

## SECTION 2

### **Principal Provisions**

#### **Surrender of rights**

**2.1** In consideration of the rights and benefits herein set forth in favour of the James Bay Crees and the Inuit of Québec, the James Bay Crees and the Inuit of Québec hereby cede, release, surrender and convey all their Native claims, rights, titles and interests, whatever they may be, in and to land in the Territory and in Québec, and Québec and Canada accept such surrender.

#### **Benefits under the Agreement**

**2.2** Québec and Canada, the James Bay Energy Corporation, the James Bay Development Corporation and the Québec Hydro-Electric Commission (Hydro-Québec), to the extent of their respective obligations as set forth herein, hereby give, grant, recognize and provide to the James Bay Crees and the Inuit of Québec the rights, privileges and benefits specified herein, the whole in consideration of the said cession, release, surrender and conveyance mentioned in paragraph 2.1 hereof.

Canada hereby approves of and consents to the Agreement and undertakes, to the extent of its obligations herein, to give, grant, recognize and provide to the James Bay Crees and the Inuit of Québec the rights, privileges and benefits herein.

**2.3** In consideration of the rights and benefits herein set forth in favour of the Inuit of Port Burwell who are ordinarily resident of Killinek Island, the Inuit of Port Burwell hereby cede, release, surrender and convey all their Native claims, rights, titles and interests, whatever they may be, in and to land in the Territory and in Québec, and Québec and Canada accept such surrender.

Québec and Canada, the James Bay Energy Corporation, the James Bay Development Corporation and the Québec Hydro-Electric Commission (Hydro-Québec) to the extent of their respective obligations as set forth herein, hereby give, grant, recognize and provide to the Inuit of Port Burwell the rights, privileges and benefits specified herein, the whole in consideration of the said cession, release, surrender and conveyance mentioned in this paragraph.

For purposes of the Agreement a person of Inuit ancestry who was or will be born on that part of Killinek Island within the Northwest Territories shall be deemed to have been born or to be born in Québec, or if such person is ordinarily resident in Port Burwell he shall be deemed to be ordinarily resident in Québec.

The provisions of the Agreement as set forth in Section 3A (Eligibility – Inuit); Section 6 (Land Selection – Inuit of Québec); Section 7 (Land Regime Applicable to the Inuit); Section 23 (Environment and Future Development North of the 55<sup>th</sup> Parallel) Section 24 (Hunting, Fishing and Trapping); Section 25 (Compensation and Taxation) and Section 27 (Inuit Legal Entities) shall apply to the Inuit of Port Burwell and for the purposes of such Sections the Inuit community of Port Burwell shall be deemed to be an “Inuit community”. Notwithstanding the foregoing the Inuit of Port Burwell shall not be included in paragraph 3.2.4 for the purpose of calculating the division of compensation as provided in paragraph 25.4.1.

Canada or the Government of the Northwest Territories, as the case may be, will continue to be responsible for providing programs and services to the Inuit who are ordinarily resident in Port Burwell in accordance with criteria that may be established from time to time.

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JBNQA, subs. 2.3

A. corr.

Compl. A. no. 2, s. 1

Compl. A. no. 18, sch. 1, s. 3

### **Legal Proceedings**

**2.4** In consideration of and subject to the rights, benefits and privileges in favour of the James Bay Crees and the Inuit of Québec, the James Bay Crees and Inuit of Québec consent by these presents to the settlement out of court of all legal proceedings relating to the James Bay project or to the claims, rights, titles and interests in land that they may have. The James Bay Crees and the Inuit of Québec further undertake not to institute any further proceedings relating to the matters contemplated in the said legal proceedings already instituted which are presently before the Supreme Court of Canada in virtue of leave to appeal granted by the Supreme Court of Canada on February 13, 1975.

The legal proceedings involving the parties and bearing the numbers 05-04840-72 and 05-04841-72 of the records of the Superior Court of the District of Montreal are hereby settled and transacted and the parties respectively release and discharge each other, their agents, mandataries, representatives and employees from all claims, demands, damages and inconvenience arising from or in relation to the matters contemplated by the said proceedings. The parties to the said proceedings undertake that they will forthwith upon the coming into force of the Agreement cause the necessary documents to be filed in the records of the Courts to give effect to the above.

### **Legislation**

**2.5** Canada and Québec shall recommend to the Parliament of Canada and to the National Assembly of Québec respectively, forthwith upon the execution of the Agreement, suitable legislation to approve, to give effect to and to declare valid the Agreement and to protect, safeguard and maintain the rights and obligations contained in the Agreement. Canada and Québec undertake that the legislation which will be so recommended will not impair the substance of the rights, undertakings and obligations provided for in the Agreement.

