

**THE AGREEMENT BETWEEN**

**HER MAJESTY THE QUEEN IN RIGHT OF  
CANADA, as represented by The Minister of Indian  
Affairs and Northern Development,**

**(hereinafter referred to as “Canada”),**

**OF THE FIRST PART;**

**- and-**

**HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF MANITOBA, as represented by  
The Minister of Northern Affairs,**

**(hereinafter referred to as “Manitoba”),**

**OF THE SECOND PART;**

**-and-**

**THE NELSON HOUSE FIRST NATION, as  
Represented by the Chief and Council**

**(hereinafter referred to as “Nelson House”),**

**OF THE THIRD PART,**

**-and-**

**THE MANITOBA HYDRO-ELECTRIC BOARD,**

**(hereinafter referred to as “Hydro”),**

**OF THE FOURTH PART.**

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THIS AGREEMENT made as of the      day of                      , 1996.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF  
CANADA, as represented by The Minister of  
Indian Affairs and Northern Development,

(hereinafter referred to as "**Canada**"),

OF THE FIRST PART,

- and -

HER MAJESTY THE QUEEN IN RIGHT OF  
THE PROVINCE OF MANITOBA, as  
represented by The Minister of Northern  
Affairs,

(hereinafter referred to as "**Manitoba**"),

OF THE SECOND PART,

- and -

THE NELSON HOUSE FIRST NATION, as  
represented by the Chief and Council

(hereinafter referred to as "**Nelson House**"),

OF THE THIRD PART,

- and -

THE MANITOBA HYDRO-ELECTRIC  
BOARD,

(hereinafter referred to as "**Hydro**"),

OF THE FOURTH PART.

WHEREAS the **Parties** are parties to the **NFA**, with **Nelson House** formerly represented with respect to the **NFA** by **NFC**, as its agent, and now acting on its own behalf;

AND WHEREAS pursuant to the **NFA** there are obligations on each of the **Parties** which the **Parties** wish to resolve on a comprehensive basis;

AND WHEREAS the **Parties** through the performance of the undertakings of this **Agreement** are implementing and settling their respective obligations under the **NFA**.

NOW THEREFORE the **Parties** agree as follows:

## **ARTICLE 1**

### **1.0 AGREEMENT AND INTERPRETATION**

#### **1.1 AGREEMENT**

1.1.1 Contents. The following Schedules are attached to and form part

of this **Agreement**:

Schedule 1.1	<b>Financial Schedule</b>
Schedule 1.2	Terms and Conditions of <b>Hydro Bond</b>
Schedule 1.3	Past Payments
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## 1.2 INTERPRETATION

1.2.1 Definitions. For all purposes within this **Agreement**, unless otherwise specifically provided, the following words and phrases, when capitalized and printed in bold type, whether in the plural or the singular, shall have the meaning ascribed to them in this Article:

**Account** means an account established pursuant to the **Indenture**.

**Adverse Effects** means the, direct or indirect, negative consequences of the **Project** or the operation thereof by **Hydro**, which consequences impact or change the physical, chemical or biological characteristics of the environment and include, without limitation, risks or injuries to the health, safety, well-being, comfort or enjoyment of **Nelson House** or **Members**, and impacts on interests in and the exercise of rights in relation to lands, pursuits, activities, opportunities, lifestyles and assets of **Nelson House** or **Members**.

**Agreement** means this agreement and all schedules listed in Article 1.1.1, including the arrangements between the **Parties** set forth in the **Indenture** and the **Easement Agreement**, notwithstanding that those documents, once executed, shall in themselves, have binding force.

**Arbitrator** means a person appointed under Article 13, to arbitrate disputes.

**Arena** means:

- (a) the arena commonly known as the Gilbert MacDonald Arena located at Nelson House which is more particularly described in the **Arena Plans** excluding the Duncan Wood Memorial Hall ; and
- (b) the equipment listed in Schedule 11.2;

and shall include any replacement of the existing arena and equipment but shall not, unless agreed to in writing by **Nelson House** and **Hydro** include any additions thereto.

**Arena Budget** means the annual budget for the **Operation, Maintenance and Replacement** of the **Arena** including the cost of electricity used in the operation of the Duncan Wood Memorial Hall.

**Arena Funds** means any amount paid under Article 11 for the purpose of replacing or refurbishing the **Arena** including the proceeds of insurance put in place on the **Arena** under Article 11 and including any capitalized **Operation, Maintenance and Replacement** paid by Hydro pursuant to Article 11.

**Arena Plans** means Pre-Con Builders Plan Nos.:

- (a) A-1 Floor Plan, Cross Section, Wall Detail, Door and Frame Schedule-revision 3;
- (b) S-1, Foundation Plan, Roof Framing Plan, Building Section Column Layout-revision 1;
- (c) A-1 Site Plan;
- (d) A-1 Ground Floor Plan, Seating Plan Wall Types-revision 2;
- (e) A-2 Elevations, Mezzanine Plan-revision 2;
- (f) A-3 Building Sections, Enlarged Plans - revision 2;
- (g) A-4 Wall Sections -revision 1;
- (h) A-5 Wall Sections - revision 2;
- (i) A-6 Door and Frame Schedule, Room Finish Schedule Enlarged Plans- revision 2;
- (j) A-7 Enlarge Floor Plan, Bleachers Enlarge Plan- revision 1;
- (k) A-8 Anchor Plate Layout Detail -revision 0;
- (l) S-1 Foundation Plan Details-revision 6;
- (m) S-2 Second Floor Framing Plan Details- revision 5;
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- (o) AS-1 Site Plan - revision 0;
- (p) M-1 Ground Floor Plumbing - revision 2;
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- (s) M-4 Mezzanine Plan and Building Section- Heating and Ventilation - revision 2;
- (t) M-5 Equipment Schedules -revision 2;
- (u) M-6 Floor Plan, Plumbing, Heating and Ventilation -revision 2;
- (v) E-1 Electrical Main Floor Lighting Layout - revision 0;
- (w) E-2 Electrical Main Floor Power and System Layout -revision 0;
- (x) E-3 Electrical Mezzanine Plan and Panel Boards - revision 0;
- (y) E-4 Electrical Main Distribution and Specifications - revision 0;
- (z) E-1 Electrical Main Floor Lighting Layout - revision 0;
- (aa) E-2 Electrical Main Floor Power and Systems Layout - revision 0;
- (bb) Electrical Mezzanine Plan and Panelboards;
- (cc) E-4 Electrical Main Distribution and Specifications - revision 0; and
- (dd) S1A Foundation Plan (Alternate), Details (Alternate)-revision;

provided by **Canada** to **Hydro**, **Nelson House** and the **Corporate Trustee** as such plans relate to the **Arena** but not as they relate to the Duncan Wood Memorial Hall.

**Assets** means all property of every nature and kind to which the investment provisions of Articles 14.1 and 14.2 of the **Indenture** apply .

**A.S.L.** means above sea level as established by Geodetic Survey of Canada in accordance with Revision No. 2, dated May, 1970.

**Auditor** means the auditor appointed under Article 9.1 of the **Indenture**.

**Basic Planning Statement** means a basic planning statement as defined in The Planning Act (Manitoba).

**Canada** means Her Majesty the Queen in Right of Canada who, for the purposes of this **Agreement**, is represented by the Minister of Indian Affairs and Northern Development.

**Capital Works** means any permanent structures or works erected, constructed, acquired or developed using **Settlement Proceeds** except **Specified Remedial Works**, single family houses and the **Arena**.

**Chief** means the Chief of **Nelson House** elected and in office.

**Chief and Council** means the Council of **Nelson House**.

**Claimant** means any of:

- (a) **Chief and Council;**
- (b) **Nelson House;**
- (c) any person who is a **Member;**
- (d) any group, or unincorporated association, whose membership or shareholding is wholly or substantially comprised of **Members;**
- (e) any unincorporated association established by **Chief and Council;**
- (f) any share capital corporation, the shares of which are wholly or substantially owned, both legally and beneficially, and controlled by **Nelson House** or **Members;** or
- (g) any non - share capital corporation, the membership of which consists wholly or substantially of **Nelson House** or **Members;**

who or which suffered a loss or damage resulting from or attributable to an **Adverse Effect**.

**Claims Account** means the account funded and administered under Article 12 of the **Indenture**.

**Claims Officer** means the person appointed by **Chief and Council** under Article 12.2.1 or, in that person's absence or incapacity, the alternate **Claims Officer**.

**Community Approval Process** means the Community Approval Process established by Article 8 of the **Indenture** and the procedures set forth therein.

**Community Development Account** means the account established under Article 10.2 of the **Indenture**.

**Compensation Lands** means the lands described in Schedule 3.1 the administration and control of which is to be transferred by **Manitoba** to **Canada** and which are to be set apart by **Canada** as **Reserve Lands**, excluding those lands required for public purposes described in Schedule 3.3 and shall include any replacement **Compensation Lands** selected under Articles 3.5 and shall exclude any lands which cease to be **Compensation Lands** under Article 3.5.5 or Article 3.5.16.

**Compensated Range** means the range of **Daily Average Water Levels and Rates of Change** set forth in Article 2.4.1.

**Consumer Price Index** means the monthly publication by Statistics Canada of statistical data related to changes in price of goods and services (All-Items) in the Province of Manitoba.

**Controlled Institution** means any entity, association or group, a majority of whose board of directors or other governing body is directly or indirectly chosen by **Members**, the **Chief**, **Chief and Council**, or **Elders** or other leaders in accordance with **Nelson House** custom.

**Controlling Bench Marks** means:

- (a) BM L-17A, being a brass cap grouted in bedrock located on Dog Point, approximately 15m (50ft) from the shoreline of Footprint Lake, at the end, and to the North side, of a trail leading east to Footprint Lake. For all purposes of this **Agreement** BM L-17A shall be considered to be at an elevation of 248.482m (815.23ft) **A.S.L.**; or
- (b) Geodetic Survey of Canada Bench Mark No. 70-M-008 being a tablet in a rock outcrop on top of a hill located approximately 2.1m (7ft) south of Tower No. 184 along the transmission line from



Thompson to Notigi Lake. For all purposes of this **Agreement** BM 70-M-008 shall be considered to be at the elevation published in Quad. Sheet 55098 being Revision 2 dated May, 1970 which is elevation 278.476m (913.63ft) **A.S.L.**;

or any replacement bench mark established as provided in Article 2.2.1. All references in the **Easement Agreement** will be to Bench Mark No. 70-M-008.

**Corporate Trustee** means the trust corporation which is the signatory to the **Indenture** and its successors in that office and includes, where transitional obligations are being fulfilled and the context requires, both an outgoing and an incoming trustee .

**Council Resolution** means a resolution passed by **Chief and Council**.

**Daily Average Water Level** means the arithmetic average of readings of water levels recorded in a day at the **Nelson House Gauge**, taken each hour, from 0100 to 2400 on the hour, for that day and where relevant adjusted to eliminate the effects of wind; or a valid representative substitute for such hourly readings, if such hourly readings are unavailable or demonstrably in error.

**Date of this Agreement** means the date this **Agreement** has been executed by all **Parties**.

**Development Plan** means a development plan as defined in The Planning Act (Manitoba).

**Easement** means the interest in **Easement Lands** to be granted by **Canada** to **Hydro** and **Manitoba**.

**Easement Agreement** means the agreement in the form and content of Schedule 3.4.

**Easement Lands** means the lands which are described in Schedule 3.5.

**Existing Development** means all those physical works related to hydro-electric development on the Churchill, Nelson, Rat and Burntwood River Systems and the development of the Lake Winnipeg Regulation System north of the 53rd parallel, to the extent such works have been physically developed and constructed by or on behalf of **Hydro** to the **Date of this Agreement**; and, without limiting the generality of the foregoing, includes all dams, dikes, channels, control structures, excavations, generating stations, roads, transmission lines and other works forming part of, or

related to, all aspects of such hydro-electric development including

- Lake Winnipeg Regulation,
- Churchill River Diversion, including without limitation the Notigi and Missi control structures,
- Grand Rapids Generating Station,
- Laurie River Generating Station,
- Kelsey Generating Station,
- Kettle Generating Station,
- Long Spruce Generating Station,
- Limestone Generating Station,

and the access road and other physical construction with respect to the proposed Conawapa Generating Station.

**Fee Simple Lands** mean any tract of land, the legal and beneficial title to which is to be held by the **Corporate Trustee** in trust for **Nelson House**, or a corporation wholly owned and controlled by **Nelson House**, in accordance with this **Agreement** or the **Indenture**.

**Financial Schedule** means Schedule 1.1 to this **Agreement**.

**Fish** means fish as defined in the Fisheries Act (Canada) at the **Date of this Agreement**.

**Funds Available** means:

- (a) in the fiscal years 1995 and 1996, the amounts identified in Article 11.1 of the **Indenture**;

and in any subsequent fiscal year, the greater of:

- (b) the income earned on **Assets** and whichever of the following applies:
  - (i) pending receipt by the **Trust** of interest on the **Hydro Bond**, an amount determined by the **Community Approval Process**, not to exceed four million (\$4,000,000.00) dollars, or
  - (ii) during the period when the **Trust**, either directly or through **Canada**, receives the interest on the **Hydro Bond**, the interest paid on the bond, and
  - (iii) in any other circumstances, the amount by which the **Net Value of the Assets** as determined by the **Corporate Trustee** at the close of the prior fiscal year, excluding the **Arena Funds**, **Assets** held in the **Investment and Heritage Account**, and the principal

amounts in the Operation and Maintenance Sub-Account and the Recreational Facilities and Programs Sub-Account, exceed forty million (\$40,000,000.00) dollars.

Where the fiscal year is changed so as to create a fiscal period which contains more or less than twelve (12) months, the amount of **Funds Available** shall be pro-rated accordingly.

**Future Development** means:

- (a) the construction of any portion or parts of the **Project** not physically constructed at the **Date of this Agreement**; and
- (b) all major redevelopment or reconstruction of any **Existing Development**;

which has a reasonable likelihood of having a material and continuing physical, chemical or biological impact upon a water body within the **Resource Management Area**.

**Hydro** means the Manitoba Hydro-Electric Board.

**Hydro Bond** means the bond to be issued by **Hydro** pursuant to the **Financial Schedule** in the form and content of Schedule 1.2.

**Indenture** means the trust agreement in the form and content of Schedule 1.4.

**Investment and Heritage Account** means the account established under Article 10.2 of the **Indenture**.

**Majority Vote** means a vote conducted by **Chief and Council**, where a majority of those **Members** eighteen (18) years of age and over voting at a **Meeting of Members** either by a show of hands or by secret ballot where a minimum of twenty (20) **Members** request a secret ballot vote, approve the matter voted upon.

**Manitoba** means Her Majesty the Queen in Right of the Province of Manitoba who, for the purposes of this **Agreement**, is represented by the Minister of Northern Affairs.

**Meeting of Members** means a meeting of **Members** on **Reserve** convened pursuant to the **Indenture** and in particular Article 8.2 of the **Indenture**.

**Member** means a person who at the relevant time is, or who has applied and is entitled to be, a member of **Nelson House** pursuant to the Band Membership Code

established by Section 10 of the Indian Act (Canada), which code has been in force and effect since May 24, 1988, or any successor code established by or pursuant to legislation.

**Minister** means the minister, federal or provincial, responsible for the exercise of powers in relation to the matter in question.

**Municipality** means a city, town, village, rural municipality, local government district or other like municipal organization and includes a community under The Northern Affairs Act (Manitoba).

**Nelson House** means Nelson House First Nation, a "band" within the meaning of the Indian Act (Canada).

**Nelson House Gauge** means Water Survey of Canada Gauging Station No. 05TF001 Footprint Lake at Nelson House or such replacement gauge as may be established pursuant to Article 2.2.2.

**Nelson House Trustees** means the individual trustees signatory to the **Indenture** and their successors in office, in accordance with Article 6 of the **Indenture**.

**Net Value of the Assets** means the amount at any specified date by which the value of the **Assets**, and the value of any **Settlement Proceeds** held by **Canada** for the use and benefit of **Nelson House**, exceeds all liabilities of the **Trust**. The issued **Hydro Bond** will be valued at its face amount and all other property comprising the **Assets** will be valued at the lower of cost or market value.

**NFA** means the agreement dated December 16, 1977, between **Manitoba, Hydro, NFC** and **Canada**, including all schedules annexed thereto, and shall include the Economic Development Agreement between the same parties and dated the 1st day of September, 1977.

**NFC** means the Northern Flood Committee, Inc.

**Normal Funding and Programming** means the moneys or services which may be granted by the Government of Canada or the Government of Manitoba pursuant to appropriation acts of the Parliament of Canada or of the Legislative Assembly of Manitoba, and which may be available on a discretionary basis to persons, entities or groups in Canada, and which could be at the relevant time available or potentially or conditionally available to **Nelson House, Chief and Council, or Members**.

**O & M Board** means the board established by **Hydro** and **Nelson House** pursuant to Article 11.

**Operation and Maintenance** means work, administration, management and activities reasonably necessary for the ongoing operation, maintenance and repair of **Capital Works**.

**Operation, Maintenance and Replacement** means:

- (a) work, administration, management and activities reasonably necessary for the ongoing operation, maintenance, repair and ultimate replacement of **Specified Remedial Works** and the **Arena**;
- (b) reasonable measures to protect the **Arena** against fire, vandalism and other damage; and
- (c) the cost of electricity used in the operation of the Duncan Wood Memorial Hall.

**Ordinary High Water Mark (OHWM)** means a line defined by the normal high water mark determined by plant growth and soil conditions observed in the field. The **OHWM** shall be the limit or edge of a non tidal body of water, where the bed is the land so long covered by water as to wrest it from vegetation, or as to mark a distinct character on the vegetation where it extends into the water, or upon the soil itself.

**Party** means any of **Canada**, **Manitoba**, **Nelson House** and **Hydro**.

**Planning Scheme** means a planning scheme as defined in The Planning Act (Manitoba).

**Project** means and includes all **Existing Development** and all future hydro-electric development or re-development by **Hydro** on the Churchill, Nelson, Rat and Burntwood River Systems and includes all development or re-development by **Hydro** of the Lake Winnipeg Regulation System north of the 53rd (fifty-third) parallel.

**Rate of Change** means the difference between the highest **Daily Average Water Level** and the lowest **Daily Average Water Level**, whether an increase or a decrease, between any two days in the applicable 7 and 31 day periods which shall be calculated as set forth in Article 2.5.4(b) and as illustrated in Schedule 2.6.

**Reserve** has the same meaning as in the Indian Act, (Canada) but is restricted to those reserves set apart for the use and benefit of **Nelson House**.

**Reserve Lands** means lands within the **Reserve**.

**Resource Management Area** means the area described and shown on Schedule 6.1 and includes the rivers and lakes and any **Reserve Lands** therein, subject to any changes that may be made in accordance with Article 6.

**Resources** means **Fish**, wildlife, forests, plants, land and water.

**Settlement Proceeds** means the principal amounts paid pursuant to the **Financial Schedule**, any moneys settled on the **Trust** by **Nelson House** pursuant to Article 10.1 of the **Indenture**, and any subsequent amounts paid by **Hydro** to the **Trust** or to **Canada**, for the benefit of **Nelson House** pursuant to Articles 2, 9 or 11 or Schedule 2.2, and any revenue derived from such amounts earned by or paid to the **Trust**.

**Setback Lines** means the lines marking the upper boundary of the **Easement Lands** comprising the severance lines on IR No's 170, 170A, 170B and 170C shown on Plans of Survey recorded in the Canada Lands Surveys Records as Nos. 71393, 71395, 71396, 77048, 77049, 77050, 77051 and 77052, as well as the North boundary of a parcel of land, said North boundary being a straight line drawn Westerly from the North-West corner of Parcel 'B', Plan No.68253 C.L.S.R. to the North-East corner of Parcel 'A', Plan No.68122 C.L.S.R., all **Easement Lands** more particularly described in Schedule 3.5.

**SIL Claim** means a claim for loss or damage caused by an **Adverse Effect** advanced by a **Claimant** who, at the **Date of this Agreement**, or at the date the damage or loss arose:

- (a) was not ordinarily resident on **Reserve** but only if the damage or loss arose within the **SIL Trapline Zone**; or
- (b) was ordinarily resident at or near the Community of South Indian Lake regardless of where the damage or loss arose.

Where the **Claimant** is a corporation, an association or a group, it will not be considered to be ordinarily resident at or near the Community of South Indian Lake unless, at the date the damage or loss arose, the majority of its shareholders or members were so resident. The scope of the **SIL Claim** will be limited to the interest of the members of such group or association who were so resident.

**SIL Trapline Zone** means the area shown on Schedule 5.1.

**Specified Remedial Works** means those works outlined in Schedule 11.1 and located as shown on the attachments to Schedule 11.1 and any replacements,

alterations and additions to such works which **Hydro** and **Nelson House** agree are **Specified Remedial Works**. For greater certainty the term **Specified Remedial Works** does not include the **Arena**.

**Static Inundation Level** means the inundation level with wind effects eliminated.

**Trust** means the Nisichawasihk Trust created and funded pursuant to this **Agreement** and the **Indenture**.

**Trust Moneys** means all payments of cash or kind from the **Trust**.

**Trustees** means collectively the **Nelson House Trustees** and the **Corporate Trustee**.

1.2.2            Purposes.        These definitions are intended only for purposes of this **Agreement** and may not be used for any other purpose. Except for use in this **Agreement** these definitions are without prejudice to and are not binding upon any of the **Parties**.

### 1.3                    **FINANCIAL ARRANGEMENTS**

1.3.1            Payments.        **Manitoba, Canada** and **Hydro** severally agree with each other, and with **Nelson House**, to make their respective payments and deliver all bonds when required and when due pursuant to the **Financial Schedule**.

1.3.2            Advance.        The three million nine hundred thousand (\$3,900,000.00) dollar advance referenced in the **Financial Schedule** was paid

under a separate agreement dated March 10, 1993, as amended by an agreement dated February 15th, 1995 and a further three hundred thirty-eight thousand (\$338,000.00) dollars was paid in 1994, as set forth in the **Financial Schedule**.

1.3.3            Loans.            **Manitoba** shall forgive the loans\credits of **Nelson House** referenced in the **Financial Schedule** in the aggregate amount of one million eight hundred sixty thousand (\$1,860,000.00) dollars. **Hydro** shall forgive the loans/credits of **Nelson House** referenced in the **Financial Schedule** in the aggregate amount of one hundred thirty thousand (\$130,000.00) dollars.

1.3.4            Past Payments.            Schedule 1.3 sets forth the prior expenditures of **Canada**, **Manitoba**, and **Hydro** pursuant to the **NFA** in relation to **Nelson House**.

1.3.5            Payment by Canada            In addition to the payments by **Canada** under the **Financial Schedule**, **Canada** shall pay to the legal counsel for **Nelson House**, in trust for **Nelson House**, the sum of two hundred seventy-five thousand (\$275,000.00) dollars on the **Date of the Agreement**. These funds may be used by **Nelson House** to pay legal fees, other consultants fees and disbursements incurred, in the ordinary course in advising on this **Agreement**.



1.3.6        Interest on Late Payments. Late payments which are made by **Hydro or Manitoba** after the dates set out in Schedule 1.1 shall bear interest at the rate equal to the then current rate paid by the Toronto-Dominion Bank on its business investment accounts.

SCHEDULE 1.1  
FINANCIAL SCHEDULE

A total settlement as follows:

by Canada:	<u>Cash</u> \$14,975,000	<u>Payable</u> On the Date of the Agreement
by Manitoba	<u>Cash</u>  \$3,900,000  \$1,860,000  \$ 338,000  \$1,162,000 \$ 600,000 \$ 100,000	<u>Payable</u>  Paid in accordance with the terms of the Advance Agreement among the Parties, dated March 10, 1993 as amended by an agreement dated February 15, 1995 Existing loan/credit to be extended to and forgiven on the Date of the Agreement Paid in accordance with existing agreements on June 30, 1994 June 30, 1994 June 30, 1995 June 30, 1996
by Hydro	<u>Cash</u>  \$ 130,000  \$ 400,000 \$ 500,000 \$ 500,000 \$ 500,000	Existing loan/credit to be extended to and forgiven on the Date of the Agreement June 30, 1996 June 30, 1997 June 30, 1998 June 30, 1999

**Hydro Bond**

Amount: \$40,000,000.00  
Effective Date: June 30, 1999  
Coupon Rate: 9.762% per annum, payable semi-annually, accruing from the effective date with the first payment of interest under the bond being made on December 31, 1999.  
Date of Maturity: June 30, 2013

SCHEDULE 1.2

TERMS AND CONDITIONS OF HYDRO BOND

THE MANITOBA HYDRO-ELECTRIC BOARD

FR00001

Winnipeg, Manitoba, Canada

\$40,000,000.00

9.762% BOND SERIES 3T

DUE JUNE 30, 2013

Issued under authority of The Manitoba Hydro Act and  
of an Order of the Lieutenant Governor in Council of  
the Province of Manitoba.

June 30, 1999

THE MANITOBA HYDRO-ELECTRIC BOARD, for value received, hereby promises to pay to the  
order of

NISICHAWASIIHK TRUST IN TRUST FOR NELSON HOUSE FIRST NATION

the sum of \*\*\*FORTY MILLION DOLLARS\*\*\*

on June 30, 2013

at the Head Office of THE MANITOBA HYDRO-ELECTRIC BOARD

in lawful money of Canada with interest payable semi-annually at the rate of 9.762% per annum  
from the date hereof to the date of maturity, upon due presentation and surrender of this Bond,  
all in accordance with the Terms and Conditions endorsed hereon.

Countersigned on behalf of  
The Manitoba Hydro-Electric  
Board

By

"SPECIMEN"

Authorized Signing Officer

THE MANITOBA HYDRO-ELECTRIC  
BOARD

By

"SPECIMEN"

Chairman

"SPECIMEN"

Secretary

This Bond shall become valid only when it shall be manually countersigned by a duly Authorized Signing Officer.

Dated June 30, 1999

#### Terms and Conditions

1. Interest on this Bond will be payable semi-annually on June 30 and December 31 of each year prior to and including maturity, commencing December 31, 1999 at an interest rate of 9.762% per annum. Interest will no longer accrue after maturity. For yield comparison purposes, the 9.762% interest rate per annum payable semi-annually is the yield equivalent of 10.00% per annum payable annually.
2. This Bond will be issued in fully registered form only, in denominations of \$1,000,000.00 and integral multiples thereof. This Bond will be dated June 30, 1999 and will mature on June 30, 2013.
3. Interest will be payable to the order of the registered holder and will be paid by cheque forwarded to the registered address.
4. The Manitoba Hydro-Electric Board will maintain a register of the name and address of the registered holder of this Bond at its Head Office in the City of Winnipeg.
5. This Bond is non-transferable and non-assignable.
6. At the option of the registered holder only, this Bond, or any portion thereof, which is \$1,000,000.00 or an integral multiple thereof, may be redeemed at the fair market value six business days after delivery of notice of redemption in writing and upon due presentation and surrender of this Bond at the Head Office of The Manitoba Hydro-Electric Board in the City of Winnipeg. The fair market value will be determined by the middle quote of three bid price quotes, for a provincially guaranteed marketable Bond of The Manitoba Hydro-Electric Board, having the same interest rate and maturity date as this Bond. The bid price quotes will be supplied by three investment dealers used by the Province of Manitoba to underwrite its securities. The bid price for this Bond will be set one business day following receipt of the notice of redemption for value and settlement six business days following receipt of the notice of redemption. The settlement amount will include accrued interest, if any.
7. Market bid price quotes will be supplied by Hydro upon request of the holder from time to time as reasonably required.
8. This Bond is repayable for the full principal amount upon due presentation and surrender,

at the Head Office of The Manitoba Hydro-Electric Board, in the City of Winnipeg, during regular business hours on June 30, 2013 or any business day thereafter.

9. Manitoba Hydro will not be bound to see the execution of a trust affecting the ownership of this Bond.
10. This Bond will rank equally with all other debt obligations of The Manitoba Hydro-Electric Board.

#### Notice of Redemption

The registered holder of this Bond serves notice to redeem \$\_\_\_\_\_ of this Bond at the fair market value in accordance with the Terms and Conditions endorsed hereon.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signing Officer (s)

\_\_\_\_\_  
Signature and Authority to  
Sign Guaranteed

Financial Institution: \_\_\_\_\_

SCHEDULE 1.3

PAST PAYMENTS

Canada 1974 - 1994

Description	Nelson House Share
Community Planning	345,233
Neyanun	331,895
NFA Implementation	898,311
NFA Expenditure Study	28,875
Core Funding	1,147,340
Land Use	65,363
Housing	2,156,231
Water & Sewer	15,531,832
Nelson House Recreation	13,167
Mercury	233,402
Environment	263,438
PAB	2,000
Employment	80,134
Arbitrator's Office	73,816
Legal Fees	353,728
<b>TOTAL</b>	<b>\$21,524,765</b>

**PAST PAYMENTS****Hydro**

Description	Nelson House Share
Remedial Works	7,230,411
Arbitration Claims	12,517,915
Trapping Programs	492,107
Fishing Program	34,224
Domestic Fishing	4,200,000
Pro-Rated NFA Claims	3,019,298
General Claims	463,053
Remedial Works	192,645
<b>TOTAL</b>	<b>28,149,653</b>



**PAST PAYMENTS****Manitoba**

Description	Nelson House Share
Surveys, Mapping & Geotechnical, Land Exchange & Land Use	233,700
Arbitrator	70,500
Advisory Groups	97,600
Environmental Monitoring and Wildlife Monitoring	241,700
Resource Technology	110,800
Claim Costs - Legal & Consulting	577,400
Coordination	32,600
Guide Training	6,900
Fishing Impact Costs	26,100
Community Development Planning	24,300
Key Communicator Program	75,500
Negotiator	25,300
Study Board Recommendations	32,500
Claim 94 recreation facilities	377,000
Claim 14 - Footprint River Bridge	999,900
Claim 103 Nelson House Commercial Fishing	709,800

Claim 126	96,300
Claim 33 Nelson House Trappers	96,200
Claim 110 Domestic fishing	313,900
Claim 36 Community traplines	75,000
Claim 98 Management Board	94,700
<b>TOTAL</b>	<b>4,317,700</b>

## **SCHEDULE 1.4**

### **TRUST INDENTURE**

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THIS TRUST INDENTURE made this      day of      , 1996 between:

NELSON HOUSE FIRST NATION as represented by **Chief and Council** (hereinafter called "**Nelson House**"),

of the First Part,

- and -

Jerry Primrose, **Chief** of the Nelson House First Nation, Paul Bonner, President of the Nelson House Development Corp., Jimmy D. Spence, and Richard Linklater, all of Nelson House in the Province of Manitoba (hereinafter called the "**Nelson House Trustees**"),

of the Second Part,

- and -

Royal Trust Corporation (hereinafter called the "**Corporate Trustee**"), incorporated under the laws of Canada,

of the Third Part,

- and -

HER MAJESTY THE QUEEN IN RIGHT OF MANITOBA, as represented by the Minister of Northern Affairs (hereinafter called "**Manitoba**")

of the Fourth Part,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD, (hereinafter called "**Hydro**")

of the Fifth Part,

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by the Minister of Indian Affairs and Northern Development, (hereinafter called "**Canada**")

of the Sixth Part

Whereas, **Nelson House** will receive **Settlement Proceeds** and may receive other property from **Hydro, Manitoba** and **Canada**, in accordance with the **Agreement** dated the same date as this **Indenture**;

And Whereas, the **Agreement** has been entered into for the purpose of implementing, and resolving claims and obligations under, the **NFA**;

And Whereas, pursuant to the **Agreement**, **Nelson House**, as a condition of receiving the **Settlement Proceeds**, has agreed to settle a trust on the terms, and for the purposes, set out in this **Indenture**;

Now Therefore the Parties Agree as follows:

## **PART ONE: DEFINITIONS AND INTERPRETATION**

### **1.0**

### **ARTICLE 1: INTERPRETATION**

#### **1.1 Guides to Interpretation. In this **Indenture****

- (a) any reference to a person shall include the successor to that person;
- (b) singular words shall include the plural and vice versa;

- (c) the headings and the division of this **Indenture** into articles is for convenience of reference only, and shall not affect the construction or interpretation of this **Indenture**;
- (d) this **Indenture** shall be read in conjunction with the **Agreement** of which it forms a part; and
- (e) references to Articles or Schedules mean Articles or Schedules of this **Indenture** unless otherwise indicated.

**2.0****ARTICLE 2: DEFINITIONS**

**2.1 Definitions from Agreement.** All defined terms in Article 1 of the **Agreement** have the same meaning where used in this **Indenture** with a capital letter and in bold type face. For ease of reference, those terms which are defined in the **Agreement** and which are also used in this **Indenture** have been repeated in Article 2.

**2.2 Additional Definition of "reserve".** Where the term "reserve" is used in this **Indenture** and not capitalized and printed in bold type, it shall mean any reserve as defined in the Indian Act (Canada).

2.3 Definitions. For all purposes within this **Indenture**, unless otherwise specifically provided, the following words and phrases, when capitalized and printed in bold type, whether in the plural or the singular, shall have the meaning ascribed to them in Article 2.3:

**Account** means an account established pursuant to this **Indenture**.

**Adverse Effects** means the, direct or indirect, negative consequences of the **Project** or the operation thereof by **Hydro**, which consequences impact or change the physical, chemical or biological characteristics of the environment and include, without limitation, risks or injuries to the health, safety, well-being, comfort or enjoyment of **Nelson House** or **Members**, and impacts on interests in and the exercise of rights in relation to lands, pursuits, activities, opportunities, lifestyles and assets of **Nelson House** or **Members**.

**Agreement** means the agreement of even date to which this **Indenture** is attached as Schedule 1.4.

**Arbitrator** means a person appointed under Article 13 of the **Agreement** to arbitrate disputes.

**Arena** means:

- (a) the arena commonly known as the Gilbert MacDonald Arena located at Nelson House which is more particularly described in the **Arena Plans** excluding the Duncan Wood Memorial Hall; and
  - (b) the equipment listed in Schedule 11.2 of the **Agreement**;
- and shall include any replacement of the existing arena and equipment but shall not, unless agreed to in writing by **Nelson House** and **Hydro**, include any additions thereto.

**Arena Budget** means the annual budget for the **Operation, Maintenance and Replacement** of the **Arena**, including the cost of electricity used in the operation of the Duncan Wood Memorial Hall.

**Arena Funds** means any amount paid under Article 11 of the **Agreement** for the purpose of replacing or refurbishing the **Arena** including the proceeds



of insurance put in place on the **Arena** under Article 11 of the **Agreement** and including any capitalized **Operation, Maintenance and Replacement** paid by **Hydro** pursuant to Article 11 of the **Agreement**.

**Assets** means all property of every nature and kind to which the investment provisions of Articles 14.1 and 14.2 apply.

**Auditor** means the auditor appointed under Article 9.1.

**Canada** means Her Majesty the Queen in Right of Canada who, for the purposes of this **Indenture**, is represented by the Minister of Indian Affairs & Northern Development.

**Capital Works** means any permanent structures or works erected, constructed, acquired or developed using **Settlement Proceeds** except **Specified Remedial Works**, single family houses and the **Arena**.

**Chief** means the Chief of **Nelson House** elected and in office.

**Chief and Council** means the Council of **Nelson House**.

**Claimant** means any of:

- (a) **Chief and Council;**
- (b) **Nelson House;**
- (c) any person who is a **Member;**
- (d) any group, or unincorporated association, whose membership or shareholding is wholly or substantially comprised of **Members;**
- (e) any unincorporated association established by **Chief and Council;**
- (f) any share capital corporation, the shares of which are wholly or substantially owned, both legally and beneficially, and controlled by **Nelson House** or **Members;** or
- (g) any non - share capital corporation, the membership of which consists wholly or substantially of **Nelson House** or **Members;**

who or which suffered a loss or damage resulting from or attributable to an **Adverse Effect**.

**Claims Account** means the account funded and administered under Article 12.

**Claims Officer** means the person appointed by **Chief and Council** under Article 12.2.1 of the **Agreement** or, in that person's absence or incapacity, the alternate **Claims Officer**.

**Community Approval Process** means the Community Approval Process established by Article 8 and the procedures set forth therein.

**Community Development Account** means the account established under Article 10.2.

**Consumer Price Index** means the monthly publication by Statistics Canada of statistical data related to changes in price of goods and services (All-Items) in the Province of Manitoba.

**Corporate Trustee** means the trust corporation which is the signatory to the **Indenture** and its successors in that office and includes, where transitional obligations are being fulfilled and the context requires, both an outgoing and an incoming trustee.

**Council Resolution** means a resolution passed by **Chief and Council**.

**Fee Simple Lands** mean any tract of land, the legal and beneficial title to which is to be held by the **Corporate Trustee** in trust for **Nelson House**, or a corporation wholly owned and controlled by **Nelson House**, in accordance with the **Agreement** and this **Indenture**.

**Financial Schedule** means Schedule 1.1 to the **Agreement**

**Funds Available** means:

- (a) in the fiscal years 1995 and 1996 the amount identified in Article 11.1;

and in any subsequent fiscal year, the greater of:

- (b) the income earned on **Assets** and whichever of the following applies:
  - (i) pending receipt by the **Trust** of interest on the **Hydro Bond**, an amount determined by the **Community Approval Process**, not to exceed four million (\$4,000,000.00) dollars, or
  - (ii) during the period when the **Trust**, either directly or through **Canada** receives the

- (iii) interest on the **Hydro Bond**, the interest paid on the bond, and in any other circumstances, the amount by which the **Net Value of the Assets** as determined by the **Corporate Trustee** at the close of the prior fiscal year, excluding the **Arena Funds, Assets** held in the **Investment and Heritage Account**, and the principal amounts in the Operation and Maintenance Sub-Account and the Recreational Facilities and Programs Sub-Account, exceed forty million (\$40,000,000.00) dollars.

Where the fiscal year is changed so as to create a fiscal period which contains more or less than twelve (12) months, the amount of **Funds Available** shall be pro-rated accordingly.

**Hydro** means the Manitoba Hydro-Electric Board.

**Hydro Bond** means the bond to be issued by **Hydro** pursuant to the **Financial Schedule** in the form and content of Schedule 1.2 of the **Agreement**.

**Indenture** means the trust agreement in the form and content of Schedule 1.4 of the **Agreement**.

**Investment and Heritage Account** means the account established under Article 10.2.

**Majority Vote** means a vote conducted by **Chief and Council**, where a majority of those **Members** eighteen (18) years of age and over voting at a **Meeting of Members** either by a show of hands or by secret ballot where a minimum of twenty (20) **Members** request a secret ballot vote, approve the matter voted upon.

**Manitoba** means Her Majesty the Queen in Right of the Province of Manitoba who, for the purposes of this **Agreement**, is represented by the Minister of Northern Affairs.

**Meeting of Members** means a meeting of **Members** on **Reserve** convened pursuant to the **Indenture** and in particular Article 8.2 of the **Indenture**.

**Member** means a person who, at the relevant time, is, or who has applied and is entitled to be, a member of **Nelson House** pursuant to the Band Membership Code established by section 10 of the Indian Act (Canada) which code has been in force and effect since May 24, 1988 or any successor code established by or pursuant to legislation.

**Nelson House** means Nelson House First Nation, a "band" within the meaning of the Indian Act (Canada).

**Nelson House Trustees** means the individual trustees signatory to this Indenture and successors in office, in accordance with Article 6 .

**Net Value of the Assets** means the amount at any specific date by which the value of the **Assets**, including the value of any **Settlement Proceeds** held by **Canada** for the use and benefit of **Nelson House**, exceeds all liabilities of the **Trust**. The issued **Hydro Bond** will be valued at its face amount and all other property comprising the **Assets** are to be valued at the lower of cost or market value.

**O & M Board** means the board established by **Hydro** and **Nelson House** pursuant to Article 11 of the **Agreement**.

**Operation and Maintenance** means works, administration, management and activities reasonably necessary for the ongoing operation, maintenance and repair of **Capital Works**.

**Operation, Maintenance and Replacement** means:

- (a) work, administration, management and activities reasonably necessary for the ongoing operation, maintenance, repair and ultimate replacement of **Specified Remedial Works** and the **Arena**;
- (b) reasonable measures to protect the **Arena** against fire, vandalism and other damage; and
- (c) the cost of electricity used in the operation of the Duncan Wood Memorial Hall.

**Party** means any of **Canada**, **Manitoba**, **Nelson House** and **Hydro**.

**Reserve** has the same meaning as in the Indian Act, (Canada) but is restricted to those reserves set apart for the use and benefit of **Nelson House**.

**Settlement Proceeds** means the principal amounts paid pursuant to the **Financial Schedule**, any moneys settled on the **Trust** by **Nelson House** pursuant to Article 10.1, and any subsequent amounts paid by **Hydro** to the **Trust** or to **Canada**, for the benefit of **Nelson House** pursuant to Articles 2, 9, 11 and Schedule 2.2 of the **Agreement** and any revenue derived from such amounts earned by or paid to the **Trust**.

**SIL Claim** means a claim for loss or damage caused by an **Adverse Effect** advanced by a **Claimant** who, at the **Date of this Agreement**, or at the date the damage or loss arose:

- (a) was not ordinarily resident on **Reserve**, but only if the damage or loss arose within the **SIL Trapline Zone** ; or
- (b) was ordinarily resident at or near the Community of South Indian Lake regardless of where the damage or loss arose.

Where the **Claimant** is a corporation, an association or a group, it will not be considered to be ordinarily resident at or near the Community of South Indian Lake unless the majority of its shareholders or members were so resident. The scope of the **SIL Claim** will be limited to the interest of the members of such group or association who were so resident.

**SIL Trapline Zone** means the area shown on Schedule 5.1 of the **Agreement**.

**Specified Remedial Works** means those works outlined in Schedule 11.1 of the **Agreement** and located as shown on the attachments to Schedule 11.1 of the **Agreement**, and any replacements, alterations and additions to such works which **Hydro** and **Nelson House** agree are **Specified Remedial Works**. For greater certainty, the term **Specified Remedial Works** does not include the **Arena**.

**Trust** means the Nisichawasihk Trust created and funded pursuant to the **Agreement** and this **Indenture**.

**Trust Moneys** means all payments of cash or kind from the **Trust**.

**Trustees** means collectively the **Nelson House Trustees** and the **Corporate Trustee**.

**PART TWO: BASIC PROVISIONS**

**3.0 ARTICLE 3: BASIC PROVISIONS**

3.1 **Name.** The **Trust** created by this **Indenture** shall be known as "**Nisichawasihk Trust**".

3.2 **Change of Name.** The **Trustees**, with the consent of **Chief and Council** as set out in a **Council Resolution**, and a **Majority Vote** at a **Meeting of Members**, may change the name of the **Trust** to any lawful name.

3.3 **Beneficiaries.** Subject to the terms of this **Indenture** the beneficiaries of the **Trust** are **Nelson House and Members**.

3.4 **On-Reserve Benefit.** In addition to compensation for claims, the **NFA** makes provision for mitigatory works, remedial measures and other programs principally, and often exclusively, directed to the **Reserve** and **Members** resident thereon. As the **Agreement** implements the **NFA**, the **Trust** will be used to fund programs that may principally, or exclusively, benefit the **Reserve** and **Members** ordinarily resident on **Reserve** and to address classes of compensation claims.

- 3.5 **Community Approval Process.** Except as specifically provided in this **Indenture** or the **Agreement**, the **Community Approval Process** shall determine all uses of **Assets** and **Trust Moneys**.
- 3.6 **Non-divisibility.** The **Assets** are not divisible into individual shares or benefits, and no **Member** may claim an individual share of, or benefit from, **Assets** or **Trust Moneys** except as specifically authorized pursuant to this **Indenture** or the **Agreement**.
- 3.7 **Fiscal Year.** The fiscal year of the **Trust** shall end on December 31 unless otherwise determined by the **Trustees**.
- 3.8 **Residence.** It is the intention of the **Parties** that the **Trust** shall be situate on a reserve and the **Trustees** shall take all reasonable steps to ensure, to the extent possible, that the **Trust** shall always be so situate.

### **PART THREE : ROLES AND RESPONSIBILITIES**

#### **4.0 ARTICLE 4: CHIEF AND COUNCIL**

- 4.1 **Duties of Chief and Council.** Chief and Council shall:

- (a) appoint successor **Nelson House Trustees** as provided in Article 6;
- (b) appoint successor **Corporate Trustees** as provided in Article 7;
- (c) administer the **Community Approval Process** as provided in Article 8;
- (d) settle any unallocated **Funds Available** distributed to it, on the **Trustees** for deposit to either the **Investments & Heritage Account** or the **Community Development Account** in accordance with Article 10.4;
- (e) administer the claims procedure as provided in Article 12 of the **Agreement**;
- (f) administer **Trust Moneys** as provided in Article 17;
- (g) obtain and present reports on the administration of **Trust Moneys** as provided in Article 19;
- (h) perform any other duties given to **Chief and Council** by this **Indenture** or the **Agreement**.

4.2 **Chief and Council Acceptance.** Prior to **Chief and Council** carrying out any duty or exercising any right assigned to it under this **Indenture**, the



greater of a majority or a quorum of its members shall execute a Schedule 1 form, and deposit same with the **Corporate Trustee**.

4.3 Consequences of Failure to sign Acceptance. No member of **Chief and Council** who fails to execute a Schedule 1 form shall participate in decisions of **Chief and Council** respecting the **Indenture** or **Trust Moneys**.

4.4 No Benefit. No member of **Chief and Council** who has failed to execute a Schedule 1 form shall receive any benefit from the **Trust**, unless and until:

- (a) the proposed benefit and the refusal to execute a Schedule 1 form have been disclosed to a **Meeting of Members**; and
- (b) the proposed benefit is approved by a **Majority Vote**.

4.5 Disclosure of Conflicts of Interest. Any member of **Chief and Council** with a direct or indirect pecuniary interest in any matter before **Chief and Council** involving **Trust Moneys**, shall:

- (a) immediately disclose such interest in writing to **Chief and Council**;
- (b) withdraw from any meeting of **Chief and Council** while such matter is being considered; and

- (c) refrain from voting on, or otherwise influencing, the decision of **Chief and Council** in relation to such matter.

If as a result it is not possible to obtain a quorum of **Chief and Council**, the matter shall be decided by a **Majority Vote** at a **Meeting of Members**.

4.6 Exception. The restrictions set forth in Articles 4.4 and 4.5 shall not apply if such interest is of a **Member** or group of **Members** generally, and is not related to being, or having been, a member of **Chief and Council**.

4.7 No Encumbering. Except as provided in Articles 8.7 and 11.2, **Chief and Council** shall not pledge or forward commit **Assets** or **Trust Moneys** beyond the current fiscal year.

4.8 Liability of Chiefs and Councilors. When handling **Trust Moneys**, members of **Chief and Council** shall:

- (a) spend **Trust Moneys** only as disclosed and approved;
- (b) reimburse the **Trust** for their own misappropriation or misuse of **Trust Moneys**; and
- (c) be liable for their own negligence, wilful misconduct or breach of this **Indenture**;

but shall not otherwise be liable for honest errors in judgment in making any decisions or exercising any discretion, provided same is authorized under this **Indenture** or the **Agreement**.

**5.0**

**ARTICLE 5: TRUSTEES**

**5.1 Trustees.** The **Trust** shall have one (1) **Corporate Trustee** and at least four (4) **Nelson House Trustees**, all of whom shall faithfully administer the terms of this **Indenture**. The number of **Nelson House Trustees** may, with a **Council Resolution** approved by a **Majority Vote** at a **Meeting of Members**, be changed to not less than two (2) and not more than five (5).

**5.2 Decisions by Trustees.** Except where unanimity is required by law, decisions of the **Trustees** shall be by majority vote, provided that the majority shall include the **Corporate Trustee** and at least fifty per cent (50%) of the number of **Nelson House Trustees** established pursuant to Article 5.1.

**5.3 Acts of Trustee.** No **Trustee** shall be liable for the acts, omissions, neglect or default of any other **Trustee**, or liable to indemnify any other **Trustee** or the **Trust** against any losses, costs, claims, charges or expenses

brought against, incurred or suffered by any other **Trustee** or the **Trust** unless the undertaking to indemnify is in writing and executed by the indemnifier.

5.4 **Successor Trustee Duties.** A successor **Corporate Trustee** may be required by **Chief and Council** to verify or audit the books, records or accounts of a predecessor **Corporate Trustee**.

5.5 **No Encumbering.** Except as provided in Articles 8.7 and 11.2, the **Trustees** shall not pledge or forward commit **Assets** or **Trust Moneys** beyond the current fiscal year.

5.6 **Maintain Records and Books.** The **Corporate Trustee**, on behalf of the **Trustees**, shall maintain current, accurate and complete records and books of account of the **Trust** at its office on a reserve and a duplicate set of such records at the Band office on **Reserve**. **Chief and Council** shall make appropriate custodial arrangements to safeguard the duplicate set of records and books of account and provide reasonable access thereto to **Members**.

5.7 **Trustees Meetings.** The **Trustees** shall meet on a reserve to conduct the business of the **Trust** and they may conduct such business by telephone

as long as the majority of **Trustees** are present on a reserve at the time business is conducted.

## 6.0 **ARTICLE 6: NELSON HOUSE TRUSTEES**

6.1 Appointment. Subject to Articles 6.3 and 6.4, **Nelson House Trustees** shall be appointed by **Chief and Council** and, when possible, shall include the **Chief** and the President of the Nelson House Development Corporation. The requirement to include the **Chief** and the President of the Nelson House Development Corporation may be deleted by a **Council Resolution** confirmed by a **Majority Vote** at a **Meeting of Members**.

6.2 Term of Appointment. **Nelson House Trustees** shall be appointed for a two year term, but may be removed by **Chief and Council** for cause. A **Nelson House Trustee** may serve more than one term.

6.3 Qualifications. **Nelson House Trustees** shall be **Members**:

- (a) ordinarily resident at **Nelson House**;
- (b) over eighteen (18) years of age; and
- (c) eligible for fidelity bonding by a licensed surety as determined by the **Corporate Trustee**.

6.4 **Successor Nelson House Trustees.** Where a **Nelson House Trustee:**

- (a) is unable or unwilling to act;
- (b) at any time fails to meet the requirements of Article 6.3;
- (c) is convicted of an indictable offence or a Criminal Code offence related to property; or
- (d) is an undischarged bankrupt;

that **Nelson House Trustee's** appointment shall be terminated by **Chief and Council** and upon such termination, **Chief and Council** shall immediately appoint a successor and advise the **Corporate Trustee** and **Members** accordingly.

6.5 **Validity of Actions.** Until resignation or termination under Articles 6.2 or 6.4, no action by the **Trustees** shall be invalid due solely to the ineligibility of a **Nelson House Trustee.**

6.6 **Acceptance of Indenture.** Prior to assuming office a **Nelson House Trustee**, other than the inaugural **Nelson House Trustees**, shall execute a Schedule 2 form and deposit it with the **Corporate Trustee.**

6.7 **Trustees' Dealings with the Trust.** A **Nelson House Trustee** shall act for the **Trust** only in that capacity and shall not otherwise be employed or retained by the **Trust** for services for consideration.

6.8 **General Duty of Nelson House Trustees.** Every **Nelson House Trustee**, in exercising powers and discharging duties under this **Indenture**, shall:

- (a) act honestly and in good faith, with a view to the best interests of the **Trust**;
- (b) use such care, diligence and skill as a reasonably prudent person would in exercising comparable duties; and
- (c) comply with the terms of this **Indenture** and the duties associated with the **Trust** contained in the **Agreement**.

6.9 **Liability of Nelson House Trustees.** **Nelson House Trustees** shall be liable for their own negligence, wilful misconduct, or breach of the provisions of this **Indenture**, but shall not otherwise be liable for any honest error in judgment.

6.10 **Disclosure of Conflicts of Interests.** **Nelson House Trustees** with a direct or indirect pecuniary interest in any matter involving the **Trust**, **Trust**

**Moneys or Assets** shall immediately disclose the interest, in writing, to the other **Trustees** and to **Chief and Council** and withdraw from any consideration of such matter and refrain from voting on or influencing the decision of the **Trustees** in relation thereto unless such interest is that of a **Member**, or group of **Members** generally, and is not related to being, or having been, a **Nelson House Trustee**.

6.11 **Nelson House Trustee Compensation.** **Nelson House Trustees** shall be entitled to reimbursement of expenses incurred in fulfilling their duties but shall not receive a fee under this **Indenture**, except as may be specifically approved by a **Meeting of Members**.

6.12 **No Power of Appointment.** The authority of a **Nelson House Trustee** to delegate execution or authority when absent from Manitoba pursuant to section 36 of **The Trustee Act** (Manitoba) in force at the **Date of the Agreement**, or any similar power, shall not be exercised without the written approval of **Chief and Council**. Where such authority is delegated, subsections 36(4) to and including 36(7) of **The Trustee Act** (Manitoba) do not apply.



**7.0 ARTICLE 7: CORPORATE TRUSTEE**

**7.1 Corporate Trustee Qualifications. The Corporate Trustee shall:**

- (a) be a corporation authorized to conduct the business of a trust company in Canada;
- (b) be able to meet the criteria for a member in good standing with the Canada Deposit Insurance Corporation; and
- (c) maintain an office on a reserve.

**7.2 Dealings with Corporate Trustee. All communications with the Corporate Trustee shall be by way of mail, delivery or facsimile to its office on a reserve and upon appointment the Corporate Trustee shall provide the Nelson House Trustees and Chief and Council with its mailing address and its telephone and facsimile numbers at office.**

**7.3 Successor to Corporate Trustee. The Corporate Trustee may:**

- (a) resign upon thirty (30) days written notice to Chief and Council;
- (b) be discharged by Chief and Council for cause; or
- (c) be discharged by Chief and Council upon thirty (30) days written notice to the Corporate Trustee;

but the property of the **Trust** shall remain vested in that **Corporate Trustee** until a successor assumes office. If a **Corporate Trustee** is discharged, becomes disqualified, refuses or is unable to act, resigns, or is removed by a court of law, **Chief and Council** shall immediately appoint a new **Corporate Trustee**, and advise **Members, Canada, Hydro and Manitoba** accordingly.

7.4 **Vacancy.** Where the position of **Corporate Trustee** is vacant for more than forty-five (45) days, any **Member, Nelson House Trustee, Canada, Manitoba, or Hydro**, may, but shall be under no duty to, apply to have a court appoint a new **Corporate Trustee**.

7.5 **Corporate Trustee Duties.** The **Corporate Trustee**, on behalf of the **Trustees** shall:

- (a) keep complete and accurate financial records of the **Trust**;
- (b) submit to **Chief and Council** and the **Trustees** monthly transaction and investment statements, prepared in accordance with generally accepted accounting principles, as such principles relate to trusts;
- (c) take legal ownership and possession of **Assets**;

- (d) prepare and deliver such reports and documentation on the **Trust** as may be required by government agencies;
- (e) provide all reports and information which the **Trustees** require to make sound investment decisions;
- (f) invest **Assets** as provided in Article 14;
- (g) advise **Chief and Council** of the amount of **Funds Available** to fund the **Community Development Account** and the **Investment and Heritage Account** after determining the amounts required to be paid, or allocated and reserved:
  - (i) for any future commitment of funds for **Operation and Maintenance** purposes set forth in Article 8.7,
  - (ii) in the amount of fifty thousand (\$50,000.00) dollars, for the **Community Approval Process** under Article 11.6,
  - (iii) in the amount necessary to maintain the minimum balance in the **Claims Account** required under Article 12.2,
  - (iv) for the fees, if any, and reasonable expenses of the **Nelson House Trustees** under Article 6.11,

- (v) for the fees of the **Corporate Trustee** under Article 15.1(c),
  - (vi) for charges for administration of the **Trust** under Article 15.1(c),
  - (vii) for costs of litigation under Article 15.1(d),
  - (viii) for costs of insurance under Article 15.1(h),
  - (ix) for indemnities payable under Articles 15.4,
  - (x) for indemnities payable under Article 16.13,
  - (xi) in the amount required to continue the **Nelson House Commercial Fishing Program** under Article 11.2, and
  - (xii) in any other amounts that the **Trust** is required to pay by law,
- (h) advise **Chief and Council** as to the amounts available for expenditure from the **Investment and Heritage Account**;
  - (i) determine the **Net Value of the Assets** when required;
  - (j) provide access to the records of the **Trust** on the reasonable request of **Chief and Council**, any **Member** or **Party**;
  - (k) receive and accept title to **Fee Simple Lands** transferred under Article 3.5.5 and 4.3.2 of the **Agreement**; and

- (l) advise **Chief and Council** as to the amounts available for expenditure from the Arena Replacement, Operation and Maintenance, and Recreation Facilities and Programs Sub-Accounts.

7.6 Property Vests in Successor Trustee. Title to property of the **Trust** shall vest in a successor **Corporate Trustee** concurrent with its assuming office and the **Corporate Trustee** shall execute all documents and do all acts necessary to cause and complete such vesting .

7.7 Acceptance of the Trust Terms. Prior to assuming office, each successor **Corporate Trustee** shall execute a Schedule 3 form .

7.8 General Duties of Corporate Trustee. The **Corporate Trustee**, in exercising powers and discharging duties under this **Indenture**, shall:

- (a) act honestly and in good faith with a view to the best interests of the **Trust**;
- (b) exercise the care, diligence and skill that a prudent, responsible and competent professional trustee exercises in administering the property of others; and

- (c) comply with the terms of this **Indenture** and the duties associated with this **Trust** contained in the **Agreement**.

7.9 **Liability of Corporate Trustee.** The **Corporate Trustee** shall be liable only for its own negligence, wilful misconduct or breach of the provisions of this **Indenture**, but shall not otherwise be liable for any honest error in judgment.

7.10 **Fee for Service.** **Chief and Council** shall negotiate reasonable fees for service with the **Corporate Trustee**.

## 8.0 **ARTICLE 8: COMMUNITY APPROVAL PROCESS**

8.1 **Budget Proposals and Public Meetings.** In each fiscal year, **Chief and Council** shall, following consultation with **Members**, prepare proposals for the use of:

- (a) **Funds Available;**
- (b) funds in the **Investment and Heritage Account;**
- (c) funds in the **Arena Replacement Sub-Account;**
- (d) funds in the **Operation and Maintenance Sub-Account;** and
- (e) funds in the **Recreation Facilities and Programs Sub-Account.**

Such proposals shall be discussed at not less than one (1) **Meeting of Members** convened by **Chief and Council** before formal adoption pursuant to Article 8.5.

8.2 **Meeting of Members.** Notice for a **Meetings of Members** under Article 8.1 shall:

- (a) specify the time, place and purpose of the meeting;
- (b) be publicized at least seven (7) days before the proposed meeting, by posting notices in public places on **Reserve** or by other means reasonably likely to reach all adult **Members** resident at or frequenting the **Reserve**; and
- (c) indicate where the information and relevant documents referred to in Article 8.3 can be obtained or reviewed by **Members**.

8.3 **Disclosure Requirements.** **Chief and Council** shall make available to **Members** in accordance with Article 8.2:

- (a) For each program, project or initiative, including **Capital Works**:
  - (i) a description, including any available drawings,
  - (ii) a budget, including cash flow requirements,

- (iii) the location,
  - (iv) implementation and administration methods, including the experience and capability of any organization to be employed in implementation and administration,
  - (v) anticipated benefits, including where applicable jobs, training and income support details,
  - (vi) where applicable and known, the contractors or subcontractors,
- (b) for each proposed **Capital Works**, the cost of construction of which will exceed twenty-five thousand (\$25,000.00) dollars:
- (i) an **Operation and Maintenance** budget supported by a written opinion prepared by an Architect, Professional Engineer or other qualified person, unless the cost of construction of such **Capital Work** will not exceed one hundred thousand (\$100,000.00) dollars in which event the opinion of **Chief and Council** shall be sufficient,
  - (ii) arrangements for funding the **Operation and Maintenance** budget,



- (c) for each **Capital Work**, constructed in a previous fiscal year:
  - (i) the costs of **Operation and Maintenance** in the preceding fiscal year determined from the audited financial statements,
  - (ii) arrangements for funding **Operation and Maintenance** in the current fiscal year,
- (d) for proposed allocations to the **Investment and Heritage Account**:
  - (i) the purpose for allocating funds,
  - (ii) proposed restrictions on use, if any,
- (e) for any proposed land transaction including transactions involving **Fee Simple Lands**:
  - (i) the nature and significance of the proposed transfer, lease, mortgage, pledge, hypothecation, lien, charge, alienation, right of first refusal, option to purchase, encumbrance, or other proposed dealing in or with the land,
  - (ii) the anticipated costs of the proposed transaction,
  - (iii) the anticipated proceeds, if any, from the proposed transaction,

- (iv) the intended use of any proceeds from the proposed transaction, and
- (v) the expected costs and benefits of any proposed use or disposition,
- (f) for the **Arena**:
  - (i) the costs of **Operation, Maintenance and Replacement** in the preceding fiscal year determined from the audited financial statements,
  - (ii) arrangements for funding **Operation, Maintenance and Replacement** in the current fiscal year,
  - (iii) any proposed extraordinary expenditures anticipated in the fiscal year, and
  - (iv) any proposed use or allocation of **Arena Funds** including any applicable requirements in Article 8.3(a) to (f).

8.4 Transactions with Third Parties. Notwithstanding Article 8.3(e) if, in the opinion of **Chief and Council**, the disclosure at a **Meeting of Members** would jeopardize the interests of a third party who may be the recipient of

any such transfer, lease, mortgage, pledge, hypothecation, lien, charge, alienation, encumbrance, right of first refusal or option to purchase, such that the third party might reasonably be expected not to proceed with any such transaction, and provided that such transaction is determined by **Chief and Council** to be for the benefit of **Nelson House**, **Chief and Council** shall provide written notice of such determination to the **Trustees** fourteen (14) days prior to the intended date of entering into any such transaction, or such lesser period of time as the **Trustees** may allow. Provided the **Trustees** agree with the determination made by **Chief and Council** the **Trustees** may proceed with the proposed land transaction. Forthwith upon the completion of such a transaction a **Meeting of Members** will be convened in accordance with Articles 8.1 and 8.2 at which **Chief and Council** shall cause to be explained to the **Members** attending such meeting, the nature and significance of the transaction.

8.5 Budget Decisions. Following the **Meeting of Members** held pursuant to Articles 8.1, 8.2 and 8.3, **Chief and Council** at a public meeting shall, where applicable:

- (a) make a final decision on:

- (i) the expenditure of the **Funds Available**, as it is advised by the **Corporate Trustee** under Article 7.5(g) is available for expenditure,
- (ii) the **Arena Budget**, or
- (iii) any proposed use or disposition of land including **Fee Simple Lands**,

- (b) pass a **Council Resolution** confirming its decision;
- (c) request release of **Trust Moneys** and the **Arena Budget**, in a Schedule 4, 5 or 6 form, whichever is applicable; and
- (d) request the **Corporate Trustee** take all necessary steps to complete the disposition of land, and the **Corporate Trustee**, on behalf the **Trustees** shall comply with the request.

8.6 Further Disclosure to Members. If **Chief and Council** propose to vary in any material way from the information previously disclosed under Article 8.3 then, prior to requesting the release of the **Trust Moneys** under Article 8.5(c), **Chief and Council** shall make fresh disclosure with respect to those variations in accordance with Article 8.3 and pass an amending **Council Resolution** under Article 8.5(b).

8.7 Paramount Consideration. The **Trustees** shall not make any payments from the **Trust** towards a new **Capital Work**, unless in the opinion of the **Trustees** the anticipated future cost of **Operation and Maintenance** for that **Capital Work** can be funded entirely from:

- (a) not more than five percent (5%) of the **Funds Available** in any year;
- (b) funding committed by **Canada , Manitoba or Nelson House**;  
or
- (c) other reliable sources.

The **Operation and Maintenance** costs for all **Capital Works** shall not exceed in any year 20% of the **Funds Available**.

8.8 Release of Funds. Where:

- (a) in the opinion of the **Trustees** other sources of funding under Article 8.7(c) cannot reasonably be relied upon ;
- (b) **Chief and Council** has fully disclosed the other sources of funding and the opinion of the **Trustees** at a **Meeting of Members**; and
- (c) by a **Majority Vote**, approval is given to override the **Trustees'** opinion;

the **Trustees**, subject to the 5% and 20% limits referred to in Article 8.7, shall pay any resulting shortfall of funds for **Operations and Maintenance** from the **Trust**. Upon receipt of such approval, **Chief and Council** shall request release of **Trust Moneys** for the **Capital Works** as contemplated in an approved expenditure plan appended to a Schedule 5 form.

8.9 Alterations. Subject to Article 8.7, upon application of **Chief and Council**, the **Trustees** shall reallocate funds previously allocated for **Operation and Maintenance** to **Funds Available** to be used for other purposes if:

- (a) other sources of committed funding are available and the amount allocated is no longer required for **Operation and Maintenance**;
- (b) experience demonstrates that the amount allocated is not required for **Operation and Maintenance**; or
- (c) there is a change in circumstances which warrants such a re-allocation taking into consideration the continuing need for the **Capital Works**.

8.10 Investment and Heritage Account. A Majority Vote at a Meeting of **Members** may:

- (a) authorize and require **Chief and Council** to contribute any **Funds Available** distributed to **Chief and Council** during the fiscal year, to the **Investment and Heritage Account**;
- (b) impose restrictions on the use of funds in the **Investment and Heritage Account**; and
- (c) subject to such restrictions, authorize expenditures from the **Investment and Heritage Account**.

8.11 Changes to Restrictions. A restriction imposed under Article 8.10(b) may be changed or deleted by **Council Resolution** confirmed by a vote of not less than two-thirds(2/3) of those present:

- (a) at the **Meeting of Members** where the restriction was imposed;
- or
- (b) at a subsequent **Meeting of Members** called for that purpose in compliance with the notice and disclosure requirements in Articles 8.2 and 8.3.

8.12 Delay in expenditure. Funds allocated to the **Investment and Heritage Account** in any fiscal year shall not be paid to **Chief and Council** in that fiscal year.

8.13 Per Capita Distributions. Per capita distributions to **Members** shall not be paid from the **Trust**.

8.14 Investment and Heritage Decisions. **Chief and Council** shall forward to the **Trustees** any proposed expenditure plan for and request for release of **Trust Moneys** from the **Investment and Heritage Account**, together with a Schedule 6 certificate of compliance with the provisions of Articles 8.3 and 8.10 and, if applicable, Article 8.11.

8.15 Initial Year. For the fiscal year ending December 31, 1995 and the fiscal year ending December 31, 1996, compliance with the provisions of Article 8 shall be satisfied notwithstanding that proceedings and meetings were held or decisions were made after January 31, 1995 and before the **Date of the Agreement**.

## 9.0 **ARTICLE 9: AUDITOR**

9.1 Auditor. **Chief and Council** and the **Trustees** shall appoint a chartered accountant in private practice as the **Auditor** to audit the **Trust, Accounts** and the receipt and expenditure of **Trust Moneys** by **Chief and Council** and its agents.



9.2 Restrictions. Except as may be required under Article 16.13, or by law, or where the **Trustees** agree unanimously that a payment is needed to protect **Assets**, no moneys shall be paid from the **Trust** while the office of **Auditor** is vacant.

9.3 Auditor's Duties. The **Auditor** shall be retained to:

- (a) review and report on the system for comprehensive accounting and reporting of **Trust Moneys**;
- (b) conduct an annual audit of all **Assets** and **Trust Moneys** and provide same to the **Trustees** and **Chief and Council**;
- (c) provide any other necessary reports on **Assets**, **Trust Moneys** and the **Trust** to the **Trustees** and **Chief and Council**;
- (d) for the purposes of Article 8.3(c)(i), conduct an annual audit of the financial statement for the **Operation and Maintenance** for each **Capital Work**; and
- (e) for the purposes of Article 8.3(f)(i) conduct an annual audit of the financial statement for the **Operation, Maintenance and Replacement** of the **Arena**.

- 9.4 Copy of Indenture. Chief and Council shall provide a copy of this Indenture and the Agreement to the Auditor upon appointment.

#### **PART FOUR: TRUST ACCOUNTS**

#### **10.0 ARTICLE 10: RECEIPT AND ALLOCATION OF TRUST FUNDS**

- 10.1 Delivery of Settlement Proceeds. Subject to Article 9 of the Agreement, Nelson House agrees and irrevocably directs that all Settlement Proceeds shall be delivered by the payor to the Corporate Trustee on behalf of the Trustees, to be held by them upon the terms of this Indenture. Nelson House may settle up to an additional one million two hundred thousand (\$1,200,000.00) dollars on the Trust as Settlement Proceeds before September 1, 2005, but any such amount shall be deposited in the Recreation Facilities and Programs Sub-Account.

- 10.2 Accounts of the Trust. The Trustees shall establish the Community Development Account, the Claims Account and the Investment and Heritage Account.

- 10.3 Funding Accounts. The **Trustees** shall fund the **Claims Account** and the **Community Development Account** from the **Settlement Proceeds**, and the **Funds Available** in accordance with the terms of this **Indenture** and the **Community Approval Process**. The **Investment and Heritage Account** shall be funded as authorized in Article 13.3 .
- 10.4 Unallocated Moneys. Any part of the **Funds Available** which are unallocated or unpaid on the last business day of a fiscal year shall be distributed to **Chief and Council** who shall settle such funds on the **Trustees** with **Chief and Council's** direction that the funds be deposited to the **Investment and Heritage Account** or the **Community Development Account**. If the funds are deposited to the **Community Development Account**, they shall, subject to the **Community Approval Process**, be spent in a subsequent fiscal year in addition to the **Funds Available** for that year.
- 10.5 Moneys Not Spent in Fiscal Year Do Not Lapse. Any moneys approved for expenditure but not paid to or expended by **Chief and Council** in the fiscal year in which they were approved, may be paid to or expended by **Chief and Council** in a subsequent fiscal year for the same purpose and subject to the same restrictions.

10.6 Distribution of Funds Available. **Funds Available** in a fiscal year shall be allocated:

- (a) firstly out of the income of the **Trust** for the fiscal year, including interest earned on any bonds held by **Canada** for the use and benefit of **Nelson House** which is paid to the **Trust**;
- (b) secondly out of any realized and received capital gains of the **Trust**;
- (c) thirdly out of any accumulated income from prior years; and
- (d) lastly out of the balance of the **Trust** capital.

10.7 Limitation. Moneys disbursed from the **Trust** in a fiscal year shall not, in aggregate, exceed:

- (a) amounts available and approved for disbursement from the **Investment and Heritage Account**;
- (b) the **Funds Available**;
- (c) amounts approved but not paid to or expended by **Chief and Council** in a previous fiscal year;
- (d) **Arena Funds** available and approved for disbursement from the **Community Development Account**;

- (e) the income on funds held in the Operation and Maintenance Sub-Account and the Recreational Facilities and Programs Sub-Account; and
- (f) payment of indemnities under Article 16.13.

## 11.0 ARTICLE 11: COMMUNITY DEVELOPMENT ACCOUNT

- 11.1 Initial Allocation. From the **Settlement Proceeds** first received under Schedule 1.1 of the **Agreement**, four million four hundred thousand (\$4,400,000.00) dollars, or such lesser amount as **Chief and Council** may determine and advise the **Trustees**, shall be the **Funds Available** for each of the fiscal years ending December 31, 1995 and December 31, 1996.
- 11.2 Nelson House Commercial Fishing Program At the beginning of each fiscal year from 1996 to 2001 inclusive, the **Corporate Trustee** shall allocate and pay to **Chief and Council** the amount of one hundred and sixty seven thousand six hundred and seven (\$167,607.00) dollars for the Nelson House Commercial Fishing Program referred to in Article 12.1.4 of the **Agreement**. This amount shall be allocated first from income on **Assets** in that fiscal year and then from other sources for **Funds Available**.

11.3 **Community Development Account.** The **Community Development Account** shall be used:

- (a) to implement the **Agreement**, administer the **Trust** and conduct the **Community Approval Process**;
- (b) for the economic, social, and cultural development of **Nelson House**;
- (c) for the physical development of the **Reserve**;
- (d) for environmental monitoring and resource management programs;
- (e) for **Operation and Maintenance of Capital Works**;
- (f) for compensatory, mitigatory and remedial programs; and
- (g) to distribute approved **Funds Available to Chief and Council** for allocation to the **Investment and Heritage Account**; and
- (h) for such other purposes approved by **Chief and Council** following the **Community Approval Process**.

