

# Terms of Reference: Métis National Council Expert Panel

**Terms of Reference:** Expert Panel

**Date Revised and Approved by the MNC Board of Governors:** 09-28-2023

## **Authority**

The Expert Panel exists by virtue of a resolution at the 2021 MNC Annual General Assembly on 09-29-2021. These Terms of Reference will guide the work of the Expert Panel and will be reviewed as required.

## **Purpose**

The mandate of the Expert Panel is to review the history of the seven Ontario communities (“Seven Communities”) through the lens of the National Definition and contemporary Métis governance.

## **Reporting Relationship**

The Expert Panel will prepare quarterly reports, which will be submitted to the MNC Board of Governors who will provide it to the MNC General Assembly. The Expert Panel will prepare a Discussion Paper to be presented to the MNC Board of Governors who will adopt or amend to present to the MNC General Assembly.

## **Composition**

The Expert Panel will be made up of the following:

- a. one representative appointed by each MNC Governing Member with knowledge of Métis rights, laws and history, a Chair will be selected from the MNC Governing Member representatives; and
- b. two additional individuals, appointed by the MNC Governing Members’ representatives on the Panel who are independent experts (lawyers, academics, historians or jurists) in the area of Métis rights, history and laws. MNC shall ask for nominations for the independent experts and their CV’s shall be submitted and recommendations shall be made to the Panel who will appoint these additional two members by way of a majority vote.

The Chair will be selected from one of the MNC founding Governing Member representatives.

## **Vacancies**

If there is a vacancy of an Expert Panel member, the MNC Board of Governors will be notified.

- a. If it is a MNC Governing Member’s appointee, the MNC Governing Member is responsible for filling that position within 30 days from notification.
- b. If it is an Independent Expert, the Expert Panel is responsible for filling the position within 30 days from notification.

The work of the Expert Panel will continue through the vacancy.

## **Term**

The Expert Panel shall exist for twelve months from the date of the appointment of all Expert Panel members.

## **Key Duties and Responsibilities**

- a. The Expert Panel shall ensure a process that is fair, rigorous, impartial, unbiased, and thorough and shall provide a respectful place for discussion.
- b. The Expert Panel will review materials from the MNC Governing Members and other sources that are relevant to the Purpose as determined by the Expert Panel.
- c. The Expert Panel shall prepare a Discussion Paper to be presented to the MNC Board of Governors no later than 12 months from the date of the first meeting after the Panelists have all been appointed at a mutually agreeable date set by the MNC Board of Governors.
  - i. Said Discussion Paper shall review all information presented to the Panel and any initial conclusions reached with respect to the 2018 probation resolution and may recommend an Action Plan.
  - ii. The Discussion Paper and recommendations shall be reviewed and discussed at the said meeting with a view to being adopted, in whole or in part, by the MNC Board of Governors and the MNC General Assembly.

## **Meetings**

As per the 2021 General Assembly Resolution:

- a. The Expert Panel shall set a schedule of a minimum of two meetings of hearings plus a minimum of two additional meetings over the course of 12 months.
- b. MNO will be provided an opportunity to present to the Panel on the history and results of the process it engaged in with the Government of Ontario to identify the Seven Communities in question, its ongoing registry review process, as well as other research and work it has undertaken in relation to advancing and securing the recognition of Métis rights, interest and claims in Ontario.
- c. All MNC Governing Members shall be provided the opportunity to appear before the Expert Panel and present any relevant information and make any recommendations they see fit.
- d. The Panel will have an opportunity to invite anyone to appear before the Expert Panel to present relevant information as they deem fit.
- e. The Panel may ask anyone they deem necessary to present a written brief, respond to any information presented to the Panel, or appear as a volunteer witness before the Panel. The Expert Panel may meet in person or via teleconference.

In addition, the Expert Panel will provide the opportunity for the Seven Communities shall to appear before the Expert Panel and present any relevant information and make any recommendations as they see fit.

**Staff Support**

The Panel shall be provided the resources necessary to undertake the activities outlined in this resolution by the MNC.

