

**CREE NATION ECONOMIC PRIORITIZATION
AGREEMENT**

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1. Preamble

WHEREAS the defining characteristic and the source of the strength of the Cree Nation is through its unity and commitment to protect and stand with one another;

WHEREAS the Cree Nation recognizes it is a distinct Nation with distinct needs and attributes and must consolidate its markets to leave behind and break free of the legacy of isolation and segregation provoked by the Government of Canada and the provincial governments;

WHEREAS the Governments of the Communities of Eeyou Istchee and the Cree Nation Government have the tools, obligations, mandate and jurisdiction to enhance the quality of life and standard of living for all members of Eeyou Istchee;

RECOGNIZING the importance of mutual cooperation to strengthen actions on the promotion of local economies, businesses and manpower;

RECOGNIZING that differences exist in regard to each Cree Community's local conditions, circumstances and needs, including with respect to their economies, their social and cultural traditions, and their local laws.

2. Scope

The *Cree Nation Economic Prioritization Agreement* (hereinafter referred to as the “*Agreement*”) shall apply to the **Territory** governed by the James Bay Northern Quebec Agreement (hereinafter referred to as “**Territory**”).

3. Spirit and Intent

- a) The *Agreement* draws its foundations from the *James Bay and Northern Quebec Agreement* (hereinafter referred to as “*JBNQA*”) outlining the governance of Eeyou Istchee and defining the obligations and responsibilities of Canada and Québec Governments and their agencies.
- b) The *Agreement* shall be used as a tool to implement the prioritization measures embodied in the *JBNQA*, sections 28.10.3 and 28.10.4, which are key elements for the economic and social development of the communities of Eeyou Istchee.
- c) The *Agreement* shall provide for the regulation of access to business and employment opportunities within Eeyou Istchee in accordance with sections 28.10.3 and 28.10.4 of the *JBNQA*.
- d) The *Agreement* shall promote the management and access to markets for Cree Nation within Eeyou Istchee in a manner respectful of Cree values, culture and visions as well as the independence of Cree Communities.

- e) More specifically the *Agreement* shall provide for an effective multilateral framework for the coordination of procurement processes, with a view to achieving greater liberalization and expansion of Cree trade.
- f) The procedural commitments under the *Agreement* shall be sufficiently flexible to accommodate the specific circumstances of each local Governments' authority, jurisdiction and mandate.

4. Commitments and Obligations of the Signatories

a) Mobility of Persons and Capacity Building

The Signatories commit to enhance the mobility of all Cree Persons and will eliminate any barriers for Cree persons to pursue employment, training opportunities, business opportunities, investment opportunities or ownership opportunities within jurisdictions for which they are responsible.

b) Competitive Tendering

The Signatories shall promote procurement processes that provide for open and competitive bidding exclusively among “**Cree Community-based Enterprises**” as a method of ensuring efficient and competitive enterprises across Eeyou Istchee. This shall be achieved through:

- the fair and broad distribution of invitations;
- the proper identification of fair and inclusive conditions;
- the identification of local employment and content requirements;
- the obligation for bidders to obtain referencing from the Apatisiwin Skills Development Department of the Cree Nation Government in assessing the available workforce in the community;

- the reception, opening and treatment of all tenders under procedures that guarantee the fairness and impartiality of the Procurement and the confidentiality of tenders; and
- in the case of Tendering by Invitation, the invitation of no fewer than three (3) bidders with at least one (1) bidder from a jurisdiction of another Signatory.

c) Prioritization of Local Resources

The Signatories shall promote and prioritize the employment of Cree Persons and the awarding of contracts to *Cree Community-based Enterprises*, suppliers and services providers.

d) Procurement

The Procurement Principles provided in the *Agreement* shall be implemented and enforced by each Signatory through the adoption or amendment of the appropriate laws, regulations, procedures, policies, and administrative guides and practices which must be made reasonably accessible in a public registry.

Except where provided otherwise, the *Agreement* or Procurement Principles do not apply to:

- a) works carried out for the specific purpose of carrying out Social and Cultural Projects;
- b) works carried out for the construction of Traditional Facilities;
- c) Professional Services;
- d) Emergencies;
- e) works of a value of \$200,000.00 or less when related to the same project, or of a value of \$50,000.00 or less when for Goods or Services; or
- f) works, goods or services for which there is no *Cree Community-based Enterprise* which has the capacity.

5. Cree Nation Business Registry

a) Definition of a Cree Community-based Enterprise

For the purposes of the *Agreement*, a *Cree Community-based Enterprise* is defined as an enterprise which meets the *Connecting Factors Test* defined in Annex A and certified as such through the *Cree Nation Business Registry*.

b) Cree Nation Business Registry

The Department of Commerce and Industry of the Cree Nation Government shall maintain a public *Cree Nation Business Registry*, which shall include the list of enterprises operating in Eeyou Istchee and clearly identify enterprises having been certified as *Cree Community-based Enterprises*.

c) Certification

The Department of Commerce and Industry shall process each application for registration to the *Cree Nation Business Registry* which shall be submitted to the Prioritization Review Panel for certification of status as a *Cree Community-based Enterprise*.