11.4 **Community Development Sub-Accounts** The **Trustees** shall, as required, establish and maintain separate records within the **Community Development Account** for:

- (a) an Arena Replacement Sub-Account consisting of amounts:

- (i) provided by an insurer for damage to the **Arena** pursuant to Article 11.6.14 of the **Agreement** together with the **Hydro** portion of the deductible pursuant to Article 11.6.16 of the **Agreement**,
  - (ii) provided by **Hydro** to replace the **Arena** pursuant to Articles 11.6.14, 11.6.17 or 11.8.9, 11.8.10(a) of the **Agreement**,
  - (iii) provided by **Hydro** in respect of the capitalized replacement cost of the **Arena** pursuant to Article 11.6.6 of the **Agreement**,
- (b) an Operation and Maintenance Sub-Account consisting of amounts provided by **Hydro** in respect of the capitalized operation and maintenance cost of the **Arena** or **Specified Remedial Works** pursuant to Articles 11.6.6, 11.8.10(b) or 11.8.11 of the **Agreement**; and
- (c) a Recreation Facilities and Programs Sub-Account.

#### 11.5 Restrictions on Community Development Sub-Accounts.

Funds

allocated to the Arena Replacement Sub-Account shall only be used to replace or repair the **Arena** or to build replacement **Capital Works**. Income generated from funds allocated to the Operation and Maintenance Sub-

Account shall only be used for operation and maintenance of the **Arena**, **Specified Remedial Works** or replacement **Capital Works**. Income generated from funds allocated to the Recreation Facilities and Programs Sub-Account shall be used to build or develop recreational facilities on **Reserve** and for recreation programs for **Nelson House**. There shall be no encroachment on the capital amount in the Operation and Maintenance Sub-Account or the Recreational Facilities and Programs Sub-Account.

- 11.6 **Trustees' Discretion.** If there are insufficient funds in the **Community Development Account** to pay for preparing and conducting the annual **Community Approval Process**, the **Trustees** may, prior to the budget being approved, advance to **Chief and Council** up to fifty thousand (\$50,000.00) dollars from the anticipated **Funds Available** for that purpose.

## 12.0 **ARTICLE 12: CLAIMS ACCOUNT**

- 12.1 **Uses of the Claims Account.** The **Claims Account** shall be used for:
- (a) the payment of claims and costs in accordance with Article 12 of the **Agreement**;
  - (b) the reasonable costs of the **Arbitrator** arising out of claims under Article 12 of the **Agreement**;



- (c) the reasonable costs to investigate claims; and
- (d) payment of costs awarded to a **Claimant**;

12.2 Minimum Balance. Immediately upon settlement of the **Trust**, fifty thousand (\$50,000.00) dollars shall be paid into the **Claims Account** from the **Settlement Proceeds**. Thereafter, the **Claims Account** shall be replenished at the beginning of each fiscal year as a first priority from the **Funds Available** to ensure that, after payment of all claims approved for payment in the previous fiscal year, a minimum balance of fifty thousand (\$50,000.00) dollars is maintained. Funds in the **Claims Account** in excess of fifty thousand (\$50,000.00) dollars on the last business day of a fiscal year shall be transferred on that date to the **Investment and Heritage Account**.

12.3 Reduction in Balance. If claims paid are less than fifty thousand (\$50,000.00) dollars per year in the previous five (5) year period, the balance to be maintained in the **Claims Account** may, by **Council Resolution** and the unanimous consent of the **Nelson House Trustees**, be reduced to an amount equivalent to the highest amount paid in any of the previous five (5) years. The minimum balance to be maintained in the **Claims Account** may be increased by **Council Resolution** and the unanimous consent of the **Nelson House Trustees**.

12.4 Advance Payments. Upon request by **Council Resolution**, the **Trustees** shall release twenty-five thousand (\$25,000.00) dollars from the **Claims Account to Chief and Council** for the payment of claims. Such **Trust Moneys** so advanced shall be deposited by **Chief and Council** in a separate interest bearing trust account. The **Trustees** may advance further funds, provided they are satisfied that such further amounts are required for the settlement of claims, and provided **Chief and Council** have given to the **Trustees**:

- (a) an accounting of previous funds advanced, including any interest accrued thereon;
- (b) copies of all applications made by **Claimants** to whom money was paid;
- (c) copies of all written decisions made by **Chief and Council**, the **Claims Officer**, a claims panel, the **Arbitrator**, or the Court of Appeal in relation to those applications; and
- (d) copies of the Release and Acknowledgement forms signed by **Claimants**.

12.5 Payment by Trustees. If **Chief and Council** are unwilling or unable to comply with the provisions of Article 12.4 and, as a consequence, or for any

other reason, approved claims cannot be paid, the **Trustees** shall have the authority to pay such claims directly upon receipt of the **Claimant's** application, the applicable written decision and a Schedule 12.4 form under the **Agreement** signed by the **Claimant**.

### **13.0      ARTICLE 13: INVESTMENT AND HERITAGE ACCOUNT**

**13.1    Investment and Heritage Account.**    The **Investment and Heritage Account** shall hold funds for future uses and contingencies in accordance with Articles 8.10 to 8.14 .

**13.2    Investment Sub-accounts.** The **Trustees** shall, as required, establish and maintain separate records within the **Investment and Heritage Account** for amounts:

- (a)    which are available for disbursement in that fiscal year;
- (b)    which are not available for disbursement in the fiscal year, but which are otherwise unrestricted; and
- (c)    on which restrictions have been placed by the **Community Approval Process**.

13.3 Funding of the Investment and Heritage Account. The Investment and Heritage Account may be funded:

- (a) as decided by the **Community Approval Process** under Article 8;
- (b) as decided by a **Majority Vote** of a **Meeting of Members** under Article 8.10;
- (c) by transfers of excess funds from the **Claims Account** under Article 12.2;
- (d) from **Hydro** payments allocated under Schedule 2.2 of the **Agreement**; and
- (e) by transfers of unallocated portions of the **Funds Available** under Article 10.4 at the end of a fiscal year.

14.0 **ARTICLE 14: INVESTMENT OF TRUST ASSETS**

14.1 Investments. Subject to Article 14.2, the **Trustees** shall, through an office of a financial institution located on reserve, invest **Assets** only in bills, bonds, debentures, mortgages, or other evidences of indebtedness, guaranteed by the Government of Canada, or a Provincial government of Canada; or rated "R 1- middle" or better by Dominion Bond Rating Service, or rated equivalently by a recognized national or international debt rating service.

- 14.2 Other Investments. The **Trustees** shall, through an office of a financial institution located on a reserve, invest **Assets** of the **Investment and Heritage Account** only in investments authorized by the Pension Benefits Act (Canada) as amended from time to time.
- 14.3 Investments Require Approval of Nelson House Trustees. Subject to Articles 14.3 and 14.4, the **Corporate Trustee** shall not invest any **Assets**, other than short term investments, without the prior approval of the **Nelson House Trustees**. The **Corporate Trustee** shall invest **Assets** prior to disclosure, as required below, on a short term basis only, in investments issued on a reserve which are as similar as possible to Government of Canada Treasury Bills. The **Corporate Trustee** shall not invest **Assets** without prior disclosure to the **Trustees** of comparative interest rates and terms in deposits or other instruments to those of the **Corporate Trustee**, its parents or subsidiaries, where such investments are proposed.
- 14.4 Market Changes. The **Corporate Trustee** may hold or sell an investment of the **Trust** without consultation with the **Nelson House Trustees** in circumstances where in the opinion of the **Corporate Trustee** the market is volatile and, as a consequence of rapid market changes, the time required

to consult is likely to result in a loss to the **Trust** of capital value or an opportunity for capital growth.

14.5 Location of Assets. The **Trustees** shall maintain custody of all **Assets** on a reserve.

## 15.0 ARTICLE 15: TRUSTEES' POWERS

15.1 Power and Authorities. Subject to the investment provisions in Article 14, the **Trustees** may:

- (a) make, execute, acknowledge and deliver any agreements, with any person or corporation, concerning any **Asset** ;
- (b) open and operate bank accounts on a reserve and deposit any cash balances in the hands of the **Corporate Trustee** in any chartered bank or trust company operating on a reserve, which is a member in good standing with the Canada Deposit Insurance Corporation;
- (c) following notice to **Chief and Council**:
  - (i) employ other trust companies, professional investment counsellors, solicitors, auditors, accountants and agents,

- (ii) determine and pay, by direct debit from the **Community Development Account**, the agreed fees of the **Corporate Trustee** properly incurred in the administration of this **Trust** subject to the limitation that such costs, exclusive of the costs of the **Corporate Trustee** and litigation costs relating to the proper administration of the **Trust** will, in the absence of approval by **Majority Vote**, be no greater than ten thousand (\$10,000.00) dollars per annum,
- (d) following notice to, and provided they are not parties adverse in interest, with the approval of, **Chief and Council**, institute, prosecute, defend or settle any suits or actions or other proceedings affecting them or the **Trust**;
- (e) make, or refrain from making, any election, determination or designation permitted by any statute or regulation enacted by Parliament or by a Legislature of a province of Canada or by any other legislative or governmental body of any other country, which exercise of discretion by the **Trustees** shall be binding upon all of the beneficiaries of this **Trust**;

- (f) vote all shares and stocks forming part of the **Assets**; exercise all rights incidental to the ownership of shares, stocks, bonds, debentures or other securities or investments forming part of the **Assets**; issue proxies appointing one of them or another person to vote for the election of themselves, or any other candidate, to any executive or other board or committee of any such company or corporation or association; serve in any such office or on any such board or committee; consent to, and join in, any plan for reconstruction, reorganization, amalgamation, consolidation, readjustment, liquidation, dissolution or winding-up, in respect of any company or corporation whose shares, stocks, bonds, debentures, notes or other securities form part of the **Assets**;
- (g) sell, call in and convert into money, any **Assets** not consisting of money, at such time, and in such manner and upon such terms, as they decide; or postpone such conversion of property, or any part of that property, for such length of time as they consider advisable. The **Trustees** may retain, as an authorized investment of the **Trust**, for all purposes of this **Trust**, for such length of time as they consider necessary, any



cash or other property originally transferred to the **Trustees** pursuant to this **Indenture**;

- (h) following notice to **Chief and Council** purchase, pay premiums on, and hold policies of insurance; and
- (i) following notice to **Chief and Council**, pay any taxes payable in respect of any **Assets**.

15.2 Proper Execution of Documents. No contract, document, instrument, promissory note, commercial instrument, or other similar commercial or legal document made on behalf of this **Trust** shall bind this **Trust** unless it is executed by the **Corporate Trustee**.

15.3 Reliance Upon Reports. The **Trustees** may rely and act upon the accuracy of any statement, report, certificate or opinion from **Chief and Council**, the **Arbitrator**, the **Auditor** or any solicitor for the **Trust**, or any person required to prepare a report or certificate under this **Indenture**, and shall not be responsible or held liable for any loss or damage resulting from acting in good faith, upon such statement, certificate, opinion or report.

15.4 Trustees Indemnification. Each **Trustee** assumes office on the express understanding and condition that the **Trustee**, and the heirs, executors,

administrators and successors of that **Trustee** shall be indemnified out of the **Trust**, from and against all costs, charges and expenses, which are brought, commenced or prosecuted against the **Trustee**, for or in respect of any act, deed, matter or thing, done or permitted by the **Trustee** related to the duties set out in this **Indenture** and at law, and also from and against all other costs, charges and expenses which the **Trustee** sustains or incurs with respect to the **Trust**, except such costs, charges or expenses which arise due to matters a **Trustee** is liable for under Articles 6.9 and 7.9 .

- 15.5 Procedures for Indemnification. When requesting indemnification under Article 15.4, the **Trustee** shall give written notice to **Chief and Council**, setting out the amount sought, the reason for the indemnification and the time such payment is required. Within thirty (30) days of receipt of the notice, **Chief and Council** may either approve payment of the indemnification by notifying the **Trustee** in writing or if it disapproves, refer the matter to the **Arbitrator** for resolution. Failure of **Chief and Council** to refer the matter to the **Arbitrator** within thirty (30) days shall be deemed to be approval of the indemnification. No indemnification shall be paid from the **Funds Available** before provision is made to maintain the minimum balance in the **Claims Account** and the indemnification has been approved by **Chief**

and Council, or ordered by the **Arbitrator** or the Court of Appeal of Manitoba.

**16.0                    ARTICLE 16 : PAYMENTS FROM THE TRUST**

**16.1    General Requirements.**     Prior to making any payment under Article 16 the **Trustees** shall have:

- (a)    received with respect to any amount requested, a **Council Resolution** in a Schedule 4, 5 or 6 form, as applicable;
- (b)    received evidence, in a form acceptable to the **Trustees**, that **Chief and Council** is not in default of the accounting and reporting requirements as set out in Articles 17 and 19;
- (c)    received evidence, in a form acceptable to the **Trustees**, that the annual audit opinion required pursuant to Article 17.2 is not subject to a qualification as set out in Article 17.2, or any other qualification as would indicate a material breach of the **Agreement** or this **Indenture**, which qualification has not been rectified to the satisfaction of the **Trustees** in their sole discretion; but, except where expressly required by Article 8.7, the **Trustees** shall have no obligation or right to question the

appropriateness of an expenditure approved by the **Community Approval Process**;

- (d) confirmed there are sufficient funds to meet the request;
- (e) determined, on reasonable grounds, that immediately after the payment is made this **Trust** will be able to meet its liabilities as they become due;
- (f) determined that the use of the funds, as disclosed in the documents, will not entail any forward commitment of **Assets** not authorized by this **Indenture**; and
- (g) determined that the amount by which the **Net Value of the Assets**, excluding any **Arena Funds**, the **Assets** held in the **Investment and Heritage Account**, and the principal amount in the **Operation and Maintenance Sub-Account** and the **Recreational Facilities and Programs Sub-Account**, will, immediately after such payment, be not less than forty million (\$40,000,000.00) dollars.

After complying with Article 16.1 the **Trustees** shall make the necessary payments from a financial institution located on a reserve.

16.2 **Disbursement of Funds Available.** Subject to Article 16, the **Trustees** shall make payments to **Chief and Council** or its designated agent, from

the **Funds Available** as specified in a budget approved by the **Community Approval Process**.

16.3 **Claims Account**. The **Trustees** shall make payments from the **Claims Account** to **Chief and Council** or to **Claimants** pursuant to Article 12. No payments shall be made from the **Claims Account** in respect of an **SIL Claim**, as determined under Articles 12 or 13 of the **Agreement**.

16.4 **Investment and Heritage Account**. Prior to making payments from the **Investment and Heritage Account**, the **Trustees** shall:

- (a) receive a certificate, and the required supporting documents, from **Chief and Council** in a Schedule 6 form confirming that a **Meeting of Members** approved the expenditure of **Trust Moneys** in the amount specified from the **Investment and Heritage Account**;
- (b) determine that the use proposed for the funds complies with the restrictions imposed by **Majority Vote** under Articles 8.10 and 8.11 or that there are sufficient unrestricted funds to make the payment.

16.5 **Community Development Account.** Subject to Article 16.7, the **Trustees** shall advance to **Chief and Council**, or its designated agent, the amounts allocated to the **Community Development Account** to the extent requested by **Chief and Council**, but not more than a third (1/3) thereof shall be advanced in respect of any quarter of a fiscal year. Within those limits, any amounts not requested by **Chief and Council** in a prior quarter may be requested and if requested shall be advanced in a subsequent quarter in addition to the amounts which may be requested and advanced in that quarter. If in the initial year of this **Trust** the **Settlement Proceeds** are paid part way through the fiscal year, advances pursuant to this Article shall be payable as though the **Trust** commenced at the beginning of that year. Prior to the end of the fiscal year, the **Trustees** shall allocate all advances paid during the year in accordance with Articles 10.4 and 10.6.

16.6 **Payments from Sub-Accounts.** Consistent with Article 11.5, prior to making payments from the Arena Replacement, Operation and Maintenance, or Recreation Facilities and Programs Sub-Accounts, the **Trustees** shall receive a certificate from **Chief and Council**, and supporting documents in a Schedule 4 or 5 form as applicable.

16.7 Limitation on Disbursement of Funds. The **Trustees** shall not release a quarterly payment from the **Community Development Account** if more than one quarterly report required from **Chief and Council** pursuant to Article 19.1(a) is outstanding.

16.8 Payment to Agent. Where permitted by this **Indenture** and upon request by **Chief and Council**, the **Trustees** shall make payments to an agent of **Chief and Council** provided that:

- (a) the agent is and continues to be covered by the **Auditor's** certification under Article 17.2 with respect to comprehensive accounting and reporting systems; and
- (b) if such agent is a corporation, **Chief and Council** have certified that the corporation is:
  - (i) wholly controlled by **Chief and Council**,
  - (ii) in good standing, and
  - (iii) resident on **Reserve**.

16.9 Transmittal. Funds paid to a designated agent of **Chief and Council** shall be forwarded with a transmittal clearly documenting that they are **Trust Moneys** and the purposes for which they have been advanced and the

**Trustees** shall at the same time forward a copy of such transmittal to **Chief and Council**.

16.10 Payments for Children. Payments to any person under the age of majority shall be held in the **Trust** until such person reaches the age of majority, subject to parents or guardians of such persons applying under applicable law for advances for the benefit or maintenance of their child or ward. **Nelson House** will indemnify **Canada, Hydro and Manitoba** in respect of any claim by a **Member** arising from the administration or distribution of payments from the **Trust** under Article 16.10 to parents or guardians for the use and benefit of persons under the age of majority.

16.11 Acknowledgment and Receipt. No payments shall be made to a parent or guardian of a person under the age of majority until the parent or guardian has completed and provided an Acknowledgment and Receipt in Schedule 7 form.

16.12 Payment Absolute Discharge. Any moneys paid by the **Trustees** to **Chief and Council**, or its designated agent or pursuant to Articles 16.8 and 16.10 shall be a sufficient discharge to the **Trustees** with respect thereto.



- 16.13 Indemnity. The **Trustees** shall honour the indemnity obligations under Articles 12.5.3(b) and (e) and 14.3.1 of the **Agreement** and return the **Hydro Bond** or moneys from the **Trust** to meet the indemnity obligation.

17.0                    **ARTICLE 17: ADMINISTRATION OF FUNDS**  
**RECEIVED FROM THE TRUST**

- 17.1 Separate Trust Accounts. All **Trust Moneys** received by **Chief and Council**, or its designated agent, from separate **Accounts** or Sub-Accounts shall be deposited in separate accounts in an office of a financial institution located on a reserve, and not mingled with money from other **Accounts** or Sub-Accounts or other sources. However, **Chief and Council** or its designated agent may establish additional segregated trust accounts in an office of a financial institution located on a reserve, for **Trust Moneys** disbursed from the **Community Development Account** or the **Investment and Heritage Account**.

- 17.2 Establishment of Expenditure Records. The **Trustees** shall not advance funds from the **Trust** to **Chief and Council** or its designated agents until the **Auditor** has provided written confirmation that an adequate system has been established by **Chief and Council** to provide for the comprehensive

accounting and reporting of **Trust Moneys** and the disclosures made, and budget approved during, the **Community Approval Process**. If the annual audit contains any qualification with respect to the operation of that system, the **Trustees** shall not make any further payments to **Chief and Council** or its designated agent until the **Auditor** confirms such deficiency has been rectified.

17.3 Expenditures. Expenditures of **Trust Moneys** by **Chief and Council** or its designated agents shall be fully documented in such a manner as to evidence readily and accurately that such expenditure has not varied from the budget approved by and disclosures made during the **Community Approval Process**.

17.4 Direct Management. Where **Trust Moneys** are administered by its designated agents, **Chief and Council** shall remain responsible for the proper use thereof.

17.5 Indirect Management. When authorized by the **Community Approval Process**, **Chief and Council** may meet its responsibilities for the administration of **Trust Moneys** for specified purposes indirectly through the efforts of community organizations or **Members**. In such circumstances the

responsibility of **Chief and Council** will, after payment to such community organization or **Member**, be limited to reporting in accordance with the requirements of Article 19.1.

## **PART FIVE: REPORTS AND AUDITS**

### **18.0 ARTICLE 18: TRUSTEES' REPORT**

18.1 **Annual Reporting Requirements.** Within ninety (90) days after the end of each fiscal year, the **Trustees** shall provide **Chief and Council**, and, upon request, any **Member** or **Party**, with an annual report on the financial operations of the **Trust**, including:

- (a) the Auditor's report and opinion, including any supporting documentation; and
- (b) any special audit reports and opinions requested by the **Trustees**.

18.2 **Required Meeting.** If the **Trustees'** report signed by all **Trustees** is not provided as required in Article 18.1, **Chief and Council** shall within fifteen (15) days call a **Meeting of Members**. The **Trustees** shall attend and explain their failure to comply with the reporting requirements. The failure of

the **Trustees** to attend such **Meeting of Members** or to provide an explanation satisfactory to **Chief and Council** and the **Members** shall be grounds for termination.

## 19.0 **ARTICLE 19: REPORT ON APPLICATION OF TRUST MONEYS**

19.1 Financial Reports. **Chief and Council** shall make available to **Members** and provide the **Trustees** with:

- (a) quarterly reports, within thirty (30) days of the end of each quarter, which reconcile **Trust Moneys** received and spent; and
- (b) a yearly narrative and audited financial report which report shall include:
  - (i) a financial statement of **Trust Moneys** received,
  - (ii) an opinion of the **Auditor** as to the compliance, or otherwise, of the accounting system utilized, with the standards established in Article 17.2,
  - (iii) the audited financial statement for **Operation and Maintenance of Capital Works** for the purposes of Article 8.3(c)(i), and

- (iv) the audited financial statement for the  
**Operation, Maintenance and Replacement of  
the Arena.**

- 19.2 Availability of Reports. The annual report required pursuant to Article 19.1, shall be approved by **Chief and Council** and shall be provided to the **Trustees** within ninety (90) days after the end of the fiscal year, and notice of the availability of the report shall be given in the same manner as for a **Meeting of Members.**
- 19.3 Members Meeting. Within thirty (30) days of the provision of the **Trustees'** report to **Chief and Council** pursuant to Article 18.1, and **Chief and Council's** report to the **Trustees** pursuant to Article 19.1, a **Meeting of Members** shall be held to discuss both reports. The **Trustees** and **Chief and Council** shall attend this meeting.
- 19.4 Non-compliance. If **Chief and Council** does not comply with the reporting provisions set out in Article 19, the **Trustees** shall suspend payment of **Trust Moneys** except for indemnities pursuant to the **Agreement** or the **Indenture**, or payments specifically approved by a **Majority Vote** of a **Meeting of Members**, until the required reports have been provided.

- 19.5 Required Meeting. If the report required by Article 19.1 is not provided to the **Trustees** within ninety (90) days after the end of the fiscal year, any **Member** may apply to an **Arbitrator** on the list under Article 13.3 of the **Agreement** to conduct a **Meeting of Members** at which **Chief and Council** shall explain its failure to comply with the reporting requirements.

## **PART : SIX DISPUTES AND ENFORCEMENT**

### **20.0 ARTICLE 20: DISPUTES AND ENFORCEMENT**

- 20.1 Disputed Vacancy. If a dispute arises between **Chief and Council** and any **Nelson House Trustee** as to whether a **Nelson House Trustee** position is vacant, either party may, within ten (10) business days of the date the dispute arose, refer the matter to arbitration. In the event of a referral to **Arbitration**, the incumbent **Nelson House Trustee** shall remain in office until removed by the **Arbitrator** following which **Chief and Council** shall appoint a successor.
- 20.2 Dispute with Nelson House Members. Any **Member** who alleges that a **Nelson House Trustee** has violated the **Agreement** or this **Indenture** may submit the matter to arbitration.

- 20.3 Dispute With Chief and Council. The **Corporate Trustee**, a **Nelson House Trustee** or any **Member** who alleges that **Chief and Council**, or a member of **Chief and Council**, has violated the **Agreement** or this **Indenture** may submit the matter to arbitration.
- 20.4 Arbitration of Trust. If the **Corporate Trustee** or the **Nelson House Trustees** do not perform their obligations and duties under this **Indenture**, **Chief and Council** or any **Member** may apply to the **Arbitrator** to resolve any dispute, interpret this **Indenture**, or declare rights and obligations under this **Indenture**, or apply to court for an order compelling compliance.
- 20.5 Other Disputes. Any dispute in relation to this **Indenture** involving parties to or beneficiaries of this **Indenture** may be referred to the **Arbitrator** provided that there shall be no arbitration under the **Indenture** involving **Canada, Manitoba or Hydro** which involves any other person except **Nelson House**.

**PART SEVEN: AMENDMENT AND TERMINATION**

**21.0           ARTICLE 21: AMENDMENT AND TERMINATION**

21.1 **Trust Irrevocable.** Except as otherwise provided in this **Indenture**, the **Trust** established by this **Indenture** is irrevocable.

21.2 **Application to Court.** Subject to Article 21.3, **Nelson House** may, with the written consent of **Canada, Manitoba** and **Hydro**, which consents shall not be unreasonably withheld, apply to a court of competent jurisdiction to dissolve, amend, vary, add to, revise or modify the terms and conditions of this **Indenture**. Such application may proceed in the absence of written consent from **Canada, Manitoba** or **Hydro** if the court determines such consent has been unreasonably withheld.

21.3 **Consent of Members.** Before applying to a court of competent jurisdiction under Article 21.2, **Chief and Council** shall:

- (a) give **Members** at least thirty (30) days notice in the same manner and with the same disclosures as for a **Meeting of Members** under Article 8.2, that a meeting will be held to discuss varying or dissolving the **Trust**;



- (b) hold a meeting where **Chief and Council** shall explain the nature and significance of the dissolution, amendment, variation, addition, revision, modification, payment or transfer;
- (c) where the intention is to amend, vary, add to, revise or modify the terms and conditions of this **Indenture**, obtain a majority vote of the adult **Members** present at such meeting, by secret ballot, authorizing **Chief and Council** to make the court application;
- (d) where the intention is to dissolve the **Trust**, obtain a two-thirds majority vote of the adult **Members** present at a meeting where not less than 50% (fifty per cent) of all adult **Members** are present for the vote, by secret ballot, authorizing **Chief and Council** to make the court application;
- (e) compile a list of those **Members** attending the meeting and the results of the vote, which document shall be filed in court with the application; and
- (f) after obtaining authorization by a secret ballot vote pass a **Council Resolution** authorizing the court application.

21.4 Effective Date of Amendment or Dissolution. A change in the **Trust** under Article 21.2 shall take effect only after all appeals are exhausted or the time for filing them has expired.

21.5 Compliance. Upon being served with an order of the court dissolving the **Trust**, the **Trustees** shall, subject to Article 21.4, immediately comply with the court order.

## **PART EIGHT: ACKNOWLEDGEMENT AND RELEASE**

### **22.0 ARTICLE 22: ACKNOWLEDGEMENT AND RELEASE**

22.1 Acknowledgement. **Nelson House** acknowledges that the arrangements in this **Indenture** provide decision making and management authority, disclosure and accountability by, to and within, **Nelson House**; and that none of **Manitoba, Hydro, or Canada** shall be responsible for the effectiveness or operation of these arrangements. **Nelson House** further acknowledges that there is no sanction or warranty, either express or implied, by any of **Manitoba, Hydro, or Canada**, that the arrangements in this **Indenture** or the **Agreement** will attain the development or other

purposes of **Nelson House**. Article 22.1 does not alter or qualify the obligations of **Canada, Manitoba** or **Hydro** pursuant to the **Agreement**.

22.2 Release. **Nelson House** releases and forever discharges **Canada, Manitoba** and **Hydro** from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, including any claims of a fiduciary character, if any, which **Nelson House** has had, now has, or hereafter can, shall or may have, for, or in respect of obligations of **Canada, Manitoba, or Hydro** to **Nelson House** for anything done or omitted to be done by **Canada, Manitoba, or Hydro** to and from the date of this **Indenture**, with respect to any of the matters or arrangements provided for in this **Indenture** including the substitution of these **Trust** arrangements for the provisions of the Indian Act (Canada) pertaining to Indian moneys. Article 22.2 does not limit the obligations assumed by **Canada, Manitoba, and Hydro** pursuant to the **Agreement** . Nothing in Article 22.2 shall relieve **Canada, Manitoba or Hydro** of liability for breaches of the **Agreement**, future negligent acts or omissions, or wilful misconduct, on their own part, or on the part of those for whom they are responsible at law.

**PART NINE: GENERAL PROVISIONS**

**23.0 ARTICLE 23: GENERAL PROVISIONS**

- 23.1 **Proper Law of Trust.** This **Trust** shall be governed and interpreted according to federal and provincial laws in force in Manitoba from time to time.
- 23.2 **Assignment.** This **Indenture** and the rights and obligations under it may not be assigned.
- 23.3 **Enurement.** This **Indenture** shall enure to the benefit of and be binding upon the **Parties**, the beneficiaries, and the heirs, executors, administrators, and successors of all of them.
- 23.4 **Hydro Ceasing to be Agent.** If **Hydro** should cease to be an agent of Her Majesty in Right of Manitoba, all of its rights under this **Indenture** shall devolve upon **Manitoba**.
- 23.5 **Entire Agreement.** This **Indenture** and the **Agreement** constitute the entire agreement between the parties, and except as expressly provided,

supersede all prior agreements, understandings, negotiations and discussions whether oral or written, between the **Parties**. There are no representations, warranties, collateral agreements or conditions except as expressed in this **Indenture**.

23.6 Indexing. Limits on any amounts specified in this **Indenture** may be adjusted annually by the **Trustees** based upon the **Consumer Price Index**.

Signed, sealed and delivered  
in the presence of:

Valerie Matthews Lemier  
Witness as to Chief and Council

**Nelson House First Nation  
as Settlor**

[Signature]  
Chief

[Signature]  
Councillor

[Signature]  
Councillor

[Signature]  
Councillor

[Signature]  
Councillor

[Signature]  
Councillor

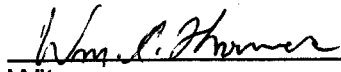
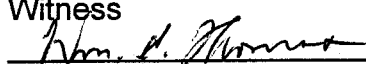
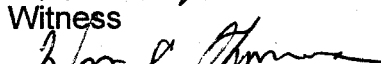
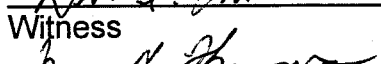
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Councillor

[Signature]  
Councillor

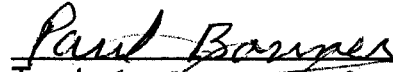

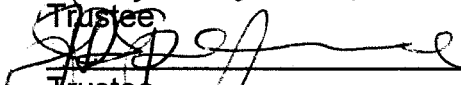
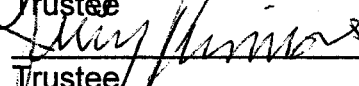
[Signature]  
Councillor

[Signature]  
Witness

on the 15 day of MARCH, 1996

  
 Witness  
  
 Witness  
  
 Witness  
  
 Witness

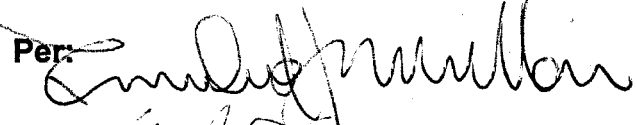
### Nelson House Trustees

  
 Trustee  
  
 Trustee  
  
 Trustee  
  
 Trustee

on the 15<sup>th</sup> day of MARCH, 1996

### The Corporate Trustee

Per:



Per:



on the 15<sup>th</sup> day of MARCH, 1996

### Her Majesty the Queen in Right of the Province of Manitoba

Per:



on the 15<sup>th</sup> day of March, 1996

### The Manitoba Hydro-Electric Board

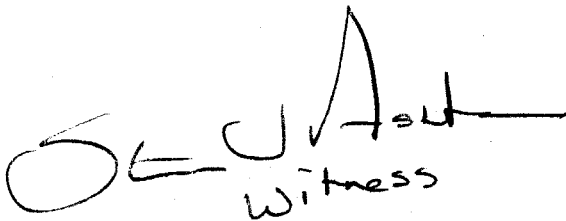
Per:



Per:



on the 15<sup>th</sup> day of MARCH, 1996

  
 Witness

Her Majesty the Queen in Right of  
Canada

A large, stylized handwritten signature in black ink, written over the text 'Her Majesty the Queen in Right of Canada' and 'Per:'.  
Per:

on the <sup>8<sup>th</sup></sup> day of March, 1996

Schedule 1

**NISICHAWASIIHK TRUST**

**Undertaking and Acceptance of Chief or Councillor**

I, \_\_\_\_\_, Chief/Councillor of the Nelson House First Nation  
elected to that office \_\_\_\_\_, state and undertake as follows:  
(date of most recent election)

1. I have read or I have had explained to me the terms of the Trust Indenture establishing the Nisichawasihk Trust, with particular reference to the duties, responsibilities and liabilities of members of Chief and Council in the administration of the Trust, the Community Approval Process and the expenditure of and accounting for Trust moneys in accordance with the terms of the Trust;
2. I have obtained or I hereby waive my right to the advice of legal counsel in connection with my duties and responsibilities under the Trust;
3. I hereby accept and will honestly and faithfully discharge the duties, responsibilities and liabilities of a member of Chief and Council under the Nisichawasihk Trust during my term of office.

DATED AT Nelson House on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Chief/Councillor



Schedule 2

**NISICHAWASIIHK TRUST**

**Undertaking and Acceptance of Nelson House Trustee**

I, \_\_\_\_\_, appointed by Chief and Council of the Nelson House First Nation as a Nelson House Trustee on (date of appointment) state and undertake as follows:

1. I have read or I have had explained to me the terms of the 1996 Trust Indenture establishing the Nisichawasihk Trust, with particular reference to the responsibilities and liabilities of Nelson House Trustees in the administration of the Trust, the Community Approval Process and the disbursement of and accounting for assets and moneys of the Trust in accordance with the terms of the Trust;
2. I have obtained or I hereby waive my right to the advice of legal counsel in connection with my duties and responsibilities under the Trust;
3. I hereby accept and will honestly and faithfully discharge the duties, responsibilities and liabilities of a of a Nelson House Trustee under the Nisichawasihk Trust during my term in that office.

DATED AT Nelson House on the      day of      , .

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Nelson House Trustee

Schedule 3

**NISICHAWASIIHK TRUST**

**Undertaking and Acceptance of Corporate Trustee**

For two (\$2.00) dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, \_\_\_\_\_ ("the Company") undertakes and certifies as follows: (name of the Trust Company)

1. The Company is authorized under all applicable laws to carry on the business of a trust company in Manitoba;
2. The Company is a member in good standing of the Canada Deposit Insurance Corporation;
3. The Company agrees to accept and perform all the duties and responsibilities of a Corporate Trustee under the 1996 Trust Indenture establishing the Nisichawasihk Trust and to be bound by that Indenture as though it were an original signatory thereto.

DATED at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
for (Trust Company)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
for (Trust Company)

Schedule 4

**NISICHAWASIIHK TRUST**

**Resolution of Chief and Council  
Certificate of Disclosure and  
Budget Approval by Community Approval Process**

TO: Corporate Trustee, Trustees of the Nisichawasihk Trust

This is to certify that the budget attached hereto for the Funds Available, the Operation and Maintenance, or the Recreational Facilities and Programs Sub-Account to be spent from , , to , was:

1. to the best of our information and belief the subject of true disclosure in full compliance with the disclosure requirements of Article 8.3, and if applicable Article 4.5 and(or) Article 8.6 of the Trust Indenture, with respect to all amounts in that budget and as evidenced by copies of the notices and other documents attached hereto;
2. considered at a Meeting of Members called in accordance with the requirements of Article 8.2 of the Trust Indenture; and
3. approved by Chief and Council as evidenced by the attached Council Resolution; and
4. in the case of the Arena budget approved by Chief and Council and Hydro as evidenced by the attached correspondence.

DATED AT Nelson House this       day of       ,       .

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

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Councillor

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Councillor

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Councillor

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Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Witness

Schedule 5

**NISICHAWASIIHK TRUST**

**Resolution of Chief and Council  
Certificate of Disclosure and  
Release of Funds for Capital Works or Arena Replacement  
by Community Approval Process**

TO: Corporate Trustee, Trustees of the Nisichawasihk Trust

This is to certify that the proposed expenditure plan attached hereto for payments towards new capital works or arena replacement was:

1. to the best of our information and belief the subject of true disclosure in full compliance with the disclosure requirements of Article 8.3, and if applicable Article 4.5 and (or) Article 8.6 of the Trust Indenture, with respect to all amounts in that budget;
2. considered at a Meeting of Members called in accordance with the requirements of Article 8.2 of the Trust Indenture; and
3. approved by Majority Vote in accordance with the provisions of Article 8.10 of the Trust Indenture or by a two-thirds (2/3) vote of the Members over the age of 18 years who voted at that meeting, where Article 8.11 applies.

DATED AT Nelson House this       day of       ,       .

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

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Councillor

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Councillor

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Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Witness

Schedule 6

**NISICHAWASIIHK TRUST**

**Resolution of Chief and Council  
Certificate of Disclosure and  
Budget Approval by Community Approval Process for  
Investment and Heritage Account**

TO: Corporate Trustee, Trustees of the Nisichawasihk Trust

This is to certify that the proposed expenditure plan attached hereto for the Investment and Heritage Account of the Nisichawasihk Trust was:

1. to the best of our information and belief the subject of true disclosure in full compliance with the disclosure requirements of Article 8.3, and if applicable Article 4.5 and (or) Article 8.6 of the Trust Indenture, with respect to all amounts in that budget;
2. considered at a Meeting of Members called in accordance with the requirements of Article 8.2 of the Trust Indenture; and
3. approved by Majority Vote in accordance with the provisions of Article 8.10 of the Trust Indenture or by a two-thirds (2/3) vote of the Members over the age of 18 years who voted at that meeting, where Article 8.11 applies.

DATED AT Nelson House this       day of       ,       .

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

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Councillor

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Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Witness

Schedule 7

**NISICHAWASIIHK TRUST**

**Acknowledgment and Receipt of  
Parent, Guardian or Legal Representative**

I, \_\_\_\_\_, of \_\_\_\_\_, in the Province of \_\_\_\_\_  
am the \_\_\_\_\_  
(indicate whether parent/guardian/lawfully appointed legal  
representative)

of \_\_\_\_\_, in the Province of \_\_\_\_\_, satisfactory evidence  
of which has been provided to \_\_\_\_\_  
(indicate whether Nelson House Chief and Council or  
Trustees of the Nisichawasihk Trust)

have received from \_\_\_\_\_  
(indicate whether Nelson House Chief and Council or the  
Trustees of the Nisichawasihk Trust)

the amount of \$ \_\_\_\_\_ to be held and applied on behalf of \_\_\_\_\_

in accordance with the law.

On behalf of \_\_\_\_\_, I hereby acknowledge receipt of such funds and release  
and indemnify the payor with respect thereto.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Parent/Guardian/Legal Representative

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## ARTICLE 2

### 2.0 WATER LEVELS AND FLOWS

#### 2.1 INTRODUCTION

2.1.1 Introduction. Article 2 establishes the **Compensated Range** settled by this **Agreement** and sets out a payment schedule for compensation for damages payable by **Hydro** to **Nelson House** when **Hydro** operates the **Project** outside the **Compensated Range**. Article 2 also establishes safety measures associated with the water regime.

#### 2.2 RECORDS

2.2.1 Controlling Bench Marks. If, for the purposes of this **Agreement**, it becomes necessary to replace a **Controlling Bench Mark** it shall be replaced by **Hydro**. Whether a **Controlling Bench Mark** is replaced for the purposes of this **Agreement**, or for any other purpose, such replacement shall, to the satisfaction of the Surveyor General of Canada, be established near the location of, and to the same degree of accuracy as, the original **Controlling Bench Mark** and for the purposes of this **Agreement** be tied to **ASL. Manitoba, Nelson House** and **Hydro** release **Canada** from all liability with respect to the definition, selection

or determination of the **Controlling Bench Marks** and **ASL**.

2.2.2        Water Level Data.        At the **Date of the Agreement**, **Canada** operates the **Nelson House Gauge** in accordance with the Canada - Manitoba Water Quantity Surveys Agreement dated April 1, 1975. **Canada** will give not less than one hundred eighty (180) days notice to the other **Parties** if it intends to cease operating the **Nelson House Gauge**. The **Parties** agree that if **Canada** ceases such operation **Hydro** shall forthwith assume such duties. If it becomes necessary to replace or re-locate the **Nelson House Gauge**, it will be replaced by the party responsible for replacement under the applicable provisions, if any, of the Canada - Manitoba Water Quantity Surveys Agreement or any successor agreement, or in the absence of such provisions, by **Hydro** and the location shall be on Footprint Lake, in reasonable proximity to the existing location and, subject to improvements in the state of the art, the design shall be the same as the existing one and it shall be tied to a benchmark which has been established to a third order accuracy or better, in accordance with a recognized Canadian standard on vertical control levelling. The data recorded by the **Nelson House Gauge** shall be tied to the **Controlling Bench Marks**. Prior to construction of any replacement gauge or relocation of the **Nelson House Gauge**, the design and location shall be approved by **Nelson House**, **Hydro**, and at its option **Canada**, as represented by the Inland Waters Directorate of Environment Canada or its successor, but **Canada** shall be exposed to no liability

under this **Agreement** for a failure to exercise such option.

2.2.3        Records.        From and after the **Date of this Agreement**, **Hydro** agrees to maintain a record of the water levels recorded by the **Nelson House Gauge** and provide such records to any **Party** when requested or required for purposes of this **Agreement**. No **Party** warrants the accuracy or adequacy of the data recorded by the **Nelson House Gauge**.

2.2.4        Notice Regarding Malfunction of Nelson House Gauge.        If at any time it comes to the attention of any **Party** that the **Nelson House Gauge** is not accurately providing the water level measurements required by this **Agreement**, that **Party** shall forthwith notify the other **Parties**.

## 2.3            **OPERATION OF THE PROJECT**

2.3.1        Regulatory Authorities.        Except as expressly set out in Article 8.4.7(a) or the **Easement Agreement** nothing in this **Agreement** shall impose, or be read or construed to impose, any restraint on the lawful operation of the **Project** by **Hydro**.

2.3.2        Undertaking of Hydro.        **Hydro** shall, after the **Date of this**

**Agreement:**

- (a) taking into account the concerns **Nelson House** has expressed about safety arising from operations outside the parameters of the **Compensated Range**, exercise due diligence and take all practical, lawful and reasonable measures which may be available to control discharge from the Notigi Control Structure so as not to create conditions outside the parameters of the **Compensated Range**, unless it is reasonable in all of the circumstances to fall outside such parameters to meet demands for hydro-electric power and other operating requirements of the system, in which event **Nelson House** is entitled to be paid compensation as set out in Schedule 2.2; and
- (b) if operation of the **Project** is reasonably likely to result in **Daily Average Water Levels or Rates of Change** outside the parameters of the **Compensated Range**, provide reasonable and timely notice and, where possible, prior notice to **Nelson House** giving the reasons for such operation, the degree to which, and length of time during which it is anticipated that **Daily Average Water Levels and Rates of Change** will fall outside the parameters of the **Compensated Range**.

## 2.4 COMPENSATED RANGE

2.4.1 **Compensated Range**. The parameters of the **Compensated Range** are shown graphically on Schedules 2.3, 2.4 and 2.5 and shall be described by **Daily Average Water Levels and Rates of Change** as follows:

- (a) a **Daily Average Water Level** which does not:
  - (i) exceed 243.840 m (800.00 ft.) **ASL**, or
  - (ii) fall below 241.249 m (791.50 ft.) **ASL**, and
- (b) a **Rate of Change**, during the seasonal period from November 1 to the next March 31, which does not exceed:

<u>Relevant Period</u>	<u>Increase</u>	<u>Decrease</u>
(i) 7-day	0.213 m (0.70 ft.)	0.305 m (1.00 ft.)
(ii) 31-day	0.701 m (2.30 ft.)	0.914 m (3.00 ft.)

- (c) a **Rate of Change**, during the seasonal period from April 1 to October 31, which does not exceed:

<u>Relevant Period</u>	<u>Increase</u>	<u>Decrease</u>
(i) 7-day	0.549 m (1.80 ft.)	0.427 m (1.40 ft.)
(ii) 31-day	1.463 m (4.80 ft.)	1.402 m (4.60 ft.)

## 2.5 PREDETERMINED COMPENSATION

2.5.1 Schedule of Predetermined Compensation. If **Daily Average Water Levels** or **Rates of Change** outside of the parameters of the **Compensated Range** occur, or have occurred, after December 31, 1992, **Hydro** shall pay compensation to **Nelson House** in accordance with Schedule 2.2. The sum of one hundred thousand (\$100,000.00) dollars was paid to **Nelson House** on July 13, 1995 and shall stand as a credit to **Hydro** pursuant to this Article 2.5.1.

2.5.2 Reasonable Assessment of Damages. Schedule 2.2 represents the reasonable assessment by **Hydro** and **Nelson House** of damages which **Nelson House** will suffer if **Hydro** operates the **Project** so as to create **Daily Average Water Levels** or **Rates of Change** outside the parameters of the **Compensated Range**. These damages are not in relation to any past or future taking or using of **Reserve Lands** and do not authorize any breach of the **Easement Agreement** or constitute compensation for the taking or using of **Easement Lands** or other **Reserve Lands**. The issue of compensation for the taking or using of **Easement Lands** is fully addressed by the **Easement Agreement**, **Compensation Lands** to be transferred from **Manitoba** and other arrangements set forth in this **Agreement**.

2.5.3 Remedy for Encroachment. Where, through the fault of **Hydro**,

there is a taking or using of **Reserve Lands** not permitted by the **Easement Agreement** the court shall not, in determining reasonable redress for **Nelson House** consider the provisions for, or payment of, pre-determined compensation under Schedule 2.2 as compensation for such taking or using but with respect thereto, may give judgement for damages or equitable relief available in such cases.

2.5.4        Calculation and Payment. In each year, not later than June 15, for the seasonal period from November 1 to the next March 31, and January 15 for the seasonal period from April 1 to October 31, **Hydro** shall for each day within those seasonal periods:

- (a)        determine the **Daily Average Water Level**;
- (b)        as illustrated in Schedule 2.6, calculate the seven (7) and thirty-one (31) day **Rates of Change** as follows:
  - (i)        the seven (7) day **Rate of Change** shall be the difference between the highest **Daily Average Water Level** and the lowest **Daily Average Water Level**, whether a decrease or increase, within a seven (7) day period which includes the day for which **Rate of Change** is being calculated and the three (3) days immediately before and after that day provided such days fall within the same seasonal period as the day for

which the **Rate of Change** is being calculated. The **Daily Average Water Level** of any days which fall in a different seasonal period shall not be considered as part of that seven (7) day period so, at the seasonal boundaries, the seven (7) day period shall be shortened by the number of days which are in a different seasonal period,

- (ii) the thirty-one (31) day **Rate of Change** shall be the difference between the highest **Daily Average Water Level** and the lowest **Daily Average Water Level** whether a decrease or increase within a thirty-one (31) day period which includes the day for which **Rate of Change** is being calculated and the fifteen (15) days immediately before and after that day provided such days fall within the same seasonal period as the day for which the **Rate of Change** is being calculated. The **Daily Average Water Level** of any days which fall in a different seasonal period shall not be considered as part of that thirty-one (31) day period so, at the seasonal boundaries, the thirty-one (31) day period shall be shortened by the number of days which are in



a different seasonal period,

- (c) applying the sample formulae set forth in Schedule 2.7, determine the compensation, if any, payable under Schedule 2.2;
- (d) provide **Nelson House** with a written report summarizing the data and compensation calculations in a form similar to the Summary of Pre-determined Compensation forming part of Schedule 2.8; and
- (e) pay the compensation due to the **Corporate Trustee** for deposit to the **Trust**.

2.5.5        Dispute.        If **Nelson House** disagrees with the report, the accuracy of the data, the calculations, or the compensation paid pursuant to Article 2.5.4 and Schedule 2.2, it shall give written notice with reasons to **Hydro** within one hundred twenty (120) days of receipt of the report by **Nelson House**. If **Nelson House** fails to give such notice of dispute within the time period specified, it shall conclusively be deemed to have accepted the report including the data, the calculations and the compensation, as accurate.

2.5.6        Notice to Amend Schedule 2.2.        Where a fundamental change of a long-term nature which is not the result of **Future Development**, causes **Daily Average Water Levels** or **Rates of Change** consistently, but not necessarily constantly, outside of the parameters of the **Compensated Range**, or where

**Nelson House** and **Hydro** reasonably anticipate the occurrence of such a fundamental change, either **Nelson House** or **Hydro** may give notice to the other, that it considers the compensation set forth in Schedule 2.2 to be inordinately high or inordinately low given the circumstances of the fundamental change, or the anticipated fundamental change, and that it wishes to amend Schedule 2.2. Changes which are the result of **Future Development** are to be dealt with under Article 8.

2.5.7        Process.        If it is agreed by **Nelson House** and **Hydro** that there is a fundamental change referred to in Article 2.5.6 or if such a determination is made by the **Arbitrator**, **Nelson House** and **Hydro** shall:

- (a)        identify and review any positive and negative effects on **Nelson House** and **Members** which have resulted, or which it is anticipated would result, from the fundamental change, including without limitation any opportunities for on-the-job training, employment or business for **Nelson House** or **Members**;
- (b)        undertake such studies and investigations as are necessary to obtain a reasonable assessment and understanding of such potential effects which have been identified;
- (c)        consider methods which could eliminate or alleviate any **Adverse Effects** which have been identified;

- (d) identify, design and cost any mitigatory and remedial works which are reasonable to eliminate or alleviate any **Adverse Effects**;
- (e) determine appropriate compensation for any **Adverse Effects** which cannot reasonably be eliminated or alleviated;
- (f) on the basis of the foregoing, assess whether, as a consequence of the fundamental change, the compensation resulting from determinations under Schedule 2.2 is inordinately high or inordinately low; and
- (g) if appropriate, by agreement, amend Schedule 2.2.

2.5.8        Joint Studies.        Whenever a study or investigation of an issue is required to conclude the process outlined in Article 2.5.7, **Nelson House** and **Hydro** agree that, if reasonable, such study or investigation, including the establishment of the terms of reference for same, shall be undertaken by them jointly.

2.5.9        Budget.        **Hydro** and **Nelson House** shall jointly prepare a budget for the reasonable costs of **Nelson House** to review and investigate information provided or required under Articles 2.5.7 and 2.5.8. **Hydro** agrees to pay such costs provided that:

- (a) the actual invoice reflects the budget or a revised budget; and
- (b) the work done accords with the work outlined in the budget or revised

budget.

2.5.10 **Arbitrator's Remedial Authority.** Notwithstanding Article 13.7.6, if a dispute arises between **Nelson House** and **Hydro** under Articles 2.5.6, 2.5.7, 2.5.8 or 2.5.9 the **Arbitrator** shall have the authority to resolve such dispute, including authority to amend Schedule 2.2 so that the level of compensation is neither inordinately high nor inordinately low, but the **Arbitrator** shall not have authority to terminate Schedule 2.2.

2.5.11 **Onus.** In any arbitration under Article 2.5.10 the onus shall be on the **Party** alleging that:

- (a) a fundamental change of a long-term nature will cause **Daily Average Water Levels** or **Rates of Change** consistently, but not necessarily constantly, outside the parameters of the **Compensated Range**; and
- (b) the compensation set forth in Schedule 2.2, as may be amended from time to time, is inordinately high or inordinately low;

to prove such allegations. In the absence of such fundamental change, except as set forth in Article 2.5.13, the reasonableness of the pre-determined compensation in relation to occurrences outside of the **Compensated Range** shall not be open to dispute.

2.5.12      Continuation of Payments.      Schedule 2.2 shall continue in effect until amended by agreement between **Nelson House** and **Hydro**, or by order of the **Arbitrator**.

2.5.13      Additional Compensation. Notwithstanding the limit on compensation payable under Article 1.3 of Schedule 2.2, in extraordinary circumstances in any year, **Nelson House** may request additional compensation over such limit where the damage arising from **Daily Average Water Levels** and **Rates of Change** in excess of the **Compensated Range** is greater than the amount payable under such limit. If **Nelson House** and **Hydro** are unable to resolve the matter, either may refer the dispute to the **Arbitrator** who may award additional compensation if it is determined that the maximum compensation as limited by Article 1.3 of Schedule 2.2 is too low for the year in which the extraordinary circumstances arose. The onus of establishing that such limited compensation is inadequate to address the damages arising from such extraordinary circumstances will be on **Nelson House**.

2.5.14      Onus. Where a matter is referred to arbitration under Articles 2.5.10 or 2.5.13, the onus of proving the alleged damage shall be on the **Party** alleging such damage, but the onus shall always be on **Hydro** to establish that the **Project** did not cause, or contribute to, any such alleged damage or to an alleged **Adverse Effect**.

2.5.15 Past Period. A summary table of pre-determined compensation calculated for the period from December 31, 1992 to March 31, 1995 is shown on Schedule 2.8.

## 2.6 WINTER WATER LEVEL PROJECTION AND FORECASTS

2.6.1 Winter Water Projections. Hydro shall:

- (a) prior to November 1 of each year, provide a Winter Water Flow Projection to **Nelson House** which shall indicate the anticipated schedule of releases from the Notigi Control Structure on a monthly basis for the seasonal period from November 1 to the next March 31; and
- (b) prior to November 1 of each year, provide an Anticipated Water Level Calculation to **Nelson House** which shall indicate the anticipated water levels at the **Nelson House Gauge**, on a monthly basis for the seasonal period from November 1 to the next March 31.

The anticipated schedule of releases in Article 2.6.1(a) and the calculations in Article 2.6.1(b) shall be as accurate as is reasonable, based on the information available at the time they are made. Hydro may set forth any appropriate

qualification as to accuracy based upon the variability of the weather and other conditions.

2.6.2        Notice of Change. Where there is a change in the schedule of releases from the Notigi Control Structure referred to in Article 2.6.1(a), **Hydro** shall forthwith notify **Nelson House** of such change and the reasons for it.

2.6.3        Monthly Forecasts. On a monthly basis **Hydro** shall provide a sixty (60) day written forecast to **Nelson House**, accompanied by a graph, of the anticipated water levels at the **Nelson House Gauge**.

2.6.4        Revised Forecasts. If **Hydro** anticipates that there will be a variation of more than 0.305m (1.00ft) between the actual **Daily Average Water Levels** and the forecast levels, **Hydro** shall promptly provide a revised forecast to **Nelson House**.

2.6.5        Notification. **Hydro** shall make reasonable efforts to broadcast in both Cree and English the narrative portion of the monthly or revised forecasts contemplated by Article 2.6.3 and 2.6.4, over a radio station providing service in the area of Nelson House or by some other reasonable alternative method if no such radio station exists. Such broadcasts shall, in the event of a revision to a forecast,

begin forthwith upon the revision being made and continue for three (3) successive days or such longer period as may be necessary in the circumstances.

## 2.7 SAFETY MEASURES

2.7.1 Safety Measures. From the **Date of this Agreement**, Hydro shall implement or continue the safety measures specified in Articles 2.7.2 and 2.7.3 in the locations shown on Schedule 2.1.

2.7.2 Implementation of Safety Measures. Hydro shall, in consultation with **Nelson House**, implement, at **Hydro's** expense, the following safety measures:

- (a) annually prepare, mark and maintain ice crossings and main trails on the ice in the locations shown on Schedule 2.1;
- (b) monitor the safety of ice crossings when reasonably required in the winter period;
- (c) post notices with respect to changing ice conditions and vehicle load limits on any ice crossing;
- (d) conduct annual public meetings to provide information to **Members** on safe use of ice crossing;
- (e) remove debris at shoreline locations where winter ice trails intersect



the shoreline and a hazard to access exists;

- (f) as navigational aids for **Nelson House** and **Members**, annually supply, install and maintain mid-channel directional markers or buoys, not in breach of applicable governmental regulations, where reasonably required on those water bodies shown on Schedule 2.1;
- (g) maintain 4 ft. x 8 ft. signs warning of rapids or falls between Footprint Lake and Wuskwatim Lake, at reasonably visible upstream locations on both banks of the Burntwood River;
- (h) provide reasonable maintenance of the existing portages at Gods Rapids and Early Morning Rapids shown on Schedule 2.1, to a standard sufficient to accommodate equipment typically used by **Members**;
- (i) supply, and when required replace, reasonable quantities of snowfencing and related safety reflectors and posts to be installed and maintained by **Nelson House** to discourage access to Footprint Lake, when and where, in the opinion of **Chief and Council**, such fencing is required due to unsafe ice conditions arising from the operation of the **Project**; and
- (j) supply and install flashing amber lights at each end of both the God's Rapids Portage and the Early Morning Rapids Portage.

2.7.3        Payment of Costs. The reasonable costs of installation and maintenance of snowfencing by **Nelson House** under Article 2.7.2(i) shall be paid for promptly by **Hydro** upon receipt of invoices from **Nelson House**.

2.7.4        Procedure. If, taking into consideration changes in technology and any other relevant factors, **Nelson House** or **Hydro**, concludes that upgrading of, or additional, safety measures of the kind set out in Article 2.7.2, may be reasonably required to address safety concerns in the area shown on Schedule 2.1 arising out of, or attributable to the operation of the **Project**, that **Party** shall promptly notify the other following which, **Nelson House** and **Hydro** shall attempt to reach agreement about such safety measures and reasonable funding arrangements for same.

2.7.5        Employment Opportunities.        **Hydro** shall endeavour to employ **Members** to carry out the work referred to in Article 2.7.2 and work that may arise pursuant to Article 2.7.4 unless, in the circumstances, it is not practical, reasonable or feasible to do so.

2.7.6        Changes. If, taking into consideration changes in technology or any other relevant factors, **Nelson House** or **Hydro** concludes that any safety measure in place pursuant to this **Agreement** is no longer required to address safety

concerns arising out of, or attributable to, the operation of the **Project**, **Nelson House** or **Hydro** may give not less than one (1) year notice to the other that it wishes to review the safety measures, or funding arrangements for safety measures, in place pursuant to this **Agreement**. Following such notice, **Nelson House** and **Hydro** shall attempt to reach agreement about which, if any, safety measures may be discontinued on the basis that they are no longer required to address safety concerns arising out of, or attributable to, the operation of the **Project**.

## **2.8 CONTINUATION OF NFA PROVISIONS**

**2.8.1 Continuing Right.** Until the **Easements** are granted pursuant to this **Agreement**, **Hydro** shall, notwithstanding any release granted by the **Agreement**, be subject to the easement provisions of Article 3 of the **NFA** with respect to the **Reserve**.

**2.8.2 Subject to Easement.** The provisions of Article 2 are subject to the terms of the **Easement Agreement** and do not alter the **Easement**.

## 2.9 END OF PROJECT

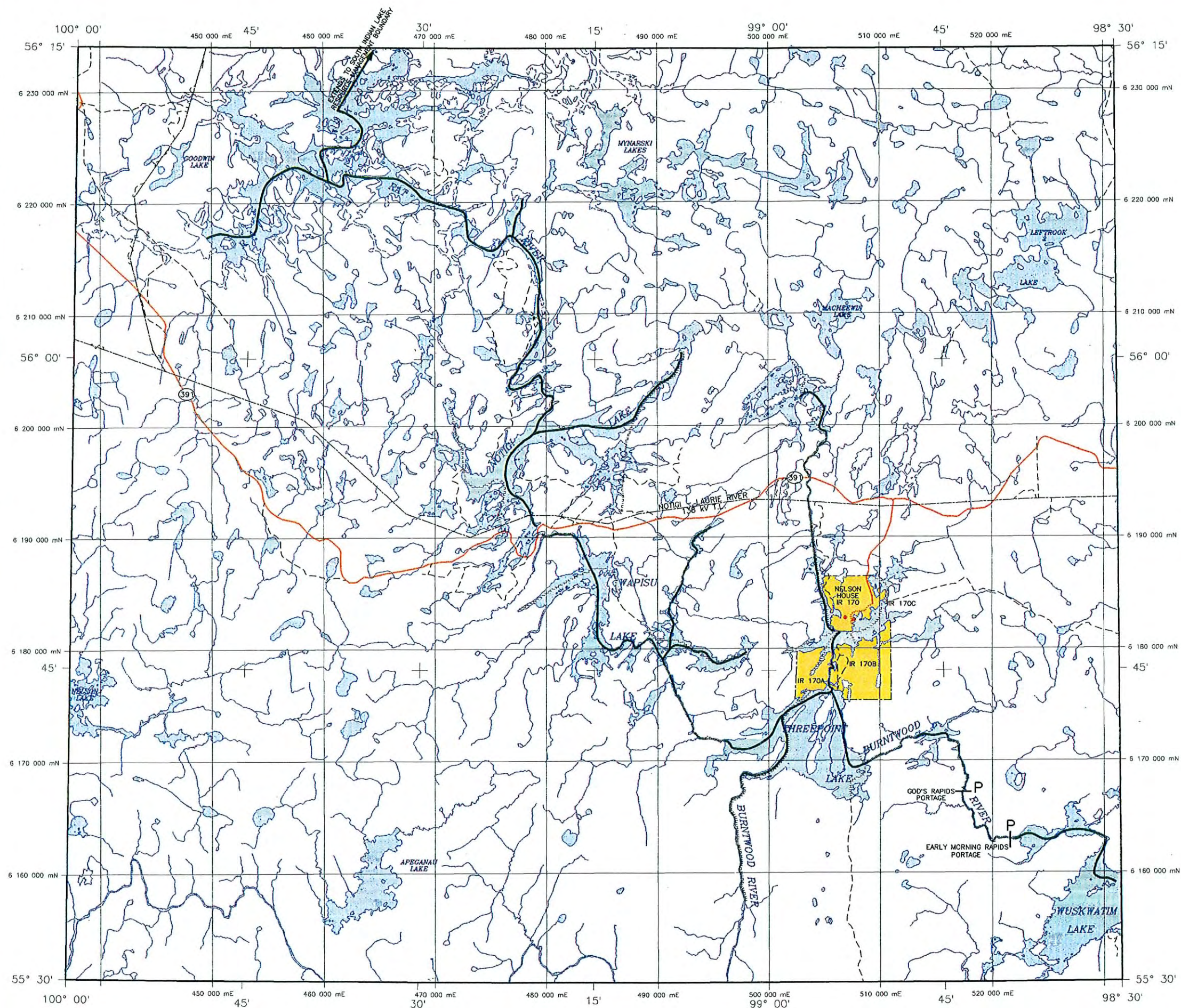
2.9.1 Maintenance of Water Ranges. If, in the future, the **Project** is no longer utilized for the production of hydro-electric power, **Hydro**, or **Manitoba** if the circumstances to which Article 15.13.6 apply, covenants and agrees to continue to operate and maintain all such works, structures and improvements, within its legal authority and control, as may be necessary to avoid, to the extent reasonably possible, changes from the parameters of the **Compensated Range** or such other **Daily Average Water Levels** and **Rates of Change** as may be agreed upon in writing by **Nelson House**, and for the purposes of Article 2.9.1 only, **Canada**.

## **SCHEDULE 2.1**

### **MAP OF LOCATION OF SAFETY MEASURES**

**Map of Location of Safety Measures** is attached to and forms part of this Schedule.





# NELSON HOUSE AGREEMENT SCHEDULE 2.1



## SCHEDULE 2.2

### PRE-DETERMINED COMPENSATION

1.1 Determination. Should **Daily Average Water Levels** or **Rates of Change** exceed the **Compensated Range**, Hydro shall pay **Nelson House** the following:

#### Daily Average Water Level Compensation:

- (a) five thousand (\$5,000.00) dollars per foot for each day that the **Daily Average Water Level** exceeds 243.840m (800.00ft) **A.S.L.**;
- (b) five thousand (\$5,000.00) dollars per foot for each day that the **Daily Average Water Level** falls below 241.249m (791.50ft) **A.S.L.** to a maximum of seven thousand five hundred (\$7,500.00) dollars for any day;

#### Rate of Change Compensation:

- (c) one thousand, five hundred (\$1,500.00) dollars per foot for each day that the seven (7) day **Rate of Change** in the seasonal period from November 1 to the next March 31, is a decrease which falls between 0.305m (1.00ft) and 0.518m (1.70ft);
- (d) one thousand, five hundred (\$1,500.00) dollars per foot for each day that the thirty-one (31) day **Rate of Change** in the seasonal period from November 1 to the next March 31 is a decrease which falls between 0.914m (3.00ft) and 1.524m (5.00ft);
- (e) five thousand (\$5,000.00) dollars per foot for each day that the seven (7) day **Rate of Change** in the seasonal period from November 1 to the next March 31 is a decrease which exceeds 0.518m (1.70ft);
- (f) five thousand (\$5,000.00) dollars per foot for each day that the thirty-one (31) day **Rate of Change** in the seasonal period from November 1 to the next March 31 is a decrease which exceeds 1.524m (5.00ft);
- (g) five thousand (\$5,000.00) dollars per foot for each day that the seven (7) day **Rate of Change** in the seasonal period from November 1 to the next March 31 is an increase that exceeds 0.213m (0.70ft);
- (h) five thousand (\$5,000.00) dollars per foot for each day that the thirty-one (31) day **Rate of Change** in the seasonal period from November 1 to the next March 31 is an increase that exceeds 0.701m (2.30ft);

- (i) five thousand (\$5,000.00) dollars per foot for each day that the seven (7) day **Rate of Change** in the seasonal period from April 1 to October 31 is a decrease which exceeds 0.427m (1.40ft);
- (j) five thousand (\$5,000.00) dollars per foot for each day that the thirty-one (31) day **Rate of Change** in the seasonal period from April 1 to October 31 is a decrease which exceeds 1.402m (4.60ft);
- (k) five thousand (\$5,000.00) dollars per foot for each day that the seven (7) day **Rate of Change** in the seasonal period from April 1 to October 31 is an increase that exceeds 0.549m (1.80ft); and
- (l) five thousand (\$5,000.00) dollars per foot for each day that the thirty-one (31) day **Rate of Change** in the seasonal period from April 1 to October 31 is an increase that exceeds 1.463m (4.80ft).

1.2 Proportionate payment. Payments of compensation for variations of part of a foot shall be pro-rated accordingly.

1.3 Limit on Compensation. Subject to Articles 2.5.7(g), 2.5.10 and 2.5.13 of the **Agreement**, in no event shall the aggregate compensation payable pursuant to Article 1.1 of Schedule 2.2 exceed the sum of one million (\$1,000,000.00) dollars in any calendar year, subject to the adjustment for CPI as set out below.

1.4 CPI Adjustment. Starting April 1, 1997, the rates of pre-determined compensation payable pursuant to Schedule 2.2 shall be adjusted on the basis of a fiscal year running from April 1 to March 31 by applying a factor calculated from the monthly increases or decreases in the **Consumer Price Index** in the previous April 1 to March 31 fiscal year for Manitoba published by Statistics Canada.

1.5 Example Calculation. Pre-determined compensation shall be calculated in a manner consistent with the sample formulae in Schedule 2.7.