Both the federal and provincial legislation approving and giving effect to and declaring valid the Agreement, if adopted, shall provide that, where there is an inconsistency or conflict between such legislation and the provisions of any other federal or provincial law, as the case may be, applicable to the Territory, the former legislation shall prevail to the extent of such inconsistency or conflict. Canada and Québec acknowledge that the rights and benefits of the Indians and Inuit of the Territory shall be as set forth in the Agreement and agree to recommend that the federal and provincial legislation approving, giving effect and declaring valid the Agreement will provide for the repeal of Sub-sections c), d) and e) of Section 2 of the federal Quebec Boundaries Extension Act, 1912, and of the same Sub-sections of Section 2 of the Schedule to the provincial Quebec boundaries extension act, 1912.

The provincial legislation approving, giving effect to and declaring valid the Agreement shall allocate lands in the manner set forth in the Agreement, notwithstanding any other provincial laws or regulations.

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JBNQA, subs. 2.5

A. corr.

### **Extinguishment of rights**

**2.6** The federal legislation approving, giving effect to and declaring valid the Agreement shall extinguish all native claims, rights, title and interests of all Indians and all Inuit in and to the Territory, whatever they may be.

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JBNQA, subs. 2.6

Compl. A. no. 2, s. 2

### **Coming into force of Agreement**

**2.7** During the Transitional Period of two (2) years referred to herein, Canada and Québec shall to the extent of their respective obligations, take the measures necessary to put into force, with effect from the date of execution of the Agreement, the Transitional Measures referred to in the Agreement.

Except for such Transitional Measures, the Agreement shall come into force and shall bind the Parties on the date when both the federal and provincial laws respectively approving, giving effect to and declaring valid the Agreement are in force.

Upon the coming into force of the said federal and provincial legislation the Transitional Measures shall be replaced by all the other provisions of this Agreement. All acts done by the Parties in virtue of the said Transitional Measures shall then be deemed to have been ratified by all the Parties hereto.

### **Transitional Monetary Payment**

**2.8** In the event that the legislation referred to in paragraph 2.5 hereof does not come into force within a period of two (2) years from the execution of the Agreement, all compensation paid to or for the benefit of the James Bay Crees and the Inuit of Québec by Québec or Canada pursuant to Sub-section 25.1 shall be repaid to, revert to or remain with, as the case may be, the said governments. However, during the transitional period, the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell shall be entitled to receive, retain and use any interest earned thereon when due under the provisions of paragraphs 25.1.6 and 25.2.6. Such interest payments shall be made to the Grand Council of the Crees (of Québec) for the benefit of the James Bay Crees and to the Northern Québec Inuit Association for the benefit of the Inuit of Québec and the Inuit of Port Burwell.

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JBNQA, subs. 2.8  
A. corr.

### **2.9**

#### **Transitional Measures**

**2.9.1** During the period between the date of execution of the Agreement and either the coming into force of the legislation referred to in paragraph 2.5 or two (2) years from the date of execution of the Agreement, whichever is the earlier (which period is herein referred to as the Transitional Period Quotation marks), Québec undertakes, in the case of the James Bay Crees, from the date of the execution of the Agreement and in the case of the Inuit of Québec and the Inuit of Port Burwell, from the respective dates that agreements are reached with Québec in accordance with Section 6 for the selection of Category I lands, not to alienate, cede, transfer or otherwise grant rights respecting the lands which are to be allocated as Category I lands to or for the benefit of the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell, except for those rights which Québec could grant under Sections 5 or 7. Such lands are described in the Territorial descriptions annexed to Section 4 and to be annexed to Section 6 as selections are made and shall include the lands known as Category IA and Category IB lands.

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JBNQA, par. 2.9.1  
A. corr.

#### **Provisional use of Territory**

**2.9.2** During the transitional period, the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell shall be permitted to occupy, enjoy and use the Territory in accordance with present practice, subject to the rights of the other parties to the Agreement to act in such a manner as not to jeopardize rights which the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell will have when the Agreement comes into force and effect. Nonetheless, this shall not be deemed to be a recognition nor a

waiver of any right in or to the Territory in favour of or by the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell.

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JBNQA, par. 2.9.2  
A. corr.

### **Provisional Hunting, Fishing and Trapping**

**2.9.3** Moreover, during the transitional period, and subject to acquired rights, the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell when they will have selected their lands as aforesaid, shall be granted by regulations of Québec and Canada, to the extent of their respective jurisdictions, which Québec and Canada hereby undertake to adopt to give effect to these presents, the exclusive right to hunt, fish and trap in the lands which are or shall be described as Category I and Category II lands and to grant the right to trap and to hunt and fish in Category III lands, the whole subject to such limitations on the Native people as are contained in Section 24 of the Agreement. These regulations shall also provide that the Inuit of Québec and the Inuit of Port Burwell (through their Community Councils) and the James Bay Crees shall be authorized to allow other persons to hunt, fish and trap in Category I and Category II lands in the manner set forth in Section 24. Moreover, subject to acquired rights, the said regulations shall also provide for the same rights to the Native people in respect to outfitting as would have applied had the Agreement come into force on the date of its execution, except that notices relating to the right of first refusal with respect to outfitting facilities during the Transitional Period shall be given to the interested Native parties in respect to their respective areas of primary interest and to both interested Native parties in respect to areas of common interest.

