

**CONSTITUTION**

**OF THE**

**CREE NATION OF EEYOU ISTCHEE**

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## PREAMBLE

**WHEREAS** the Crees of Eeyou Istchee constitute an Indigenous society and nation with rights, values and principles set out hereinafter;

**WHEREAS** the *United Nations Declaration on the Rights of Indigenous People*<sup>1</sup> (“**Declaration**”) recognizes a number of these rights, values and principles;

**WHEREAS** the Declaration states, among other things, that the recognition of the rights of Indigenous peoples set out therein will enhance harmonious and cooperative relations between the State and Indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith;

**WHEREAS** the Declaration affirms that Indigenous peoples have the right to self-determination and, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development<sup>2</sup>;

**WHEREAS** the Declaration states that Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs<sup>3</sup>;

**WHEREAS** the Crees of Eeyou Istchee, in the exercise of their right of self-determination and self-government, have entered into various agreements and treaties with non-Indigenous society and government;

**WHEREAS** on November 11, 1975, the Grand Council of the Crees (of Québec), the Northern Québec Inuit Association, the Government of Québec, la Société d’énergie de la Baie James, la Société de développement de la Baie James, la Commission hydroélectrique de Québec (Hydro-Québec) and the Government of Canada entered into the *James Bay and Northern Québec Agreement* (“**JBNQA**”);

**WHEREAS** the JBNQA was approved, given effect and declared valid by the *James Bay and Northern Québec Native Claims Settlement Act*<sup>4</sup> and the *Act approving the Agreement concerning James Bay and Northern Québec*<sup>5</sup> and is a treaty protected by the *Constitution Act, 1982*<sup>6</sup>;

**WHEREAS** the Cree Nation has subsequently entered into other agreements and treaties with Canada and Québec and other entities, including, among others,

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<sup>1</sup> Adopted by Resolution 61/295 of the General Assembly on September 13, 2007; Preamble.

<sup>2</sup> Article 3.

<sup>3</sup> Article 4.

<sup>4</sup> S.C. 1976-77, c. 32.

<sup>5</sup> CQLR, c. C-67.

<sup>6</sup> Schedule B to the Canada Act 1982, 1982, c. 11 (U.K.).

- (a) the *Agreement concerning a New Relationship between le gouvernement du Québec and the Crees of Québec* signed on February 7, 2002, also known as the “Paix des Braves”;
- (b) the *Agreement between the Crees of Eeyou Istchee and Her Majesty the Queen in Right of Canada concerning the Eeyou Marine Region* signed on July 7, 2010; and
- (c) the *Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the gouvernement du Québec* signed on July 24, 2012;

**WHEREAS** on February 21, 2008, the Government of Canada, the Grand Council of the Crees (Eeyou Istchee) and the Cree Nation Government, then designated as the Cree Regional Authority, entered into the *Agreement concerning a New Relationship between the Government of Canada and the Crees of Eeyou Istchee* (“**New Relationship Agreement**”);

**WHEREAS** Part 2 of Chapter 3 of the *New Relationship Agreement* sets out a process for negotiations leading to an Agreement concerning Cree Nation Governance (“**Governance Agreement**”);

**WHEREAS** the Governance Agreement provides for local and regional government arrangements and the land regime on Category IA Land;

**WHEREAS** the Governance Agreement is a Nation-to-Nation agreement between the Cree Nation and the Government of Canada that provides for the modernization of the governance regime on Category IA Land contemplated, at the local level, in Section 9 of the JBNQA and previously provided for in legislative form in the *Cree-Naskapi (of Québec) Act*;

**WHEREAS** Part 2 of Chapter 3 of the *New Relationship Agreement* also provides that the Cree Nation will develop a Constitution which shall be effective as the fundamental law of the Cree Nation, shall be consistent with the Governance Agreement and shall come into force at the same time as the Governance Agreement;

**WHEREAS** the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada;

**WHEREAS** the inherent right of self-government is an existing Aboriginal right under section 35 of the *Constitution Act, 1982*;

**WHEREAS** it is appropriate to set out in this Constitution arrangements regarding the exercise of the Cree right of self-government in relation to the administration and internal management of the Cree First Nations and the Cree Nation Government on Category IA Land;

**WHEREAS** this Constitution is an instrument of internal self-government of the Cree Nation and is subject to its full control with regard both to its adoption and to its future amendment to take account of the context and changing conditions;

**NOW THEREFORE, THE CREE NATION OF EEYOU ISTCHEE HEREBY  
APPROVES THE CONSTITUTION SET FORTH HEREINAFTER**

# CONSTITUTION OF THE CREE NATION OF EYYOU ISTCHEE

## PART I GENERAL

### CHAPTER 1 CREE VALUES AND PRINCIPLES

- 1.1 Since time immemorial, the Cree Nation of Eeyou Istchee has continuously
- (a) functioned as a distinctive Indigenous people and nation with its own social organization, distinctive culture, language, spirituality, values, institutions, laws, practices, customs and traditions;
  - (b) governed itself in accordance with its own values, laws and institutions in the exercise of its inherent right of self-government and self-determination;
  - (c) used, occupied and managed the land and resources of the territory of Eeyou Istchee;
  - (d) carried on, and continues to carry on, activities which express practices, customs and traditions integral to its distinctive culture and self-government.
- 1.2 The Cree Nation has never surrendered its inherent right of self-government and self-determination.
- 1.3 The Cree Nation continues the process of asserting, affirming and defining its inherent right of self-government and self-determination to take account of the context and changing conditions.
- 1.4 The Cree Nation subscribes to the fundamental values of freedom, human dignity, equality, justice, mutual care and assistance, respect for individual and collective rights, protection of the environment and wildlife, and honour for the Creator, Cree ancestors and Cree traditions.
- 1.5 The principles and values set out herein are critical to the conclusion of agreements and treaties in support of the process of reconciliation between the Cree Nation and non-Indigenous society and government.

### CHAPTER 2 PURPOSE AND PRIORITY

- 2.1 This Constitution sets out the arrangements to which the Cree Nation has consented regarding the exercise of the Cree right of self-government and self-determination in relation to the administration and internal management of the Cree First Nations and the Cree Nation Government on Category IA Land and addresses the matters referred to in section 3.1 of the Governance Agreement.



- 2.2 The provisions of the *James Bay and Northern Québec Agreement*, the Governance Agreement and the *Act respecting the Cree Nation Government*<sup>7</sup> shall prevail over the provisions of this Constitution to the extent of any inconsistency or conflict.
- 2.3 Cree Laws shall be subject to and consistent with the Governance Agreement and this Constitution. A Cree Law that is inconsistent or in conflict with the provisions of the Governance Agreement or this Constitution is of no force or effect to the extent of the inconsistency or conflict.

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<sup>7</sup> CQLR, c. G-1.031.

## **PART II CREE FIRST NATIONS**

### **CHAPTER 3 GENERAL**

#### **A. OBJECTS AND POWERS OF CREE FIRST NATIONS**

- 3.1 The objects and powers of the Cree First Nations are set out in the Governance Agreement.

#### **B. HEAD OFFICE**

- 3.2 The head office of a Cree First Nation shall be located at such place on its Category IA Land as is fixed by the Cree First Nation.

#### **C. CHIEF AND DEPUTY CHIEF**

- 3.3 The Chief of a Cree First Nation is the principal representative and chief executive officer of that Cree First Nation and shall perform any duties assigned to him by this Constitution and the laws of the Cree First Nation.

- 3.4 (1) In each Cree First Nation, one Councillor shall hold office as deputy chief in accordance with an election law made under the Governance Agreement and this Constitution or in accordance with the election rules set out in Part I of Appendix A.

(2) The deputy chief shall perform the duties assigned to him by this Constitution and the laws of the Cree First Nation, and, in the event that the Chief is absent or incapacitated or if the office of Chief is vacant, has and may exercise all the powers and duties of the Chief.

#### **D. COUNCIL MEETINGS**

- 3.5 Laws may be enacted or resolutions adopted only at Council meetings.

- 3.6 In addition to any other rights relating to the use of the Cree language, a Cree First Nation may conduct its Council meetings in the Cree language.

- 3.7 (1) A law or resolution of a Cree First Nation shall be enacted or adopted in either the English or the French language, and may also be enacted or adopted in the Cree language.

(2) Where a law is enacted or a resolution is adopted in more than one of the English, French or Cree languages, all versions in which it is enacted or adopted are equally authoritative and, where there is any inconsistency between the different versions, subsection 8(2) of the *Official Languages Act*<sup>8</sup> applies, with such modifications as the circumstances require.

3.8 (1) Except as provided in subsection (2), a quorum of a Council consists of a majority of the number of positions of Council Member, subject to subsection 3.13(5).

(2) Where, at any time, vacancies on the Council result in there being in office fewer Council Members than constitute a quorum under subsection (1), the Council Members remaining in office constitute a quorum, subject to subsection 3.13(5), for the limited purpose of enabling the Council to act in a care-taker capacity until such time as enough vacancies on the Council have been filled pursuant to Chapter 5 to restore the quorum referred to in subsection (1).

(3) Nothing in this section shall be construed to relieve the Cree First Nation of its obligation to call elections as required by subsections 5.14(1) and (2).

(4) Notwithstanding the length of the term of office of Council Members fixed pursuant to section 5.2 or 5.3 and notwithstanding the Cree First Nation's obligation under subsection 5.14(1), where a general election of the Cree First Nation is called, the Council of the Cree First Nation in office immediately before the calling of that general election continues in office until the date fixed for that general election.

3.9 (1) The Chief or, in his absence, the deputy chief shall act as chairman at Council meetings.

(2) In the event that both the Chief and deputy chief are unable to act as chairman at a Council meeting, the Council shall designate another Councillor to so act.

3.10 (1) The approval of any matter by a Council requires the affirmative votes of the majority of the Council Members present when the vote is taken, subject to subsection (2) and subsection 3.13(5).

(2) For the purposes of subsection (1), in any vote, where a Council Member present does not indicate either an affirmative vote or a negative vote or an abstention, he shall be deemed to have voted in the affirmative.

(3) In the event of a tied vote, the chairman may, except where disqualified from voting under section 3.13, cast a second vote to determine the question.

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<sup>8</sup> R.S.C., 1985, c. 31 (4<sup>th</sup> Supp.).

- 3.11 (1) For any period during which the Council of the Cree Nation of Chisasibi does not include an Inuk of Chisasibi, the Inuit of Chisasibi are entitled to have one Inuk of Chisasibi present as an observer at meetings of the Council of the Cree Nation of Chisasibi.
- (2) The manner of selection and term and tenure of the Inuk observer referred to in subsection (1) shall be as set out in regulations made by the Governor in Council.
- (3) The Inuk observer referred to in subsection (1) shall be notified of, and has the right to attend, all Council meetings, and has the right to participate in the deliberations of the Council, as if he were a Council Member, but he does not have the right to vote.
- 3.12 (1) A Council shall meet at least once in every calendar quarter.
- (2) Subject to subsection (3), Council meetings shall be open to the public.
- (3) The chairman of a Council meeting may cause to be expelled and excluded from that meeting any person whom he considers guilty of improper conduct at the meeting.
- 3.13 (1) A Council Member shall disclose to the Council any pecuniary interest that he has in any matter before that Council and shall not take part in deliberations of that Council on that matter or vote on that matter.
- (2) Where a disagreement arises as to whether a Council Member has a pecuniary interest in a matter before the Council, the Council shall decide by vote whether that member has such an interest, and the Council Member in question may not take part in that vote.
- (3) Where the Council decides pursuant to subsection (2) that a Council Member has a pecuniary interest in a matter before the Council, the Council Member in question shall not take part in deliberations of the Council on that matter or vote on that matter.
- (4) Where, pursuant to this section, the chairman is prohibited from taking part in deliberations and from voting, he may nevertheless continue to act as chairman.
- (5) A Council Member who, pursuant to this section, is disqualified from taking part in deliberations and from voting shall be considered not to be present for the purposes of
- (a) determining a quorum under subsection 3.8(1) or (2); and
- (b) determining a majority under subsection 3.10(1).
- (6) A Council Member who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

(7) This section, in so far as it is applicable to an Inuk observer referred to in section 3.11, applies to such an observer as if he were a Council Member.