## **SCHEDULE 2.3**

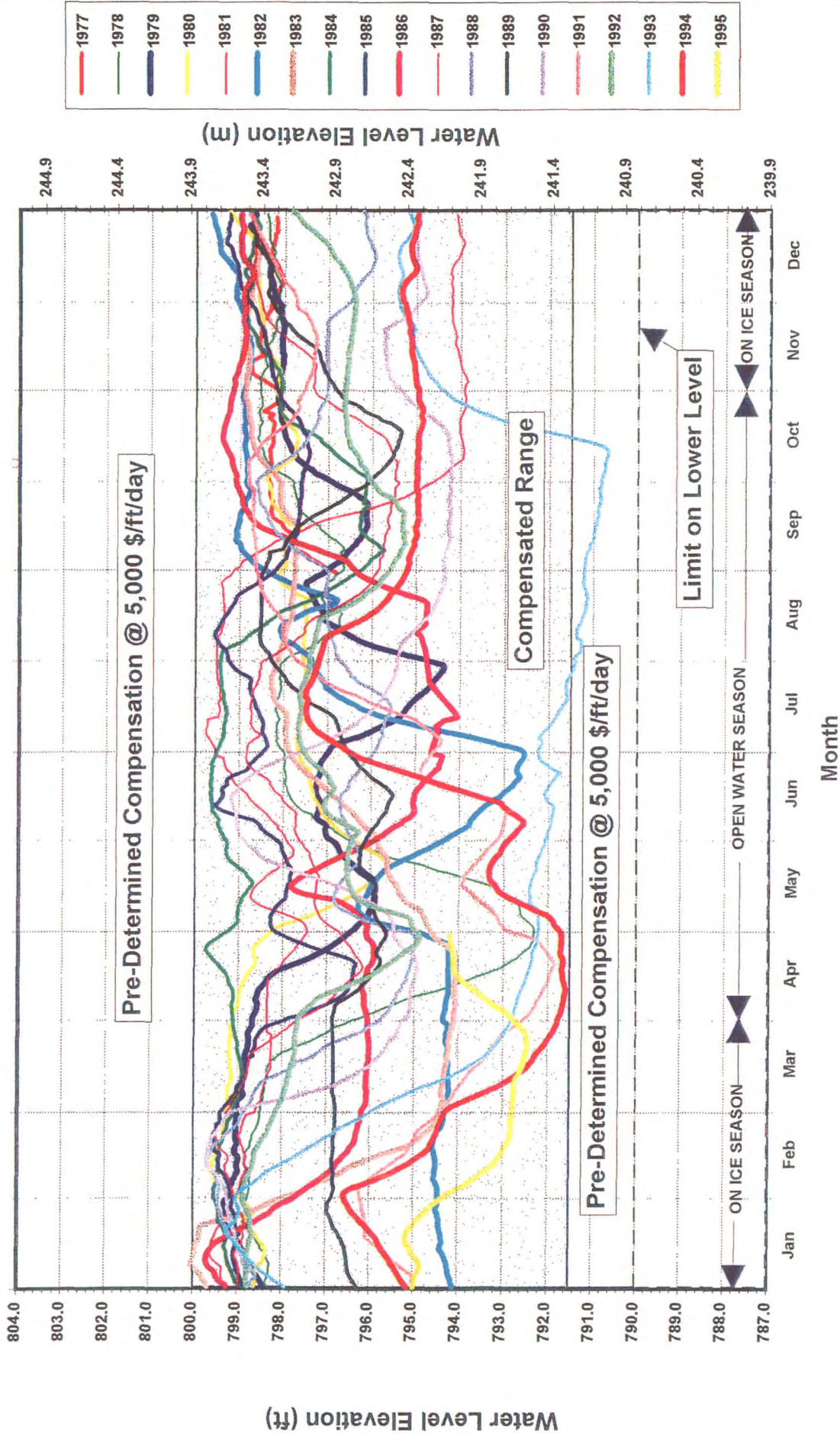
### **COMPENSATED RANGE DAILY AVERAGE WATER LEVEL**

As described in the attached Chart No.00184-07620-Schedule 2.3:

#### **Nelson House Water Levels**

**Nelson House Water Levels for September 1977 to April 1995  
Compensated Range and Pre-Determined Compensation Rates**

# SCHEDULE 2.3 NELSON HOUSE WATER LEVELS



Nelson House Water Levels for September 1977 to April 1995  
Compensated Range and Pre-Determined Compensation Rates

**SCHEDULE 2.4**

**COMPENSATED RANGE 7 DAY RATE OF CHANGE**

As described in the attached Chart No.00184-07620-Schedule 2.4:

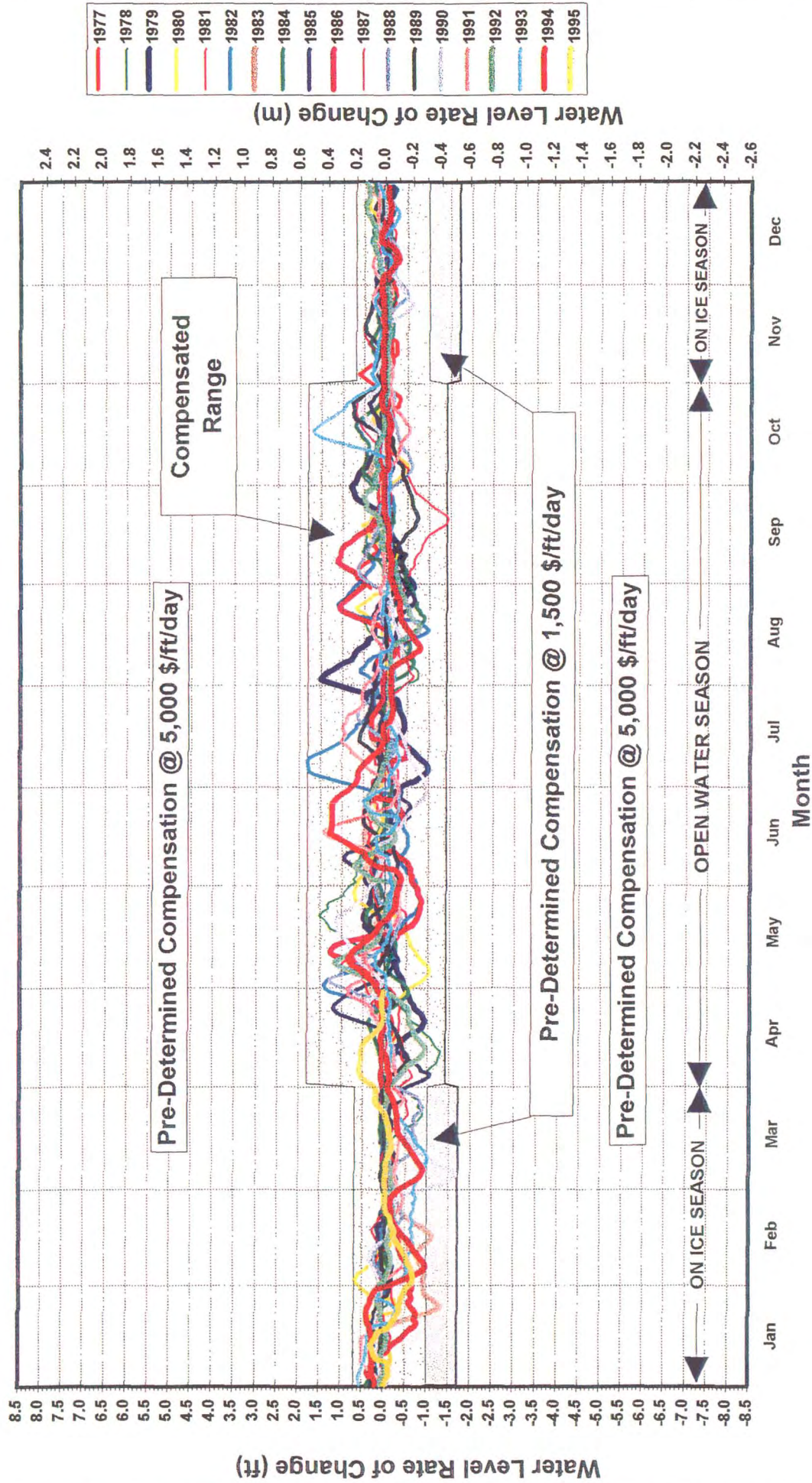
**Nelson House 7 Day Rate of Change**

**Nelson House Maximum Rate of Change in a 7 Day Period for September 1977  
to April 1995**

**Compensated Range and Pre-Determined Compensation Rates**



# SCHEDULE 2.4 NELSON HOUSE 7 DAY RATE OF CHANGE



Nelson House Maximum Rate of Change in a 7 Day Period for September 1977 to April 1995  
Compensated Range and Pre-Determined Compensation Rates

**SCHEDULE 2.5**

**COMPENSATED RANGE 31 DAY RATE OF CHANGE**

As described in the attached Chart No.00184-07620-Schedule 2.5:

**Nelson House 31Day Rate of Change**

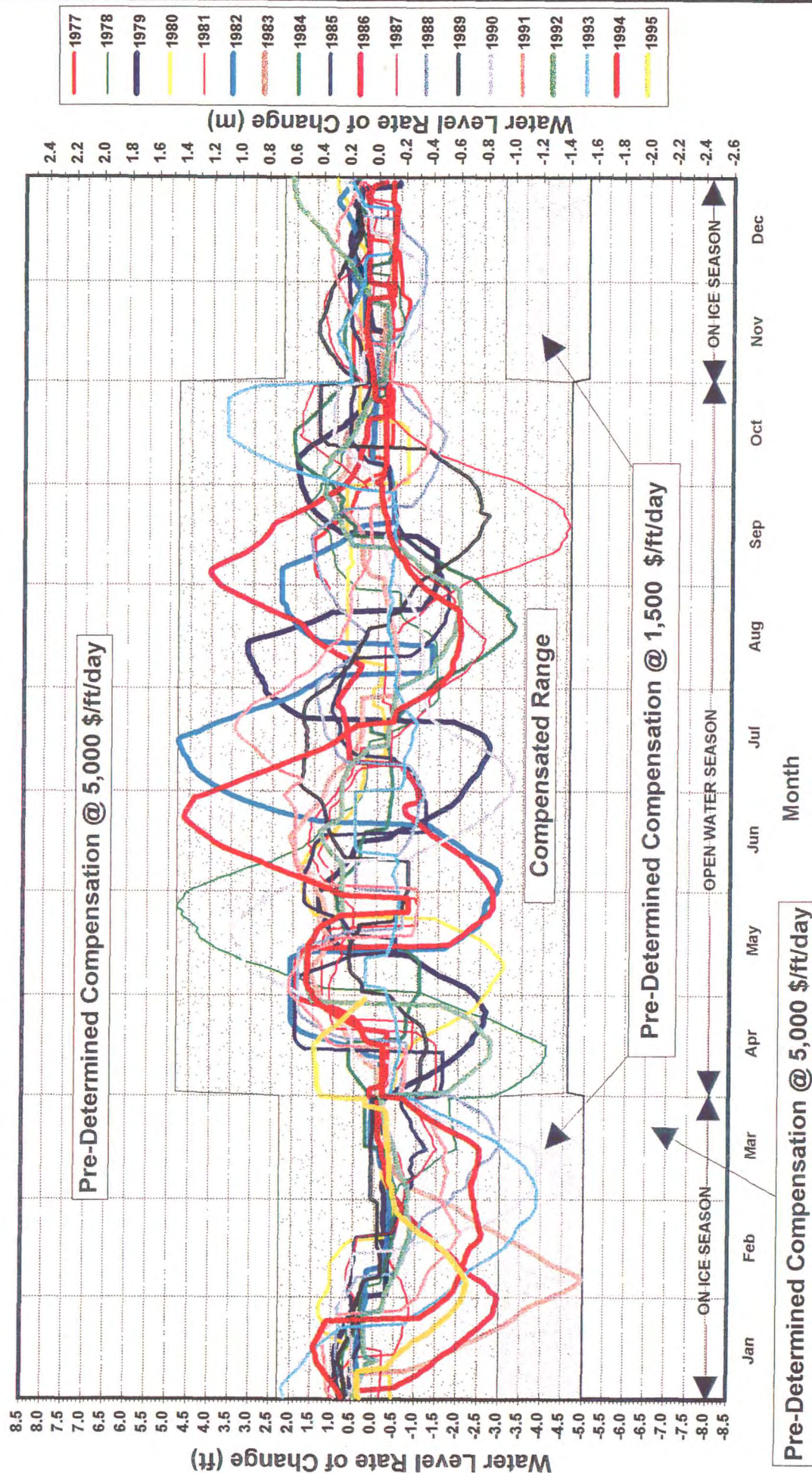
**Nelson House Maximum Rate of Change in 31 Day Period for September 1977  
to April 1995**

**Compensated Range and Pre-Determined Compensation Rates**



# SCHEDULE 2.5

## NELSON HOUSE 31 DAY RATE OF CHANGE



Nelson House Maximum Rate of Change in 31 Day Period for September 1977 to April 1995  
Compensated Range and Pre-Determined Compensation Rates

## **SCHEDULE 2.6**

### **CALCULATION WINDOW FOR 7 AND 31 DAY PERIODS**

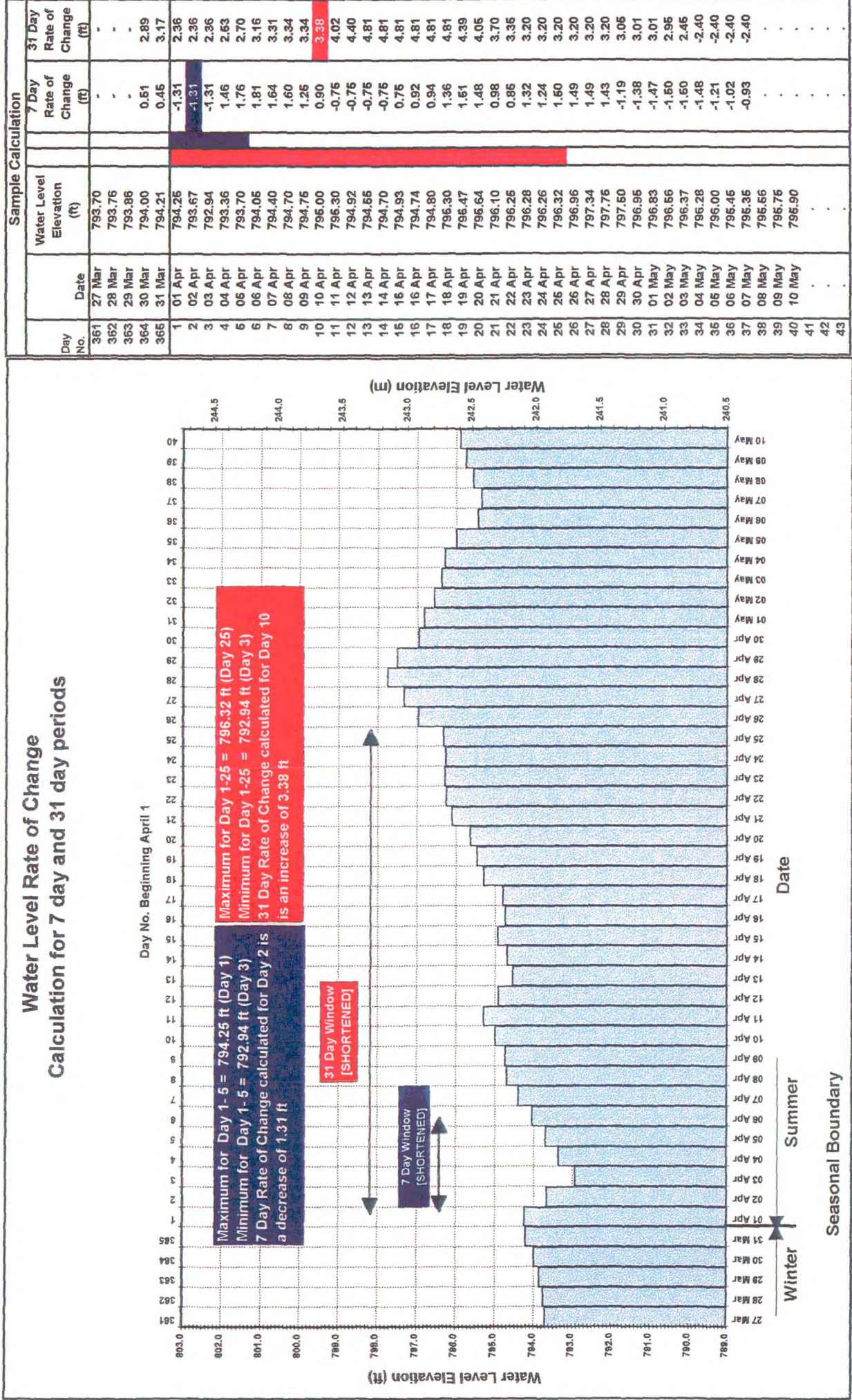
As described in the three attached Charts Nos. 00184/07620:

- (a) Schedule 2.6, Seasonal Calculations - End of Winter and Beginning of Summer
- (b) Schedule 2.6, Normal Calculations
- (c) Schedule 2.6, Seasonal Calculations - End of Summer and Beginning of Winter



# SCHEDULE 2.6

Seasonal calculations - end of winter and beginning of summer

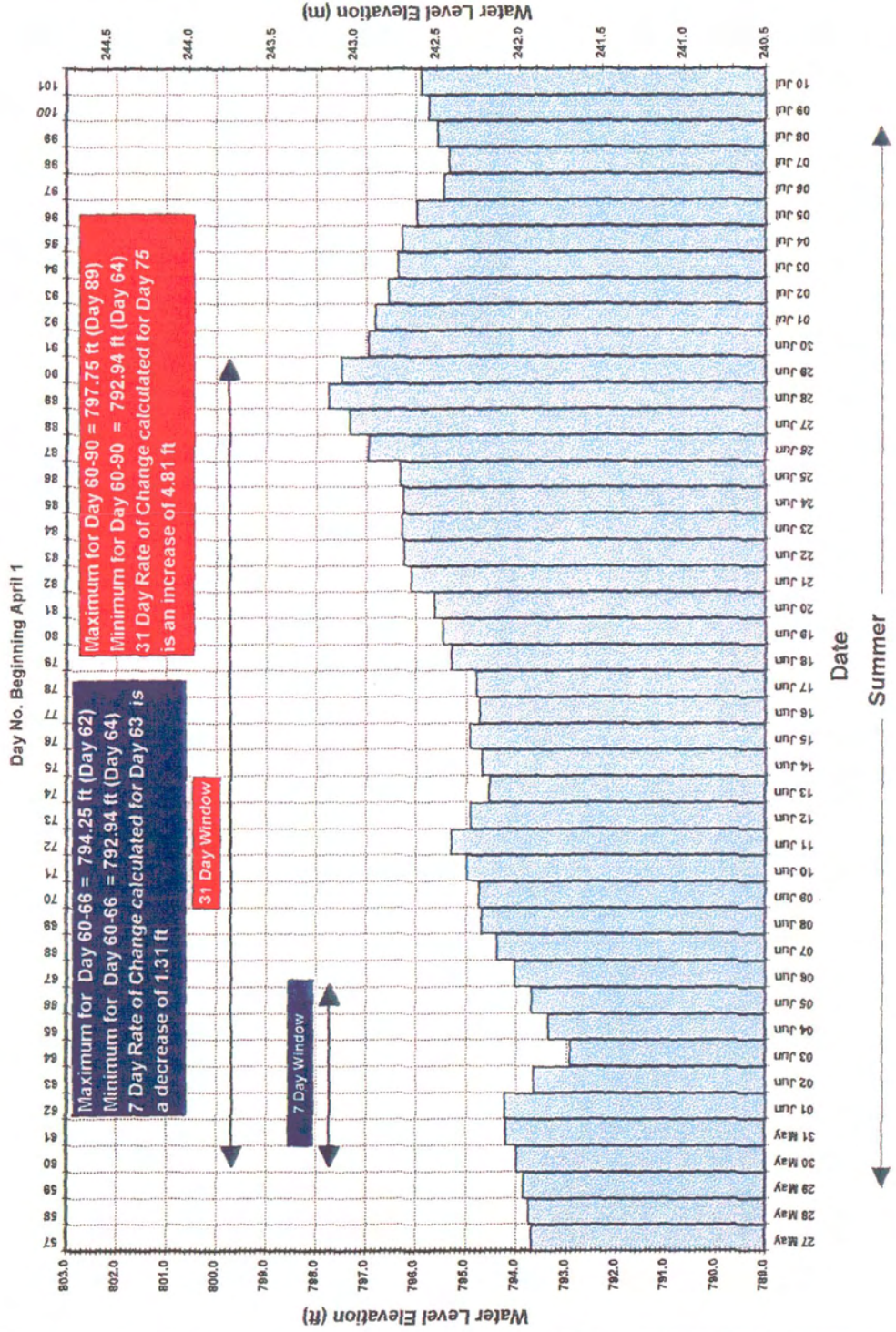




# SCHEDULE 2.6

## Normal Calculation

### Water Level Rate of Change Calculation for 7 day and 31 day periods



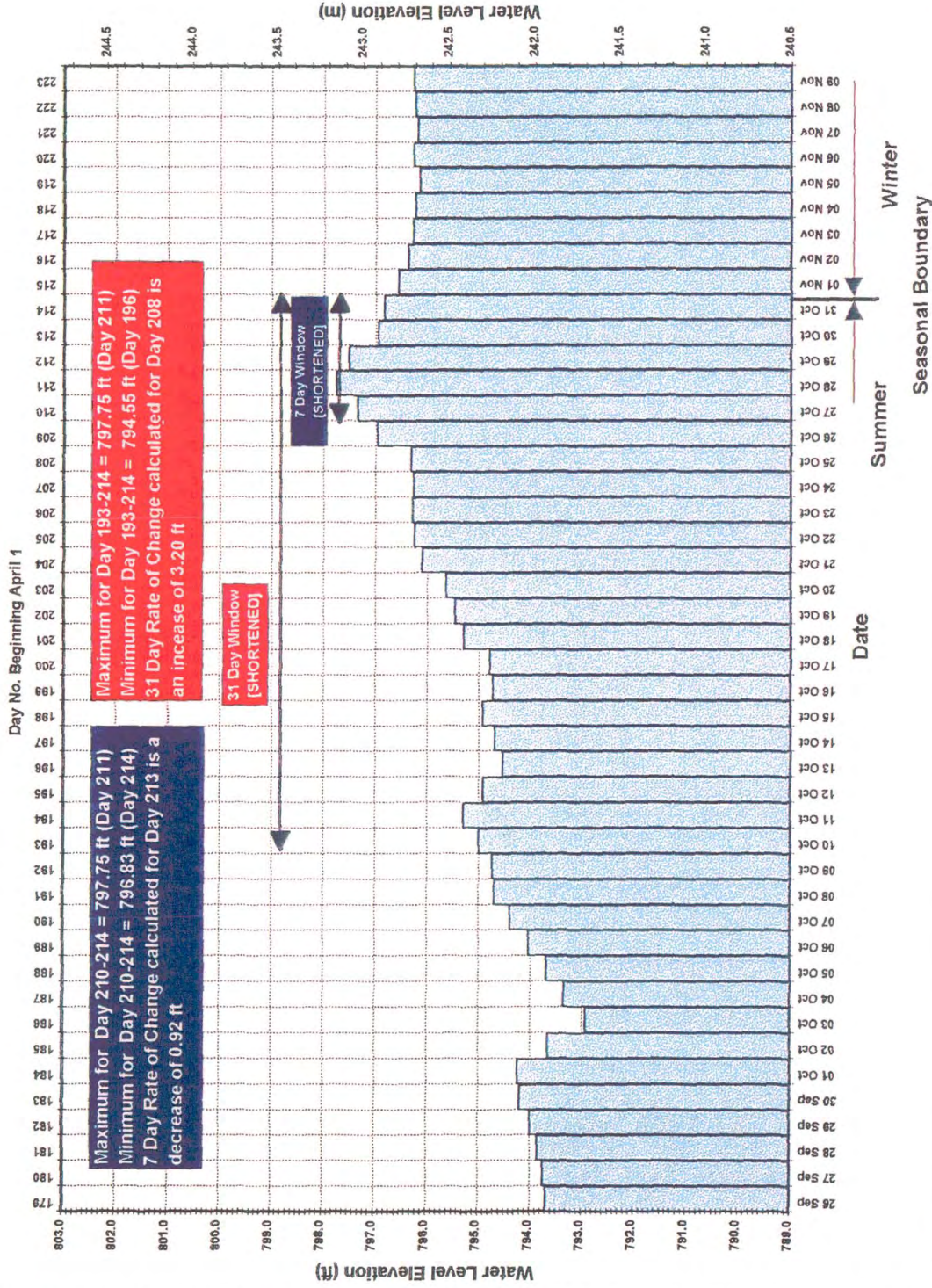
Sample Calculation			
Day No.	Date	Water Level Elevation (ft)	7 Day Rate of Change (ft)
57	27 May	793.70	-
58	28 May	793.76	-
59	29 May	793.86	-
60	30 May	794.00	-0.68
61	31 May	794.21	-1.31
62	01 Jun	794.25	-1.31
63	02 Jun	793.67	-1.31
64	03 Jun	792.94	-1.31
65	04 Jun	793.36	1.46
66	05 Jun	793.70	1.76
67	06 Jun	794.05	1.81
68	07 Jun	794.40	1.64
69	08 Jun	794.70	1.60
70	09 Jun	794.76	1.26
71	10 Jun	795.00	0.90
72	11 Jun	795.30	-0.76
73	12 Jun	794.92	-0.76
74	13 Jun	794.55	-0.76
75	14 Jun	794.70	-0.76
76	15 Jun	794.93	4.81
77	16 Jun	794.74	0.92
78	17 Jun	794.80	0.94
79	18 Jun	795.30	1.36
80	19 Jun	796.47	1.61
81	20 Jun	796.64	1.48
82	21 Jun	796.10	0.98
83	22 Jun	796.25	0.85
84	23 Jun	796.28	1.32
85	24 Jun	796.26	1.24
86	25 Jun	796.32	1.60
87	26 Jun	796.96	1.49
88	27 Jun	797.34	1.49
89	28 Jun	797.75	1.43
90	29 Jun	797.60	-1.19
91	30 Jun	796.95	-1.38
92	01 Jul	796.83	-1.47
93	02 Jul	796.66	-1.60
94	03 Jul	796.37	-1.60
95	04 Jul	796.28	-1.48
96	05 Jul	796.00	-1.21
97	06 Jul	795.45	-1.02
98	07 Jul	796.35	-
99	08 Jul	795.56	-
100	09 Jul	796.75	-
101	10 Jul	795.90	-
102	.	.	-
103	.	.	-
104	.	.	-



# SCHEDULE 2.6

Seasonal calculations - end of summer and beginning of winter

Water Level Rate of Change  
Calculation for 7 day and 31 day periods



Day No.	Date	Sample Calculation		
		Water Level Elevation (ft)	7 Day Rate of Change (ft)	31 Day Rate of Change (ft)
179	26 Sep	793.70	-	-
180	27 Sep	793.76	-	-
181	28 Sep	793.86	-	-
182	29 Sep	794.00	-0.58	-
183	30 Sep	794.21	-1.31	-
184	01 Oct	794.25	-1.31	2.36
185	02 Oct	793.67	-1.31	2.36
186	03 Oct	792.94	-1.31	2.36
187	04 Oct	793.36	1.46	2.53
188	05 Oct	793.70	1.76	2.70
189	06 Oct	794.05	1.81	3.16
190	07 Oct	794.40	1.64	3.31
191	08 Oct	794.70	1.60	3.34
192	09 Oct	794.75	1.25	3.38
193	10 Oct	795.00	0.90	4.02
194	11 Oct	795.30	0.75	4.40
195	12 Oct	794.92	-0.75	4.81
196	13 Oct	794.55	-0.75	4.81
197	14 Oct	794.70	-0.75	4.81
198	15 Oct	794.93	0.75	4.81
199	16 Oct	794.74	0.92	4.81
200	17 Oct	794.80	0.94	4.81
201	18 Oct	795.30	1.36	4.81
202	19 Oct	795.47	1.51	4.39
203	20 Oct	795.54	1.48	4.05
204	21 Oct	796.10	0.98	3.70
205	22 Oct	796.25	0.85	3.35
206	23 Oct	796.28	1.32	3.20
207	24 Oct	796.26	1.24	3.20
208	25 Oct	796.32	1.50	3.20
209	26 Oct	796.96	1.49	3.20
210	27 Oct	797.34	1.49	3.20
211	28 Oct	797.75	1.43	3.05
212	29 Oct	797.50	-0.92	3.01
213	30 Oct	796.95	-0.92	3.01
214	31 Oct	796.83	-0.92	3.01
215	01 Nov	796.56	-0.32	2.51
216	02 Nov	796.37	-0.40	2.73
217	03 Nov	796.28	-0.40	2.63
218	04 Nov	796.24	-0.40	2.63
219	05 Nov	796.16	-0.21	2.63
220	06 Nov	796.27	-0.12	2.63
221	07 Nov	796.20	.	2.63
222	08 Nov	796.24	.	.
223	09 Nov	796.27	.	.
224	.	.	.	.
225	.	.	.	.
226	.	.	.	.

## SCHEDULE 2.7

### SAMPLE FORMULAE FOR PRE-DETERMINED COMPENSATION

The following are sample formulae for each of the conditions described in Schedule 2.2.

- (a) If **Daily Average Water Level (DAWL)** exceeds 800.00 ft. A.S.L.  
For example if DAWL = 800.45 ft A.S.L.  
then Pre-Determined Compensation (PDC) would be the following;  
$$\text{PDC} = (800.45 - 800.00) * 5,000 \text{ \$/ft/day} = \underline{\$2,250.00} \text{ for the day.}$$
- (b) If **Daily Average Water Level (DAWL)** falls below 791.50 ft. A.S.L.  
For example if DAWL = 791.01 ft A.S.L.  
then Pre-Determined Compensation (PDC) would be the following;  
$$\text{PDC} = (791.5 - 791.01) * 5,000 \text{ \$/ft/day} = \underline{2,450.00} \text{ for the day.}$$
  
Note that the maximum that can be paid for this condition is \$7,500.00 per day.
- (c) If **7 Day Rate of Change (7DROC)** (decrease) in the winter period falls between 1.0 ft and 1.7 ft  
For example if 7DROC = 1.5 ft decrease  
then Pre-Determined Compensation (PDC) would be the following;  
$$\text{PDC} = (1.5 - 1.0) * 1,500 \text{ \$/ft/day} = \underline{\$750.00} \text{ for the day.}$$
- (d) If **31 Day Rate of Change (31DROC)** (decrease) in the winter period falls between 3.0 ft and 5.0 ft  
For example if 31DROC = 3.5 ft decrease  
then Pre-Determined Compensation (PDC) would be the following;  
$$\text{PDC} = (3.5 - 3.0) * 1,500 \text{ \$/ft/day} = \underline{\$750.00} \text{ for the day.}$$
- (e) If **7 Day Rate of Change (7DROC)** (decrease) in the winter period exceeds 1.7 ft  
For example if 7DROC = 1.9 ft decrease  
then Pre-Determined Compensation (PDC) would be the following;  
$$\text{PDC} = [(1.7 - 1.0) * 1,500 \text{ \$/ft/day}] + [(1.9 - 1.7) * 5,000 \text{ \$/ft/day}] = \underline{\$2,050.00} \text{ for the day.}$$
- (f) If **31 Day Rate of Change (31DROC)** (decrease) in the winter period exceeds 5.0 ft  
For example if 31DROC = 5.2 ft decrease  
then Pre-Determined Compensation (PDC) would be the following;  
$$\text{PDC} = [(5.0 - 3.0) * 1,500 \text{ \$/ft/day}] + [(5.2 - 5.0) * 5,000 \text{ \$/ft/day}] = \underline{\$4,000.00} \text{ for the day.}$$

- (g) If **7 Day Rate of Change (7DROC)** (increase) in the winter period exceeds 0.7 ft  
 For example if 7DROC = 1.1 ft increase  
 then Pre-Determined Compensation (PDC) would be the following;  
 $PDC = (1.1 - 0.7) * 5,000 \text{ \$/ft/day} = \underline{\$2,000.00}$  for the day.
- (h) If **31 Day Rate of Change (31DROC)** (increase) in the winter period exceeds 2.3 ft  
 For example if 31DROC = 2.8 ft increase  
 then Pre-Determined Compensation (PDC) would be the following;  
 $PDC = (2.8 - 2.3) * 5,000 \text{ \$/ft/day} = \underline{\$2,500.00}$  for the day.
- (i) If **7 Day Rate of Change (7DROC)** (decrease) in the summer period exceeds 1.4 ft  
 For example if 7DROC = 1.8 ft decrease  
 then Pre-Determined Compensation (PDC) would be the following;  
 $PDC = (1.8 - 1.4) * 5,000 \text{ \$/ft/day} = \underline{\$2,000.00}$  for the day.
- (j) If **31 Day Rate of Change (31DROC)** (decrease) in the summer period exceeds 4.6 ft  
 For example if 31DROC = 4.9 ft decrease  
 then Pre-Determined Compensation (PDC) would be the following;  
 $PDC = (4.9 - 4.6) * 5,000 \text{ \$/ft/day} = \underline{\$1,500.00}$  for the day.
- (k) If **7 Day Rate of Change (7DROC)** (increase) in the summer period exceeds 1.8 ft  
 For example if 7DROC = 2.4 ft increase  
 then Pre-Determined Compensation (PDC) would be the following;  
 $PDC = (2.4 - 1.8) * 5,000 \text{ \$/ft/day} = \underline{\$3,000.00}$  for the day.
- (l) If **31 Day Rate of Change (31DROC)** (increase) in the summer period exceeds 4.8 ft  
 For example if 31DROC = 5.1 ft increase  
 then Pre-Determined Compensation (PDC) would be the following;  
 $PDC = (5.1 - 4.8) * 5,000 \text{ \$/ft/day} = \underline{\$1,500.00}$  for the day.



**SCHEDULE 2.8**  
**SUMMARY OF PRE-DETERMINED COMPENSATION**

Year	Month	Schedule 2.2 Section 1.1 (a) Maximum Water Level	Schedule 2.2 Section 1.1 (b) Minimum Water Level	Schedule 2.2 Section 1.1 (c) Compensation for 7 Day Winter Rate of Change (Decrease) within Previous Experience	Schedule 2.2 Section 1.1 (d) Compensation for 31 Day Winter Rate of Change (Decrease) within Previous Experience	Schedule 2.2 Section 1.1 (e) Maximum 7 Day Winter Rate of Change (Decrease)	Schedule 2.2 Section 1.1 (f) Maximum 31 Day Winter Rate of Change (Decrease)	Schedule 2.2 Section 1.1 (g) Maximum 7 Day Winter Rate of Change (Increase)	Schedule 2.2 Section 1.1 (h) Maximum 31 Day Winter Rate of Change (Increase)	Schedule 2.2 Section 1.1 (i) Maximum 7 Day Summer Rate of Change (Decrease)	Schedule 2.2 Section 1.1 (j) Maximum 31 Day Summer Rate of Change (Decrease)	Schedule 2.2 Section 1.1 (k) Maximum 7 Day Summer Rate of Change (Increase)	Schedule 2.2 Section 1.1 (l) Maximum 31 Day Summer Rate of Change (Increase)	MONTHLY TOTALS	TOTALS
<b>1992 Water Year</b>															
	1992 Apr	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	May	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Jun	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Jul	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Aug	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Sep	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Oct	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	<b>Summer Total</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Nov	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Dec	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	1993 Jan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$11,353	\$0
	Feb	\$0	\$0	\$0	\$11,353	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,513	\$0
	Mar	\$0	\$0	\$0	\$15,513	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$0
	<b>Winter Total</b>	\$0	\$0	\$0	\$26,866	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$26,866
	<b>WATER YEAR TOTALS</b>	\$0	\$0	\$0	\$26,866	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$26,866
<b>1993 Water Year</b>															
	1993 Apr	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	May	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Jun	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Jul	\$0	\$899	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$899	\$0
	Aug	\$0	\$37,881	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$37,881	\$0
	Sep	\$0	\$77,001	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$77,001	\$0
	Oct	\$0	\$52,382	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$52,382	\$0
	<b>Summer Total</b>	\$0	\$168,163	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$168,163
	Nov	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Dec	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	1994 Jan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Feb	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Mar	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	<b>Winter Total</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	<b>WATER YEAR TOTALS</b>	\$0	\$168,163	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$168,163
<b>1994 Water Year</b>															
	1994 Apr	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	May	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Jun	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Jul	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Aug	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Sep	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Oct	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	<b>Summer Total</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Nov	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Dec	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	1995 Jan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Feb	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Mar	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	<b>Winter Total</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	<b>WATER YEAR TOTALS</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		\$0

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## ARTICLE 3

### 3.0 COMPENSATION LANDS AND EASEMENT LANDS

#### 3.1 COMPENSATION LANDS

3.1.1 Boundaries and Exclusions. The **Compensation Lands**, the administration and control of which is to be transferred by **Manitoba** to **Canada** and which are to be set apart by **Canada** as **Reserve Lands** for **Nelson House**, are those provincial Crown lands within the boundaries described in Schedule 3.1, excluding those lands required for public purposes as described in Schedule 3.3.

3.1.2 Written Description and Plans. In the event of conflict between written descriptions and sketch plans attached or referred to in Schedules 3.1 and 3.2, the written descriptions shall prevail.

#### 3.2 CONDITIONS OF TRANSFER

3.2.1 Lands Transferred Free of Encumbrance. The administration and control of the **Compensation Lands** shall be transferred by **Manitoba** to **Canada** free and clear of all encumbrances, reservations, caveats, estates, rights and interests in favour of any person other than **Canada**, or whose interest is claimed



through **Canada**. For greater certainty, rights in mines and minerals, both precious and base, rights in Crown timber and other user rights shall be transferred with the **Compensation Lands**. No reservations to the Crown in right of **Manitoba** under subsection 4(1) of The Crown Lands Act (Manitoba) shall apply to the **Compensation Lands**.

3.2.2 Minerals. Should **Manitoba** receive any mineral royalties on account of any **Compensation Lands** established, or to be established, as **Reserve** pursuant to this **Agreement**, **Manitoba** will promptly remit such royalties to **Nelson House**.

3.2.3 Easement Lands. The **Easement Lands** are legally described in Schedule 3.5

### 3.3 SURVEYS

3.3.1 Surveys. Legal surveys of the boundaries of the **Compensation Lands**, and the boundaries of exclusions required for public purposes, will be completed by, and at the expense of **Manitoba**, in accordance with the survey instructions in Schedule 3.2.

3.3.2 Completion of Surveys by Manitoba. **Manitoba** shall, within sixty (60) days following the **Date of this Agreement**, or as soon thereafter as is reasonably possible having regard to field conditions, commence, or cause to be commenced, the legal surveys, in accordance with Schedule 3.2 and subject only to any delay which may be caused by:

- (a) a change in survey instructions under Article 3.3.3; or
- (b) any dispute which may arise with respect to **Compensation Lands**;  
or
- (c) any other cause outside the control of **Manitoba**;

make reasonable efforts to complete, or cause to be completed, the surveys under Article 3.3, within twelve (12) months of the **Date of this Agreement** or the approval of a change in survey instructions, if any, or the date of the final resolution of disputes, if any, arising with respect to **Compensation Lands**.

3.3.3 Change in Survey Instructions. The survey instructions in Schedule 3.2 may only be changed with the approval of each of **Nelson House, Manitoba** and **Canada**, and any additional expense incurred as a result of such change shall be borne by the **Party** requesting it.

3.3.4 Plans and Descriptions Supplied by Manitoba. **Manitoba** shall provide to **Nelson House** and **Canada**:

- (a) plans of the boundaries of the **Compensation Lands** and plans of any exclusions from **Compensation Lands** required for public purposes; and
- (b) a legal description of the **Compensation Lands**;

satisfactory to the Surveyor General of Canada.

3.3.5 Affirmation. **Nelson House** shall, upon receipt of the plans and legal descriptions referred to in Article 3.3.4, affirm that the lands described therein:

- (a) are those described in Schedule 3.1, less the exclusions in Schedule 3.3;
- (b) have no environmental conditions which do not comply with acceptable standards under Article 3.5.3; and
- (c) have not been subject to fundamental change contemplated by Article 3.5.8.

Following such affirmation, **Nelson House** shall confirm by **Council Resolution** that the described lands are accepted by **Nelson House** as the **Compensation Lands** and provide to **Manitoba, Canada** and **Hydro** an original copy of the **Council Resolution**, and to **Manitoba** five (5) copies of the **Easement Agreement** duly executed on behalf of **Nelson House**.

3.3.6 Execution. **Manitoba** shall forward the five (5) copies of the

**Easement Agreement** which has been executed by **Nelson House**, to **Hydro** which will execute the copies and return them to **Manitoba** for execution.

### 3.4 ADMINISTRATION OF LANDS

3.4.1 Transfer Documents. Upon receipt of:

- (a) the affirmation required by Article 3.3.5;
- (b) the copies of the **Easement Agreement** duly executed by **Nelson House** and **Hydro**; and
- (c) confirmation that the plans and legal descriptions referred to in Article 3.3.4 are acceptable to the Surveyor General of Canada;

**Manitoba** will execute the **Easement Agreement** and consult with **Canada** and **Nelson House** on the form of Order in Council transferring administration and control of the **Compensation Lands** to **Canada** to be set apart as **Reserve Lands** for **Nelson House**. Thereafter, **Manitoba** shall by Order in Council, conditional upon **Canada's** acceptance as provided for in Article 3.4.3, transfer administration and control of the **Compensation Lands** to **Canada** and forward the Order in Council and the copies of the **Easement Agreement** to **Canada**. **Manitoba** shall provide a copy of such Order in Council to **Nelson House** and **Hydro**.

3.4.2 Request for Reserve Status. Upon receipt of a copy of an Order

in Council referred to in Article 3.4.1, **Nelson House** shall by **Council Resolution** request that **Canada** set aside the **Compensation Lands**, referenced in such Order in Council, as **Reserve Lands** for **Nelson House**.

3.4.3        Acceptance and Designation of **Reserve Lands**.        Upon receipt of the **Council Resolution** referred to in Article 3.4.2 and subject to compliance with Article 3.5.13, **Canada** shall, by instrument under the Federal Real Property Act (Canada), accept the transfer of administration and control of the **Compensation Lands** conditional on setting them apart as **Reserve Lands**, and provide notice of such acceptance to **Nelson House, Manitoba and Hydro**. Thereafter, **Canada** shall recommend to the Governor in Council the setting apart of the lands for the use and benefit of **Nelson House**. **Canada** shall provide a copy of the resulting Order in Council to the other **Parties**.

3.4.4        Registry of Plans, Grant of **Easements** and Designation as **Reserve Lands**.        Upon acceptance of the transfer of administration and control of all of the **Compensation Lands** and their designation as **Reserve Lands** in accordance with Article 3.4.3 **Canada** shall:

- (a)        record the plans referred to in Article 3.3.4 in accordance with the Canada Lands Surveys Act (Canada);
- (b)        grant **Easements** in accordance with Schedule 3.4 on all of the

**Easement Lands;**

- (c) transfer partial administration and control to **Manitoba**, on the same terms and conditions as contained in the **Easement Agreement** in respect of all of the **Easement Lands**;
- (d) execute all copies of the **Easement Agreement**;
- (e) file the **Easement Agreement** granting the **Easements** in accordance with the Indian Act (Canada); and
- (f) return a fully executed copy of the **Easement Agreement** to each of **Manitoba, Nelson House and Hydro**.

3.4.5 Completion of Process. **Canada** shall make reasonable efforts to complete the processes outlined in Article 3.4.3 within twelve (12) months of **Canada's** receipt of a **Council Resolution** referred to in Article 3.4.2 as such processes relate to the **Compensation Lands** referred to in such **Council Resolution**. **Canada** shall make reasonable efforts to complete the processes outlined in Article 3.4.4 within twelve (12) months after **Canada** has received **Council Resolutions** under Article 3.4.2 for all of the **Compensation Lands**.

3.4.6 Disposition and Use of Lands. **Manitoba** has, in anticipation of the conclusion of this **Agreement**, withheld from disposition, by way of sale, sale agreement, lease or permit, the lands described as the **Compensation Lands**.

Following the **Date of this Agreement** and prior to transfer of administration and control of the **Compensation Lands** to **Canada**, **Manitoba** will, at no expense to **Nelson House**, grant to **Nelson House** a Land Use Permit, on terms satisfactory to **Manitoba** and **Nelson House**, for the **Compensation Lands**. Any such Land Use Permit shall terminate upon acceptance by **Canada**, under Article 3.4.3, of the transfer of administration and control of the **Compensation Lands** to **Canada**. Notwithstanding the granting of the Land Use Permit, the **Compensation Lands** shall not be deemed to be **Reserve Lands** until designated as such pursuant to this **Agreement**.

3.4.7 On the Ground Surveys. Whether the **Easement Agreement** has been been granted by **Canada** under Article 3.4.4 or not, where **Setback Lines** have not been the subject of an on the ground survey and installation of monuments, **Hydro** shall, upon reasonable notice from **Chief and Council** or **Canada**, use its best efforts to expeditiously, and in any event, within twelve (12) months of such notice, survey and install monuments in accordance with survey instructions issued by the Surveyor General of Canada.

### 3.5 **CONDITION OF LANDS**

3.5.1 Warranty. **Manitoba** warrants, on the basis of available records,

that no authorized use or damaging unauthorized use is being or has been made of the **Compensation Lands**. No active mining, processing or shipment of ore on or from the lands has occurred, mineral exploration has been limited and no mineral claims are in effect. No timber permits, leases or licences are in effect for the said lands and any timber removed has been for domestic use and shelter. No commitments exist in respect to the existing forest resource on the said lands. No major wildfires have occurred within the **Compensation Lands** during the three (3) years preceding the **Date of this Agreement**. No hazardous wastes or deleterious substances have been authorized to be stored on or placed on the lands by **Manitoba**, and no evidence is available to **Manitoba** to suggest that such storage or placement exists up to the **Date of this Agreement**.

3.5.2        Environmental Reports.    The **Parties** shall, on a without prejudice basis, provide to each other copies of any environmental studies, reports and audits in their possession related to the **Compensation Lands** and shall continue to provide such reports to the date the land is set apart by **Canada** as **Reserve Lands**.

3.5.3        Environmental Conditions. If an environmental condition is discovered on or in the **Compensation Lands** prior to the acceptance by **Canada** of transfer of administration and control of the lands under Article 3.4.3, which environmental



condition was not created by **Nelson House** or by the sufferance, connivance, abetment or willful allowance of **Nelson House**, and **Nelson House** provides an environmental report or like evidence alleging that the environmental condition does not meet acceptable environmental standards, it may give notice to **Manitoba** and **Canada** that it rejects the portion of **Compensation Lands** so damaged or injuriously affected by the condition.

3.5.4        Response by **Manitoba**. Upon receipt of notice of rejection by **Nelson House** under 3.5.3, or **Canada** under 3.5.14, **Manitoba** shall, within sixty (60) days, or so soon thereafter as is reasonably possible having regard to field conditions, do one of the following:

- (a) reject the environmental report or other like evidence of **Nelson House** under Article 3.5.3, or the notice from **Canada** under Article 3.5.14; or
- (b) commission an environmental study of the rejected land to determine:
  - (i) if the environmental conditions exist as alleged, or
  - (ii) if the environmental condition exists, whether it meets acceptable environmental standards,and upon receipt of the environmental study, **Manitoba** may reject the notice of rejection of **Nelson House** under Article 3.5.3 or **Canada** under 3.5.14; or

- (c) accept the rejection by **Nelson House** or **Canada** and advise whether:
  - (i) it will promptly remedy the environmental condition at **Manitoba's** expense, or
  - (ii) provide alternate replacement lands, which meet the requirements of Article 3.5.10 and which are of comparable size and quality to replace that which is damaged or injuriously affected by the environmental condition, or
- (d) reject the notice on the basis that, under Article 3.5.3, **Nelson House** is responsible for the environmental condition.

3.5.5 **Nelson House Responsibilities.** Where under Article 3.5.3, **Nelson House** is responsible for an environmental condition on any parcel of **Compensation Lands** which fails to meet acceptable environmental standards, **Nelson House**, within twelve (12) months of such determination, or such longer time as **Manitoba** may accept or the **Arbitrator** may by order allow, may:

- (a) at its expense remedy the environmental condition;
- (b) request **Manitoba** provide alternate **Compensation Lands**, and **Manitoba** may, but will be under no obligation, to provide such alternate **Compensation Lands**, but if it agrees to do so, Articles 3.5.7, 3.5.10, 3.5.12 and 3.5.13 will apply; or

- (c) have the affected lands transferred to the **Corporate Trustee** or to a corporation wholly owned and controlled by **Nelson House**, in fee simple title, in which event the relevant provisions of Article 4 will apply mutatis mutandis.

If **Nelson House** decides not to remedy the environmental condition as provided in Article 3.5.5(a), the parcel of land or the portion severed under Article 3.5.16 shall cease to be **Compensation Lands**.

3.5.6        Study.        Where **Manitoba** elects to proceed under Article 3.5.4 (b), it shall commission the study promptly and see to the completion of the study on a timely basis; and within sixty (60) days following receipt of its report it shall provide **Nelson House** and **Canada** with a copy and advise if it accepts the rejection under Article 3.5.3 or 3.5.14 and, if applicable, its option under 3.5.4(c)(i) or (ii); or that it rejects the notice under Article 3.5.4(b) or (d).

3.5.7        Opt to Negotiate.        Where **Manitoba** opts to proceed under 3.5.4(c)(ii) or Article 3.5.9(b)(ii), it will negotiate with **Nelson House** to identify the replacement land. Such negotiation shall recognize and be consistent with any fiduciary duties of **Canada** existing in relation to such matters.

3.5.8        Fundamental Change.        If a change occurs to the condition of the

**Compensation Lands** after the **Date of this Agreement**, but prior to the acceptance of the transfer of administration and control of the land by **Canada** under Article 3.4.3, which was not created by **Nelson House** or did not occur as a result of the sufferance, connivance, abetment or wilful allowance of **Nelson House** and which **Nelson House** alleges is a fundamental change rendering the land unfit for the use of **Nelson House**, **Nelson House** shall notify **Manitoba** and **Canada** of the change. The onus is on **Nelson House** to prove that a change has occurred and that the change is a fundamental change.

3.5.9        Response by **Manitoba**.    Upon receipt of notice of rejection under Article 3.5.8, **Manitoba** shall, within sixty (60) days or so soon thereafter as is reasonably possible having regard to field conditions, do one of the following:

- (a)    advise **Nelson House** that:
  - (i)    no change has occurred, or
  - (ii)   any change is not a fundamental change, or
  - (iii)   **Nelson House**, under Article 3.5.8, is responsible for the fundamental change, or
- (b)    accept the rejection of the land and advise whether it will:
  - (i)    correct the condition causing the fundamental change, or
  - (ii)   provide alternate replacement lands, which meet the requirement of Article 3.5.10 and which are of comparable

size and quality to replace that which was damaged or injuriously affected.

3.5.10      Replacement Land.      Lands which are not available for disposition under the Water Power Act (Manitoba) shall not be selected under Article 3.5.4(c)(ii) or Article 3.5.9 (b)(ii). Determinations by the Minister under The Water Power Act (Manitoba) contemplated under Article 3.5.10 are discretionary and are not subject to arbitration under this **Agreement**. The replacement lands selected shall not abut upon or be adjacent to waterways which are, or may be, influenced by the **Project**..

3.5.11      Arbitration.      Without in any way limiting the generality of Article 13.2.2, where disputes arise as to:

- (a)      the nature and extent of the environmental condition and its relation to acceptable standards under Articles 3.5.3 and 3.5.13;
- (b)      the quantity of land damaged or injuriously affected by the environmental condition or fundamental change;
- (c)      whether the environmental condition or fundamental change is attributable to **Nelson House** under Article 3.5.3, Article 3.5.5 or Article 3.5.8;
- (d)      the reasonableness of **Manitoba's** election under Article 3.5.4 or

Article 3.5.9;

- (e) the promptness of any of **Manitoba's** actions under Article 3.5;
- (f) the appropriate size and quality of land needed to replace under Article 3.5.4(c)(ii) or Article 3.5.9(b)(ii); or
- (g) whether a change has occurred to the land which is a fundamental change rendering the land unfit for the use of **Nelson House** as contemplated in Article 3.5.8;

such dispute may be referred to arbitration under Article 13.4.

3.5.12      Continuation of Manitoba's Jurisdiction.      **M a n i t o b a ' s**  
jurisdiction with respect to any parcel of **Compensation Lands** will not change until transfer of administration and control of those lands is accepted by **Canada** under Article 3.4.3.

3.5.13      Acceptability.      **Canada's** acceptance of the transfer of administration and control of the **Compensation Lands** under Article 3.4.3 shall be conditional upon the environmental condition of the land being satisfactory to **Canada**.

3.5.14      Rejection by Canada.      Where **Canada** proposes to reject a parcel of the **Compensation Lands** on the grounds that **Canada** is not satisfied with the

environmental condition of any part of such parcel, **Canada** shall forthwith notify **Nelson House** and **Manitoba**.

3.5.15        Negotiate Boundaries.        Where **Canada** has given notice under Article 3.5.14 and rejected a parcel of **Compensation Lands** under Article 3.5.13, **Canada, Manitoba** and **Nelson House** will immediately meet and endeavour to agree upon the boundaries of the portion of the parcel which is not acceptable to **Canada**.

3.5.16        Severance.        If the description of the affected parcel under Articles 3.5.13 and 3.5.14 can be agreed upon by **Canada, Manitoba** and **Nelson House** under Article 3.5.15, that portion shall be surveyed and severed from the balance and administration and control of such balance of the **Compensation Lands** will be promptly accepted by **Canada**.

3.5.17        Alternative.        If under Article 3.5.13, **Canada** will not accept administration and control over the **Compensation Lands**, any parcel of **Compensation Lands** or any portion of a parcel of **Compensation Lands**, on the basis that the environmental condition of said lands fails to meet acceptable environmental standards, Article 3.5.4, and thereafter the provisions of Articles 3.5.5 to 3.5.11, both inclusive, shall apply.

3.5.18        Arbitration.    Subject to the right to appeal, if the **Arbitrator** finds that the rejection of the **Compensation Lands**, any parcel of **Compensation Lands** or any portion of a parcel of **Compensation Lands** by **Nelson House** under Articles 3.5.3 or 3.5.8, or **Canada** under Article 3.5.13, was not warranted the transfer of administration and control of the rejected lands shall no longer be delayed.

3.5.19        No Delay.        A dispute in relation to any portion of **Compensation Lands** under Article 3.5 shall not hinder or delay the transfer of administration and control to **Canada** of the portions not affected by the dispute and Article 3.4.5 shall apply.

3.5.20        Warranty.        **Nelson House** warrants that it has, with professional and technical advice of its own choosing, selected and accepted the **Compensation Lands** based on its familiarity with and traditional use of those lands; that the lands have been inspected on behalf of **Nelson House** by persons designated by **Chief and Council** and found acceptable; and that **Chief and Council** have caused inquiries to be made among **Nelson House** resource harvesters and elders as to any environmental conditions within their knowledge which might render the lands unacceptable to **Nelson House** as **Reserve Lands**, and no such conditions have been found.



3.5.21            Amendment - The Real Property Act (Manitoba).    **Manitoba** shall recommend to the Legislature that Subsection 111(1) of The Real Property Act (Manitoba) be amended to extend its application to easements to inundate and store water.

### 3.6                    **SURVEYS OF REPLACEMENT COMPENSATION LANDS**

3.6.1            Surveys.        Where any replacement **Compensation Lands** are chosen under Articles 3.5.4 or 3.5.9 legal surveys of the boundaries of such replacement **Compensation Lands** and the boundaries of any exclusions required for public purposes, will be completed by, and at the expense of, **Manitoba** to the satisfaction of the **Parties** and the Surveyor General of Canada.

3.6.2            Legal Descriptions.        Where replacement **Compensation Lands** have been agreed upon under Articles 3.5.4 and 3.5.9, or where lands cease to be **Compensation Lands** under Article 3.5.16, the legal description of the **Compensation Lands** in Article 3 and Schedules 3.1, 3.2 and 3.3 will be amended accordingly.

## SCHEDULE 3.1

### BOUNDARIES AND EXCLUSIONS OF COMPENSATION LANDS

#### Suwannee Lake Parcel, Site 3.2

per approximate general location shown on Plans 3.1 and 3.2 attached to Schedule 3.2 and the following description:

#### Boundary Description

- Commencing at the intersection of UTM 6° Grid Line 430300<sup>m</sup> E and the northern **OHWM** of Suwannee Lake, thence Northerly along said Grid Line to the intersection with UTM 6° Grid Line 6222300<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 435500<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with a line West of and perpendicularly distant 300 metres from the West limit of Highway 391 right of way, as shown on Plan 6720 PLTO(N.Div) (Portage La Prairie Land Titles Office - Neepawa Division), thence Southwesterly along said line to the intersection of the Northern boundary of an existing trail, said Northern boundary being 20 metres perpendicularly distant from the existing trail centreline, thence Southwesterly along said Northern boundary to the first intersection with the Northern **OHWM** of the Suwannee River, thence Westerly along said **OHWM** to the intersection with the **OHWM** of Suwannee Lake, thence Westerly along the said **OHWM** to the point of commencement.

#### Exclusions

Lands excluded for public purposes as shown in Schedule 3.3.

**Wapisu Lake Parcel, Site 3.3**

per approximate general location shown on Plans 3.1 and 3.3 attached to Schedule 3.2 and the following description:

**Boundary Description**

- Commencing at the intersection of UTM 6° Grid Line 499450<sup>m</sup> E and the Southern limit of a transmission line right of way, as same is shown on a Plan of Easement across part of Unsurveyed Township 79 in Ranges 9 and 10 W.P.M. prepared by Douglas Theodore Stevens, Manitoba Land Surveyor and sworn to by him on the 5th day of December 1994 A.D. (WLTO Dep. No. 1287/94) approved by WLTO March 17, 1995, thence Southerly along said Grid Line to the intersection with UTM 6° Grid Line 6188000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line 2130 meters approximately to the Eastern **OHWM** of a small unnamed lake, thence Northerly, Westerly and Southerly along the **OHWM** of said lake to the intersection with UTM 6° Grid Line 6188000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 495100<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6190800<sup>m</sup> N, thence in a straight line Northeasterly to the intersection of UTM 6° Grid Lines 496300<sup>m</sup> E and 6190900<sup>m</sup> N, thence Northerly along UTM 6° Grid Line 496300<sup>m</sup> E to the Southern limit of Highway 391 right of way, as shown on Plan 6732 PLTO (N.Div), thence Northeasterly along said Southern limit to its intersection with the Southern limit of a transmission line right of way, as same is shown on a Plan of Easement across part of Unsurveyed Township 79 in Ranges 9 and 10 W.P.M. prepared by Douglas Theodore Stevens, Manitoba Land Surveyor and sworn to by him on the 5th day of December 1994 A.D. (WLTO Dep. No. 1287/94) and approved by WLTO March 17, 1995, thence Southeasterly along said Southern limit to the point of commencement.

**Exclusions**

The bed of the stream traversing unsurveyed Section 13, Township 79 R11W and Section 18, Township 79, R10W.

### **The Junction Parcels, Site 3.4**

per approximate general location shown on Plans 3.1 and 3.4 attached to Schedule 3.2 and the following descriptions:

#### Boundary Description

##### Parcel A

- Commencing at the most Westerly intersection of UTM 6° Grid Line 6194250<sup>m</sup> N with the **OHWM** of Kawaweyak Lake, thence Westerly along said Grid Line to the intersection with UTM 6° Grid Line 509000<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the North limit of a transmission line right of way, as same is shown on a Plan of Easement across part of Unsurveyed Township 79 in Ranges 9 and 10 W.P.M. prepared by Douglas Theodore Stevens, Manitoba Land Surveyor and sworn to by him on the 5th day of December 1994 A.D. (WLTO Dep. No. 1287/94) and approved by WLTO March 17, 1995, thence Easterly along said North limit to the intersection with UTM 6° Grid Line 513200<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the first intersection with the **OHWM** of Notakikwaywin Lake, thence Westerly and Northerly along said **OHWM** to the intersection of UTM 6° Grid Line 511550<sup>m</sup> E, said intersection occurring in the vicinity of UTM 6° Grid Line 6195850<sup>m</sup> N, thence in a straight line Southwesterly at a Grid Bearing of 235° to the **OHWM** of Kawaweyak Lake, thence Southerly, Westerly and Northerly along the **OHWM** of Kawaweyak Lake to the point of commencement and

##### Parcel B

The island in Kawaweyak Lake located at the intersection of UTM 6° Grid Lines 510700<sup>m</sup> E and 6194500<sup>m</sup> N.

#### Exclusions

Lands excluded for public purposes as shown in Schedule 3.3.

**Leftrook Lake/Mile 35 Parcels, Site 3.5**

per approximate general location shown on Plans 3.1 and 3.5 attached to Schedule 3.2 and the following descriptions:

**Boundary Description****Parcel A**

- Commencing at the most Southerly intersection of UTM 6° Grid Line 516800<sup>m</sup> E and the **OHWM** of Leftrook Lake, thence Southerly along said Grid Line to the intersection with UTM 6° Grid Line 6206550<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 519450<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with the North boundary of Township 80 Range 8 WPM, thence Easterly along said boundary to the intersection of UTM 6° Grid Line 521200<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection of UTM 6° Grid Line 6198650<sup>m</sup> N, thence in a straight line Southeasterly to the intersection of UTM 6° Grid Lines 523100<sup>m</sup> E and 6196750<sup>m</sup> N, thence Easterly along UTM 6° Grid Line 6196750<sup>m</sup> N to the intersection with the UTM 6° Grid Line 526700<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6198900<sup>m</sup> N, thence in a straight line Northwesterly to the intersection of UTM 6° Grid Lines 6204150<sup>m</sup> N and UTM 6° Grid Line 523250<sup>m</sup> E, thence Northerly along UTM 6° Grid Line 523250<sup>m</sup> E to the intersection with UTM 6° Grid Line 6211000<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 529000<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6217000<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the **OHWM** of Worm Lake, thence Northerly and Easterly along the **OHWM** of Worm Lake to the intersection with UTM 6° Grid Line 531350<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6221000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the first intersection with the **OHWM** of Leftrook Lake, thence Southerly and Westerly along the **OHWM** of Leftrook Lake to the point of commencement, and

**Parcel B**

- Commencing at the intersection of UTM 6° Grid Line 6213250<sup>m</sup> N and the **OHWM** of Leftrook Lake, said intersection being immediately East of UTM 6° Grid Line 519250<sup>m</sup> E, thence Easterly along UTM 6° Grid Line 6213250<sup>m</sup> N to the **OHWM** of Leftrook Lake, thence Southerly, Westerly and Northerly along the **OHWM** of Leftrook Lake to the point of commencement, and

Parcel C

- Commencing at the most Northerly intersection of the **OHWM** of Leftrook Lake and UTM 6° Grid Line 520950<sup>m</sup> E, thence Northerly along said Grid Line to the intersection with UTM 6° Grid Line 6215500<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the **OHWM** of Leftrook Lake, thence Easterly, Southerly and Westerly along the **OHWM** of Leftrook Lake to the point of commencement, and

Parcel D

- The island at the intersection of UTM 6° Grid Line 6216000<sup>m</sup> N and UTM 6° Grid Line 525300<sup>m</sup> E, and

Parcel E

- The island at the intersection of UTM 6° Grid Line 6214000<sup>m</sup> N and UTM 6° Grid Line 522700<sup>m</sup> E.

Exclusions

Firstly, lands required for public purposes as shown in Schedule 3.3.

Secondly, the bed of the stream traversing unsurveyed Sections 22, 27 and 28, Township 81, R8W.

Thirdly, the bed of the stream entering the east arm of Mooswuchi Lake and traversing unsurveyed Sections 27 and 28, Township 80, R8W to the confluence of streams in said Section 27.

**Baldock Lake Parcel, Site 3.6**

per approximate general location shown on Plans 3.1 and 3.6 attached to Schedule 3.2 and the following description:

**Boundary Description**

- Commencing at the most Easterly intersection of the **OHWM** of Baldock Lake and UTM 6° Grid Line 6264000<sup>m</sup> N, thence Easterly along said Grid Line to the intersection of UTM 6° Grid Line 577000<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6257650<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 571000<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6255000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 560000<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the **OHWM** of Baldock Lake, thence Easterly, Southerly and Northerly along the **OHWM** of Baldock Lake to the point of commencement.

**Exclusions**

Firstly, the bed of the stream traversing unsurveyed Sections 11, 13, 14 and 24, Township 86, R4W.

Secondly, the bed of the unnamed lake located at the intersection of UTM 6° Grid Lines 569500<sup>m</sup> E and 6256200<sup>m</sup> N.

### **Odei River Parcel, Site 3.7**

per approximate general location shown on Plans 3.1 and 3.7 attached to Schedule 3.2 and the following description:

#### **Boundary Description**

- Commencing at the intersection of UTM 6° Grid Lines 553800<sup>m</sup> E and 6190305<sup>m</sup> N, thence Northerly along said Grid Line 553800<sup>m</sup> E to the intersection with UTM 6° Grid Line 6194750<sup>m</sup> N, thence Easterly to the intersection of UTM 6 ° Grid Lines 556988<sup>m</sup> E and 6194765<sup>m</sup> N, thence Southerly along Grid Line UTM 6° 556988<sup>m</sup> E to the Northern **OHWM** of a small unnamed lake, thence Westerly and Southerly along the **OHWM** of said lake to the intersection with UTM 6° Grid Line 6190305<sup>m</sup> N, thence Westerly along said Grid Line to the point of commencement.

#### **Exclusions**

Firstly, the lands excluded for public purposes as shown in Schedule 3.3.

Secondly, the bed of the Odei River.



## SCHEDULE 3.2

### LEGAL SURVEY INSTRUCTIONS

#### COMPENSATION LANDS

##### General:

- A. To conduct surveys and prepare plans of the described areas in accordance with Land Titles Office guidelines.
- B. Prepare Parcel Plans of the areas at a suitable scale not less than 1:20,000.
- C. Survey of the parcel(s) as follows:

##### **Suwannee Lake Parcel, Site 3.2**

per approximate general location shown on Plans 3.1 and 3.2 attached to Schedule 3.2 and the following description:

##### Boundary Description

- Commencing at the intersection of UTM 6° Grid Line 430300<sup>m</sup> E and the northern **OHWM** of Suwannee Lake, thence Northerly along said Grid Line to the intersection with UTM 6° Grid Line 6222300<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 435500<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with a line West of and perpendicularly distant 300 metres from the West limit of Highway 391 right of way, as shown on Plan 6720 PLTO(N.Div) (Portage La Prairie Land Titles Office - Neepawa Division), thence Southwesterly along said line to the intersection of the Northern boundary of an existing trail, said Northern boundary being 20 metres perpendicularly distant from the existing trail centreline, thence Southwesterly along said Northern boundary to the first intersection with the Northern **OHWM** of the Suwannee River, thence Westerly along said **OHWM** to the intersection with the **OHWM** of Suwannee Lake, thence Westerly along the said **OHWM** to the point of commencement.

##### Exclusions

Lands excluded for public purposes as shown in Schedule 3.3.

**Wapisu Lake Parcel, Site 3.3**

per approximate general location shown on Plans 3.1 and 3.3 attached to Schedule 3.2 and the following description:

**Boundary Description**

- Commencing at the intersection of UTM 6° Grid Line 499450<sup>m</sup> E and the Southern limit of a transmission line right of way, as same is shown on a Plan of Easement across part of Unsurveyed Township 79 in Ranges 9 and 10 W.P.M. prepared by Douglas Theodore Stevens, Manitoba Land Surveyor and sworn to by him on the 5th day of December 1994 A.D. (WLTO Dep. No. 1287/94) approved by WLTO March 17, 1995, thence Southerly along said Grid Line to the intersection with UTM 6° Grid Line 6188000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line 2130 meters approximately to the Eastern **OHWM** of a small unnamed lake, thence Northerly, Westerly and Southerly along the **OHWM** of said lake to the intersection with UTM 6° Grid Line 6188000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 495100<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6190800<sup>m</sup> N, thence in a straight line Northeasterly to the intersection of UTM 6° Grid Lines 496300<sup>m</sup> E and 6190900<sup>m</sup> N, thence Northerly along UTM 6° Grid Line 496300<sup>m</sup> E to the Southern limit of Highway 391 right of way, as shown on Plan 6732 PLTO (N.Div), thence Northeasterly along said Southern limit to its intersection with the Southern limit of a transmission line right of way, as same is shown on a Plan of Easement across part of Unsurveyed Township 79 in Ranges 9 and 10 W.P.M. prepared by Douglas Theodore Stevens, Manitoba Land Surveyor and sworn to by him on the 5th day of December 1994 A.D. (WLTO Dep. No. 1287/94) and approved by WLTO March 17, 1995, thence Southeasterly along said Southern limit to the point of commencement.

**Exclusions**

The bed of the stream traversing unsurveyed Section 13, Township 79 R11W and Section 18, Township 79, R10W.

### **The Junction Parcels, Site 3.4**

per approximate general location shown on Plans 3.1 and 3.4 attached to Schedule 3.2 and the following descriptions:

#### **Boundary Description**

##### **Parcel A**

- Commencing at the most Westerly intersection of UTM 6° Grid Line 6194250<sup>m</sup> N with the **OHWM** of Kawaweyak Lake, thence Westerly along said Grid Line to the intersection with UTM 6° Grid Line 509000<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the North limit of a transmission line right of way, as same is shown on a Plan of Easement across part of Unsurveyed Township 79 in Ranges 9 and 10 W.P.M. prepared by Douglas Theodore Stevens, Manitoba Land Surveyor and sworn to by him on the 5th day of December 1994 A.D. (WLTO Dep. No. 1287/94) and approved by WLTO March 17, 1995, thence Easterly along said North limit to the intersection with UTM 6° Grid Line 513200<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the first intersection with the **OHWM** of Notakikwaywin Lake, thence Westerly and Northerly along said **OHWM** to the intersection of UTM 6° Grid Line 511550<sup>m</sup> E, said intersection occurring in the vicinity of UTM 6° Grid Line 6195850<sup>m</sup> N, thence in a straight line Southwesterly at a Grid Bearing of 235° to the **OHWM** of Kawaweyak Lake, thence Southerly, Westerly and Northerly along the **OHWM** of Kawaweyak Lake to the point of commencement and

##### **Parcel B**

The island in Kawaweyak Lake located at the intersection of UTM 6° Grid Lines 510700<sup>m</sup> E and 6194500<sup>m</sup> N.

#### **Exclusions**

Lands excluded for public purposes as shown in Schedule 3.3.

**Leftrook Lake/Mile 35 Parcels, Site 3.5**

per approximate general location shown on Plans 3.1 and 3.5 attached to Schedule 3.2 and the following descriptions:

**Boundary Description****Parcel A**

- Commencing at the most Southerly intersection of UTM 6° Grid Line 516800<sup>m</sup> E and the **OHWM** of Leftrook Lake, thence Southerly along said Grid Line to the intersection with UTM 6° Grid Line 6206550<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 519450<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with the North boundary of Township 80 Range 8 WPM, thence Easterly along said boundary to the intersection of UTM 6° Grid Line 521200<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection of UTM 6° Grid Line 6198650<sup>m</sup> N, thence in a straight line Southeasterly to the intersection of UTM 6° Grid Lines 523100<sup>m</sup> E and 6196750<sup>m</sup> N, thence Easterly along UTM 6° Grid Line 6196750<sup>m</sup> N to the intersection with the UTM 6° Grid Line 526700<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6198900<sup>m</sup> N, thence in a straight line Northwesterly to the intersection of UTM 6° Grid Lines 6204150<sup>m</sup> N and UTM 6° Grid Line 523250<sup>m</sup> E, thence Northerly along UTM 6° Grid Line 523250<sup>m</sup> E to the intersection with UTM 6° Grid Line 6211000<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 529000<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6217000<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the **OHWM** of Worm Lake, thence Northerly and Easterly along the **OHWM** of Worm Lake to the intersection with UTM 6° Grid Line 531350<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6221000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the first intersection with the **OHWM** of Leftrook Lake, thence Southerly and Westerly along the **OHWM** of Leftrook Lake to the point of commencement, and

**Parcel B**

- Commencing at the intersection of UTM 6° Grid Line 6213250<sup>m</sup> N and the **OHWM** of Leftrook Lake, said intersection being immediately East of UTM 6° Grid Line 519250<sup>m</sup> E, thence Easterly along UTM 6° Grid Line 6213250<sup>m</sup> N to the **OHWM** of Leftrook Lake, thence Southerly, Westerly and Northerly along the **OHWM** of Leftrook Lake to the point of commencement, and

Parcel C

- Commencing at the most Northerly intersection of the **OHWM** of Leftrook Lake and UTM 6° Grid Line 520950<sup>m</sup> E, thence Northerly along said Grid Line to the intersection with UTM 6° Grid Line 6215500<sup>m</sup> N, thence Easterly along the last mentioned Grid Line to the **OHWM** of Leftrook Lake, thence Easterly, Southerly and Westerly along the **OHWM** of Leftrook Lake to the point of commencement, and

Parcel D

- The island at the intersection of UTM 6° Grid Line 6216000<sup>m</sup> N and UTM 6° Grid Line 525300<sup>m</sup> E, and

Parcel E

- The island at the intersection of UTM 6° Grid Line 6214000<sup>m</sup> N and UTM 6° Grid Line 522700<sup>m</sup> E.

Exclusions

Firstly, lands required for public purposes as shown in Schedule 3.3.

Secondly, the bed of the stream traversing unsurveyed Sections 22, 27 and 28, Township 81, R8W.

Thirdly, the bed of the stream entering the east arm of Mooswuchi Lake and traversing unsurveyed Sections 27 and 28, Township 80, R8W to the confluence of streams in said Section 27.

### **Baldock Lake Parcel, Site 3.6**

per approximate general location shown on Plans 3.1 and 3.6 attached to Schedule 3.2 and the following description:

#### **Boundary Description**

- Commencing at the most Easterly intersection of the **OHWM** of Baldock Lake and UTM 6° Grid Line 6264000<sup>m</sup> N, thence Easterly along said Grid Line to the intersection of UTM 6° Grid Line 577000<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6257650<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 571000<sup>m</sup> E, thence Southerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 6255000<sup>m</sup> N, thence Westerly along the last mentioned Grid Line to the intersection with UTM 6° Grid Line 560000<sup>m</sup> E, thence Northerly along the last mentioned Grid Line to the **OHWM** of Baldock Lake, thence Easterly, Southerly and Northerly along the **OHWM** of Baldock Lake to the point of commencement.

#### **Exclusions**

Firstly, the bed of the stream traversing unsurveyed Sections 11, 13, 14 and 24, Township 86, R4W.

Secondly, the bed of the unnamed lake located at the intersection of UTM 6° Grid Lines 569500<sup>m</sup> E and 6256200<sup>m</sup> N.

**Odei River Parcel, Site 3.7**

per approximate general location shown on Plans 3.1 and 3.7 attached to Schedule 3.2 and the following description:

Boundary Description

- Commencing at the intersection of UTM 6° Grid Lines 553800<sup>m</sup> E and 6190305<sup>m</sup> N, thence Northerly along said Grid Line 553800<sup>m</sup> E to the intersection with UTM 6° Grid Line 6194750<sup>m</sup> N, thence Easterly to the intersection of UTM 6 ° Grid Lines 556988<sup>m</sup> E and 6194765<sup>m</sup> N, thence Southerly along Grid Line UTM 6° 556988<sup>m</sup> E to the Northern **OHWM** of a small unnamed lake, thence Westerly and Southerly along the **OHWM** of said lake to the intersection with UTM 6° Grid Line 6190305<sup>m</sup> N, thence Westerly along said Grid Line to the point of commencement.

Exclusions

Firstly, the lands excluded for public purposes as shown in Schedule 3.3.

Secondly, the bed of the Odei River.

## **General Provisions**

### **Bearings:**

Bearings will be derived from the control and referenced to the Central Meridian of U.T.M. Zone 14. Bearings not angles, will show on all surveyed boundaries.

### **Monuments:**

Monuments along surveyed boundaries will be intervisible and the maximum distance between each will be 1 km. The monuments will be 0.025<sup>m</sup> x 0.025<sup>m</sup> x 0.914<sup>m</sup> or short R. posts. Ties will be shown to all permanent water bodies.

### **Cut Lines:**

The inland boundary shall be surveyed on true line and line cut to ensure a visible skyline.

### **Enclosed Parcels:**

Enclosed parcels will be identified by letter with areas of each shown.

### **Control:**

Global Positioning System control will be expanded along as required to accommodate plotting the **OHWM** and to provide additional co-ordinate control, all to be referenced to the closest available NAD27 Doppler Control Monument. These monuments and values will be shown on the Plan. The G.P.S. process shall exceed third order accuracies.

### **OHWM Boundaries:**

All pertinent **OHWM** boundaries will be plotted from aerial photography in accordance with Land Titles Office guidelines.

### **Road Allowances:**

All projected road allowances contained within the bounds of the **Compensation Lands**, as above described, form part of the **Compensation Lands**.

### **Water Beds:**

The beds of all water bodies contained within the bounds of Compensation Lands shall form part of said lands excepting those water bodies which are specifically excluded herein. The beds of all water bodies which may be determined to intersect the boundaries



of Compensation Lands shall be excluded therefrom.

