

MEMORANDUM OF AGREEMENT

BETWEEN

HER MAJESTY IN THE RIGHT OF CANADA
of the First Part represented by the
Minister of Indian Affairs and Northern Development

AND

THE FEDERATION OF SASKATCHEWAN INDIAN NATIONS
of the Second Part represented by the
Chief of the Federation of Saskatchewan Indian Nations

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HER MAJESTY IN THE RIGHT OF CANADA
of the First Part represented by the
Minister of Indian Affairs and Northern Development
(hereinafter the "Minister")

AND

THE FEDERATION OF SASKATCHEWAN INDIAN NATIONS
of the Second Part represented by the
Chief of the Federation of Saskatchewan Indian Nations
(hereinafter the "FSIN")

WHEREAS the *Constitution Act, 1982* states that the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed;

AND WHEREAS the "aboriginal peoples of Canada" includes the Indian, Inuit, and Métis peoples of Canada;

AND WHEREAS the Government of Canada recognizes the inherent right of self-government as an existing Aboriginal right under section 35 of the *Constitution Act 1982*, and recognizes as well that the inherent right may find expression in treaty and in the context of the Crown's relationship with treaty First Nations;

AND WHEREAS the Federation of Saskatchewan Indian Nations asserts that the First Nations in Saskatchewan entered into treaty as sovereign nations pursuant to international law;

AND WHEREAS at the time of treaty signing the Crown and First Nations recognized that an on-going treaty relationship would be established for as long as the sun shines, the grass grows and the rivers flow;

AND WHEREAS all residents of Saskatchewan are intended to benefit from Treaty;

AND WHEREAS as part of the treaty relationship, the Parties established a forum for dialogue through the establishment of an Office of the Treaty Commissioner in Saskatchewan in 1989, and again in 1996, and wish to continue this dialogue;

AND WHEREAS during the 1996 mandate of the Office of the Treaty Commissioner, the release of the *Statement of Treaty Issues: Treaties as a Bridge to the Future* (1998), represented a start in achieving a common understanding of the treaty relationship and its practical meaning for a better future for all residents of Saskatchewan;

AND WHEREAS there are differences of views over the content and meaning of treaty. Treaty First Nations assert that treaty has not been implemented according to their spirit and intent, including oral promises. The Government of Canada asserts that it relies primarily on the written text of treaty as the embodiment of the Crown's obligations, which it asserts have been and continue to be met;

AND WHEREAS the Parties intend to address these differences of views through mutual discussion and decision, sharing a common commitment to the treaty relationship, and to building on a partnership that can address the well-being of both Parties in a respectful, meaningful and supportive way;

AND WHEREAS Canada and Treaty First Nations recognize that discussions regarding the treaty relationship may require the involvement of Saskatchewan.

NOW THEREFORE IT IS AGREED that the Federation of Saskatchewan Indian Nations and the Government of Canada wish to renew the operation of the Office of the Treaty Commissioner and continue the work of the Treaty Table according to the principles and provisions contained in this Memorandum of Agreement.

1.0 Definitions

In this Memorandum of Agreement:

- 1.1 "Advice" means an opinion or recommendation offered as a guide to action or conduct;
- 1.2 "Authority" means authority other than law making power;
- 1.3 "Canada" refers to Canada as represented by Indian and Northern Affairs Canada and other government departments as required;
- 1.4 "Context Papers" refers to Context Papers jointly written by the Parties, with the participation of Saskatchewan, as appropriate, including child welfare, education, shelter, health, justice, treaty annuities, hunting, trapping, fishing and gathering, and lands and resources and any other papers that may be jointly developed by the Parties from time to time;

- 1.5 The "Federation of Saskatchewan Indian Nations" or "FSIN" refers to the political organisation that represents, subject to the FSIN's Convention or Convention Act, First Nations in Saskatchewan;
- 1.6 "Jurisdiction" means law making power;
- 1.7 "Parties" refers to the Federation of Saskatchewan Indian Nations and Canada;
- 1.8 "Saskatchewan" means the Government of Saskatchewan;
- 1.9 "Treaty" refers to Treaties 4, 5, 6, 8, and 10 in Saskatchewan;
- 1.10 "Treaty First Nations" refers to those Treaty First Nations in Saskatchewan represented by FSIN;
- 1.11 "Treaty Table" refers to the discussion table set out in section 7;
- 1.12 The "Office of the Treaty Commissioner" refers to the Office established as the Office of the Treaty Commissioner in this Agreement;
- 1.13 "Treaty Commissioner" refers to the individual appointed pursuant to section 4 of this Memorandum of Agreement.