3.14 A Cree First Nation may make laws respecting procedures relating to Council meetings, including, without limiting the generality of the foregoing, laws respecting notices of meetings, agenda, procedure at meetings and voting.

#### **E. COMMITTEES OF A COUNCIL**

3.15 (1) Cree First Nation may make laws

- (a) establishing such committees as the Cree First Nation considers necessary to assist in the administration of the affairs of the Cree First Nation; and
- (b) setting out the composition and functions of such committees.

(2) Laws made under subsection (1) may provide for the membership on committees of persons who are not Council Members.

(3) Committees may exercise only advisory or administrative functions and are responsible to the Council for the performance of their functions.

#### **F. CREE FIRST NATION BODIES, OFFICERS, EMPLOYEES AND AGENTS**

3.16 A Cree First Nation, by resolution or law,

- (a) shall appoint a secretary and a treasurer and fix their remuneration;
- (b) may prescribe duties for the secretary and treasurer in addition to the duties described in sections 3.17 and 3.18; and
- (c) may appoint or engage or provide for the appointment or engagement of such bodies and such officers, in addition to the secretary and treasurer referred to in paragraph (a), employees or agents as are necessary for the proper conduct of the affairs of the Cree First Nation, and shall prescribe the duties and fix the remuneration of any body or person so appointed or engaged.

(2) A person may hold concurrently more than one office referred to in subsection (1).

(3) A Cree First Nation may enter into employment agreements with its officers and employees.

3.17 (1) The secretary is responsible for

- (a) the safekeeping of all the books, records and documents of the Cree First Nation; and
- (b) the preparation of the minutes of all Council meetings and Cree First Nation meetings.

(2) The secretary has the power to issue certified copies of any law or resolution of the Cree First Nation, and of minutes of Council meetings, Special Meetings and Ordinary Meetings of the Cree First Nation.

(3) The powers referred to in subsection (2) may also be exercised by the Chief and by any other person designated by a law of the Cree First Nation.

3.18 The treasurer is the chief financial officer of the Cree First Nation, is responsible for the receipt and deposit of Cree First Nation moneys and for all aspects of the financial administration of the Cree First Nation.

3.19 (1) Where a person who is a Council Member, officer or employee of a Cree First Nation ceases, for any reason, to hold office as such, he shall forthwith return to the Cree First Nation any money, keys, books, documents, records or other property of the Cree First Nation that is in his possession by virtue of that office.

(2) Any person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

## **CHAPTER 4                      PROCEDURE FOR MAKING LAWS AND RESOLUTIONS**

### **A.        GENERAL PROCEDURE**

4.1 Unless otherwise provided for in this Constitution, a law or resolution of a Cree First Nation shall be enacted or adopted by the Council in the manner described in section 3.10.

### **B.        SPECIAL PROCEDURE**

4.2 (1) Notwithstanding section 4.1, and subject to the other provisions of this Constitution, the following matters require approval by a special majority of two-thirds of the votes of all the Council Members in office:

- (a) the adoption by a Cree First Nation of a law

- (i) to change its English, French or Cree name pursuant to section 5.2 of the Governance Agreement;
  - (ii) respecting taxation for local purposes pursuant to paragraph 6.2(1)(k) of the Governance Agreement;
- (b) the consent of the Cree First Nation to a waiver (and the terms and conditions thereof) by a Cree beneficiary or an Indian ordinarily resident on Category IA Land of the exemption from seizure in respect of a right or interest in Category IA Land provided for in the Governance Legislation.

(2) Where the Council wishes to consider at a meeting the enactment of a law to change its Cree, English or French name, the secretary of the Cree First Nation shall cause to be posted in a public place in the community, at least ten days prior to such meeting, a notice specifying the date, time and place of such meeting and containing:

- (a) a brief description of the proposed law; and
- (b) an explanation of the right of the Electors of the Cree First Nation to file a petition in accordance with subsection (3) to request that such law not come into force unless approved by the Electors in accordance with subsection (4).

(3) Within five days of the enactment by the Council of the law referred to in subsection (2), five percent of the Electors of the Cree First Nation may file a petition with the secretary of the Cree First Nation to request that such law not come into force unless approved by the Electors in accordance with subsection (4).

(4) If a valid petition is filed in accordance with subsection (3), the law referred to in subsection (2) shall not come into force unless it has been approved by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least five per cent of the Electors vote on the matter.

4.3 Where a land use plan or resource use plan adopted pursuant to section 6.3 of the Governance Agreement has been approved by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least twenty-five per cent of the Electors voted on the matter, any law or resolution of the Cree First Nation, whether made or adopted previously or subsequently, that is inconsistent with such land use plan or resource use plan is inoperative to the extent of the inconsistency.

4.4 A law of a Cree First Nation respecting zoning enacted pursuant to section 6.4 of the Governance Agreement, other than one described in paragraph 6.4(1)(b) thereof, is subject to the approval of the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least fifteen per cent of the Electors vote on the matter.

- 4.5 A law of a Cree First Nation respecting hunting, fishing and trapping enacted pursuant to section 6.5 of the Governance Agreement is subject to the approval by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least ten per cent of the Electors vote on the matter.
- 4.6 (1) A law of a Cree First Nation authorizing a long-term borrowing in accordance with subparagraph 6.2(1)(a)(viii) of the Governance Agreement and sections 7.9 to 7.11 of this Constitution is subject to the approval by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least twenty per cent of the Electors vote on the matter.
- (2) Subsection (1) does not apply to a long-term borrowing to fund projects of the Cree First Nation related to community housing.
- 4.7 An authorization from a Cree First Nation to a person for commercial exploitation of forest resources on its Category IA Land, as provided for in subsection 10.3(2) of the Governance Agreement, requires the approval of the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least twenty-five per cent of the Electors vote on the matter.
- 4.8 The following matters related to mineral, subsurface and mining rights on Category IA Land referred to in subsection 10.5(5) of the Governance Agreement require approval by the Electors of a Cree First Nation at a Special Meeting or Referendum at which at least twenty-five per cent of the Electors voted on the matter:
- (a) the giving by the Cree First Nation of the consent for the grant or exercise of mineral right or subsurface right on the Category IA Land of the Cree First Nation and for the mining or extraction of any mineral or other subsurface material or substance;
  - (b) a grant by the Cree First Nation of a right or interest in its Category IA Land in connection with the giving of the consent referred to in subsection 10.5(2) of the Governance Agreement; and
  - (c) the Cree First Nation's agreement as to the type and amount of the compensation referred to in subsection 10.5(2) of the Governance Agreement.
- 4.9 The following matters related to expropriation by Québec of any Category IA Land or buildings of a Cree First Nation or of servitudes over such land must be approved by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least twenty-five per cent of the Electors vote on the matter:
- (a) the amount of compensation in money in respect of an expropriation of a servitude referred to in subsection 11.5(3) of the Governance Agreement;



- (b) the type and amount of compensation in respect of land expropriated in full ownership, as provided for in subsection 11.5(4) of the Governance Agreement;
- (c) the preference of the Cree First Nation as to the selection of replacement land where the Cree First Nation is entitled to be compensated with land, as provided for in paragraph 11.8(1)(a) of the Governance Agreement;
- (d) the selection by the Cree First Nation from the alternative replacement land proposed by Québec of an area of land equal to the area of the expropriated land, as provided for in paragraph 11.8(1)(c) of the Governance Agreement;
- (e) other arrangements agreed to between Québec and the Cree First Nation in respect of replacement land, as provided for in paragraph 11.8(1)(d) of the Governance Agreement;
- (f) the amount of compensation in money to be paid to the Cree First Nation instead of replacement land, as provided for in paragraph 11.8(1)(e) of the Governance Agreement; and
- (g) the resolution of the Cree First Nation requesting Canada and Québec to reclassify as Category IA Land expropriated land no longer required, as provided for in section 11.9 of the Governance Agreement.

4.10 A grant by a Cree First Nation of a lease, usufruct, servitude, superficies or other right of use or occupation with respect to its Category IA Land for a term of ten years or more made under paragraph 12.3(1)(a) of the Governance Agreement for non-residential purposes has no effect unless approved by the Electors of the Cree First Nation at a Special Meeting or Referendum at which:

- (a) at least ten per cent of the Electors of the Cree First Nation voted on the matter, in the case of a grant for a term of less than twenty-five years; or
- (b) at least twenty-five per cent of the Electors of the Cree First Nation voted on the matter, in the case of a grant for a term of twenty-five years or more.

4.11 Where a right or interest in land was originally granted by a Cree First Nation for non-residential purposes under paragraph 12.3(1)(a) of the Governance Agreement, a subsequent transfer of that right or interest or any part thereof is of no effect unless authorized by the Cree First Nation, either in the original grant or subsequently, with the approval of the Electors of the Cree First Nation at a Special Meeting or Referendum at which the same percentage of Electors voted on the matter as would be required if the right or interest being transferred were being granted by the Cree First Nation under paragraph 12.3(1)(a) of the Governance Agreement.

- 4.12 Permission to use Category IA Land for a purpose mentioned in paragraph 12.6(1)(a) (commercial fishery) or (b) (“outfitting operation” within the meaning of *An Act respecting hunting and fishing rights in the James Bay and New Québec Territories*<sup>9</sup>) of the Governance Agreement, whether included in the terms of the grant or subsequently given by the Cree First Nation, requires the approval of the Electors of the Cree First Nation at a Special Meeting or Referendum at which
- (a) at least ten per cent of the Electors of the Cree First Nation voted on the matter, in the case of permission for a period of less than twenty-five years; or
  - (b) at least twenty-five per cent of the Electors of the Cree First Nation voted on the matter, in the case of permission for a period of twenty-five years or more.
- 4.13 The waiver (and the terms and conditions thereof) by a Cree First Nation of its exemption from seizure, as provided for in the Governance Legislation, are subject to the approval by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least twenty-five per cent of the Electors voted on the matter.
- 4.14 Where a law or resolution of a Cree First Nation is not required by this Constitution to be approved by the Electors of the Cree First Nation, the law or resolution may nevertheless provide that it does not come into force unless approved by the Electors of the Cree First Nation at a Special Meeting or Referendum at which the minimum percentage of Electors specified in the law or resolution vote on the matter.

### **C. ADOPTION AND COMING INTO FORCE**

- 4.15 (1) The original copy of any law of a Cree First Nation must be signed by
- (a) the chairman of the Council meeting at which it was enacted; and
  - (b) the secretary of the Cree First Nation or such other person as is designated by a law of the Cree First Nation.
- (2) The minutes of a meeting of a Cree First Nation Council are not valid unless adopted by the Council by resolution and signed by
- (a) the chairman of the meeting at which they are adopted; and
  - (b) the secretary of the Cree First Nation or such other person as is designated by a law of the Cree First Nation.
- (3) Where a law or resolution of a Cree First Nation is required to be approved by the Electors of the Cree First Nation at a Special Meeting or Referendum, the secretary of the Cree First Nation

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<sup>9</sup> CQLR, c. D-13.1.

- (a) in the case of a law, shall attach to the original copy of the law a statement signed by him indicating the date when such approval was given; or
- (b) in the case of a resolution, shall cause a statement signed by him indicating the date when such approval was given to be recorded in the minutes of the first Council meeting following such approval.

(4) Non-compliance with this section does not invalidate a law or resolution.

4.16 (1) Subject to subsection (2), a resolution comes into force on the day on which it is adopted by the Council of a Cree First Nation or on such later day as is specified in the resolution.