**Bench Marks:**

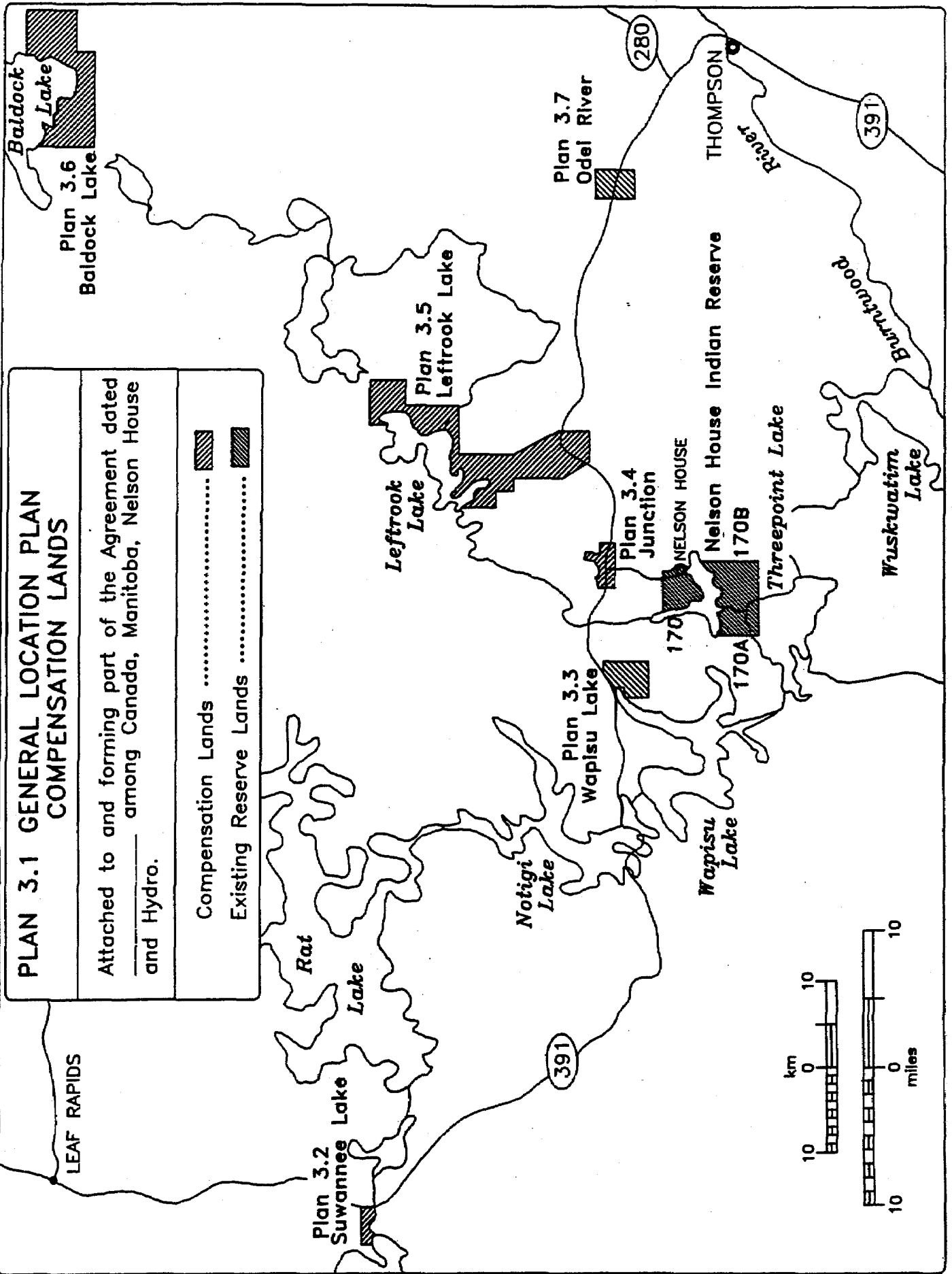
Bench Marks will be identified in the Notes with supporting B.M.§ placed at suitable locations and shown on the Plan.

**Exclusions:**

Excluded lands described in Schedule 3.3 will be surveyed with all boundary lines to be line cut to ensure a visible skyline. The Plan will show bearings and distances along these boundaries of the excluded lands.

**Plans**

	<b><u>Scale</u></b>
3.1 General Location Plan, Compensation Lands	as shown
3.2 Suwanee Lake, Compensation Lands	as shown
3.3 Wapisu Lake, Compensation Lands	as shown
3.4 Junction, Compensation Lands	as shown
3.5 Leftrook Lake, Compensation Lands	as shown
3.6 Baldock Lake, Compensation Lands	as shown
3.7 Odie River, Compensation Lands	as shown

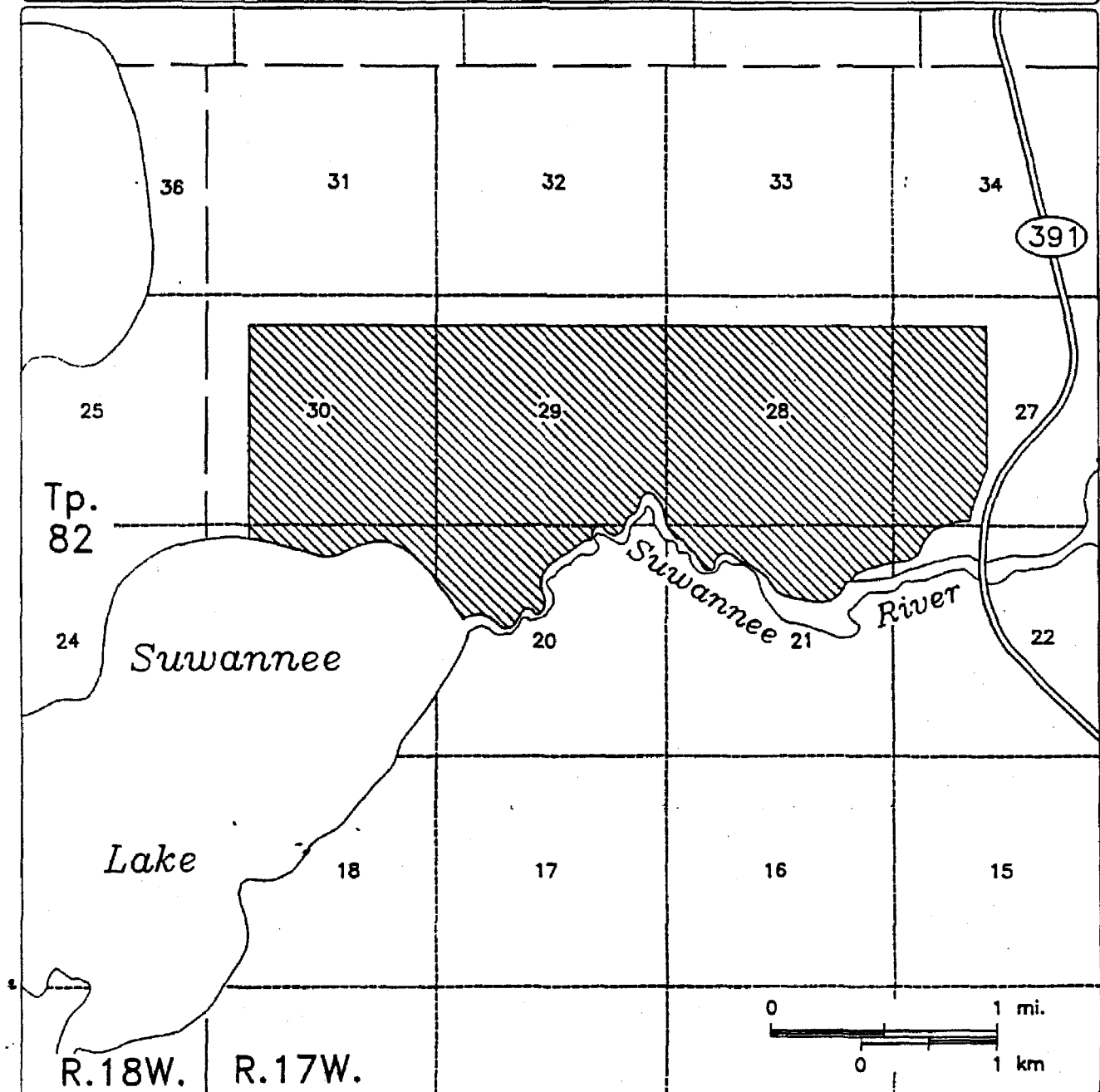


## PLAN 3.2 SUWANNEE LAKE COMPENSATION LANDS

Attached to and forming part of the Agreement dated  
\_\_\_\_\_ among Canada, Manitoba, Nelson House  
and Hydro.

Legend:

Compensation Lands ..... 

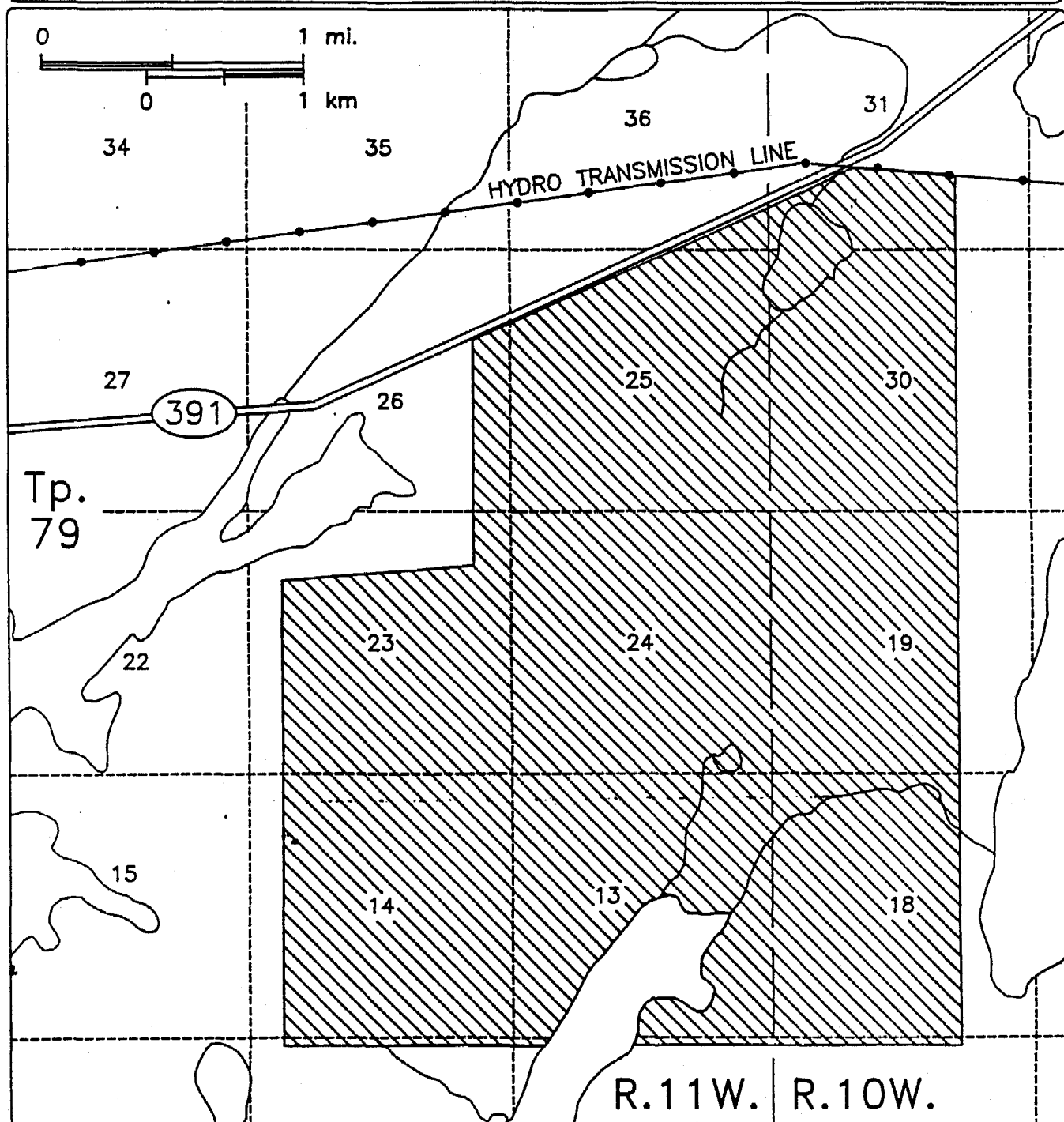


# PLAN 3.3 WAPISU LAKE COMPENSATION LANDS

Attached to and forming part of the Agreement dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and Hydro.

Legend:

Compensation Lands ..... 

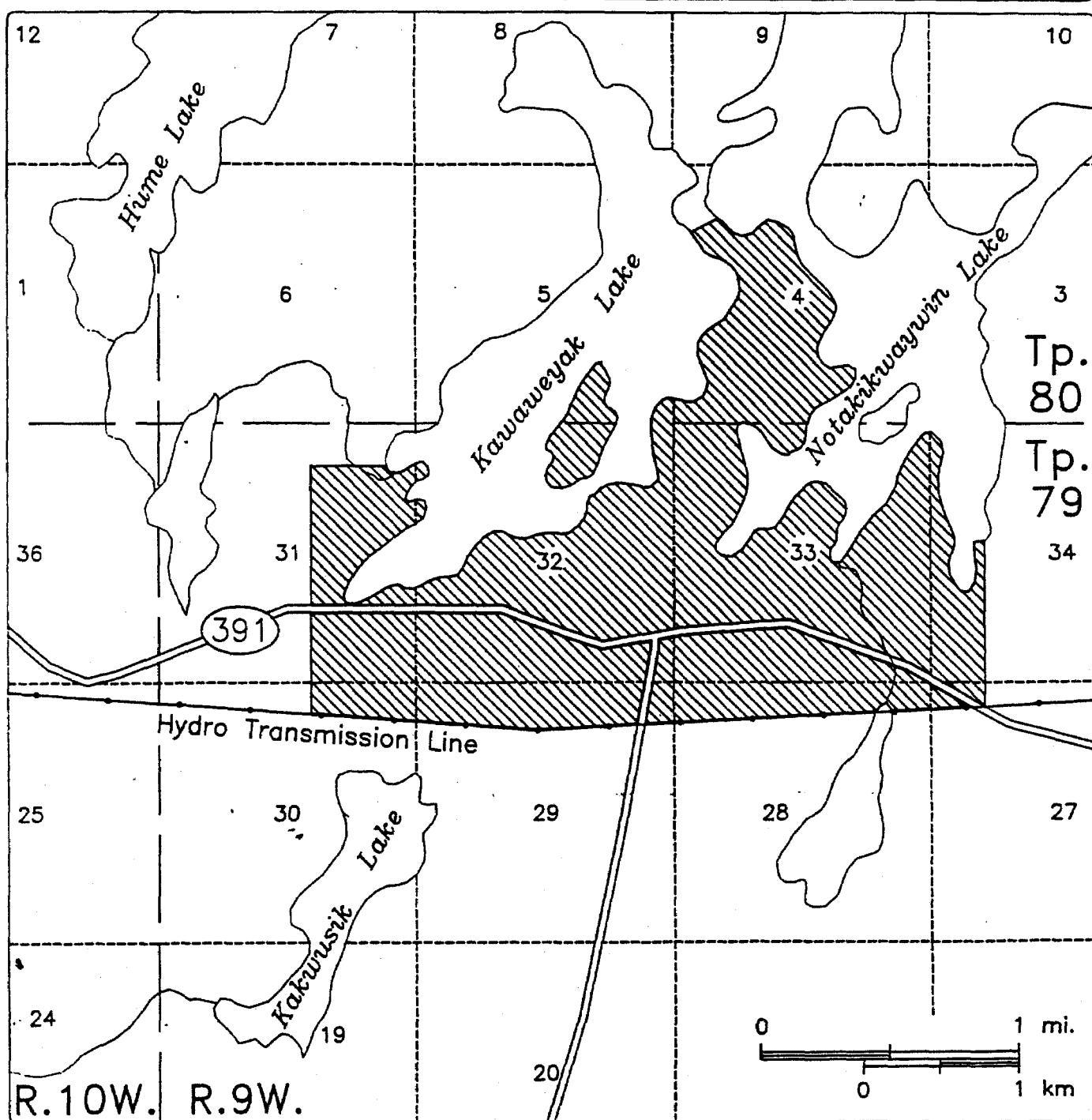


# PLAN 3.4 JUNCTION COMPENSATION LANDS

Attached to and forming part of the Agreement dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and Hydro.

Legend:

Compensation Lands ..... 

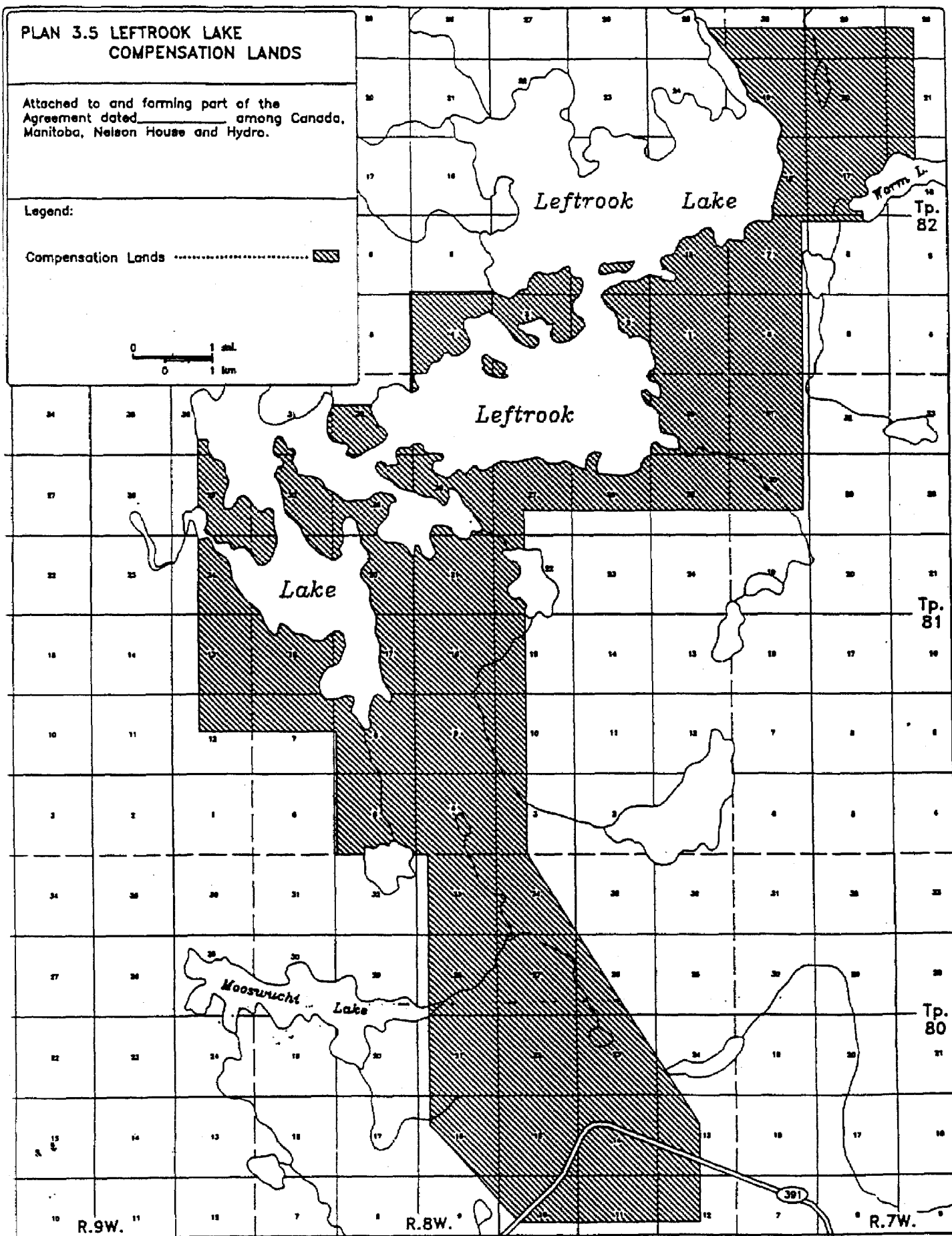


PLAN 3.5 LEFTROOK LAKE  
COMPENSATION LANDS

Attached to and forming part of the  
Agreement dated \_\_\_\_\_ among Canada,  
Manitoba, Nelson House and Hydro.

Legend:

Compensation Lands ..... 



# PLAN 3.6 BALDOCK LAKE COMPENSATION LANDS

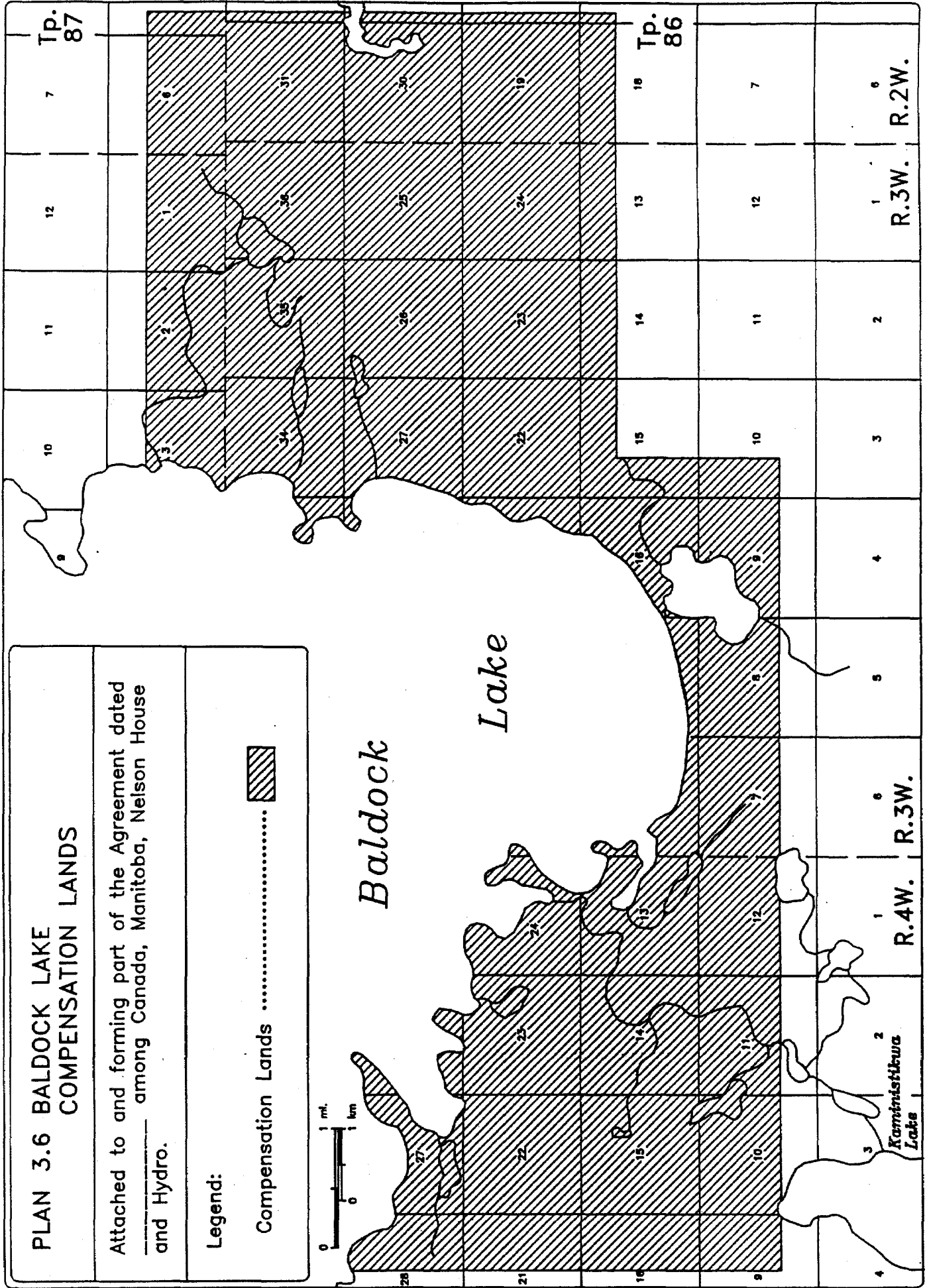
Attached to and forming part of the Agreement dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and Hydro.

Legend:

Compensation Lands ..... 



Baldock Lake

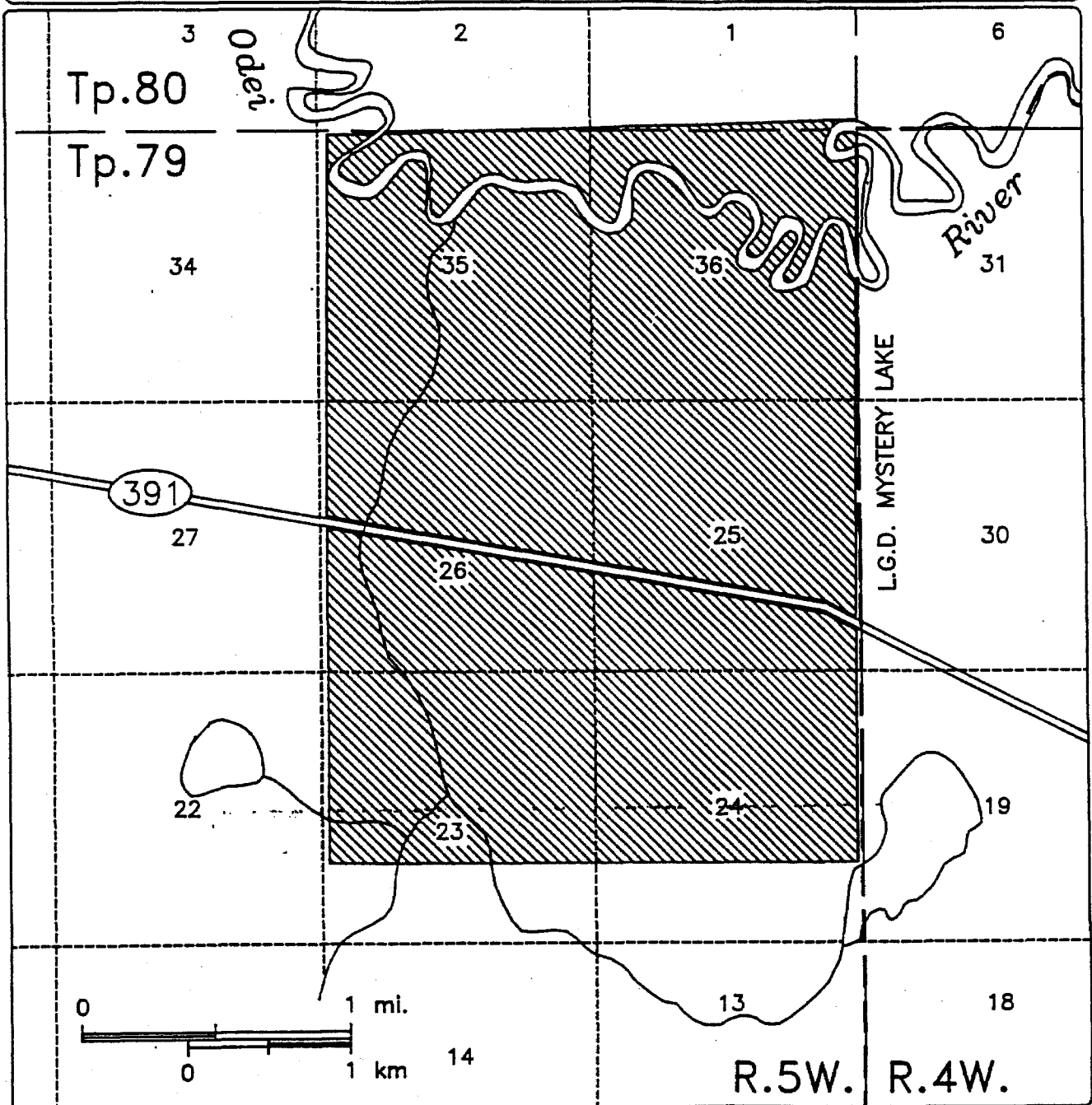


# PLAN 3.7 ODEI RIVER COMPENSATION LANDS

Attached to and forming part of the Agreement dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and Hydro.

Legend:

Compensation Lands ..... 





**SCHEDULE 3.3**  
**COMPENSATION LANDS**  
**LANDS EXCLUDED FOR PUBLIC PURPOSES**

The following lands shall be excluded from Compensation Lands:

Existing Parcels

1. The existing P.R. 391 R.O.W. as shown on Plans 6732, 6526 PLTO(N.Div) and the access road to Nelson House as shown on Plan 7730 PLTO(N.Div).
2. The existing P.R. 391 R.O.W. as shown on Plan 6228 PLTO(N.Div).
3. The existing P.R. 391 R.O.W. as shown on Plans 6229, 6231 PLTO(N.Div).
4. Parcel "A" Plan 6533 PLTO(N.Div).
5. Plan of Public Work, Plan 6526 PLTO(N.Div).

Additional Exclusions

6. Areas adjacent to P.R. 391 shown on Plans 3.8A, 3.8B, 3.8C and 3.8D, Manitoba Department of Highways and Transportation reserved for borrow areas, stockpile sites and off-takes.
7. Parcel "A" shown on Plan 3.10 reserved for transmission line access.

Plans

- |      |                                                                                                         |
|------|---------------------------------------------------------------------------------------------------------|
| 3.8A | Exclusions for Public Purposes<br>in the vicinity Jct. of P.R. No. 391<br>and Nelson House Access Road. |
| 3.8B | Exclusions for Public Purposes<br>in the vicinity of km 59.9 on P.R. No. 391                            |
| 3.8C | Exclusions for Public Purposes<br>in the vicinity of km 179.3 on P.R. No. 391                           |

3.8D Exclusions for Public Purposes  
in the vicinity of km 29 on P.R. No. 391

3.10 Exclusions for Public Purposes  
(Transmission Line Access Road)  
West of the Jct. of P.R. 391 and Nelson House Access Road



Manitoba  
Highways and  
Transportation

REGION No. 5  
THOMPSON, MAN.

# NORTHERN FLOOD AGREEMENT NELSON HOUSE FIRST NATION COMPENSATION LANDS EXCLUSIONS FOR PUBLIC PURPOSES

In The Vicinity Jct. of P.R. No. 391  
and Nelson House Access Road

## LEGEND

- ROADWAY-RIGHT OF WAY
- EXISTING INDIAN RESERVE BOUNDARY
- COMPENSATION LAND BOUNDARIES
- QUARRY, STOCKPILES AND GRANULAR BORROW PITS (TO BE RETAINED BY THE CROWN FOR PUBLIC USE)

PLAN No. 3.8A Attached to and forming part of the Agreement  
dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and  
Hydro.

## NOTE:

km's SHOWN ARE DISTANCES FROM BURNTHOOD DRIVE IN THOMPSON  
TOWNSHIP, RANGES AND SECTIONS SHOWN ARE APPROXIMATE LOCATION  
FOR EXACT LOCATION SEE REGISTERED LEGAL PLANS  
SHORE LINES SHOWN ARE APPROXIMATE LOCATION TAKEN FROM TOPO MAPS

SCALE: 0



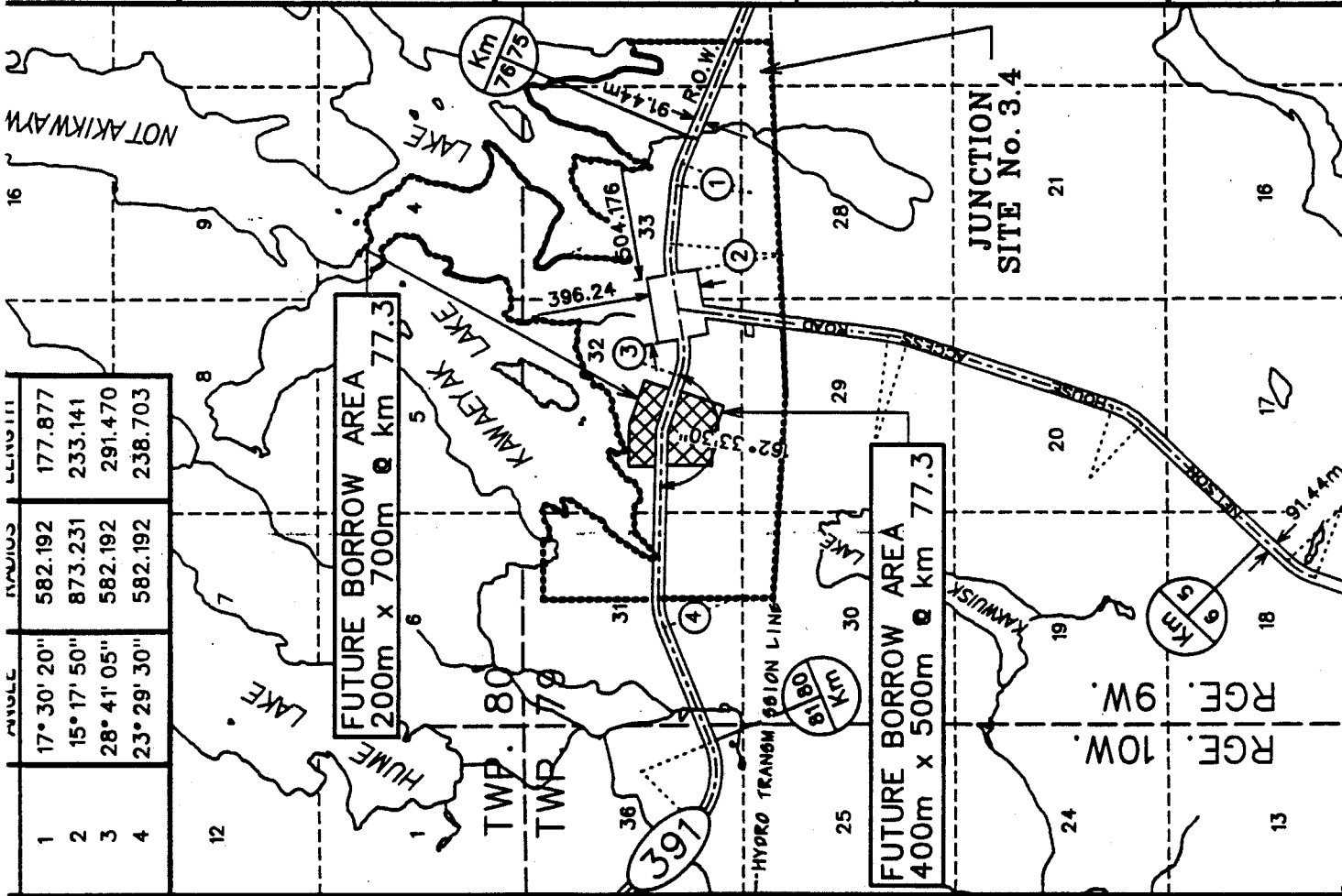
METRIC

DATE DRAWN  
JANUARY 31, 1994

1:50,000

CADD File No. nelsonfa2.dgn

PLAN No. 3.8A





Manitoba  
Highways and  
Transportation  
REGION No. 5  
THOMPSON, MAN.

NORTHERN FLOOD AGREEMENT  
NELSON HOUSE FIRST NATION  
COMPENSATION LANDS  
EXCLUSIONS FOR PUBLIC PURPOSES

In The Vicinity of km 59.9 on P. R. No. 391

LEGEND

ROADWAY-RIGHT OF WAY

EXISTING INDIAN RESERVE BOUNDARY

COMPENSATION LAND BOUNDARIES

QUARRY, STOCKPILES AND GRANULAR  
BORROW PITS (TO BE RETAINED BY THE  
CROWN FOR PUBLIC USE)

EXISTING R.O.W. 61.44m

PLAN No. 3.8B Attached to and forming part of the Agreement  
dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and  
Hydro.

NOTE:

km's SHOWN ARE DISTANCES FROM BURNWOOD DRIVE IN THOMPSON  
TOWNSHIPS, RANGES AND SECTIONS SHOWN ARE APPROXIMATE LOCATION  
FOR EXACT LOCATION SEE REGISTERED LEGAL PLANS  
SHORE LINES SHOWN ARE APPROXIMATE LOCATION TAKEN FROM TOPO MAPS

SCALE:

METRIC

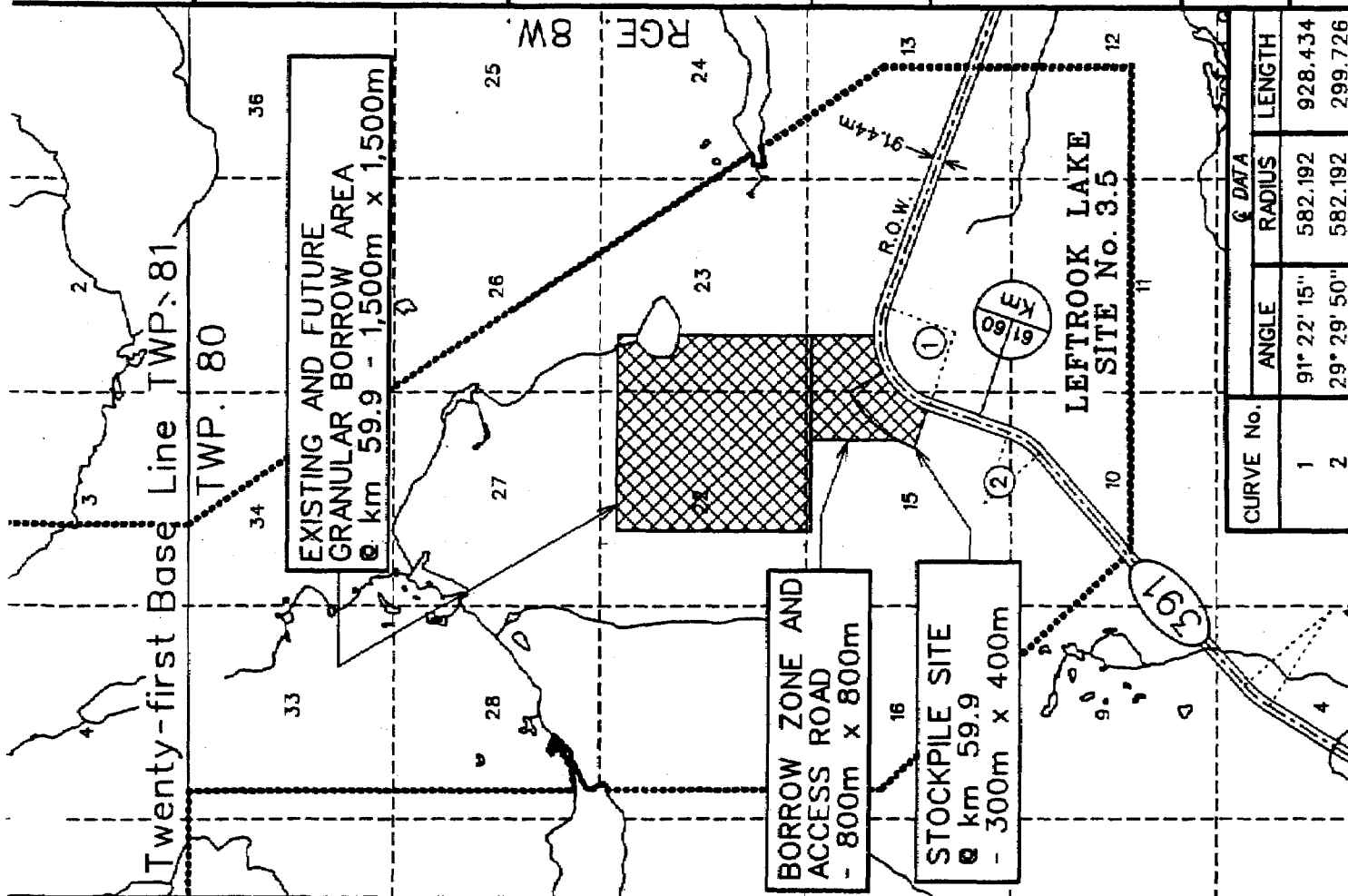


DATE DRAWN  
JANUARY 31, 1994

1:50,000

CADD File No. nelsonf2.dgn

PLAN No. 3.8B



CURVE No.	C DATA		
	ANGLE	RADIUS	LENGTH
1	91° 22' 15"	582.192	928.434
2	29° 29' 50"	582.192	299.726



MINISTRY OF  
Highways and  
Transportation

REGION No. 5  
THOMPSON, MAN.

# NORTHERN FLOOD AGREEMENT NELSON HOUSE FIRST NATION COMPENSATION LANDS EXCLUSIONS FOR PUBLIC PURPOSES

In The Vicinity of km 179.3 on P.R. No. 391

## LEGEND

ROADWAY-RIGHT OF WAY

EXISTING INDIAN RESERVE BOUNDARY

COMPENSATION LAND BOUNDARIES

QUARRY, STOCKPILES AND GRANULAR  
BORROW PITS (TO BE RETAINED BY THE  
CROWN FOR PUBLIC USE)

EXISTING R.O.W. 91.44m

PLAN No. 3.8C Attached to and forming part of the Agreement  
dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and  
Hydro.

## NOTE:

km's SHOWN ARE DISTANCES FROM BURNTHOOD DRIVE IN THOMPSON  
TOWNSHIPS, RANGES AND SECTIONS SHOWN ARE APPROXIMATE LOCATION  
FOR EXACT LOCATION SEE REGISTERED LEGAL PLANS  
SHORE LINES SHOWN ARE APPROXIMATE LOCATION TAKEN FROM TOPO MAPS

SCALE: 0



METRIC

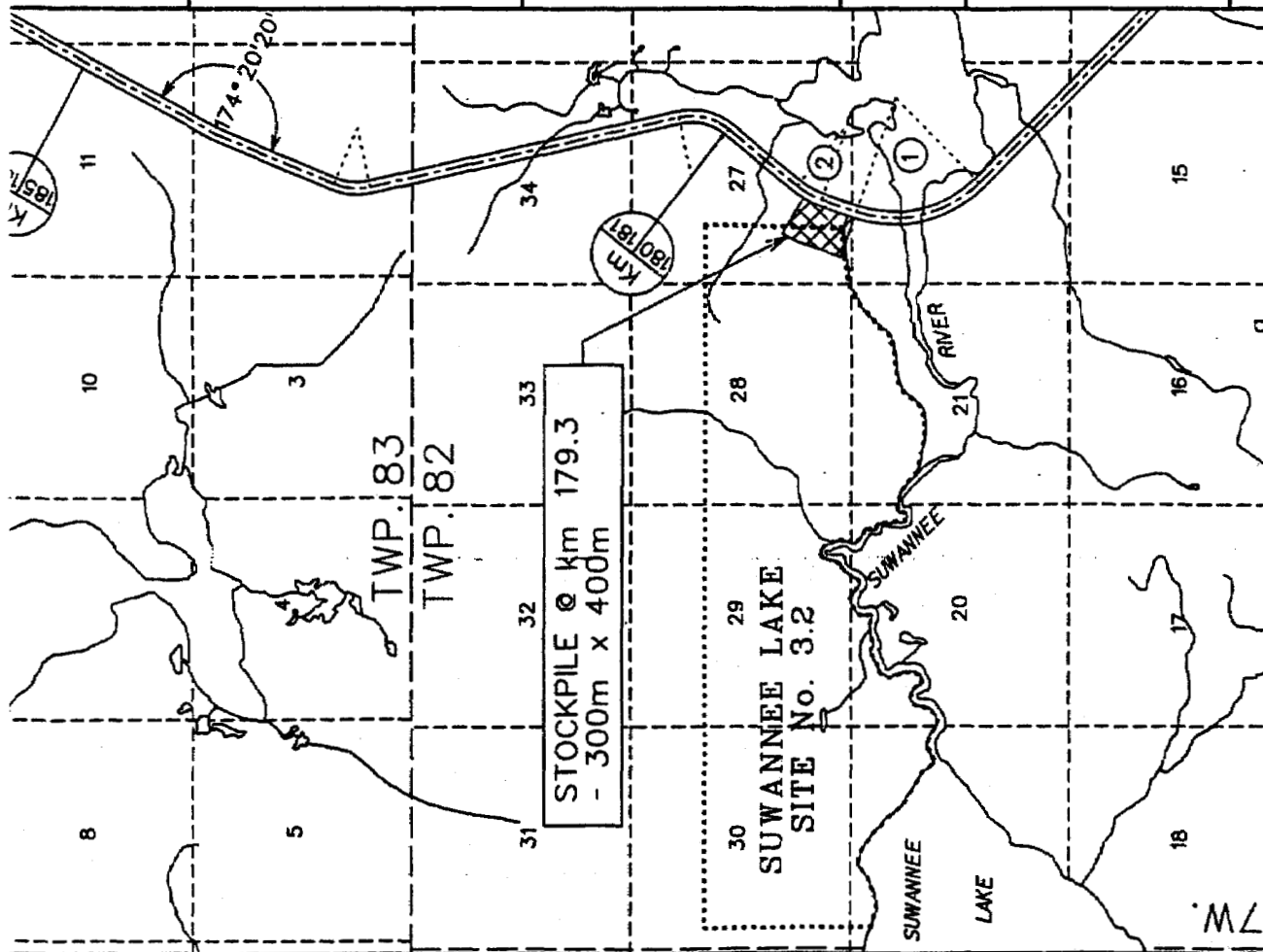
DATE DRAWN

JANUARY 28, 1994

1:50,000

CADD File No. nelsonfa2.dgn

PLAN No. 3.8C



CURVE No.	C & DATA			LENGTH
	ANGLE	RADIUS		
1	64° 14' 20"	873.231		979.047
2	19° 49' 10"	582.192		201.385



**Manitoba  
Highways and  
Transportation**

REGION No. 5  
THOMPSON, MAN.

**NORTHERN FLOOD AGREEMENT  
NELSON HOUSE FIRST NATION  
COMPENSATION LANDS  
EXCLUSIONS FOR PUBLIC PURPOSES**

In The Vicinity of km. 29.0 on P. R. No. 391

**LEGEND**

ROADWAY-RIGHT OF WAY

EXISTING INDIAN RESERVE BOUNDARY

COMPENSATION LAND BOUNDARIES

QUARRY, STOCKPILES AND GRANULAR  
BORROW PITS (TO BE RETAINED BY THE  
CROWN FOR PUBLIC USE)



PLAN No. 3.8D Attached to and forming part of the Agreement  
dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and  
Hydro.

**NOTE:**

km's SHOWN ARE DISTANCES FROM BURNTHOOD DRIVE IN THOMPSON  
TOWNSHIPS, RANGES AND SECTIONS SHOWN ARE APPROXIMATE LOCATION  
FOR EXACT LOCATION SEE REGISTERED LEGAL PLANS

SHORE LINES SHOWN ARE APPROXIMATE LOCATION TAKEN FROM TOPO MAPS

SCALE:



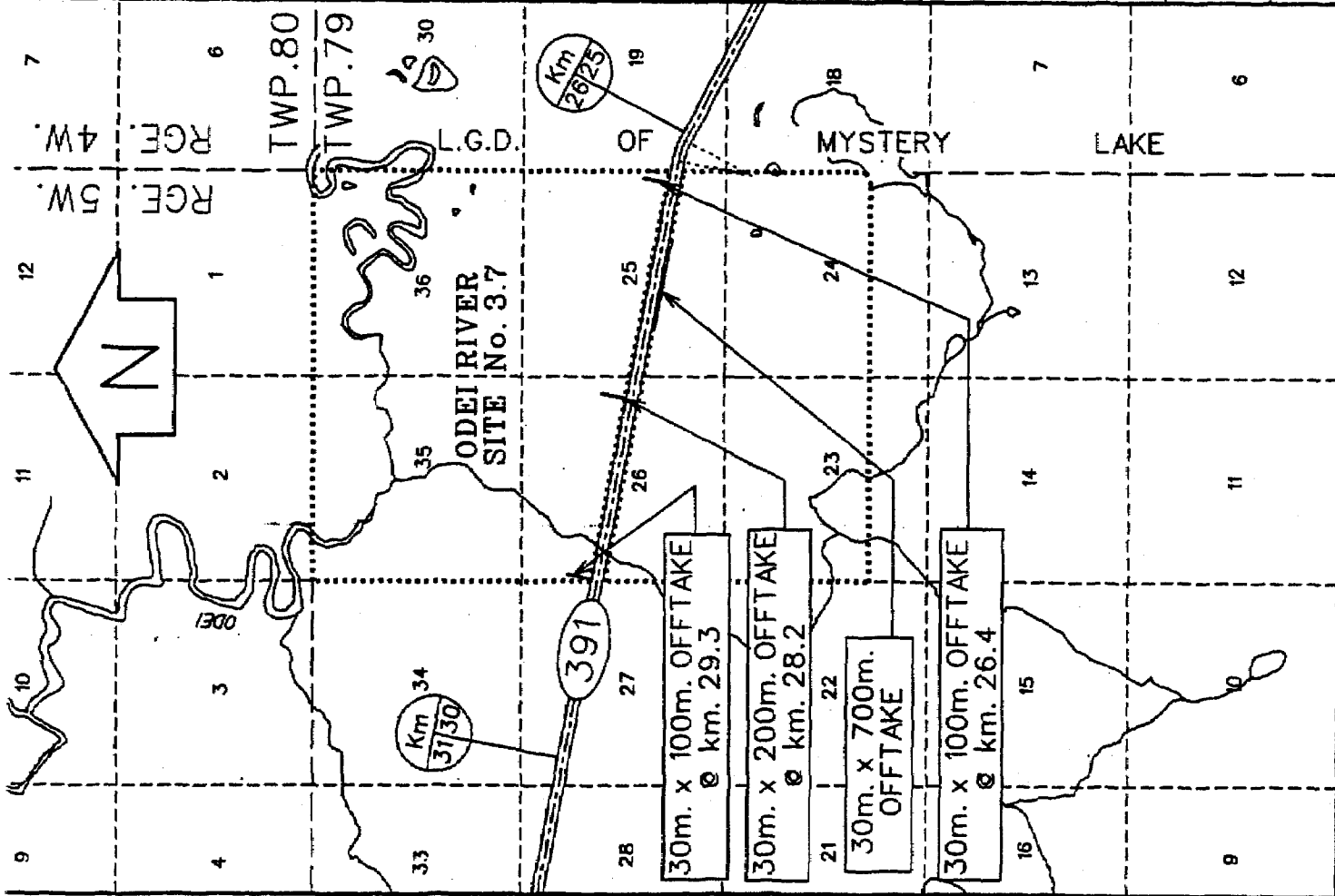
METRIC

DATE DRAWN  
JUNE 19, 1995

1:50,000

CADD File No. nelsonfa2.dgn

PLAN No. 3.8D





MANITOBA HYDRO  
PROPERTY DEPARTMENT

NORTHERN FLOOD AGREEMENT  
NELSON HOUSE FIRST NATION  
COMPENSATION LANDS  
EXCLUSIONS FOR PUBLIC PURPOSES

WEST OF THE JCT. OF P.R. No. 391  
AND NELSON HOUSE ACCESS ROAD

SCALE 1 : 5000



LEGEND

- ACCESS ROAD "PCL. A" . . . . .
- COMPENSATION LAND BOUNDARIES . . . . .
- PUBLIC ROAD PLAN 6526 PLTD (N.D.V.) AND 7730 PLTD (N.D.V.) . . . . .

NOTE:

EXISTING PUBLIC ROAD RIGHT-OF-WAY ARE 81.44 METRES IN PERP. WIDTH  
PCL. 'A' IS 18.0 METRES IN PERP. WIDTH AND DISTANCES SHOWN ARE ALONG CENTRE LINE.  
TOWNSHIPS, RANGES AND SECTIONS ARE APPROXIMATE LOCATION. FOR EXACT LOCATION SEE REGISTERED LEGAL PLANS  
PLAN 310 ATTACHED TO AND FORMING PART OF THE AGREEMENT DATED BETWEEN CANADA, MANITOBA, NELSON HOUSE AND HYDRO.

DATE DRAWN MARCH 5, 1985

DRAWING NUMBER

06303-A-11702

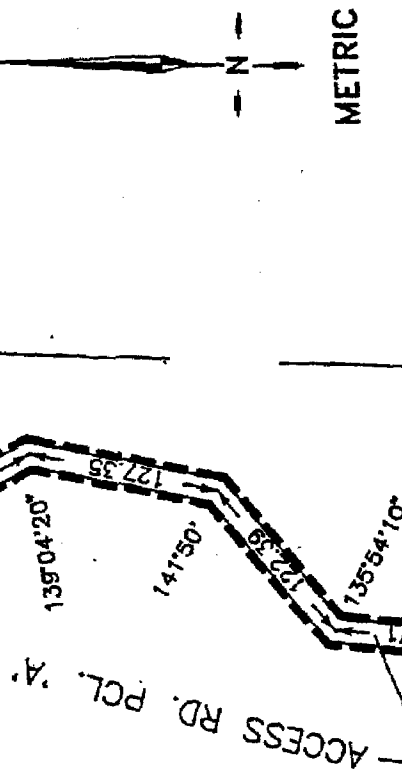
REVISION

01

00

PLAN P.R. No. 391 6526

±481.7 to W.Limit Future Quarry Pits for Hwys & Transportation



METRIC

32

TP. 79, RGE. 9W

±1781.1 to W.Limit Road Pl. 7730

TRANSMISSION LINE ROW

137.160

137.160

31

TP. 79, RGE. 9W

## SCHEDULE 3.4

### EASEMENT AGREEMENT

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## EASEMENT AGREEMENT

THIS AGREEMENT made the       day of       , 19

AMONG:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as  
represented by The Minister of Indian Affairs and Northern  
Development,

(hereinafter referred to as "**Canada**"),

OF THE FIRST PART,

HER MAJESTY THE QUEEN IN RIGHT OF MANITOBA, as  
represented by The Minister of Northern Affairs,

(hereinafter referred to as "**Manitoba**"),

OF THE SECOND PART,

THE NELSON HOUSE FIRST NATION, as represented by Chief  
and Council,

(hereinafter referred to as "**Nelson House**"),

OF THE THIRD PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "**Hydro**"),

OF THE FOURTH PART.

WHEREAS:

1                    Indian Reserve Numbers 170, 170A, 170B and 170C are  
**Reserves.**

2                    The **NFA** was entered into among **Manitoba, Hydro**, the Northern  
Flood Committee, Inc., negotiating on behalf of the Cross Lake, **Nelson House**,  
Norway House, Split Lake and York Factory Indian bands, and **Canada**.

3                    The **NFA** was ratified by each of the bands.

4                    The **NFA** provides, among other provisions, for compensation for  
**Reserve Lands**, and **Adverse Effects** on **Nelson House** and **Members**.

5                    The **NFA** also provides that each of the said bands will facilitate,  
and **Canada** will grant to **Hydro** certain **Easements**, for purposes of the **Project**.

6                    **Hydro** is an agent of the Crown in right of Manitoba, and **Manitoba**  
will assume certain rights and obligations of **Hydro** as set forth in this **Easement**  
**Agreement**.

7                    **Hydro** is empowered pursuant to The Manitoba Hydro Act (Manitoba) to take or use lands without the consent of the owner thereof; but in lieu of the exercise of powers of expropriation, the Governor in Council has, by Orders in Council 1977-2276 and 1978-594, approving the **NFA** pursuant to Section 35 of the Indian Act (Canada), agreed to grant an **Easement** to **Hydro** with respect to the lands described in this **Easement Agreement**; and, subject to the terms and conditions hereinafter set forth, **Canada** has agreed that the **Easement** provided for in this **Easement Agreement** be granted to **Hydro** and that an instrument transferring partial administration and control of the said lands be issued in favour of **Manitoba**, in accordance with this **Easement Agreement**.

8                    **Chief and Council** has, by Council Resolution agreed to the grant of the **Easement** on and over certain **Reserve Lands** described in, and upon the terms and conditions set out in, this **Easement Agreement** .

9                    **Nelson House** has, by referendum, ratified the **Agreement** among **Nelson House, Canada, Manitoba** and **Hydro** and has authorized **Chief and Council** to enter into this **Easement Agreement** on behalf of **Nelson House**.

10                    The Minister of Indian Affairs and Northern Development, Canada, has been authorized to enter into this **Easement Agreement** on behalf of **Canada**.

11                    The Minister of Northern Affairs, Manitoba, has been authorized to enter into this **Easement Agreement** on behalf of **Manitoba**.

12.                    The appropriate officers of **Hydro** have been authorized by the Manitoba Hydro-Electric Board to enter into this **Easement Agreement** on behalf of **Hydro**.

NOW THEREFORE the **Parties** agree as follows:

1.0                    Article 1. Definitions

1.1                    In this **Easement Agreement**:

1.2                    **Agreement** means the agreement dated [insert date of the Agreement] 1996 among **Nelson House, Canada, Manitoba and Hydro**.

1.3                    **ASL** means above sea level as established by Geodetic Survey of Canada in accordance with Revision No. 2, dated May, 1970.

1.4                    **Canada** means Her Majesty the Queen in Right of Canada who,

for the purposes of this **Easement Agreement**, is represented by the Minister of Indian Affairs and Northern Development.

1.5                **Chief and Council** means the Council of **Nelson House**.

1.6                **Controlling Bench Mark** means Geodetic Survey of Canada, Bench Mark No. 70-M-008 being a tablet in a rock outcrop on top of a hill located approximately 2.1 m (7 ft.) south of Tower No. 184 along the transmission line from Thompson to Notigi Lake, or any replacement benchmark established as provided in Article 2.2.1 of the **Agreement**. For all purposes of this **Easement Agreement** BM 70-M-008 shall be considered to be at the elevation published in Quad. Sheet 55098 being Revision 2 dated May, 1970 which is elevation 278.476m (913.63ft.) **ASL**.

1.7                **Date of the Agreement** means the date the **Agreement** has been executed by all **Parties**.

1.8                **Easement** means the interest in the **Easement Lands** to be granted by **Canada** to **Hydro** and **Manitoba**.

1.9                **Easement Agreement** means this agreement.

1.10           **Easement Lands** means the lands which are subject to the **Easement** and which are described in Article 2.1 of this **Easement Agreement**.

1.11           **Existing Development** means all those physical works related to hydro-electric development on the Churchill, Nelson, Rat and Burntwood River systems and the development of the Lake Winnipeg Regulation System north of the 53rd parallel, to the extent such works have been physically developed and constructed by or on behalf of **Hydro** to the **Date of the Agreement**; and, without limiting the generality of the foregoing, includes all dams, dikes, channels, control structures, excavations, generating stations, roads, transmission lines and other works forming part of, or related to, all aspects of such hydro-electric development including

- Lake Winnipeg Regulation,
- Churchill River Diversion, including without limitation the Notigi and Missi control structures,
- Grand Rapids Generating Station,
- Laurie River Generating Station,
- Kelsey Generating Station,
- Kettle Generating Station,
- Long Spruce Generating Station,

- Limestone Generating Station,  
and the access road and other physical construction with respect to the proposed  
Conawapa Generating Station.

1.12            **Hydro** means the Manitoba Hydro-Electric Board.

1.13            **Manitoba** means Her Majesty the Queen in Right of Manitoba who,  
for the purposes of this **Easement Agreement**, is represented by the Minister of  
Northern Affairs.

1.14            **Nelson House** means Nelson House First Nation, a "band" within  
the meaning of the Indian Act (Canada).

1.15            **NFA** means the agreement dated December 16, 1977, between  
**Manitoba, Hydro, NFC and Canada**, including all schedules annexed thereto, and  
shall include the Economic Development Agreement between the same parties and  
dated the 1st day of September, 1977.

1.16            **NFC** means the Northern Flood Committee, Inc.

1.17            **Party** means any of **Canada, Manitoba, Nelson House** and

**Hydro.**

1.18           **Project** means and includes all **Existing Development** and all future hydro-electric development or re-development by **Hydro** on the Churchill, Nelson, Rat and Burntwood River Systems and includes all development or re-development by **Hydro** of the Lake Winnipeg Regulation System north of the 53 (fifty-third) parallel.

1.19           **Reserve** has the same meaning as in the Indian Act, (Canada) but is restricted to those reserves set apart for the use and benefit of **Nelson House**.

1.20           **Reserve Lands** means lands within the **Reserve**.

1.21           **Resource Management Area** means the area described and shown on Schedule 6.1 of the **Agreement** and includes the rivers and lakes and any **Reserve Lands** therein, subject to changes that may be made in accordance with Article 6 of the **Agreement**.

1.22           **Setback Lines** means the lines marking the upper boundary of the **Easement Lands** comprising the severance lines on I.R. Nos. 170, 170A, 170B and 170C shown on Plans of Survey recorded in the Canada Lands Surveys



Records as Nos. 71393, 71395, 71396, 77048, 77049, 77050, 77051 and 77052, as well as the North boundary of a parcel of land, said North boundary being a straight line drawn Westerly from the North-West corner of Parcel 'B', Plan No.68253 C.L.S.R. to the North-East corner of Parcel 'A', Plan No.68122 C.L.S.R., all **Easement Lands** more particularly described in Schedule 3.5 of the **Agreement**.

1.23            **Static Inundation Level** means the inundation level with wind effects eliminated.

2.0            **Article 2. Easement Lands**

2.1            **Canada shall:**

- (a) grant to **Hydro** the right, liberty, privilege and **Easement** in accordance with the terms and conditions in this **Easement Agreement**; and
- (b) by order of Governor in Council, transfer to **Manitoba** such administration and control as is required to assure **Manitoba** receives the right, liberty, privilege and **Easement** in accordance with the terms and conditions in this **Easement Agreement**;

with respect to all of the **Easement Lands** described as:

In the Province of Manitoba, in Unsurveyed Townships 78 and 79, Ranges 9 and 10 West of the Principal Meridian, all those parcels of land being more

particularly described under Firstly to Eighthly as follows;

Firstly: All those portions of Nelson House Indian Reserve No. 170 shown as Parcels N.F.A.-1, N.F.A.-2 and N.F.A.-3 on a plan of survey recorded in the Canada Lands Surveys Records as No. 71395, a copy of which is filed in the Portage la Prairie Land Titles Office as No. 22193; said Parcels containing 4.92 ha. (12.1 Ac.), more or less

Secondly: All those portions of Nelson House Indian Reserve No. 170 shown as Parcels N.F.A.-4, N.F.A.-5, N.F.A.-6, N.F.A.-7, N.F.A.-8 and N.F.A.-9 on a plan of survey recorded in said Records as No. 71396, a copy of which is filed in said Office as No. 22194; said Parcels containing 44.19 ha. (109.2 Ac.), more or less

Thirdly: All those portions of Nelson House Indian Reserve No. 170 shown as Parcels N.F.A.-10, N.F.A.-11 and N.F.A.-12 on a plan of survey recorded in said Records as No. 71393, a copy of which is filed in said Office as No. 22192; said Parcels containing 45.52 ha. (112.5 Ac.), more or less

Fourthly: All that portion of Nelson House Indian Reserve No. 170B shown as Parcel N.F.A.-14 on a plan recorded in said Records as No. 77048; said Parcel containing 213 ha. (526.3 Ac.), more or less

Fifthly: All those portions of Nelson House Indian Reserve Nos. 170A and 170B shown as Parcels N.F.A.-15 and N.F.A.-16 on a plan recorded in said Records as No. 77049; said Parcels containing 238 ha. (588.1 Ac.), more or less

Sixthly: All those portions of Nelson House Indian Reserve Nos. 170A and 170B shown as Parcels N.F.A.-17, N.F.A.-18 and N.F.A.-19 on a plan recorded in said Records as No. 77050; said Parcels containing 496.4 ha. (1226.6 Ac.), more or less

Seventhly: All that portion of Nelson House Indian Reserve No. 170 shown as Parcel N.F.A.-20 on a plan recorded in said Records as No. 77051; said Parcel containing 249 ha. (615.3 Ac.), more or less, and

Eighthly: All those portions of Nelson House Indian Reserve Nos. 170 and 170C shown as Parcels N.F.A.-13, N.F.A.-21 and N.F.A.-22 on a plan recorded in said Records as No. 77052, said Parcels containing 130.3 ha. (322.0 Ac.), more or less.

AND

All that portion of Nelson House Indian Reserve No.170 in unsurveyed Township 78, Range 10 WPM in Manitoba bounded as follows: on the East by the Western limit of Parcel lettered 'B' as the same is shown on a plan of survey filed in the Portage la Prairie Titles Office (Neepawa Division) as No. 7139 and in Canada Lands Surveys Records, at Ottawa, as No. 68253; on the West by the Eastern limit of Parcel lettered 'A' as the same is shown on plan of survey filed in said office as No. 6823 and in said Records as No. 68122; on the South by the Northern shore of Footprint Lake as the same is shown on a plan filed in said office as No. 5622; and on the North by a straight line drawn Westerly from the North-West corner of said Parcel 'B' to the North-East corner of said Parcel 'A'; the above described land containing 198 square metres (0.05 acres), more or less.

3.0      Article 3. Scope of Easement

3.1              **Hydro and Manitoba** shall have the right and privilege during the currency of the **Easement** to inundate and store water on the **Easement Lands** in accordance with, and subject to, the provisions of this **Easement Agreement**; and shall and may peaceably hold and enjoy the rights, privileges and **Easements** hereby granted without obstruction, hindrance, molestation or interruption on the part of **Canada, Nelson House**, or any person claiming by, through, or under **Canada or Nelson House**.

3.2              The **Easement** granted in this **Easement Agreement**, to inundate and store water on the **Easement Lands**, in accordance with the provisions of this

**Easement Agreement**, is solely for the purposes related and ancillary to the **Project**.

3.3           **Hydro and Manitoba** shall not be liable to **Canada** or **Nelson House** for any loss or damage to persons or property by virtue of their use of the **Easement Lands** for inundation and storage of water within the terms and conditions prescribed in this **Easement Agreement**; but **Hydro** shall be liable for any loss, damage or injury to persons or property arising from the breach by **Hydro**, its agents, employees, contractors and sub-contractors of any provisions of this **Easement Agreement**; and where **Manitoba** has, pursuant to this **Easement Agreement**, assumed the rights and obligations of **Hydro** or any successor of **Hydro**, **Manitoba** shall be liable for any loss, damage or injury to persons or property arising from the breach of any provision of this **Easement Agreement** by **Hydro** or its successor as operator of the works comprising the **Project**.

3.4           This **Easement Agreement** grants to **Hydro** and **Manitoba** no rights to, or to the use of, the **Easement Lands**, other than those expressly set forth in this **Easement Agreement**; and the **Easement Lands** remain **Reserve Lands** under the Indian Act (Canada); and **Nelson House** may continue any and all uses of the **Easement Lands** which are not inconsistent with the provisions of the **Easement**. The **Easement** is made solely for the purposes stated in this

**Easement Agreement** and does not create any additional rights of tenancy, or any possessory rights of exclusive use or occupation by implication. No actions of **Hydro, Manitoba, Nelson House or Canada**, pursuant to this **Easement Agreement**, shall be deemed to create any additional rights or privileges in favour of **Hydro or Manitoba** in the **Easement Lands**, beyond those expressly set forth in this **Easement Agreement**.

**3.5 If Hydro ceases:**

- (a) to be an agent of Her Majesty the Queen in Right of Manitoba;
- (b) to have legal authority and control over the operation of the **Project**; or
- (c) to have legal authority and control over the operation of any major work or structure constituting part of the **Project**, the operation of which could affect inundation or storage of water on a waterbody within the **Resource Management Area** ;

then **Manitoba** shall:

- (d) in the circumstances to which Articles 3.5(a) or 3.5(b) applies, assume all of the rights and obligations of **Hydro** under this **Easement Agreement**; and
- (e) in the circumstances to which Article 3.5(c) applies, assume the rights and obligations of **Hydro** under this **Easement Agreement**, as such rights and obligations relate to the works or structures over which **Hydro** no

longer has effective authority and control.

In all such events, the provisions of this **Easement Agreement** shall be read with the necessary changes to reflect the assumption by **Manitoba** of rights and obligations of **Hydro** under this **Easement Agreement**, but such assumption shall not relieve **Hydro**, or any successor of **Hydro**, of its obligations under this **Easement Agreement**.

3.6 If **Manitoba** disputes that it has assumed the rights and obligations of **Hydro** under Article 3.5, that dispute may only be referred to arbitration or to court by a **Party**.

3.7 Unless **Manitoba** has assumed the rights and obligations of **Hydro** under Article 3.5, no arbitration or court proceeding shall be brought against **Manitoba** under Article 3.5 for any alleged misfeasance, malfeasance or non-feasance of **Hydro**, except by a **Party**.

3.8 In the circumstances to which Article 3.5 applies, **Nelson House** shall make reasonable efforts (but shall not be obliged to incur excessive or unusual costs) to have any dispute or matter resolved by **Hydro**, or its successor before having recourse to **Manitoba**, in accordance with the obligations which **Manitoba** will have assumed under this **Easement Agreement**.

3.9 The grant of **Easement to Manitoba** in the form of a transfer of partial administration and control does not express or imply any other or additional transfer of property or authority to **Manitoba** in respect of **Nelson House** or **Reserve Lands** or any diminution of aboriginal and treaty rights recognized and affirmed by the Constitution Act, 1982.

3.10 **Hydro** may use and enjoy the rights under this **Easement** which are within the scope of the existing or subsequent licences or approvals duly obtained, providing that no such licence or approval shall be deemed to amend this **Easement Agreement** in any way. Except to the extent expressed, the granting of this **Easement**, and the provisions of this **Easement Agreement**, do not constitute approval or acceptance by **Canada** or **Nelson House**, of the **Project**, or of any application or authorization which **Hydro** may make or obtain.

3.11 Except as expressly set forth in this **Easement Agreement**, the **Easement** shall not amend, alter, grant relief from, or substitute for, any obligations imposed upon **Hydro** by, or pursuant to, any law of **Canada** or **Manitoba**.

4.0 Article 4. Bank and Setback Line Protection, Maintenance and Related Matters

4.1                **Hydro and Nelson House** may inspect, protect and maintain, at their own expense, the banks and shorelines forming part of the **Easement Lands**.

4.2                **Hydro** shall periodically, inspect and maintain the banks and shorelines within the **Easement Lands**, to ensure that **Reserve Lands** above the **Setback Lines**, and not forming part of the **Easement Lands**, are not damaged or impaired by erosion, slumping or other adverse impacts due to the use of the **Easement Lands** for the purposes of the **Project**.

4.3                Where bank protection, shoreline work or maintenance work is required on **Easement Lands** to prevent inundation beyond the **Easement Lands** or otherwise to protect the **Easement**, such work shall be the right and responsibility of **Hydro** to perform at its own expense.

4.4                Where bank protection, shoreline work or maintenance work is required to protect any development on **Easement Lands**, permitted by **Nelson House** pursuant to this **Easement Agreement**, such work shall be the right and responsibility of **Nelson House** to perform at its own expense.

4.5                All bank protection, shoreline or maintenance work on **Easement**



**Lands** performed under this **Easement Agreement**, shall be done in a skillful fashion in accordance with applicable engineering standards.

4.6 Except while work permitted by this **Easement Agreement** is in progress, **Hydro**, its agents, employees, contractors and sub-contractors shall not leave, park or store any vehicles, equipment or other chattels on the **Easement Lands**.

4.7 Except as provided in Article 6.8, where damage is done on **Reserve Lands** to any works, buildings, crops, fences, livestock, goods and chattels of **Nelson House** or **Canada**, or any person claiming through or under **Canada** or **Nelson House**, and the damage is caused by **Hydro**, its agents, employees, contractors or sub-contractors, **Hydro** shall compensate **Canada**, **Nelson House** or any such person in respect of such damage.

4.8 Where damage is caused to bank protection put in place by **Hydro**, or like works constructed or placed by **Hydro** on the **Easement Lands**, which damage **Chief and Council** on behalf of **Nelson House** ought reasonably to have prevented, **Chief and Council** shall, at the expense of **Nelson House**, restore such works to the reasonable satisfaction of **Hydro**.

4.9 Subject to the provisions of Articles 6.2 to 6.8, **Hydro** shall indemnify and save harmless **Nelson House** and **Canada**, from and against any claims of any kind for loss, injury or damage to persons or property as a result of the presence or operation of vehicles, equipment or chattels of **Hydro**, its agents, employees, contractors or sub-contractors, on the **Easement Lands** or access routes thereto; except that **Hydro** shall not be responsible where work permitted by this **Easement** is performed on its behalf by members of **Nelson House** under the direction and supervision of **Chief and Council**.

4.10 **Hydro** shall not be liable under either Article 4.7 or Article 4.9, to the extent that the damage results from the negligence of the person who has suffered the loss, or from a use, by that person, of the **Easement Lands** which is not authorized or permitted by this **Easement Agreement**.

4.11 **Hydro**, its employees, agents, contractors and sub-contractors may fell, cut, trim, or remove any trees or parts thereof, on or from the **Easement Lands** below the relevant maximum permissible **Static Inundation Level** under Article 7.1. Above that level, **Hydro** may request permission of **Canada** and **Nelson House** to cut or remove trees or timber, pursuant to the provisions of the Indian Act (Canada) and the Indian Reserve Timber Regulations or any successor legislation; and such consent on the part of **Chief and Council** and **Canada** shall not be unreasonably

withheld.

4.12 Except as otherwise provided in this **Easement Agreement**, **Hydro**, its agents, employees, contractors and sub-contractors shall not commit or permit the commission of any waste, spoilage or destruction, or dump any rubbish or any other matter of an offensive nature anywhere on the **Reserve**, except in such places and at such times as may have been previously designated by **Chief and Council**, or **Canada**. Inundation and storage of water permitted by this **Easement Agreement** shall not be a contravention of Article 4.12.

4.13 **Hydro** shall promptly, and, in any event, not later than seven (7) days after receipt of a written request to do so from **Chief and Council**, remove debris or waste material placed or caused to be placed on the **Easement Lands** by **Hydro** works or operations, other than debris or waste resulting from the inundation and storage of water as permitted under this **Easement Agreement**.

4.14 **Hydro** shall dispose of any material excavated or removed from the **Easement Lands** as may reasonably be directed, in writing, by **Chief and Council**. In an emergency or if no such direction is provided within seven (7) days of a request for direction such material may be disposed of off **Reserve**. Any such direction or disposal shall be in compliance with all applicable laws and regulations.

4.15 If required, so that construction or other activities within or near the **Setback Lines** can be appropriately located, **Hydro** shall, if requested and reasonably required by **Chief and Council** or **Canada**, restore the **Setback Lines**, and cut lines associated therewith, and replace any missing survey monuments to the satisfaction of the Surveyor General of Canada.

