

SUMMARY OF KEY FIRST NATION PELLY HAYLANDS TRUST AGREEMENT

Introduction

Under the terms of the Trust Agreement, CIBC Trust will act as Trustee. CIBC Trust in conjunction with the First Nation (represented by the Chief and Council) will be responsible to administer the Compensation deposited to the Trust Account (known in the Trust Agreement as the "Settlement Monies") plus any Revenues Realized on investments and any land purchased until it goes into reserve status, according to the rules and procedures set out in the Trust Agreement.

Trust Agreement

- the Trust Agreement is a legally binding document;
- there are two parties to the Trust Agreement – the First Nation and the corporate Trustee;
- the Trust Agreement is required by the Settlement Agreement;
- the Trust Agreement controls the spending and investment of the money;
- money can only be spent on things that are authorized in the Trust Agreement;
- if an expenditure is not authorized in the Trust Agreement, the money cannot be spent on the item;
- a Court can force the Chief and Council and the Trustee to comply with the Trust Agreement.

Purpose of the Trust

- the purpose of the Trust is to create a permanent trust fund that will receive, invest and expend the Settlement Monies and pay out amounts to the First Nation from time to time. To ensure the permanence of the Trust, the overall investment objective will be to maintain and grow the capital, net of inflation, while maximizing amounts that may be paid to the First Nation. The Chief and Council, Investment Consultant and the Trustee will develop an Investment Policy that addresses these conflicting goals of capital preservation and maximization of spending;
- there is a mechanism built into the Trust to ensure that the capital will grow to keep up with inflation over the life of the Trust.

Taxation

- steps have been and are being taken to minimize the risk of the Trust being taxed at some future date.

Bank Accounts

- the Trust Agreement requires that 4 bank accounts be established:
 - Trust Account;
 - Band Account;
 - Authorized Expense Account; and
 - an account to be used for the per capita distributions;
- the Trustee controls the Trust Account;
- the First Nation and the Chief and Council control the Band Account, the Authorized Expense Account and the account for per capita distribution, but only for specific purposes or through instructions from First Nation Members given at a First Nation meeting;
- the money in these accounts can only be used for the purposes specified in the Trust Agreement.

Trust Account

- the money deposited into the Trust Account money can only be used for:
 - (1) **Compensation to the Trustee**
 - payment of the fees of the Trustee and other required expenses of the Trust;
 - (2) **Per Capita Distribution**
 - a total of \$3000 will be paid to each Member alive on the Effective Date of the Settlement Agreement, on a one time only basis;
 - in the first Fiscal Year, \$1,500 will be paid to each Member 18 years or older on the Effective Date of the Settlement Agreement, excluding Children;
 - in the second Fiscal Year, a further \$1,500 will be paid to each Member 18 years or older on the Effective Date of the Settlement Agreement, excluding Children;
 - as Children reach the age of 18 years, they shall be entitled to a per capita payment in the amount of \$3,000, together with interest from the Effective Date of the Settlement Agreement;
 - the Chief and Council may make rules that allow for the payments to be made over a longer period of time so as not to conflict with any policy of any government and to ensure that the Members of the First Nation receive the full benefit of the per capita payment wherever possible;
 - payment requires a BCR and a Trust Account Direction;
 - the Trustee will transfer the funds to an account established by the First Nation for per capita distributions;
 - the Trustee will not release more money than this for per capita distributions;
 - (3) **Ratification Costs**
 - up to \$ 100,000 can be paid to the First Nation for paying costs incurred in ratifying the Settlement Agreement and the Trust Agreement;

- the Trustee will transfer the funds to the First Nation;
- payment requires a BCR and a Trust Account Direction;

(4) **Payment of Existing Debt**

- payment to the Royal Bank of Canada, Main Branch, Saskatoon, Saskatchewan, up to \$600,000 for the purposes of paying the existing debts;
- this can be done on a one time only basis;
- payment requires a BCR and a Trust Account Direction;

(5) **Authorized Expenses**

- up to \$250,000 can be paid to the Authorized Expense Account for the payment of Authorized Expenses of the Trust;
- up to \$450,000 can be paid to the Authorized Expense Account for the payment of Acquisition Costs;
- the Trustee will transfer the funds to the Authorized Expense Account;
- after these payments, all Authorized Expenses and Acquisition Costs will be paid from funds transferred to the Authorized Expense Account from funds in the Band Account or from general First Nation funds;
- payment requires a BCR and a Trust Account Direction;