(2) Where a resolution is required to be approved by the Electors of the Cree First Nation at a Special Meeting or Referendum, that resolution comes into force on the day on which such approval is given or on such later day as is specified in the resolution.

4.17 (1) Within one week after a law has been enacted by a Cree First Nation, or has been enacted by a Cree First Nation and approved by the Electors of the Cree First Nation at a Special Meeting or Referendum (where such approval is required), the secretary of the Cree First Nation shall post a copy of the law on the Cree First Nation's Category IA Land at a public place designated by the Cree First Nation.

(2) A law enacted by a Cree First Nation shall come into force on the day on which it is posted, whether or not it is posted within the time set out in subsection (1), or on such day, subsequent to the day on which it is posted, as may be specified in the law.

#### **D. REGISTER OF LAWS AND COPIES**

4.18 (1) The secretary of the Cree First Nation shall maintain a register of laws in which shall be kept the original copy of all laws of the Cree First Nation, including laws that have been repealed or are no longer in force.

(2) The secretary of the Cree First Nation shall record the full text of every resolution adopted by the Cree First Nation in the minutes of the Council meeting at which the resolution was adopted.

(3) Non-compliance with this section does not affect the validity of a law or resolution.

4.19 Any person is entitled to obtain a copy of a law or resolution of a Cree First Nation on payment of such reasonable fee as is fixed by the Cree First Nation.

## CHAPTER 5

## ELECTIONS

5.1 (1) Subject to subsection (2), each Elector of a Cree First Nation is entitled to vote in any election of Council Members held by that Cree First Nation, whether the election is conducted pursuant to an election law made under the Governance Agreement and this Constitution or in accordance with the election rules set out in Part I of Appendix A.

(2) An Elector who is appointed a Returning Officer or a Deputy or Assistant Returning Officer under section 5.9 in respect of an election is not entitled to vote in that election.

### A. ELECTION LAWS

5.2 Subject to section 5.3 and subsection 5.4(1), a Cree First Nation may make laws respecting the election and term of office of its Council Members.

5.3 A law made under section 5.2 shall include provision for

- (a) the calling of elections and notices of elections;
- (b) the number of positions of Council Member;
- (c) the length of the term of office of Council Members;
- (d) the method of electing Council Members;
- (e) the basis on which one of the Council Members shall hold the office of Chief;
- (f) the basis on which one of the Councillors shall hold the office of deputy chief;
- (g) nomination procedures;
- (h) election method and procedure; and
- (i) the recording and certification of election results.

5.4 (1) A law made under section 5.2, or any amendment thereto or repeal thereof,

- (a) does not come into force until it has been approved by the Electors of the Cree First Nation at a Special Meeting or Referendum at which at least twenty per cent of the Electors voted on the matter, and
- (b) applies only in respect of elections called after its coming into force.

### B. ELECTION RULES APPLICABLE WHERE NO ELECTION LAW IS IN FORCE

5.5 The election rules set out in Part II of Appendix A apply to all elections of a Cree First Nation, but those set out in Part I of Appendix A apply only where, at the time of the

calling of the election of a Cree First Nation, there was not in force an election law made by the Cree First Nation under section 5.2.

### **C. ELIGIBILITY TO BE ELECTED AND TO SERVE AS COUNCIL MEMBER**

5.6 Any Elector of a Cree First Nation is eligible to be elected to the office of Council Member of that Cree First Nation unless he

- (a) has been convicted of contravening a provision of Part II of Appendix A within the two-year period preceding the date fixed for the holding of the election for that office or, where the most recent election for that office took place before that two year period, in respect of the most recent election for that office;
- (b) has been appointed as a Returning Officer or as a Deputy or Assistant Returning Officer in respect of the election for that office;
- (c) is the secretary of the Cree First Nation or treasurer of the Cree First Nation referred to in section 3.16;
- (d) is a judge to which the *Judges Act*<sup>10</sup> applies or is a Crown prosecutor; or
- (e) is, on the day fixed for the holding of the election for that office, undergoing a term of imprisonment as a result of having been convicted of an indictable offence.

5.7 Apart from general elections referred to in section 5.12, an office of Council Member becomes vacant immediately on the occurrence of one of the following events, and only the following events:

- (a) the election of the office-holder to that office is declared invalid pursuant to subsection 5.16(7);
- (b) the office-holder
  - (i) dies or submits his resignation in writing to the Council,
  - (ii) is convicted of contravening a provision of Part II of Appendix A,
  - (iii) is appointed Cree First Nation secretary or Cree First Nation treasurer pursuant to section 3.16,
  - (iv) is appointed a judge to which the *Judges Act* applies or a Crown prosecutor,

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<sup>10</sup> R.S.C., 1985, c. J-1.

- (v) commences a term of imprisonment as a result of having been convicted of an indictable offence, or
- (vi) is declared mentally incompetent in accordance with the laws of the Province;
- (c) the office-holder's term of office expires pursuant to this Constitution, a law made under section 5.2 or the election rules provided in Part I of Appendix A;
- (d) the office is declared vacant pursuant to section 5.8.

5.8 (1) Where a Council Member has, without permission from the Council, been absent from three or more consecutive Council meetings otherwise than by reason of illness or incapacity, any fifteen Electors of the Cree First Nation may file a petition with the Cree First Nation secretary requesting that a special Cree First Nation meeting be convened for the purpose of deciding whether the office of that Council Member should be declared vacant.

(2) Forthwith after the filing of a petition under subsection (1), the Cree First Nation shall call a Special Meeting, to be held as soon as possible, for the purpose of deciding whether the office of the Council Member in question should be declared vacant, and if, with at least twenty per cent of the Electors of the Cree First Nation voting on the question, the Special Meeting decides that that office should be declared vacant, that office thereupon becomes vacant.

#### **D. RETURNING OFFICERS**

5.9 (1) Each Cree First Nation shall appoint a person who is not a Council Member of that Cree First Nation as Returning Officer, and shall fix his tenure and term of office.

(2) The Returning Officer of each Cree First Nation shall appoint a Deputy Returning Officer and may appoint such Assistant Returning Officers as are necessary to assist him in the performance of his duties.

(3) Where the Returning Officer of a Cree First Nation is absent or incapacitated or the office of Returning Officer is vacant, the Deputy Returning Officer of the Cree First Nation has and may exercise all the powers and duties of the Returning Officer.

(4) In the event of the absence or incapacity of both the Returning Officer and the Deputy Returning Officer of a Cree First Nation or if both such offices are vacant, the Cree First Nation secretary has and may exercise all the powers and duties of the Returning Officer of the Cree First Nation.

- 5.10 A person is not eligible to be appointed a Returning Officer or a Deputy or Assistant Returning Officer if he
- (a) is not of the age of majority under the laws of the Province;
  - (b) is undergoing a term of imprisonment as a result of having been convicted of an indictable offence; or
  - (c) has, at any time, been convicted of contravening a provision of Part II of Appendix A.
- 5.11 A Returning Officer or Deputy or Assistant Returning Officer ceases to hold office forthwith if he
- (a) is convicted of contravening a provision of Part II of Appendix A;
  - (b) commences a term of imprisonment as a result of having been convicted of an indictable offence; or
  - (c) is declared mentally incompetent under the laws of the Province.

#### **E. CALLING OF ELECTIONS**

- 5.12 (1) Where a general election of a Cree First Nation is held, the term of office of every Council Member expires on the day of that general election.
- (2) A Cree First Nation may hold a general election at any time.
- 5.13 (1) Any ten Electors of a Cree First Nation may, subject to subsection (2), file a petition with the Cree First Nation secretary requesting that a Special Meeting be convened for the purpose of deciding whether a general election of the Cree First Nation should be held.
- (2) A petition may not be filed under subsection (1) within one year after the previous general election or within one year after the filing of the most recent valid petition under that section.
- (3) Within ten days after the filing of a valid petition under this section, the Cree First Nation shall call a Special Meeting, to be held as soon as possible, for the purpose of deciding whether a general election of the Cree First Nation shall be held, and if, at that Special Meeting,
- (a) at least fifty per cent of the Electors of the Cree First Nation vote on that question,
  - (b) the majority of those voting vote in favour of holding a general election, and

(c) the majority referred to in paragraph (b) consists of at least one-third of the total number of Electors of the Cree First Nation,

the Cree First Nation shall forthwith hold a general election.

5.14 (1) A Cree First Nation shall hold an election for a position of Council Member forthwith after the expiration of the term of office of that Council Member.

(2) Where a position of Council Member becomes vacant more than six months before the expiration of the term of office of that Council Member, the Cree First Nation shall forthwith hold an election for that position.

(3) Where a position of Council Member becomes vacant less than six months before the expiration of the term of office of that Council Member, the Cree First Nation may hold an election for that position.

(4) Where a position of Council Member becomes vacant less than six months before the expiration of the term of office of that Council Member, and that vacancy results in there being in office less than the number of Council Members required to constitute a quorum under subsection 3.8(1), the Cree First Nation shall, unless it holds an election for that position or a general election, hold an Ordinary Meeting within ten days for the purpose of appointing a sufficient number of Council Members to restore the quorum.

(5) The appointment of Council Members referred to in subsection (4) shall be made by a vote of the Electors of the Cree First Nation.

(6) Section 5.6 applies, with such modifications as the circumstances require, to appointments pursuant to subsection (5).

(7) A Council Member appointed pursuant to subsection (5) remains in office for the balance of the term in respect of which the vacancy occurred.

5.15 (1) Where a Cree First Nation fails to hold an election pursuant to subsection 5.13(3) or subsection 5.14(1) or (2) within ten days after its obligation to do so has arisen, the Returning Officer of the Cree First Nation shall hold the election in question.

(2) Where a Cree First Nation fails to hold an election or a Special Meeting pursuant to subsection 5.14(4) within ten days after its obligation to do so has arisen, the Returning Officer of the Cree First Nation shall hold the election or Special Meeting.



## F. CONTESTATION OF ELECTION RESULTS

5.16 (1) Any candidate for election as Council Member of a Cree First Nation or any fifteen Electors of a Cree First Nation may, within five days of the day of any election held by that Cree First Nation, contest the election of any Council Member or Council Members elected thereat by submitting to the Returning Officer of the Cree First Nation a written notice to that effect.

(2) The election of a Council Member may be contested on the grounds that

- (a) a provision of Part II of Appendix A was contravened in respect of the election of that Council Member, whether or not anyone has been prosecuted or convicted for such contravention;
- (b) there was non-compliance with this Constitution, a law respecting the election and term of office of Council Members made pursuant to the Governance Agreement and this Constitution or a provision of Part I of Appendix A in respect of the election of that Council Member; or
- (c) the person elected Council Member was ineligible to be elected to that office.

(3) On receipt of a notice under subsection (1), the Returning Officer shall, within two weeks, prepare and submit to a judge of the Provincial Court or Superior Court of Québec (hereinafter in this section referred to as “the judge”) a petition in prescribed form setting out the name of the person or persons whose election is being contested, the name of the person or persons contesting the election and the grounds on which the election is being contested.

(4) A petition described in subsection (3) must be accompanied by a deposit of two hundred dollars, which, except as provided in subsection (5), shall be refunded to the person or persons contesting the election forthwith after the judge has made a decision on the petition, whether or not the judge declares the election invalid.

(5) Where the judge is of the opinion that the petition was not made in good faith, he may order the deposit forfeited and, where he so orders, the moneys forfeited shall be applied toward the cost of the court proceedings.

(6) The judge shall inquire into the correctness of the allegations contained in the petition, and for such purposes may exercise all the powers of a commissioner under Part I of the *Inquiries Act*<sup>11</sup>.

(7) Where, after hearing the petition, the judge is satisfied, in respect of the election of one or more Council Members whose election has been contested, that a ground for

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<sup>11</sup> R.S.C., 1985, c. I-11.

contestation contained in the petition has been established and that, in the case of the grounds described in paragraph (2)(a) or (b), the offence or non-compliance materially affected the result of the election, he shall declare invalid the election of the Council Member or Council Members in respect of whose election he is so satisfied.