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JBNQA, par. 2.9.3  
A. corr.

### **Payment during Transitional Period**

**2.9.4** From the date of execution of the Agreement, Canada and Québec shall pay for the benefit of the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell the amounts of compensation to which they shall be entitled upon the coming into force of the Agreement in accordance with the provisions of Sub-section 25.1 However, during the transitional period, such amounts of compensation shall not be paid to the legal entity or entities contemplated by Sections 26 and 27 but shall instead be paid to financial institutions in Québec mutually acceptable to Québec, Canada and the Cree and Inuit parties, for the benefit of the James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell, pursuant to trust arrangements acceptable to Canada, Québec and the interested Native parties. It is recognized that there may be separate trust arrangements for each of the interested Native parties.

### **Building of La Grande Project**

**2.9.5** During the transitional period, the James Bay Energy Corporation and Hydro-Québec undertake that they will carry out all measures respecting Le Complexe La Grande 1975 in the manner provided for in Section 8 as if the said Section were in force and effect from the date of execution of the Agreement. Furthermore, the James Bay Energy Corporation and Hydro-Québec undertake that during the said transitional period Le Complexe La Grande 1975 which is being built will substantially conform to the provisions contemplated by the “Description Technique – Le Complexe La Grande 1975” (dated October 20, 1975) referred to in Section 8 of the Agreement.

The James Bay Crees, the Inuit of Québec and the Inuit of Port Burwell undertake that during the Transitional Period, no legal proceedings will be instituted having as an object the halting of works being carried out substantially in conformity with the said Le Complexe La Grande 1975.

### **Other Provisional Measures**

**2.9.6** In addition to the foregoing, the provisions of the Agreement relating to Health and Social Services, Education and Justice and Police shall be implemented to the extent possible within existing legislation, during the Transitional Period. In respect to the income security program for the Crees and in respect to the support program for Inuit hunting, fishing and trapping the transitional measures during the transitional period shall be as described in Sections 30 and 29 respectively. Subject to the provisions of said Sections, at the termination of said Transitional Period the native parties shall be obliged to render an account to Québec concerning the use of such moneys for such programs and to repay and remit to Québec any portion of such moneys not used for the said purposes.

At the termination of the Transitional Period, Canada and Québec may cease implementation of the above mentioned provisions, and the Crees and Inuit shall have the right to opt out of such implementation, in either of which events the parties shall be restored to their respective positions prior to the execution of the Agreement, provided that nothing herein shall be interpreted to require the Crees and the Inuit to repay any sums spent in accordance with and with respect to this paragraph.

### **Suspension of Legal Proceedings**

**2.9.7** The parties agree to further suspend during the Transitional Period the legal proceedings relating to the James Bay project or to the claims, rights, titles and interests in land of the James Bay Crees and the Inuit of Québec, including the effects of any judgment, rendered or to be rendered, resulting therefrom, and not to institute any further proceedings relating to such matters, during the Transitional Period, including all matters contemplated by the proceedings in the case of Kanatewat et al. vs. the James Bay Development Corporation et al. pending before the Supreme Court of Canada and related proceedings pending before the Superior Court of Québec. The parties further agree not to institute legal proceedings relating to transitional measures referred to herein during the transitional period.

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JBNQA, par. 2.9.7  
A. corr.

### **Agreement not coming into force**

**2.9.8** In the event that the legislation referred to in paragraph 2.5 hereof does not come into force within a period of two (2) years from the execution of the Agreement then, notwithstanding the Transitional Measures herein specified, nothing in the Agreement shall be construed as imposing any obligation upon Québec or Canada to continue any or all of the Transitional Measures or any other obligation or undertaking referred to elsewhere in the Agreement. Nevertheless, Québec and Canada, to the extent of their respective undertakings, agree to assume and implement the Transitional Measures provided for herein and the Crees, the Inuit of Québec and the Inuit of Port Burwell have accepted same on the basis that suitable legislation shall be adopted to put the Agreement into force and effect.

### **Extension of Transitional Period**

**2.9.9** The Transitional Period may be extended by consent of all parties.

**2.10** The parties hereto recognize and declare that all lands other than Category IA lands are and shall remain under the exclusive legislative jurisdiction of the Province of Québec.