4.16 **Hydro** shall ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed in the course of any of its activities pursuant to this **Easement Agreement**. Where any monuments have been or are disturbed, damaged or destroyed as a result of **Hydro** activities or works related to the **Project**, including **Project** operations, **Hydro** shall at its expense, and in a timely fashion, have such monuments replaced by a qualified Land Surveyor to the satisfaction of the Surveyor General of Canada. This section does not apply to legal or control monuments which are lawfully inundated.

4.17 Where survey monuments are disturbed as a result of willful, deliberate or negligent actions of the agents, servants or employees of **Nelson House** or **Canada**, it shall be the responsibility of that **Party** to restore or replace such monuments in a timely fashion and in a manner satisfactory to the Surveyor General of Canada.

4.18 Where **Setback Lines** have not been the subject of an on-the-ground survey and installation of monuments, **Hydro** shall , upon reasonable notice from **Chief and Council** or **Canada**, use its best efforts expeditiously, and in any event within twelve (12) months of such notice, to survey and install monuments in accordance with the survey instructions issued by the Surveyor General of Canada.

4.19 **Hydro** shall, in so far as it is reasonably practical to do so, conduct all work under Article 4 of this **Easement Agreement**, so as not to interfere with the ordinary use of the **Easement Lands** or **Reserve Lands** adjacent to the **Easement Lands**.

5.0 Article 5. Access to Easement Lands

5.1 Subject to the terms set forth in this **Easement Agreement**, **Canada** and **Nelson House** grant to **Hydro**, its servants, employees and agents, a licence, without charge, for access to and from the **Easement Lands** over and upon the **Reserve**, and over and upon any other lands which do not now but which may in the future form part of the **Reserve**, with or without vehicles, machinery and equipment, for such inspections, bank protection, maintenance and other purposes authorized by this **Easement Agreement**, as **Hydro** at any time deems necessary

or expedient.

5.2 Notice requirements for access shall be as follows:

- (a) Except in the case of an emergency, **Hydro** shall give **Chief and Council** and **Canada** not less than thirty (30) days written notice of the nature of bank protection, maintenance or other work to be done on the **Easement Lands** and not less than ten (10) days written notice of inspections on **Easement Lands** or such other periods of notice as may be agreed upon by **Hydro** and **Chief and Council** in writing; and
- (b) In the event of an emergency, **Hydro** shall, as soon as possible after the need is identified, give **Chief and Council** and **Canada** notice by telephone and facsimile of the nature of the work involved.

5.3 Where, in the opinion of **Hydro**, it is impractical to enter upon or exit from the **Easement Lands** for valid purposes under this **Easement Agreement** except across **Reserve Lands**, **Hydro**, except in the case of an emergency, shall so notify **Chief and Council** and **Canada** in writing at least thirty (30) days (or at least ten (10) days when the purpose is for inspections) in advance of such proposed entry or exit across the **Reserve Lands**. Such notice shall:

- (a) include the nature, number, dimensions and gross weight of any vehicles, equipment or materials to be transported to or on the **Easement Lands**;
- (b) set forth the reasons why other means of entry or exit are impractical in the circumstances;
- (c) set forth the approximate number of persons involved; the proposed route; and the earliest contemplated entry date and the estimated exit date.

In the event of an emergency, **Hydro** shall give notice by telephone and facsimile to **Chief and Council** and **Canada** as soon as the circumstances of the emergency are known to **Hydro**.

5.4 Access across **Reserve Lands** shall be by means of **Reserve** roads, except where that is demonstrably impractical.

5.5 **Chief and Council** or **Canada** may, within seven (7) days of receipt of a notice under Article 5.3 object to the proposed access or route of access by notifying **Hydro** in writing, of its objections. Promptly after receipt of such a notice by **Hydro**, **Chief and Council** and **Hydro** shall use their best efforts to resolve their differences. If those differences cannot, in the opinion of either **Chief and Council** or **Hydro**, be resolved within a reasonable time, either **Party** or

**Canada** may have recourse to court to resolve the dispute; and, except in an emergency, **Hydro** shall refrain from use of the proposed access until the dispute is conclusively disposed of by such court.

5.6 In the event of an emergency, **Hydro** may use the proposed access. If there is a dispute as to whether or not an emergency exists, a court may find that an emergency does not exist, and order **Hydro** to cease use of the access.

5.7 **Nelson House** covenants that it will assist **Hydro**, and take all reasonable steps to enable **Hydro**, to exercise its rights of entry and exit as provided for in this **Easement Agreement**, without hindrance or interference.

5.8 **Hydro** will repair any damage caused to **Reserve Lands** as a result of its exercising this right of ingress and egress, to the extent reasonably practicable, to the condition it was in prior to the damage.

6.0 **Article 6. Buildings and Structures on Easement Lands**

6.1 **Hydro** shall not construct any permanent works, buildings,



structures or improvements on the **Easement Lands** other than works in the nature of bank protection and shoreline maintenance or related work, without the prior written consent of **Nelson House** and **Canada**.

6.2 Except for **Hydro's** right to construct works in the nature of bank protection and shoreline maintenance or related works, which right is hereby granted, no person shall develop, improve or build a structure of any kind on the **Easement Lands** without prior approval from **Chief and Council**, and any other approvals required under the Indian Act (Canada).

6.3 Subject to the provisions of Article 6, **Chief and Council** may permit a structure, development or improvement upon **Easement Lands** which are, or are not, inundated.

6.4 **Chief and Council** shall give **Hydro** and **Canada** not less than thirty (30) days notice of any Council meeting where a proposal, to which Articles 6.2 or 6.3 apply, will be considered. Such notice shall include:

- (a) a description of the nature and location on the **Easement Lands** of the proposed structure, development or improvement; and
- (b) the date, time and place of the Council meeting at which the proposal is to be considered.

**Hydro** may enter the **Reserve** to appear at such meeting and make representations to **Chief and Council** .

6.5 **Chief and Council** will grant permission, under Article 6.3 only where:

- (a) the structure, development or improvement is, in its judgment, necessary for the economic and social well-being of **Nelson House**; and
- (b) the structure, development or improvement can reasonably be expected not to materially interfere with, or adversely affect, **Hydro's** rights under this **Easement Agreement**, including, **Hydro's** right to
  - (i) inundate and store water on the **Easement Lands** as provided for in this **Easement Agreement**,
  - (ii) access the **Easement Lands** in accordance with the entry and exit provisions of this **Easement Agreement**,  
or
  - (iii) carry out bank protection, shoreline maintenance and related works on the **Easement Lands** necessary for **Hydro** operations in accordance with the provisions of this **Easement Agreement**.

6.6 Where it appears to **Hydro** that a structure or improvement on the **Easement Lands**, other than its own, is causing or is likely to cause the effects described in Article 6.5(b), **Hydro** shall so notify **Chief and Council** and **Canada** in writing and indicate:

- (a) that **Hydro** proposes to alter or remove the structure or improvement at its own expense and, subject to the provisions of Article 6.7, without liability therefor on a date not sooner than twenty-one (21) days from the date notice is received by **Chief and Council**; or
- (b) that **Hydro** requests that **Chief and Council** arrange for removal of the structure or improvement, whereupon **Chief and Council** will arrange for the structure or improvement to be removed at the expense of **Nelson House**.

6.7 **Chief and Council** may, within fourteen (14) days of receipt of a notice under Article 6.6, object to the course of action by notifying **Hydro** and **Canada** in writing of the nature of its objections. Promptly after receipt of any such notice, **Chief and Council** and **Hydro** shall use their best efforts to resolve their differences. If those differences cannot be resolved within a reasonable time, either **Party** or **Canada** may proceed to court to resolve the dispute. Any action taken by **Hydro** to remove such structure or improvement shall be at **Hydro's** risk, until the

dispute has been finally resolved by the courts.

6.8            **Hydro** is not liable under this **Easement Agreement** for any damage to any improvements, structures, works, buildings, crops, fences, livestock, goods and chattels which are on the **Easement Lands**, which damage is incidental to the exercise by **Hydro** of its rights under this **Easement**, or which is caused by the inundation and storage of water on **Easement Lands**, except where such damage occurs as a result of negligence or breach of the provisions of this **Easement Agreement** by **Hydro**, its agent, employees or servants.

7.0            Article 7. Additional Easement Terms

7.1            The granting of the **Easement** by **Canada** is subject to the conditions that **Hydro** shall:

- (a)        to the extent it is possible to do so and is within the control and authority of **Hydro**, control the flow of water on the regulated waterways so as to ensure that the **Static Inundation Level** on Footprint Lake adjacent to the **Reserve** does not exceed a **Static Inundation Level** of 243.840m (800.00ft.) **ASL** before construction of any dam, the forebay of which includes Threepoint Lake, or 244.45m (802.00ft.) **ASL** during and after such construction; and

- (b) use all practical means, including adjustment of flows through control structures, to prevent any inundation of **Reserve Lands** lying between a **Static Inundation Level** of 243.840m (800.00 ft) **ASL** before construction of any dam, the forebay of which includes Threepoint Lake, or 244.450m (802.00 ft) **ASL** during and after such construction, and the **Setback Lines**.

7.2 Nothing in this **Easement Agreement** shall be deemed:

- (a) to vest in **Hydro** any title to the casual revenues of the Federal Crown, or to any mines, ores, metals, coal, slate, oil, gas, hydrocarbons, aggregate or other minerals in or under the land comprising the **Easement Lands**; or
- (b) to prevent the exploitation of such minerals by or with the permission of **Nelson House** in accordance with the Indian Act (Canada) provided such exploitation does not interfere with or derogate from **Hydro's** rights and privileges of access to the **Easement Lands** to inundate and store water on the **Easement Lands** and to carry out bank protection and shoreline maintenance and related works on the **Easement Lands** in accordance with the provisions of this **Easement Agreement**.

Article 7.2 does not derogate from **Hydro's** right and privilege to access the

**Easement Lands** to inundate and store water on the **Easement Lands** and to carry out bank protection, shoreline maintenance and related works on **Easement Lands**, in accordance with the provisions of this **Easement Agreement**.

7.3 Subject to Article 3.5 of this **Easement Agreement**, **Hydro** may assign or encumber the rights granted by this **Easement Agreement**. Promptly upon any such assignment, **Hydro** shall give written notice to **Canada** and **Nelson House**.

7.4 **Manitoba** may assign or encumber its rights or assign its obligations, under this **Easement Agreement**. Promptly upon any such assignment or encumbrance, **Manitoba** shall give written notice to **Canada** and **Nelson House**. **Manitoba** shall remain liable for the performance of all of **Manitoba's** covenants in the event of such assignment or encumbrance, including those obligations of **Hydro** it is required to assume pursuant to this **Easement Agreement**.

7.5 Neither **Canada** nor **Nelson House** shall dispose of or alienate their respective interests in the **Easement Lands**, except subject to the terms of this **Easement Agreement**. No alienation of the **Easement Lands** shall be permitted unless there are reservations in favour of **Manitoba** and **Hydro** of all of the rights and privileges to which **Manitoba** and **Hydro** are entitled under this **Easement**,

including this provision in a form which binds assignees and successors.

8.0 Article 8. Taxes, Levies and Charges

8.1 **Hydro** may exercise the **Easement** without charge, rate, levy, assessment, licence, fee or tax exigible by or payable to **Canada** or **Nelson House** in respect thereof, including taxes, levies or charges levied, or purported to be levied, by means of by-laws pursuant to the Indian Act (Canada), or any successor legislation; and Article 8.1 shall be a full and sufficient exemption from any such charges.

8.2 Article 8.1 shall not exempt **Hydro** from any applicable excise tax, income tax, goods and services tax or any other tax not covered by Article 8.1.

8.3 **Hydro** shall be responsible for, and shall indemnify **Canada** and **Nelson House** for any levies, taxes or charges assessed against the interest of **Hydro** in the **Easement Lands**, or related to the use of the **Easement Lands** by **Hydro**, its agents, employees, contractors and sub-contractors, where any such levies, taxes or charges are assessed pursuant to the laws of the Province of Manitoba, or are not within the scope of the provisions of Article 8.1.

9.0 Article 9. Warranties of Power and Authority

9.1 **Canada** warrants that it has the full power and authority to grant to **Hydro** and **Manitoba** the rights, privileges and the **Easement** granted in this **Easement Agreement**, and to be bound by this **Easement Agreement**.

9.2 **Hydro** warrants that it has full power and authority to enter into and be bound by this **Easement Agreement**, and that it is in compliance with all statutory requirements and **Hydro** by-laws related to its execution .

9.3 **Manitoba** warrants that it has full power and authority to enter into and be bound by this **Easement Agreement**.

9.4 **Nelson House** warrants that it has full power and authority to enter into and be bound by this **Easement Agreement**.

9.5 It is expressly understood by **Hydro** and **Manitoba** that **Canada** does not in any way warrant, control, guarantee or assume any liability, of any kind whatsoever, with respect to any actions of **Nelson House** or **Chief and Council** in connection with the **Easement** or this **Easement Agreement**.



9.6                **Nelson House and Chief and Council** warrant that they have been independently advised by legal and technical counsel and advisors of their choice before entering into this **Easement Agreement**.

10.0        Article 10.    Waiver, Indemnification and Correction of Breach

10.1                **Hydro** will save **Canada and Nelson House** harmless, and keep **Canada and Nelson House** indemnified from and against, all actions, claims, and demands that may be made against **Canada and Nelson House** by reason of any act or omission of **Hydro** in the exercise or purported exercise of the rights granted by this **Easement Agreement**, or occasioned by or attributable to anything done or omitted to be done by **Hydro**, its agents, employees, contractors or sub-contractors in the exercise or purported exercise of the rights granted by this **Easement Agreement**.

10.2                **Hydro** shall indemnify and save harmless **Canada and Nelson House** in respect of any actual or purported liens, encumbrances or charges which may attach to the **Easement Lands** under the laws of Manitoba or Canada, where such liens, encumbrances or charges arise from the acts or omissions of **Hydro**, its agents, employees, contractors or sub-contractors. This indemnity and the Indemnity under Article 10.1 are conditional upon the identified **Party**, forthwith

giving notice to **Hydro** of any such action, claim or demand, actively and diligently resisting any such action, claim or demand and supporting any application by **Hydro** to be named as a party to any such action.

10.3 No waiver of any breach, by or on behalf of **Canada**, shall take place or be binding unless the waiver is in writing signed by the Minister, Deputy Minister or Assistant Deputy Minister responsible under the laws of Canada and any such waiver shall apply only to the particular breach to which such waiver specifically relates, and shall not be deemed to be a general waiver, or to limit or affect the rights of **Canada** with respect to any future or other breach.

10.4 No waiver of any breach, by or on behalf of **Nelson House**, shall take place or be binding unless authorized in a resolution passed by **Chief and Council**, and any such waiver shall apply only to the particular breach to which such waiver specifically relates, and shall not be deemed to be a general waiver, or to limit or affect the rights of **Nelson House** with respect to any future or other breach.

10.5 No waiver of any breach, by or on behalf of **Hydro**, shall take place or be binding unless the same be expressed in writing over the signature of the Chairman, President or Vice President of **Hydro**, and any such waiver shall apply

only to the particular breach to which such waiver specifically relates, and shall not be deemed to be a general waiver, or to limit or affect the rights of **Hydro** with respect to any future or other breach.

10.6 No waiver of any breach, by or on behalf of **Manitoba**, shall take place or be binding unless the same be expressed in writing over the signature of the Minister of the Government of Manitoba responsible for **Hydro** or Northern Affairs, and any such waiver shall apply only to the particular breach to which such waiver specifically relates, and shall not be deemed to be a general waiver, or to limit or affect the rights of **Manitoba** with respect to any future or other breach.

10.7 **Nelson House** hereby releases and forever discharges **Canada**, **Hydro** and **Manitoba** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any kind or nature whatsoever, at law or in equity, which **Nelson House** or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors or administrators, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever, in relation to the granting of this **Easement** and the arrangements or matters specifically provided for in this **Easement Agreement**. Nothing in this section shall relieve **Canada**, **Hydro** or **Manitoba** of liability for breaches of the **Easement** or the **Easement Agreement**, future negligent acts or omissions or wilful

misconduct, on its own part, or on the part of those for whom it is responsible at law.

10.8 **Manitoba, Nelson House and Hydro** release **Canada** from all liability with respect to the definition, selection or determination of the **Controlling Bench Mark** and **ASL**.

11.0 Article 11. General Provisions

11.1 The preamble is inserted solely for historical purposes and may not be used or referred to in interpreting any part of this **Easement Agreement**.

11.2 The division of this **Easement Agreement** into articles, and the article headings are for convenience of reference only, and shall not affect the construction or interpretation of this **Easement Agreement**. Headings used in this **Easement Agreement** are for general guidance only and do not have substantive meaning so as to modify the provisions of this **Easement Agreement** or alter or modify the **Easement**.

11.3 Words importing the singular number include the plural and vice versa;

11.4 Except where the original data, document or measuring device was in Imperial, and subject to any legislative requirement, in the event of a conflict between metric and Imperial measure, metric measure shall prevail. The **Parties** agree that the metric conversion rate to be used for purposes of this **Easement Agreement** shall be 1 foot equals 0.3048 meters and 1 meter equals 3.28084 feet.

11.5 Each of the **Parties** to this **Easement Agreement** will deliver such instruments of transfer, conveyance and assignment, and take such further action as may be required to effectively complete any matter provided for in this **Easement Agreement**.

11.6 This **Easement Agreement** constitutes the entire agreement between the **Parties** and, except as expressly provided, supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, *between and among the Parties with respect to the subject matter of this Easement*. There are no representations, warranties, collateral agreements or conditions pertaining to the subject of the **Easement**, except as expressed in this **Easement Agreement**. Article 11.6 does not apply to the **Agreement** or to agreements or arrangements, if any, between **Manitoba** and **Hydro**, provided that any such agreements or arrangements do not affect or purport to affect **Canada** or

**Nelson House** or their respective rights or obligations pursuant to this **Easement Agreement**.

11.7           The provisions of this **Easement Agreement** are without prejudice to the interpretation or application of the **NFA** by any of the **Parties** to this **Easement Agreement** as it relates to Norway House, Split Lake, York Factory, Cross Lake or the **NFC**.

11.8           The **Easement** and this **Easement Agreement** shall enure to the benefit of, and be binding upon, the **Parties** to this **Easement Agreement** their respective heirs, successors and assigns.

11.9           No part of the **Easement** or this **Easement Agreement** may be assigned or otherwise transferred except as expressly provided for in this **Easement Agreement**.

11.10          No member of Parliament or of the Legislative Assembly of Manitoba may share in any part of this **Easement Agreement**.

11.11          Where in this **Easement Agreement** notice or demand must be given it shall be given or served in writing and forwarded by registered mail or

transmitted by tele-facsimile, charges pre-paid and confirmed by telephone as follows:

**To Canada:**

The Regional Director General  
The Department of Indian Affairs and Northern Development  
Suite 1100, 275 Portage Avenue  
Winnipeg, Manitoba  
R3B 3A3

**To Nelson House:**

Chief and Council  
Nelson House First Nation  
General Delivery  
Nelson House, Manitoba  
R0B 1A0

**To Hydro:**

Manitoba Hydro  
General Counsel  
3rd Floor, 810 Taylor Ave.  
Winnipeg, Manitoba  
R3C 2P4

**To Manitoba:**

Deputy Minister of Northern Affairs  
Legislative Bldg.  
Winnipeg, Manitoba  
R3C 0V8

11.12            A **Party** whose address or facsimile number changes shall promptly notify each other **Party** of such change.

IN WITNESS WHEREOF the **Parties** have executed this **Agreement** on the dates indicated below.

Signed, sealed and delivered )  
in the presence of:                    )

**Nelson House First Nation**

\_\_\_\_\_  
Chief

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

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Councillor

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Councillor

\_\_\_\_\_  
Councillor

\_\_\_\_\_  
Councillor

on the       day of                    , 1996



**Her Majesty the Queen in Right of the  
Province of Manitoba**

**Per:**

on the      day of                      , 1996

**The Manitoba Hydro-Electric Board**

**Per:**

**Per:**

on the      day of                      , 1996

**Her Majesty the Queen in Right of  
Canada**

**Per:**

on the      day of                      , 1996

## **SCHEDULE 3.5**

### **DESCRIPTION OF EASEMENT LANDS**

Schedule 3.5 consists of a description entitled "Schedule 3.5: Easement Lands within Nelson House Indian Reserve No.'s 170, 170A, 170B and 170C" and a description entitled "Schedule 3.5", both of which are attached to and form part of this Schedule.

Schedule 3.5

**Easement Lands within Nelson House Indian Reserve No.'s 170, 170A, 170B and 170C.**

In the Province of Manitoba, in Unsurveyed Townships 78 and 79, Ranges 9 and 10 West of the Principal Meridian, all those parcels of land being more particularly described under Firstly to Eighthly as follows;

**Firstly:** All those portions of Nelson House Indian Reserve No. 170 shown as Parcels N.F.A.-1, N.F.A.-2 and N.F.A.-3 on a plan of survey recorded in the Canada Lands Surveys Records as No. 71395, a copy of which is filed in the Portage la Prairie Land Titles Office as No. 22193; said Parcels containing 4.92 ha. (12.1 Ac.), more or less

**Secondly:** All those portions of Nelson House Indian Reserve No. 170 shown as Parcels N.F.A.-4, N.F.A.-5, N.F.A.-6, N.F.A.-7, N.F.A.-8 and N.F.A.-9 on a plan of survey recorded in said Records as No. 71396, a copy of which is filed in said Office as No. 22194; said Parcels containing 44.19 ha. (109.2 Ac.), more or less

**Thirdly:** All those portions of Nelson House Indian Reserve No. 170 shown as Parcels N.F.A.-10, N.F.A.-11 and N.F.A.-12 on a plan of survey recorded in said Records as No. 71393, a copy of which is filed in said Office as No. 22192; said Parcels containing 45.52 ha. (112.5 Ac.), more or less

**Fourthly:** All that portion of Nelson House Indian Reserve No. 170B shown as Parcel NFA-14 on a plan recorded in said Records as No. 77048; said Parcel containing 213 ha. (526.3 Ac.), more or less

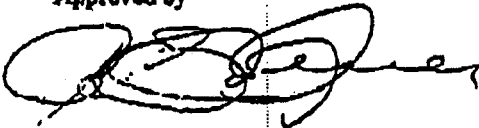
**Fifthly:** All those portions of Nelson House Indian Reserve Nos. 170A and 170B shown as Parcels NFA-15 and NFA-16 on a plan recorded in said Records as No. 77049; said Parcels containing 238 ha. (588.1 Ac.), more or less

**Sixthly:** All those portions of Nelson House Indian Reserve Nos. 170A and 170B shown as Parcels NFA-17, NFA-18 and NFA-19 on a plan recorded in said Records as No. 77050; said Parcels containing 496.4 ha. (1226.6 Ac.), more or less

**Seventhly:** All that portion of Nelson House Indian Reserve No. 170 shown as Parcel NFA-20 on a plan recorded in said Records as No. 77051; said Parcel containing 249 ha. (615.3 Ac.), more or less, and

**Eighthly:** All those portions of Nelson House Indian Reserve Nos. 170 and 170C shown as Parcels NFA-13, NFA-21 and NFA-22 on a plan recorded in said Records as No. 77052, said Parcels containing 130.3 ha. (322.0 Ac.), more or less.

Approved by



Alex E. Gauer, M.L.S., C.L.S.

## SCHEDULE 3.5

## Description of Easement Lands

All that portion of Nelson House Indian Reserve No. 170 in unsurveyed Township 78, Range 10 WPM in Manitoba bounded as follows: on the East by the Western limit of Parcel lettered 'B' as the same is shown on a plan of survey filed in the Portage la Prairie Land Titles Office (Neepawa Division) as No. 7139 and in the Canada Lands Surveys Records, at Ottawa, as No. 68253; on the West by the Eastern limit of Parcel lettered 'A' as the same is shown on a plan of survey filed in said Office as No. 6823 and in said Records as No. 68122; on the South by the Northern shore of Footprint Lake as the same is shown on a plan filed in said Office as No. 5622; and on the North by a straight line drawn Westerly from the North-West corner of said Parcel 'B' to the North-East corner of said Parcel 'A'; the above described land containing 198 square metres (0.45 acres), more or less.



Alex E. Gauer, MLS, CLS



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Schedule 4.1: **Fee Simple Lands - Notigi Service Centre**

## ARTICLE 4

### 4.0 FEE SIMPLE LANDS

#### 4.1 INTRODUCTION

4.1.1 Introduction. This Article and the **Indenture** set out the procedures for dealing with **Fee Simple Lands** which may be acquired by **Nelson House** from **Manitoba** in fee simple title pursuant to this **Agreement**.

#### 4.2 LANDS TO BE GRANTED

4.2.1 Description. **Fee Simple Lands** are those parcels of provincial Crown land described in Schedule 4.1 .

4.2.2 Conversion to Reserve. Following the **Date of this Agreement**, **Canada** will continue its reasonable efforts to process the **Fee Simple Lands** pursuant to its "New Bands and Additions to Reserves Policy". Should **Canada** notify the **Parties**, in writing, that the environmental condition of the **Fee Simple Lands** is satisfactory to **Canada** under Article 3.5.13 and the **Fee Simple Lands**

have been approved, to be accepted and set apart as **Reserve Land**, Articles 3.2.1, 3.2.2, 3.3, 3.4, 3.5.2 and 3.5.12 shall, with the necessary modifications, apply but Articles 3.5.1, 3.5.3 to 3.5.11, both inclusive, 3.5.14 to 3.5.19, both inclusive, and 3.5.21 shall not apply. If no such notice is given by **Canada**, or if **Canada** should notify the **Parties**, in writing, that the **Fee Simple Lands** have not been approved to be accepted and set apart as **Reserve Land**, then the provisions of Article 3 will not apply, and the **Fee Simple Lands** will be dealt with under Article 4 of the **Agreement** and the provisions of the **Indenture**.

4.2.3 Warranty. **Nelson House** chose the **Fee Simple Lands** because they were under a provincial Land Use Permit issued to **Nelson House** and were being used as a service station site and restaurant by **Nelson House**. **Nelson House** has inspected the **Fee Simple Lands** and for the purposes of Article 4 the **Fee Simple Lands** are acceptable to **Nelson House**. **Manitoba** makes no warranty as to the environmental condition of the **Fee Simple Lands** and shall be under no obligation under this **Agreement** in relation thereto.

#### 4.3 TRANSFER OF TITLE

4.3.1 Legislation by Canada. If necessary, **Canada** shall recommend the

enactment of legislation to provide that Section 36 of the Indian Act does not apply to the **Fee Simple Lands** and, when enacted, **Canada** shall proclaim such legislation in force.

4.3.2        Lands Not Converted to Reserve.        If the **Fee Simple Lands** are not set apart as **Reserve Lands** under Article 3, the **Fee Simple Lands** shall, subject to proclamation of the legislation contemplated in Article 4.3.1, be transferred by **Manitoba** to the **Corporate Trustee**, or a corporation wholly owned and controlled by **Nelson House**, in trust for the use and benefit of **Nelson House** free and clear of all encumbrances, reservations, caveats, estates, rights and interests in favour of any person other than **Nelson House** or those whose interest is claimed through **Nelson House**, save and except for reservations to the Crown in Right of Manitoba under Section 4.1 of The Crown Lands Act, (Manitoba).

4.3.3        Costs of Surveys and Transfers.        **Manitoba** shall, at its expense including the payment of any land transfer tax, complete all surveys, transfers and registrations of title for the **Fee Simple Lands** under Article 4.3.2, including Registration Detail Applications and forms of Request. At the time of registration of title, Registration Detail Applications, together with forms of Request, shall be completed for filing in the appropriate Land Titles Office requesting a separate



duplicate title for the **Fee Simple Lands**.

#### **4.4 LAND USE PERMITS**

**4.4.1      Issuance.**    The **Fee Simple Lands** are currently under a Land Use Permit issued to **Nelson House** and until such time as administration and control of the **Fee Simple Lands** has been transferred by **Manitoba** to **Canada** or title to the **Fee Simple Lands** has been transferred to the **Corporate Trustee** under Article 4.3.2, such Land Use Permit shall be continued in force at no charge to **Nelson House**. Any such Land Use Permit shall terminate upon acceptance of transfer of administration and control of the **Fee Simple Lands** by **Canada** under Article 3, or the transfer of title to the **Fee Simple Lands** to the **Corporate Trustee**, or corporation wholly owned and controlled by **Nelson House**, under Article 4.3.2.

**4.4.2      Not Reserve.**    Notwithstanding the existence of any Land Use Permit in favour of **Nelson House**, the **Fee Simple Lands** shall not be deemed to be **Reserve Lands** until designated as such pursuant to this **Agreement**.

## 4.5 GENERAL CONDITIONS

4.5.1 Expropriation. If any part of the **Fee Simple Lands**, while the fee simple title is held by the **Corporate Trustee** or a corporation wholly owned and controlled by **Nelson House**, is expropriated under the legislative authority of **Manitoba**, **Nelson House** shall have the right, as part of the compensation for, but not as a condition of, such expropriation, to acquire replacement lands within the **Resource Management Area**, subject to the agreement of **Manitoba** and **Nelson House**, and subject to compliance with The Water Power Act (Manitoba) and the provisions of The Crown Lands Act (Manitoba).

4.5.2 Environmental Reports. Until the **Fee Simple Lands** fall within the administration and control of **Canada** or are transferred to the **Corporate Trustee**, or a corporation wholly owned and controlled by **Nelson House**, the **Parties** shall, on a without prejudice basis, provide to each other copies of any non-confidential environmental studies, reports or audits related to the **Fee Simple Lands** which are in, or come into, their possession.

4.5.3 Registration. Where **Nelson House**, **Hydro**, the **Corporate Trustee** or a corporation wholly owned and controlled by **Nelson House**, wishes to register a

land titles document in series with the transfer of land conveying fee simple title referred to in Article 4.3.2, notice thereof shall be given to **Manitoba** within sixty (60) days of the **Date of this Agreement**.

4.5.4        Land Transfer.        Where lands are transferred to a corporation other than the **Corporate Trustee, Chief and Council** will ensure that the applicable procedures of Article 8.1, 8.2, 8.3(e), and 8.4 of the **Indenture**, with the necessary modifications, are applied with respect to subsequent transactions involving those lands.

## **SCHEDULE 4.1**

### **FEE SIMPLE LANDS - NOTIGI SERVICE CENTRE**

**Fee Simple Lands** shall consist of the lands shown on Plan 4.1 attached to and forming part of this Schedule.

# REDUCTION

## SKETCH PLAN

SHOWING THE LOCATION  
OF  
CERTAIN IMPROVEMENTS  
IN PART OF  
THEO. SEC. 20 TWP. 79 RGE. 12WPM

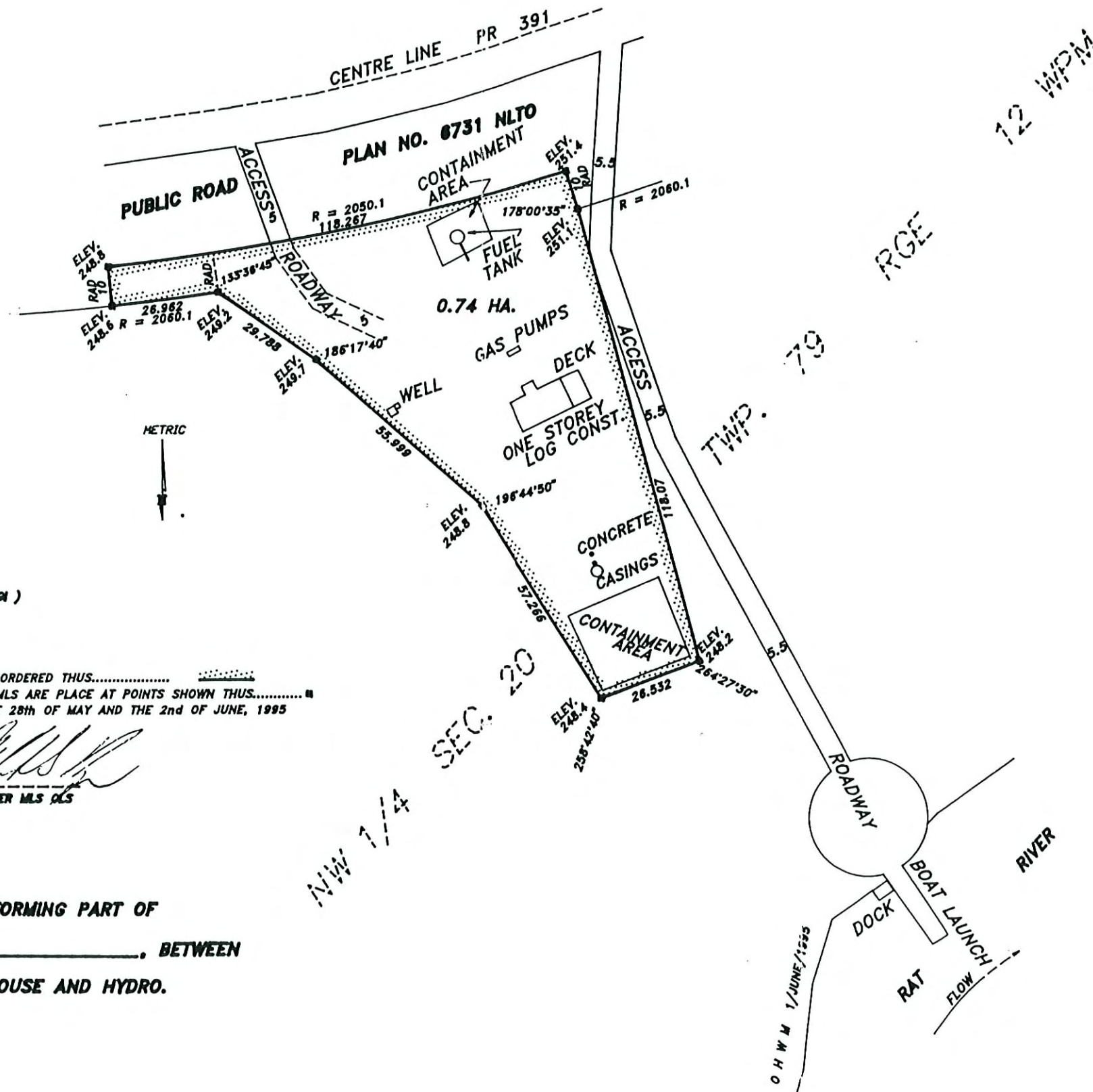
UNORGANIZED TERRITORY (NOTION)  
MANITOBA

SCALE 1 : 500

AREA AFFECTED BY THIS SURVEY IS SHOWN BORDERED THUS.....  
0.025 x 0.025 x 0.914 IRON BARS MARKED MLS ARE PLACE AT POINTS SHOWN THUS.....  
THIS SURVEY WAS CARRIED OUT BETWEEN THE 28th OF MAY AND THE 2nd OF JUNE, 1995  
ELEVATIONS SHOWN HEREON ARE GEODETIC.

*A.G. Degner*  
A.G. DEGNER MLS OLS

PLAN 4.1 ATTACHED TO AND FORMING PART OF  
THE AGREEMENT DATED..... BETWEEN  
CANADA, MANITOBA, NELSON HOUSE AND HYDRO.



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Schedule 5.1:      **SIL Trapline Zone**

## ARTICLE 5

### 5.0 SOUTH INDIAN LAKE

### 5.1 SOUTH INDIAN LAKE

5.1.1 Request for Band Status. **Members** resident at or in the vicinity of South Indian Lake have indicated that they wish to be organized as a Band under the Indian Act (Canada) separate from **Nelson House** and **Chief and Council** supports this initiative.

5.1.2 Exchange Lands. **Chief and Council** has previously proposed that two thousand (2,000) acres of the **Compensation Lands** to which **Nelson House** is entitled be made available within the **SIL Trapline Zone** to **Members** resident at or near the Community of South Indian Lake.

5.1.3 Manitoba to Transfer. **Manitoba** agrees that **Nelson House** may, subject to Article 5.1.4, in addition to the lands described in Article 3 and 4 of this **Agreement**, select a parcel of two thousand (2,000) acres of provincial Crown land within the **SIL Trapline Zone**, but in other respects in accordance with the provisions for the selection of exchange lands under Article 3 of the **NFA**. The

transfer by **Manitoba** to **Canada** of the lands so selected to be set aside as reserve is conditional upon the creation of a new Band consisting of persons who prior to becoming members in that new Band were **Members** resident in and around the Community of South Indian Lake under arrangements which are acceptable to each of:

- (a) **Nelson House**, as expressed in a referendum;
- (b) the proposed membership of the new Band as expressed in a referendum;
- (c) **Manitoba**, in respect of matters involving provincial jurisdiction or funding;
- (d) **Hydro**, in respect of matters involving the protection of water power; and
- (e) **Canada**.

5.1.4 Selection Procedure. In conjunction with consideration of the proposal to establish a new Band at South Indian Lake, **Nelson House** will establish procedures for **Members** resident at or in the vicinity of the Community of South Indian Lake to select the lands to be chosen under Article 5.1.3.

5.1.5 Applicable Policies. **Canada** will process a request supported by **Nelson House** for creation of a new Band in accordance with applicable policies



and the provisions of the Indian Act (Canada); but there is no express or implied agreement or undertaking that **Canada** will recognize or create a separate Band or reserve under the Indian Act (Canada) or that **Nelson House, Canada, Manitoba,** or **Hydro** will agree to arrangements therefor.

5.1.6        Survey and Transfer Procedures.    Article 3 applies with necessary modifications to the survey and transfer of the two thousand (2,000) acres referred to in Article 5.1.3 provided that none of the land selected will abut upon or be subject to impact caused by waterways which are, or may be, subject to influence by the **Project**. Land which is set back from any such impacting, or potentially impacting, waterway sufficiently to ensure that existing and potential water power is protected is acceptable for selection.

5.1.7        Not Party.    Neither Article 5 nor the provision of land pursuant to Article 5 implies that any new Band which was not a party to the **NFA**, becomes a party to, or has any rights under, the **NFA** whether or not its members were formerly members of a First Nation which was a party to the **NFA**.

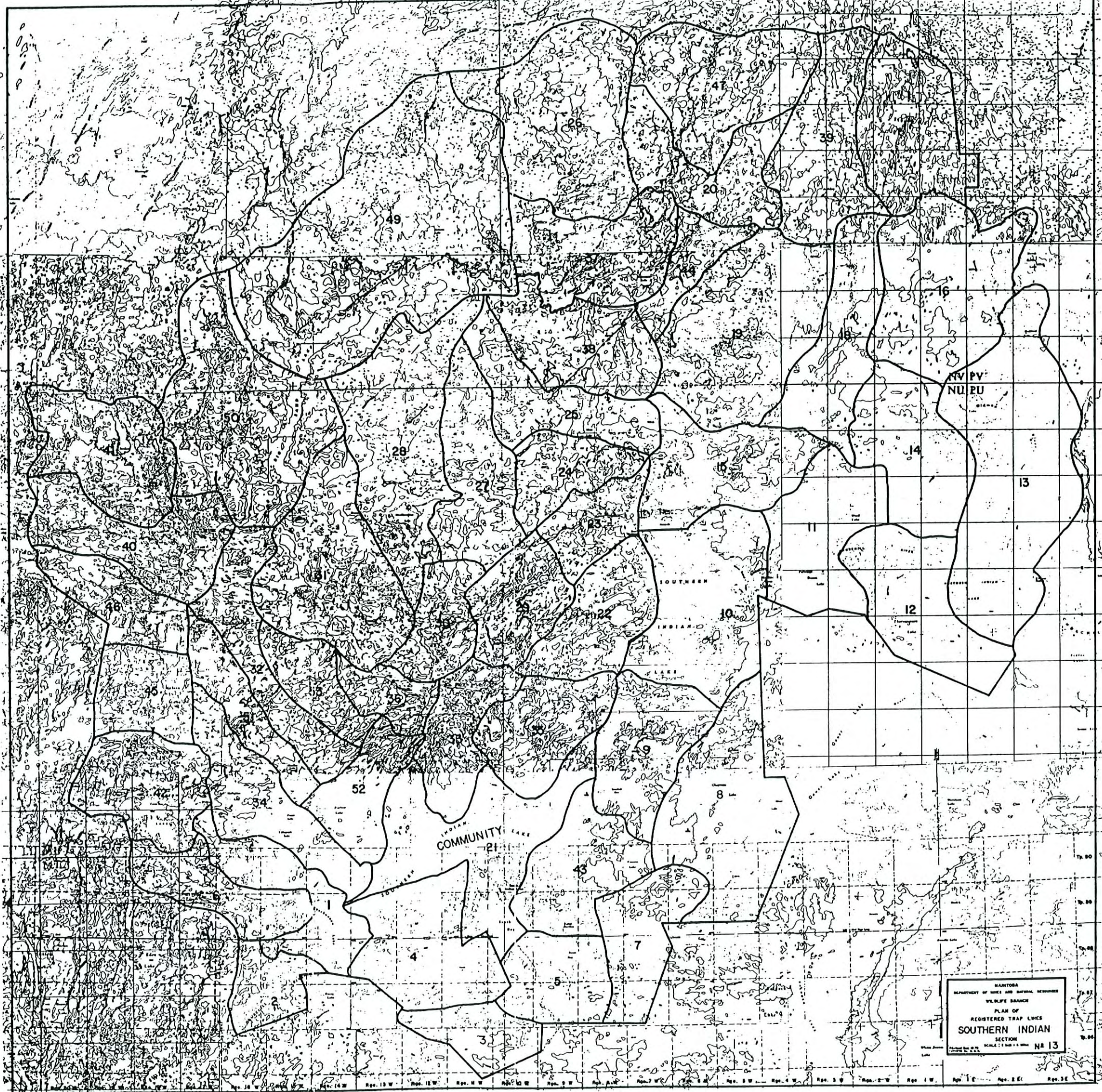
## **SCHEDULE 5.1**

### **SIL TRAPLINE ZONE**

**SIL Trapline Zone** shall consist of the lands shown on "Plan of Registered Traplines - Southern Indian" attached to and forming part of this Schedule.



SCHEDULE 5.1





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**Schedule 6.1: Nelson House Resource Management Area**

## ARTICLE 6

### 6.0 RESOURCE MANAGEMENT

#### 6.1 INTRODUCTION

6.1.1 Introduction. This article sets out the procedure for establishing and operating a Resource Management Board consisting of representatives of **Manitoba** and **Nelson House**.

#### 6.2 RESOURCE MANAGEMENT AREA

6.2.1 Designation of Area. **Nelson House** and **Manitoba** shall each, within their respective authority and powers, designate the areas described in Schedule 6.1, as the **Resource Management Area**.

6.2.2 Amendment of Area. The **Resource Management Area** may be amended by agreement between **Nelson House** and **Manitoba**.

#### 6.3 RESOURCE MANAGEMENT BOARD

6.3.1 Establishment. Within ninety (90) days following the **Date of this**

**Agreement, Manitoba and Nelson House** shall each appoint two (2) persons for a four (4) year term and two (2) persons for a three (3) year term to constitute the Resource Management Board ("the Board"). All subsequent appointments shall each be for a term of four (4) years.

6.3.2        Board Meetings.        The inaugural Board shall meet at the **Reserve** not later than thirty (30) days following the appointment of its last member. The Board shall meet at least four (4) times a year at **Nelson House**.

6.3.3        Change in Members.        **Nelson House** and **Manitoba** may change the number of Board members provided that there will always be an equal number of members appointed by each.

6.3.4        Alternate Members.        If any Board member is unable or unwilling to complete that member's term of appointment, **Nelson House** or **Manitoba** shall, as the case may be, appoint an alternate member for the balance of such term .

6.3.5        Replacing Members.        **Nelson House** and **Manitoba** shall, at least thirty (30) days before the expiration of the term of a member appointed by it, either reappoint that member or appoint a new member and so advise the other party.

6.3.6 Rules and Appointment of Chair. The Board shall establish its rules and procedures. A chair shall be selected from among the Board members, and the member so selected shall continue to have a vote as a member but shall have no additional or deciding vote as the chair.

6.3.7 Quorum. A quorum shall be at least three (3) members of each of **Manitoba** and **Nelson House**

6.3.8 Decisions. Decisions of the Board shall be made by consensus unless a member requests and a majority agrees that a decision be made by vote. Equal numbers of members appointed by **Nelson House** and **Manitoba** shall participate in any vote.

#### 6.4 **PROGRAMS AND BUDGETS**

6.4.1 Annual Program and Budget. The Board shall, on or before September 1 in any year, submit an annual program and budget for the next fiscal year to **Nelson House** and **Manitoba** for approval. Within ninety (90) days of receipt of the budget, each such **Party** shall advise the Board whether it accepts or rejects all or part of the annual program and budget.



6.4.2 Budget Components. The budget may:

- (a) include anticipated requirements for:
  - (i) staff, facilities, equipment and administration,
  - (ii) public meetings, consultations and hearings,
  - (iii) research, publications and public education,
  - (iv) technical assistance,
  - (v) other programs or activities determined by the Board,and
- (b) identify how the budget will be funded including the proportions to be paid by **Nelson House** and **Manitoba**.

6.4.3 Sharing of Costs. **Nelson House** and **Manitoba** shall pay the costs of their representatives on the Board, not covered by normal programs. Other budgeted costs will be shared by **Nelson House** and **Manitoba** in the proportions determined jointly at the time of the review and approval of the annual program and budget.

6.4.4 Technical Support. Technical support and programs for land use planning and natural resource management, available from **Manitoba**, will be made available to and co-ordinated with programs of the Board without charge. However, in those instances where a set fee or charge has been established, it will be levied unless otherwise waived by **Manitoba**.

6.4.5 Fiscal Year. The fiscal year of the Board shall commence on April 1 in any year unless changed by agreement between **Manitoba** and **Nelson House**.

6.4.6 Reports. The Board:

- (a) may publish reports or other materials; and
- (b) shall within ninety (90) days after the end of the fiscal year provide **Nelson House** and **Manitoba** with a written report which:
  - (i) describes the activities carried out during the year,  
and
  - (ii) evaluates the success or failure of the activities undertaken, and the reasons therefor.

## 6.5 **BOARD FUNCTIONS**

6.5.1 Board Activities. The Board may:

- (a) investigate **Resources**, their use, and any influences on them;
- (b) monitor activities within the **Resource Management Area**;
- (c) propose subjects for research;
- (d) prepare information and communication strategies;
- (e) hold meetings and workshops or otherwise consult publicly or privately

with any person;

- (f) develop and recommend resource management plans in accordance with Articles 6.5.2 and 6.5.3;
- (g) develop and recommend land use plans in accordance with Articles 6.5.4. and 6.5.5; and
- (h) carry out other duties jointly assigned to it by **Nelson House** and **Manitoba**.

6.5.2        Resource Management Plans.        The Board may develop and recommend Resource Management Plans which, without limitation may include provision for:

- (a) total allowable harvesting levels;
- (b) species enhancement;
- (c) methods of harvesting;
- (d) health and safety considerations;
- (e) procedures for the assignment or re-assignment of new, vacant or under-utilized traplines, fishery quotas and wild rice leases;
- (f) enforcement considerations;
- (g) protecting and enhancing **Resources** and their environment;
- (h) prescribing and monitoring levels of use;
- (i) establishing priorities and allocations for domestic, commercial and recreational uses of **Resources** by lease, permit, quota or otherwise;

- (j) resolving conflicts related to the use of **Resources**;
- (k) protecting and conserving **Resources**; and
- (l) sustainable development of **Resources**.

6.5.3 Application of Resource Management Plans. Notwithstanding Article 6.5.2 and subject to applicable legislation, a Resource Management Plan shall apply within a **Municipality** only insofar as it does not conflict with the provisions of a **Development Plan, Basic Planning Statement or Planning Scheme** for the **Municipality** or any part thereof.

6.5.4 Land Use Plans. The Board may develop and recommend Land Use Plans, which without limitation may include provision for:

- (a) zoning lands;
- (b) prescribing areas of land or bodies of waters for purposes of regulating use;
- (c) prescribing and regulating land uses;
- (d) establishing administrative arrangements for the construction or occupation of cabins or shelters;
- (e) recognizing and preserving areas of ecological, cultural or historical significance; and
- (f) resolving conflicting uses of land.

6.5.5        Application of Land Use Plans.        Notwithstanding Article 6.5.4 and subject to applicable legislation, Land Use Plans shall not apply within a **Municipality** in which a **Development Plan** or a **Basic Planning Statement** or **Planning Scheme** comes into effect for the **Municipality**.

## 6.6            **APPROVAL OF PLANS**

6.6.1        Reference.    The Board shall forward proposed Land Use Plans, Resource Management Plans or recommendations to **Nelson House, Manitoba** and **Hydro** accompanied by written reasons for supporting the plan or recommendation.

6.6.2        Responding to Plans.        Within ninety (90) days of receiving a plan or recommendation, **Nelson House** and **Manitoba** shall notify the Board in writing, with a copy to each other, whether they accept or reject the plan or recommendation.

6.6.3        Resubmission.        The Board may, within sixty (60) days of receipt of notice under Article 6.6.2, that a plan or recommendation is not acceptable, resubmit to **Nelson House** and **Manitoba**:

- (a)    a revised plan or recommendation;
- (b)    a request that the rejected plan or recommendation be reconsidered, including such additional information as the Board may consider relevant.

6.6.4 Final Decision. **Nelson House** and **Manitoba** may, within sixty (60) days of a resubmission by the Board under Article 6.6.3, advise the Board and each other in writing of their final decision on the matter. No further resubmission under Article 6.5.3 may be made without the approval of any dissenting party.

6.6.5 Extensions. Time limits set forth in Articles 6.6.2, 6.6.3 and 6.6.4 may be extended by agreement in writing between **Nelson House** and **Manitoba**.

6.6.6 Adopting Plans. Where **Nelson House** and **Manitoba** both advise the Board that a plan is acceptable for adoption, each shall promptly take all appropriate steps within their respective jurisdictions to give the plan full effect and shall promptly provide the Board with documentation giving the plan such effect.

6.6.7 Withdrawal of Plans. In the absence of approval by both **Nelson House** and **Manitoba** no Resource Management Plan or Land Use Plan developed by the Board, or recommendation of the Board will have any force or effect.

6.6.8 Updating Plans. The Board shall conduct a regular review of all approved plans and recommendations and, where it is considered necessary, propose amendments to **Nelson House** and **Manitoba** along with supporting reasons. The procedures outlined in Articles 6.6.2 to 6.6.7, both inclusive, shall apply to any proposed

amendments.

6.6.9        Resource Allocations.        Pending approval of any Land Use Plan or Resource Management Plan with respect to the lands and resources within the **Resource Management Area, Manitoba and Nelson House** shall refer requests for resource allocations and applications for Land Use Permits to the Board. Within forty-five (45) days of receiving such referral, the Board may submit recommendations on the allocations or land uses in accordance with Article 6.6. Requests for resource allocations and applications for Land Use Permits received prior to the establishment of the Board will be deferred pending its establishment and will then be referred to the Board for consideration hereunder.

## 6.7            **CONSULTATION**

6.7.1        Consulting with Interested Parties.        Before recommending that a Land Use Plan or Resource Management Plan be adopted, the Board shall:

- (a)        hold one (1) or more public meetings in such manner as it determines to be appropriate to obtain the views of, and provide information to, interested parties;
- (b)        give at least thirty (30) days written notice of the meeting under Article 6.7.1(a) to **Hydro**, and provide it with a copy of any proposed plan; and

- (c) give at least thirty (30) days written notice of the meeting under Article 6.7.1(a) to the Town of Leaf Rapids, the City of Thompson, the Local Government District of Mystery Lake, the Council of the Northern Affairs Community of Nelson House and any other municipal authority within the **Resource Management Area** and provide such municipal authority with a copy of any proposed plan.

6.7.2        Giving Notice.        In addition to any other notice, the Board shall bring public meetings to the attention of, and invite thereto, any local associations of **Resource** users within the **Resource Management Area** known to have an interest in the subject matter.

6.7.3        Requesting Information.        **Nelson House** and **Manitoba** shall each, upon written request of the Board and subject to payment, unless waived, of any prescribed fee, provide the Board with information within their control about matters being dealt with by the Board except where such information is privileged or confidential.

6.7.4        Requesting Assistance.        **Nelson House** and **Manitoba** shall each, upon written request of the Board, provide to the Board:

- (a) information concerning the application of existing laws, policies, procedures and plans affecting management or use of **Resources** in the



**Resource Management Area; and**

- (b) assistance in drafting any recommendation or plan, provided that this shall not imply that **Manitoba** or **Nelson House** will adopt the recommendation or plan.

## 6.8 GENERAL

6.8.1 Transitional Measure. From the **Date of this Agreement** to the date the Board first meets, **Nelson House** and **Manitoba** shall defer pending and new applications for **Resource** allocations and land use permits within the **Resource Management Area**. The Board shall provide recommendations on these applications within forty-five (45) days of its first meeting.

6.8.2 No Derogation. Nothing in Article 6 shall derogate from any authority of **Nelson House**, **Manitoba** or **Canada** within their respective jurisdiction over the lands and **Resources** in the **Resource Management Area**.

6.8.3 Federal Impediments. Actions taken pursuant to Article 6 may be applicable to **Reserve Lands** but no action taken pursuant to Article 6 shall impose restrictions or impediments on any lands which **Canada** may acquire by any means within its jurisdiction or which are acquired by, transferred to or transferable to **Canada**

for any purposes.

6.8.4        No Federal Powers.        Article 6 does not contemplate the exercise of powers by **Canada** under federal statutes or regulations other than the Indian Act (Canada).

6.8.5        Access to Lands.        Article 6 does not restrict the right of any person to enter on provincial Crown lands for any lawful purpose.

6.8.6        Existing Rights.        Nothing in Article 6 shall affect licences, permits or leases issued by **Nelson House** or **Manitoba** prior to the **Date of this Agreement** or affect any right or privilege granted, or any responsibility acquired, under a licence, permit, lease or administrative policy of **Nelson House** or **Manitoba**.

6.8.7        Conflicts with Laws.        **Nelson House** and **Manitoba** shall each take reasonable measures to ensure that their actions pursuant to this Article 6 do not conflict with any federal or provincial laws in force in Manitoba.

6.8.8        Statutory Requirements.        Nothing in Article 6 alters any statute or any statutory authority or requirement or confers any statutory approval.

6.8.9            Discontinuance.        **Nelson House and Manitoba** may jointly decide to discontinue the Board and its activities or assign the functions of the Board under Article 6 to other entities.

6.8.10            No Revenue Sharing.        The purposes of the Board do not extend to consideration of royalties, income or other revenue derived from or attributable to **Resources**, and, subject to Article 3.2.2, nothing in this **Agreement** entitles **Manitoba** or **Nelson House** to share in the royalties, income or other revenue derived from **Resources** within the other's jurisdiction, ownership or administration and control.

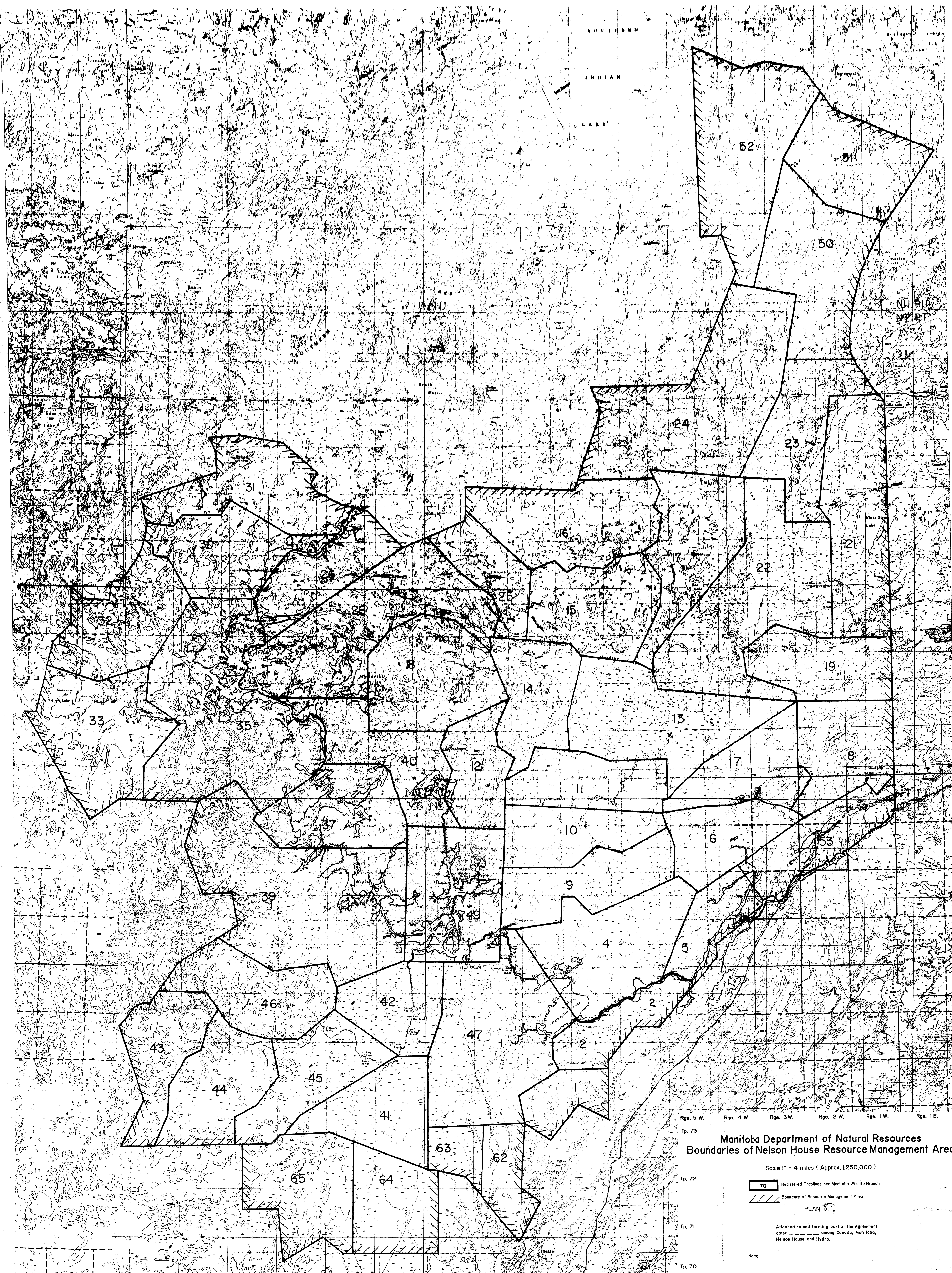
6.8.11            Amendment.                Except for Article 6.8, **Manitoba** and **Nelson House** may amend the procedures in Article 6, provided any such amendment is consistent with this **Agreement** and not prejudicial to **Canada** and **Hydro**.

SCHEDULE 6.1

**NELSON HOUSE RESOURCE MANAGEMENT AREA**

**Nelson House Resource Management Area** shall be the area shown on Plan 6.1 attached to and forming part of this Schedule.





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Manitoba Department of Natural Resources  
Boundaries of Nelson House Resource Management Area

Scale 1" = 4 miles ( Approx. 1:250,000 )

70 Registered Traplines per Manitoba Wildlife Branch  
Boundary of Resource Management Area

PLAN 6.1

Attached to and forming part of the Agreement dated \_\_\_\_\_ among Canada, Manitoba, Nelson House and Hydro.

Note:

Rge. 19 W Rge. 18 W Rge. 17 W Rge. 16 W Rge. 15 W Rge. 14 W Rge. 13 W Rge. 12 W Rge. 11 W Rge. 10 W Rge. 9 W Rge. 8 W Rge. 7 W Rge. 6 W



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## ARTICLE 7

### 7.0 ENVIRONMENTAL MONITORING AND INVESTIGATION

#### 7.1 INTRODUCTION

7.1.1 Introduction. Article 7 establishes and describes arrangements to coordinate environmental monitoring and share the information developed.

7.1.2 Monitoring by Nelson House. If approved by the **Community Approval Process**, **Nelson House** will undertake environmental monitoring in the **Resource Management Area**.

7.1.3 Legislation. Nothing in Article 7 requires any **Party** to take any action in relation to environmental monitoring not otherwise provided for in this **Agreement** or required by statute or regulation, and further does not modify or exempt any **Party** from any requirement related to environmental monitoring arising under this **Agreement** or imposed by statute or regulation.

#### 7.2 FOUR PARTY ARRANGEMENTS

7.2.1 Responsibility. **Canada** shall be responsible for scheduling and

convening meetings in accordance with Article 7.2.

7.2.2 Meetings. Unless otherwise agreed, representatives of the **Parties** shall meet at least once each year.

7.2.3 Representatives of the Parties. The **Parties** will arrange for their respective representatives to attend such meetings.

7.2.4 Convenor of Meetings. Not later than sixty (60) days in advance of each meeting **Canada** will coordinate the date, time, place, and agenda and arrange for the exchange of pertinent documents and requests for information.

7.2.5 Expenses. Each **Party** will bear its own costs in connection with the provisions of Article 7.2.

7.2.6 Purposes. The purposes of the meetings, and associated exchanges of information, are to:

- (a) provide such disclosure of non-privileged information of contemporary relevance to the **Resource Management Area**, as is reasonable and practicable to provide;
- (b) discuss plans of any **Party** to conduct investigations of environmental



conditions in or near the **Resource Management Area**;

- (c) discuss contemplated environmental monitoring or investigations of any **Party** in or near the **Resource Management Area**, pursuant to provisions of this **Agreement** or any statute or regulation;
- (d) consider whether, and to what extent, it is practical to adjust any activities under Articles 7.2.6 (b) or (c), to accommodate the environmental assessment interests of the other **Parties**, without prejudicing the interests of the **Party** conducting the activities ; and
- (e) discuss whether and to what extent, the results of any environmental audit, impact statement or impact assessment may be made available to other persons.

7.2.7        No arbitration. Notwithstanding Article 13, the purposes under Article 7.2.6 are consensual in nature and disagreements or disputes under Article 7.2.6 are not referable to arbitration or court.

7.2.8        Determination. The four (4) **Party** arrangement contemplated by Article 7 may be held in abeyance or terminated by the mutual agreement of all **Parties**, and shall, unless agreed, terminate at the end of the **Project**. If the representative of **Nelson House** fails to attend meetings in two (2) successive years, without being excused or without reasonable cause, the provisions of Article 7 shall terminate.

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## ARTICLE 8

### 8.0 FUTURE DEVELOPMENT

#### 8.1 INTRODUCTION

8.1.1 Introduction. Article 8 sets forth planning principles and processes in relation to **Future Development**.

#### 8.2 FUTURE PROJECT DEVELOPMENT

8.2.1 No Implied Concurrence. Nothing in Article 8 shall imply concurrence with or approval by **Nelson House** or **Canada** of any **Existing Development** or **Future Development** or operation of any portion of the **Project** affecting **Nelson House**, the **Reserve**, **Members**, or the **Resource Management Area**.

8.2.2 Future Development **Hydro** and **Nelson House** acknowledge that **Hydro** may, within the foreseeable future, undertake **Future Development** and initiate further preparatory and other work related to such **Future Development**.

8.2.3 Documents. **Hydro** has provided to **Nelson House** indexes listing all planning, engineering, environmental and other like reports which have been

finalized by **Hydro** in relation to **Future Development** and agrees to provide to **Nelson House**, in a timely fashion:

- (a) copies of any such finalized report, which is current and relevant to an option for **Future Development** being considered by **Hydro**; and
- (b) relevant supporting data which **Nelson House** may reasonably require;

and which would be subject to disclosure under The Freedom of Information Act (Manitoba).

### **8.3 PLANNING PROCESS**

**8.3.1 Annual Meeting.** **Hydro** agrees to annually convene in Thompson, or elsewhere in Manitoba, a special meeting with, or attend a regular meeting of, **Chief and Council** and its advisors:

- (a) to review work undertaken by **Hydro** since the last annual meeting in relation to **Future Development**;
- (b) to review any physical works related to **Future Development** which **Hydro** intends to construct in the coming year;
- (c) to review the draft work plan prepared by **Hydro** under Article 8.3.4;  
and
- (d) to discuss issues and concerns relevant to **Future Development**.

Prior to such annual meeting **Hydro** shall provide **Nelson House** with a copy of its proposed work plan and **Hydro** and **Nelson House** shall exchange copies of any planning, engineering or environmental report or study in relation to **Future Development** which has been finalized during the period since the last annual meeting and which, if applicable, would be subject to disclosure under The Freedom of Information Act (Manitoba).

8.3.2 Process. Prior to making its final selection of its option for **Future Development**, **Hydro** shall:

- (a) with respect to each option for **Future Development** being considered by **Hydro**, provide to **Nelson House**:
  - (i) maps showing potential sites,
  - (ii) detailed descriptions of each option for development including anticipated impacts on water levels and rates of change in water levels of Footprint Lake and other water bodies in the **Resource Management Area**,
  - (iii) maps showing the extent of inundation,
  - (iv) an outline of anticipated positive and negative effects on water bodies in the **Resource Management Area**,and as changes are made, up-date such maps, descriptions and outline and provide same to **Nelson House**;

- (b) advise **Nelson House** and **Canada** which options for **Future Development**, if any, could not proceed without an arrangement for the taking or using of **Reserve Lands**, an amendment to the **Easement** or the granting of a new easement on **Reserve Lands**;
- (c) in consultation with **Nelson House**, identify any issues of particular concern or importance to **Nelson House** and **Members**;
- (d) in consultation with **Nelson House**, identify and review potential positive and negative effects on **Nelson House** and **Members** which could result from each option for **Future Development** ;
- (e) undertake such studies and investigations as are necessary to obtain a reasonable assessment and understanding of such potential effects which have been identified and after consultation with **Nelson House**, consider reasonable design modifications which could eliminate or alleviate any identified **Adverse Effects**;
- (f) after consultation with **Nelson House**, identify, design and cost mitigatory and remedial works which are reasonable, to alleviate anticipated **Adverse Effects** which cannot be eliminated by design modifications;
- (g) in consultation with **Nelson House**, consider practical and reasonable ways in which **Nelson House** can benefit from such **Future Development**;

- (h) consult with **Nelson House** to determine which option for **Future Development**, if any, is preferred by **Nelson House**;
- (i) if an amendment to the **Easement** or a new easement or some other arrangement is required for the taking or using of **Reserve Lands** to accommodate such **Future Development**, obtain from **Nelson House** and **Canada** agreement to provide such arrangement, new easement or amendment to the **Easement**;
- (j) pursuant to Article 8.4, in consultation with **Nelson House**, develop a proposal to compensate **Nelson House** for **Adverse Effects** which are not off-set by benefits of the **Future Development** and which cannot reasonably be eliminated or alleviated;
- (k) identify in a reasonably timely manner:
  - (i) any employment opportunities related to **Future Development** which may be available for **Members** including any pre-requisite education or training, and
  - (ii) any business opportunities related to **Future Development** which may be available to **Nelson House** and **Members** in the **Resource Management Area**, and
- (l) consult with **Nelson House** about any other relevant matter related to selecting an option for **Future Development**.

8.3.3        Joint Studies.        Whenever a study or investigation of an issue of particular concern or importance to **Nelson House** and **Members** is required under Article 8.3.2, **Nelson House** and **Hydro** agree that, if practicable and reasonable, such study or investigation, including the establishment of the terms of reference for same, shall, subject to Article 8.3.4, be undertaken by them jointly and with others who may also be affected.

8.3.4        Work Plan and Budget.        At least annually **Hydro** shall prepare a work plan outlining the nature and scope of any work, including any consultation, study or investigation which it anticipates it will undertake to meet the process obligations under Article 8.3.2 during the coming year, and **Nelson House**, in consultation with **Hydro**, shall prepare, and where appropriate revise, a budget for the reasonable costs which **Nelson House** anticipates it will incur in order to participate in the work plan. If **Hydro** approves such budget, or it is approved by the **Arbitrator**, **Hydro** agrees to pay such costs in a timely manner, provided that:

- (a)    the actual invoice reflects the budget; and
- (b)    the work done accords with the work outlined in the budget.

**Hydro** shall not be required under Article 8.3.4 to pay or re-imburse **Nelson House** for:

- (c)    any salary, honorariums, fees, per diems or other similar costs, except reasonable expenses necessarily incurred, for the participation or



involvement of any **Members**, including **Members** who are representatives of **Nelson House**, at any meetings or in any of the processes under Article 8, except where such **Member** has been retained as a qualified expert ;

- (d) any costs in relation to the arbitration of a dispute.

Article 8.3.4 will not preclude an award of costs under Article 13.4.

8.3.5        **Nelson House Co-operation.**        Subject to Article 8.3.7, **Nelson House** will co-operate with **Hydro** on a timely basis as contemplated in Articles 8.3.1, 8.3.2 and 8.3.3 including the annual meetings, consultations, joint studies and planning processes. **Nelson House** will also co-operate with **Hydro** to:

- (a) identify areas of concern and importance to **Nelson House** and **Members**;
- (b) facilitate the gathering of information from **Members** in relation to the **Reserve** and the **Resource Management Area**;
- (c) facilitate communication between **Hydro** and **Members**; and
- (d) if applicable, inform **Hydro** and **Canada**, in writing, whether it is prepared to have the **Easement** amended or a new easement or other arrangements for the taking and using of **Reserve Land** granted, if required, to accommodate **Future Development**.

8.3.6 Hydro decisions. **Hydro** maintains its discretion to:

- (a) determine under Article 8.3.4 its annual work plan and the extent, scope and timing of work required to meet its obligations under Article 8.3.2;
- (b) determine options for consideration and select the option for **Future Development** with which it will proceed;
- (c) adopt, amend or terminate its on-the-job employment and business opportunities policies;
- (d) design any works, structure or development forming any part of **Future Development**; and
- (e) subject to applicable laws, initiate federal or provincial regulatory review processes in relation to such **Future Development**.

Accordingly, subject to any requirement in relation to the taking or using of **Reserve Lands**, and without in any way limiting or restricting the undertaking of **Hydro** in Article 8.4.7 or the requirement to act in good faith and, notwithstanding the provisions of Article 13, no dispute under Article 8 respecting any decision of **Hydro** relating to those matters outlined in Articles 8.3.6 (a), (b), (c), (d) and (e) is referable to arbitration or is otherwise justiciable under this **Agreement**. Notwithstanding the foregoing, disputes under Article 8.3.4, in relation to the reasonable costs for **Nelson House** to participate in the work plan and, where the work plan proposes a study which under Article 8.3.3 is to be undertaken by **Nelson**

**House** and **Hydro** jointly, disputes in relation to the terms of reference for same, are referable to arbitration under Article 13.4.

8.3.7        Reconsideration.    Prior to proceeding with any joint study, survey, referendum or other process under Article 8 requiring the participation of, or otherwise involving, **Members** generally, **Nelson House** may, and at the request of **Hydro** will:

- (a)    hold a public meeting of **Members** to determine if the **Members** will co-operate in such process; and
- (b)    advise **Hydro** of the results of such public meeting of **Members** and if **Nelson House** will co-operate as contemplated under Articles 8.3.5, 8.4.2 and 8.4.3.

8.3.8        Hydro Relieved.    If **Nelson House** advises **Hydro** that it is no longer prepared to co-operate as contemplated in Article 8.3.5, 8.4.2 and 8.4.3, as the result of a determination under Article 8.3.7 or otherwise, or if **Nelson House** fails to participate in studies, consult with **Hydro**, attend annual meetings, identify concerns, communicate, provide information or otherwise fails to co-operate as contemplated in said Articles 8.3.5, 8.4.2 and 8.4.3, **Hydro** may apply to the **Arbitrator** for an order relieving it from its obligations under Article 8.4.7(a) and any other obligation under Article 8 which cannot be met without such co-operation.

However, the **Arbitrator** shall have no authority to relieve **Hydro** from its obligations under the **Easement** or to obtain an amendment to the **Easement**, a new easement or any arrangement for the taking or using of **Reserve Lands**.

#### 8.4 FUTURE DEVELOPMENT COMPENSATION

8.4.1 Compensation Program. In selecting an option for **Future Development**, the impacts upon **Nelson House** and the cost and methods for compensating **Nelson House** and **Members** for **Adverse Effects**, are relevant considerations to be addressed as early in the process as feasible.

8.4.2 Consultation and Study. To address compensation issues, **Nelson House** and **Hydro** will work together to fully assess any benefit to **Nelson House**, and the cost and methods of compensating **Nelson House** and **Members** for **Adverse Effects** of **Future Development**. In relation to such matters, and the acceptability of any compensation proposals, **Nelson House** shall:

- (a) participate in compiling and providing data and information within the knowledge of **Nelson House** and **Members**;
- (b) participate in community surveys;
- (c) participate in joint studies;
- (d) conduct polls or referenda of **Members**; and

- (e) participate in the design, implementation and analysis of compensation cost- benefit studies to ensure that such studies give appropriate weight and are sensitive to issues of concern to **Nelson House and Members**.

