

**METLAKATLA
TRANSITION TO STAGE 5 AND TREATY REVITALIZATION AGREEMENT**

(the “Agreement”)

BETWEEN:

METLAKATLA FIRST NATION,

as represented by the Metlakatla Governing Council

(hereinafter “Metlakatla”)

AND:

HER MAJESTY THE QUEEN

IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,

as represented by the Minister of Indigenous Relations and Reconciliation

(hereinafter “British Columbia”)

AND:

HER MAJESTY THE QUEEN

IN RIGHT OF CANADA,

as represented by the Minister of Crown-Indigenous Relations

(hereinafter “Canada”)

(each a “Party” and collectively the “Parties”)

Canada



PREAMBLE

Whereas:

- a) Metlakatla has existing aboriginal rights and title including the inherent right to self-government, as recognized and affirmed under section 35 of the *Constitution Act, 1982* (“Metlakatla Rights and Title”);
- b) The Parties are engaged in negotiations under the British Columbia Treaty Process with a view of achieving predictability with respect to the exercise of Metlakatla Rights and Title;
- c) On July 14, 2017, Canada announced its *Principles respecting the Government of Canada’s Relationship with Indigenous Peoples* that are intended to form the foundation for how the federal government will partner with Indigenous Peoples in a new and enduring relationship;
- d) On May 22, 2018 British Columbia announced its *Draft Principles that Guide the Province of British Columbia’s Relationship with Indigenous Peoples*;
- e) The Parties agree that the United Nations Declaration on the Rights of Indigenous Peoples form part of the foundation for a new and enduring relationship between Indigenous Peoples and the Crown;
- f) The Parties agree the Calls to Action of the Truth and Reconciliation Commission form part of the foundation for a new and enduring relationship between Indigenous Peoples and the Crown;
- g) The Parties have been negotiating a draft Metlakatla Treaty in Stage 4 and acknowledge that certain important elements may be better resolved in Stage 5 negotiations;
- h) The Parties intend to take a new and accelerated approach to conclude treaty negotiations with improved mandates;
- i) Metlakatla and British Columbia, along with other First Nations have negotiated a Coastal First Nations Reconciliation Protocol Agreement dated December 10, 2009 and various subsidiary agreements, and amendments to the Reconciliation Protocol and subsidiary agreements that Metlakatla and British Columbia intend to use as a further foundation in developing a new and enduring relationship;
- j) The Parties wish to respect established case law including but not limited to the *Tsilhqot’in Nation v. BC et al., 2014 SCC 44* decision in the negotiation of a Metlakatla Treaty.

NOW THEREFORE the Parties wish to set out their mutual understanding as follows:

1. PURPOSE:

The purpose of this Agreement is to signify the Parties’ commitment to:

- a) Commence Stage 5 negotiations without signing a Stage 4 Agreement in Principle, as confirmed by the British Columbia Treaty Commission;

- b) Establish a new approach to Metlakatla Treaty negotiations with a focus on those core elements that are required to be included in a Metlakatla Treaty;
- c) Be informed and guided by the foundation documents, referred to in Section 2;
- d) Proceed in a manner consistent with the *Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia*, endorsed by the Principals May 24, 2016.

2. Foundation Documents:

The Metlakatla Stage 5 negotiations will be informed and guided by, but not limited to, the following foundation documents:

- a) *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*;
- b) *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*;
- c) *United Nations Declaration on the Rights of Indigenous Peoples*;
- d) *Draft Metlakatla Treaty and Draft Metlakatla Treaty- Appendices*;
- e) *Coastal First Nations/British Columbia Reconciliation Protocol*, as amended from time to time and subsidiary agreements;
- f) *Metlakatla-BC Protected Area Collaborative Management Agreement*.

3. Scope of Negotiations:

The Parties commit to negotiate in good faith and seek mandates necessary to conclude Stage 5 negotiation within 2 years of the execution of this Agreement. Among other things, negotiations by the Parties will focus on the essential elements of a Metlakatla Treaty and will include:

- a) Common treaty objectives as set out in the Recognition and Renewal Proposal;
- b) The recognition of Metlakatla Rights and Title;
- c) Predictable, stable and reliable processes for renewal, amendment and evolution of rights, jurisdictions and intergovernmental relations;
- d) Recognition of the Metlakatla role in the stewardship and natural resource decisions in areas where Metlakatla will exercise treaty rights;
- e) Recognition and establishment of the Metlakatla government including its composition and structure;
- f) Application of the concurrent law model;
- g) Addressing the Parties' interests in issues of paramountcy;
- h) Recognition of areas of Metlakatla jurisdiction and authority;
- i) Fish and marine resources;
- j) Lands to become Metlakatla First Nation Lands;
- k) Capital transfer and the engagement process on how to address past and present negotiation loans, including forgiveness;

- l) New fiscal relationship, including consideration of Canada's Self-Government Fiscal Policy;
- m) Discussions related to Metlakatla's interest in the continuation of the section 87 *Indian Act* tax exemption;
- n) Metlakatla's interest in the Lucy Island Conservancy and Stephens Island Conservancy and Metlakatla First Nation Lands within the conservancies;
- o) Metlakatla's interest in foreshore and adjacent marine areas ownership and jurisdiction;
- p) Metlakatla's interest in a long term forest tenure of 75,000 cubic meters;
- q) Content and composition of appendices and side agreements that may be evergreen or time limited.

4. Negotiation Priorities

The Parties agree that upon the signing of this agreement, they will negotiate the following priority issues, as identified by Metlakatla, in good faith:

- a) Forestry including a forestry Incremental Treaty Agreement;
- b) Conservancies including Lucy Islands Conservancy and Ksgaxl/Stephens Island Conservancy;
- c) Foreshore and adjacent marine areas;
- d) Land protection and a final land and cash offer;
- e) Fish, marine resources and the economic component;
- f) Recognition, predictability and periodic renewal.

5. Consultations with Neighbouring Indigenous Groups

- a) The Parties acknowledge Canada and British Columbia will fulfill their consultation obligations with neighbouring Indigenous groups whose rights may be adversely impacted by a treaty with Metlakatla.
- b) Metlakatla acknowledges its commitments with respect to Recommendation 8 of the *Report of the British Columbia Claims Task Force (June 28, 1991)*.

6. Other Matters:

The Parties also agree that:

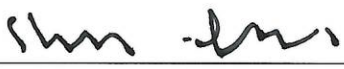
- a) This Agreement does not constitute a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*;
- b) This Agreement does not affirm, recognize, define, abrogate or derogate from Metlakatla Rights and Title;
- c) The Parties acknowledge that they will each require further mandates to realize the objectives of this Agreement;

- d) This Agreement is not legally binding and does not create any contractual or financial obligations for any Party;
- e) Negotiations under this Agreement will continue to take place in accordance with the British Columbia treaty process; and
- f) Negotiations conducted pursuant to this Agreement, and in relation to the Metlakatla Treaty are subject to settlement privilege unless the Parties otherwise agree in writing.

EFFECTIVE DATE AND SIGNATURES

This Agreement will come into effect on the date of the last signature.

SIGNED ON BEHALF OF METLAKATLA FIRST NATION:

By:  Date: Feb 14, 2019

[Chief Harold Leighton]

SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA:

By:  Date: Feb 14, 2019

[The Honourable Carolyn Bennett, Minister
of Crown-Indigenous Relations]

SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA:

By:  Date: Feb. 14, 2019

[The Honourable Scott Fraser, Minister
of Indigenous Relations and Reconciliation]