Each enterprise that is not granted status as a *Cree Community-based Enterprise* shall be informed of the decision with a written justification for the decision. An enterprise shall be allowed to resubmit an application.

The certification of status as a *Cree Community-based Enterprise* shall be renewable on an annual basis and shall always be conditional on the enterprise maintaining the conditions upon which the status was granted.

6. Formation and Composition of the Prioritization Review Panel

Each Signatory of the *Agreement* shall name one representative to the *Prioritization Review Panel*. Each Signatory shall be responsible for the costs associated with the participation of the Representative designate by the Signatory.

d) Chairperson

Each meeting of the *Prioritization Review Panel* shall commence with the designation of a Chairperson of that meeting, the designated Chairperson cannot be the same person who was designated Chairperson at the previous meeting.

e) Administrative Records

The Department of Commerce and Industry shall provide the administrative services necessary for the administrative functioning of the *Prioritization Review Panel*. The Department of Commerce and Industry shall be responsible for providing a complete file to the *Prioritization Review Panel* with all the information collected by the enterprise seeking certification as a *Cree Community-based Enterprise* in the application form for the *Prioritization Review Panel* to make a decision pursuant to this Section 6 paragraph c).

The Department of Commerce and Industry shall also provide the *Prioritization Review Panel* with a recommendation regarding the issuance of the certification for each application received.

f) Decisions

The *Prioritization Review Panel* shall seek to arrive at decisions through consensus. In the determination of the certification of a *Cree Community-based Enterprise*, should consensus not be possible, a vote by secret ballot shall be required with at least 2/3 certifying the *Cree Community-based Enterprise* status.

g) Neutrality and Conflict of Interest

No representative of the *Prioritization Review Panel* may participate in a decision referred to in Section 6 paragraph c) in which they have any perceived direct or indirect pecuniary interest.

Representatives shall disclose any situation that may reasonably be construed as a *Conflict of Interest* to the other *Prioritization Review Panel* representatives and abstain from taking part in the discussions and the decision subject to such *Conflict of Interest*.

7. Dispute Resolution

a) General Objectives

All disputes shall be heard, managed, and settled through or delegated by the Board/Council of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government.

b) Introduction of Dispute

Only signatories are entitled to raise disputes or concerns in relation to conformity with the provisions of the *Agreement*. The introduction of a dispute begins with a file being created and

tabled at the appropriate Board/Council of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government meeting. The file shall be created and tabled by the Director of Commerce and Industry of the Cree Nation Government which shall contain sufficient information for the Board/Council of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government to make an informed decision and propose remedial measures.

8. Implementation and Reporting

a) Reporting

The Department of Commerce and Industry shall prepare every two (2) years on the anniversary of the first signatory of the *Agreement* a report in regards to its implementation which shall be distributed to each signatory and tabled for discussion at the first available regularly convened meeting of Board/Council of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government.

The *Prioritization Review Panel* shall prepare every two (2) years on the anniversary of the first signatory of the *Agreement* a report to the Board/Council of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government providing its recommendation on the implementation of the certification process.

b) Transition

Upon signing, a signatory shall have twelve (12) months to adopt, amend or modify their laws, by-laws, regulations or policies to comply with the principles contained herein.

9. Definitions

For the purpose of the *Agreement*, the following terms and expressions shall mean:

Conflict of Interest: means any situation in which the personal interests of a representative on the *Prioritization Review Panel* or those of a related person are or could be perceived as having an influence on that representative's professional judgement, objectivity, or independence. For the purpose of the *Agreement*, a Conflict of Interest includes:

- An actual Conflict of Interest refers to a conflict of interest situation that has occurred or is ongoing. For example, a representative on the *Prioritization Review Panel* with a significant financial interest in an enterprise applying to be certified as a *Cree Community-based Enterprise* is in a real conflict of interest situation;
- An apparent Conflict of Interest refers to a situation where a representative on the *Prioritization Review Panel* appears to be in a Conflict of Interest situation, although this is not necessarily the case in reality. It is a matter of considering how the public might perceive the situation. For example, there is an apparent Conflict of Interest when a representative on the *Prioritization Review Panel* has a close personal relationship with the owner of an enterprise applying to be certified as a *Cree Community-based Enterprise*.

Cree Nation Business Registry: a registry maintained by the Department of Commerce and Industry of the Cree Nation Government of all businesses that have applied to the Cree Nation Business Registry clearly identifying which enterprises have acquired the *Cree Community-based Enterprise* certification.

