), and the terms upon which that funding will be provided, will be determined having regard to the results of the negotiations on those matters referred to in Paragraphs 22.06(1)(a) to (d) inclusive.

- (3) Saskatchewan will make a contribution toward the funding of the participation of the MLFNs in the negotiations referred to in Paragraph 22.05(1)(b).

22.10 Non-Resident Citizens to be involved

- (1) Non-Resident Citizens will be involved in the negotiations referred to Paragraph 22.05(1)(b) in an appropriate manner.
- (2) The appropriate manner for the involvement of Non-Resident Citizens in the negotiations referred to in Paragraph 22.05(1)(b) will be determined in the negotiations referred to in Subsection 22.06(1).

22.11 Negotiations will not impact on existing interests

In any agreement resulting from the negotiations referred to in Paragraph 22.05(1)(a), existing interests in, upon or under the lands within the geographic area determined by the Parties in accordance with Subsection 22.05(2) will be protected in accordance with the respective terms of those existing interests, subject to any agreement among the holder of an existing interest, a MLFN and Canada or Saskatchewan as appropriate which modifies those terms.

22.12 Involvement of Third Parties

Other First Nations, Aboriginal peoples, communities, Saskatchewan residents and others who will not be parties to a Final Agreement or Tripartite Final Agreement, but who possess existing interests in, upon or under the lands within the geographic area determined by the Parties in accordance with Subsection 22.05(2) will be involved in the negotiations referred to in Paragraph 22.05(1)(a) in an appropriate manner.

22.13 Negotiations without prejudice to MLFNs negotiating with other provinces

- (1) The negotiations referred to in Section 22.05(1) will be without prejudice to the ability of the MLFNs to negotiate similar issues with other provinces or territories in Canada.
- (2) Nothing obligates Canada or Saskatchewan to participate in any negotiations referred to in Subsection (1).

**22.14 New land use transactions in determined geographic area while negotiations are underway**

- (1) Following the Parties determining the geographic area which will be the subject of the negotiations referred to in Paragraph 22.05(1)(a) in accordance with Subsection 22.05(2), Canada or Saskatchewan, as the case may be, will make best efforts to provide information to, notify, consult with and involve in an appropriate manner, a MLFN, the MLFNs or MLTC, as appropriate, through existing forums or processes, or any other forum or process that is mutually agreed upon between the Parties or between the MLFNs/MLTC and Saskatchewan, regarding:
  - (a) major developments that are commenced or intended to be commenced within that geographic area that are under the administration and control of Canada or Saskatchewan, as the case may be; and
  - (b) major developments, other than major developments of the nature referred to in Paragraph (a), that are commenced on lands within that geographic area and that are subject to regulation by Canada or Saskatchewan, as the case may be.
- (2) At the same time as the negotiations referred to in Subsection 22.06(1), or at such other time as the Parties may agree prior to the determination of the geographic area which will be the subject of the negotiations referred to in Paragraph 22.06(1)(a) in accordance with Subsection 22.05(2), the Parties will discuss practical ways of assuring that the commitment provided for in Subsection (1) is met, including discussing the nature, type and extent of development which will constitute a "major development" for the purposes of Subsection (1).

**23.0 Amendment of a Tripartite Final Agreement****23.01 The provisions of a Final Agreement with respect to:**

- (a) the process by which a proposed amendment of the Final Agreement will be approved and executed;
- (b) the manner in which the Parties will proceed to ensure that an amendment of that Final Agreement will be legally effective;

- (c) the process by which an amendment of that Final Agreement will come into effect; and
- (d) the places in which copies of an amendment of that Final Agreement will be deposited, following that amendment coming into effect

will apply to the amendment of a Tripartite Final Agreement, with necessary modifications.

#### **24.0 Miscellaneous Matters**

- 24.01 A Tripartite Final Agreement will make similar provision to a Final Agreement in respect of the matters dealt with in Part XIII of the Comprehensive Agreement-in-Principle, with necessary modifications.
- 24.02 Without limiting any other provision of this Agreement, any provision of the Comprehensive Agreement-in-Principle that refers to Saskatchewan will apply to Saskatchewan, as if set out in this Agreement.

#### **25.0 Participation by Saskatchewan in Negotiations**

- 25.01 Where the Comprehensive Agreement-in-Principle provides for further negotiations, reviews or discussions on particular matters, in which Saskatchewan is to be involved, to take place prior to the form and content of a Final Agreement and a Tripartite Final Agreement being concluded by the negotiators for the Parties, Saskatchewan will participate in those negotiations, reviews or discussions.

#### **26.0 Limits on recourse**

- 26.01 A MLFN, MLTC, Canada and Saskatchewan will not have a claim or a cause of action by reason of any provision of a Final Agreement or a Tripartite Final Agreement or any legislation enacted, or any other legal measures undertaken, by Canada or Saskatchewan to give legal effect to a Final Agreement being found by a court of competent jurisdiction to be invalid.
- 26.02 A MLFN, MLTC, Canada and Saskatchewan will not challenge or support a challenge to the validity of any provision of a Final Agreement, a Tripartite Final Agreement or any legislation or any other legal measures referred to in Section 26.01.

**27.0 Language of the Tripartite Final Agreement**

- 27.01 There will be Cree, Dene, English and French versions of a Tripartite Final Agreement, provided that the English and French versions of that Tripartite Final Agreement will be the authoritative versions.

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