8.4.3 Pre-Approval. It is in the best interests of **Nelson House** and **Hydro** to fully assess and finalize compensation issues, prior to formal commencement of any federal or provincial environmental review and licensing processes and, accordingly:

- (a) **Nelson House** agrees to work with **Hydro** under Article 8.3.2(j) in its effort to prepare as detailed and complete a compensation proposal as possible to address compensation for **Nelson House and Members** for the known and foreseeable **Adverse Effects of Future Development**;
- (b) a consideration of Schedule 2.2 shall be included in the preparation of the compensation proposal;
- (c) if **Hydro** and **Nelson House** are unable to jointly develop and agree upon a compensation proposal, **Hydro** shall finalize a compensation proposal and submit it to **Nelson House** for its consideration;
- (d) **Nelson House** shall review the compensation proposal submitted by **Hydro** and within six (6) months advise **Hydro** if it accepts or rejects

the compensation proposal;

- (e) if **Nelson House** rejects the compensation proposal submitted by **Hydro**, and **Nelson House** and **Hydro** are unable to agree upon an acceptable compensation proposal, then either or both **Parties** may, in accordance with the procedures in Article 13.4, submit a compensation proposal to the **Arbitrator** for approval under Article 8.4.4;
- (f) the **Arbitrator** shall, within the time periods established by Article 13.3.9, fix the date for a hearing at which **Nelson House** and **Hydro** will have the opportunity to submit evidence and arguments in support of or against any compensation proposal submitted under Article 8.4.3(e);
- (g) at the request of **Hydro** and **Nelson House** the **Arbitrator** shall waive the holding of a hearing under Article 8.4.3(f) and proceed to consider any proposals submitted under Article 8.4.3(e);
- (h) the **Arbitrator** may adjourn the hearing under Article 8.4.3(f) at any time with the consent of **Hydro** and **Nelson House** or without the consent of **Hydro** and **Nelson House**, on not more than one occasion and for not more than thirty (30) days, where, in the opinion of the **Arbitrator**, the **Parties** could agree upon a compensation proposal within that time;

- (i) hearings under Article 8.4.3 shall be held in camera provided that the **Party** initiating the hearing process shall give notice of the hearing to **Canada and Manitoba** who may, but are not obliged to, appear at, participate in or be added as intervenors at such hearings; and
- (j) information obtained from evidence given or from documents submitted to the **Arbitrator**, at or for a hearing under Article 8.4.3, shall not be made public.

8.4.4 Arbitrator's Power. Based upon a review of any compensation proposals submitted under Article 8.4.3(e) and any evidence presented, including relevant information obtained and compiled pursuant to Article 8.4.2, the **Arbitrator** shall:

- (a) approve a compensation proposal submitted under Article 8.4.3(e); or
- (b) reject and make recommendations for modifying such compensation proposals.

The **Arbitrator** shall have no power to amend any compensation proposal submitted under Article 8.4.3(e) or to determine compensation for the taking or using of **Reserve Land**. If the proposed **Future Development** proceeds the compensation proposal approved by the **Arbitrator** under Article 8.4.4 including any amendment to Schedule 2.2 shall, subject to Article 8.4.6, be binding upon **Hydro** and **Nelson House** unless otherwise agreed to in writing by **Hydro** and **Nelson**

**House .**

8.4.5        Re-submission.        If no compensation proposal submitted under Article 8.4.3(e) is approved by the **Arbitrator**, either **Nelson House** or **Hydro** may, at any time or times thereafter, submit new or amended compensation proposals to the same **Arbitrator** or, if the **Arbitrator** is no longer willing or able to act, to a new **Arbitrator** selected as herein provided, and the provisions of Articles 8.4.3 (f), (g), (h), (i), (j) and 8.4.4 shall apply to such new compensation proposal.

8.4.6        Modifications.        Either **Nelson House** or **Hydro** may request that a compensation proposal agreed upon under Article 8.4.3 or approved under Article 8.4.4 be reviewed and modified, as may be required, to accommodate changes in the proposed **Future Development** resulting from federal or provincial environmental review and licensing processes. Notwithstanding such review and modification, to which process the provisions of Article 8 shall to the extent relevant apply, and notwithstanding any appeal of the decision of the **Arbitrator**, **Hydro** may proceed at any time with the proposed **Future Development** whether or not a modified compensation proposal has been agreed upon or approved or the appeal heard and determined. Where it so proceeds **Hydro** shall be bound by the original compensation proposal agreed to under Article 8.4.3, or approved under Article 8.4.4, unless or until a modified compensation proposal has been agreed upon or



approved under Article 8.4.6 .

8.4.7        **Hydro Undertaking.**        Subject to Article 8.3.8, **Hydro** undertakes not to proceed with physical construction of any permanent dam or generating facility constituting part of **Future Development** until:

- (a)    **Hydro** and **Nelson House** have agreed upon a compensation proposal or the **Arbitrator** has approved a compensation proposal;  
and
- (b)    if required, amended or additional easements or other arrangements for the taking or using of **Reserve Lands**, have been agreed to by **Nelson House**, and if applicable **Canada**.

Subject to **Hydro's** obtaining all required federal and provincial licences and approvals for any such preliminary works, the undertaking of **Hydro** under Article 8.4.7 shall not prevent **Hydro** from proceeding with all of its preliminary works including, without limitation, the construction of infrastructure such as access roads, construction camps, dikes, clearing, and supply of power necessary to support and further the construction of such **Future Development**.

## 8.5 GENERAL

8.5.1 Without Prejudice. Any process under Article 8 is without prejudice to **Canada** or **Manitoba**, except to the extent that **Canada** or **Manitoba** may specifically concur. Nothing in Article 8 relieves against any statutory requirement.

8.5.2 Subject to Easement. The provisions of Article 8 are subject to the terms of, and do not alter or amend, the **Easement Agreement** or the **Easement**.

8.5.3 No Compulsion. Nothing in the **Agreement** shall compel **Nelson House** or **Canada** to agree to amend the **Easement** or the **Easement Agreement** or to grant a new easement.

8.5.4 Relocation. Nothing in Article 8 shall compel **Nelson House** to relocate the community of Nelson House in order to escape the impacts of the **Project**.

8.5.5 Amendment. With the consent of **Canada**, which consent shall not be withheld unreasonably, the processes outlined in Articles 8.3 and 8.4, except those relating to easements or to arrangements for the taking or using of **Reserve Lands**,

may be amended by **Nelson House and Hydro.**

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## ARTICLE 9

### 9.0 INDIAN MONEYS

#### 9.1 INTRODUCTION

9.1.1 Introduction. The purpose of this Article is to describe arrangements for those portions of the **Settlement Proceeds** which may be subject to subsection 35(4) of the Indian Act (Canada).

#### 9.2 EXEMPTIONS FROM INDIAN MONEYS REQUIREMENTS

9.2.1 Legislation. **Canada** will recommend legislation to Parliament to provide that subsection 35(4) of the Indian Act (Canada) does not apply to this **Agreement** or to the **Settlement Proceeds**.

9.2.2 Alternative to Specific Legislation. If the legislation contemplated by Article 9.2.1 has not been previously enacted and proclaimed, then, if other legislation has been enacted and proclaimed which authorizes the transfer and administration of Indian Moneys, as defined in the Indian Act (Canada), to trust arrangements of the kind set forth in the **Indenture**, then each **Party** shall take the steps pursuant to that legislation to accomplish the transfer and administration of

all **Settlement Proceeds** to and under the trust arrangements set forth in the **Indenture**.

### 9.3 PAYMENT OF INTEREST TO THE TRUST

9.3.1 Payment to Canada. In the absence of the legislation contemplated by Articles 9.2.1 or 9.2.2, **Hydro** shall pay the amounts required to be paid for the **Operation, Maintenance and Replacement** of the **Arena** pursuant to Article 11, to **Canada**, as capital moneys for the use and benefit of **Nelson House**. Consistent with applicable procedures and statutory requirements **Canada** will facilitate the payment of these moneys for the **Operation, Maintenance and Replacement** of the **Arena**.

9.3.2 Amounts. If the legislation contemplated in Articles 9.2.1 or 9.2.2 is not proclaimed prior to June 30, 1999, then one half (1/2) of the **Hydro Bond** in the principal amount of twenty million (\$20,000,000.00) dollars, which would otherwise have been delivered on that date to **Nelson House** for settlement on the **Trust**, shall be issued in the name of Her Majesty the Queen in Right of Canada for the use and benefit of **Nelson House** and delivered to **Canada**. When legislation permits, the **Hydro Bond** shall be returned by **Canada** to **Hydro** together with the requisite transfer documents and **Hydro** shall issue a replacement bond in the

name of the **Trust**; or, if the **Hydro Bond** has matured, or been redeemed, any **Settlement Proceeds** held by **Canada** shall be paid or delivered to the **Trust**.

9.3.3      Transfer of Interest to the **Trust**. On or before receipt by **Canada** of the **Hydro Bond** as contemplated by Article 9.3.2, **Canada** will make an order under section 69 of the Indian Act (Canada) providing that the interest on the **Hydro Bond** held by **Canada** shall be transferred to the **Trust**.

#### 9.4            **SUBSEQUENT LEGISLATION**

9.4.1      Subsequent Article 9.2.1 Legislation. If it appears the legislation referred to in Article 9.2.1 will not be enacted and proclaimed prior to June 30, 1999, **Canada** shall recommend legislation to Parliament to provide for the transfer to the **Trust** of all **Settlement Proceeds**, if any, held by **Canada**.

9.4.2      Subsequent Article 9.2.2 Legislation. If legislation of the kind referred to in Article 9.2.2 is proclaimed subsequent to June 30, 1999, each **Party** shall take the steps necessary pursuant to the proclaimed legislation to transfer to the **Trust** all **Settlement Proceeds**, if any, held by **Canada**.

9.4.3      Maturity of **Hydro Bond** Held by **Canada**. If no legislation of the

kind contemplated by Article 9.2.1 or 9.2.2 has been enacted and proclaimed prior to January 1, 2012, and any **Settlement Proceeds** paid or payable by **Hydro** or **Manitoba** are held by **Canada** for the use and benefit of **Nelson House, Nelson House** and **Canada** will immediately enter into negotiations with a view to prompt transfer of those **Settlement Proceeds** to the **Trust** in accordance with applicable legal authorities.



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## ARTICLE 10

### 10.0 SETTLEMENT PROCEEDS AND FEDERAL AND PROVINCIAL FUNDING AND PROGRAMMING

#### 10.1 INTRODUCTION

10.1.1 Introduction. Article 10 describes standards and procedures to describe the relationship between the use of **Settlement Proceeds by Nelson House**, and the provision of **Normal Funding and Programming to Nelson House** by **Canada** and **Manitoba**.

#### 10.2 PROVISIONS APPLICABLE TO CANADA

10.2.1 Programs of Canada. The application or disbursement of **Settlement Proceeds by Nelson House**, in accordance with this **Agreement** and the provisions of the **Indenture** shall not be substitutes for **Normal Funding and Programming** which may otherwise be made available by **Canada**.

10.2.2 Standards for Decisions. Decisions on such **Normal Funding and Programming** by departments of the government of **Canada** shall be in accordance

with the standards set forth in the following paragraphs :

- (a) where **Normal Funding and Programming** are based on assessments of the financial needs of First Nations, their members, or their members ordinarily resident on reserve, a reduction of **Nelson House** need shall not reduce the quantum of such **Normal Funding and Programming** to the extent that such a reduction of need is reasonably attributable to, or results from, the expenditure of **Settlement Proceeds**;
- (b) where **Normal Funding and Programming** are based on applications to be submitted, it shall be the applicant's responsibility to make application in an appropriate form on a timely basis. In appraising the merits of, and making decisions on, such applications, departments of the government of **Canada** shall not reject applications based on the availability or expenditure of **Settlement Proceeds**. However, the availability or expenditure of **Settlement Proceeds** may be taken into account where such availability or expenditure would make the decision more favourable to **Nelson House** or the applicant, such as, without limiting the generality of the foregoing, where the provision or investment of equity or matching or qualifying funds is required or

- permitted in connection with the application process;
- (c) where **Normal Funding and Programming** is based on quantitative formulae reflecting statistical measures of demographic and other characteristics of First Nations, such formulae shall not be designed, developed or applied so as to substitute the availability, or expenditure, of **Settlement Proceeds** for **Normal Funding and Programming** which, in the absence of those **Settlement Proceeds**, would be, or would have been, available;
  - (d) where **Normal Funding and Programming** are administered by a board, panel or other entity appointed by **Canada**, but with independent decision making authority with respect to the provision of funding or the application or administration of the program, the program design shall provide to **Nelson House, Chief and Council**, any **Member**, group of **Members**, or **Controlled Institution** treatment which is the same as or similar to that provided to other First Nations or their members in comparable circumstances; and
  - (e) where **Settlement Proceeds** are expended to construct **Capital Works** on Reserve, it shall be the responsibility of **Nelson House** to provide or obtain funding for the **Operation and Maintenance** of such **Capital Works**. **Canada** shall not be obliged to, but may, in its

discretion, provide funding for **Operation and Maintenance** of such **Capital Works**. **Operation and Maintenance** funding shall be available to **Nelson House** to the same extent it is available to other First Nations who fund capital works and infrastructure out of sources other than **Normal Funding and Programming**.

10.2.3        Disclosure. **Nelson House** shall provide **Canada** on a timely basis with all information reasonably requested by **Canada** to meet the requirements of the **Normal Funding and Programming** to which the provisions of Articles 10.2 and 10.5 apply. Either **Canada** or **Nelson House** may request a meeting to review the adequacy or reasonableness of the information requested or provided, and a meeting for that purpose shall be held.

10.2.4        Assignment. If the **Minister** should determine that there is a substantial degree of agreement among the First Nations of Manitoba that some or all **Normal Funding and Programming** would more appropriately be provided by an entity or agency not forming part of the Government of Canada, the provisions of Articles 10.2 and 10.5 respecting **Canada** may be assigned to that entity or agency. However, no such assignment shall be permitted unless there are reservations in favour of **Nelson House** of all of the rights, privileges and

responsibilities under the provisions of Article 10.2 and 10.5 applicable to **Canada**, in a form which binds assignees and successors in interest.

10.2.5        Notice.        **Nelson House** shall provide notification to **Canada** and or to any assignee pursuant to Article 10.2.4 as soon as it becomes evident that the allocation of **Normal Programming and Funding** may be or may have been affected by the expenditure of **Settlement Proceeds** contrary to the provisions of Articles 10.2 and 10.5. If any dispute is not resolved between **Nelson House** and **Canada**, or its assignee, within a reasonable period of time, it shall be the responsibility of either **Canada**, or its assignee or **Nelson House** to submit the matter to arbitration and advance the resolution of the dispute on a timely basis.

10.2.6        Emergencies.        The procedures set out above will not preclude or prejudice consideration of any application by **Nelson House** for assistance in the event of emergencies. Articles 10.2 and 10.5 shall not be construed to mean that such emergency funding is or will be available.

10.2.7        Compensation Lands.        It is understood, as between **Canada** and **Nelson House**, that **Normal Funding and Programming** allocations to **Nelson House** will be neither restricted from application to the **Compensation Lands**, nor

increased by reason of the **Compensation Lands** other than as may result from the fair application of general **Normal Funding and Programming** policies of **Canada**, unless **Canada** and **Nelson House** otherwise agree in the future.

10.2.8        Changes.        Subject to Article 10.2.1, it is understood as between **Canada** and **Nelson House** that federal policy changes may, from time to time, have an impact on the allocation of **Normal Funding and Programming**. **Canada** will provide notice of policy changes to **Nelson House** within the same time frames and in the same manner as the information is made available to other First Nations.

### 10.3            **PROVISIONS APPLICABLE TO MANITOBA**

10.3.1        Manitoba Programs.        **Settlement Proceeds** shall not be considered substitutes for **Normal Funding and Programming** available to communities, residents, or groups of residents of Manitoba, under the normal program criteria of **Manitoba** in effect from time to time.

10.3.2        Considerations.        In considering requests for **Normal Funding and Programming**, **Manitoba** shall:

- (a)        consider all requests in accordance with program criteria in existence

from time to time; and

- (b) provide **Normal Funding and Programming**, subject to there being unexpended moneys within the existing budget of the relevant program, without reduction in the amounts which would be available in the absence of **Settlement Proceeds**.

#### 10.4 SETTLEMENT PROCEEDS AND HYDRO POLICIES

10.4.1 Hydro Policies. Neither the **Settlement Proceeds**, nor the release given by **Nelson House** in favour of **Hydro** is intended to disentitle or disadvantage **Nelson House** or **Members** from the opportunity to participate in, or receive, the full benefit of any general business opportunity, employment or training policies of **Hydro** in force from time to time relating to aboriginal peoples in Northern Manitoba. **Hydro** and **Nelson House** agree to meet at Nelson House at least once every year to identify opportunities, if any, for **Members** to apply or compete for, or participate in, **Hydro** related business, employment and training opportunities.

#### 10.5 GENERAL PROVISIONS

10.5.1 No Requirement. Except for the purpose of compliance with the



standards set out in Article 10.2 in respect of **Canada**, and Article 10.3 in respect of **Manitoba**, nothing in Article 10 shall, or shall be deemed to, require the provision of any **Normal Funding and Programming** by the governments of **Canada** or of **Manitoba**. Nothing in Article 10 shall require the maintenance or continuation of any **Normal Funding and Programming**, or require that any particular terms or form of **Normal Funding and Programming** be established or maintained.

10.5.2      Exclusion.    If **Canada**, **Manitoba** or **Hydro** should establish a program of compensation, and the program by its terms and conditions, excludes a class or classes of First Nations, communities or persons who have previously received compensation, with respect to those matters for which such program is established, and **Nelson House** or any **Member** is within the scope or definition of such a class or classes which are excluded from, or not included in the program, the provisions of Articles 10.2, 10.3 or 10.4 shall not apply to that program.

10.5.3      Potable Water.      **Nelson House** is entitled to **Normal Funding and Programming** in relation to the provision of potable water and sewer services as set out in the agreement among **Canada**, the Northern Flood Capital

Reconstruction Authority Inc., the Northern Flood Committee Inc., and the Cross Lake, Nelson House, Norway House, York Factory and Split Lake Bands pursuant to Article 6.1 of the **NFA** and dated May 10, 1988. Nothing in Article 10 shall change that agreement.

10.5.4        Termination.        If the **Trust** is wound up or has **Assets** of less than one hundred thousand (\$100,000.00) dollars, the provisions of Article 10 applicable to **Canada** shall be terminated for subsequent periods of **Normal Funding and Programming**. Such termination shall not affect the rights of **Nelson House** or **Canada** or its assignee in connection with disputes regarding the provision of **Normal Funding and Programming** with respect to periods prior to such termination.

10.5.5        Manitoba.        If the **Trust** is wound up or has **Assets** of less than one hundred thousand (\$100,000.00) dollars, the provisions of Article 10 applicable to **Manitoba** shall be terminated for subsequent periods of **Normal Funding and Programming**. Such termination shall not affect the rights of **Nelson House** or **Manitoba** or its assignee in connection with disputes regarding the provision of **Normal Funding and Programming** with respect to periods prior to such termination.

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## ARTICLE 11

### 11.0 OPERATION, MAINTENANCE & REPLACEMENT

#### 11.1 INTRODUCTION

11.1.1 Introduction. Article 11 establishes and describes procedures for addressing issues related to **Operation, Maintenance and Replacement of Specified Remedial Works** and the **Arena**.

#### 11.2 O & M Board

11.2.1 Establishment of O & M Board. **Nelson House and Hydro** shall, no later than thirty (30) days following the **Date of this Agreement**, each appoint two (2) members, and one (1) alternate member, to constitute the **O & M Board**. **Nelson House and Hydro** may, from time to time, increase the number of members on the **O & M Board**, so long as there are equal representatives of both **Hydro** and **Nelson House**.

11.2.2 Rules and Procedures. The **O & M Board** shall, consistent with this **Agreement**, establish its own rules and procedures for the conduct of its business.

11.2.3        Quorum.        A quorum of the **O & M Board** shall be the total number of members appointed to the **O & M Board**, and will be met by the presence of all members, or in the absence of any by their alternates. Except where unanimity is specifically required all decisions shall be by majority vote of the members of the **O & M Board**. Alternate members may only vote in the absence of the member for whom they are substituting.

11.2.4        Qualifications. The members and alternate members of the **O & M Board** shall have general knowledge of operation, maintenance and replacement of works similar to the **Specified Remedial Works** in isolated communities in Northern Manitoba.

11.2.5        Meetings of the O & M Board.        The **O & M Board** shall meet at least semi-annually on **Reserve** unless the members unanimously decide to meet elsewhere in Manitoba.

11.2.6        Costs of Committee Members.        If meetings of the **O & M Board** are held off **Reserve**, or if the duties of the Board should require a **Member** to travel off **Reserve**, the reasonable expenses for travel, lodging and meals incurred by the members, or the alternate members, appointed by **Nelson House** in attending such

meetings or in carrying out such duties shall, upon receipt of an invoice and required supporting documents verifying such expense, be reimbursed by **Hydro**

### **11.3 DUTIES OF O & M BOARD**

**11.3.1 Duties of the O & M Board.** **Hydro and Nelson House** shall cause their respective members on the **O&M Board** to:

- (a) carry out, at a minimum, annual inspections of the **Specified Remedial Works** and the **Arena**;
- (b) report and recommend to **Nelson House** and **Hydro** on:
  - (i) whether the **Specified Remedial Works** and the **Arena** are being properly maintained, operated and safeguarded,
  - (ii) whether work scheduled to be carried out is being, or has been, carried out in a good and skilful manner,
  - (iii) the appropriateness of plans for use, and hours for operation, of the **Arena**,
  - (iv) the maintenance program to be carried out during the fiscal year,
  - (v) whether maintenance, repair or replacement additional to the original recommendations is desirable,

- (vi) capital repairs or improvements that could reduce the annual cost of **Operations, Maintenance and Replacement,**
  - (vii) appropriate insurance coverage for the **Specified Remedial Works** and the **Arena,**
  - (viii) policing, security or programs to address vandalism against **Specified Remedial Works** and the **Arena,** and
  - (ix) any other matter of relevance to the **Operation, Maintenance and Replacement of Specified Remedial Works** and the **Arena,**
- (c) annually review and report to **Nelson House** and **Hydro** on the implementation of its recommendations.

11.3.2 Retaining Experts. Where necessary, the **O & M Board** may, by unanimous vote of its members, but not otherwise, retain independent experts to assist it in the performance of its duties under Article 11 and the reasonable cost, of retaining such experts shall, upon receipt of an invoice and required supporting documents verifying such costs, be paid by **Hydro.**



11.3.3 Access to the Reserve. Nelson House agrees that representatives of Hydro may enter the Reserve to fulfil Hydro's obligations under Article 11.

#### 11.4 O & M FUNDING

11.4.1 Specified Remedial Works. All Operation, Maintenance and Replacement of Specified Remedial Works shall be undertaken by Hydro at its own expense.

11.4.2 Changes to Specified Remedial Works. Nelson House and Hydro may agree to add, improve, delete, alter or substitute any Specified Remedial Work. If such Specified Remedial Work is located on Reserve, the consent of Canada will be required. Hydro will have no responsibilities under Article 11 in relation to any addition, alteration, substitution or improvement to a Specified Remedial Work which has not been agreed to by Hydro.

11.4.3 Employment. Hydro shall take all reasonable steps to employ Members or use Nelson House businesses to carry out the Operation, Maintenance and Replacement of Specified Remedial Works.

11.4.4 **Arena Contribution.** Hydro shall be responsible for paying ninety percent (90%) of the **Arena Budget** approved under Article 11.7 for the **Operation, Maintenance and Replacement** of the **Arena**. Notwithstanding the foregoing Hydro will not be responsible for any increase in the costs of **Operation, Maintenance and Replacement** of the **Arena** attributable to:

- (a) the principal use of the **Arena** being other than recreational use by **Nelson House and Members;**
- (b) to the use of the **Arena** being other than during reasonable hours;  
or
- (c) any addition, alteration, substitution or improvement to the **Arena** which which is capital in nature and which has not been agreed to by Hydro.

11.4.5 **No Programming.** **Operation, Maintenance and Replacement** costs will not include, and Hydro shall not be responsible under Article 11 for, funding any activity, program or other matter not directly related to the **Operation, Maintenance and Replacement** of the **Arena** or **Specified Remedial Works**.

## **11.5 OBLIGATIONS OF NELSON HOUSE**

**11.5.1 Covenant to Maintain.** **Nelson House** will carry on all **Operation, Maintenance and Replacement** of the **Arena** in accordance with Article 11 using sound building and facilities management practices, and will not withhold, from the **Arena**, normal police and fire protection services which it may from time to time provide on **Reserve**.

## **11.6 ARENA INSURANCE**

**11.6.1 Arena Insurance.** Subject to Articles 11.6.8 and 11.6.9, **Nelson House** shall:

- (a) at all times maintain policies of insurance on the **Arena** as follows:
  - (i) all risk property, and broad boiler and unfired pressure vessel insurance, for replacement cost with a deductible not to exceed five thousand (\$5,000.00) dollars or such other amount as **Nelson House** and **Hydro** agree, with **Nelson House, Hydro** and the **Corporate Trustee** shown as named insureds, and
  - (ii) general public liability insurance for not less than two million (\$2,000,000.00) dollars protecting **Nelson**

**House**, its employees and servants, and any other named insured from liability to third parties arising from activities in or about the **Arena**,

or, if unavailable, coverage which is as equivalent as possible to that set out above;

- (b) provide copies of all such insurance policies to **Hydro** and the **Corporate Trustee**; and
- (c) subject to Articles 11.6.3, 11.6.8 and 11.6.9 include the cost of maintaining such insurance in the **Arena Budget**.

11.6.2      Responsibility.      **Nelson House** shall not knowingly permit, or permit the continuation of, anything on, in or around the **Arena** whereby:

- (a) any policy of insurance under Articles 11.6.1(a)(i) or 11.6.8 is breached or could be cancelled by the insurer;
- (b) the **Arena** would be uninsurable;
- (c) subject to Article 11.6.12, the risk assumed by **Hydro** under Articles 11.6.8 or 11.6.9 is increased; or
- (d) the premiums for the insurance required under Article 11.6.1(a)(i) are increased beyond increases attributable to inflation or claims activity which is not the fault of **Nelson House**.

11.6.3        Increase in Premium.        If as a result of a breach by **Nelson House** of Article 11.6.2:

- (a)    the insurance premiums charged for the insurance under Article 11.6.1(a) are increased, the portion of the premium attributable to the increase shall be the responsibility of **Nelson House**, and the contribution of **Hydro** to the costs of **Operation, Maintenance and Replacement** shall not be increased to reflect such increased premium;
- (b)    the risk assumed by **Hydro** under Articles 11.6.8 or 11.6.9 is increased pursuant to Article 11.6.12 or otherwise, **Hydro** may reduce its contribution to the **Arena Budget** for the costs of **Operation, Maintenance and Replacement** by an amount equivalent to the increase in premium which would be attributable to such increase in risk if insurance under Article 11.6.1(a)(i) was in place.

The equivalent amount referred to in Article 11.6.3(b) shall be determined by agreement between **Hydro** and **Nelson House** or pursuant to Article 11.6.13.

11.6.4        Breach of Insurance Provisions.        If **Nelson House** breaches Articles 11.6.1(a)(i) or 11.6.2(a) or (b), **Hydro** may give **Nelson House** written notice to remedy the breach. If **Nelson House** disputes that it has breached

Articles 11.6.1(a)(i) or 11.6.2(a) or (b) it may refer the dispute to arbitration within sixty (60) days of its receipt of such notice.

**11.6.5      Hydro Election.      If:**

- (a) **Nelson House** does not, within sixty (60) days from its receipt of notice under Article 11.6.4, dispute that it is in breach of Articles 11.6.1(a)(i) or 11.6.2(a) or (b); or
- (b) the **Arbitrator** determines that **Nelson House** is in breach of Articles 11.6.1(a)(i) or 11.6.2(a) or (b); and

**Nelson House** fails to remedy such breach within sixty (60) days of receipt of **Hydro's** notice under Article 11.6.4, or such longer period of time agreed to by **Hydro** or allowed by order of the **Arbitrator**, **Hydro** may, subject to Article 11.6.6 terminate its obligations in relation to the **Operation, Maintenance and Replacement of the Arena.**

**11.6.6      Termination Payment.      If **Hydro** terminates its obligations as provided in Articles 11.6.5 or 11.6.11, it shall pay **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee** for deposit to the **Community Development Account**, an amount equivalent to ninety per cent (90%) of the capitalized, then present value of the costs of **Operation, Maintenance and Replacement of the Arena** for the then**

anticipated useful life of the existing **Arena** plus an additional sixty (60) years. For the purposes of Article 11.4 of the **Indenture**, **Hydro** will allocate such amount between replacement costs, and operation and maintenance costs.

11.6.7        **Uninsurable.**    If **Nelson House** is unable to comply with Article 11.6.1(a)(i), it shall immediately notify **Hydro** and the **Corporate Trustee** and advise them in writing of the name of its insurance broker and the reason coverage has been refused.

11.6.8        **Hydro to Insure.**        Subject to Articles 11.6.4, 11.6.5 and 11.6.6, if **Nelson House**, through no fault on its part, is unable to comply with Article 11.6.1(a)(i), **Hydro** shall try to obtain such insurance for an acceptable premium, failing which **Hydro** shall assume the risk with respect to the **Arena** which would otherwise have been covered by insurance under Article 11.6.1(a)(i) .

11.6.9        **Excessive Premiums.**        If, in the opinion of **Hydro**, the premium for insurance obtained by **Nelson House** under Article 11.6.1(a)(i) is excessive after deducting any amounts payable by **Nelson House** under Article 11.6.3, **Hydro** may, but shall be under no obligation to, assume the risk with respect to the **Arena** which would otherwise have been covered by insurance under Article 11.6.1(a)(i). During any period when **Hydro** has assumed such risk under Article 11.6.8 or 11.6.9, the

**Arena Budget** shall not include any costs for such insurance but **Nelson House** will continue to be liable for any contribution to the **Arena Budget** required under Article 11.6.3.

11.6.10      Continued Obligation.      Notwithstanding the assumption of risk by **Hydro** under Article 11.6.8 or 11.6.9, **Nelson House** shall, when requested by **Hydro**, make reasonable efforts to obtain the coverage referred to in Article 11.6.1(a)(i) at an acceptable premium and if acceptable coverage can be obtained, such insurance shall be obtained, the contributions to the **Arena Budget** restored and **Hydro** will no longer be liable under Articles 11.6.8 or 11.6.9.

11.6.11      Breach Resulting in Loss.      If **Hydro** has assumed the risk otherwise covered by insurance under Article 11.6.8 or 11.6.9, and at any time **Nelson House**:

- (a) knowingly allows a change material to that risk without the consent of **Hydro**, and damage or loss to the **Arena** occurs as a result of such change; or
- (b) acts fraudulently in providing information to **Hydro** in relation to risks, damage or loss to the **Arena**;

**Hydro** will not be liable for the cost of repairing or replacing the **Arena** as a result of such risks, damage or loss and may, subject to Article 11.6.6, terminate its



obligation in relation to the **Operation, Maintenance and Replacement** of the **Arena**.

11.6.12        No Withholding of Consent. Prior to any loss or damage, **Hydro** will not withhold its consent to a change material to the risk as contemplated in Articles 11.6.2(c) or 11.6.11 if:

- (a)    the increased risk is one that an insurer would assume for a reasonable premium; and
- (b)    **Nelson House** agrees to a reduction in **Hydro's** contribution to **Operation, Maintenance and Replacement** of the **Arena** equivalent to the increase in premium that would be levied as a consequence of such material change.

If **Nelson House** and **Hydro** do not agree on any determination under Articles 11.6.12(a) or (b), the determination will be made under Article 11.6.13.

11.6.13        Insurance Underwriters.    If **Hydro** and **Nelson House** are unable to agree on a determination under Article 11.6.3 or Article 11.6.12, such determination shall be made by a qualified insurance underwriter agreed upon by **Hydro** and **Nelson House** or, if they cannot agree within fourteen (14) days, selected as follows:

- (a) **Hydro or Nelson House** shall each nominate an insurance underwriter to make such determination and give written notice to the other of such nomination;
- (b) such nominees shall within fourteen (14) days of their appointment, appoint a third insurance underwriter who will make the necessary determinations within thirty (30) days of that insurance underwriter's acceptance of appointment;
- (c) if the nominees appointed by **Nelson House** and **Hydro** cannot agree on the third insurance underwriter within the time specified, either **Party** may apply for the appointment of an arbitrator under The Arbitration Act (Manitoba) and all of the proceedings and the procedures shall be subject to that Act except for the fees of the arbitrator, which shall be determined by the **Parties** to the arbitration.

**Hydro and Nelson House** agree to be bound by the decision of the arbitrator appointed under Article 11.6.13 .

11.6.14      Payment of Loss.      The loss payee under any policy of insurance maintained under Article 11.6.1(a)(i), and the payee under Article 11.6.16 or Article 11.6.17, shall be **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee**. Such funds, if paid to the

**Corporate Trustee**, will be held in the **Community Development Account** and, if paid to **Canada**, will be dealt with as Indian Moneys in accordance with Section 64 of the Indian Act (Canada).

11.6.15        **Destruction of Arena.**        Subject to the applicable provisions of the Indian Act (Canada) , if the **Arena** is damaged or destroyed as a result of a risk to be insured under Article 11.6.1(a)(i) it shall be repaired or replaced from the proceeds of the insurance, and subject to Articles 11.6.8, 11.6.9 and 11.6.16 **Hydro** shall not be liable for any costs of such repair or replacement.

11.6.16        **Deductible.**        Where insurance proceeds are paid under Article 11.6.14, **Hydro** shall pay to the party receiving the insurance proceeds an amount equal to ninety per cent (90%) of the deductible under Article 11.6.1(a)(i).

11.6.17        **Hydro Payments where Risk Assumed.**        If **Hydro** assumes the risk under Article 11.6.8 or 11.6.9 and **Nelson House** is not in breach of Article 11.6.2 (a), (b) or (c), **Hydro** shall pay **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee**, to be used, subject to the applicable provisions of the Indian Act (Canada), for the repair or replacement of the **Arena**, one hundred per cent (100%) of the cost of the loss or damage as adjusted by a qualified insurance adjuster chosen by **Nelson House** and **Hydro**, or

failing agreement the **Arbitrator**, less ten per cent (10%) of the deductible referred to in Article 11.6.1(a)(i).

## **11.7 ARENA BUDGET**

**11.7.1 Annual Submission of Arena Budget.** Not later than June 1 in any year, or such other date which **Nelson House** and **Hydro** agree to in writing, **Chief and Council** shall submit to **Hydro** the **Arena Budget** for the following fiscal year. Except for the contribution to the deductible under Article 11.6.16 or where **Hydro** has assumed the risk for the **Arena** under Article 11.6.8 or 11.6.9, the **Arena Budget** shall not include any costs for repairing or replacing any portion of the **Arena** damaged or destroyed by a risk to be insured under Article 11.6.1(a)(i).

**11.7.2 Hydro Approval.** **Hydro** shall, within forty-five (45) days of its receipt of the **Arena Budget**, advise **Nelson House**, in writing, whether it accepts the **Arena Budget**, and if it does it shall, on or before the later of the expiry of the forty-five (45) days or August 1 in any year or such other date as **Nelson House** and **Hydro** agree to in writing, forward ninety per cent (90%) of the **Arena Budget** to **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, to the **Corporate Trustee**.

11.7.3        **Arena Budget Dispute.**        If Hydro disputes the **Arena Budget**, or the reasonableness of the costs of **Operation, Maintenance and Replacement** reflected in that budget, it shall, within the time specified in Article 11.7.2, advance against the anticipated budget the same amount it paid under the last approved **Arena Budget** except for any extraordinary expenditures included in that last approved budget, until a new **Arena Budget** is approved by **Nelson House** and **Hydro** or determined by the **Arbitrator** under Article 13.4.

11.7.4        **Interest and Unexpended Moneys.**    Any interest earned on moneys advanced under the **Arena Budget** will be used for **Operation, Maintenance and Replacement** of the **Arena**. Any moneys advanced under the **Arena Budget**, which are not expended during the fiscal period contemplated by the **Arena Budget** and any interest earned thereon shall be applied towards, and credited against, the next **Arena Budget**.

## 11.8            **ARENA REPLACEMENT**

11.8.1        **Liability for Arena Replacement.**        Subject to Articles 11.8.2 and 11.8.3 **Hydro** shall be responsible for ninety per cent (90%) of the reasonable costs incurred in replacing the **Arena** when replacement is reasonably required.

11.8.2 Early Replacement. If, as a result of:

- (a) failure on the part of **Nelson House** to comply with Article 11.5.1;
- (b) the existence of a latent defect in the original design or construction of the **Arena**; or
- (c) any defect in the construction or design of any replacement **Arena**;

the replacement of the original **Arena** or subsequent replacement of any replacement **Arena**, is required earlier than it would otherwise have been required, the obligation of **Hydro** to fund such replacement shall be reduced to reflect the cost of expending such funds at such earlier date.

11.8.3 Hydro Not Responsible. Except where **Hydro** has assumed the risk under Article 11.6.8 or 11.6.9, **Hydro** shall not be responsible to repair or replace the **Arena** if it is damaged or destroyed as a result of a risk to be insured under Article 11.6.1(a)(i).

11.8.4 Time for Replacement. Either **Nelson House** or **Hydro** may give notice to the other that the **Arena** requires replacement. If the **Party** receiving such notice agrees that the **Arena** requires replacement, or if the **Arbitrator** so rules, **Nelson House** and **Hydro** shall obtain not less than three (3) estimates from qualified contractors of the cost to replace the **Arena** under a fixed price, turn key contract to the standard required under Article 11.8.6, including the costs of

demolishing the existing facility. Upon receipt of the estimates, **Nelson House** and **Hydro** shall make all reasonable efforts to agree upon a contractor to undertake the work.

11.8.5        Replacement of Arena.        Unless otherwise required by **Nelson House**, the replacement **Arena** shall be located on the same site as the original facility which, to the extent it is not incorporated into the replacement **Arena**, shall be demolished prior to the new construction. If **Nelson House** requires the replacement **Arena** to be constructed on a new site, the net excess costs resulting from such relocation, including without limitation, the site preparation and provision of services, shall be the responsibility of **Nelson House**.

11.8.6        Standards.        The replacement **Arena** shall be designed and constructed to a standard equivalent to the original construction as detailed in the **Arena Plans** with such amendments as may be required to comply with then applicable building and environmental codes and regulations.

11.8.7        No Warranty.        **Canada** makes no warranties of any kind with respect to the **Arena Plans** or the **Arena**.

11.8.8        Commencement of Replacement.    **Nelson House**, in consultation with **Hydro**, will obtain a fixed price, turn key contract from the contractor chosen under Article 11.8.4 or determined by the **Arbitrator** under Article 13.4. **Hydro** shall pay to **Canada**, or if the legislation under Article 9.2.1 or 9.2.2 has been proclaimed the **Corporate Trustee**, its share of such costs. Forthwith upon payment of the required contribution by **Hydro** the operation of the **Arena** will cease and the **Arena** will be demolished.

11.8.9        Lack of Funding.        If **Nelson House** cannot fund its share of the cost of replacing the **Arena** then, notwithstanding that the **Arena** has ceased operating and is being demolished, **Hydro** will make a one (1) time payment to **Canada**, or if the legislation under Article 9.2.1 or 9.2.2 has been proclaimed, to the **Corporate Trustee**, of an amount equivalent to **Hydro's** contribution to the previous year's **Arena Budget**, less any extraordinary costs, to be held in the **Arena Replacement Sub-account** of the **Trust** and applied to the cost of replacing the **Arena**.

11.8.10       Alternate Recreational Programs Other Purposes.    If, following:

(a)    receipt of the proceeds of insurance in accordance with Article 11.6.14;



- (b) the determination of the amount payable by **Hydro** under Article 11.6.17; or
- (c) the determination of the cost of replacing the **Arena** under Article 11.8.4;

**Nelson House** decides by a **Majority Vote** at a **Meeting of Members** not to replace the **Arena**, it shall so notify, in writing, the payee of any insurance proceeds under Article 11.6.14 and **Hydro**. Within sixty (60) days of such notice, **Hydro** shall pay **Canada** or, if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, the **Corporate Trustee**, for deposit to the **Community Development Account**, an amount equivalent to ninety per cent (90%) of the then present value of the cost which would have been incurred in operating and maintaining a new **Arena** for a further period of 60 years, plus the amount, if any, which **Hydro** would have been responsible to pay towards the replacement of the **Arena** under whichever of Articles 11.6.16, 11.8.8 or 11.6.17 is applicable in the circumstances. Upon payment of such amounts, **Hydro** shall be released from its Article 11 obligations for the **Arena**.

11.8.11                    **Nelson House Election.**            Upon receiving a request in writing from **Nelson House**, **Hydro** will pay to **Canada**, or if the legislation contemplated by Articles 9.2.1 or 9.2.2 has been proclaimed, to the **Corporate Trustee**, the capitalized, then present value of:

- (a) the costs of **Operation, Maintenance and Replacement of Specified Remedial Works** for a period of sixty (60) years from the date of such notice; and
- (b) ninety (90%) per cent of the costs of **Operation, Maintenance and Replacement of the Arena** for the then anticipated useful life of the existing **Arena** and an additional period of sixty (60) years.

Upon payment of such amounts **Hydro's** obligation for **Operation, Maintenance and Replacement** will end.

11.8.12                    General.            Whenever amounts under Article 11 are paid to **Canada** such amounts shall be capital moneys for the use and benefit of **Nelson House**.

11.8.13                    Notice.            **Hydro** shall give **Nelson House** written notice of any payment **Hydro** makes under Article 11 to the **Corporate Trustee** or to **Canada** for the use and benefit of **Nelson House**.

## 11.9                    **TERMINATION OF OBLIGATION**

11.9.1                    End of Obligation.    The obligations of **Hydro** for any **Specified Remedial Work** or the **Arena** will end if such **Specified Remedial Work** or if the

**Arena** is no longer required to mitigate, remedy or address **Adverse Effects**. The obligations of **Hydro** under Article 11 will, in any event, not continue beyond the lifetime of the **Project**. In the event of a dispute, the onus of proving any of the conditions under Article 11.9.1 shall be on **Hydro**.

**11.10 NO WARRANTY**

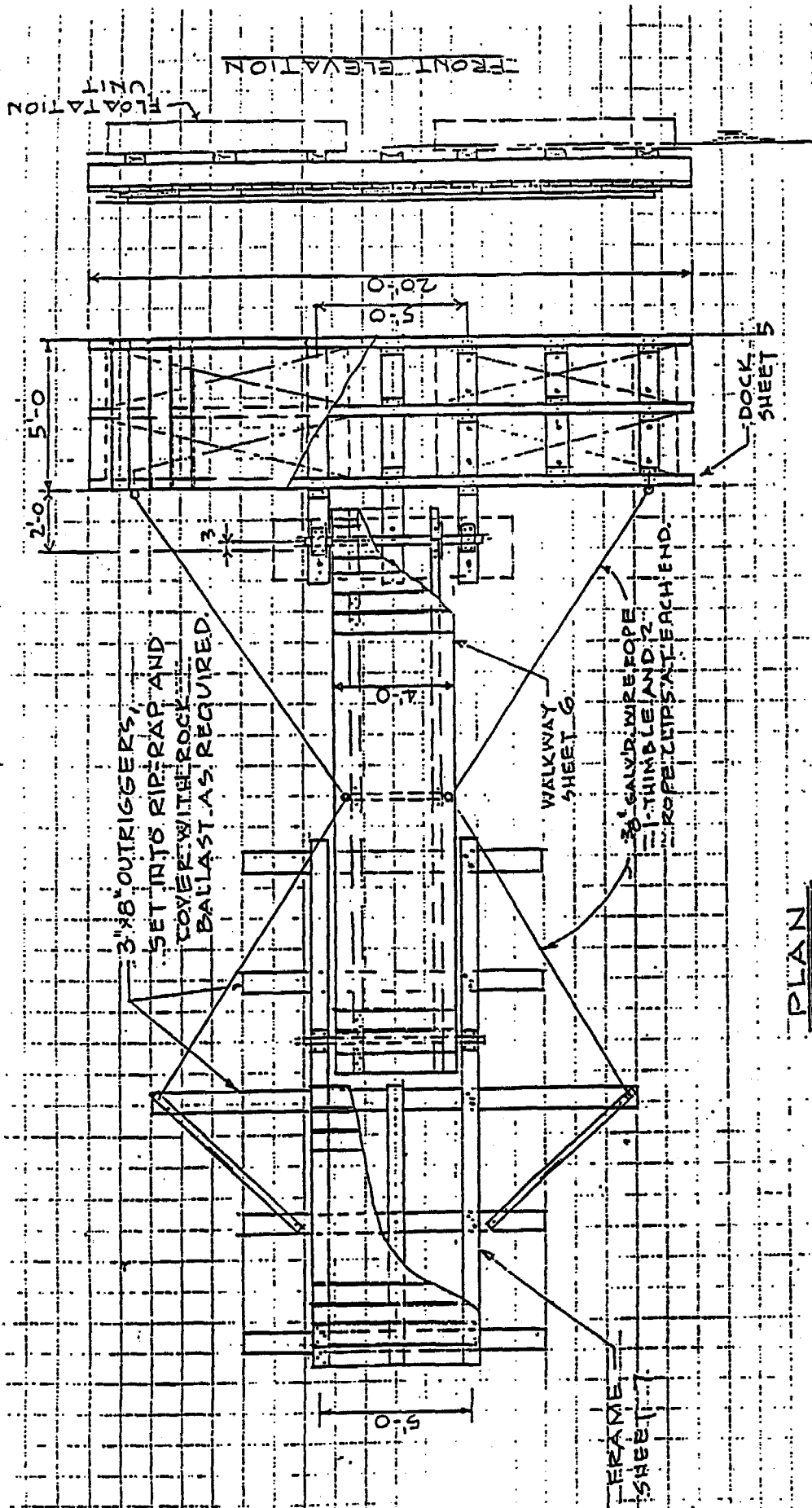
**11.10.1**      No Warranty by Nelson House.      **Nelson House** makes no warranty as to the accuracy of the plans appended as part of Schedule 11.1.

## **SCHEDULE 11.1**

### **LIST OF SPECIFIED REMEDIAL WORKS**

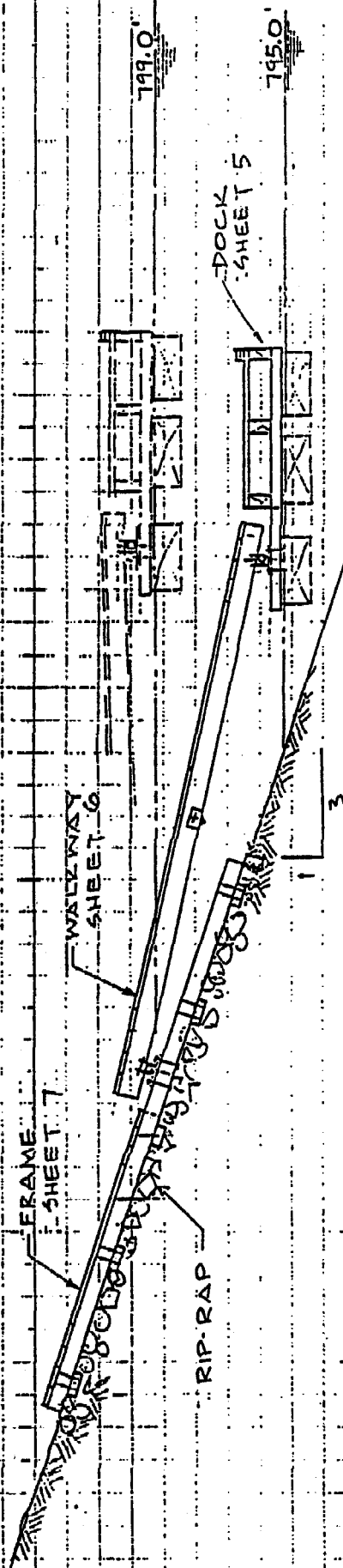
1. **The Specified Remedial Works are listed and described below:**
  - (a) Twenty-five (25) floating residential docks located as shown on the Nelson House Agreement O & M Fund Summary Map/93/10/Fig. 1 (Attachment G) and one (1) floating residential dock located near Threepoint Lake constructed generally in accordance with, a set of plans entitled: Footprint Lake Residential Dock/Sheets 1-8 (83-08-30) and Sheet 9 (83-10-13) (Attachment A) and to a standard equivalent to their original design;
  - (b) Twenty-four (24) boat skids constructed generally as shown on a plan entitled: Footprint Lake Residential Dock: Boat Skid over Rip-Rap, Sheet 10 (83-10-21) (Attachment A);
  - (c) One (1) marina dock located as shown on the Nelson House Agreement O&M Fund Summary Map/93-10/Fig.1 (Attachment G) and constructed generally in accordance with a plan entitled Nelson House Community Docks (Attachment B);
  - (d) Causeways 1 to 4 located as shown on the Nelson House Agreement O & M Fund Summary Map/93-10/Fig. 1 (Attachment G) and constructed generally in accordance with plans entitled: Nelson House Reconstruction of Access Road/0188-E-0486/Sheets 1-4 (March, 1976) (Attachment C) upgraded in accordance with a set of plans entitled: Nelson House Upgrading of Causeway 2 & 3/00188-E-00514/Sheets 01-03 (91-04-09) (Attachment D); and
  - (e) Upstream and downstream Notigi Portage docks and ramps, constructed generally in accordance with plans entitled: U/S Boat Launch Plan, Profile and Sections/00188-E-00515/Sheet 01 (93-04-30) (Attachment E), and D/S Boat Launch Revised Plan and Sections/00188-E-00517/Sheet 01 (93-06-23) (Attachment F).

2. The following plans and drawings are attached to and form part of Schedule 11.1:
  - A. Footprint Lake Residential Dock/Sheets 1-10 (83-08-30)
  - B. Nelson House Community Docks/Sheets S-1, S-4, S-5 and S-6 (1098-03)
  - C. Nelson House Reconstruction of Access Road/0188-E-0486/Sheets 1-4 (March, 1976)
  - D. Nelson House Upgrading of Causeway 2 & 3/00188-E-00514/Sheets 01-03 (91-04-09)
  - E. U/S Boat Launch Plan, Profile and Sections/00188-E-00515/Sheet 01 (93-04-30)
  - F. D/S Boat Launch Revised Plan and Sections/00188-E-00517/Sheet 01 (93-06-23)
  - G. Nelson House Agreement O&M Fund Map/93-10/Fig.1



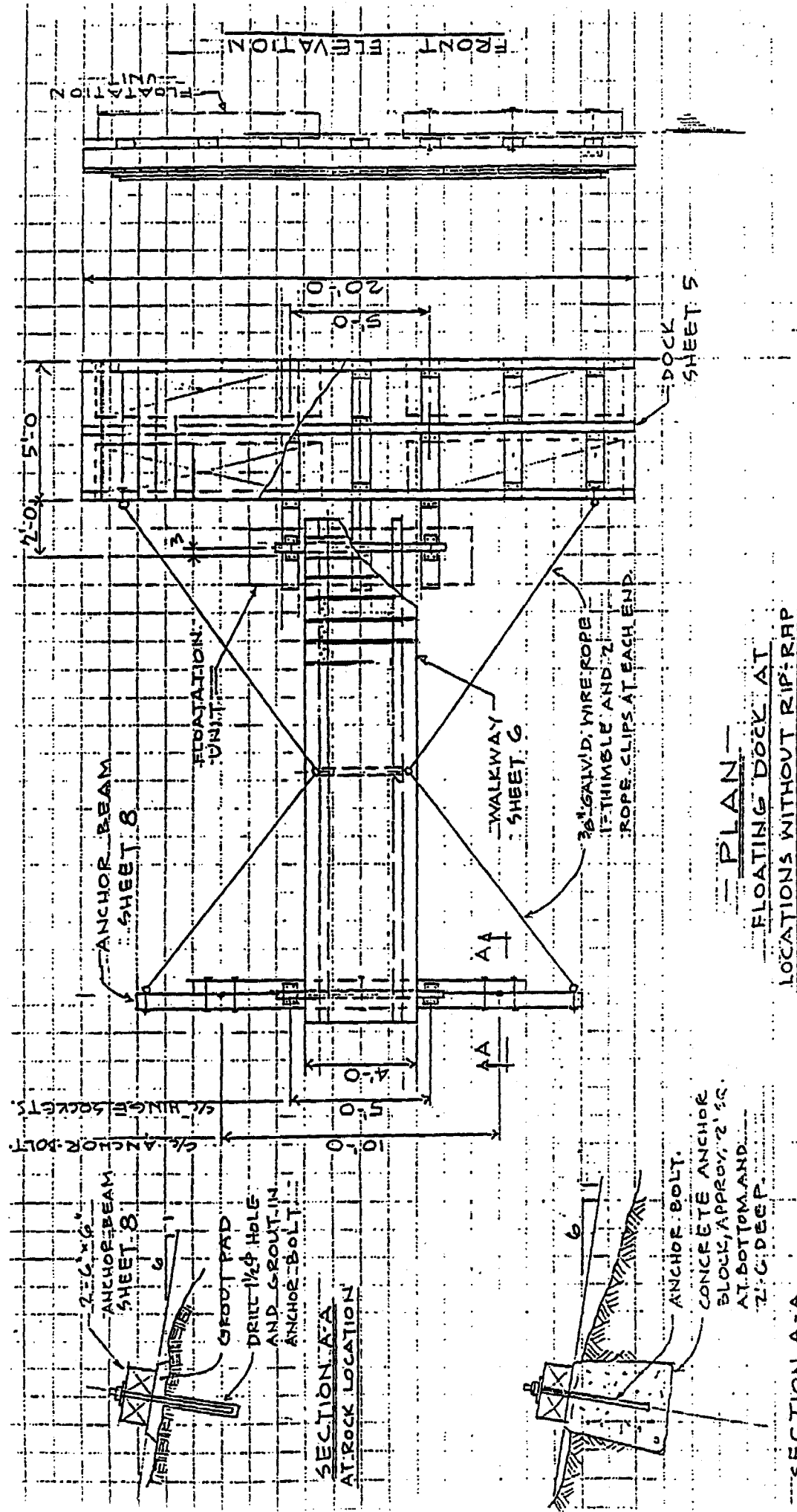
PLAN  
FLOATING DOCK WITH  
BALLASTED FRAME  
(AT RIP-RAPED SHORE)

FOOTPRINT LAKE  
 RESIDENTIAL DOCK  
 DATE: 8-3-08 30 SHEET: 1



SIDE ELEVATION  
FLOATING DOCK WITH  
RAIL ASSED FRAME  
(AT RIP-RAPPED SHORE)

FOOTPRINT LAKE  
 RESIDENTIAL DOCK  
 DATE: 05-08-10 SHEET: 2



**PLAN**  
 FLOATING DOCK AT  
 LOCATIONS WITHOUT RIP-RAP

FOOTPRINT - LAKE  
 RESIDENTIAL DOCK  
 DATE: 83-08-30 SHEET: 3



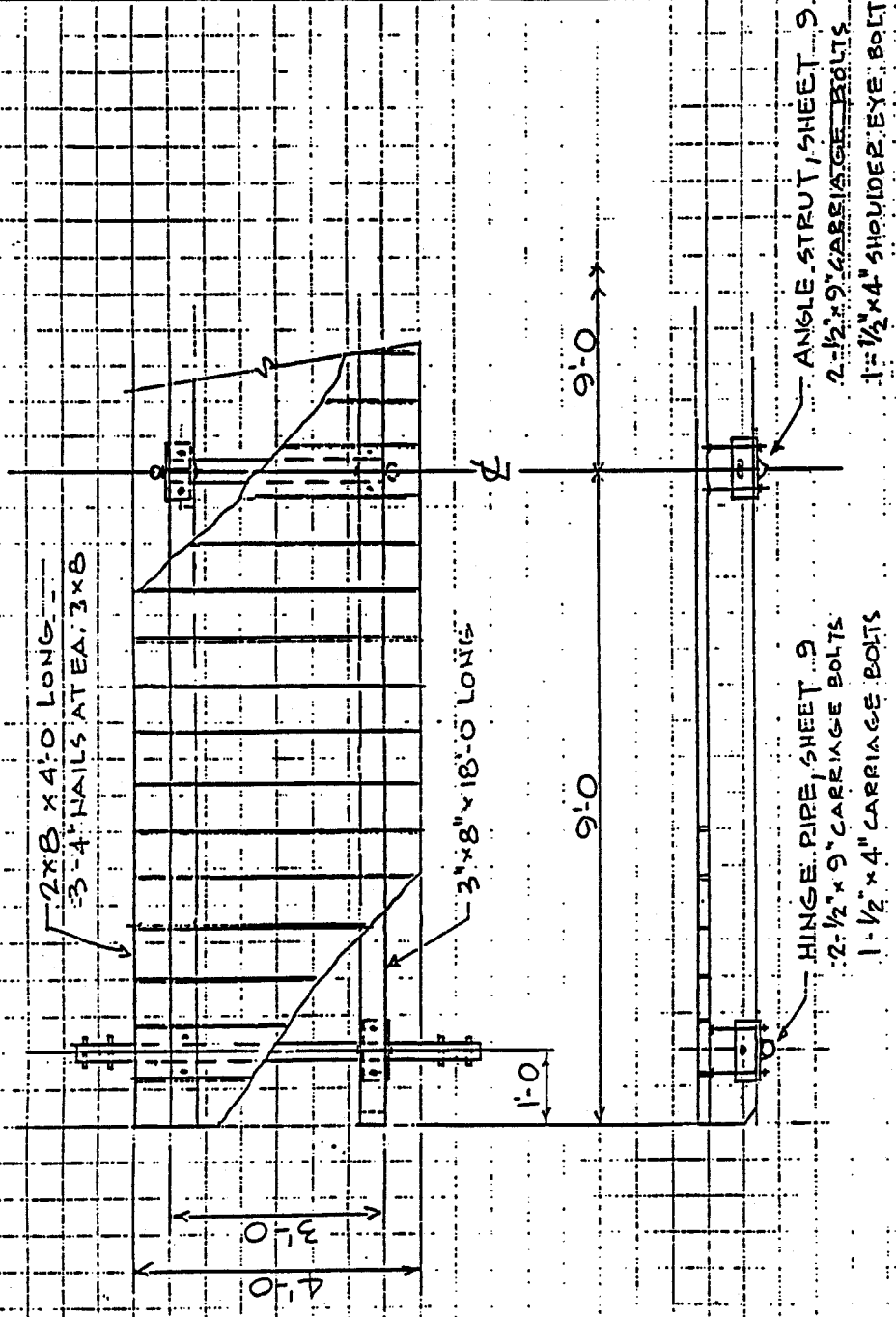


SIDE ELEVATION  
FLOATING DOCK AT LOCATIONS  
WITHOUT RIP-RAP

FOOTPRINT LAKE  
 RESIDENTIAL DOCK  
 DATE: 08-08-00, SHEET: 4

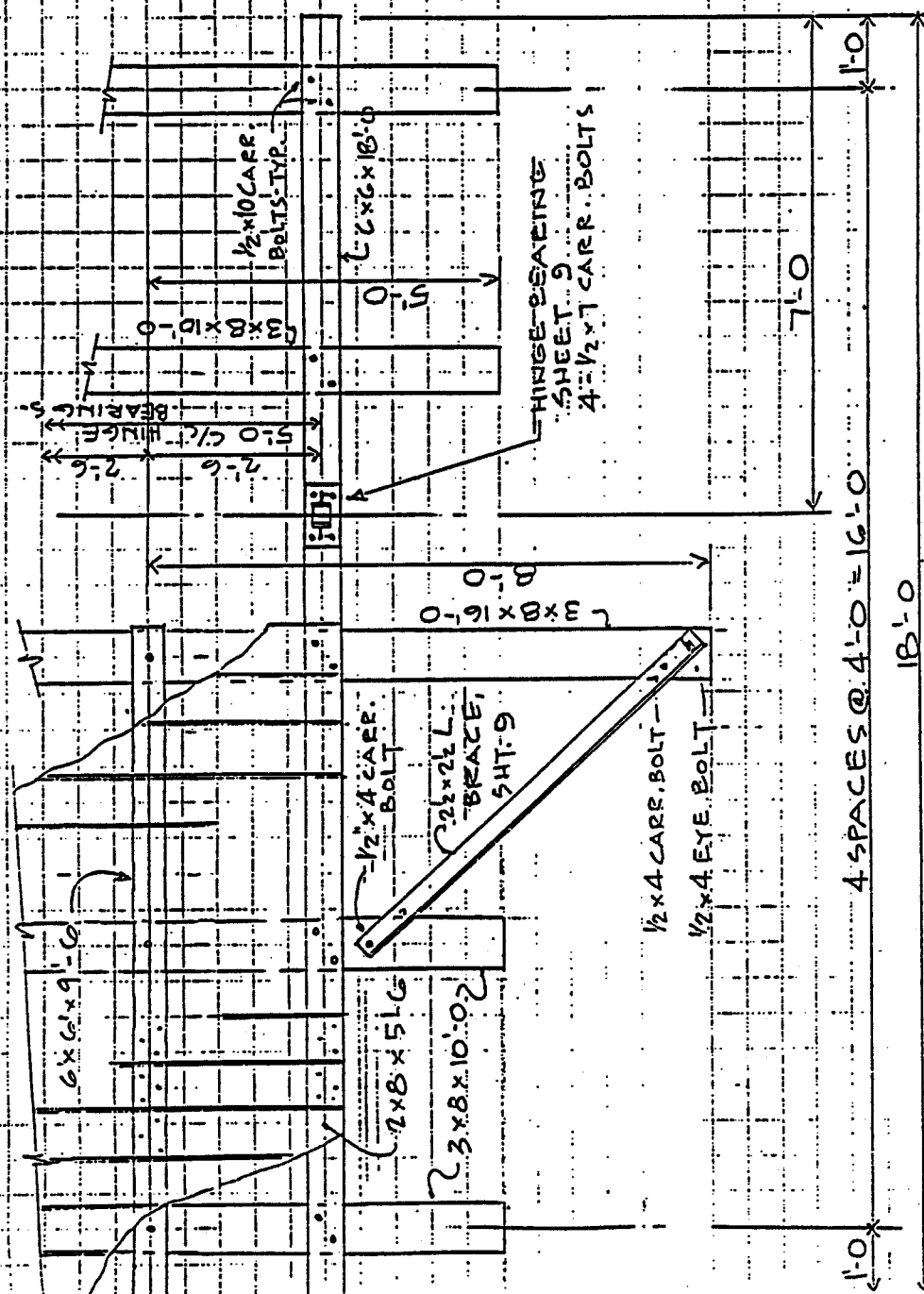


QTY	DESCRIPTION
	MATERIAL FOR ONE WALKWAY
2	3" x 8" x 18'-0" - FULL SIZE - SAWN - HEM-
27	2" x 8" x 4'-0" - NOM. SIZE - HEM-
2	HINGE PIPES - SHEET 9
1	ANGLE STRUT - SHEET 9
12	1/2" x 9" GALV'D. CARRIAGE BOLT W. N
8	1/2" x 4" GALV'D. CARRIAGE BOLT W. N
2	1/2" x 4" GALV'D. SHOULDER EYE BO
	W. NUT AND WASHER
	4" COATED NAILS
	60 LIN. FT. 3/8" GALV'D. WIRE RO
8	GALV'D. THIMBLES FOR 3/8" W. R.
16	3/8" WIRE ROPE CLIPS



FOOTPRINT LAKE  
RESIDENTIAL DOCK  
DATE: 83-08-30 SHEET: 6

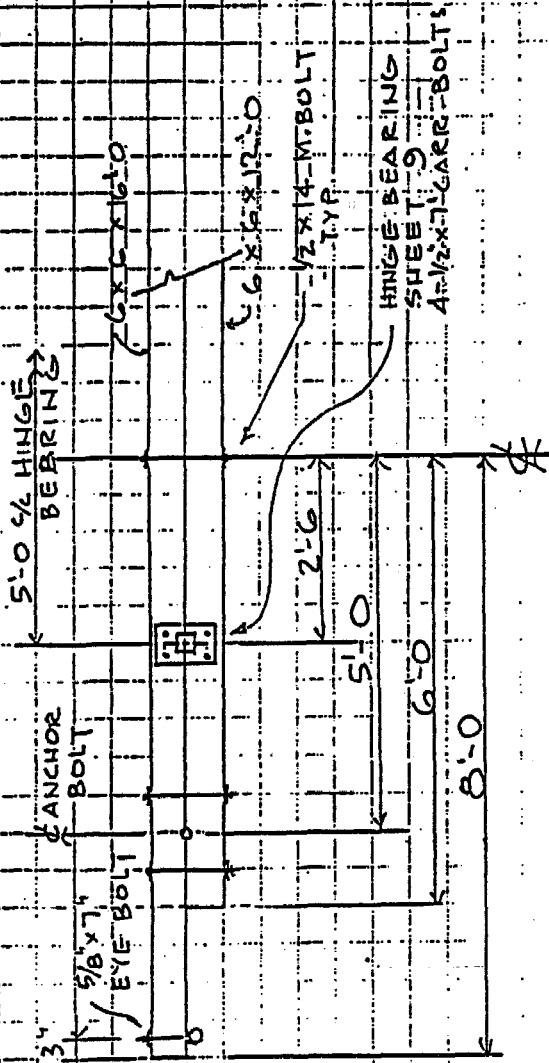
QTY.	DESCRIPTION
2	MAT'L. FOR ONE BALLAST ANCH. FRAM.
1	2" x 6" x 18'-0" } FULL SIZE,
4	2" x 6" x 9'-6" } SAWH,
1	3" x 8" x 10'-0" } HEM-FIR
14	2" x 8" x 5'-6" - NOM. SIZE, HEM-FIR
2	HINGE BEARINGS - SHEET 9
2	2 1/2" x 2 1/2" ANGLE BRACE - SHT. 9
2	1/2" x 4" GALV'D. SHOULDER EYE BOLT,
1	1/2" x 1" NUT AND 1" WASHER
4	1/2" x 4" GALV'D. CARRIAGE BOLT, W. NUT
8	1/2" x 7" GALV'D. CARRIAGE BOLT, W. NUT
23	1/2" x 10" GALV'D. CARRIAGE BOLT, W. NUT
4	4" COATED NAILS



FOOTPRINT LAKE  
RESIDENTIAL DOCK  
DATE: 83-08-30 SHEET: 7

# BALLASTED ANCHOR FRAME

QTY.	DESCRIPTION
1	MATERIAL FOR ONE ANCHOR BEARING
11	6"x6"x14'-0" } FULL SIZE, SAWN, 6"x6"x12'-0" } HEM-FIR
2	HINGE BEARINGS-SHEET
2	5/8"x7" GALV'D SHOULDER EYE BOLT, 4"x1" NUT AND 1" WASHER
5	1/2"x14" GALV'D MACH. BOLT, 3/4"x1" NUT AND 2" WASHERS
4	1/2"x7" GALV'D CARRIAGE BOLT, 1" NUT
2	1" ANCHOR BOLTS, 1 SHEET 9

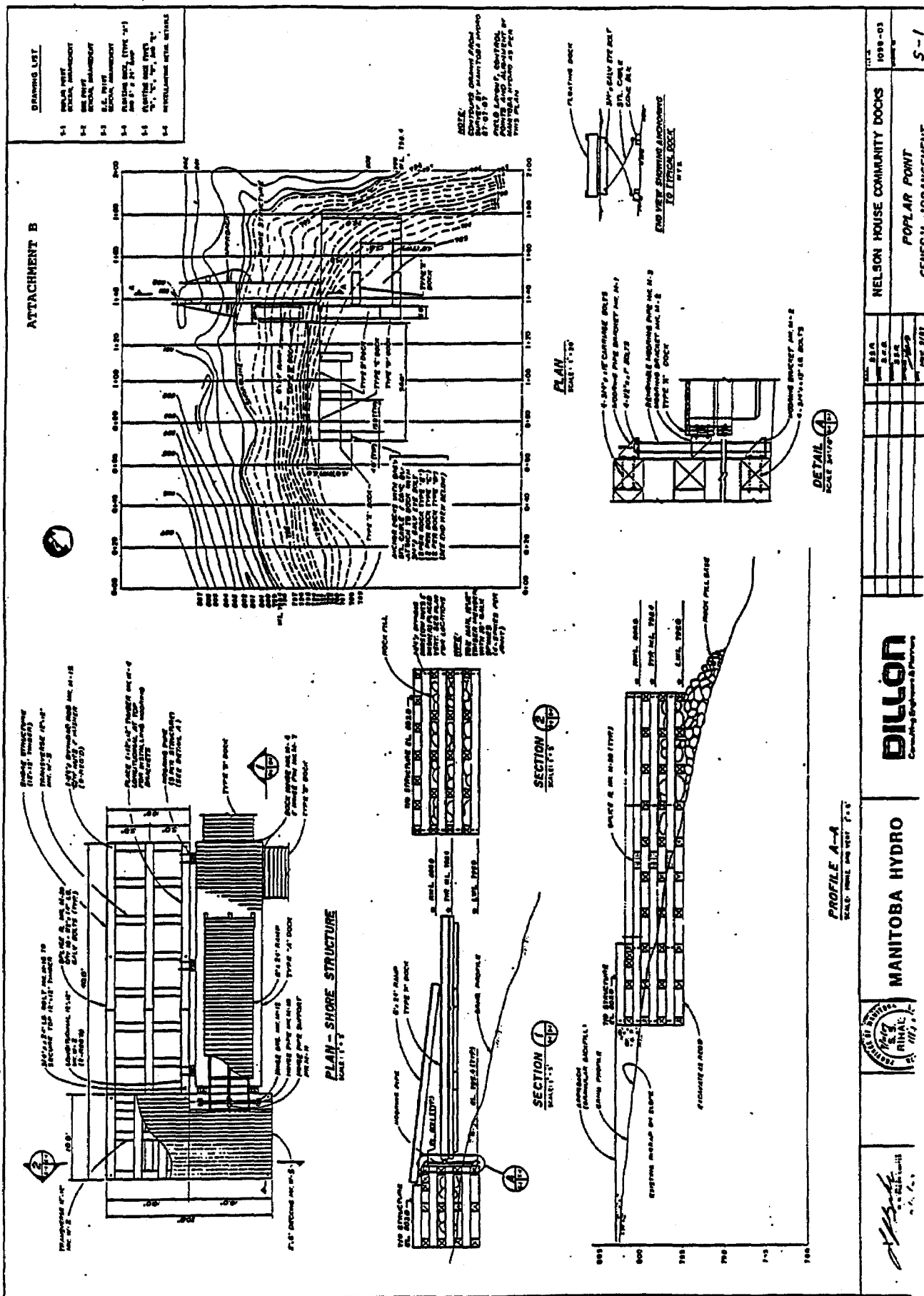


### ANCHOR BEAM

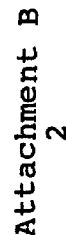
FOOTPRINT LAKE  
RESIDENTIAL DOCK  
DATE: 03-08-30 SHEET: 8







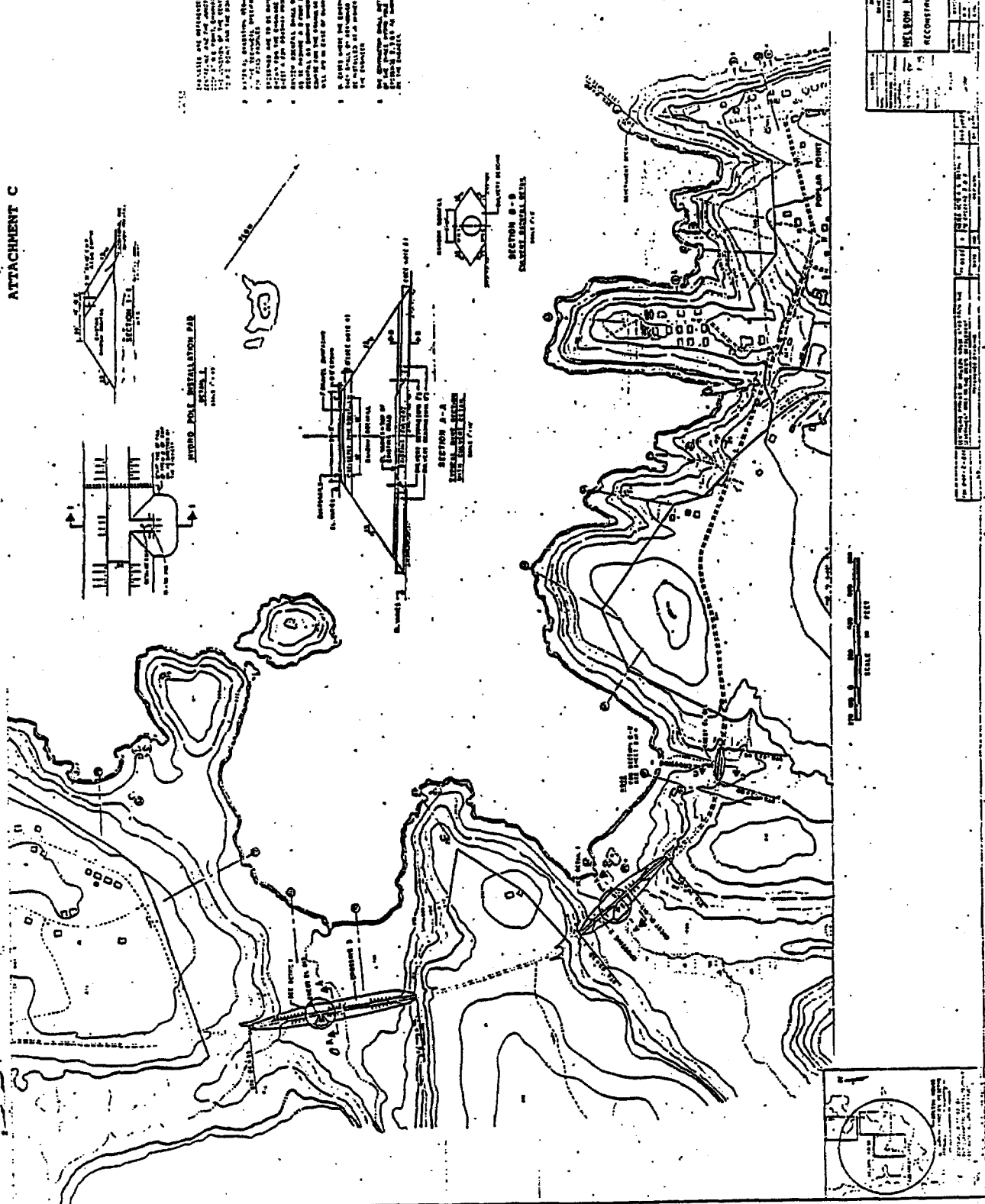






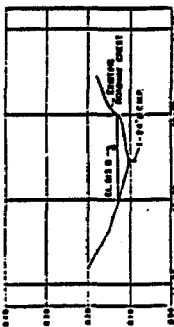


Attachment C  
1

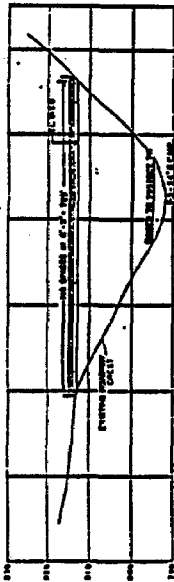




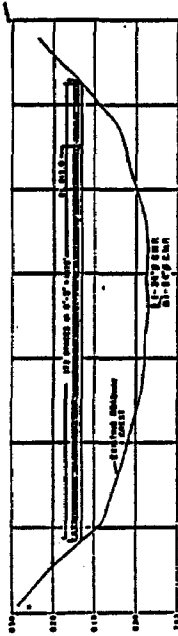




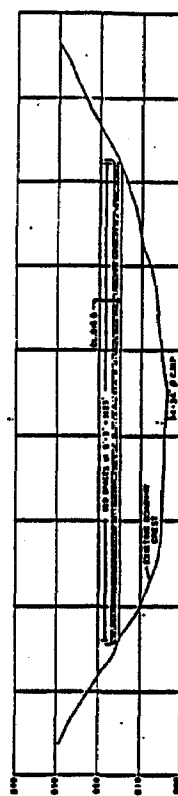
CROSSING 1



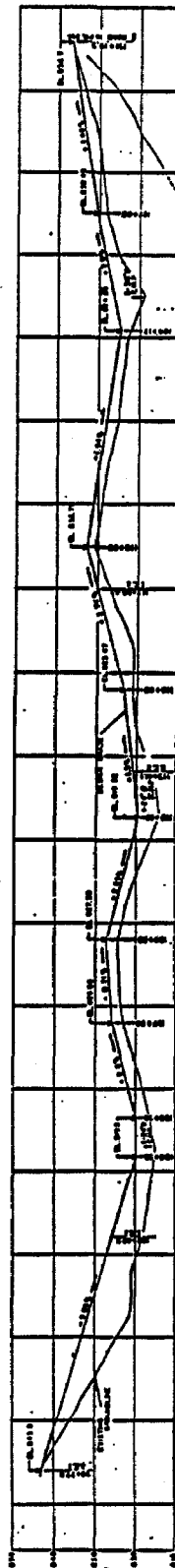
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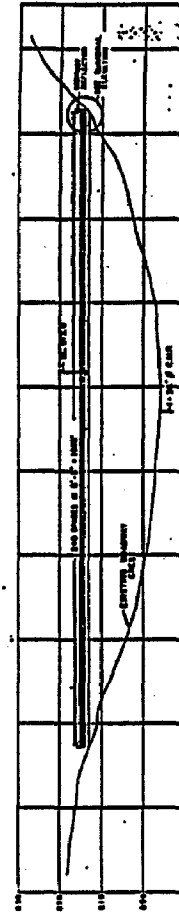
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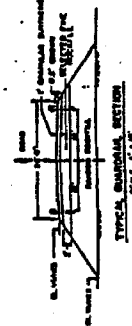
CROSSING 6



CROSSING 4



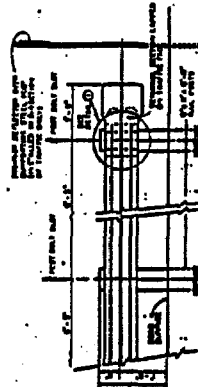
CROSSING 5



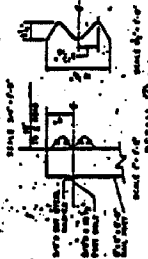
TYPICAL BRIDGE SECTION



PLAN



ELEVATION



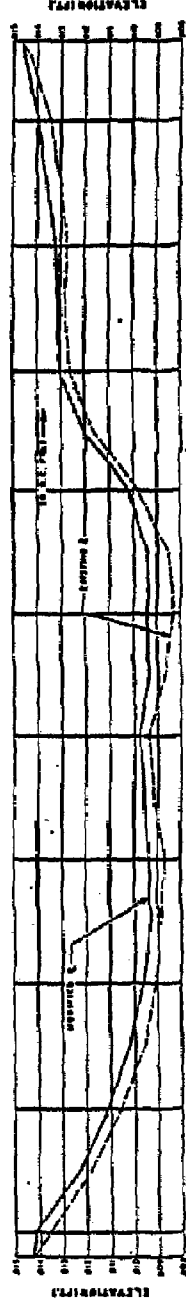
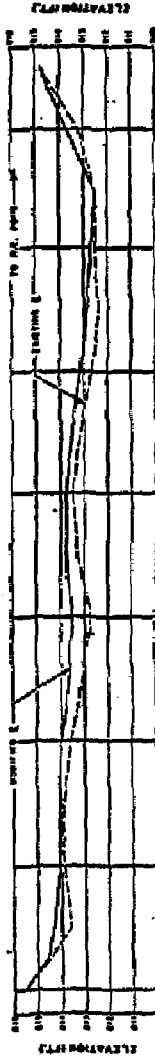
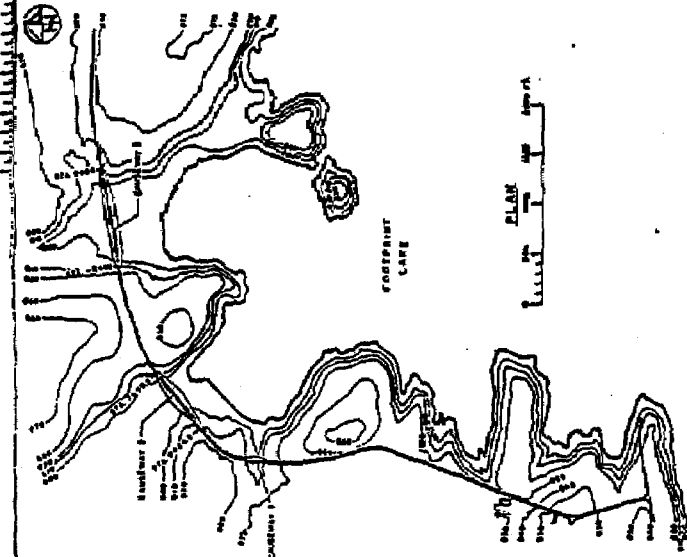
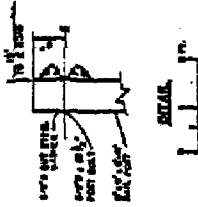
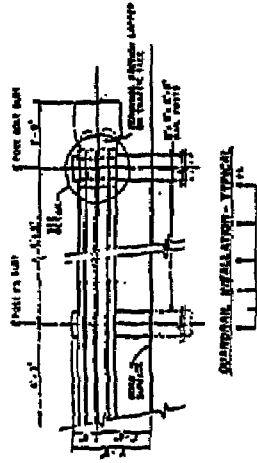
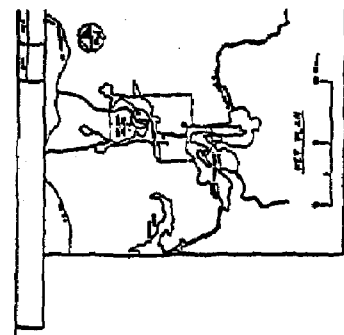
DETAIL

NOTES:  
1. ELEVATIONS ARE IN FEET.  
2. ELEVATIONS ARE TO CENTERLINE OF ROAD.  
3. ELEVATIONS ARE TO TOP OF ROAD.  
4. ELEVATIONS ARE TO BOTTOM OF ROAD.  
5. ELEVATIONS ARE TO TOP OF DRAINAGE.  
6. ELEVATIONS ARE TO BOTTOM OF DRAINAGE.  
7. ELEVATIONS ARE TO TOP OF CURB.  
8. ELEVATIONS ARE TO BOTTOM OF CURB.  
9. ELEVATIONS ARE TO TOP OF SIDEWALK.  
10. ELEVATIONS ARE TO BOTTOM OF SIDEWALK.



