

SECTION 26

Cree legal entities

26.0.1 The compensation payable to the Crees, pursuant to the provisions of Sub Sections 25.1 and 25.2 (collectively referred to herein as the “Compensation”), shall be made by payments to a corporation incorporated by a Special Act of the Province of Québec as a non-profit organization without pecuniary gain to its members, which corporation may be a foundation (herein referred to as the “Corporation” for the purposes of this Section).

26.0.2 The Corporation shall be under the effective control of the Crees. All the Crees eligible pursuant to the criteria established in Section 3 of the Agreement, and no other persons, shall be members of the Corporation, and the qualifications for being eligible to vote for, and to hold office as, a director shall be as set forth in the Special Act referred to in paragraph 26.0.1.

JBNQA, par. 26.0.2

A. corr.

26.0.3 The Corporation shall have its head office in the Province of Québec at a place within the limits of Category IA or IB lands at the option of the Crees, and Québec and Canada shall make the payments of the Compensation to the Corporation at the said head office.

26.0.4 The purposes for which the Corporation shall be incorporated are the following :

- a) the reception, administration and investment of the Compensation payable to the Crees, pursuant to the provisions of the Agreement;
- b) the relief of poverty, the welfare and the advancement of education of the Crees;
- c) the development, the civic and other improvement of the Cree communities within the Territory.

JBNQA, par. 26.0.4

A. corr.

26.0.5 The Corporation shall have, among other powers set forth in the Special Act of incorporation, the powers :

- a) to transfer to one (1) or more wholly-owned holding or venture capital corporations to be incorporated, either by Special Act of the National Assembly or under Québec laws of general application, not more than twenty-five percent (25%) of the compensation referred to in Sub Section 25.1 for the following purposes :
 - i) to assist in the creation, financing or development of businesses, resources, properties and industries of the Crees;
 - ii) to initiate, expand and develop opportunities for the Crees to participate in the economic development of their society through the application of their skills and capital; and
 - iii) to invest in the securities of any corporation owning property or carrying on business directly related to the economic or other interests of the Crees.
- b) to transfer to one (1) or more wholly-owned or wholly-controlled corporations to be incorporated, either by Special Act of the National Assembly or under Québec laws of general application, or to some form of wholly-owned or wholly-controlled non-corporate entity with the approval of the Lieutenant-Governor in Council, any amount which, when added to the amount transferred or used pursuant to paragraph 26.0.5 a) shall not aggregate more than twenty-five percent (25%) of the compensation referred to in Sub Section 25.1, exclusively for educational, community and other charitable activities of the Crees;

c) to invest through one (1) or more wholly-owned corporations to be incorporated, either by Special Act of the National Assembly or under Québec laws of general application, the balance of the compensation referred to in Sub Section 25.1 which shall be not less than seventy-five percent (75%) or fifty percent (50%), respectively, of the compensation referred to in Sub Section 25.1 for the periods stipulated in paragraph 26.0.7 in investments described in Schedule 1 to this Section and thereafter, subject to the provisions of paragraph 26.0.6, as it deems appropriate and to use the revenues from such investments to support in any way judged appropriate any activities, whether social, community, business or otherwise, of the Crees.

d) After twenty (20) years from the coming into force of the Agreement, subject always to paragraph 26.0.6, no restrictions as to the investment, use, transfer or re-transfer of the Compensation or revenues therefrom shall exist either for the Corporation or any of the corporations or entities to which any part of the Compensation or the revenues therefrom have been transferred.

JBNQA, par. 26.0.5
A. corr.

26.0.6 In furtherance of the powers of the Corporation and the other entities herein contemplated or afterwards created, and subject to the restrictions herein contained, the Compensation and the revenues therefrom may be used only for community purposes, other undertakings of general benefit to the Cree people, or may be set aside for and distributed to the individual Cree communities mentioned in the Agreement, to be used to benefit the said communities, and furthermore the Corporation and any other entities contemplated hereby or afterwards created shall not distribute their assets in any manner whatsoever to, or pay dividends or make gifts to, or otherwise benefit, any individual as distinct from the community.

26.0.7 During the ten (10) year period following the coming into force of the Agreement, not less than seventy-five percent (75%) and during the ten (10) year period next following, not less than fifty percent (50%) of the compensation referred to in Sub Section 25.1 shall be invested directly by the Corporation or through one (1) or more wholly-owned corporations in investments permitted under Schedule 1 to this Section.