Cree Person(s): a person who is enrolled or entitled to be enrolled as a Cree beneficiary pursuant to section 3 of the JBNQA;

Director of Commerce and Industry: the person appointed by the Cree Nation Government as such to manage the Department of Commerce and Industry of the Cree Nation Government.

Goods: any physical object that can be obtained, unless otherwise specified, and shall not include goods related to Cree teaching projects, creation of arts and crafts, Cree language, and outfitting operations.

Procurement: the process by which a Procuring Entity obtains the use of or acquires a Good or Service for a governmental purpose and not with a view to commercial sale or resale, or use in the production or supply of a Good or Service for commercial sale or resale.

Procuring Entity: a body engaging in a Procurement process in order to obtain the use of or acquire a Good or Service.

Professional Services: services offered by professionals who are members of a professional order.

Services: all services, including construction services, unless otherwise specified, and shall not include services related to Cree teaching projects, creation of arts and crafts, Cree language, and outfitting operations.

Social and Cultural Project: community or territorial initiative related to arts or designated to deliver training programs, social and work integration programs or traditional activities.

Supplier: a person that has provided, provides or could provide a Good or Service to a Procuring Entity.

Tendering by Invitation: a procurement method whereby a limited number qualified or specific Suppliers are invited by the Procuring Entity to submit a bid.

Traditional Facilities: facilities used for Cree traditional activities and shall not include structures subject to the *Building Act*, CQLR c B-1.

Works: works related to conception, construction, maintenance, repair or modification of infrastructure such as roads, streets, housing and building construction, water systems, and transportation.

Annex A - Connecting Factors Test

To determine if an enterprise shall receive the Cree Community-based Enterprise certification, the Prioritization Review Panel shall analyse if the enterprise is in fact connected to a Cree community. To make this determination, the Prioritization Review Panel shall assess whether the enterprise complies with the Connecting Factors detailed in the Connecting Factors Test Weighting Grid appended hereto. When applying the Connecting Factors Test it is important to consider the purpose of the benefit of a Cree Community-based Enterprise certification and the spirit and intent of the Agreement. The purpose of the Agreement is to strengthen and enhance a united Cree economy by creating strong local economies and to provide a tool for the implementation of Section 28 of the James Bay and Northern Quebec Agreement.

The Prioritization Review Panel must give a rating to the Applicant Enterprise, considering the information provided by the Applicant Enterprise in the Application Form on the Cree Nation Business Registry. It must also weigh the appropriate factors depending on the legal form of the Applicant Enterprise.

To be certified a Cree Community-based Enterprise, the applicant Enterprise must obtain a minimum threshold of points in the Connecting Factors Test, as determined by the Board/Council of the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government, upon recommendation by the Prioritization Review Panel.

Section 1 - Localization		Points	Rating
High	1.1 The Head office of the Enterprise is located in a Cree community.		
	1.2 The Location of the administrative/business records of the Enterprise are in a Cree community.		
Medium	1.3 The Enterprise has a permanent Office or place of business in a Cree community.		
	1.4 The Enterprise holds machinery, equipment, vehicles, or other major assets, permanently located in a Cree community.		
Low	1.5 The Enterprise is authorized to operate in a Cree community.		

Section 2 - Management/Governance		Points	Rating
High	2.1 The individuals responsible for the management and general operations (i.e., members of the Board of Directors, and partners) of the Enterprise are resident of a Cree community.		
	2.2 The payroll is being processed from a Cree community and/or the human resource management is carried out from a Cree community.		
Medium	2.3 The meetings of the Enterprise regarding its management and governance are held in a Cree community (i.e., meetings of the Board of Directors, meetings of the partners, or the Sole Proprietor resides in a Cree community).		
Low	2.4 The day-to-day operations of the Enterprise are carried out from a Cree community (i.e., Project manager and/or Senior management are residents of a Cree community).		

Section 3 - Workforce and Recruitment		Points	Rating
High	3.1 The Enterprise is signatory to an Agreement with Apiitiiswin Skills Development Department of the Cree Nation Government on recruitment of Cree workforce.		
	3.2 The Enterprise has workforce from a Cree community.		
Medium	3.3 The Enterprise is offering training programs for residents of a Cree community.		
Low	3.4 The Enterprise carries out recruitment campaigns in a Cree community.		

Section 4 - Other		Points	Rating
High	4.1 The Enterprise's main bank account is at a financial institution located in a Cree community.		
	4.2 The Enterprise has strong links with local suppliers from a Cree community.		

Medium	4.3 The Enterprise has received investment from local organizations/individuals in the last three (3) years.		
Low	4.4 The Enterprise's clientele is located in a Cree community.		
Total		100	