STATE OF NEW YORK	
DEPARTMENT OF TRANSPORTATION	
RECONSTRUCTION OF ACCESS ROAD	
MELDON HOUSE	
PROJECT NO. 088-E-0486	
DATE: 10/1/54	
BY: [Signature]	
CHECKED BY: [Signature]	
APPROVED BY: [Signature]	

# ATTACHMENT D



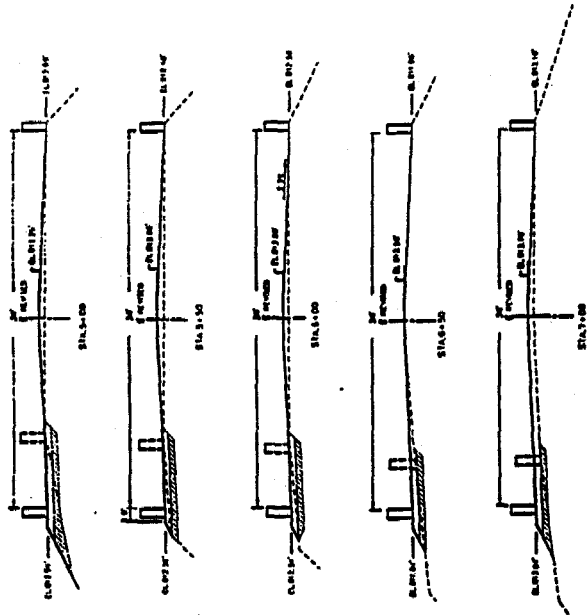
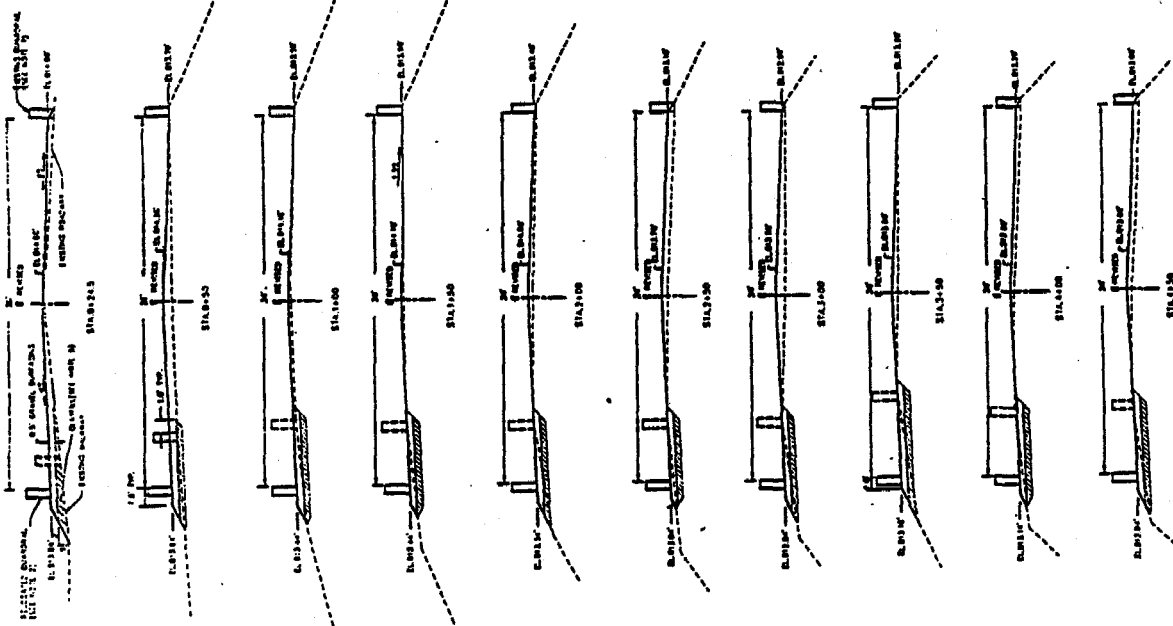
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4. The proposed roadway is to be constructed in accordance with the following specifications:
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20. The proposed roadway is to be constructed in accordance with the following specifications:

<p>PROJECT NO. 00188-E-00514</p> <p>DATE: 01/01/01</p>	
<p>PROJECT NAME: UPGRADE OF CAUSEWAY 2 &amp; 3 PLAN AND SECTIONS</p>	
<p>PROJECT LOCATION: NELSON HOUSE</p>	
<p>PROJECT DESCRIPTION: UPGRADE OF CAUSEWAY 2 &amp; 3 PLAN AND SECTIONS</p>	
<p>PROJECT STATUS: IN PROGRESS</p>	
<p>PROJECT CONTACT: [Name]</p>	
<p>PROJECT ADDRESS: [Address]</p>	
<p>PROJECT PHONE: [Phone]</p>	
<p>PROJECT FAX: [Fax]</p>	
<p>PROJECT E-MAIL: [Email]</p>	
<p>PROJECT WEBSITE: [Website]</p>	
<p>PROJECT NOTES: [Notes]</p>	



00188-E-00514

02 00



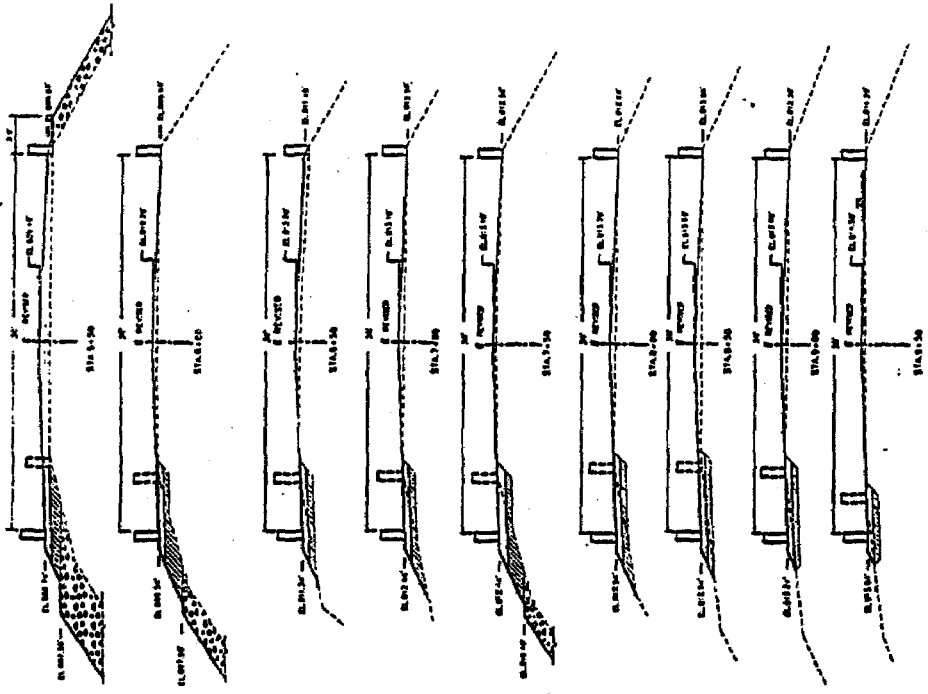
NOTES

1. SEE SHEET 1 FOR INTERNAL SPECIFICATIONS AND PLACEMENT DETAILS.
2. EXISTING PAVEMENT LEFT IN PLACE WHERE SHOWN AS SUCH.
3. ALL DIMENSIONS SHALL BE IN FEET AND INCHES.
4. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE CAUSEWAY.
5. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE CAUSEWAY.
6. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE CAUSEWAY.
7. EXISTING SHALL BE MAINTAINED TO PROVIDE A PROPER DRAINAGE.
8. EXISTING SHALL BE MAINTAINED TO PROVIDE A PROPER DRAINAGE.
9. EXISTING SHALL BE MAINTAINED TO PROVIDE A PROPER DRAINAGE.
10. EXISTING SHALL BE MAINTAINED TO PROVIDE A PROPER DRAINAGE.



NELSON HOUSE	
UPGRADING OF CAUSEWAY 2 & 3	
CAUSEWAY 2 SECTIONS	
00188-E-00514	
02 00	

00188-E-00514-03 03 00



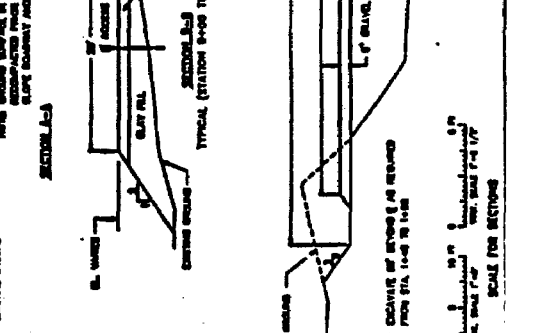
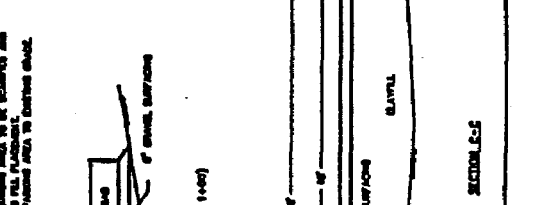
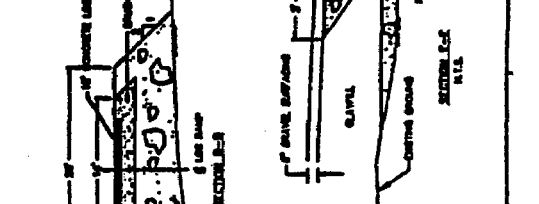
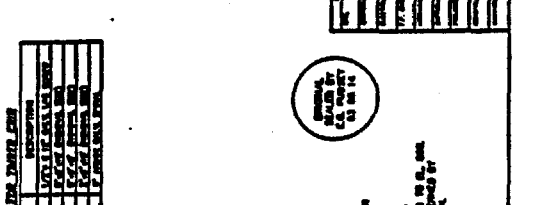
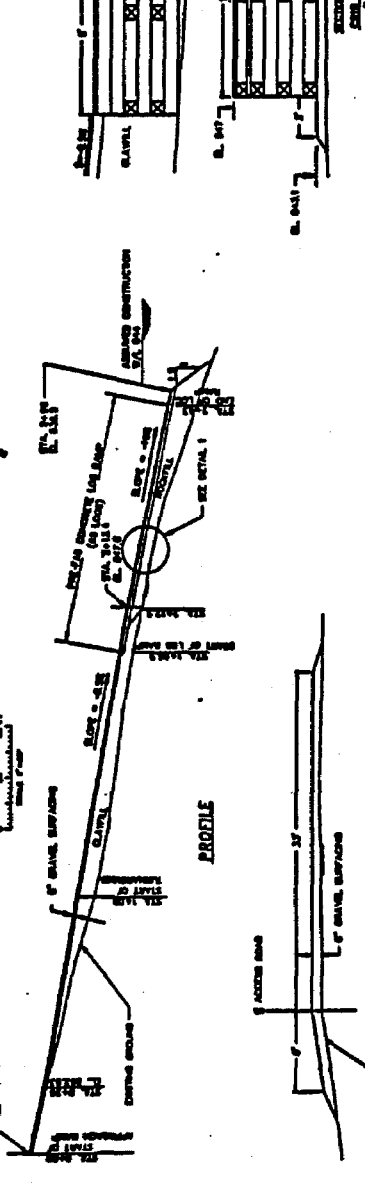
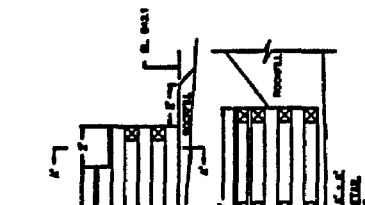
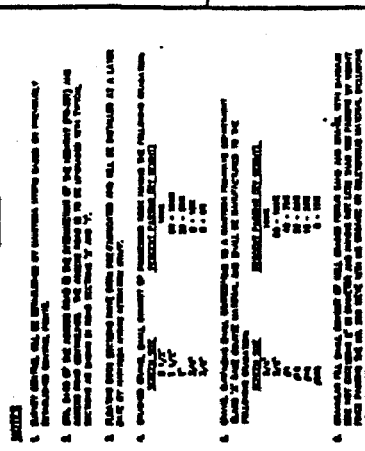
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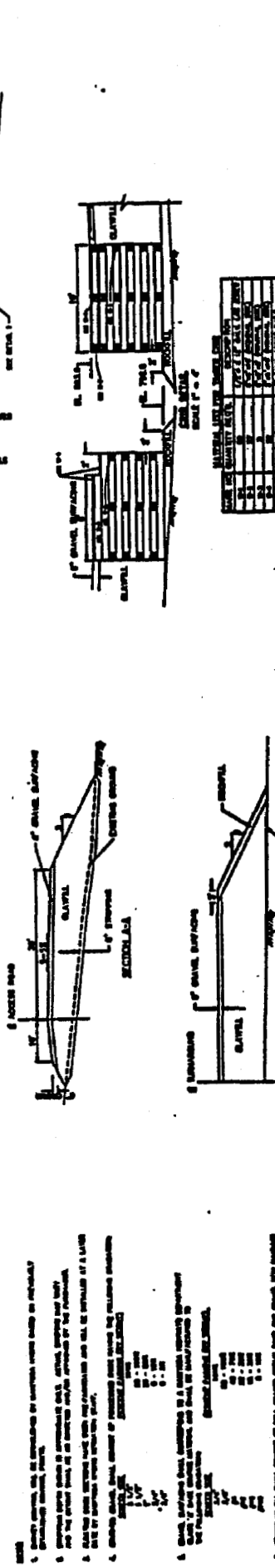
- NOTES:
1. SEE SHEET 1 FOR ELEVATION, DIMENSIONS AND PLACEMENT DETAILS.
  2. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS SHALL BE LOCATED AS SHOWN ON THE DRAWING.
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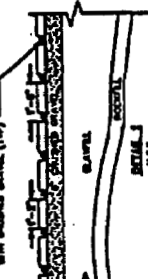
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PROJECT NO. 00188-E-00514-03		DATE 03/00	
PROJECT NAME: UPGRADE OF CAUSEWAY 2 & 3		PROJECT LOCATION: CAUSEWAY 3 SECTIONS	
PROJECT OWNER: NELSON HOUSE		PROJECT MANAGER: P. J. JONES	
PROJECT ENGINEER: P. J. JONES		PROJECT SURVEYOR: P. J. JONES	
PROJECT DESIGNER: P. J. JONES		PROJECT CONSTRUCTOR: P. J. JONES	
PROJECT INSPECTOR: P. J. JONES		PROJECT APPROVER: P. J. JONES	
PROJECT REVIEWER: P. J. JONES		PROJECT SIGNATURE: P. J. JONES	
PROJECT DATE: 03/00		PROJECT SCALE: 1" = 10'	



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NOTE: ROCKWELL PLACED FROM STA. 40 TO 5000 AS A STABILIZED BASE FOR CLAYELL MATERIAL.



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**Week 10 of 10**

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### 6/S BOAT LAUNCH REVISED PLAN AND SECTIONS

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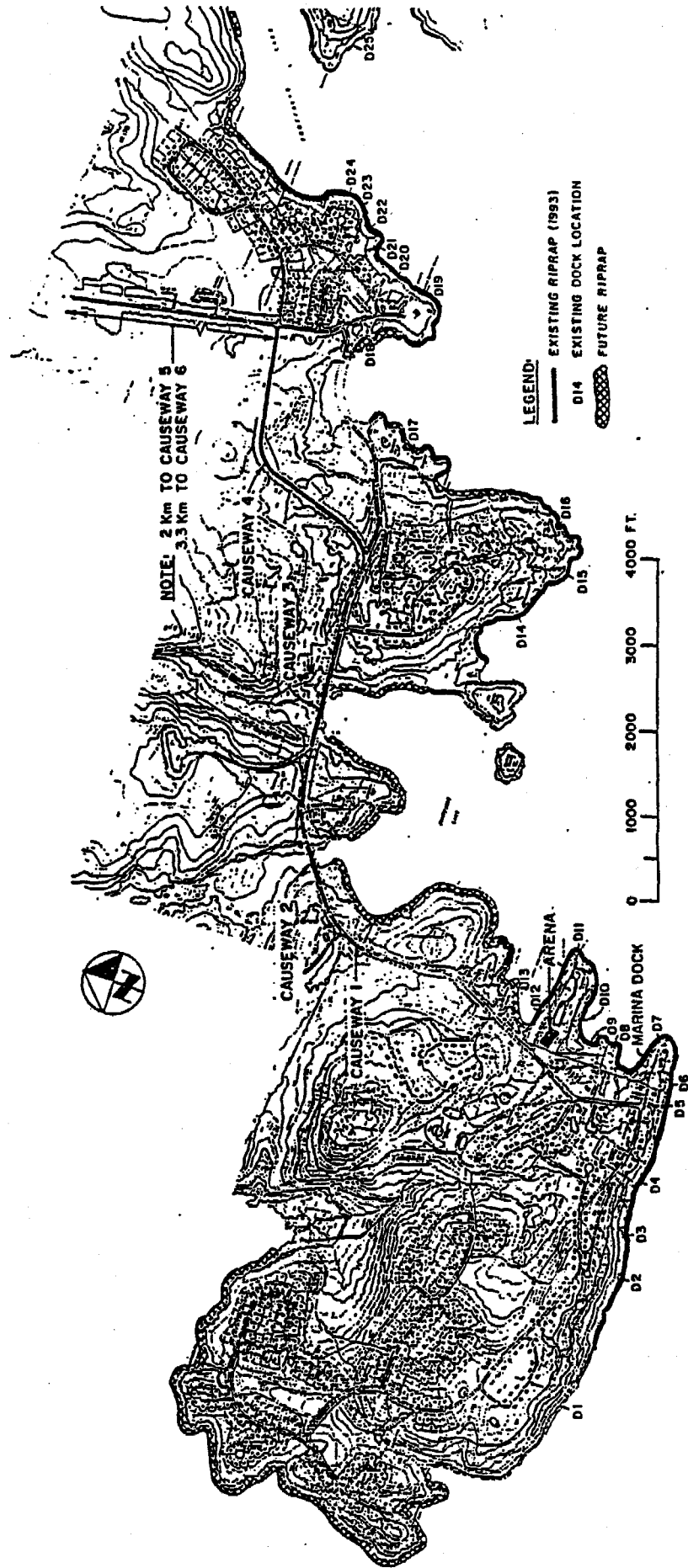
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NELSON HOUSE AGREEMENT  
O & M FUND

FIG. 1

## **SCHEDULE 11.2**

### **LIST OF EQUIPMENT FORMING PART OF THE ARENA**

1. The equipment listed on Pre-Con Builders Plan No. M5 attached;
2. Chiller Chilcon, Model No. EF161206A, 16" x 120" - 2cct, Serial No. C890675A;
3. Chiller - Bell & Gossett Brine Pump, Model No. 1510-4BC, 15 H.P.;
4. Refrigeration Controls (2), Model No. OVE30VC, Sporlan Thermostatic Exp. Valve;
5. Compressor 1, Model No. C1-08F, Cimco 50 H.P., Serial No. 88069;
6. Compressor 2, Model No. C1-08F, Cimco 50 H.P., Serial No. 88070;
7. Condenser, Model No. DAC051, Cancoil 3-2 H.P. motors, 2 ct 940,000 BTU/HR @ 40' TD;
8. Head Pressure Controls (2), Sporlan OR110-65/225-1 3/8, ORD-4-20-5/8';
9. Filter Head Driers (2), Model No. C489G;
10. Grill, Garland, Model No. E22-36G, Serial No. 819-8;
11. Deep-Fryer, Garland, Model No. E22-14F, Serial No. 879-8;
12. Olympia Ice Resurfacers Model No. ST-95, Serial No. RCA005001;
13. Danby Freezers (2) Model No.sD1270-6 and D1500-A, Serial No.s421098AP and 01865719EU; and
14. Coldstream Stand-up Cooler Model No. RSCP24AL, Serial No. 89M8096.



Sgt 19/89  
[Signature]  
[Circular Stamp]

2	"AS BUILT"	J.S.	2/1/80
1	ISSUED FOR CONSTRUCTION	J.S.	10/1/80
NO.	REVISION	BY	DATE

THE DRAWINGS ARE THE PROPERTY OF THE PLANNER AND MAY NOT BE REPRODUCED WITHOUT THEIR PERMISSION.

CONTRACTORS SHALL CHECK ALL DIMENSIONS AND INFORMATION AND REPORT ANY DISCREPANCIES PRIOR TO COMMENCEMENT OF WORK.



**PRE-CON  
BUILDERS**

1301 ADMIRAL AVENUE  
WPG. MAN.  
R2X 1E6

PROJECT TITLE

**NELSON HOUSE ARENA**

DRAWING TITLE

**EQUIPMENT  
SCHEDULES**

APPROVED	CHECKED	DRAWN BY J.S.
SCALE AS NOTED	DATE AUG. / 89	PROJECT NO.
DRAWING NUMBER <b>M-5</b>	REVISION NUMBER <b>2</b>	

## **WORK DONE**

- All work to be done in accordance with all applicable codes and regulations.

## **RESPONSIBILITY**

- All cutting, patching, furring and painting by others.
- All electric power and control wiring, starters, disconnects and interlocks by others.
- Roofing and roof curbs supplied and installed by others.
- Structural reinforcement by others.

## **EQUIPMENT SCHEDULE**

### **FANS**

- F-1 Main floor, Delhi Model 215 single indoor duct blower complete with duct filter. Rated for 4,000 cfm at 1" E.S.P., 2 HP motor.
- F-2 Mezzanine level, Delhi Model 212 single indoor duct blower complete with filter. Rated for 2,600 cfm at 1" E.S.P., 2 HP motor
- F-3 Dressing rooms, Delhi Model 212 single indoor duct blower complete with filter. Rated for 2,000 cfm at 1 1/4" E.S.P., 1 HP motor

### **EXHAUST FANS**

- EF-1 Rink exhaust Canarm Model CB-30, belt driven heavy duty propeller fan complete with cabinet sleeve, shutter and guard. Rated at 10,000 cfm, 1 1/2 HP motor. 575V 3Ø
- EF-2 Rink exhaust Canarm Model CB-30, belt driven heavy duty propeller fan complete with cabinet sleeve, shutter and guard. Rated at 10,000 cfm, 1 1/2 HP motor. 575V 3Ø
- EF-3 Washroom exhaust, Broan Model 361 ceiling mounted ventilator - 160 cfm.
- EF-4 Shower exhaust, Broan Model 650 ceiling mounted ventilator - 50 cfm.
- EF-5 Referees room exhaust, Broan Model 360 ceiling mounted ventilator - 100 cfm.
- EF-6 Washroom exhaust - Broan Model 361 ceiling mounted ventilator -



- EF-7 Shower exhaust - Broan Model 650 ceiling mounted ventilator - 50 cfm
- EF-8 Refrigeration room exhaust - Pleasantaire Model S24-F1 wall exhauster complete with motor guard and back draft dampers - 5000 cfm, 1/3 HP motor. 208V 1Ø
- EF-9 Mezzanine level central exhaust - Delhi Model 318 roof exhauster, 6000 cfm, 3 HP motor. 575V 3Ø
- EF-10 Mezzanine level central exhaust - Delhi Model 318 roof exhauster, 6000 cfm, 3 HP motor. 575V 3Ø
- EF-11 Public washroom exhaust - Delhi Model 309 roof exhauster, 1100 cfm, 1/2 HP motor. 208V 1Ø
- EF-12 Washroom exhaust - Broan Model 650 ceiling mounted ventilator, 50 cfm
- EF-13 ~~Canteen kitchen hood exhaust - Delhi Model B1-13PM restaurant utility blower, 1000 cfm at 1 1/4" E.S.P., 3/4 HP motor, 208V 3Ø~~  
SEE BELOW.
- EF-14 Public washroom exhaust - Broan Model 363 ceiling mounted ventilator, 300 cfm
- CF-1 Open area ceiling fan - Canarm Model CP-56 downdraft fan
- CF-2 Open area ceiling fan - Canarm Model CP-56 downdraft fan

#### ELECTRIC UNIT HEATERS

- UH-1 Rink area unit heater - Chromalox Model BUH-60D blower type unit heater complete with thermostat. 204,780 BTU/hr, 60 kw, 600 volt, 3 PH, 1/3 HP fan motor
- UH-2 Rink area unit heater - Chromalox Model BUH-60D blower type unit heater complete with thermostat. 204,780 BTU/hr, 60 KW, 600 volt, 3 PH, 1/3 HP fan motor
- UH-3 Rink area unit heater - Chromalox Model BUH-60D blower type unit heater complete with thermostat. 204,780 BTU/hr, 60 kw, 600 volt, 3 PH, 1/3 HP fan motor
- UH-4 Rink area unit heater - Chromalox Model BUH-60D blower type unit heater complete with thermostat. 204,780 BTU/hr, 60 KW, 600 volt, 3 PH, 1/3 HP fan motor
- UH-5 Refrigeration room unit heater - Chromalox Model BUH-40D blower type unit heater complete with thermostat. 136,520 BTU/hr, 40 KW, 600 volt, 3 PH, 1/3 HP fan motor
- UH-6 Zamboni room unit heater - Chromalox Model BUH-25D blower type unit heater complete with thermostat. 85,300 BTU/hr, 25 KW, 600 volt, 3 PH, 1/10 HP fan motor

EF-13 JELLY-AIR BELT DRIVE CENTRIFUGAL, POWER WALL EXHAUSTER MODEL 154-112D, 1000 CFM AT 1 1/4" E.S.P., 1/2 HP MOTOR 115V/1Ø

- UH-7 Zamboni room unit heater - Chromalox Model BUH-25D blower type unit heater complete with thermostat. 85,300 BTU/hr, 25 KW, 600 volt, 3 PH, 1/10 HP fan motor
- UH-8 Storage room unit heater - Chromalox Model BUH-10D blower type unit heater complete with thermostat. 34,120 BTU/hr, 10 KW, 600 volt, 3 PH, 1/30 HP fan motor

#### ELECTRIC BASEBOARDS

- BB-1 Baseboard heater - Chromalox Model B8-12010TH16, 1000 watts 347 V, complete with built-in thermostat
- BB-2 Baseboard heater - Chromalox Model B8-22020TH16, 2000 watts, 347 V, complete with built-in thermostat
- BB-3 *BASEBOARD HEATER - CHROMALOX MODEL BL-3907-TH16, 750 WATTS, 347 V, COMPLETE WITH BUILT-IN THERMOSTAT. (PRESS BOX ONLY.)*

#### ELECTRIC FORCE FLOW

- FF-1 Force flow heater - Chromalox Model RFV-840, 4000 watts, 347 V, complete with built-in thermostat

#### ELECTRIC DUCT COILS

- DC-1 Main floor lobby electric duct coil - Thermolec 30 KW at 4000 cfm, 600 V 3Ø
- DC-2 Mezzanine lounge electric duct coil - Thermolec 30 KW at 26000 cfm, 600 V 3Ø
- DC-3 Dressing room electric duct coil - Thermolec 15 KW at 1000 cfm, 600 V 3Ø
- DC-4 Dressing room electric duct coil - Thermolec 15 KW at 1000 cfm, 600 V 3Ø

#### GRILLES

- Type A E.H. Price Model SCDA 24 x 24 square ceiling diffuser, 10" Ø neck
- Type B E.H. Price Model SCDA 24 x 24 square ceiling diffuser, 8" Ø neck
- Type C E.H. Price Model SCDA 12 x 12 square ceiling diffuser, 8" Ø neck
- Type D E.H. Price Model SCDA 12 x 12 square ceiling diffuser, 6" Ø neck
- Type E E.H. Price Model SCDA 12 x 12 square ceiling diffuser, 4" Ø neck
- Type F E.H. Price Model C22S/3, 18 x 6 complete with opposed blade damper
- Type G E.H. Price Model C22S/3, 24 x 10 complete with opposed blade damper
- Type H E.H. Price Model C22S/3, 12 x 4 complete with opposed blade damper
- Type J E.H. Price Model C22S/3, 36 x 10 complete with opposed blade damper
- Type K E.H. Price Model C22S/3, 8 x 4 complete with opposed blade damper
- Type L E.H. Price Model C80, 24 x 20
- Type M E.H. Price Model C80, 8 x 8
- Type N E.H. Price Model C80, 10 x 10
- Type P E.H. Price Model C80, 6 x 6

#### MAKE-UP AIR

- MUA-1 Lounge and lobby central make-up air unit - Engineered Air Model LM-13K, outdoor roof mounted electric make-up air unit. Rated for 13,000 cfm, 460 KW electric heating section, inlet hood, filters, roof mounting frame, 7 1/2 HP supply air fan motor. 575 V 3Ø

## WORK DONE

- All work to be done in accordance with Manitoba Plumbing Code.
- Provide shut-off valve to all groups of fixtures for future serviceability.
- Insulate all cold water horizontal plumbing lines.

## PLUMBING SCHEDULE

- TOILET - American Standard Plebe water saver toilet including Model AF-3031, reverse trap bowl and AF-4040 tank.
- LAV - American Standard Ovation basin Model AD-0222 complete with Waltec Model 21F141 4" centerset faucet.
- LAV - American Standard Acadian basin Model AF-0335 complete with Waltec Model 21F141 4" centerset faucet.
- URINAL - American Standard Washbrook urinal Model AF-6500 complete with Cambridge Model 867505 metering valve.
- DRESSING ROOM SHOWERS - Bradley Type IC individual built-in shower touch'n flo controlled shut-off valve.
- REFEREES ROOM SHOWER - Flat pilot shower Model 36M
- JANITORS SINK - Flat Molded stone Model MBS-3624 mop service basin.
- CANTEEN HAND SINK - American Standard Acadian basin Model AF-0335 complete with Waltec Model 21F141 4" centerset faucet.
- FLOOR DRAIN - Zurn Model ZN-415-B floor drain
- NURSES SINK - Steel Queen Model QL202 stainless steel sink complete with Teck Model 26T2133 deck mount sink faucet.

## HOT WATER TANKS

- HWT-1 - State Model SB6-120-54  
54 KW electric heater 600 V - 3Ø
- HWT-2 - State Model SB6120-54  
54 KW electric heater 600V - 3Ø
- HWT-3 - State Model SB6-120-54  
54 KW electric heater 600V - 3Ø
- HWT-4 - State Model SB6-120-54  
54 KW electric heater 600V - 3Ø
- HWT-5 - State Model SB6-40-8  
8 KW electric heater 208V - 1Ø

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## ARTICLE 12

### 12.0 COMPENSATION FOR CLAIMS

### 12.1 INTRODUCTION

12.1.1 Introduction. Article 12 specifies claims which may be advanced, the procedure for advancing them against the **Claims Account** and their relationship to other programs funded by **Trust Moneys**.

12.1.2 Claims. A claim may be advanced against the **Claims Account** for compensation sufficient to compensate the **Claimant** for loss or damages suffered by that **Claimant** due to **Adverse Effects** but no claim may be advanced:

- (a) by a person who was not a **Member** at the time the **Adverse Effect** occurred;
- (b) by an insurer by way of subrogation; or
- (c) which is an **SIL Claim**.

Notwithstanding the releases and indemnities in Article 14, the individual claims against **Hydro** listed in Schedule 12.7 will continue to be dealt with by **Hydro** and shall not become the responsibility of **Nelson House**. **Hydro** will not be responsible under Schedule 12.7 for any portion of the claim which is broader than the interest of the specified individual making the claim and nothing herein should be read or construed as an admission of liability by **Hydro** in relation to such claims.

12.1.3            Limitation.            A right to claim under Article 12.1.2 shall expire four (4) years from the date the loss or damage became evident to the **Claimant** .

12.1.4            Programs.            From **Trust Moneys** approved for such purposes under the **Community Approval Process**, **Nelson House** shall, as it considers appropriate, continue, establish or discontinue programs to address **Adverse Effects on Members**. Notwithstanding the foregoing, in accordance with Article 11.2 of the **Indenture** from 1996 to 2001, **Chief and Council** shall pay the amount of one hundred sixty seven thousand six hundred seven (\$167,607.00) dollars to the Nelson House Commercial Fishing Association to continue the Nelson House Commercial Fishing Program during those years. Nothing in Article 12.1.4 authorizes **Nelson House** or **Chief and Council** to amend or discontinue the provisions of Article 12.

## 12.2            **CLAIMS OFFICER**

12.2.1            Appointment.            **Chief and Council** may appoint, as its designate for investigating and deciding claims under Article 12:

- (a)    a **Claims Officer**, and an alternate **Claims Officer** to serve in the absence or incapacity of the **Claims Officer**, to administer and decide claims of not more than two thousand (\$2,000.00) dollars;

- (b) a claims panel consisting of the **Claims Officer** and two (2) **Nelson House Trustees** to administer and decide claims in excess of two thousand (\$2,000.00) dollars;
- (c) such other appropriate claims panel competent to carry out the duties of administering and deciding claims hereunder.

12.2.2            Qualifications.    A **Claims Officer** and a member of a claims panel, shall be a **Member** who meets all qualifications and requirements of eligibility for a **Nelson House Trustee**, but a **Nelson House Trustee** may not serve as a **Claims Officer**.

12.2.3            Tenure.    The appointment of a **Claims Officer**, or an alternate, or a member of a claims panel, may be revoked at any time at the sole discretion of **Chief and Council** and shall be automatically revoked should such person cease at any time to meet the qualifications and requirements for eligibility. Where a claim is being considered at the time of revocation of appointment of the **Claims Officer**, or an alternate, or a member of a claims panel, the **Claimant** shall be notified by **Chief and Council** and may elect to proceed to arbitration or have the claim decided under Article 12.2.1 by a new appointee.



12.2.4            Undertaking.     Prior to assuming office a **Claims Officer**, or alternate, or member of a claims panel including a member who is a **Nelson House Trustee**, shall execute an undertaking in a Schedule 12.5 form and file that executed form with **Chief and Council**.

12.2.5            Chief and Council.     If a **Claims Officer** or claims panel are not appointed, their functions under Article 12 shall be undertaken by **Chief and Council** and the provisions of Article 12 shall be read accordingly.

12.2.6            Liability.     The **Claims Officer** and members of the claims panel shall be responsible for the fair, prudent and impartial administration of the claims procedures set out in Article 12 and provided they act in good faith they shall incur no liability arising out of their administration of such claims.

### 12.3            **CLAIMS PROCEDURE**

12.3.1            Form of Claims.     Claims shall be filed with **Chief and Council** and shall contain the information set out in Schedule 12.1.

12.3.2            Investigation Process.     Upon receipt of a claim, **Chief and Council** shall:

- (a) if appropriate, send a copy of the claim to the RCMP or other police force responsible for policing the **Reserve**;
- (b) post a copy of the claim and a completed notice under Schedule 12.2 in the Band Office or in some other public place on **Reserve** that is frequented by **Members**; and
- (c) retain a copy and where applicable, forward the original to the **Claims Officer** or members of the claims panel.

12.3.3 Notice Period. Prior to a decision under Article 12.3.7, the notice under Article 12.3.2(b) shall be posted and available to public view for not less than:

- (a) three (3) business days for a claim of two thousand (\$2,000.00) dollars or less; and
- (b) ten (10) business days for a claim over two thousand (\$2,000.00) dollars.

12.3.4 Action on Claims. Upon receipt of the claim the **Claims Officer** or members of the claims panel shall investigate and decide the matter.

12.3.5 Conflict. No **Claims Officer** or member of a claims panel who has an interest in a claim that could affect the impartiality of such person may take part in any deliberations or decisions with respect to that claim.

12.3.6        Investigation.     The **Claims Officer** or members of the claims panel shall conduct, or cause to be conducted, such investigation as considered appropriate.

12.3.7        Preliminary Decisions.   Upon completion of the investigation carried out pursuant to Article 12.3.6, and after considering any comments from **Members**, the **Claims Officer** or members of the claims panel shall decide if:

- (a) the applicant meets the criteria of a **Claimant**;
- (b) the person advancing the claim was a **Member** at the time the **Adverse Effect** occurred;
- (c) the claim is being brought by an insurer by way of subrogation;
- (d) the claim is an **SIL** claim;
- (e) the claim, or a portion of the claim, must be advanced against **Hydro** under Article 14.4.1 and, if so, provide a copy of such decision and the claim to **Hydro**; and
- (f) the claim has been brought within the time limit imposed under Article 12.1.3.

12.3.8            **Hydro Action.**     **Hydro** may dispute the decision under Article 12.3.7(e) by referring it to arbitration under Article 13.5 within, but not later than, thirty (30) days of its receipt of such decision.

12.3.9            **Further Decision Process.**     If the claim is not one referable to **Hydro** under Article 14.4.1; the applicant meets the criteria of a **Claimant**; the application has been brought within the time specified; and it is determined under Article 12.3.7 that the claim meets the requirements of Article 12.1.2; the **Claims Officer** or members of the claims panel shall:

- (a)     decide if the claim should be paid ;
- (b)     assess the amount of compensation taking into account any prior benefit received by, or compensation or insurance proceeds paid, or payable, to the **Claimant** or any other benefit received by the **Claimant** under the **Agreement**, or under any other agreement with a **Party**, or under the **NFA**;
- (c)     deliver a decision in a Schedule 12.3 form to the **Claimant** and any **Member** who provided comments; and
- (d)     upon request, or if they determine it is appropriate, deliver the information set out in Schedule 12.3 orally, in a language spoken by the **Claimant** and any **Member** who provided comments.

12.3.10        Payment Following Decision. If compensation is awarded under Article 12.3.9 or 12.4.4, **Chief and Council** shall, upon its receipt of an acceptance and release in a Schedule 12.4 form duly signed by the **Claimant**, promptly pay such compensation and any costs awarded with **Trust Moneys** advanced from the **Claims Account**.

12.3.11        Rejection of Claim by Delay. Except where the preliminary decision under Article 12.3.7 is to refer the claim to **Hydro**, if a decision is not delivered within thirty (30) days of the date the claim is filed with **Chief and Council**, that claim shall be deemed to be rejected and the **Claimant** may refer the claim to arbitration pursuant to Article 13.3 as provided in Article 12.4.

12.3.12        Reimbursement        Forthwith, upon receipt of an invoice and all relevant supporting material, **Hydro** will reimburse **Nelson House** for its reasonable expenses incurred in investigating and reaching a preliminary decision under Article 12.3.7 with respect to which **Hydro** has continuing liability under Article 14.4.1.

## 12.4            **CLAIMS ARBITRATION**

12.4.1        Referral to Arbitration. Where a **Claimant** or **Chief and Council** disputes the decision under Article 12.3, other than a decision under Article

12.3.7(e) that the claim should be advanced against **Hydro**, either may, within twenty-one (21) days of their receipt of the decision, refer that dispute to arbitration by serving upon the other a Referral to Arbitration in a Schedule 12.6 form. Upon receiving or serving a Referral to Arbitration **Chief and Council** shall forthwith provide to the **Claimant** the list of **Arbitrators** referred to in Article 13.3.1 and refer the matter to arbitration in accordance with Article 13.3.

12.4.2            **Substantial Compliance.**            No claim shall be dismissed for failure on the part of the **Claimant** to use a specified form or procedure, and no reports, notices, decisions, releases or undertakings contemplated in Schedules 12.1 to 12.6 inclusive shall be invalid for failure to follow or be in the specified form, provided there has been substantial compliance and no prejudice results therefrom.

12.4.3            **Role of Chief and Council in Arbitration.**            **Chief and Council** may, on notice to the **Arbitrator** selected, appear as an interested party in any arbitration under Article 12.4.

12.4.4            **Considerations of Arbitrator.**            The **Arbitrator** shall make the determinations required in Articles 12.3.7 and 12.3.9 (a) and (b) in the manner and within the times specified in Article 13.3.9. Failure to render a decision within the specified time may result in a loss of jurisdiction and the appointment of a new

**Arbitrator** pursuant to Article 13.6.2. Where there is a dispute as to who is, or is not a **Member**, the **Arbitrator** shall resolve such dispute consistent with the Band Membership Code established by section 10 of the Indian Act (Canada) which has been in force and effect since May 24, 1988, or any successor code established by or pursuant to legislation.

12.4.5            **Arbitrator's Decision.**    The **Arbitrator** shall forward the decision to the **Claimant**, **Chief and Council**, the **Nelson House Trustees** and any **Member** who appeared and made representations to the **Arbitrator**.

12.4.6            **Decisions Available for Public Viewing.**    All decisions concerning claims for compensation from the **Claims Account** shall be made available by **Chief and Council**, for review by **Members** during normal business hours.

12.4.7            **Amend Forms.**            Provided any such amendment is not prejudicial to the other **Parties** and is consistent with the **Agreement**, the forms appended as Schedules 12.1 to 12.6, both inclusive, may be amended by **Chief and Council**.

## 12.5 LEGISLATION

12.5.1 Recommendation. **Canada** and **Manitoba** shall recommend the enactment of legislation providing that a claim for compensation which may be made under both the **NFA** and this **Agreement** shall be exercised only in accordance with this **Agreement**.

12.5.2 Hydro Indemnity. If, as a result of enacting and proclaiming the legislation contemplated in Article 12.5.1, **Canada** or **Manitoba** become liable to pay compensation arising from an **Adverse Effect** to any **Claimant**, **Hydro** shall promptly indemnify **Canada** and **Manitoba** for such compensation. This indemnity does not cover the costs of the indemnified **Party** in resisting such claim and is conditional upon the indemnified **Party**:

- (a) forthwith, upon becoming aware of such claim, giving notice to **Hydro** and **Nelson House**;
- (b) actively and diligently resisting any such claim; and
- (c) supporting any application by **Hydro** or **Nelson House** to be named as a party thereto.

12.5.3 Hydro Action. If **Hydro** is required to make any payment to **Canada** or **Manitoba** pursuant to Article 12.5.2 and **Nelson House** fails to



indemnify **Hydro** for such payment from **Funds Available** within three (3) years of the date of such payment, then, in addition to any other remedies which it may have at law, **Hydro** may, after giving **Chief and Council** thirty (30) days written notice of its intention to do so:

- (a) reduce the face value of the **Hydro Bond**, if it has not then been delivered to the **Trust** or to **Canada**, by an amount sufficient to cover the amount paid pursuant to the indemnity;
- (b) if **Hydro** has delivered the **Hydro Bond** to the **Trust**, require that the **Trustees** return the **Hydro Bond** to **Hydro** to be cancelled. In such event a new bond, less the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2, will be issued by **Hydro** and delivered to the **Trust**;
- (c) if the **Hydro Bond** has been delivered to **Canada**, request that, subject to the provisions of the Indian Act (Canada), **Canada** return the **Hydro Bond** to **Hydro** to be cancelled. If the bond is returned, a new bond, less the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2, will be issued by **Hydro** and delivered to **Canada**;
- (d) if the **Hydro Bond** has been delivered to **Canada** and has matured or been redeemed, request that, subject to the provisions of the Indian Act (Canada), **Canada** repay **Hydro** from the unexpended

proceeds from the **Hydro Bond** an amount equivalent to the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2.

- (e) if the **Hydro Bond** has been delivered to the **Trust** and has matured or been redeemed, require that the **Trustees** repay **Hydro** from the unexpended proceeds from the **Hydro Bond** an amount equivalent to the amount paid by **Hydro** to **Canada** or **Manitoba** pursuant to the indemnity under Article 12.5.2.

12.5.4            Arbitration.            If **Chief and Council** dispute **Hydro's** right to set off against the **Hydro Bond** or the funds realized therefrom under Article 12.5.3, it may, within thirty (30) days of receiving notice under Article 12.5.3, refer the dispute to arbitration under Article 13.4 by serving a Referral to Arbitration in a Schedule 13.1 form on **Hydro** and if relevant **Canada** or the **Corporate Trustee**. If the **Arbitrator** decides in **Hydro's** favour, and **Canada** is in possession of the **Hydro Bond** or unexpended proceeds from the **Hydro Bond**, **Chief and Council** will favourably consider requesting **Canada**, subject to the provisions of the Indian Act (Canada), to honour the indemnity obligations from such funds as provided in Articles 12.5.3(c) and (d) and 12.5.5.

12.5.5            Repayment.        Where **Hydro** has made a payment under Article 12.5.2 and **Chief and Council** does not dispute **Hydro's** right of set off, or the **Arbitrator** has ruled in favour of **Hydro** then upon request by **Hydro**, and, upon **Chief and Council's** request and, where relevant, receipt of the decision of the **Arbitrator** to such effect, **Canada** will, subject to approval under clause 64(1)(k) of the Indian Act (Canada) return the **Hydro Bond** pursuant to Article 12.5.3(c) or repay the amount to the extent provided by Article 12.5.3(d) .

**SCHEDULE 12.1**

**CLAIM FOR COMPENSATION FORM**

**CLAIMANT**

Name:

Address:

City/Town:

Commercial Fishing Licence No. (If applicable)

Commercial Trapping Licence No. (If applicable)

**DETAILS OF CLAIM**

Date & Time of Injury/Loss/Damage:

Activity at time of Injury/Loss/Damage:

Cause of Injury/Loss/Damage:

Compensation Claimed:

Nature of Injury:

Goods or Property Lost or Damaged:

General Description

Make

Model

Serial No.

Year Manufactured

Year Purchased

Purchase Price

Location where Injury/ Loss/ Damage occurred (Attach Sketch or Map):

Names of Witnesses to Injury/Loss/ Damage:

Is the claim covered by insurance in whole or in part: Yes? \_\_\_\_\_, No? \_\_\_\_\_.

If yes, give particulars:

If yes, has a claim been made under the insurance policy? Yes? \_\_\_\_ No? \_\_\_\_.

Give particulars:

**CLAIMANT'S STATEMENT:**

I believe the injury, loss or damage described above was caused by Manitoba Hydro's Project because:

**INSERT DETAILS**

I hereby certify that the above information is correct.

(Signature of Claimant)

(date)

SCHEDULE 12.2

**NOTICE OF RECEIPT OF  
CLAIM FOR COMPENSATION**

\_\_\_\_\_ IS /ARE CURRENTLY  
INVESTIGATING THE ATTACHED CLAIM FOR COMPENSATION,  
AND A DECISION ON THIS MATTER WILL BE MADE ON OR  
AFTER \_\_\_\_\_. ANY PERSON WHO WISHES TO COMMENT  
ON THIS CLAIM SHOULD DIRECT THEIR COMMENTS TO \_\_\_\_\_  
\_\_\_\_\_ BEFORE THAT DATE.

### SCHEDULE 12.3

#### REPORT, DECISION AND RIGHT TO APPEAL

A Claim for Compensation from the Claims Account of Nisichawisihk Trust was filed by \_\_\_\_\_, on \_\_\_\_\_, \_\_\_\_:  
(NAME)

I, the Claims Officer, or we, the members of a claims panel or Chief and Council,  
Report and Decide as follows:

1. From our investigation of the Claim
  - (a) ☐ the applicant meets the criteria of a Claimant;  
☐ the applicant does not meet the criteria of a Claimant;
  - (b) ☐ the applicant was a Member at the time the Adverse Effect occurred;  
☐ the applicant was not a Member at the time the Adverse Effect occurred;
  - (c) ☐ the claim is not an SIL Claim within the meaning of the Agreement;  
☐ the claim is an SIL Claim within the meaning of the Agreement;
  - (d) ☐ the applicant is not an insurer claiming by way of subrogation;  
☐ the applicant is an insurer claiming by way of subrogation;
  - (e) ☐ the claim has been brought within 4 years of the date the loss or damage became evident to the Claimant;  
☐ the claim has not been brought within 4 years of the date the loss or damage became evident to the Claimant;

- (f) ☐ all of the loss or damage is the result of or attributable to an Adverse Effect of the Project;
- ☐ part of the loss or damage is the result of or attributable to an Adverse Effect of the Project;
- ☐ none of the loss or damage is the result of or attributable to an Adverse Effect of the Project;
- (g) ☐ the loss or damage is compensable in full from the Claims Account of the Nisichawasihk Trust;
- ☐ the loss or damage is compensable in part from the Claims Account of the Nisichawasihk Trust;
- ☐ the loss or damage is not compensable from the Claims Account of the Nisichawasihk Trust;
- (h) ☐ the loss or damage is not compensable from the Claims Account of the Nisichawasihk Trust because the claim appears to be one that should be dealt with as an ongoing liability of Hydro, under Article 14.4.1 of the 1996 Nelson House NFA Implementation Agreement and a copy of this claim has been forwarded to Manitoba Hydro;
- ☐ the loss or damage is not compensable in part from the Claims Account of the Nisichawasihk Trust because the claim appears to be one that in part should be dealt with as an ongoing liability of Hydro, under Article 14.4.1 of the 1996 Nelson House NFA Implementation



Agreement and a copy of this claim has been forwarded to Manitoba Hydro;

- ☐ the loss or damage is not compensable from the Claims Account of the Nisichawisihk Trust because the claimant otherwise has been fully compensated.
- ☐ the loss or damage is not compensable in full from the Claims Account of the Nisichawisihk Trust because the claimant otherwise has been partially compensated by \_\_\_\_\_.
- (i) the reasonable compensation payable from the Nisichawisihk Trust is \$\_\_\_\_\_.

Additional Reasons:

The Claims Officer or the following member of a claims panel did not take part in this decision, due to an interest in this claim that could have affected their impartiality.

Signed at Nelson House, Manitoba, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

NOTICE: THE CLAIMANT MAY APPEAL THIS MATTER TO THE ARBITRATOR, BY MAKING A WRITTEN REQUEST IN THE FOLLOWING FORM TO CHIEF AND COUNCIL WITHIN 21 DAYS OF THE DELIVERY OF THIS DECISION.

### NOTICE OF REFERRAL

TO: Chief & Council  
Band Office  
Nelson House, Manitoba

TAKE NOTICE that the decision dated \_\_\_\_\_, 19\_\_ of Chief and Council, the Claims Officer or the claims panel under Article 12 of the 1996 Nelson House NFA Implementation Agreement is not acceptable to the undersigned and is, referred to the Arbitrator under Article 13 of such Agreement.

DATED at Nelson House the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_ .

---

SCHEDULE 12.4

**CLAIMANT ACCEPTANCE AND RELEASE  
FOR COMPENSATION FOR ADVERSE EFFECTS**

I, \_\_\_\_\_ (name of Claimant, or "on behalf of \_\_\_\_\_ Association or Corporation") \_\_\_\_\_, filed a claim dated \_\_\_\_\_, under Article 12 of the 1996 Nelson House NFA Implementation Agreement in respect of damage or loss that I was aware of at the date of filing the claim, arising from an adverse effect caused by the development or operation of works by Manitoba Hydro.

A decision on the claim was made by (Chief and Council, the Claims Officer, a claims panel or the Arbitrator appointed under the Nelson House NFA Implementation Agreement, or the Manitoba Court of Appeal), dated \_\_\_\_\_, a copy of which is attached.

That decision is a fully satisfactory settlement of the damage or loss referenced in the claim dated \_\_\_\_\_.

In consideration of the payment of ( amount ) \_\_\_\_\_, I hereby fully and finally release the Nelson House First Nation, Chief and Council, the Nisichawasihk Trust, the Claims Officer and the Nelson House Trustees with respect to this claim, and I will bring no further claim for the same damage or loss against any other person.

I have been advised by \_\_\_\_\_, the Claims Officer, a member of Chief and Council or a Nelson House Trustee, that I have the right to obtain legal counsel in connection with the execution of this release.

(I have obtained) or (I hereby waive my right to) the advice of legal counsel in connection with this release.

Dated at \_\_\_\_\_, Manitoba this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Claimant

## SCHEDULE 12.5

### UNDERTAKING

I, \_\_\_\_\_, being an appointee of the Chief and Council of the Nelson House First Nation to serve as a Claims Officer or alternate Claims Officer or a member of a Claims Panel, state and undertake as follows:

1. I have read, or had explained to me, the terms of the 1996 Nelson House NFA Implementation Agreement and Trust Indenture with particular reference to the provisions relating to the processes for administering and deciding claims for compensation.

2. I hereby accept and will honestly and faithfully discharge the duties and responsibilities of a Claims Officer or alternate Claims Officer, or a member of a Claims Panel, during my term in such office.

3. I have been advised by \_\_\_\_\_, a member of Chief and Council, that I have the right to obtain legal counsel in connection with the execution of this undertaking.

4. (I have obtained,) or (I hereby waive my right to) the advice of legal counsel in making this undertaking.

DATED at Nelson House on the      day of      , .

---

**SCHEDULE 12.6**

**REFERRAL TO ARBITRATION**

**TO: Chief and Council  
Band Office  
Nelson House, MB**

**Take Notice that the decision of the Claims Officer or the claims panel, or Chief and Council dated \_\_\_\_\_ under Article 12 of the 1996 Nelson House NFA Implementation Agreement is not acceptable to the undersigned and the issue is referred to the Arbitrator under Article 13 of such Agreement.**

**DATED at                      the              of                      ,              .**

\_\_\_\_\_

## **SCHEDULE 12.7**

### **LIST OF CLAIMS WHICH WILL CONTINUE TO BE ADVANCED AGAINST HYDRO**

#### **Hydro Claim No.**

- 68. Claim by Joe Linklater for travel expenses.
- 283. Claim by Nelson House Band for Eric Taylor Monument.
- 289. Claim by George C. R. Spence for dog food.
- 379. Claim by Darcy Linklater in relation to shoreline clearing.
- 391. Claim by Derek Linklater for lost equipment.
- 414. Claim by Clark Buck for use of Lund boat.
- 417. Claim by George J. Linklater for damage to the lower unit of a 25 hp motor.
- 419. Claim by Mary Jane Hart for a warehouse which was disassembled and destroyed.
- 421. Claim by Joshua Flett in relation to a 30 hp Johnson motor.

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## ARTICLE 13

### 13.0 ARBITRATION

#### 13.1 INTRODUCTION

13.1.1 Introduction. Article 13 establishes procedures for arbitrating disputes under this **Agreement**, in relation to:

- (a) matters involving **Members, Nelson House, Chief and Council**, members of **Chief and Council**, beneficiaries of the **Trust**, **Claimants, Nelson House Trustees** or the **Corporate Trustee**, which matters shall proceed as prescribed under Article 13.3;
- (b) matters involving the **Parties**, which matters shall proceed as prescribed under Article 13.4; and
- (c) matters involving the potential liability of **Hydro** under Article 14.4.1, arising out of claims for compensation by beneficiaries of the **Trust**, which matters shall proceed as prescribed under Article 13.5.

#### 13.2 ARBITRATION

13.2.1 Nelson House Disputes. Any decision referred to arbitration under Article 12.4.1 and any dispute which involves the interpretation or administration

of the **Agreement** or the **Indenture**, or which involves the use or administration of **Assets** or **Trust Moneys**, and which involves only **Members**, **Nelson House**, **Chief and Council**, members of **Chief and Council**, beneficiaries of the **Trust**, **Claimants**, the **Nelson House Trustees**, or the **Corporate Trustee** may be referred to arbitration in accordance with Article 13.3.

13.2.2     Disputes Involving the Parties.     Subject to Articles 8.3.6 and 13.2.3 any dispute or difference between the **Parties** as to the meaning, application, implementation or breach of any part of this **Agreement**, may be referred to arbitration by any of the **Parties** to that dispute in accordance with the terms of the **Agreement** and Article 13.4. Except for claims proceeding under Article 13.5 against **Hydro**, only a **Party** may refer to arbitration a matter which involves **Canada**, **Manitoba** or **Hydro**.

13.2.3     Easement Resolution.     Unless the **Easement Agreement** otherwise provides, a dispute relating to the **Easement Agreement** and involving **Nelson House** may, at the sole option of **Nelson House** be referred to arbitration under Article 13.4. Notwithstanding the foregoing, if **Canada** and either **Manitoba** or **Hydro** is a party to such dispute and it concerns an interest in land, the dispute shall be referred to court.

13.2.4      Arbitration Act Applies.      The Arbitration Act (Manitoba) shall govern any arbitration under this **Agreement**, except where that Act conflicts with any express term of this **Agreement** in which case the provisions of this **Agreement** shall prevail.

13.2.5      Reference to Courts.      Any constitutional issue arising out of, or in respect to, this **Agreement**, or the matters implemented or settled by this **Agreement**, shall be referred to court and not arbitration under Article 13.

13.2.6      No Substantive Rights.      Nothing in Article 13 grants any substantive rights to any person except the right to refer and have matters arbitrated under Article 13.

### 13.3            **NELSON HOUSE ARBITRATION**

13.3.1      List of Arbitrators.      After consultation with persons it considers advisable, **Chief and Council** shall establish and maintain an up-dated list of not more than ten (10), or fewer than five (5), persons who have qualities and experience suitable to be an arbitrator appointed in relation to any matter under Article 13.3, and who are willing to so act. **Chief and Council** shall make the list available to any person referring a matter to arbitration under Article 13.3 and on

request, any person to whom the provisions of Article 13.3 apply .

13.3.2      Referral to Arbitration.      Disputes may be referred to arbitration under Article 13.3:

- (a)      by a **Claimant**, or by **Chief and Council**, serving a referral to arbitration pursuant to Article 12.4.1; or
- (b)      by a **Member, Nelson House, Chief and Council, the Nelson House Trustees**, a member of **Chief and Council**, a beneficiary of the **Trust** or the **Corporate Trustee** which involve interpretation of the **Indenture** or use or administration of **Assets** or **Trust Moneys**, but which does not involve **Canada, Manitoba** or **Hydro**, by serving a written referral to arbitration in a Schedules 12.6 or 13.1 form, upon any person against whom any relief, remedy, redress or order may be sought under Article 13.3.

13.3.3      Notification.      **Chief and Council** shall, upon receipt of a referral under Article 13.3.2, forthwith:

- (a)      provide a copy to the **Nelson House Trustees** and the **Corporate Trustee**; and
- (b)      provide a list of potential arbitrators to the **Claimant**.

13.3.4 Appointment of Arbitrator. Subject to approval of any named respondent, a person referring a matter to arbitration under Article 13.3 may select the **Arbitrator** from the current list of arbitrators. A respondent who objects to an appointment must do so in writing delivered to the **Chief and Council** within fourteen (14) days of receipt of the notice of referral to arbitration. No person shall accept appointment or act as the **Arbitrator** in relation to any matter being arbitrated in which such person has a personal, pecuniary or other conflict of interest which could affect their impartiality with respect to the matter. If none of the persons named on the list of arbitrators is acceptable or able to act, and the person referring the matter, **Chief and Council** and any respondent are unable otherwise to agree upon an acceptable **Arbitrator**, any one of them may request the **Arbitrator** be appointed by a Judge of the Court of Queen's Bench of Manitoba in accordance with the provisions of The Arbitration Act (Manitoba).

13.3.5 Jurisdiction and Powers. From the date of acceptance of the appointment, the **Arbitrator** shall have jurisdiction over the conduct of the proceedings and may make such orders as are necessary to ensure that the dispute is dealt with fairly and expeditiously, with regard to the real substance of the matter in dispute. Subject to Article 13, the **Arbitrator** shall have power to:

- (a) resolve any dispute as to facts;
- (b) decide whether any **Claimant** is entitled to receive compensation

pursuant to this **Agreement**;

- (c) award compensation, which will place the **Claimant** in no worse position than the **Claimant** would have been in, in the absence of the **Adverse Effect**;
- (d) interpret this **Agreement** ;
- (e) declare the rights and obligations of **Nelson House, Chief and Council, the Nelson House Trustees, a member of Chief and Council, a beneficiary of the Trust, the Corporate Trustee, a Claimant, or any Member** under this **Agreement**;
- (f) cause an audit to be undertaken;
- (g) conduct a **Meeting of Members** pursuant to Article 19.5 of the **Indenture**;
- (h) award compensation from the **Claims Account**;
- (i) award damages or restitution in relation to the use and administration of **Assets or Trust Moneys**;
- (j) award interest; and
- (k) subject to Articles 13.3.6, 13.3.15 and 13.3.16, award costs, including costs from the **Claims Account**.

13.3.6 **Costs.** Any award of costs under Article 13.3.5(k) may include reasonable fees, travelling allowances and other ancillary expenses for lawyers,

consultants, experts or other witnesses participating in such arbitration as well as the reasonable fees of the **Arbitrator** under Article 13.3.15.

13.3.7      Finality.      Any person referring a matter to arbitration under Article 13.3 may apply in writing to the **Arbitrator**, within thirty (30) days after the receipt of the decision, to amend or vary it in respect of anything that was raised before the **Arbitrator** or in the application or interpretation of such decision. Thereafter the **Arbitrator** shall have no jurisdiction with respect to the matter that was the subject of the arbitration.

13.3.8      Onus. Any party to an arbitration under Article 13.3 taking the position that the **Project** did not cause or contribute to any loss or damage suffered by a potential **Claimant** bears the onus of proof on that issue.

13.3.9      Expedited Arbitrations.      The **Arbitrator** shall fix the date on which the matter will be considered, which shall fall within twenty-eight (28) days of the date the appointment is accepted. A decision, in written form, shall be delivered within twenty-eight (28) days of the receipt of all evidence and final argument. Where requested to do so by all parties to the arbitration, the **Arbitrator** shall issue an oral decision within one (1) day after conclusion of the hearing with written reasons to follow within the twenty-eight (28) day period.

13.3.10      Practice and Procedure.      Subject to the rules of natural justice, the **Arbitrator** shall establish the practice and procedure for conducting the arbitration. The **Arbitrator** shall determine the matter based on a hearing, unless all of the **Parties** to the arbitration under Article 13.3 request a determination on documentary evidence and written referrals only, in which case the **Arbitrator** may direct a hearing or proceed as requested.

13.3.11      Representation by Counsel.      Any person involved in an arbitration under Article 13.3 may be represented by counsel and the **Arbitrator** may order that payment for counsel of the **Claimant's** choice be made from the **Claims Account**.

13.3.12      Evidence.      Evidence may be presented in writing or orally. The **Arbitrator** shall not be bound by the strict rules of evidence and may accept hearsay and any other evidence considered relevant.

13.3.13      Transcripts.      If a hearing is held, the **Arbitrator** shall maintain a record of the proceedings. A party may request that the proceedings be transcribed, in which case a transcript shall be provided upon such terms as the **Arbitrator** may impose, including, without limitation, the costs thereof.



13.3.14     Hearing Location.     Any hearing shall be held on the **Reserve** unless the parties to the dispute consent to it being held elsewhere in Manitoba.

13.3.15     Arbitrator's Fees.     The **Arbitrator** shall not be restricted to the fee schedule appended to The Arbitration Act (Manitoba) but shall be paid a reasonable fee and expenses from the **Claims Account**, unless the **Arbitrator** orders a party to the arbitration to pay all or part of same. Any reasonable fees of the **Arbitrator** not paid by a party are to be paid from the **Claims Account**.

13.3.16     Interim Orders.     The **Arbitrator** shall have the right to make interim orders, including orders for compensation and costs, prior to the final determination of any dispute.