In the event that a final judgment of a competent court of last resort declares that the whole or any part of Categories II and III lands fall under the legislative jurisdiction of Canada, because of rights granted to the Native people with respect to all or any such lands or because such lands are held to be lands reserved for Indians, then any rights given to the Native people with respect to such lands shall cease to exist for all legal purposes.

Québec and Canada undertake as of the date of the said judgment, both one to the other, as well as individually and collectively, in favour of the Native people to do all things necessary and to introduce such legislative or other measures needed to enable Québec and/or Canada, in their respective jurisdictions, to grant anew the same rights that ceased to exist but with provincial jurisdiction in the said lands.

Nonetheless, in order to avoid hardship to the Native people and notwithstanding the above, the effect of the preceding provisions with respect to the termination of the rights of the Native people shall be suspended for a period of two (2) years following the date of the judgment.

During such period of suspension, Québec and Canada undertake that they will not do anything or permit anything to be done which would prevent the granting or restoration to the Native people of any rights so nullified.

At the expiration of the period of suspension of two (2) years mentioned above, should no measures have been taken which would make possible, under provincial jurisdiction, the restoration of rights to the Native people, Canada and Québec shall continue to endeavour to take the measures necessary which will make possible the restoration under provincial jurisdiction of the said rights over Categories II and III lands.

Should any Category I lands, exclusive of Category IA lands of the Crees, be held by a final judgment of a competent court of the last resort to fall under federal legislative jurisdiction, none of the rights of the Native people in regard to such lands shall be affected. However, Canada and Québec undertake to diligently do all things necessary and to introduce such legislative or other measures required so that such lands and rights of the Native people related to such lands fall under provincial legislative jurisdiction.

The termination of any rights in virtue of this paragraph and the circumstances described herein shall not be deemed to be nor be construed as nullifying in any manner whatsoever any other rights or provisions of this Agreement.

### **Citizens' Rights**

**2.11** Nothing contained in this Agreement shall prejudice the rights of the Native people as Canadian citizens of Québec, and they shall continue to be entitled to all of the rights and benefits of all other citizens as well as those resulting from the Indian Act (as applicable) and from any other legislation applicable to them from time to time.

### **Federal and Provincial Programs**

**2.12** Federal and provincial programs and funding, and the obligations of the Federal and Provincial Governments, shall continue to apply to the James Bay Crees and the Inuit of Québec on the same basis as to the other Indians and Inuit of Canada in the case of federal programs, and of Québec in the case of provincial programs, subject to the criteria established from time to time for the application of such programs.

### **Federal Provincial and Private Interests**

**2.13** The rights of the Crown in right of Canada in respect to Federal properties and installations in the Territory and the rights of the Crown in right of Québec in respect to provincial properties and installations in the Territory, which are now or hereafter owned by the Crown or used for the purposes of the Federal or Provincial Government, as the case may be, shall not be affected by the Agreement, except as otherwise specifically provided for herein.

Subject to the provisions of this Agreement the rights of persons not parties hereto shall not be affected.

**Undertaking to Negotiate**

**2.14** Québec undertakes to negotiate with other Indians or Inuit who are not entitled to participate in the compensation and benefits of the present Agreement, in respect to any claims which such Indians or Inuit may have with respect to the Territory.

Notwithstanding the undertakings of the preceding sub-paragraph, nothing in the present paragraph shall be deemed to constitute a recognition, by Canada or Québec, in any manner whatsoever, of any rights of such Indians or Inuit.

Nothing in this paragraph shall affect the obligations, if any, that Canada may have with respect to claims of such Native persons with respect to the Territory. This paragraph shall not be enacted into law.

**Amendment**

**2.15** The Agreement may be, from time to time, amended or modified in the manner provided in the Agreement, or in the absence of such provision, with the consent of all the Parties. Whenever for the purposes of, or pursuant to, the Agreement, unless otherwise expressly specified, consent is required in order to amend or modify any of the terms and conditions of the Agreement, such consent may be given on behalf of the Native people by the interested Native parties.

**Confirmation**

**2.16** The Agreement shall, within four months from the date of execution, and in a manner satisfactory to Canada, be submitted to the Inuit and the Crees for purposes of consultation and confirmation. The transitional measures provided for herein and the provisions of Sub Sections 25.5 and 25.6 shall take effect only from the time of such confirmation but retroactive to the date of the execution of the Agreement.

**Jurisdiction**

**2.17** Canada and Québec shall recommend that legislative effect be given to the Agreement by Parliament and the National Assembly, subject to the terms of the Agreement and the legislative jurisdiction of Parliament and the National Assembly.

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JBNQA, subs. 2.17

A. corr.

**2.18** The other provisions of this Agreement are set forth in the Sections attached hereto dealing with various subject matters, which Sections form part of this Agreement.