An MNC employee shall be appointed and remain consistent to assist the Expert Panel in scheduling and preparing for its meetings as required. The minutes of each Expert Panel meeting shall be prepared by MNC.

**Elder Support**

The Panel shall be provided with access to the MNC Grandmother Council and other Elders, as requested.

**Records**

Minutes of meetings shall be kept at the Métis National Council office. Minutes shall be distributed to all members of the Expert Panel and made available to the BOG upon request.

Supporting documentation on any matter reviewed by the Expert Panel shall be made available for examination by any member of the BOG upon request.

**Compensation**

The Panel shall be provided the resources necessary to undertake the Purpose. Honorariums and payments will be paid by the Métis National Council according to their rates.

The MNC Governing Members are responsible for any expenses for their hearing presentations.

## **Appendix A: RESPONSIBILITIES OF MEMBERS OF THE EXPERT PANEL**

### **EXPERT PANEL WORKING NORMS**

1. The Expert Panel will generally operate on the basis of consensus. Expert Panel members may request that a matter be put to a vote. The Chairperson shall decide on whether or not a vote shall be taken, which shall be by majority rule.
2. Minutes will record any dissenting opinion upon request.
3. All deliberations and decisions of the Expert Panel may be held in confidence as deemed appropriate by at least three-quarters of the Panel.

### **CHAIRPERSON**

#### **It is the responsibility of the Expert Panel Chairperson to:**

1. Chair and guide an active Panel in accordance with these Terms of Reference.
2. Prepare a meeting agenda for approval at Panel meetings.
3. Ensure that accurate notes or Minutes are maintained and distributed to all members and retained at the Organization office.
4. Decide on whether a matter shall be put to a vote.
5. Report and speak on behalf of the Expert Panel, as required.
6. Recommend, in consultation with Panel members, the appointment by the BOG of any replacement or new members that may be required or desirable for the completion of the Expert Panel's work.
7. The Chairperson or a designate shall speak in an official capacity on behalf of the Panel.

#### **In presiding over the Expert Panel, the Chairperson's role is to:**

1. Ensure the orderly and smooth operation of Expert Panel meetings.
2. Keep the business and activities of the Expert Panel within its Terms of Reference.
3. In matters related to the media, the Chairperson will inform and/or discuss with the Métis National Council President who will report to the BoG.

### **EXPERT PANEL MEMBERS**

1. Will attend all scheduled meetings of the Expert Panel.
2. Will have read all material circulated prior to a meeting.
3. Are responsible for completing any action items or tasks agreed upon by the Expert Panel.
4. Inform their respective leadership of the work of the Expert Panel.
5. Selection of a Chairperson by the MNC Governing Member representatives.

## **Appendix B: MNC 2021 AGA Resolution**

**WHEREAS** in 2002, the Métis National Council Secretariat Inc. (“**MNC**”) General Assembly unanimously adopted a definition for citizenship within the Métis Nation (the “**National Definition**”) that was then adopted and implemented by each MNC Governing Member.

**WHEREAS** in recent years, the MNC General Assembly has passed resolutions further clarifying the National Definition, including the geographic scope of the Métis Homeland (the “**Homeland**”).

**WHEREAS** the Governing Members desire to come together in the best interests of the Métis Nation in order to establish a process to protect the territorial integrity of the historic and modern day Métis Nation as well as ensure each Governing Member is able to investigate, research, promote, advance, negotiate on and secure the recognition of the rights, interests and claims of their respective citizens as well as the Métis communities and collectivities they represent in their respective provinces;

**AND WHEREAS** the Governing Members also desire to create a fair, thorough, unbiased, inclusive, and transparent process in order to better understand the relationship between inherent Métis Nation rights, UNDRIP, the National Definition, Section 35 Métis Rights, etc. by historians, lawyers and experts that are relied upon, trusted and respected by all Governing Members;