(6) **Purchase of Land**

- for the purchase of up to 4,266.7 acres of land (including any improvements) up to \$3,000,000;
- payment by the Trustee requires a written statement of intention to Purchase Land and to have the Land set apart as a Reserve, a BCR and Trust Account Direction;
- if the Purchase of a single parcel of Land involves a Price in excess of \$50,000, involves Land in an urban municipality or involves Land that has a business located on the Land, the Purchase must firstly be approved by the Members and a Member Resolution must be provided to the Trustee showing the approval of the Members;
- the funds are transferred to a solicitor's trust account to complete the purchase;

(7) **Investment**

- for the purchase of Authorized Investments;
- this requires a BCR and Trust Account Direction;

(8) Transfer Revenues Realized

- for transfer of the interest to the Band Account in each Fiscal Year;
 - interest must be transferred to the Band Account before December 31 of each year for taxation purposes;
 - this is done automatically by the Trustee;
 - amounts may have to be contributed by the First Nation from the Band Account to the Trust Account to ensure that the real value of the capital keeps up with inflation;
- the Trust Account money can only be spent if the proper Directions are signed by Chief and Council, and all other requirements are met;
 - money in the Trust Account cannot be used for further per capita distributions, and cannot be lent or used as collateral for loans;
 - the Trustee must review each Direction before releasing money.

Band Account

- interest each year from the Trust Account goes into this account;
- the Band Account money can only be used for:
 - (1) **Per Capita Payments**
 - to complete the balance of the per capita payments;
 - requires a Band Council Resolution;
 - (2) **Contribution Amount**
 - to transfer money to the Trust Account to maintain its value over time;
 - (3) **Authorized Expenses**
 - for transfer to the Authorized Expense Account of amounts required to pay for Authorized Expenses from time to time;
 - requires a Band Council Resolution;
 - (4) **Band Development**
 - for Band Development;
 - Chief and Council or Members prepare a Band Development Request;
 - if sufficient funds are available and the proposal is reasonable, Chief and Council must give 30 days notice to Eligible Members with details of the proposal and call a meeting on the reserve of the Eligible Members to decide on the proposal;
 - information about the proposal will also be available at the meeting;
 - the First Nation Members decide on the proposal at the meeting;
 - Chief and Council must prepare a BCR and Band Account Development Direction for release of the money, if the proposal is approved;
 - the Chief and Council shall be entitled to pay up to \$20,000 per year from the Band Account for Band Development without having to get approval of the Eligible Members;

- Band Development includes business ventures, the purchase of land or any socio-economic benefit, program or project which is for the use, development, advantage or benefit of the First Nation or a Member of the First Nation;
- Band Development does **not** include per capita distributions to the Members or payments to cover any shortfall in operating funding;

(5) **Authorized Investments**

- for the purchase of Authorized Investments in accordance with a budget agreed upon by the Chief and Council; and

(6) **Other Claims**

- for expenditures related to other claims of the First Nation;
- requires a BCR;

- the Trustee is not involved in and has no control over the expenditure or investment of this money.

Authorized Expense Account

- Chief and Council shall prepare a written budget for the estimated Authorized Expenses for the next Fiscal Year;
- funds are disbursed to the Authorized Expense Account for payment of Authorized Expenses in accordance with the budget.

Per Capita Distribution Account

- funds are disbursed for payment of the per capita distributions.

Conflict of Interest

- conflict of interest rules are included.

Member Resolutions

- a process for advising Eligible Members of meetings to be held on reserve to decide on the purchase of land or Band Development are included;
- decisions are made by a show of hands by a majority of Eligible Members of the First Nation present at the meeting.

Trustee

- there will always be a corporate Trustee;
- the Trustee can be replaced on 30 days notice;

- the Trustee must follow the Trust Agreement;
- there will be regular financial reporting by the Trustee;
- financial reports will be made available to the Members.

Investment Consultant

- the First Nation will hire an independent Investment Consultant trained to give advice on investment matters;
- Authorized Investments cannot be purchased from any entity that is in any way related to the Investment Consultant.

Amendment of Trust Agreement

- amendments can be made to the Trust Agreement;
- the Trust Agreement can be amended by the Trustee and the Chief and Council only for taxation purposes;
- other amendments require a ratification vote, where a majority (over 50%) of the Eligible Members vote and a majority (over 50%) of the votes cast are in favour of the amendment.

Note

- the above comments are to assist First Nation Members in understanding the general nature of the Trust Agreement. For a complete and accurate understanding of the Trust Agreement, the reader should refer to the actual Trust Agreement.

**FLOW CHART
KEY FIRST NATION
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