2.0 Principles

- 2.1 The Parties and the Office of the Treaty Commissioner shall be guided by the following principles:
 - 2.1.1 The Parties acknowledge the significant role of the elders and agree to ensure that ceremonial and oral traditions are respected and are adhered to within the context and work of the Office of the Treaty Commissioner;
 - 2.1.2 Treaty is a fundamental part of the relationship between Treaty First Nations in Saskatchewan and the Crown. It is a foundational document, creating and committing the Parties to an enduring relationship based on solemn promises exchanged, and respect acknowledged, at the time of treaty-making;

- 2.1.3 Integral in the treaty relationship between the Crown and First Nations is the principle of maintaining the honour of the Crown, which includes the role of the Crown in Right of Canada as successor to the British Crown, and the honour of Treaty First Nations in upholding Treaty;
- 2.1.4 The Parties desire a process through which issues which affect the treaty relationship may be addressed in a non-confrontational and non-adversarial manner which is respectful of First Nation cultures, languages, and traditions.

3.0 Renewal of the Office of the Treaty Commissioner

- 3.1 Upon execution of this Agreement the Parties agree to renew the Office of the Treaty Commissioner for three years.
- 3.2 The term of the Office of the Treaty Commissioner may be extended beyond the three year period provided for in section 3.1 by agreement of the Parties.

4.0 Appointment of Treaty Commissioner

- 4.1 There shall be a Treaty Commissioner appointed pursuant to written authority from the Federation of Saskatchewan Indian Nations and by an Order in Council of the Government of Canada.
- 4.2 The Treaty Commissioner shall be an individual appointed by agreement of the Parties for a term mutually agreed upon by the Parties.
- 4.3 The Treaty Commissioner may be removed prior to the expiry of his or her term by mutual agreement of the Parties.

5.0 Mandate of the Office of the Treaty Commissioner

- 5.1 The primary mandate of the Office of the Treaty Commissioner is to analyze treaty-related issues, develop options, and report to and provide Advice to the Parties regarding courses of action that will achieve practical results that reflect the treaty relationship;
- 5.1.1 In their efforts to foster a strong and continuing treaty relationship;

- 5.1.2 In an attempt to resolve outstanding issues between the Parties regarding the treaty relationship, including priority areas identified in section 5.3;
- 5.1.3 In overcoming obstacles that may affect treaty relations among all residents and interests in Saskatchewan;
- 5.1.4 *In celebrating the treaty relationship, and enhancing awareness and understanding that all residents of Saskatchewan are part of and beneficiaries of the treaty relationship, through public education and commemorative activities.*
- 5.2 The activities described in section 5.3 may include discussion of Jurisdiction and treaty rights, the outcomes of which may be directed to appropriate forums for further consideration.
- 5.3 The Office of the Treaty Commissioner will work with the Treaty Table, to identify options and make recommendations to assist in resolving issues that affect the treaty relationship, in priority areas, which include, but are not limited to:
 - 5.3.1 Economic independence, including:
 - Lands and Resources;
 - Hunting, Fishing, Trapping and Gathering;
 - Shelter (Housing);
 - 5.3.2 First Nations citizenship and its relationship to First Nations governance;
 - 5.3.3 Justice;
 - 5.3.4 Education and Child Welfare; and
 - 5.3.5 Health.
- 5.4 In carrying out any activities described in section 5.3, the Parties agree to identify future opportunities that would enhance governance, achieve economic independence, and improve the well-being of First Nations communities.

