

AGREEMENT ON WITHOUT PREJUDICE BASIS OF NEGOTIATIONS

BETWEEN:

The Listuguj Mi'gmaq Government ("LMG")

as represented by Chief Negotiator Troy Jerome duly authorized for the purposes hereof,

AND

The Government of Canada ("Canada")

as represented by Chief Negotiator Michel Youssef duly authorized for the purposes hereof,

1. The following definitions apply to this Agreement:

- a) the expression "framework of discussions" shall mean the communications and dealings concerning the out-of-court settlement of the demand and cross-demands in the *William B. Busted v. the Restigouche Indian Band et al.* litigation before the Superior Court of Quebec, District of Bonaventure (Court number # 105-05-000231-973) and the action in the *Listuguj Mi'gmaq First Nation et al. v. Her Majesty the Queen* litigation in the Federal Court (Court number # T-2478-03), including all claims, damages, compensation and lands matters related thereto.
- b) the expressions "meeting" or "meetings" shall mean any meeting related to the framework of discussions between any representatives of the parties and includes such meetings held by telephone and electronic conferencing.

2. All communications and dealings which occur between the parties within the framework of discussions are without prejudice, so that they cannot be used as evidence or interpreted as an admission of facts, law or liability by or against any of the parties, including in the context of pending or future judicial proceedings.

3. All communications and dealings within the framework of discussions are without prejudice to and do not define or limit the Aboriginal rights and title and Treaty rights the Listuguj Mi'gmaq have or may have, so that they cannot be used as evidence or interpreted as an admission of facts, law or liability, including in the context of pending or future judicial proceedings.

M. Y.
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4. All information, recording, video and documents, excluding this Agreement, which are communicated or produced by one or several parties, at any time and by any means within the framework of discussions, are without prejudice, so that they cannot be used as evidence or interpreted as an admission of facts, law or liability against any of the parties, including in the context of pending or future judicial proceedings.
5. This Agreement does not apply to public documents or to documents tabled within the framework of discussions and entirely made with information or data that was or is lawfully accessible by the parties independently of the framework of discussions;
6. It is understood that a party may use, in any other context including in pending or future legal proceedings, documents that it itself has produced within the framework of discussions inasmuch as they are not produced from without prejudice information submitted by another party within the framework of discussions.
7. For greater certainty, nothing in this Agreement affects the right of each of the parties to inform or seek the opinion of their respective members, officials and advisors at any time using without prejudice information, documents and communications covered by this Agreement.
8. A party hereto may in writing expressly consent to the use by another party in court and as evidence in pending or future legal proceedings of any discussions, documents or communications otherwise covered by the without prejudice requirements of this Agreement.
9. This Agreement shall apply to the period beginning October 17, 2008, being the date of Canada's initial letter of offer and the date upon which negotiations are deemed to have begun, and remain in force after the meetings and negotiations come to an end.

IN WITNESS WHEREOF, the Parties have signed the present Without Prejudice Agreement through their authorized representatives this 3 day of Dec., 2010:

For the Listuguj Mi'gmaq Government


Troy Jerome, Chief Negotiator

For the Government of Canada:


Michel Youssef, Chief Negotiator