JBNQA, par. 26.0.7
A. corr.

26.0.8 The charter of the Corporation and, any instrument of creation or establishment of any other entity (corporate or otherwise) herein contemplated or afterwards created shall provide that their respective boards of directors or management shall be comprised of members of the Corporation to be selected on a basis guaranteeing at least one (1) representative for each Cree Community and, for a period of ten (10) years from the date of the coming into force of the Agreement, two (2) representatives selected by Québec and one (1) representative selected by Canada, who need not be members of the Corporation, after consultation with the other Cree directors. The charter and by-laws of the Corporation and the instrument of creation or establishment of any such entity shall provide that their respective boards of directors or management shall be composed of not less than eleven (11) and not more than twenty-eight (28) persons and that not less than seven (7) days prior notice must be given in respect of any meeting of any such board. The directors appointed by Québec and Canada shall not be remunerated, nor have their expenses paid, by the Corporation or any such entity.

26.0.9 No voluntary winding-up or dissolution of the Corporation shall take place, and subject to the provisions of the Bankruptcy Act, no involuntary winding-up and dissolution of the Corporation shall take place without the prior approval of the Lieutenant-Governor in Council of the plan of distribution of the assets to the members of the Corporation after discharging its liabilities.

26.0.10 The provisions of this Section can only be amended with the consent of Québec, Canada, and the interested Native party.

26.0.11 For a period of twenty (20) years from the date of the coming into force of the Agreement, any application to Québec for a Special Act of incorporation and/or for an incorporation pursuant to the general laws of Québec, by the Crees may be made only by instrument setting forth all of the powers and provisions requested, and no such application may be made without the Crees having received the prior consent of Canada to such powers and provisions.

26.0.12 For a period of twenty (20) years from the constitution of the Corporation and/or of the other entities herein contemplated or afterwards created, any application for amendment to any such special Act and/or for supplementary letters patent, by the Crees may be made only after having received the prior consent of Canada.

26.0.13 In addition to, or in substitution for, the corporations and/or entities contemplated hereby and which are wholly-owned or wholly-controlled by the Corporation, the Crees shall have the right up to but not later than the date the Agreement shall come into force, to propose the creation of other corporations and/or entities not wholly-owned or wholly-controlled by the Corporation but wholly-owned or wholly-controlled by Crees or Cree communities, to which corporations and/or entities all or part of the monetary compensation may be transferred, the whole on such terms, conditions and for such purposes as may be mutually agreed upon by the Crees, Canada and Québec, following negotiations.

Annex 1

(a) Bonds or other evidences of indebtedness issued or guaranteed by the government of the Province of Québec, of Canada or a province of Canada, of the United States of America or of any such states, by the International Bank of Reconstruction and Development, by a municipal or school corporation in Canada, or by a fabrique in the Province of Québec;

(b) bonds or other evidences of indebtedness issued by a public authority having as its object the operation of a public service in Canada or any province thereof and entitled to impose a tariff for such service;

(c) bonds or other evidences of indebtedness secured by the transfer to a trustee of an undertaking by Canada or any province of Canada to pay sufficient subsidies to meet the interest and principal at their respective maturities;

(d) the bonds, debentures or other evidences of indebtedness of a corporation that are fully secured by a mortgage, charge or hypothec to a trustee or to the Corporation upon any, or upon any combination, of the following assets :

(i) real estate or leaseholds;

(ii) the plant or equipment of a corporation that is used in the transaction of its business; or

(iii) bonds, debentures or other evidences of indebtedness or shares, of a class authorized hereunder as investments, or cash balances, if such bonds, debentures or other evidences of indebtedness, shares or cash balances are held by a trustee; and the inclusion, as additional security under the mortgage, charge or hypothec, of any other assets not of a class authorized hereunder as investments shall not render such bonds, debentures or other evidences of indebtedness ineligible as an investment;

(e) obligations or certificates issued by a trustee to finance the purchase of transportation equipment for a corporation incorporated in Canada or the United States to be used on airlines, railways or public highways, if the obligations or certificates are fully secured by

(i) an assignment of the transportation equipment to, or the ownership thereof by, the trustee, and

(ii) a lease or conditional sale thereof by the trustee to the corporation;

(f) the bonds, debentures or other evidences of indebtedness

(i) of a corporation if, at the date of investment, the preferred shares or the common shares of the corporation are authorized as investments by paragraph (h) or (i); or