(8) The election of any particular Council Member cannot be contested a second time on the same ground in respect of the same election.

(9) A Council Member whose election is contested under this section is entitled to remain in office until such time as the judge has declared his election invalid under subsection (7).

## **CHAPTER 6                      MEETINGS AND REFERENDA OF THE CREE FIRST NATION**

6.1 Only Electors of the Cree First Nation have a right to attend its Ordinary Meetings and Special Meetings, but other persons may attend with the permission of the Cree First Nation.

6.2 In addition to any other rights relating to the use of the Cree language, a Cree First Nation may conduct Ordinary Meetings, Special Meetings and Referenda in the Cree language.

6.3 Each Elector of a Cree First Nation is entitled to vote in respect of any matter submitted to a vote at an Ordinary Meeting, Special Meeting or Referendum of that Cree First Nation.

### **A.        ORDINARY MEETINGS**

6.4 (1) A Cree First Nation shall hold at least one Ordinary Meeting each calendar year.

(2) A Cree First Nation may make laws respecting Ordinary Meetings, including, without limiting the generality of the foregoing, laws respecting the calling of meetings, the conduct of meetings, quorums, voting, and the preparation and keeping of records of votes taken.

### **B.        SPECIAL MEETINGS AND REFERENDA**

6.5 (1) Except as provided in subsection 5.13(3) of this Constitution and subsection 13.4(1) of the Governance Agreement, a matter shall be deemed to have been approved by the Electors of a Cree First Nation at a Special Meeting or Referendum if

- (a) the required minimum percentage of Electors voted on the matter; and
- (b) the majority of those voting voted in favour of the matter.

- (2) In any vote at a Special Meeting or Referendum, an Elector who does not cast an affirmative vote or a negative vote or who spoils his ballot shall be deemed not to have voted.
- 6.6 Where a Cree First Nation wishes to hold a Special Meeting or a Referendum, it shall cause to be posted in a public place in the community, at least ten days prior to the date fixed for such meeting or Referendum, a notice specifying the date, time and place of the Special Meeting or Referendum and containing a brief description of the matters to be decided at that Special Meeting or Referendum.
- 6.7 (1) A presiding officer shall be appointed by the Cree First Nation for any Special Meeting or Referendum.
- (2) A presiding officer appointed pursuant to subsection (1) is responsible for the fair and orderly conduct of the Special Meeting or Referendum, and for the preparation of a statement, attested to by at least one witness, certifying the results of the Special Meeting or Referendum.
- (3) The presiding officer may take such measures as are necessary to ensure the fair and orderly conduct of a Special Meeting or Referendum, and may cause any person engaging in disorderly conduct to be ejected from a Special Meeting.
- (4) The presiding officer may engage such other persons as are necessary to assist him in carrying out his duties under subsections (2) and (3).
- 6.8 (1) A Cree First Nation may make laws respecting Special Meetings and Referenda, including, without limiting the generality of the foregoing, laws respecting the calling of meetings and referenda, the conduct of meetings and referenda, voting at meetings and in referenda, and the preparation and keeping of records of votes taken.
- (2) Where a provision of this Constitution, other than subsection (3), stipulates that a matter requires the approval of the Electors of a Cree First Nation at a Special Meeting or Referendum at which a specified minimum percentage of the Electors must vote on the matter, the Cree First Nation may make laws, subject to subsection (3), fixing a different minimum percentage, not lower than that specified in the relevant provision of this Constitution.
- (3) A law made under subsection (2) requires the approval of the Electors of the Cree First Nation at a Special Meeting or Referendum at which the same minimum percentage of Electors voted on the matter as the minimum specified in the relevant provision of this Constitution referred to in that subsection.
- 6.9 Non-compliance with a law made under section 6.8 does not affect the validity of the result of a vote unless such non-compliance materially affected that result.

## **CHAPTER 7**

## **FINANCIAL ADMINISTRATION OF CREE FIRST NATIONS**

### **A. FISCAL YEAR**

- 7.1 (1) The fiscal year of a Cree First Nation begins on April 1 of each year and ends on March 31 of the following year, unless otherwise provided by a law of the Cree First Nation made pursuant to subsection (2).
- (2) A Cree First Nation may, by law,
- (a) adopt a fiscal year different from that provided for in subsection (1); or
  - (b) where the Cree First Nation has adopted a different fiscal year pursuant to paragraph (a), revert to the fiscal year provided for in subsection (1).
- (3) Where a law is made under subsection (2), the fiscal year provided for in the law cannot commence until after the end of the fiscal year in which the law came into force.
- (4) Where a law is made under subsection (2), the period between the end of the fiscal year in which the law came into force and the commencement of the fiscal year provided for in the law shall be deemed to be a separate fiscal year for the purposes of this Chapter 7.

### **B. BUDGET, EXPENDITURES AND COMMITMENTS**

- 7.2 (1) A Cree First Nation shall, by resolution, prior to the beginning of each fiscal year, adopt a budget for that fiscal year, and may, if it deems necessary in the course of the fiscal year, adopt supplementary budgets for that fiscal year.
- (2) Forthwith after adopting a budget or supplementary budget, a Cree First Nation shall
- (a) explain the budget or supplementary budget to the Members of the Cree First Nation at an Ordinary Meeting;
  - (b) make a copy thereof available at the head office of the Cree First Nation, for inspection by Members of the Cree First Nation at reasonable hours; and
  - (c) send a copy of it to the Cree Nation Government.
- (3) Where a Cree First Nation fails to adopt a budget for a fiscal year prior to the beginning of that fiscal year, the budget and any supplementary budgets of the previous fiscal year apply until a new budget is adopted.
- (4) A Cree First Nation may make laws respecting the preparation and implementation of budgets.

(5) A Cree First Nation may not expend moneys or commit itself, by contract or otherwise, to expend moneys, unless

- (a) such expenditure is authorized by or under a law or resolution; and
- (b) a certificate is issued by the treasurer stating that moneys are available for such expenditure.

(6) Non-compliance by a Cree First Nation with subsection (5) does not affect the validity or enforceability, with respect to the other party, of a Cree First Nation's commitment to expend moneys, if the other party took reasonable steps to satisfy itself that the Cree First Nation had complied with subsection (5).

(7) Where a law or resolution referred to in subsection (5) is inconsistent with the Cree First Nation's budget or a supplementary budget, the law or resolution shall so state, but a non-compliance with this section does not affect the validity of the law or resolution.

## **C. BOOKS OF ACCOUNT AND FINANCIAL RECORDS**

7.3 (1) A Cree First Nation shall keep books of account and financial records that

- (a) contain, as a minimum,
  - (i) an account of all moneys received and disbursed,
  - (ii) an account of revenues and expenditures,
  - (iii) a record of accounts payable and receivable,
  - (iv) an account of assets and liabilities, and
  - (v) an account of all other transactions that may affect the financial position of the Cree First Nation;
- (b) conform with generally accepted accounting principles; and
- (c) permit a comparison between
  - (i) revenues and expenditures as shown in the books of account and financial records, and
  - (ii) the projected revenues and expenditures as shown in the budget and any supplementary budget.

(2) A Council Member or Elector of a Cree First Nation, or any person authorized in writing by a Council Member or Elector of a Cree First Nation or by the Cree Nation

Government, may, at any reasonable time, inspect the books of account and financial records of the Cree First Nation, and a person who

- (a) obstructs that person; or
- (b) having control or possession of those books or records, fails to give all reasonable assistance to that person,

is guilty of an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

7.4 Within two months after the end of each fiscal year, a Cree First Nation shall prepare a financial statement in comparative form, containing, as a minimum,

- (a) a balance sheet;
- (b) a statement of revenues and expenditures and a comparison of these with the amounts stated in the Cree First Nation's budget and any supplementary budget; and
- (c) any other information necessary for a fair presentation of the financial position of the Cree First Nation.

#### **D. AUDIT**

7.5 (1) For each fiscal year, the Electors of a Cree First Nation shall, at a Special Meeting or Referendum at which at least five per cent of the Electors voted on the matter,

- (a) appoint a duly accredited auditor and fix or provide for his remuneration; or
- (b) authorize the Council to appoint a duly accredited auditor and to fix or provide for his remuneration.

(2) Where no auditor has been appointed under subsection (1) within three months after the beginning of a fiscal year, the Cree Nation Government may appoint an auditor for that fiscal year and fix his remuneration.

(3) The auditor appointed pursuant to subsection (1) or (2) holds office until he is re-appointed, or a new auditor is appointed, under subsection (1) or (2).

(4) Where a vacancy occurs during the term of the auditor, the Cree First Nation shall forthwith appoint a new auditor for the remainder of the term of the former auditor and shall fix the new auditor's remuneration.

(5) If a Cree First Nation fails to act under subsection (4), the Cree Nation Government may appoint a new auditor and fix that auditor's remuneration.

(6) The Cree Nation Government shall inform the Cree First Nation in writing of the appointment.

(7) In all cases the auditor's remuneration shall be paid by the Cree First Nation.

7.6 (1) The auditor shall, within four months after the end of the Cree First Nation's fiscal year, prepare and submit to the Cree First Nation (with a copy to the Cree Nation Government) a report on the Cree First Nation's financial statement, stating whether, in the opinion of the auditor, the financial statement presents fairly the financial position of the Cree First Nation in accordance with generally accepted accounting principles applied on a basis consistent with that applied in the previous fiscal year.

(2) If the auditor has not been able to prepare the report within the period mentioned in subsection (1), the auditor shall notify the Cree First Nation and the Cree Nation Government of the reasons for the delay.

(3) A Cree First Nation shall present and explain the auditor's report to the Members of the Cree First Nation at an Ordinary Meeting.

(4) A Cree First Nation shall make a copy of the auditor's report available at the head office of the Cree First Nation, for inspection by its Members at reasonable hours.

7.7 For the purpose of preparing his report under subsection 7.6(1), the auditor may at all reasonable times inspect the financial records, accounts, books, minutes vouchers and receipts of the Cree First Nation, its subsidiaries and any person or body who administers money on behalf of the Cree First Nation (in so far as the records or other documents relate to the money being administered on behalf of the Cree First Nation), and any person who

(a) obstructs the auditor in the performance of his duties, or

(b) having control or possession of any such documents, fails to give the auditor all reasonable assistance in the performance of his duties

is guilty of an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

## **E. FINANCIAL ACCOUNTABILITY**

7.8 Within 180 days after the end of each fiscal year, a Cree First Nation shall distribute free of charge to all its Electors, or publish in a community newspaper, a summary report of the financial position of the Cree First Nation dealing with the following elements:

(a) latest audited financial statements;

- (b) auditor's latest report;
- (c) the remuneration that each Council Member receives from the Cree First Nation and its subsidiaries.

**F. BORROWING POWERS OF CREE FIRST NATION**

7.9 (1) A Cree First Nation may not borrow money on either a short-term or long-term basis otherwise than in accordance with sections 7.10 and 7.11.

(2) For the purposes of this section and sections 7.10 and 7.11,

- (a) money shall be deemed to be borrowed on a short-term basis only if
  - (i) it is borrowed for the purpose of meeting the normal operating expenditures of the Cree First Nation,
  - (ii) it is to be repaid within one year from the day on which it is borrowed, and
  - (iii) the Cree First Nation has, prior to borrowing the money, identified the source of revenue from which the money is to be repaid; and
- (b) all borrowing that is not on a short-term basis shall be deemed to be on a long-term basis.

(3) Where a source of revenue has been identified pursuant to subparagraph (2)(a)(iii), moneys received by the Cree First Nation from that source shall be applied to the repayment of the loan in question.

7.10 Each borrowing by a Cree First Nation, whether on a short-term basis or on a long-term basis, must be authorized by a law of the Cree First Nation, which law must specify

- (a) the amount to be borrowed and the purpose of borrowing; and
- (b) the manner and terms of repayment and the repayment date or dates.