### **THEREFORE BE IT RESOLVED:**

1. MNC immediately establish an expert panel (the “**Panel**”) with a mandate to review the history of the seven Ontario communities (“**Seven Communities**”) through the lens of the National Definition and contemporary Métis governance.
2. The Panel will be made up of the following:
  - a. one representative appointed by each Governing Member with knowledge of Métis rights, laws and history, a Chair will be elected amongst the Governing Member representatives; and
  - b. two additional individuals, appointed by the Governing Members’ representatives on the Panel who are independent experts (lawyers, academics, historians or jurists) in the area of Métis rights, history and laws. MNC shall ask for nominations for the independent experts and their CV’s shall be submitted and recommendations shall be made to the Panel who will appoint these additional two members by way of a majority vote.
3. MNO will be provided an opportunity to present to the Panel on the history and results of the process it engaged in with the Government of Ontario to identify the Seven Communities in question, its ongoing registry review process, as well as other research and work it has undertaken in relation to advancing and securing the recognition of Métis rights, interest and claims in Ontario.
4. All Governing Members shall be provided the opportunity to appear before the Panel and present any relevant information and make any recommendations they see fit.
5. The Panel shall ensure a process that is fair, rigorous, impartial, unbiased, thorough and shall provide a respectful place for discussion.

6. The Panel shall set a schedule a minimum of two meetings of hearings plus a minimum of two additional meetings over the course of 12 months, after the passing of this resolution, to review written and/or verbal materials and briefs from the Governing Members and other relevant sources. The Panel may ask anyone they deem necessary to present a written brief, respond to any information presented to the Panel, or appear as a volunteer witness before the Panel.
7. The Panel will prepare quarterly reports, which will be submitted to the MNC Board of Governors and members of the MNC General Assembly.
8. The Panel shall prepare a Discussion Paper to be presented to the MNC Board of Governors no later than 12 months from the date of the first meeting of the Panel at a mutually agreeable date set by the MNC Board of Governors. Said Discussion Paper shall review all information presented to the Panel and any initial conclusions reached with respect to the 2018 probation resolution and may recommend an Action Plan. The Discussion Paper and recommendations shall be reviewed and discussed at the said meeting with a view to being adopted, in whole or in part, by the MNC Board of Governors and the MNC General Assembly.
9. The Panel shall be provided the resources necessary to undertake the activities outlined in this resolution by the MNC.
10. The 2018 MNC General Assembly 2018 probation resolution against MNO is in abeyance pending the conclusion of the above detailed process.

**WHEREAS:**

- A. The Métis Nation shares a history that includes the exercise of the right to self-determination and the inherent right to self-government over generations, including:
  - a. The 1815 rallying of Métis forces from along the Saskatchewan River Corridor culminated in the first military display of the red infinity flag at Fort John;
  - b. On June 1, 1816, the seizure of Brandon House by Métis forces under the blue infinity flag;
  - c. On July 18, 1816, the Battle of Seven Oaks (also known to the Métis as the Victory of the Frog Plain or la Victoire de la Grenouillère);
  - d. The Métis buffalo hunt brigades governed by the Métis Laws of the Hunt that spanned the historic North-West;
  - e. The Red River Resistance leading to the establishment of a first Provisional Government and the negotiation of the *Manitoba Act, 1870* to address Métis interests within the postage stamp province of Manitoba;
  - f. The petitioning by Métis collectives in response to the imposition of colonial laws and settlements on Métis land; and
  - g. In 1885, the North-West Resistance, including the establishment of a second Provisional Government, the Battle of Duck Lake, the Battle of Fish Creek, and the Battle of Batoche, in what would become Saskatchewan, which Resistance led to the execution of Louis Riel by Canada and the implementation of the Métis scrip system to attempt to address Métis claims to land;
  