(ii) of or guaranteed by a corporation where the earnings of corporation in a period of five years ended less than one year before the date of investment have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of investment on all indebtedness of or guaranteed by it other than indebtedness classified as a current liability under generally accepted accounting principles in the balance sheet of the corporation; and if the corporation at the date of investment owns directly or indirectly more than fifty per cent of the common shares of another corporation, the earnings of the corporations during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporations shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation; and for the purpose of this subparagraph "earnings" means earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability under generally accepted accounting principles;

(g) guaranteed investment certificates issued by a trust company incorporated in Canada if, at the date of investment, the preferred shares or the common shares of the trust company are authorized as investments by

paragraph (h) or (i) or certificates of deposit and bearer discount notes of any Canadian chartered bank or of any savings and credit union;

(h) the preferred shares of a corporation if

(i) the corporation has paid a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) the common shares of the corporation are, at the date of investment, authorized as investments by paragraph (i);

(i) the fully paid common shares of a corporation that during a period of five years that ended less than one year before the date of investment has either

(i) paid a dividend in each such year upon its common shares, or

(ii) had earnings in each such year available for the payment of a dividend upon its common shares,

of at least four per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;

(j) real estate or leaseholds for the production of income in Canada, if

(i) a lease of the real estate or leasehold is made to, or guaranteed by,

(A) the government of Canada or any of the provinces, or an agency of the said governments, or

(B) a corporation, the preferred shares or common shares of which are, at the date of investment, authorized as investments by paragraph (h) or (i),

(ii) the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least eighty-five per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment, and

(iii) the total investment of the Corporation in any one parcel of real estate or in any one leasehold does not exceed two per cent of the book value of the total assets of the Corporation;

and the Corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

(k) real estate or leaseholds for the production of income in Canada, if

(i) the real estate or leasehold has produced, in each of the three years immediately preceding the date of investment, net revenue in an amount that, if continued in future years, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least eighty-five per cent of that amount within the remaining economic lifetime of the improvements to the real estate or leasehold but not exceeding forty years from the date of investment, and

(ii) the total investment of the Corporation in any one parcel of real estate or in any one leasehold does not exceed two per cent of the book value of the total assets of the Corporation; and the Corporation may hold, maintain, improve, lease, sell or otherwise deal with or dispose of the real estate or leasehold;

(l) debts secured by mortgages, charges and hypothecs, upon improved real estate or leaseholds in Canada, notwithstanding that the amount paid for such debts so secured by the mortgage, charge or hypothec exceeds 3/4 of the value of the real estate or leasehold, if the loan for which the mortgage, charge or hypothec is security is an approved loan or an insured loan under the National Housing Act (Canada) or any equivalent provincial legislation;

(m) debts secured by hypothec or mortgage on real estate in Canada :

(1) if payment of principal and interest is guaranteed or assured by the governments of Canada or of any province of Canada or any public authority therein; or

(2) if the hypothec or mortgage ranks first and the amount of the debt is not more than seventy-five per cent of the value of the real estate securing payment thereof;

(n) where a company owns securities of a corporation and as a result of a bona fide arrangement for the reorganization or liquidation of the corporation or for the amalgamation of the corporation with another corporation, such securities are to be exchanged for bonds, debentures or other evidences of indebtedness or shares not authorized as investments by the foregoing provisions of this Schedule, the Corporation may accept such bonds, debentures or other evidences of indebtedness or shares;

(o) the total book value of the investments of the Corporation in common shares shall not exceed fifty (50) per cent of the book value of the total assets of the Corporation;

(p) the total book value of the investments of the Corporation in real estate or leaseholds for the production of income shall not exceed ten per cent of the book value of the total assets of the Corporation;

(q) the Corporation shall not invest any of its funds in bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default;

(r) in order to secure total or partial payment of any amount owed to it, the Corporation may acquire and dispose of the real estate which secures such payment, and such real estate shall not be included in the restrictions pursuant to paragraph (j), (k) or (p).

(s) The Corporation may invest its funds otherwise than as authorized in this Schedule, provided that the total amount of such investment does not exceed seven (7) percent of the book value of the total assets of the Corporation and that, in the case of investment in real estate, the total investment in real estate consisting of a single undertaking does not exceed one (1) percent of the book value of the total assets of the Corporation.