7.11 (1) In addition to the information required pursuant to section 7.10, a law authorizing a long-term borrowing shall specify the following:

- (a) the name and address of the lender;
- (b) the interest, commissions, premiums and other similar costs related to the long-term borrowing;
- (c) the source of revenue and the portion of the revenue from that source from which the long-term borrowing is to be repaid and the costs related thereto are to be paid; and



(d) the security, if any, given by the Cree First Nation for the repayment of the long-term borrowing and the payment of the costs related thereto.

(2) A Cree First Nation shall apply sufficient moneys from the revenue received from the source specified pursuant to paragraph (1)(c) to repay the long-term borrowing and to pay the costs related thereto.

(3) No Council Member, officer, employee or agent of the Cree First Nation shall knowingly apply or assist in the application of any moneys received by the Cree First Nation from the portion of the revenue specified pursuant to paragraph (1)(c) for the repayment of a long-term borrowing and the payment of the costs related thereto to anything other than the repayment of the long-term borrowing and the payment of the costs related thereto prior to the time the long-term borrowing is repaid and the costs related thereto are paid.

(4) Every person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

## **G. CONTRACTS**

7.12 A Cree First Nation may make laws respecting procedures for the awarding of contracts and the calling of tenders in relation thereto, and such laws may take into account the preferential contract and employment benefits for Cree beneficiaries contained in the JBNQA or established pursuant to the JBNQA.

## **H. APPOINTMENT OF ADMINISTRATOR**

7.13 (1) If, as a result of an inspection by the Cree Nation Government or a person authorized by the Cree Nation Government under subsection 7.3(2), the auditor's report under subsection 7.6(1), or any non-compliance with the provisions of this Chapter 7, the Cree Nation Government is of the opinion that the financial affairs of a Cree First Nation are in serious disorder, the Cree Nation Government may give written notice to the Cree First Nation of its intention to appoint an administrator to administer the financial affairs of the Cree First Nation, setting out his or her reasons for so doing.

7.14 (2) Where a Cree First Nation receives a notice under subsection (1), it shall forthwith take corrective measures to remedy the situation referred to in the notice.

7.15 (3) At any time between 60 days and one year after giving notice to the Cree First Nation under subsection (1), the Cree Nation Government may, if the Cree Nation Government is of the opinion that the situation referred to in the notice has not been adequately remedied, appoint, by order, an administrator to administer the financial affairs of the

Cree First Nation, and the order shall set out the duties of the administrator. The Cree Nation Government shall send a copy of the order without delay to the Cree First Nation.

(4) Where an administrator has been appointed pursuant to subsection (3), no person shall expend moneys of the Cree First Nation without the consent of the administrator, and any person who violates this section is guilty of an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both.

(5) The administrator appointed pursuant to subsection (3) holds office for a term of four months from the date of his appointment.

(6) At the expiration of the administrator's term of appointment referred to in subsection (5), the Cree Nation Government may, where it is of the opinion that the financial affairs of the Cree First Nation continue to be in serious disorder, reappoint the administrator, or appoint a new administrator, for a further period not exceeding four months.

(7) The Cree Nation Government's power under subsection (6) applies also at the expiration of the term of appointment of an administrator appointed or re-appointed under that section.

## **CHAPTER 8                      INTERNAL APPEAL AND REDRESS MECHANISM**

8.1     Each Cree First Nation shall establish a mechanism for internal appeal and redress in respect of decisions taken pursuant to the Governance Agreement.

## **CHAPTER 9                      ACCESS TO INFORMATION**

9.1     Each Cree First Nation shall establish procedures in respect of access to information in its custody or control in relation to the exercise of its Jurisdictions and Authorities set out in the Governance Agreement.

### **PART III CREE NATION GOVERNMENT**

#### **CHAPTER 10 OBJECTS OF CREE NATION GOVERNMENT REGARDING CATEGORY IA LAND**

10.1 The objects of the Cree Nation Government regarding Category IA Land are set out in the Governance Agreement.

#### **CHAPTER 11 PROCEDURE FOR MAKING LAWS**

11.1 A law of the Cree Nation Government in respect of a Jurisdiction set out in the Governance Agreement shall be made by means of the adoption, at a public meeting convened in accordance with *An Act respecting the Cree Nation Government*, as amended from time to time, of a resolution supported by a majority of all of the members of the council of the Cree Nation Government.

11.2 (1) Within one week after a law has been made by the council of the Cree Nation Government, the secretary of the Cree Nation Government shall ensure that a copy of the law is posted on the Cree Nation Government's website and at a public place designated by the Cree Nation Government on the Category IA Land of each Cree First Nation.

(2) The law comes into force on the day on which it is posted on the Cree Nation Government's website, whether or not it is posted within the time set out in subsection (1), or on any day, subsequent to the day on which it is posted, that may be specified in the law.

11.3 (1) The secretary of the Cree Nation Government shall maintain a register of laws made by the council of the Cree Nation Government in which shall be kept the original copy of those laws, including laws that have been repealed or are no longer in force.

(2) The secretary of the Cree Nation Government shall, in respect of every resolution to make a law that is adopted by the council of the Cree Nation Government, record the full text of the resolution and the result of the vote in the minutes of the meeting at which it was adopted.

(3) Non-compliance with this section does not affect the validity of the law or resolution.

11.4 Any person is entitled to obtain a copy of a law or resolution of the Cree Nation Government on payment of any reasonable fee that is fixed by the Cree Nation Government.

**CHAPTER 12**                      **INTERNAL APPEAL AND REDRESS MECHANISM**

12.1 The Cree Nation Government shall establish a mechanism for internal appeal and redress in respect of decisions taken pursuant to the Governance Agreement.

**CHAPTER 13**                      **ACCESS TO INFORMATION**

13.1 The Cree Nation Government shall establish procedures in respect of access to information in its custody or control in relation to the exercise of its Jurisdictions and Authorities set out in the Governance Agreement.

**CHAPTER 14**                      **MATTERS ADDRESSED IN AN ACT RESPECTING THE CREE NATION GOVERNMENT**

14.1 The rules governing the following matters referred to in paragraph 3.1(b) of the Governance Agreement are addressed in the *Act respecting the Cree Nation Government*:

- (a) political accountability of leaders to their members;
- (b) conflict of interests;
- (c) public consultations and voting.

## **PART IV FINAL PROVISIONS**

### **CHAPTER 15 RATIFICATION AND COMING INTO FORCE**

- 15.1 (1) This Constitution shall be approved and ratified in accordance with the provisions of Chapter 31 of the Governance Agreement.
- (2) This Constitution shall come into effect and be legally binding at the same time as the Governance Agreement.
- 15.2 (1) The secretary of the Cree Nation Government shall keep the original copy of this Constitution, including any amendments to it made pursuant to Chapter 16, in the register of laws of the Cree Nation Government.
- (2) Non-compliance with this section does not affect the validity of this Constitution or any amendments to it.
- 15.3 Any person is entitled to obtain a copy of this Constitution, including any amendments to it, on payment of any reasonable fee that is fixed by the Cree Nation Government.

### **CHAPTER 16 AMENDMENTS**

- 16.1 This Constitution may be amended from time to time in accordance with the following procedure:

#### **Step 1 – Initiation of Amendment**

- (a) An amendment to this Constitution shall be initiated by a resolution adopted by the council of the Cree Nation Government.

#### **Step 2 – Development of Draft Amendment**

- (b) Upon adoption of the resolution referred to in paragraph (a), the Cree Nation Government shall develop a draft amendment to this Constitution.

#### **Step 3 – Information on Draft Amendment**

- (c) After the draft amendment has been developed by the Cree Nation Government, the Cree Nation Government shall:
- (i) make available to the Crees, or publish in English and Cree in newspapers or other media deemed appropriate by the Cree Nation Government, the draft amendment;

- (ii) post a copy of the draft amendment on the Cree Nation Government's website and at a public place designated by the Cree Nation Government on the Category IA Land of each Cree First Nation;
- (iii) provide a reasonable number of hard copies of the draft amendment for distribution to the Crees upon request;
- (iv) broadcast in Cree and English on the community radio stations information on the draft amendment; and
- (v) such other activities as determined by the Cree Nation Government.

**Step 4 – Approval and Ratification of Amendment**

- (d) Upon completion of the activities mentioned in paragraph (c), approval and ratification of the amendment requires the adoption by the Cree Nation Government, the Grand Council of the Crees (Eeyou Istchee) and each of the Cree First Nations of a resolution approving the amendment.
- (e) The resolution of the Cree Nation Government, the Grand Council of the Crees (Eeyou Istchee) and each of the Cree First Nations referred to in paragraph (d):
  - (i) shall be submitted to the council of the Cree Nation Government, the board of directors of the Grand Council of the Crees (Eeyou Istchee) and the Council of each of the Cree First Nations, at a meeting of such council and board open to the public; and
  - (ii) shall require, to be approved, the affirmative votes of the majority of the council or board members present when the vote is taken.

16.2 (1) Within one week after an amendment has been approved and ratified in accordance with paragraphs 16.1(d) and (e), the secretary of the Cree Nation Government shall ensure that a copy of the amendment is posted on the Cree Nation Government's website and at a public place designated by the Cree Nation Government on the Category IA Land of each Cree First Nation.

(2) The amendment shall come into effect on the day on which it is posted on the Cree Nation Government's website, whether or not it is posted within the time set out in subsection (1), or on any day, subsequent to the day on which it is posted, that may be specified in the amendment.

**CHAPTER 17 INTERPRETATION**

17.1 For the purposes of this Constitution, and unless otherwise expressly provided or indicated by the context, the following words and phrases shall mean:

**“Assistant Returning Officer”**: the assistant returning officer referred to in subsection 5.9(2);

**“Authority”**: any authority, other than law making, such as the power to deliver or administer federal programs and services;

**“Category I Land”**: Category IA Land and Category IB Land;

**“Category IA Land”**:

- (a) the land described in the final deed of transfer to Canada by Québec pursuant to Sections 4 and 5 of the JBNQA and section 22 of *An Act respecting the Land Regime in the James Bay and New Québec Territories*<sup>12</sup>,
- (b) any land set aside as Category IA Land pursuant to paragraph 11.8(1)(d) of the Governance Agreement, and
- (c) any other land set aside by the Governor in Council as Category IA Land for the exclusive use and benefit of a Cree First Nation,  
and, in relation to any particular Cree First Nation,
- (d) land described in paragraph (a), (b) or (c) set aside for the exclusive use and benefit of that Cree First Nation or its predecessor *Indian Act* Cree band;

**“Category IB Land”**: the Category IB land and Special Category IB land within the meaning of Sections 4 and 5 of the JBNQA and of *An Act respecting the Land Regime in the James Bay and New Québec Territories*;

**“Category II Land”**: the land established and allocated as Category II land pursuant to the JBNQA and *An Act respecting the Land Regime in the James Bay and New Québec Territories*;

**“Category III Land”**: the land established as Category III land pursuant to the JBNQA and *An Act respecting the Land Regime in the James Bay and New Québec Territories*;

**“Chief”**: in relation to a Cree First Nation, the person holding the office of chief of that Cree First Nation pursuant to Chapter 5;

**“Constitution”**: this Constitution of the Crees of Eeyou Istchee;

**“Council”**: the continuing body of persons described in section 5.9 of the Governance Agreement;

**“Council Member”**: in relation to a Cree First Nation, the Chief or a Councillor of that Cree First Nation;

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<sup>12</sup> CQLR, c. R-13.1.