6.0 Role and Functions of the Office of the Treaty Commissioner

- 6.1 In order to carry out the mandate set out in section 5.0, the Office of the Treaty Commissioner may carry out the following roles and functions:
 - 6.1.1 The Office of the Treaty Commissioner is an advocate for the treaty relationship and as such may:
 - 6.1.1.1 Prepare independent reports/evaluations concerning the honouring of the treaty relationship by the Parties;
 - 6.1.1.2 Conduct other activities authorized pursuant to this agreement.
 - 6.1.2 The Office of the Treaty Commissioner may facilitate discussions at the Treaty Table. Alternatively, the Office of the Treaty Commissioner may participate in discussions at the Treaty Table. Where the Office of the Treaty Commissioner participates in discussions at the Treaty Table, the Parties may appoint a neutral facilitator to facilitate discussions;
 - 6.1.3 The Office of the Treaty Commissioner shall provide administrative support to the Treaty Table;
 - 6.1.4 The Office of the Treaty Commissioner, with the agreement of the Parties, may initiate any of the following activities:
 - 6.1.4.1 Conduct public education and awareness programs concerning treaty, the treaty relationship, and the contributions of First Nations to Saskatchewan society, in consultation with First Nations elders;
 - 6.1.4.2 Review and evaluate agreements between the Parties, including the implementation of these agreements in accordance with frameworks agreed to by the Parties;
 - 6.1.4.3 Conduct focussed research and analysis and prepare reports on specific topics as well as reports which would contribute to the resolution of an issue and promote solutions;
 - 6.1.4.4 Arrange meetings of the Treaty Table;

- 6.1.4.5 Arrange for and employ Treaty First Nations' consensus based dispute resolution mechanisms to resolve issues which affect the treaty relationship;
 - 6.1.4.6 Seek the advice of the Treaty Table on treaty-related issues.
 - 6.2 In addition to the activities contained in section 6.1, the Office of the Treaty Commissioner may independently:
 - 6.2.1 Promote the ceremonial recognition of treaty and treaty protocols, by officiating or participating at treaty celebrations and commemorations, and other acts of renewal;
 - 6.2.2 Make recommendations and report to the Parties on how to move forward on specific topics and issues, concerning the treaty relationship.
 - 6.3 The Treaty Commissioner is responsible for implementing the mandate of the Office of the Treaty Commissioner.
 - 6.4 Where appropriate, the Office of the Treaty Commissioner may invite members of the Treaty Table to participate in any activities described in section 6.
 - 6.5 The functions assigned to the Office of the Treaty Commissioner may be further defined, determined and prioritized on an annual basis, as set out in a work plan as agreed to by the Parties.

7.0 Role and Functions of the Treaty Table

- 7.1 The participants at the Treaty Table shall include the Parties, the Office of the Treaty Commissioner, and representatives of Saskatchewan as observers, unless otherwise agreed to pursuant to section 10.0.
- 7.2 The Parties are committed through consensus building to achieve results.
- 7.3 The role of the Treaty Table is to:
 - 7.3.1 Discuss Treaty and the treaty relationship;
 - 7.3.2 Address follow-up to the Context Papers;

7.3.3 Where agreed, discuss and develop a work plan on treaty implementation, including but not limited to, consideration of any recommendations set out in the Office of the Treaty Commissioner Report *Treaty Implementation: Fulfilling the Covenant* and any response to this report released by the Parties. Canada's ability to deal with issues related to the definition and implementation of treaty rights and obligations is dependent on authorities in place from time to time; and

7.3.4 Work with the Office of the Treaty Commissioner on priority areas identified in section 5.3.

8.0 Accountability

8.1 The FSIN and the Government of Canada will establish a joint forum, consisting of the Minister of Indian Affairs and Northern Development and the Chief of the FSIN, to provide direction to the Treaty Commissioner and to participate and provide direction related to monitoring, evaluation, and progress on the issues identified in sections 5.0 and 6.0 of this Agreement:

8.1.1 This forum will meet thrice a year or as otherwise agreed upon by the Parties;

8.1.2 Authority to represent the Minister and the Chief in the forum described in section 8.1 may be delegated by the Minister and Chief to a technical committee as necessary.

8.2 The operations of the Office of the Treaty Commissioner shall be the direct responsibility of the Treaty Commissioner, including the manner in which the Treaty Commissioner is to deliver his/her role and functions. The Commissioner is accountable to the Parties for the outputs of the operations, role, and functions of the Office of the Treaty Commissioner.

