



## **Nunavut Tunngavik Inc.**

### **A Quick Guide on Inuit Firm Registration**

Last updated in May 2018

*This Guide is provided for general information only and  
can be amended at any time without notice*

#### **Policy Framework**

Nunavut Tunngavik Inc. (NTI) is required to maintain and oversee the Inuit Firm Registry (IFR) under Article 24 of the Nunavut Agreement. The Inuit Firm Registration Policy (the “Policy”) at NTI provides further guidance on the Inuit Firm registration process and criteria. The Policy is available on NTI’s website. The determination of whether an entity is an Inuit Firm is made by NTI based on Article 24 and NTI’s Inuit Firm Registration Policy.

IFR is a parallel process to the Nunavut Business Directory managed by the Government of Nunavut under the Nunavummi Nangminiqagtunik Ikajuuti Policy (commonly known as the “NNI Policy”), which is part of the Nunavummi Nangminiqagtunik Ikajuuti Regulations. The GN plays no role in the IFR process. However, NTI shares information from the IFR database with the GN and the GN shares information from the Nunavut Business Directory with NTI, to ensure information regarding the applicants in their respective databases is up to date.

IFR is an optional process for a business entity to do business in Nunavut or elsewhere in Canada. However, should an entity decide to register, it would have to meet the additional criteria required of an Inuit Firm.

#### **Inuit Firm Secretariat**

Inuit Firm Secretariat (the “Secretariat”) at NTI is responsible for the administration of IFR. All correspondence, questions and inquiries on Inuit Firm registration should be directed to the Secretariat ([inuitfirm@tunngavik.com](mailto:inuitfirm@tunngavik.com)).

#### **Registration Criteria**

##### General Factors

To apply for Inuit Firm status, individuals and entities need to submit all required information and documents to the Secretariat based on document lists required by the Secretariat.

In deciding whether an applicant will be granted Inuit Firm status, the following relevant factors will be primarily considered:

- Rights and privileges of voting Inuit owner(s)
- Rights and privileges of non-voting Inuit owner(s) (if any)
- Whether and to what extent Inuit owner(s) control the management and operation of the business
- Whether and to what extent Inuit owner(s) enjoy the economic returns of the business in a proportional and equitable manner

No single factor will be determinative. The Secretariat will review the application in its entirety to determine whether the applicant meets the criteria.

### Sole Proprietorship

The single owner has to be an Inuk enrolled under the Nunavut Agreement. Any arrangement that will give a non-Inuit manager a disproportional level of control over the operation of the business or a disproportional level of the profit/revenue will be examined closely.

### Partnership

All partners have to be enrolled beneficiaries under the Nunavut Agreement in order to register as Inuit Firm. Partnerships are also required to provide any documents (e.g., management agreement or service agreement) by which the partnership will be managed, operated or serviced by a manager or another entity. These documents will be examined closely. Any agreement that would give a non-Inuit manager a disproportional level of control over the operation of the business or a disproportional level of the profit/revenue will likely be problematic.

### Co-operative

The majority of the applicant's members will have to be Inuit and the management of the entity will have to be controlled by Inuit.

### Corporations

For incorporated entities (including incorporated joint ventures), 51% of a company's voting shares have to be owned by Inuit and the Inuit shareholders have to control the management and operation of the company. To demonstrate the above, it is normally required that Inuit shareholders appoint a majority of the members of the board of directors, and approval of the non-Inuit shareholder(s) is not required for the company to make decisions on its day-to-day operation.

A unanimous shareholder agreement, though not mandatory under laws of general application, is always required for companies that are not 100% Inuit owned. The document will be examined closely. Provisions that give the non-Inuit shareholder(s) a disproportional level of control over the operation of the business or a disproportional level of the profit/revenue (e.g., in the form of management fee or service fee) will likely be problematic.

Companies are also required to provide any documents (e.g., service agreement or management agreement) by which the company will be managed, operated or serviced by a shareholder or another entity. These documents will be examined closely. Again, provisions that give the non-Inuit shareholder(s) or manager a disproportional level of the profit/revenue, or a disproportional level of control over the operation of the business will likely be problematic.

Further, all such agreements have to be terminable by the company or by either party with a relatively short notice requirement (e.g., 30-90 days).

#### Corporations: Inuit Ownership Classification

For the purpose of implementing Section 17.1 of the NNI Policy, NTI classifies Inuit ownership into three levels (Class III: 100%; Class II: above 76% & below 100%; Class I: above 51% & below 76%), and will identify the level on the IFR certificate.

Companies with non-voting common or preferred shares owned by non-Inuit shareholder(s) (excluding shares with a reasonable, pre-determined fixed rate of dividend, which would be considered a form of “debt financing” for the purposes of determining the level of Inuit ownership) will be assigned to Class I (51% or above but below 76%), unless the applicant can demonstrate, based on factors such as the overall economic benefits (dividend, salaries etc.) to, and the level of control by, Inuit shareholder(s), the company should be assigned to a higher class. Any “upgrade” from Class I to Class II based on the factor stated above will be done only on an exceptional basis.

Further, the preferred or non-voting shares will be treated as a form of “debt financing” (i.e., loans) if they meet all of the following criteria:

- (a) The preferred or non-voting shares carry no right to participate in the management (e.g., no right to appoint a member to the board of directors);
- (b) The preferred or non-voting shares carry no general right to dividends other than a clearly specified, fixed percentage of return;
- (c) The preferred or non-voting shares carry no entitlement to the remaining/residual assets of the company on liquidation or winding-up beyond repayment of the original capital investment; and
- (d) The preferred or non-voting shares carry no right to enter into manage or service contracts.

#### Trust

Where a non-Inuk person holds shares of a corporation in trust for Inuit, the terms of the trust will be reviewed to determine whether the Inuit beneficiaries of the trust can be regarded as having beneficial ownership of the shares.

Where a non-Inuk trustee retains discretion over the payment of income or capital from the trust to Inuit beneficiaries, the Inuit beneficiaries of the trust will not generally be regarded as having beneficial ownership of the shares held in trust and thus will not be regarded as being Inuit shareholders.

#### **Timeline**

The application process takes up to 15 days to process if the Secretariat is provided with all of the required documents. The Secretariat may require additional information before making a decision.

## **Annual Renewal**

On January 1<sup>st</sup> of each year, the IFR renewal period begins. The renewal letters are typically sent out during the last week of November. All companies are required to complete the renewal form to stay in compliance with the IFR. If a company fails to complete the renewal before the required deadline, its Inuit Firm status will be suspended or revoked.

## **Continued Compliance**

Inuit Firms must show continued compliance of the registration criteria. In other words, they need to comply with the criteria at all times. They need to immediately provide notice to the Secretariat on any changes to the information (e.g., ownership, board structure or management) that has been provided to the Secretariat in connection with the initial application or annual renewal.

The Secretariat also conducts periodic files reviews of Inuit Firms to ensure their continued compliance with the registration criteria, and may require an Inuit Firm to provide information or documents. Inuit Firms are required to cooperate with the Secretariat.