“**Councillor**”: a person holding office as councillor of a Cree First Nation pursuant to Chapter 5;

“**Cree**”, “**Cree of Eeyou Istchee**” or “**Cree beneficiaries**”: a person who is enrolled or entitled to be enrolled as a Cree beneficiary pursuant to Section 3 of the JBNQA;

“**Cree First Nation**”: a legal entity referred to in section 5.1 of the Governance Agreement;

“**Cree First Nation Law**”: a law of a Cree First Nation made pursuant to the Governance Agreement and this Constitution;

“**Cree Law**”: a Cree Nation Government Law or a Cree First Nation Law;

“**Cree Nation**”: the collectivity comprising all the Cree of Eeyou Istchee;

“**Cree Nation Government**”: the Cree Nation Government referred to in Section 11 of the JBNQA and established as a legal person in the public interest by an *Act respecting the Cree Nation Government*, and previously designated as the Cree Regional Authority;

“**Cree Nation Government Law**”: a law of the Cree Nation Government made pursuant to the Governance Agreement and this Constitution;

“**Deputy Returning Officer**” means the deputy returning officer referred to in subsection 5.9(2);

“**Effective Date**”: the date upon which this Constitution takes effect in accordance with Chapter 15;

“**Elector**”: a Member of a Cree First Nation who is eighteen years of age or over and not declared mentally incompetent under the laws of the Province;

“**Governance Agreement**”: the *Agreement on Cree Nation Governance between the Crees of Eeyou Istchee and the Government of Canada* signed on July 18, 2017;

“**Governance Legislation**”: the federal legislation referred to in section 33.1 of the Governance Agreement;

“**Grand Council of the Crees (Eeyou Istchee)**” or “**GCC(EI)**”: the Grand Council of the Crees (Eeyou Istchee), a corporation duly incorporated under Part II of the *Canada Corporations Act*<sup>13</sup>, and continued under the *Canada Not-for-Profit Corporations Act*<sup>14</sup>, signatory to the JBNQA, and previously known as the Grand Council of the Crees (of Québec);

“**Inuk of Chisasibi**” (in the singular) or “**Inuit of Chisasibi**” (in the plural): has the same meaning as in the Governance Agreement;

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<sup>13</sup> R.S.C. 1970, c. C-32.

<sup>14</sup> S.C. 2009, c. 23.



**“James Bay and Northern Québec Agreement”** or **“JBNQA”**: the agreement between the Grand Council of the Crees (of Québec), the Northern Québec Inuit Association, the Government of Québec, la Société d’énergie de la Baie James, la Société de développement de la Baie James, la Commission hydro-électrique de Québec (Hydro-Québec) and the Government of Canada, dated November 11, 1975 and approved, given effect and declared valid by the *Act approving the Agreement concerning James Bay and Northern Québec* and by the *James Bay and Northern Québec Native Claims Settlement Act*, as amended by:

- (a) any agreement not described in paragraph (b) or (c) made in accordance with the applicable amending provisions of the *James Bay and Northern Québec Agreement*,
- (b) the agreement between those parties dated December 12, 1975, tabled in the House of Commons by the Minister on July 13, 1976 and recorded as part of document number 301-5/180C, and
- (c) any other agreement, whether made before or after the Effective Date, referred to in
  - (i) paragraph 4(1)(a) of the *James Bay and Northern Québec Native Claims Settlement Act*, or
  - (ii) section 3 of *An Act approving the Agreement concerning James Bay and Northern Québec*;

**“Jurisdiction”**: the power and authority to make laws as set forth in the Governance Agreement;

**“Member”**: in relation to a Cree First Nation, a member of a Cree First Nation as provided for in section 5.3 of the Governance Agreement;

**“Minister”**: the Minister of Indian Affairs and Northern Development;

**“Ordinary Meeting”**: any meeting of a Cree First Nation other than a Special Meeting;

**“Province”**: the Province of Québec;

**“Québec”**: Her Majesty in right of Québec;

**“Referendum”**: a referendum of a Cree First Nation referred to in sections 6.5 to 6.9;

**“Returning Officer”**: the returning officer referred to in subsection 5.9(1);

**“Special Meeting”**: a meeting of the Cree First Nation referred to in sections 6.5 to 6.9.

17.2 In this Constitution, unless otherwise expressly provided for or unless otherwise clear from the context:

- (a) a reference to a statute or a regulation includes every amendment to it, every regulation made under that statute, any statute or regulation enacted in substitution for it or in replacement of it, as the case may be;
- (b) the use of the singular includes the plural, and the use of the plural includes the singular;
- (c) headings and subheadings are for convenience only, do not form a part of this Constitution, and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Constitution.

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## **APPENDIX A ELECTION RULES**

### **PART I CREE FIRST NATION ELECTIONS – APPLICABLE WHERE NO ELECTION LAW OF A CREE FIRST NATION IS IN FORCE**

1. The election rules set out in Part II of this Appendix A apply to all elections of a Cree First Nation, but those set out in Part I of this Appendix A apply only where, at the time of the calling of the election of a Cree First Nation, there was not in force an election law made by the Cree First Nation under section 5.2 of the Constitution.

#### **Number of Positions of Council Members**

2. The Council of a Cree First Nation shall consist of one Chief and not fewer than four nor more than twelve Councillors, determined on the basis of one Councillor for every 100 Members of the Cree First Nation.

#### **Term of Office of Council Members**

3. The term of office of a Council Member shall be for a period of two years commencing on the day following the day of the election of that member.

#### **Calling of Elections**

4. (1) Where a Council calls a Cree First Nation election, the Council shall determine the day on which the poll for the election will be held and whether an advance poll or travelling poll, or both, will be held.  
  
(2) Where a Returning Officer calls a Cree First Nation election pursuant to section 5.16 of the Constitution, the Returning Officer shall determine the day on which the poll for the election will be held and whether an advance poll or travelling poll, or both, will be held.
5. Where a Cree First Nation election is to be held, the Returning Officer of the Cree First Nation shall determine,
  - (a) in accordance with section 9 on which day the nomination meeting for the election will be held and shall decide at which hour of the day and at which location within the Category IA Land of the Cree First Nation the meeting will be held;
  - (b) in accordance with section 24, the hours during which the poll for the election will be held and shall decide at which location within the Category IA Land of the Cree First Nation the poll will be held;
  - (c) if necessary, on which day, prior to the day determined for the poll, during which hours and at which location within the Category IA Land of the Cree First Nation the advance poll for the election will be held; and

- (d) if necessary, on which day, prior to the day determined for the poll, during which hours and at which location within or outside the Category IA Land of the Cree First Nation the travelling poll for the election will be held.

### **Electoral List**

- 6. Where a Cree First Nation election is to be held, the Returning Officer of the Cree First Nation shall prepare and sign an electoral list that sets out, in alphabetical order, the names of the Electors of the Cree First Nation.
- 7. (1) The Returning Officer of a Cree First Nation may, on the application of an Elector, revise an electoral list of the Cree First Nation to add the name of an Elector whose name had been omitted from the list, correct the name of an Elector whose name had been incorrectly set out or delete the name of a person who is not an Elector.  
  
(2) The Returning Officer of a Cree First Nation may, on his own initiative, correct any clerical errors in an electoral list of the Cree First Nation.  
  
(3) A Returning Officer shall initial each revision and correction made to an electoral list pursuant to subsection (1) or (2), as the case may be.

### **Notice of Election**

- 8. At least 15 clear days prior to the day determined for the poll for a Cree First Nation election, the Returning Officer of the Cree First Nation shall prominently post, in the head office of the Cree First Nation and in one or more public places within the Category IA Land of the Cree First Nation,
  - (a) a copy of a notice of election in the form set out in Schedule I and signed by the Returning Officer; and
  - (b) a copy of the electoral list for the election.

### **Nomination Procedures**

- 9. A nomination meeting for a Cree First Nation election shall be held during the period commencing five clear days after the posting of the notice of election for the election and ending five clear days prior to the day determined for the poll for the election.
- 10. No person shall be a candidate for the position of Council Member unless that person is an Elector who is eligible to be elected to that position.
- 11. A nomination may be made in writing, on a nomination paper, or orally, at a nomination meeting.

12. A written nomination for a Cree First Nation election shall be in the form set out in Schedule II and shall be signed by the candidate nominated and by three other Electors of the Cree First Nation and shall be forwarded to the Returning Officer of the Cree First Nation prior to the nomination meeting for the election.
13. On the day, at the hour and at the location specified in the election notice for an election, the Returning Officer of the Cree First Nation shall declare the nomination meeting open and announce and post the names of the candidates for the position of Chief or Councillor for whom a written nomination has been received by the Returning Officer pursuant to section 12.
14.
  - (1) An oral nomination presented at a nomination meeting for a Cree First Nation election shall be proposed by an Elector of the Cree First Nation and seconded by another Elector of the Cree First Nation.
  - (2) A person who is nominated orally at a nomination meeting for a Cree First Nation election shall indicate his acceptance or refusal of the nomination to the Returning Officer of the Cree First Nation prior to the close of the meeting and, where he does not so indicate, he shall be considered to have refused the nomination.
  - (3) Where a person who is nominated orally at a nomination meeting for a Cree First Nation election is not present at the meeting, the person shall indicate his acceptance or refusal of the nomination to the Returning Officer of the Cree First Nation by telephone, radio or any other means considered appropriate by the Returning Officer.
  - (4) At the nomination meeting for a Cree First Nation election, the Returning Officer of the Cree First Nation shall indicate the requirements of subsections (1) to (3) to the persons at the meeting.
15. No person shall accept nominations as a candidate in a Cree First Nation election for both the position of Chief and the position of Councillor.
16.
  - (1) Subject to subsection (2), at the nomination meeting for a Cree First Nation election, the Returning Officer of the Cree First Nation shall declare the meeting closed when nominations have ceased.
  - (2) No nomination meeting or session of a nomination meeting shall last less than two hours.
17.
  - (1) Where, immediately before the close of a nomination meeting for a Cree First Nation election, there is an insufficient number of candidates to fill all vacant positions, the Returning Officer of the Cree First Nation shall declare the first session of the meeting adjourned and shall reconvene the meeting at a second session two days later.
  - (2) No nomination meeting shall consist of more than two sessions.

### **Election by Acclamation**

18. (1) Where, at the close of a nomination meeting for a Cree First Nation election, there is only one candidate for the position of Chief, the Returning Officer of the Cree First Nation shall forthwith proclaim the candidate to be elected by acclamation.
- (2) Where, at the close of a nomination meeting for a Cree First Nation election, the number of candidates for the position of Councillor is equal to or less than the number of Councillor positions to be filled, the Returning Officer of the Cree First Nation shall forthwith proclaim the candidates to be elected by acclamation.

### **Poll Required**

19. Where, at the close of a nomination meeting for a Cree First Nation election, there is more than one candidate for the position of Chief or the number of candidates for the position of Councillor exceeds the number of Councillor positions to be filled at the election, the Returning Officer of the Cree First Nation shall declare that a poll will be held in respect of that position or those positions, as the case may be, on the day specified in the notice of election for that election.

### **Notice of Poll**

20. Where a poll is required at a Cree First Nation election, the Returning Officer of the Cree First Nation shall as soon as possible sign and prominently post a copy of the notice of poll, in the form set out in Schedule III, in the head office of the Cree First Nation and in one or more public places within the Category IA Land of the Cree First Nation and shall send a copy of the notice to the secretary of the Cree First Nation.

### **Preparation for Poll**

21. Where a poll is required at a Cree First Nation election, the Returning Officer of the Cree First Nation shall ensure that
- (a) there are one or more polling stations within the Category IA Land of the Cree First Nation;
  - (b) there is, at each polling station, one voting compartment that is constructed in such a manner that Electors can mark their ballots in secret;
  - (c) there are, at each voting compartment, directions for voting and a pen or pencil that is similar to the pen or pencil at each of the other voting compartments;
  - (d) there are ballots in a sufficient number for the poll to be held;
  - (e) there is a sufficient number of ballot boxes for the poll to be held; and

- (f) there is a poll book for each polling station.
22. (1) Ballots for the election of a Chief and ballots for the election of a Councillor shall be in the form set out in Schedule IV and Schedule V respectively.
- (2) A ballot shall list, in alphabetical order, the name of each candidate and may, if applicable, indicate the name by which a candidate is commonly known but shall not indicate any additional information regarding a candidate.
23. (1) A ballot box shall be made of durable material, furnished with a padlock and constructed in such a manner that any ballots that have been deposited in it cannot be withdrawn without unlocking the ballot box.
- (2) A Returning Officer shall keep count of and supervise the ballot boxes to be used at a band election up to the opening of the polling stations for the election.