8.3 The Treaty Commissioner shall be responsible for the overall operation of the Office of the Treaty Commissioner, including the development of internal policies and guidelines and implementation of agreed upon work plans.

- 8.4 The Office of the Treaty Commissioner shall provide, simultaneously to both Parties, an annual report, detailing the progress on fulfilling the mandate of the Office of the Treaty Commissioner and agreed upon work plans.
- 8.5 The Office of the Treaty Commissioner shall address the FSIN Chiefs-in-Assembly on an annual basis and/or as otherwise invited.

9.0 Linkages to Other Processes

- 9.1 The Parties acknowledge the potential for negotiations or discussions to be (re)initiated, including in relation to self-government and treaty implementation, and agree that from time to time and when appropriate, the processes established by this Agreement may be used to inform or assist other processes in the province of Saskatchewan.

10.0 Provincial Involvement

- 10.1 Notwithstanding the bilateral nature of this Agreement, the Parties recognize that Saskatchewan has certain obligations and interests that require Saskatchewan's involvement.
- 10.2 The Parties, therefore, support the continued involvement of Saskatchewan with the Treaty Table, as an observer.

11.0 Involvement of Other Federal Government Departments

- 11.1 Where appropriate, Canada agrees to involve other government departments in the processes set out in this Agreement, where such involvement would contribute to the resolution of an issue.

12.0 Evaluation and Reporting

- 12.1 The Parties, on an annual basis, pursuant to section 8.1, will jointly assess the progress being made on matters set out in this Agreement.

- 12.2 There shall be an evaluation in the second year following the execution of this Agreement of the effectiveness of the Office of the Treaty Commissioner and the Treaty Table. Both Parties agree to participate fully in such an evaluation. The Treaty Commissioner will be invited to participate in appropriate aspects of the evaluation.
- 12.3 The Office of the Treaty Commissioner shall submit a report annually at the end of the fiscal year to the Minister of Indian Affairs and Northern Development and the Chief of the Federation of Saskatchewan Indian Nations, as identified in section 8.4.
- 12.4 The annual report shall, as identified in section 8.4 and pursuant to section 5.0, assess the results achieved for the issues identified in section 5.

13.0 Financing

- 13.1 Funding to support the Office of the Treaty Commissioner shall be tied to work plans developed by the Treaty Commissioner and agreed to by the Parties.
- 13.2 The Office of the Treaty Commissioner, in consultation with the Parties, may seek sponsors for any activities identified in this Memorandum of Agreement.

14.0 Other Issues

- 14.1 The FSIN shall review their activities, including follow-up on the Context Papers, in a manner that is consistent with FSIN Treaty Implementation Principles.
- 14.2 Nothing in this Agreement shall prejudice any treaty or Aboriginal rights as currently defined or which may be further defined through litigation, agreements or settlements of claims between the Government of Canada and the Treaty First Nations.
- 14.3 This Agreement is not a treaty and does not create any legal obligations.
- 14.4 The Parties intend that the processes set out in this Agreement will be the principal mechanisms for facilitating common understandings on treaty issues.

- 14.5 Nothing in this Agreement is intended to restrict individual Treaty First Nations or Tribal Councils from engaging in discussions with the Government of Canada.
- 14.6 Nothing in this Agreement will preclude or limit in any way, individual First Nations or Tribal Councils from continuing or completing negotiations already underway on subjects included in this Agreement.
- 14.7 The Parties at any time may, by agreement, revise, update and/or otherwise amend the mandate of the Office of the Treaty Commissioner.

Signed this 26 day of February, 2008

at Ottawa in the Province of Ontario




Her Majesty in the Right of Canada
as represented by the Minister of
Indian Affairs and Northern Development



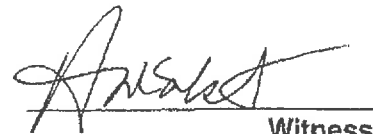
Witness

Signed this 19 day of February, 2008

at Saskatoon in the Province of Saskatchewan.



The Federation
of Saskatchewan Indian Nations
as represented by the Chief



Witness