- B. Specifically, the Métis Nation within Saskatchewan has a history that includes the exercise of its right to self-determination and inherent right to self-government over generations, including the following events:
  - a. The first military display of the red infinity flag at Fort John (on the Qu'Appelle River in present day Saskatchewan) following the 1815 rallying of Métis forces along the Saskatchewan River Corridor;
  - b. Political action and assertions by Métis collectives throughout Saskatchewan in response to the imposition of colonial laws and settlement on Métis lands;
  - c. In the early 1930s, the Métis Nation in southern Saskatchewan organized to address issues pertaining to the Métis scrip system and Métis claims to land, and they formed the "Half-Breeds of Saskatchewan" to represent Métis interests in southern Saskatchewan;
  - d. At the same time, the Métis Nation within Saskatchewan founded the Saskatchewan Métis Society to address issues pertaining to Métis poverty, lack of education, lack of employment, land displacement, and hunting issues in southern and central Saskatchewan, and by 1939, there were over 20 community-based representative structures, known as Locals, in rural and urban centres throughout Saskatchewan;
  - e. In 1964, the Métis Nation within Saskatchewan formed the Métis Society of Saskatchewan (MSS) to represent the Métis in southern and central Saskatchewan, and the Métis Association of Saskatchewan (MAS) to represent the Métis in northern Saskatchewan and non-status Indians;
  - f. In 1967, the MSS and the MAS merged, retaining the name of the MSS;

- g. In 1975, the MSS was restructured as the Association of Métis and Non-Status Indians of Saskatchewan (AMNSIS);
  - h. In 1988, the AMNSIS held a referendum to limit its membership to citizens of the Métis Nation within Saskatchewan only, which referendum passed, and the organization returned to the name of the MSS;
  - i. In 1993, the Métis Nation within Saskatchewan passed the “*Constitution of the Métis Nation - Saskatchewan*” (the “*Constitution*”), which defines the Métis Nation within Saskatchewan as a people, set out the Métis Nation – Saskatchewan’s (MN-S) core values and laws, and details the mechanisms of the MN-S as the democratic government of the Métis Nation within Saskatchewan; and
  - j. Since 1993, the MN-S has amended its *Constitution* and enacted legislation, such as the “*Métis Nation of Saskatchewan Citizenship Act, 1999*”, to supplement its *Constitution* in furtherance of its role as the democratic government of the Métis Nation within Saskatchewan;
- C. As a continuation of the Métis Nation within Saskatchewan’s exercise of its right to self-determination and inherent right to self-government, the collective has, without limitation:
- a. Created, developed, and evolved the MN-S as a Métis Government;
  - b. Established democratic governance structures and institutions at the local, regional, and provincial levels through the MN-S to represent the Métis Nation within Saskatchewan;
  - c. Established fair, transparent, and objectively verifiable systems to identify and register citizens of the Métis Nation within Saskatchewan;
- D. The MN-S is a founding member of the Métis National Council (MNC);
- E. In 2002, the MNC General Assembly unanimously adopted a definition for citizenship within the Métis Nation (the “National Definition”) that was then adopted and implemented by (each governing member or just the MN-S);
- F. In the years that followed, the MNC General Assembly (the “General Assembly”) has passed resolutions further clarifying the National Definition, including the geographic scope of the Métis Homeland (the “Homeland”);
- G. In November of 2018, the General Assembly resolved to place the Métis Nation of Ontario (MNO) on a one-year probation while it fulfilled certain conditions relating to the MNO’s membership requirements and the MNO’s identification of seven historical Métis communities (the “Probation Resolution”);
- H. On September 29, 2021, the General Assembly passed a resolution directing *inter alia* (the “2021 Resolution”):
- a. That the MNC immediately establish an expert panel with a mandate to review the history of the seven Ontario communities through the lens of the National Definition and contemporary Métis governance;
  - b. That the Probation Resolution be put into abeyance pending the conclusion of the panel process;



- c. It is in the best interest of the Métis Nation that the outstanding matters underlying the Probation Resolution and 2021 Resolution be resolved forthwith;

**NOW THEREFORE BE IT RESOLVED THAT:**

- A. The General Assembly directs the MNC to immediately prioritize the aforementioned historical review as mandated pursuant to the 2021 Resolution;
- B. The MNC Governing Members must provide their appointees for the Expert Panel to the MNC Board of Governors by December 15, 2022;
- C. The MNC shall complete the historical review on or before July 27, 2023; and
- D. The General Assembly shall consider the historical findings of the Expert Panel as mandated in the 2021 Resolution and conclusively resolve those matters outstanding in the Probation Resolution; at the next regularly scheduled Annual General Assembly.