### **Election Method and Procedure**

24. Subject to subsection 25(1), a poll shall be open for voting continuously for at least eight hours between the hours of 6 o'clock in the morning and 10 o'clock in the evening on the day determined for the poll.
25. (1) In the case of a natural disaster, an electrical blackout or other extraordinary circumstance, a Returning Officer may
- (a) postpone the closing of a poll for up to two hours;
  - (b) postpone a poll for up to four weeks; or
  - (c) interrupt a poll and resume the poll within four weeks.
- (2) Where the Returning Officer of a Cree First Nation postpones a poll or the closing of a poll or interrupts a poll, the Returning Officer shall take reasonable measures to inform the Electors of the Cree First Nation of any resulting changes regarding the poll.
26. A candidate for an election may appoint, in writing,
- (a) for each polling station provided for the election, one person to represent the candidate during the hours the polling station is open for voting; and
  - (b) two persons to represent the candidate during the counting of votes.
27. Immediately prior to the opening of a polling station for a Cree First Nation election for voting, the Returning Officer of the Cree First Nation shall open each ballot box to be used at the polling station, call on any persons present to witness that the ballot boxes are empty and then padlock the ballot boxes.

28. (1) Where an Elector appears at the appropriate polling station for the purpose of voting in a Cree First Nation election, the Returning Officer of the Cree First Nation shall verify that the Elector's name is on the electoral list for the Cree First Nation and that the Elector has not yet voted in the election and shall initial the back of a ballot for the election of a Chief or a ballot for the election of a Councillor, or both, as the case may be, and hand the ballot or ballots to the Elector.
- (2) A Returning Officer may, and where requested to do so, shall, explain the method of voting to an Elector.
29. On receiving a ballot or ballots, an Elector shall immediately proceed to a voting compartment to vote.
30. (1) Subject to subsection (2), only one person shall be in a voting compartment at any one time.
- (2) An Elector who is unable to vote without assistance because of an inability to read or to understand the language in which the ballots are printed or because of blindness or any other physical disability may be assisted in voting by the Returning Officer or, where accompanied by a friend or relative, by the friend or relative.
31. After marking a ballot, an Elector shall forthwith return the ballot to the Returning Officer who shall check, without attempting to see how the Elector voted, whether the ballot has been initialled by the Returning Officer.
32. (1) Subject to subsections (2) and (3), the Returning Officer to whom a ballot is returned shall request the Elector who returned the ballot to deposit it in the ballot box.
- (2) Where a ballot that was not initialled by the Returning Officer is returned to the Returning Officer by an Elector, the Returning Officer shall mark the word "declined" on the back of the ballot and deposit the ballot in the ballot box.
- (3) Where a returned ballot is damaged, the Returning Officer to whom the ballot is returned shall mark the word "damaged" on the back of the ballot and deposit it in the ballot box.
33. An Elector whose ballot was marked "declined" pursuant to subsection 32(2) or "damaged" pursuant to subsection 32(3) shall be entitled to receive a replacement ballot.
34. The Returning Officer at a polling station shall list, in the poll book provided for that polling station, the name of each Elector who receives a ballot at the polling station and shall record opposite an Elector's name any case where
- (a) the Elector receives assistance to vote pursuant to subsection 30(2) and the reason for that assistance; or



- (b) the Elector after receiving a ballot left the polling station without returning the ballot to the Returning Officer.
35. (1) An Elector who after receiving a ballot at a polling station leaves the polling station without returning the ballot to the Returning Officer shall be considered to have voted.
- (2) Where an Elector referred to in subsection (1) later returns a ballot to a Returning Officer, the Returning Officer shall mark the word “declined” on the back of the ballot and deposit it in the ballot box.
36. An Elector who is inside a polling station at the time determined for the closing of the polling station and who is otherwise entitled to vote at that polling station shall be entitled to vote before the polling station is closed.
37. (1) Forthwith after a polling station is closed, the Returning Officer at the polling station shall
- (a) record in the poll book for that polling station the number of ballots issued for the polling station, the number of ballots used and the number of ballots remaining unused; and
- (b) place in separate envelopes the unused ballots for Chief and the unused ballots for Councillor and label each envelope to indicate its contents.
- (2) Where the duties of the Returning Officer of a Cree First Nation at a polling station are performed by a Deputy Returning Officer or an Assistant Returning Officer, the Deputy Returning Officer or the Assistant Returning Officer, as the case may be, shall, forthwith after complying with subsection (1), return the ballot boxes and poll books used at the polling station and the envelopes of unused ballots to the Returning Officer of the Cree First Nation.

### **Advance Polls and Travelling Polls**

38. Where an advance poll is held in connection with a Cree First Nation election, an Elector who has reason to believe that he will be unable to vote on the day on which the poll for the election will be held may vote at the advance poll.
39. Where a travelling poll is held in connection with a Cree First Nation election, an Elector who has reason to believe that he will be unable to vote on the day on which and at the location at which the poll for the election will be held may vote at the travelling poll.
40. Sections 21 to 37 apply to an advance poll or travelling poll with such modifications as the circumstances require.

## Counting the Votes

41. Forthwith after the closing of the poll for a Cree First Nation election, the Returning Officer of the Cree First Nation shall count the votes, including, if applicable, those at the advance poll and the travelling poll held in connection with the election, in the presence of any candidates and representatives who wish to attend.
42. (1) In counting votes at an election, the Returning Officer of the Cree First Nation shall reject any ballot
  - (a) that was not initialled by the Returning Officer, the Deputy Returning Officer or an Assistant Returning Officer;
  - (b) that is blank;
  - (c) on which there appear more votes than there are positions to be filled;
  - (d) on which there appear marks or writing identifying the Elector; or
  - (e) on which the Returning Officer has marked “declined” or “damaged”.

(2) In counting votes at a Cree First Nation election, the Returning Officer of the Cree First Nation shall reject, on a ballot, any vote that does not clearly indicate the Elector’s intention.
43. Where a candidate or a representative objects to a decision of the Returning Officer concerning the counting of a vote in a Cree First Nation election, the Returning Officer of the Cree First Nation shall
  - (a) decide any questions arising out of the objection;
  - (b) number and record the objection in the appropriate poll book; and
  - (c) write on the back of the ballot the word or words “allowed”, “allowed in part” or “rejected”, as the case may be, as well as the number of the objection and initial the ballot.
44. (1) During the counting of the votes at a Cree First Nation election, the Returning Officer of the Cree First Nation shall
  - (a) if applicable, separate the ballots provided for the election for the position of Chief from the ballots provided for the election for the position of Councillor; and
  - (b) sort the ballots provided for the election for the position of Chief or Councillor, as the case may be, into two separate lots consisting of
    - (i) all the ballots allowed or allowed in part, and
    - (ii) all the rejected ballots.

(2) Forthwith after the counting of the votes at a Cree First Nation election, the Returning Officer of the Cree First Nation shall

- (a) place each of the lots of ballots referred to in paragraph (1)(b) in a separate envelope and label each envelope to indicate its contents; and
- (b) complete and sign a poll report in the form set out in Schedule VI and forward a copy of the poll report to each of the candidates for the election, the secretary of the Cree First Nation, the Minister and, in the case of a Cree First Nation election, to the secretary of the Cree Nation Government.

### **Positions of Council Members**

45. (1) Where a poll is held for the position of Chief, the candidate for the position who receives the largest number of votes shall be elected Chief.
- (2) Where a poll is held for one or more positions of Councillor, the candidate or candidates, to the number corresponding to the number of positions of Councillor to be filled, who receive the largest number of votes shall be elected Councillor.
46. (1) Where a poll is held at a general election, the candidate who receives the largest number of votes for the position of Councillor shall be the deputy chief.
- (2) In any circumstances other than the circumstances referred to in subsection (1), the Council of a Cree First Nation shall designate, from among the Councillors of the Cree First Nation, one Councillor to be the deputy chief.

### **Proclamation of Candidates Elected**

47. Forthwith after the counting of votes in a Cree First Nation election, the Returning Officer of the Cree First Nation shall proclaim elected the candidates elected in accordance with section 45.

### **Recount of Votes**

48. (1) The Returning Officer of a Cree First Nation shall recount the votes for a position to be filled at an election where
- (a) there is an equal number of votes for each of two or more candidates for
    - (i) the position of Chief,
    - (ii) the position of deputy chief, or
    - (iii) a position of Councillor, where the position is the only position or the only remaining position to be filled; or

- (b) the Returning Officer receives, within one day after the day on which the poll for the election was held, a written request for a recount of votes from a candidate for a position to be filled at the election.

(2) Sections 41 to 47 apply, with such modifications as the circumstances require, to any recount of votes.

### **Recount Poll**

49. (1) Where after a recount of votes there exists an equal number of votes for each of two or more candidates for a position referred to in paragraph 48(1)(a), the Returning Officer of the band shall, within 28 days after the day on which the recount was conducted, hold a second poll for those candidates for that position.

(2) The election rules provided in this Appendix A apply to a poll referred to in subsection (1) with such modifications as the circumstances require.

### **Election Results**

50. (1) Within five days after the day on which the poll for a Cree First Nation election was held, the Returning Officer of the Cree First Nation shall

- (a) prepare a report of election results in the form set out in Schedule VII;
- (b) sign the report;
- (c) prominently post a copy of the report in the head office of the Cree First Nation and in one or more public places within the Category IA Land of the Cree First Nation; and
- (d) forward a copy of the report of election results to the persons referred to in paragraph 44(2)(b).

(2) Where all the candidates for a Cree First Nation election have been elected by acclamation, the Returning Officer of the Cree First Nation shall comply with subsection (1) within five days of the nomination meeting held for that election.

### **Contestation of Election Results**

51. A petition prepared pursuant to subsection 5.16(3) of the Constitution shall be in the form set out in Schedule VIII.

### **Election Materials**

52. (1) The Returning Officer of a Cree First Nation shall retain and safeguard all the election materials used in an election including the ballots, ballot boxes, electoral list, poll books, poll report and report of the election results for a period of 14 days after the day on which the poll for the election is held.
- (2) Subject to subsection (3), after the expiration of the period referred to in subsection (1), the Returning Officer of a Cree First Nation shall remit to the secretary of the Cree First Nation for safekeeping all the election materials referred to in subsection (1), except the ballots, which shall be destroyed by the Returning Officer in the presence of two witnesses.
- (3) Where the election of a Council Member for a Cree First Nation is contested pursuant to section 5.16 of the Constitution, the Returning Officer of the Cree First Nation shall continue to retain and safeguard the election materials referred to in subsection (1) until otherwise directed by the judge who is inquiring into the election.

### **General Provisions**

53. (1) The Returning Officer of a Cree First Nation shall supervise the conduct of any election held by that Cree First Nation.
- (2) The Deputy Returning Officer or an Assistant Returning Officer appointed by the Returning Officer pursuant to subsection 5.9(2) may, under the supervision of the Returning Officer, perform the duties of the Returning Officer under these election rules except those referred to in subsections 14(2) and (3), sections 25, 41 to 44 and 47, subsections 48(1) and 49(1), sections 50 and 52 and this section.
54. All documents referred to in the present election rules for use in a Cree First Nation election shall be in either the English or the French language and may also be in the Cree language, as the case may be.

**PART II      OFFENCES – APPLICABLE TO ALL CREE FIRST NATION  
ELECTIONS**

**Prohibited Acts**

55. No person shall, at a poll for a Cree First Nation election, vote or attempt to vote
  - (a) more than once;
  - (b) knowing that he is not entitled to vote; or
  - (c) under any name other than his own name.
56. No person shall induce another person to vote at a poll for a Cree First Nation election knowing that the other person is not entitled to vote.
57. No person shall use bribery, treating, undue influence or any other corrupt practice in a Cree First Nation election.
58. No person shall cause or attempt to cause any disturbance at a nomination meeting or at a polling station.
59. No person shall campaign or advertise in connection with a Cree First Nation election in a polling station or within 30 meters of a polling station.
60. No person shall be present in a polling station except those authorized by a law made under section 5.2 of the Constitution or the election rules set out in this Appendix A and those present for the purposes of voting.
61. Unless authorized by a law made under section 5.2 of the Constitution or by subsection 30(2), no person shall
  - (a) be in a voting compartment with an Elector;
  - (b) be in a position from which the person can see for whom an Elector marks his ballot; or
  - (c) at a polling station, attempt to know how an Elector intends to vote.
62. No person who assists an Elector to vote pursuant to a law made under section 5.2 or to subsection 30(2), shall
  - (a) influence or attempt to influence the Elector in the selection of the candidate for whom the Elector votes; or
  - (b) mark the Elector's ballot contrary to the Elector's intention.

63. (1) No person shall interfere with or attempt to interfere with an Elector who is in a voting compartment.
- (2) No person shall interfere with or attempt to interfere with the counting of votes.
64. (1) No person shall
- (a) counterfeit or fraudulently alter or deface a ballot or the initials of a Returning Officer, Deputy Returning Officer or Assistant Returning Officer on a ballot;
  - (b) fraudulently destroy a ballot;
  - (c) without authority, supply a ballot to a person;
  - (d) fraudulently deposit in a ballot box any paper other than the ballot that the person is authorized by a law made under section 5.2 of the Constitution or by the election rules set out in this Appendix A to deposit in the ballot box;
  - (e) without authority take a ballot;
  - (f) fraudulently take a ballot out of a polling station;
  - (g) without authority, destroy, damage, take, open or otherwise interfere with a ballot box; or
  - (h) fraudulently print a ballot.
- (2) No person shall attempt to commit any of the acts referred to in subsection (1).
65. No Returning Officer, Deputy Returning Officer or Assistant Returning Officer shall divulge any information obtained by that officer in respect of the conduct of an election
- (a) except as authorized by a law made under section 5.2 or by the election rules set out in this Appendix A; or
  - (b) unless that officer is required to give evidence in the course of a legal proceeding respecting the election.
66. No Returning Officer, Deputy Returning Officer or Assistant Returning Officer shall fraudulently initial or attempt to initial a ballot or any paper purported to be a ballot.

### **Maximum Punishment**

67. (1) Subject to subsection (3), a person who contravenes paragraph 55(a) or any of sections 58 to 61, 63 or 65, commits an offence and is liable on summary conviction to a fine not exceeding two hundred fifty dollars or to imprisonment for a term not exceeding three months or to both.

(2) Subject to subsection (3), a person who contravenes paragraph 55(b) or section 56, 62 or 64 commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both.

(3) A Returning Officer, a Deputy Returning Officer or an Assistant Returning Officer who contravenes paragraph 55(b), section 56, 61, 62 or any of sections 64 to 66 commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both.

(4) A person who contravenes paragraph 55(c) or section 57 commits an offence and is liable on summary conviction to a fine not exceeding one thousand two hundred fifty dollars or to imprisonment for a term not exceeding six months or to both.



**SCHEDULE I**

**NOTICE OF ELECTION**

***(Paragraph 8(a))***

Notice is hereby given to the Electors of the *(insert the name of the Cree First Nation)* Cree First Nation that an election has been called for the following position(s) of Council Member, *(insert the position(s) to be filled by the election, whether for Chief or Councillor(s), or both, and in the case of Councillor(s), indicate the number of positions to be filled by the election).*

A nomination meeting for such position(s) will be held *(indicate on which day, at which hour and at which location the nomination meeting is to be held).*

A written nomination may be forwarded to the Returning Officer. A written nomination shall be signed by the candidate and by three other Electors of the Cree First Nation and shall be forwarded prior to the commencement of the nomination meeting. Written nomination forms are available in the office of the Returning Officer.

Where a poll is required, such poll will be held *(indicate on which day, during which hours and at which location the poll is to be held).*

*(Insert the following paragraph, if applicable.)*

Where a poll is required, an advance poll will be held *(indicate on which day, during which hours and at which location the advance poll is to be held).*

*(Insert the following paragraph, if applicable.)*

Where a poll is required, a travelling poll will be held *(indicate on which day, during which hours and at which location the travelling poll is to be held).*

For more information, please contact the Returning Officer at *(insert the address of the Returning Officer).*

Signed at \_\_\_\_\_, on \_\_\_\_\_.

\_\_\_\_\_  
Returning Officer

**SCHEDULE II**

**WRITTEN NOMINATION**

***(Section 12)***

We, the undersigned, electors of *(insert the name of the Cree First Nation)*, hereby nominate *(insert the name of the candidate)*, residing at *(insert the address of the candidate)*, as candidate for the position of *(insert "Chief" or "Councillor")* of the Cree First Nation.

_____ Signature	_____ Address	_____ Date
_____ Signature	_____ Address	_____ Date
_____ Signature	_____ Address	_____ Date

I, the undersigned, *(insert the name of the candidate)*, hereby consent to be a candidate for the above-mentioned position.

Signed at \_\_\_\_\_, on \_\_\_\_\_.

\_\_\_\_\_  
Signature

**SCHEDULE III**

**NOTICE OF POLL**

**(Section 20)**

Public notice is hereby given that a poll is required for the election of *(insert Chief or Councillor(s), or both)* for the *(insert the name of the Cree First Nation)* and that such poll will be held *(indicate on which day, during which hours and at which location the poll is to be held)*.

*(Insert the following paragraph, if applicable.)*

An advance poll will be held *(indicate on which day, during which hours and at which location the advance poll is to be held)*.

*(Insert the following paragraph, if applicable.)*

A travelling poll will be held *(indicate on which day, during which hours and at which location the travelling poll will be held)*.

*(Insert one or both of the following paragraphs, if applicable.)*

The candidates for the position of Chief are *(insert the name and address of each candidate)*.

The candidates for the *(insert the number of positions to be filled by the election)* position(s) of Councillor are *(insert the name and address of each candidate)*.

Signed at \_\_\_\_\_, on \_\_\_\_\_.

\_\_\_\_\_  
Returning Officer

**SCHEDULE IV**

**BALLOT (CHIEF)**

***(Subsection 22(1))***

*(Insert the name of the Cree First Nation)*

*(Insert the date of the poll)*

**ELECTION FOR THE POSITION OF CHIEF**

*(Insert, in separate boxes and in alphabetical order, the names of the candidates.)*

Etc.

**SCHEDULE V**

**BALLOT (COUNCILLOR)**

*(Subsection 22(1))*

*(Insert the name of the Cree First Nation)*

*(Insert the date of the poll)*

ELECTION FOR THE *(insert the number of positions to be filled by the election)* POSITIONS  
OF COUNCILLOR

*(Insert, in separate boxes and in alphabetical order, the names of the candidates.)*

Etc.

**SCHEDULE VI**

**POLL REPORT**

***(Paragraph 44(2)(b))***

*(Indicate the name of the Cree First Nation)*

**ELECTION HELD ON** (insert the date of the poll) \_\_\_\_\_

Number of voters \_\_\_\_\_

**CHIEF**

Number of ballots issued \_\_\_\_\_

Number of ballots unused \_\_\_\_\_

Number of ballots rejected \_\_\_\_\_

Number of ballots not returned to the Returning Officer of the Cree First Nation \_\_\_\_\_

Number of ballots allowed or allowed in part \_\_\_\_\_

**TOTALS:**

Number of votes for (name of candidate) \_\_\_\_\_

Number of votes for (name of candidate) \_\_\_\_\_

Etc \_\_\_\_\_

**COUNCILLORS**

Number of ballots issued \_\_\_\_\_

Number of ballots unused \_\_\_\_\_

Number of ballots rejected \_\_\_\_\_

Number of ballots not returned to the Returning Officer of the Cree First Nation \_\_\_\_\_

Number of ballots allowed or allowed in part \_\_\_\_\_

**TOTALS:**

Number of votes for (name of candidate) \_\_\_\_\_

Number of votes for (name of candidate) \_\_\_\_\_

Etc \_\_\_\_\_

I hereby certify that the information contained in this statement is correct.

Signed at \_\_\_\_\_, on \_\_\_\_\_.

\_\_\_\_\_

Returning Officer

**SCHEDULE VII**

**REPORT OF ELECTION RESULTS**

*(Paragraph 50(1)(a))*

I hereby certify that the following person(s) has (have) been elected, on the date set out, to the position of Council Member on the Council of the *(insert the name of the Cree First Nation)*.

NAME(S) OF PERSON(S)      POSITION      DATE ELECTED  
ELECTED

*(Insert names of the persons elected, the positions to which the persons were elected, whether the persons were elected by acclamation or by ballot and the date the persons were elected.)*

*(Insert the following, if applicable.)*

I hereby certify that the following persons have received an equal number of votes for the position of *(insert "Chief", "deputy chief" or "Councillor")*.

NAMES OF PERSONS      POSITION

*(Insert the names of the persons referred to in paragraph 48(1)(a) and the relevant position.)*

Signed at \_\_\_\_\_, on \_\_\_\_\_.

\_\_\_\_\_  
Returning Officer



**SCHEDULE VIII**

**PETITION FOR CONTESTATION**

*(Section 5.16 of Constitution)*

C A N A D A

PROVINCE OF QUÉBEC

DISTRICT OF

SUPERIOR COURT

(or Provincial Court)

No.:

(name)

(occupation)

residing at

Judicial district of

Petitioner(s)

---

**PETITION FOR CONTESTATION OF ELECTION RESULTS**  
**(SECTION 5.16 OF THE CONSTITUTION OF THE CREES OF EYYOU ISTCHEE)**

---

To one of the Honourable Judges of the Superior Court (or of the Provincial Court), District of \_\_\_\_\_, the Petitioner(s) submits (submit):

1. THAT the Petitioner(s) was a (were) candidate(s) for the position(s) of Council Member (were electors) in an election held for the Cree First Nation of \_\_\_\_\_;
2. THAT \_\_\_\_\_ was elected (by poll or acclamation) to the position of Council Member for that Cree First Nation of \_\_\_\_\_ on \_\_\_\_\_;
3. THAT \_\_\_\_\_ was the Returning Officer at the said election;
4. THAT the Petitioner(s) has (have), in accordance with subsection 5.16(1) of the Constitution of the Crees of Eeyou Istchee, submitted to the Returning Officer on

\_\_\_\_\_, a written notice of contestation of the election of \_\_\_\_\_ as Council Member; a copy of this notice is appended hereto as exhibit A1;

5. THAT the grounds for such contestation are:

*(Here state the grounds of contestation of election as stated in subsection 5.16(2) of the Constitution of the Crees of Eeyou Istchee. In the case of the grounds described in paragraph 5.16(2)(a) or (b) of that Constitution, allege that the grounds of contestation materially affected the result of the election.)*

The sum of two hundred dollars is deposited with this petition in conformity with subsection 5.16(4) of the Constitution of the Crees of Eeyou Istchee.

WHEREFORE the Petitioner(s) requests

THAT the said election of \_\_\_\_\_ be declared invalid; and

THAT an order be issued to refund the deposit of two hundred dollars to the Petitioner(s).

SIGNED at \_\_\_\_\_, on \_\_\_\_\_.

\_\_\_\_\_  
Petitioner(s)

Prepared and submitted by

\_\_\_\_\_  
Returning Officer