13.3.17     Relationship Between Mitigatory Measures and Claimant Compensation.     The **Parties** recognize that mitigatory or remedial measures are more likely to have a lasting, beneficial effect on the viability of a community or on individual residents, than monetary compensation. Accordingly, any evidence that such measures which have been implemented on a group or community basis in relation to the matters claimed, and their mitigatory effect when they have been implemented, shall be considered by the **Arbitrator**, as provided by Article 12.4.4,

in assessing the quantum of compensation to which any **Claimant** shall be entitled from the **Claims Account**.

13.3.18      Liability to Compensate.      When a matter has been referred to arbitration pursuant to Article 12, the **Arbitrator** shall deal with the matter on the basis that the liability to compensate shall be solely and exclusively funded from the **Trust**.

#### 13.4            **PARTIES' ARBITRATION**

13.4.1      Referral to Arbitration.      Disputes may be referred to arbitration by any **Party** serving upon the other **Parties**, a written referral to arbitration, which shall contain the following:

- (a)      the names of the respondents;
- (b)      the nature of the dispute; and
- (c)      the relief, remedy, redress or declaratory order sought.

13.4.2      Participation by Parties to the Agreement.      Any **Party** whether named as a respondent or not, has the right to participate by notifying the participating **Parties** within twenty-one (21) days of receiving the referral. Any **Party** not identified as a respondent, and who elects not to participate, may not

participate in choosing the **Arbitrator**. Notwithstanding that a **Party** elects not to participate, such **Party** may, at any subsequent time, with leave of, and subject to any conditions imposed by the **Arbitrator**, including an award of costs, be added as a **Party** to the arbitration on its own application.

13.4.3      Appointment of Arbitrator.      An **Arbitrator** agreed upon by the **Parties** to a dispute shall be appointed to adjudicate the dispute, using the following procedure:

- (a)      the **Party** referring the issue to arbitration shall, with service of the written referral, also refer the names, addresses and occupations of not more than three (3) individuals, any one of whom may be selected by the participants to act as **Arbitrator**;
- (b)      each **Party** identified as a respondent or which has indicated it will participate in the arbitration shall, within twenty-one (21) days of the receipt of the list of proposed arbitrators:
  - (i)      select one (1) or more of the persons named on the list,  
or
  - (ii)      reject all of the persons named on the list and so advise  
the other **Parties** in writing.

If a **Party** identified as a respondent, or which has requested to participate, does not respond to the list of proposed Arbitrators within

- the twenty-one (21) days, it shall be deemed to have accepted any selection made by the other **Parties** involved in the dispute; and
- (c) if any one (1) of the persons on the list of proposed arbitrators is acceptable to all **Parties** and is willing and able to act as the **Arbitrator**, then that person shall be appointed as the **Arbitrator** forthwith. If more than one (1) person is unanimously selected, the **Arbitrator** shall be chosen from those persons by the **Party** referring the issue to arbitration within seven (7) days of receiving the responses referred to in Article 13.4.3(b), and the person chosen, if willing and able to act, shall be appointed the **Arbitrator** forthwith.

13.4.4      Application to Judge.      If the **Parties** involved in the dispute can not agree upon a person to act as **Arbitrator**, any **Party** to the dispute may request that the **Arbitrator** be appointed by a Judge of the Court of Queen's Bench of Manitoba by applying within fourteen (14) days of the expiration of the time set out in Article 13.4.3(b). For the purposes of Article 6(2) of The Arbitration Act (Manitoba), the procedures set forth in Articles 13.4.4 and 13.4.5 shall govern and are in lieu of the procedures in Article 6(1) of that Act.

13.4.5      Jurisdiction. From the date of appointment, the **Arbitrator** shall have jurisdiction over the conduct of the proceedings and may make such orders as are

necessary to ensure that the dispute is dealt with fairly and expeditiously, with regard to the real substance of the matter in dispute. Subject to Article 13, and except as expressly provided elsewhere in the **Agreement**, the **Arbitrator** shall have the power to:

- (a) determine any dispute as to facts and the application of this **Agreement** thereto;
- (b) interpret all provisions of this **Agreement**;
- (c) declare the rights or obligations under this **Agreement** of any **Party**;
- (d) award damages, restitution or other compensation;
- (e) award interest;
- (f) award costs subject to the provisions set forth in Articles 13.4.13 and 13.4.14; and
- (g) carry out duties specifically assigned to the **Arbitrator** by the **Agreement** or the **Indenture**, including, without limitation, the authority to:
  - (i) amend Schedule 2.2 pursuant to Article 2.5.10 or as part of an approved compensation proposal under Article 8,
  - (ii) award additional compensation in extraordinary circumstances pursuant to Article 2.5.13,
  - (iii) review and revise safety measures under Articles 2.7.2

and 2.7.4,

- (iv) set the budget for the **Arena** pursuant to Article 11.7,
- (v) determine the appropriate capital value for the **Operation, Maintenance and Replacement** of the **Arena** pursuant to Article 11,
- (vi) determine disputes as to whether **Normal Programming and Funding** has been affected by the expenditure of **Settlement Proceeds** pursuant to Article 10.
- (vii) relieve **Hydro** from certain obligations and undertakings under Article 8 as provided in Article 8.3.8, and
- (viii) make recommendations and select a compensation proposal for **Future Development** pursuant to Articles 8.4.3, 8.4.4 and 8.4.5.

13.4.6 Procedure. Subject to the provisions of this **Agreement** and the rules of natural justice, the **Arbitrator** may establish the procedure for conducting the arbitration and may decide the matter based on a written record unless any **Party** involved in the dispute requests a hearing.

13.4.7 Representation by Counsel. Any **Party** involved in an arbitration

may be represented by counsel.

13.4.8        Evidence.     Evidence submitted in an arbitration may be presented in writing or orally. Subject to Articles 13.4.12 and 13.7.5, the **Arbitrator** and any **Party** may request relevant information from any of the **Parties**. The **Arbitrator** shall not be bound by the strict rules of evidence and may accept hearsay and any other evidence considered relevant.

13.4.9        Transcripts.   If a hearing is held, the **Arbitrator** shall maintain a record of the proceedings. A party may request that the proceedings be transcribed in which case a transcript shall be provided upon such terms as the **Arbitrator** may impose, including, without limitation, the costs thereof.

13.4.10       Hearing Location.   A hearing shall be held in Winnipeg unless the parties to the dispute consent to a site elsewhere in Manitoba.

13.4.11       Arbitrator's Fees.   The **Arbitrator** shall not be restricted to the fee schedule appended to The Arbitration Act (Manitoba) but shall be paid a reasonable fee and each party to the arbitration will bear the costs of the **Arbitrator's** remuneration and expenses equally unless the **Arbitrator** orders otherwise.

13.4.12      Disclosure and Distribution.      Subject to Article 13.7.5, each **Party** to the arbitration agrees that it shall disclose and produce any documents or information which may reasonably be required by the **Arbitrator** or any **Party**, except such documents as would not be compellable if the action were brought in a court of law. All documents or information supplied to the **Arbitrator** by any **Party** shall concurrently be provided to every **Party** participating in the arbitration. All documents so disclosed shall be treated as though disclosed on discovery in a matter before the Court of Queen's Bench.

13.4.13      Costs.      The **Arbitrator** shall award the costs of the arbitration on a fair and equitable basis. In the absence of an order as to costs, each **Party** to the dispute shall pay its own.

13.4.14      Inclusions.      Any award of costs may include reasonable fees, travelling allowances and other ancillary expenses for not more than one representative of any **Party** to the arbitration and for lawyers, consultants, experts or other witnesses participating in the arbitration.

### 13.5              **DISPUTES UNDER ARTICLE 14.4.1**

13.5.1      Disputes with Nelson House Alone.      If, in the absence of a claim



under Article 12, a dispute arises as to the continuing liability of **Hydro** under Article 14.4.1, that dispute shall be resolved as a dispute between **Parties** other than **Canada** and **Manitoba** pursuant to the provisions of Article 13.4.

13.5.2      Disputes Involving Claims by Members.      If, pursuant to Article 12.3.8, **Hydro** disputes a preliminary decision under Article 12.3.7(e) that dispute shall be resolved pursuant to Article 13.5.

13.5.3      Appointment of Arbitrator.      The **Arbitrator** shall be selected in the same manner as set forth in Articles 13.4.3 and 13.4.4 except that, for the purposes of Article 13.5.3, **Nelson House** shall be required to provide the initial list of persons to act as **Arbitrator** as contemplated under Article 13.4.3(a) and the term **Party**, as it is used in Articles 13.4.3 and 13.4.4, shall include a **Claimant** under Article 12 .

13.5.4      Arbitration Process.      The preliminary issue of the continuing liability of **Hydro** under Article 14.4.1 in relation to the claim or part of the claim shall be decided by the **Arbitrator** as if it were a dispute between the **Parties** other than **Canada** and **Manitoba** and the process and provisions set forth in Articles 13.4.5 to and including 13.4.14 shall apply to such determination. In such an arbitration the onus shall be on **Hydro** to establish that the **Project** or the operation of the **Project**

by **Hydro** did not cause or contribute to any loss or damage suffered by a **Member**.

13.5.5      **NFA Process.**      If the **Arbitrator** or, if the decision of the **Arbitrator** is appealed, the Court of Appeal, determines that **Hydro** has continuing liability under Article 14.4.1 in relation to the claim or part of the claim, the **Arbitrator** shall proceed to resolve such claim, or part thereof, applying the definitions, procedures, onus and other relevant provisions of articles 1, 23 and 24 of the **NFA**.

13.5.6      **Referral Back.**      If the **Arbitrator** or, if the decision of the **Arbitrator** is appealed, the Court of Appeal, determines that **Hydro** has no continuing liability under Article 14.4.1 in relation to any part of the claim then the claim shall be referred back for determination under Article 12.3.9.

## 13.6            **REVIEW AND APPEAL OF DECISIONS**

13.6.1      **Finality of Decision.** Subject to Article 13.3.7 the decision of the **Arbitrator** under Articles 13.3, 13.4 or 13.5 shall be final and binding on all of the parties to the dispute subject to the right to appeal on a point of law or jurisdiction, within thirty (30) days of the appealing party's receipt of the **Arbitrator's** decision, to the Court of Appeal for Manitoba. Following delivery of an award, the **Arbitrator**

shall be functus officio on the issue decided which issue shall be res judicata between the parties to the arbitration. By agreement, confirmed in writing by all parties to the arbitration, the **Arbitrator** may retain jurisdiction to resolve outstanding issues arising from the matter in dispute.

13.6.2      Remedy for Late Decisions.      Where an **Arbitrator** fails to issue the decision within the time prescribed in Articles 13.3, 13.4 or 13.5 any party to such arbitration may proceed to have a new arbitrator appointed, in the same manner as the original arbitrator was appointed, and upon appointment of the new arbitrator the original arbitrator shall lose jurisdiction and the new arbitrator shall resume the arbitration as the **Arbitrator**.

13.6.3      Valid Decision.      Notwithstanding Article 13.6.2, until a new arbitrator is appointed the jurisdiction of the **Arbitrator** is not affected and if the **Arbitrator** renders the decision prior to the appointment of the new arbitrator, that decision is valid and binding and the process to choose the new arbitrator shall cease.

## 13.7            **GENERAL PROVISIONS**

13.7.1      Applicability. The provisions of Article 13.7 are applicable to

arbitrations under Articles 13.3, 13.4 and 13.5.

13.7.2        Undertaking. Upon appointment every **Arbitrator** shall swear or affirm an undertaking in a Schedule 13.2 form.

13.7.3        Vacancy. Where a vacancy occurs in the office of the **Arbitrator** after the commencement of proceedings, the proceedings need not recommence but may, with the unanimous consent of the parties to that arbitration, continue before a replacement arbitrator. In the absence of such unanimous consent the arbitration must recommence as if it were a new matter before a new arbitrator.

13.7.4        Amendments. Upon notice to all **Parties**, a referral may be amended at any time prior to the conclusion of the arbitration on such terms as the **Arbitrator** considers just.

13.7.5        Public Hearings. If the **Arbitrator** decides to hold a hearing, it shall be open to the public. The **Arbitrator** may hold the hearing or a portion thereof in private if sensitive financial or other like information is to be disclosed and the legitimate interest in avoiding disclosure of that information outweighs the principle that hearings be open to the public. No arbitration arising out of Articles 8 or 2.3.2 shall be open to the public and all documents, information and evidence provided

in connection with such arbitration shall be treated as confidential by the party receiving same.

13.7.6      No Amendment.      Except as otherwise expressly provided, the **Arbitrator** shall not have the authority or jurisdiction to change, alter, or amend this **Agreement** or any term or provision contained therein.

13.7.7      Relief.      The **Arbitrator** may relieve, on just and equitable terms, against breaches of time limits or procedural requirements set out in this **Agreement** provided no prejudice results therefrom.

13.7.8      Disqualification.      No person who has a personal or pecuniary interest in a matter referred to arbitration or is otherwise in a conflict of interest which could affect that person's impartiality with respect to such matter, shall act, or continue to act as **Arbitrator** in relation to that matter.

13.7.9      No Derogation.      The provisions of Article 13 do not apply to actions of the Governor in Council or Lieutenant Governor in Council, Ministers or other servants of Her Majesty in Right of Canada or of Manitoba, where such actions are taken specifically pursuant to federal or provincial statute, but remedies or judicial review available at law shall not be affected. Nothing in Article 13 shall

derogate from specific obligations of **Canada** and **Manitoba** pursuant to this **Agreement**.

13.7.10 Canada. Notwithstanding section 2 of The Arbitration Act, (Manitoba), that Act does not, by its own force, apply to **Canada**, but **Canada** shall recommend to the Parliament of Canada, legislation providing that the legislation of Manitoba relating to arbitration applies in respect of any dispute between the **Parties** which is submitted to arbitration under the terms of the **Agreement**. Unless or until such legislation is enacted an arbitration involving **Canada** will be governed by common law rules.

SCHEDULE 13.1

**REFERRAL TO ARBITRATION**

To: (names of respondents)

Take Notice that the following matter is being referred to arbitration under Article 13 of the 1996 Nelson House NFA Implementation Agreement :

(describe matter in dispute)

Further take notice that the following relief, remedy, redress or order is being sought:

(describe relief, remedy, redress or order sought)

Further take notice that the following person from the list prepared by Chief and Council under Article 13.3.1 of such Agreement has been selected to act as **Arbitrator**:

(name of person selected)

If you have any objection to the person selected you must advise in writing within 14 days of your receipt of this referral to arbitration.

DATED at Nelson House the      of      , 19 .

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SCHEDULE 13.2

UNDERTAKING OF ARBITRATOR

I, \_\_\_\_\_ do swear or affirm that I will well and truly try the matters referred to me as provided for by the 1996 Nelson House NFA Implementation Agreement and the Arbitration Act (Manitoba) in the matter of:

(State particulars of the matter)

and make a true and impartial award, according to the evidence and my skill and knowledge.

DATED this       day of       , 19 .

\_\_\_\_\_

Sworn or Affirmed before

A Commissioner, Notary, etc.

at

this    day of       , 19 ,



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## ARTICLE 14

### 14.0 RECIPROCITY

### 14.1 INTRODUCTION

14.1.1 Introduction. Article 14 sets forth the general releases and indemnities, and the exceptions to both the general and specific releases contained in this **Agreement**.

### 14.2 RELEASES

14.2.1 Release - Canada. **Nelson House** hereby releases and forever discharges **Canada** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which **Nelson House**, or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors or administrators, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever to the extent attributable to **Existing Development** or arising out of, or under, the **NFA**, save and except as set forth in this **Agreement**; and including claims, if any, of a fiduciary nature which may have arisen in respect of **Canada's** obligations to **Nelson House** for anything done or omitted to be done by **Canada**.

to the **Date of this Agreement**.

14.2.2      **Release - Manitoba.**      **Nelson House** hereby releases and forever discharges **Manitoba** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which **Nelson House**, or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors or administrators, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever to the extent attributable to **Existing Development** or arising out of, or under, the **NFA**, save and except as set forth in this **Agreement**; and including claims, if any, of a fiduciary nature which may have arisen in respect of **Manitoba's** obligations to **Nelson House** for anything done or omitted to be done by **Manitoba** to the **Date of this Agreement**.

14.2.3      **Release - Hydro.**      **Nelson House** hereby releases and forever discharges **Hydro** of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which **Nelson House**, or **Nelson House** on behalf of any **Member**, their respective successors, assigns, heirs, executors, or administrators, have had, now have or hereafter can, shall or may have, for, or by reason of, any cause, matter or thing whatsoever to the extent attributable to **Existing Development** or arising out of, or

under, the **NFA**, save and except as set forth in this **Agreement**; and including claims, if any, of a fiduciary nature which may have arisen in respect of **Hydro's** obligations to **Nelson House** for anything done or omitted to be done by **Hydro** to the **Date of this Agreement**.

14.2.4        Satisfaction.        Except as otherwise specifically provided in this **Agreement**, all existing and future rights of action and claims of **Nelson House**, and of **Nelson House** on behalf of each and every past, present and future **Claimant** and their respective estates, and of **Nelson House** on behalf of any other person whose action or claim arises from the participation of **Nelson House** in the **NFA**, in respect of any claims or causes of action relating to or arising out of **Existing Development** or the **NFA**, as against **Canada**, **Manitoba** and **Hydro** are fully and finally satisfied and concluded.

14.2.5        Covenant.        **Nelson House** covenants and agrees not to commence or prosecute any action, claim, demand or proceeding on its own behalf or on behalf of any other person or entity against any or all of **Canada**, **Hydro** or **Manitoba** with respect to any action, cause of action, suit, claim, demand, loss or damage which has been fully and finally concluded or with respect to which **Nelson House** has released or indemnified **Canada**, **Hydro** or **Manitoba**.

### 14.3 INDEMNITIES

14.3.1 Indemnity. Except as set out in Article 14.3.2, **Nelson House** hereby undertakes and agrees to indemnify and save harmless **Manitoba, Canada** and **Hydro** in respect of any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, brought or instituted, directly or indirectly, by any **Claimant** or **Member** by reason of any cause, matter or thing whatsoever attributable to **Existing Development** or arising out of, or under, the **NFA**. This indemnity does not cover the costs of the indemnified **Party** in resisting such claim and is conditional upon the indemnified **Party**:

- (a) forthwith, upon becoming aware of such claim, giving notice to **Nelson House**; and
- (b) supporting any application by **Nelson House** to be named as a party thereto.

14.3.2 Exceptions. Nothing in this **Agreement** shall require **Nelson House** to indemnify **Canada, Manitoba** or **Hydro** for:

- (a) an amount, in aggregate, greater than the face value of the portion of the **Settlement Proceeds** paid by the **Party** demanding indemnity;
- (b) matters for which **Hydro** remains liable under Article 14.4.1;
- (c) obligations related to Article 6 of the **NFA** as referred to in Article

14.5.2;

- (d) breaches of this **Agreement** or future wrongful acts or omissions;
- (e) an **SIL Claim**;
- (f) that portion of any settlement made in respect of claims referred to in Article 14.3.1, without the consent of **Nelson House**, which is unreasonable or excessive in the circumstances of the case; or
- (g) claims or actions settled by the **Party** seeking indemnity prior to the **Date of this Agreement**.

#### **14.4 CONTINUING LIABILITY OF HYDRO**

14.4.1 Liability. It is understood and agreed that **Nelson House** does not waive, release, or indemnify **Hydro** with respect to the following:

- (a) liability and claims for personal injury and death, past and future, caused by or attributable to the **Project**;
- (b) liability and claims for **Adverse Effects** of the **Project**, as further defined by Article 14.4.2, that were, at the **Date of this Agreement**, unknown or unforeseen and not discernible or foreseeable with the exercise of due diligence;
- (c) liability and claims for human disabilities, illness or death resulting from the ingestion of methyl mercury caused by or attributable to the

**Project; or**

- (d) liability and claims for the recovery and re-interment of human remains disinterred by flooding or shoreline deterioration caused by or attributable to the **Project**.

14.4.2      Limitation.      The **Adverse Effects** referred to in Article 14.4.1(b) are further limited to chemical, biological and physical impacts causing material damage to the adversely affected person, and attributable to the **Project**. Alleged socio-economic damages to the adversely affected person, if any, are understood to be compensable only to the extent that they are caused by or attributable to such chemical, biological and physical impacts.

14.4.3      Notice.      **Nelson House** shall give prompt notice of any occurrence which is alleged to have caused an **Adverse Effect** as referred to in Article 14.4.1(b), together with all particulars and evidence in support of such occurrence and of any damages which are alleged to have resulted therefrom.

14.4.4      Disputes.      If there is a dispute as to whether **Hydro** continues to be liable under Article 14.4.1, with respect to any particular occurrence, that dispute shall be resolved as a preliminary issue under Articles 13.4 or 13.5.

14.4.5 **SIL Claims Not Settled.** This **Agreement** does not settle or conclude **SIL Claims**, if any, against any of **Canada, Manitoba or Hydro**.

14.4.6 **Indemnity.** If **Nelson House** becomes liable to pay compensation in respect of an **SIL Claim** for loss or damage for which, in the absence of this **Agreement, Manitoba or Hydro** would be liable, **Manitoba or Hydro**, as the case may be, shall indemnify **Nelson House** with respect to such compensation. This indemnity is conditional upon **Nelson House**:

- (a) forthwith, upon becoming aware of a claim for such compensation, giving notice to **Manitoba or Hydro** as the case may be;
- (b) actively and diligently resisting any such claim for compensation; and
- (c) supporting any application by **Manitoba or Hydro**, as the case may be to be named as a party thereto.

## 14.5 **ADDITIONAL PROVISIONS**

14.5.1 **Inter Party Release.** Except as otherwise provided in this **Agreement**, each of **Canada, Manitoba and Hydro** hereby releases and forever discharges each other, of and from any and all actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever, at law or in equity, which any one or more of **Canada, Manitoba or Hydro** have had, now have



or hereafter can, shall or may have against one or more of the other, for, or by reason of, any cause, matter or thing whatsoever, up to the **Date of this Agreement**, or at any future time, attributable to **Existing Development** or arising out of, or under, the **NFA** to the extent such actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever relate to **Nelson House**. This release does not apply to actions, causes of action, suits, claims, demands, losses or damages of any nature or kind whatsoever arising from **SIL Claims**.

14.5.2      **Agreement Not to Affect NFA Article 6.**      Nothing in this **Agreement** shall settle or amend, or be deemed to settle or amend, any claim or obligation arising under Article 6 of the **NFA** or the agreement dated May 10, 1988 to which **Canada, Nelson House, the NFC, the Northern Flood Capital Reconstruction Committee Inc.** and others are parties.

14.5.3      **Future Acts or Omissions.**      Nothing in this **Agreement** shall relieve any **Party** of liability for breaches of this **Agreement**, future breaches of fiduciary obligations, future negligent or unlawful acts or omissions, or future wilful misconduct, on their own part, or on the part of those for whom they are responsible at law.

14.5.4      Liability for Acts or Omissions of Other Parties.      Except where otherwise provided, no **Party** shall be liable or responsible for things done, or omitted to be done, by any other **Party**.

14.5.5      Prior Settlements.      This **Agreement** subsumes all compensation agreements including those which are the subject of orders of the **NFA** arbitrator and all orders of the **NFA** arbitrator for payment, to the extent such agreements and orders pertain to **Nelson House** and relate to **Existing Development** or arise out of, or under, the **NFA** except the Domestic Fishing Agreement between **Hydro** and **Nelson House** which will be in effect until September 30, 1995 and any agreement related to Article 6 of the **NFA**. Subject to those exceptions, this **Agreement** releases and discharges any action, cause of action or claim arising under any such agreement or order. Nothing in this **Agreement** shall affect any agreement between **Canada** and **Nelson House** for the provision of financial resources.

14.5.6      Order.      The **Parties** agree that within one hundred and eighty (180) days following the **Date of this Agreement**, application will be made jointly by all of the **Parties** to the arbitrator under the **NFA** for a final order dismissing all outstanding claims except those specifically excluded by this **Agreement** and including, without limitation, those claims detailed in Schedule 14.1 to this **Agreement**, as those claims relate to **Nelson House**. The **Parties** will apply for,

consent to and take all necessary steps to obtain an order which will render the matters involved in such claims res judicata among the **Parties**. No **Party** shall thereafter have standing to bring a claim to which such order applies.

14.5.7 Other Agreements. Nothing in this **Agreement** shall release or discharge any action, cause of action or claim arising from any agreement matter or thing unrelated to **Existing Development** and not arising out of, or under, the **NFA**.

SCHEDULE 14.1

NELSON HOUSE

LIST OF NFA CLAIMS TO BE RELEASED

Claim No.                      Issues

12	Compensation for mercury contamination except to the extent such claim relates to the liability of <b>Hydro</b> for human disabilities, illness or death resulting from the ingestion of methyl mercury caused by or attributable to the <b>Project</b>
14	Footprint River causeway - obstructions to navigation
17	Notigi Dam construction - obstructions to navigation
18	Failure to submit reports to LWC & NR study Board, and to analyze ongoing socio-economic changes
19	Fund for maintenance and replacement of remedial and permanent works on the reserves

20	Providing reports on effects of Project on residents' lifestyle
23	Article 3 provisions for determination of severance lines
27	Training residents to become conservation officers
28	NFC administrative funding
33	Trapline Program, adverse effects on traplines and recreation
34	Opportunities for education and employment in the Project
36	Adverse effects on traplines and recreation, deterioration of traditional way-of-life
38	Community Development Plans
38B	Community Development Plans (revised Claim 38)
41	Community Liaison Committee, discussion of future development plans and their effects

43	Article 3 - land transfer, hold areas, exclusive use permits
93	Wildlife Advisory Planning Board - expenses, resources, and information
94	Recreational use of waterways
98	LWC and NR Management Board - comprehensive management plan
99	Damage to native cultural heritage
102	Loss of use of buildings at R.C. Point
103	Adverse effects on fishery
105	Adverse effects on shorelines, docks, roads, houses, structures and infrastructure; education and training; remedial works and community development
107	Purchase of land at R.C. Point

108	Geodetic datum
110	Compensation for adverse effects on fishing
113	Plans for Rat, Burntwood, Lower Churchill and Nelson Rivers, Burntwood River power plants
114	Maps for effected lands, static inundation levels
116	Coordination of programs and activities; training opportunities; comprehensive development plans; Study Board recommendations; trapline program review; fisheries negotiations
126	Clearing inundated trees; effects on shorelines
129	Requirements for decision-making and problem-solving, lack of technical assistance
130	Loss of land use and value; shoreline deterioration

131	Maps, loss of personal property; costs of alternative travel; clearing debris impeding navigation; debris-control programs; life insurance policy
132	Resource areas; destruction of wildlife; Cross Lake outlet control structure; Article 17 Study Board recommendation
133	Failure to fulfill NFA obligations
133A	Anxiety and stress re NFA benefits
135	Implementing Article 3 & 4
136	Community development assistance and plans
137	Steps necessary to implement all provisions of the NFA
139	Capitalizing funding for remedial works maintenance and depreciation
140	Houses demolished below the setback line



144	Breach of certain NFA provisions
146	Housing upgrading program
150	Costs for technical, consulting and legal services
165	Costs of technical, consulting and legal services

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## ARTICLE 15

### 15.0 GENERAL PROVISIONS

#### 15.1 INTRODUCTION

15.1.1 Introduction. Article 15 contains provisions of a general nature relating to this Agreement.

#### 15.2 INTERPRETATION

15.2.1 Headings. The Article and section headings, and the introductory provision in each Article of this Agreement are for reference and information purposes only, and shall not affect in any way the meaning or interpretation of this Agreement.

15.2.2 Numbers. Plural. Words importing the singular number only shall include the plural, and vice versa, as the context may require; and words importing persons shall include firms, governments and corporations, and vice versa, as the context may require.

15.2.3 Metric Measure. Subject to any legislative requirement, in the

event of a conflict between metric and Imperial measure, metric measure shall prevail, except, where the original document, data or measuring device was in Imperial, the Imperial measure shall prevail. The **Parties** agree that the metric conversion rate to be used for purposes of this **Agreement** shall be 1 foot equals 0.3048 meters and 1 meter equals 3.28084 feet .

15.2.4      Interpretation Aids.      In any interpretation of this **Agreement**, only the **Agreement** itself shall be considered and no other documents, notes, memoranda, electronic record, et cetera shall be referred to or considered as evidence of the agreement among the Parties.

### 15.3            **PRESUMPTIONS**

15.3.1      No Presumptions.      The **Parties** have endeavoured to ensure that the terms of this **Agreement** are as clear as possible and in interpreting this **Agreement** and except where expressly provided there shall be no presumption in favour of or against any **Party**.

#### 15.4 VALIDITY OF PROVISIONS

15.4.1 Powers and Prerogatives. Nothing in this **Agreement** shall be deemed to bind or infringe upon the powers and prerogatives of the Parliament of Canada or the Legislative Assembly of Manitoba or any legislative powers of **Chief and Council**.

15.4.2 Statutory Requirements. Nothing in this **Agreement** shall require any **Party** to take any actions not otherwise provided for in this **Agreement**, or required by statute or regulation, or exempt any **Party** from, or be deemed to modify, any requirement arising under statute or regulation.

15.4.3 No Contingency. No portion of the **Settlement Proceeds** shall be used to pay a contingency fee or bonus to any member of **Chief and Council**, or to any advisor or legal counsel acting on behalf of **Nelson House** in relation to, or as payment for, work done in negotiating, finalizing or documenting this **Agreement**.

## 15.5 PARTIES

15.5.1 Binding on Parties. This **Agreement** shall be binding upon and enure to the benefit of the **Parties** and their respective successors and permitted assigns. Except for **Members** in their capacity as beneficiaries of the **Trust**, nothing in this **Agreement** is intended to confer upon any person not a **Party** to this **Agreement** nor a party to the **Indenture** any rights or remedies under or by reason of this **Agreement** or the **Indenture**.

15.5.2 Not to Share. No member of the House of Commons of Canada or the Legislative Assembly of Manitoba, and no employee or servant of **Canada** or **Manitoba** may share in any part of this **Agreement**, or of any contract or agreement made pursuant to this **Agreement**, or to any benefit to arise from this **Agreement**, except, as permitted by law, where such employee or servant is a **Member** and then only to the extent of a benefit which is available to **Members**, or a group of **Members**, generally.

## 15.6 NOTICE

15.6.1 Notices. All notices and other communications provided for in this

**Agreement** shall be in writing, and shall be given by personal delivery or sent by registered mail or tele-facsimile, charges pre-paid and confirmed by telephone, to the applicable addresses set out in Article 15.6.1, or to addresses or telefacsimile numbers which a **Party** may from time to time designate to the other **Parties**. Any such communication shall be deemed to have been validly and effectively given on the date of such delivery, if such date is a business day and such delivery has been made during the normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the business day next following such date of delivery. The addresses for the **Parties** are:

**To Canada:**

The Regional Director General  
The Department of Indian Affairs Northern Development  
Suite 1100, 275 Portage Avenue  
Winnipeg, Manitoba  
R3B 3A3

**To Nelson House:**

Chief and Council  
Nelson House First Nation  
General Delivery  
Nelson House, Manitoba  
R0B 1A0



**To Hydro:**

Manitoba Hydro  
General Counsel  
3rd Floor, 820 Taylor Ave.  
Winnipeg, Manitoba  
R3C 2P4

**To Manitoba:**

Deputy Minister of Northern Affairs  
Legislative Bldg.  
Winnipeg, Manitoba  
R3C 0V8

**15.7 ENTIRE AGREEMENT**

**15.7.1 Agreement Supersedes.** This Agreement constitutes the entire agreement between the Parties and, except for the Domestic Fishing Agreement between Hydro and Nelson House which will run until September 30, 1995 and any prior agreements or arrangements between Hydro and Manitoba that do not affect the rights of any other Party under this Agreement, supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties in relation to the matters dealt with herein. There are no representations, warranties, collateral agreements or conditions to this Agreement except as expressly stated in this Agreement.

15.7.2      No Merger.      Except as expressly provided in this **Agreement**, or in any other agreement between the **Parties**, no provisions of any other agreement shall merge with this **Agreement**.

15.7.3      Assignment.      Except as expressly provided in this **Agreement**, neither this **Agreement** nor any portion or provision of this **Agreement**, may be assigned without prior written permission of all of the **Parties**.

15.7.4      Further Action.      Each of the **Parties** to this **Agreement** will, from time to time, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as required, to more effectively complete any matter provided for in this **Agreement**.

## 15.8      **GOVERNING LAW**

15.8.1      Laws in Manitoba.      This **Agreement** shall be governed by, and construed in accordance with, the federal and provincial laws from time to time in force in the Province of Manitoba.

15.8.2      Citations.      Any reference to legislation shall include amendments

thereto or successor legislation, except where the statute or regulation is identified in this **Agreement** as that in force at the **Date of this Agreement**.

15.8.3      **Enforceable by Parties.**      This **Agreement** may only be enforced by a **Party**, however, **Members** shall have the right of enforcement established by the **Indenture**. No claim under this **Agreement** or the **Indenture** may be brought against **Canada, Manitoba or Hydro** except by a **Party**.

15.8.4      **Licences.**      Nothing in this **Agreement** is intended to detract from, or relieve any **Party** from, obligations incurred pursuant to any legislation, approvals, licences or authorities under which such **Party** operates. Each **Party** expressly reserves the right to raise any issue relating to such licences or authorities.

15.8.5      **Federal Licences.**      Nothing in this **Agreement** is intended to qualify or amend approvals, licences or permits of any kind, granted by **Canada** pursuant to any statute other than the **Indian Act** (Canada).

**15.9 NO ADMISSION, PRECEDENT OR PREJUDICE**

**15.9.1 No Precedent.** Neither this **Agreement** nor any provision of this **Agreement**, shall constitute a precedent for interpreting the rights and obligations, or identifying the intention of any **Party** in relation to any matter involving any person who is not a party to this **Agreement** or a beneficiary under the **Indenture** or an agent of **Chief and Council** or a person claiming through, under or by **Nelson House**.

**15.9.2 No Admission.** Nothing in this **Agreement** shall constitute an admission of liability on the part of any **Party**.

**15.9.3 Without Prejudice.** This **Agreement** is without prejudice to the position of any **Party** with respect to the provisions of the **NFA**, as those provisions may apply to any person who is not a party to this **Agreement**.

**15.10 WARRANTY**

**15.10.1 Independent Advice.** In addition to the representations and warranties contained in the Community Consultation Report attached as Schedule

15. 1 to this **Agreement**, **Nelson House** warrants that, throughout the negotiations leading to this **Agreement**:

- (a) it has been independently advised by legal counsel, technical advisors and consultants of its choice with respect to all matters arising in connection with or dealt with in this **Agreement**;
- (b) this **Agreement** has been jointly drafted, considered and revised by representatives of all of the **Parties**, and duly authorized **Nelson House** representatives have participated fully in the preparation of this **Agreement**; and
- (c) as set forth in the Community Consultation Report outlined as Schedule 15.1, it has caused the nature and significance of all major aspects of this **Agreement** to be explained at community meetings, which were open to all **Members**, in order that all **Members** could have the opportunity to discuss all relevant matters under negotiation and thereafter make an informed decision at ratification.

15.10.2 **Acknowledgment.** The **Parties** acknowledge that there has been extensive information gathered and exchanged between the **Parties**, regarding the impacts of the **Project** and the implementation of the provisions of the **NFA**. This has included information gathered or commissioned by each of the

**Parties**; information jointly obtained by two (2) or more **Parties**; information obtained by or on behalf of **Nelson House** but funded by another **Party**; and information obtained by **Nelson House** for its own purposes in the conduct of these negotiations. The **Parties** acknowledge that additional information could have been gathered; but that the gathering of additional information should not further delay the implementation of the **NFA** and other measures provided for in this **Agreement**; and each of the **Parties**, based on the information available to them, has independently determined that it is sufficiently informed to conclude this **Agreement**.

15.10.3      **Disclosure - Canada.**      Based upon information received from inquiries made in or about April, 1995 to the Assistant Deputy Ministers of the departments of the government of **Canada** listed in Schedule 15.2, **Canada** warrants that none of the said departments of the government of **Canada** have made a decision to withhold information or documentation from **Nelson House**, which information or documentation a department could reasonably have known was material to the implementation of the **NFA** for the benefit of **Nelson House**, except such information or documentation as would not be accessible under the **Access to Information Act (Canada)**.

15.10.4      Disclosure - Manitoba.      Based upon information received from inquiries made in or about March, 1995 to the Assistant Deputy Ministers of the departments of the government of **Manitoba** listed in Schedule 15.3 **Manitoba** warrants that none of the said departments of the government of **Manitoba** have made a decision to withhold information or documentation from **Nelson House**, which information or documentation a department could reasonably have known was material to the implementation of the **NFA** for the benefit of **Nelson House**, except such information or documentation as would not be accessible under The Freedom of Information Act (Manitoba).

15.10.5      Disclosure - Hydro.      **Hydro** warrants that it has not, at any time made a decision to withhold information or documentation from **Nelson House**, which information or documentation **Hydro** could reasonably have known was material to the implementation of the **NFA** for the benefit of **Nelson House**, except such information or documentation as would not be accessible under The Freedom of Information Act (Manitoba).

15.10.6      Disclosure - Nelson House.      **Nelson House** warrants that it has not, at any time, made a decision to withhold information or documentation from **Canada, Manitoba or Hydro**, which information or documentation **Nelson House**

could reasonably have known would have been material to the decision of the other **Parties** in entering into this **Agreement**, except such information or documentation as is, or was, of a privileged or confidential character, or is, or was, prepared for the purposes of presenting recommendations to **Chief and Council**.

#### **15.11 INDEPENDENT LEGAL ADVICE**

15.11.1 Independent Legal Advice. This **Agreement** shall be accompanied by an executed certificate of independent legal advice in the form and content of Schedule 15.4.

#### **15.12 APPROPRIATION**

15.12.1 Appropriation. The amounts payable by **Canada** and **Manitoba** pursuant to this **Agreement** are subject to appropriation by the Parliament of Canada and the Legislative Assembly of the Province of Manitoba, respectively.

#### **15.13 SUNDRY**

15.13.1 Amendment. This **Agreement** may be amended:



- (a) by the **Parties** acting unanimously;
- (b) where expressly provided, by two (2) or more of the **Parties**;  
or
- (c) with respect to Schedule 2.2, by the **Arbitrator**.

15.13.2 Acknowledgment. **Nelson House** acknowledges that except as specifically provided in this **Agreement**, none of **Manitoba**, **Hydro** or **Canada** shall be responsible for the effectiveness of the implementation arrangements in this **Agreement**, and **Nelson House** acknowledges that there is no representation or warranty, either express or implied, by any of **Manitoba**, **Hydro**, or **Canada**, that the arrangements in this **Agreement** will result in the attainment of the goals of **Nelson House**.

15.13.3 Treaty Rights. Nothing in this **Agreement** is intended to alter aboriginal or treaty rights of **Nelson House** or other aboriginal peoples recognized and affirmed under section 35 of the Constitution Act, 1982. The **Parties** are, pursuant to the terms of this **Agreement**, implementing the **NFA** by compensating and making provision for future compensation:

- (a) in cash or kind; and
- (b) through the implementation of compensatory and mitigatory

arrangements to address **Adverse Effects** on **Nelson House**, any **Member**, or group of **Members**, their respective property, resources, assets and exercise of their rights.

15.13.4 Rights of Other First Nations Not Affected. Nothing in this **Agreement** affects any rights or obligations of any First Nation other than **Nelson House**.

15.13.5 Warranty. **Nelson House** warrants that from at least June 30, 1992, up to and including the **Date of this Agreement**, the **NFC** has not been, for any purpose, the agent or representative of **Nelson House** in relation to the **NFA**, or any claim thereunder, except for Claims 38, 38B, 159, and 165, and that such agency in relation to those claims shall not affect the validity of the releases given by **Nelson House** in this **Agreement** with respect to those claims.

15.13.6 Assumption of Liability. If **Hydro** ceases:

- (a) to be an agent of Her Majesty the Queen in Right of Manitoba;
- (b) to have legal authority and control over the operation of the **Project**;
- or
- (c) to have legal authority and control over the operation of any major

work or structure constituting part of the **Project**, the operation of which could affect inundation or storage of water on a waterbody within the **Resource Management Area**;

then **Manitoba** shall:

- (d) in the circumstances to which paragraph 15.13.6(a) or paragraph 15.13.6(b) of this Article applies, assume all of the rights and obligations of **Hydro** under this **Agreement**; and
- (e) in the circumstances to which paragraph 15.13.6(c) of this Article applies, assume the rights and obligations of **Hydro** under this **Agreement**, as such rights and obligations relate to the works or structures over which **Hydro** no longer has effective authority and control.

In all such events, the provisions of this **Agreement** shall be read with the necessary changes to reflect the assumption by **Manitoba** of rights and obligations of **Hydro** under this **Agreement**, but such assumption shall not relieve **Hydro**, or any successor of **Hydro**, of its obligations under this **Agreement**.

15.13.7 Dispute. If **Manitoba** disputes that it has assumed the rights and obligations of **Hydro** under Article 15.13.6, that dispute may only be referred to arbitration or to court by a **Party**.

15.13.8      Limitation.      Unless Manitoba has assumed the rights and obligations of **Hydro** under Article 15.13.6, no arbitration or court proceeding shall be brought against **Manitoba** under Articles 15.13.6 for any alleged misfeasance, malfeasance or non-feasance of **Hydro**, except by a **Party**.

15.13.9      Reasonable Efforts.      In the circumstances to which Article 15.13.6 applies, **Nelson House** shall make reasonable efforts (but shall not be obliged to incur excessive or unusual costs) to have any dispute or matter resolved by **Hydro**, or its successor before having recourse to **Manitoba**, in accordance with the obligations which **Manitoba** will have assumed under this **Easement Agreement**.

15.13.10     Four Party Meeting.      Any **Party** may, at any time, convene a meeting of the **Parties** for purposes relating to the **Agreement** by providing not less than thirty (30) days written notice setting forth the purpose, date, time, and place in Winnipeg or any other agreed place in Manitoba, for such meeting.

15.13.11     Indexing.      Except for amounts set out in the **Financial Schedule**, where any amount of money is specified in dollars in this **Agreement** it will where appropriate in the context be read as if it had been adjusted over time from the **Date**

**of the Agreement based upon the Consumer Price Index.**

## COMMUNITY CONSULTATION REPORT

### INTRODUCTION

The Nelson House First Nation, along with the other N.F.C. Bands, except for the Split Lake Cree, decided to suspend global negotiations in late August, 1990. From 1990 up to the winter of 1992, the Nelson House First Nation was able to successfully negotiate several resource agreements. However, when work began on Claim 99, the Cultural Claim, it was apparent that there was a wide divergence of opinion between Manitoba Hydro, Manitoba and Nelson House on the value of that claim. Consequently, in the fall of 1992, the Nelson House leadership decided to pursue comprehensive negotiations to implement the Northern Flood Agreement.

On October 6, 1992, Nelson House, along with Manitoba and Hydro, entered into a Memorandum of Understanding, which was endorsed by Canada by way of a letter. This Memorandum of Understanding formally began the comprehensive negotiations process to implement the Northern Flood Agreement.

It was followed by an Agreement in Principle on December 9, 1992, and an Advance Agreement on March 2, 1993. Further Advance Agreements were also entered into in the summer of 1994 and the winter of 1995.

Chief and Council wanted Members to be actively involved in the process. The comprehensive negotiations process started out with active community involvement on specific issues. However, when difficulties arose as the negotiations became bogged down for many months over Water Regime, it was difficult to maintain community interest and input. In addition, the deaths of two Members from Nelson House in the late summer of 1993 and the start of other negotiations involving N.F.C. Bands caused some Members, including those on Council to re-evaluate the approach to the comprehensive negotiations that was being pursued at that time.

The negotiations dragged on until the end of 1993 when a breakthrough in Water Regime allowed Chief and Council to start refocusing on the rest of the Agreement. Eventually, in the spring of 1994, an early election was called and negotiations resumed in the fall.

### COMMUNITY CONSULTATION PROCESS

Initially, commencing in 1993, a series of community workshops were held at Nelson House. These workshops were facilitated by Chief and Council and the negotiating team and were open to the general membership. The purpose of the workshops was to discuss issues such as compensation land and the proposed financial settlement and to obtain the views of the Members on these important matters. Notices of the meetings were posted locally around the community as well as on public T.V. As time went on, it became apparent that attendance at these meetings was not always

representative of the membership. Therefore, efforts were made to use additional means of reaching the Members and providing information about the negotiations.

Community consultants were first hired in the spring of 1994. Four Members of Nelson House were chosen by Chief and Council to assist with communicating directly with the Members. They fulfilled this role by taking written explanatory material door to door, attending meetings and communicating directly with Members by telephone or through home visits. The number of community consultants was later increased to six Members, but their role throughout the negotiation process was one of facilitating the exchange of information, initiating discussion among the Members and raising the level of awareness about the proposed settlement.

In addition to community meetings and personal communication, various written publications were generated throughout the negotiation process. Members' viewpoints were also solicited and information given through other media forms, such as by creating videos and conducting broadcasts on local media stations.

## **COMMUNITY WORKSHOPS**

The community workshop process was used to convey information about the negotiations and proposed Agreement, and to obtain input into the needs and priorities of the Nelson House Members, although the turnout at many of the meetings was low.

### **WORKSHOP January 26, 1993, Nelson House**

Approximately 100 band Members were in attendance. A question and answer session was conducted to discuss the Agreement in Principle. Simultaneous Cree translation was provided throughout the meeting. Members in attendance were presented with a summary of the Agreement in Principle. Particular questions were raised about the use of the \$3.9 million advance funding. A door to door survey was then conducted, the results tabulated and a budget developed to spend the funds, this budget being eventually incorporated into the Advance Agreement.

### **WORKSHOP March 18, 1993, Nelson House**

Another workshop was held to discuss the AIP and the Advance Agreement. A number of needs were identified in the community, such as the severe housing shortage and road improvements. The survey results were discussed and the budget allocations identified. The role of the Nelson House Development Corporation in handling the advance funds was also discussed, including the regular reporting which the Corporation would do to the Nelson House Members.

Chief and Council indicated they were still working toward the final settlement. Between 1994 and 2013, it was anticipated that the proposed settlement would inject \$4.5 million into the Nelson House

economy each year. It was indicated there would be meetings to decide how the money would be spent and the membership would have to work together to establish priorities and annual budgets. It was out of these meetings and the survey that the Community Approval Process concept in the Trust was developed.

**WORKSHOP May 13, 1993, Nelson House**

Land was an important item of discussion at the May workshop and the Province's Negotiator Paul Jarvis attended the meeting to provide information about land selections. Those in attendance were advised that Members would be involved in making the land selections.

The proposed financial settlement was reviewed as well as the spending allocations identified for the advance funds. The floor was open to Band Members for comments, suggestions and questions.

Suggestions were made as to how to spend the Advance funds. The recommendation was made that Chief and Council visit each household for options and then the majority of the community could decide how the money should be spent. A survey of these needs was undertaken in the community.

**WORKSHOP May 14, 1993, Nelson House**

Approximately 140 Band Members were in attendance, as well as Valerie Matthews Lemieux (lawyer) and Brian Threadkell (consultant).

This community meeting followed a video presentation and comprehensive discussion about land exchange under the proposed Agreement. Those in attendance broke into four groups to review maps and determine if Members were satisfied with the land selections under consideration. Lou Moodie reviewed the areas under consideration to date which included Leftrook, Baldock, Mile 35, the Junction area, an area around the reserve and Thompson.

A majority of those present recommended that a door to door survey be conducted on appropriate land selections. In addition, Members' names were put forward to sit on a Land Selection Committee. Following the meeting, a survey was conducted and Community Members participated in a visit to the various proposed sites. Following these activities, which occurred into the fall of 1993, the land was eventually selected.

The status of the negotiations was also reviewed and questions were invited about the financial settlement, the basis for the financial compensation proposed, a comparison with the PBS and how the money should be spent.



## **TRAINING COMMUNITY CONSULTANTS**

Following these meetings the Chief and Council at the time decided not to have further workshops but to keep the community up-to-date about negotiations at regular Band meetings held in the community.

At this point, negotiations over water regime were extremely difficult and when two Members drowned near Wuskwatim in the late summer of 1993, negotiations virtually ground to a halt for a number of months. Given the climate in the Community at the time and Members' views about Hydro Projects no further workshops were held.

By the winter of 1994, the former Council was concerned about how to convey the information in the draft Agreement to the people as it was difficult to get people out to meetings on the NFA. In addition, the Community had not yet begun to heal from the drownings the previous fall. On the other hand it was recognized information had to be provided to the Community. It was decided to hire four community consultants to work with Chief and Council and the advisors. Legal counsel was requested to prepare a detailed comparison of the NFA and the proposed Agreement and to review it and the NFA with the expanded group on the premise that after a month or so, the Community Consultants could go into the community and hold further individual and group discussions.

Two elders, the Youth Chief, and a Member extremely knowledgeable about the history of the NFA, global and Split Lake negotiations, were picked as Community Consultants. April and early May were spent getting this group ready to go into the community, as well as, at the same time, dealing with growing concerns by some Members on Council that other NFA communities were pursuing alternate approaches that would be better for Nelson House. Before this plan could be put fully into effect in the community, several further negotiating meetings were held and an early election was called. However, the following series of meetings were held, commencing April 19th, 1994 at Nelson House. These meetings were attended by members of Chief and Council, the Negotiating Team, and the community consultants who, in between meetings, were working directly with Nelson House Members to inform them of the issues and to inform the negotiating team of the needs articulated by the general membership.

April 19 and 20, 1994

Written material summarizing the status of the negotiations, was provided by Legal counsel and the negotiating team. A careful comparison of the NFA and the proposed Agreement was undertaken so that group in attendance could determine how the NFA was to be implemented.

The following issues were considered to be very important: future development, such as Wuskwatim, employment and business opportunities, environmental monitoring, water regime, constitutional and treaty protection and the community consultation process.

April 27 and 28, 1994

The budgets used to establish the need for \$4.5 million of available funds annually under the financial settlement were reviewed as concerns were being raised in the community about the adequacy of the final settlement and proposed alternate approaches being pursued by other First Nations which were not to contain final releases of NFA obligations. Other issues raised included land exchange, land and water rights on the new compensation land, self-government, the dismantling of Indian Affairs and normal programming, the impact of the project on causeways and access roads, resource management, release and indemnities and trust related issues.

May 3, 4, 5, 1994

This meeting continued to review the implementation of the NFA by the proposed Agreement. The Easement Agreement was carefully considered during these meetings, as well as a number of land and resource management issues. The indemnities and exceptions to the releases and indemnities, including Article 6 of the NFA were also reviewed.

May 9, 10, 11, 1994

The first part of these meetings again focused on future development which is a particularly sensitive issue for Nelson House. The link between future development and water regime was explored with re-emphasis on the safety concerns of the community. The forecasting requirements under the Agreement were also reviewed in this context. The relationship of Treaty 5 Rights to resource management issues was also reviewed, and the importance of the inclusion of the Treaty and Aboriginal Rights clause in the Agreement was reconfirmed. Issues arising from NFA Article 12 were carefully considered to ensure the proposed Agreement addressed these matters. The severance lines and the Notigi Service Centre were also considered. At these meetings, Brian Schwartz also reviewed constitutional issues of concern in relation to the NFA. Ongoing concerns about the right to provide releases were also discussed.

May 25 and 26, 1994

Throughout these meetings, concerns were raised about the Nelson House approach versus the approach being pursued by other NFA First Nations. In addition, the problems of continuing negotiations in light of pending elections were also considered. It was determined that as the Community Consultants were feeling quite comfortable with the material, they should be out working in the Community to explain the Agreement at the same time that Negotiations were proceeding. A lot of time was spent during these meetings discussing the Trust, the Community Approval Process and O & M.

May 30 and 31, 1994

Review continued without advisors in attendance.

#### **ELECTION June, 1994, Nelson House**

An election of Chief and Council was called early in June, 1994. It had become apparent to some Members of the Nelson House Council that different approaches concerning the N.F.A. negotiations were being pursued in other communities. There was concern that those responsible for negotiating the Nelson House NFA Implementation Agreement should feel confident that they were representing the wishes of the community at the negotiating table. An election was called to have an open forum to discuss the issue and to determine the wishes of the membership.

#### **SUMMER 1994**

Several meetings were conducted over the summer to review the status of the negotiations and to bring the new Chief and Council up to date so that they could decide whether to proceed with the negotiations. By early September, 1994, Chief and Council decided to continue with the negotiations, the community consultants were re-hired and local negotiators were appointed to replace some outside advisors, to facilitate the negotiation process and to provide effective communications between Nelson House Members, the negotiating team and remaining advisors. Six community consultants were hired, (including three of the previous ones) to consult with Community Members. The process of going door to door in the community generated discussion and questions, and facilitated an information exchange between the community, the negotiators and advisors.

#### **WORKSHOP October 4, 1994, Nelson House**

A summary of the Implementation Agreement and the outstanding negotiation issues was hand delivered from house to house throughout Nelson House by the Community Consultants on October 3rd. Following this, a workshop was held to review the summary. Approximately 40 Members attended the workshop. The participants broke into four groups led by Members of the negotiating team and community consultants. Valerie Matthews-Lemieux (lawyer) was present to answer questions for each group. The proposed future development process was carefully reviewed and direction to proceed was given by those in attendance.

#### **WORKSHOP October 5, 1994, Nelson House**

Approximately 65 people were in attendance to discuss particular issues related to future development, the financial settlement and the trust agreement. Again there were many questions and issues discussed.

#### **WORKSHOP November 9, 1995, Nelson House**

This community meeting was cancelled as only 5 people attended.

**WORKSHOP November 30, 1994, Nelson House**

Approximately 100 Nelson House Members were in attendance. As before, the meeting broke into smaller groups to review the proposed Agreement in its entirety. Each of the groups was facilitated by one of the community consultants or a Member of Council. The Summary handed out in October and newsletters on Individual Claims and Treaty and Aboriginal Rights formed the basis for discussion. Advisors were not present at this meeting.

**WORKSHOP March 2, 1995, Nelson House**

Approximately 25 people attended this meeting. The Negotiating Team led the discussion by reviewing the Overview, the newsletter on Water Regime and comparability of the proposed Nelson House Water Regime with those of other First Nations. Again, many people were interested in how the settlement proceeds would be spent, who would decide and the accountability requirements. Concerns were expressed about the amount of the financial package. It was explained that land and other economic options in Thompson were being pursued.

**WORKSHOP March 9, 1995, Winnipeg**

Approximately 70 people were in attendance. The N.F.A. and an Overview of the proposed Agreement were handed out. After providing the background to the negotiations and reviewing the Overview in detail, questions and answers followed. In particular, the Members in Winnipeg were interested in employment and training opportunities, the community approval process, joint responsibility for resource management, ratification of the Agreement, normal programming and the rights of off-reserve Members to receive benefits under the Agreement, such as individual payments. It was explained that all members whether they live on or off-reserve can make a claim for Adverse Effects under the proposed Agreements except for Members living at South Indian Lake on the date the Agreement is signed or where off Reserve Members suffered adverse effects in the South Indian Lake Trapline Zone. Both advisors attended this meeting.

**WORKSHOP March 10, 1995, Brandon**

Translation was provided for several elders in attendance. Approximately 23 Nelson House Members were present to hear about the negotiations and the proposed Agreement and to ask questions. The Overview was reviewed by Members of the Negotiating Team, followed by a number of questions. One advisor was in attendance.

**WORKSHOP March 13, 1995, South Indian Lake**

Approximately 105 Members were in attendance. Most of the meeting was conducted in Cree. A great deal of concern was expressed about the social assistance issue and whether Canada would continue to be responsible for paying for it, and also about achieving reserve status for those Members residing at South Indian Lake. A discussion took place regarding the rights of off-reserve Members to services, protection of treaty rights and in connection with ratification. The relationship between South Indian Lake's Agreement and the proposed Nelson House Agreement was also discussed. The Overview was reviewed in the remaining time, but was not completed. Both advisors were in attendance.

**WORKSHOP March 13, 1995 Thompson**

Fourteen people were in attendance. Members of the negotiating team reviewed the Overview. Questions were raised about the compensation lands, mercury testing, environmental studies, per capita distributions, and ongoing Hydro funding. Both advisors were in attendance.

**WORKSHOP March 14, 1995, Nelson House**

Approximately 90 people were in attendance including a grade 8 social studies class and the discussion was simultaneously translated into Cree. Members of the Negotiating Team carefully reviewed the Overview and responded to Members' questions. Concerns were raised about how long the process was taking and how to keep people interested. Land near Thompson was seen as vital to the settlement.

Many questions were generated including what Hydro's ongoing liabilities would be after the Agreement is signed, what the money could be used for, how the trust would operate, how water levels are monitored, and why there is no provision in the Trust for per capita distributions.

**WORKSHOP March 20, 1995, Nelson House**

This meeting was cancelled due to lack of attendance.

**WORKSHOP April 20, 1995, Brandon**

Only 8 people attended this meeting, as a number of students had already returned home. The Overview update was used as the basis for discussion at this meeting. The Members in attendance had reviewed the Guidebook and there were lots of questions about the Trust, the bonds and redeemability, and the Corporate Trustees' fees. Several Members from South Indian lake wanted to ensure that the Agreement had provisions in it that they would not be prejudiced in their pursuit of separate Band status. The effects and the claims process was discussed particularly in relation to the rights of off-reserve Members.

**WORKSHOP May 16, 1995, South Indian Lake**

Approximately 66 Band Members were in attendance.

The Members were concerned with several issues: How was the 2000 acres established?; Why was a local person not chosen for administering welfare for South Indian Lake?; Does Nelson House have to hold a Referendum?; If we don't vote will we still get the land, or only if Nelson House ratifies the Agreement?; How do we know if Nelson House will continue to support us after the Referendum?

The provisions of Article 5 (land for South Indian Lake if it achieves separate Band status) and Article 14.4.5 (SIL claims are not settled by the Agreement) of the draft Agreement were carefully reviewed. It was explained that South Indian Lake Members were more likely to obtain the land under the proposed Nelson House Agreement rather than their own Agreement because Canada is party to this Agreement and they could choose unencumbered Provincial Crown Land in their own Trapline Zone.

It was explained that Members who live in South Indian Lake on the date of the Agreement will claim under the South Indian Lake Agreement or against Hydro. If they live in Nelson House and suffer loss in Nelson House Resource Area they will claim under the Nelson House Agreement. If they live in off reserve and suffer a loss in the South Indian Lake Trapline Zone the claim would go to Hydro.

Most of the meeting was conducted in Cree. Advisors were in attendance and the Negotiating Team reviewed part of the update to the Overview.

#### **WORKSHOP May 16, 1995, Thompson**

Five members plus the Nelson House Negotiating Team and advisors were in attendance. The Thompson land options were reviewed and discussed. There was a concern about the money; Members wanted to make sure it was protected. Therefore, a lot of discussion occurred about the Trust. Many questions also arose with respect to South Indian Lake and what will happen to Members from there.

#### **WORKSHOP May 17, 1995, Nelson House**

Approximately 70 people were in attendance.

Those in attendance broke into 3 groups with a Member of the Negotiating Team and a Community Consultant leading the discussion in each group. There was a lot of discussion in Cree. The Update to the Overview was reviewed and the Cree text of the Overview was made available. Some concerns arose with respect to the printed material not getting to all parts of the community. Some names were taken and the written material packages were sent after the meeting. The Community

Consultants said they would try to get out into the community again to make sure everyone had the information.

### **WORKSHOP May 23, 1995 Winnipeg**

Approximately 58 people were in attendance. Marcel Moody, the Nelson House Negotiator provided a brief introduction of the Negotiating Team and advisors and the process leading to the negotiations.

The Update to the Overview was reviewed by the Members of the Negotiating Team with advisors providing more detailed information in response to questions.

The Members wanted to ensure that legal costs were not being deducted from the settlement. The specific clause in the Agreement which covers this issue was discussed.

One of the concerns was that Nelson House will not pay for people to go to Nelson House to participate in the Community Approval Process. Some Members present thought there should be free Hydro for Nelson House Members and that Hydro should be required to pay Nelson House royalties each year. It was confirmed that all Members of the First Nation are entitled to make claims under the Individual Claims process for "Adverse Effects" of the Project. The term Adverse Effects was read to the meeting and carefully reviewed with those present. Some Members wanted to know why they were being forced to vote when there were few benefits for them. It was explained that they were not being forced to vote but that under the Agreement, and on the basis of court decisions, they had to be given the opportunity to vote. It was up to each person to decide whether to vote for or against the Agreement or whether to vote at all.

### **PUBLICATIONS**

Explanatory information in a variety of formats was prepared throughout the negotiation process in order to increase awareness among Members of the details of the proposed Agreement and the issues involved. The primary publications are referred to below.

#### **AIP Q & A**

A summary of the Agreement-in-Principle was presented in a question and answer format. This document was used primarily at the Workshop on January 26, 1993.

### **GUIDEBOOK**

A comprehensive Guidebook to the proposed Agreement was prepared to answer questions received from the community consultants through their work in the community and on their own by meeting with the Negotiating Team and advisors and reviewing various drafts of the Agreement. The

questions in the Guidebook were formulated by Nelson House Members and contains original artwork by Members which reflects their impressions of the impacts of the project on the community. The purpose of the Guidebook, which was made available to Members on and off reserve, is to explain the Agreement in everyday language. The entire Guidebook was translated into Cree and distributed to elders.

## **NEWSLETTERS**

A series of Newsletters were distributed at Nelson House. These Newsletters, were produced in a bilingual English and Cree format, and covered the following topics:

October, 1994 - Update from the Negotiators  
November 18, 1994 - Individual Claims  
November 22, 1994 - Aboriginal and Treaty Rights  
November 29, 1994 - Trust Agreement  
December 14, 1994 - Settlement Proceeds and the Community Approval Process  
February 7, 1995 - Water Regime  
February 10, 1995 - Releases and Indemnities  
February 21, 1995 - Update of Negotiations and Normal Programming  
March 10, 1995 - Resource Management  
April 5, 1995 - Off Reserve Rights  
April 5, 1995 - Future Development and Environmental Monitoring  
April 5, 1995 - Ratification Vote

The Newsletters were intended to provide a summary of the Articles of the proposed Agreement, an update of the negotiations and to encourage Members to ask questions of and to communicate directly with the community consultants about issues of concern.

## **OVERVIEWS**

The first Overview contained a summary of the key benefits Nelson House would receive under the Agreement, as well as a summary of what Nelson House had to give to obtain the benefits. These summaries were then followed by summaries of the key provisions on money, land, resource management, individual claims, O & M, Arbitration, the Trust, Easement Agreement, Indian Moneys, Normal Programming, Water Regime and Future Development.

An update to the first Overview was produced to explain certain matters in more detail as a result of a number of common questions which arose during the meetings where the first Overview was reviewed. The following issues were reviewed in this update:

- Money
- Indian Moneys



- The Nisichawasihk Trust
- Water Regime
- Land
- Land Use and Resource Management
- Compensation for Claims
- Future Development
- Reciprocity
- Ratification and Execution
- Treaty Rights

One of the difficulties was that information provided through the Overviews was sometimes outdated due to changes still occurring at the negotiating table. Therefore, a final Overview is to be prepared and distributed in Nelson House and during the final meetings, after the Agreement is frozen.

## VIDEOS

Four videos were produced by the negotiators and community consultants. These videos were broadcast on the local public television channel late in the fall of 1993, 1994 and early winter of 1995. The topics covered by the videos were:

1. Land (produced in 1993)
2. The Individual Claims Process
3. The Trust
4. Community Approval Process

A television interview with Marcel Moody and Felix Walker, Members of the negotiating team, was broadcast in the fall of 1994. The interview explained the reason Nelson House entered into comprehensive negotiations to implement the N.F.A. Other information provided included the hiring of the community consultants, the basis for the financial settlement and intended establishment of the Trust, Future Development, and ratification of the proposed Agreement. Members of the First Nation were urged to become involved by asking questions and giving their views to the community Consultants or Members of the negotiating team.

## 1995 COMMUNITY APPROVAL PROCESS

It was decided to conduct the Community Approval Process from January to July 1995 for two purposes, namely to explain this critical part of the Trust through demonstration and so that the community would be ready to receive Trust Moneys for identified purposes immediately upon execution of the Agreement if the Referendum produced a positive result. A detailed questionnaire was developed and local people were hired to go door to door to conduct one hour interviews with Members in Nelson House. All results were tabulated and workshops were held in the spring of

1995 to discuss the questionnaires and further refine community wishes. Chief and Council worked with the Nelson House Development Corporation to finalize the budgets for presentation to the community. This process is still ongoing.

## **SOUTH INDIAN LAKE**

Nelson House frequently requested the South Indian Community Council to identify 2,000 acres within their Resource Area. The first meeting that occurred was in the fall of 1990 when Chief and Council went to South Indian Lake and met with the Community Council and the Headman. At that point in time, it was indicated to them that there was 2,000 acres available to them. Again, one key thing to note is this happened prior to the Implementation Agreement that we are currently negotiating or in the process of negotiating.

In the spring of 1993, Lou Moodie contacted Jack Dysart by phone to find out if South Indian Lake had chosen the 2,000 acres within their Resource Area. At that point it was indicated that South Indian Lake wanted to do some research on the area so therefore they had not yet chosen the land.

Mr. Moodie followed up again about six months later with Mr. Dysart, who indicated that they were still conducting research and that they had hired Don McIvor as their lawyer. We scheduled a meeting in South Indian Lake again in the fall of 1993.

At this meeting we met with their Legal counsel to discuss the issue of land selection. The land still was not selected. About a year later Mr. Moodie followed up again, at which time he spoke with Mike Dumas. Mr. Moodie indicated to him that South Indian Lake had to chose the 2,000 acres, because Nelson House was now negotiating an Implementation Agreement and needed their input to select the 2,000 acres. Mr. Dumas told him he would select the parcel. Other phone calls followed but the land was never selected. Another meeting was scheduled in the fall of 1994 with the new South Indian Lake administration and newly elected Chief and Council. A letter was then sent to South Indian Lake to attempt to get the Council there to select the land. Mr. Moodie followed up with a phone call to Mike to confirm if he had received the letter, which he said he had. The land was not chosen so arrangements were made in the proposed Agreement for the South Indian Lake Members and Nelson House to select the land in the future.

## **THOMPSON LAND**

Various discussions took place from 1993 to the spring of 1995 between Members of Chief and Council and Members of Thompson City Council, particularly the Mayor with respect to the acquisition of land as either fee simple or for the establishment of a Reserve in Thompson. A 250 acre site in the City of Thompson was pursued, as was the purchase of land near Walmart. Pearson Group International was retained to provide assistance with the acquisition of land in the City of Thompson and participated in various meetings with City representatives regarding available sites.

Following discussions with representatives from the City of Thompson it became apparent to Chief and Council that the City was not willing at that time to allow either parcel to be transferred to Nelson House. Then, the development costs of the 250 acre site were independently assessed and the site was eventually rejected due to title being in the City's name, the City's seeming reluctance to transfer title, and the development costs being prohibitive. The existence of certain caveats which restricted particular types of development on the Walmart parcel made it unacceptable. Two thousand acres were then chosen at the Junction of Hwys. 391 and 280, three hundred acres immediately adjacent to the City and approximately two hundred acres across from the airport. It was impossible to secure one of these parcels within the LGD of Mystery Lake due to the possible Manassin Falls Hydro Development (2000 acre parcel), INCO's mining interests (300 acre parcel) and Manitoba's gravel deposits (200 acre parcel).

In addition, Nelson House was advised Manitoba would not agree to the acquisition of land within the LGD of Mystery Lake for the establishment of a Reserve as it contravened its unwritten urban reserve policy. Eventually Chief and Council decided it would accept any of the above mentioned parcels (within the LGD) as fee simple but for the reasons outlined, this was not possible. In the end, Chief and Council requested a larger parcel at Odei River, which is located immediately adjacent to the western boundary of the LGD of Mystery Lake, on the south side of Hwy 391. Eventually, the Province agreed to provide an additional 1500 acres at Odei River and Chief and Council decided to examine the purchase of land in the City of Thompson should the Agreement be ratified.

**ADVISORS TO NELSON HOUSE FIRST NATION:**

**Myers Weinberg Kussin Weinstein Bryk**

**Valerie Matthews Lemieux** - Legal advisor to Nelson House, specializing in administrative, constitutional, labour and aboriginal law. Ms. Matthews Lemieux was assisted by

Larry Kussin - (corporate, commercial and real estate law)  
Tony Marques - (insurance, civil litigation)  
Elliot Leven - (labour, administrative and aboriginal law)  
Lea Baturin - (labour and aboriginal law)  
Colin Robinson - (labour, administrative and aboriginal law)

**Unies Ltd.** - Engineers who provided assistance with respect to land selection, water regime and future development as well as miscellaneous other issues.

Gordon Spafford  
Cam MacInnes  
Garry Peterbaugh

**Bruce Warnock** - lawyer with the firm Buchwald, Asper, Gallagher, Henteleff, specializing in tax law.

**Professor Brian Schwartz** - Professor of Law, University of Manitoba  
Author of several books and articles on constitutional and aboriginal issues. Doctorate, Yale University.

**Larry Roine** - Lawyer with McGovern Roine in Ottawa, acted as consultant from 1992 to April 1993 and lead negotiator from January to September 1994, specializing in economic development initiatives.

**Brian Threadkell** - Consultant with Threadkell and Associates of Ganges, British Columbia, specializing in resource management and economic development matters. Mr. Threadkell functioned as lead negotiator from 1992 until January 1994.

**Marcel Moody** - Councillor and Member of Nisichewasih Consultants from time to time was the Nelson house Negotiator from October 1994 to the conclusion of the process in 1995.

**Felix Walker** - General Manager of the Nelson House Development Corp. acted as co-negotiator with Marcel Moody from September 1994 to December 1994, and also did all the work for the Community Approval Process.

Leonard Linklater - Ex-Councillor acted as consultant for the Band between 1993 to 1994.

Pearson Group International

Don Pearson and Danny Warwaruk provided assistance with respect to the acquisition of land in Thompson.

Mary Wladyka - chartered accountant assisted with the compilation of financial information from late 1994 to the end of the process.

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Signed this 11<sup>th</sup> day of August, 1995

  
\_\_\_\_\_  
Marcel Moody  
Nelson House Negotiator

## **SCHEDULE 15.2**

### **LIST OF FEDERAL DEPARTMENTS CONSULTED**

**Department of Indian Affairs & Northern Development**

**Department of Transport**

**Department of the Environment**

**Department of Fisheries & Oceans**

**Department of Health & Welfare**

**SCHEDULE 15.3**

**LIST OF PROVINCIAL DEPARTMENTS CONSULTED**

Department of Highways and Transportation

Department of Natural Resources

Department of Environment

Department of Finance

Department of Energy and Mines

Department of Urban Affairs

Department of Industry Trade and Tourism

Department of Health

Clerk of the Executive Council

## SCHEDULE 15.4

### CERTIFICATE OF INDEPENDENT LEGAL ADVICE

In October of 1992, the Nelson House First Nation retained the services of Myers Weinberg Kussin Weinstein Bryk to provide legal advice to the Nelson House First Nation and its advisors.

Myers Weinberg Kussin Weinstein Bryk, as represented by the writer, certifies as follows:

1. All members of Myers Weinberg Kussin Weinstein Bryk are members in good standing of the Law Society of Manitoba;
2. Myers Weinberg Kussin Weinstein Bryk has been retained by the Nelson House First Nation for the purpose of providing legal advice with respect to the 1996 Nelson House NFA Implementation Agreement;
3. We have received and reviewed and contributed to the various drafts of the **Agreement** since our engagement in October 1992, and have thoroughly reviewed same;
4. We have caused the nature and significance of all major aspects of this **Agreement** to be explained at community meetings, which were open to all **Members**, so that **Members** could have an opportunity to discuss all relevant matters under negotiation and thereafter make an informed decision at ratification.
5. We have explained the legal implications of the **Agreement** to **Chief and Council**, Marcel Moody (Nelson House Negotiator), to the members of the Negotiating Team, to the inaugural **Nelson House Trustees**, and to **Members** who attended membership meetings convened by **Chief and Council** in accordance with the provisions of the **Agreement**.

DATED at Winnipeg, Manitoba this       day of       , 1996.

**MYERS WEINBERG KUSSIN WEINSTEIN BRYK**

PER:

**VALERIE MATTHEWS LEMIEUX**



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## ARTICLE 16

### 16.0 RATIFICATION AND EXECUTION

#### 16.1 INTRODUCTION

16.1.1 Introduction. This Article sets forth the ratification and execution process for this **Agreement**.

#### 16.2 RATIFICATION AND EXECUTION

16.2.1 Condition Precedent. The ratification and execution process required as a condition precedent to the execution of this **Agreement** is set out below:

- (a) prior to the advance poll referenced in Article 16.2.1(f)(iii), **Nelson House** shall:
  - (i) make available at the Band office on the **Reserve**, the Community Council Building in South Indian Lake, the offices of the MKO in Thompson, and the offices of the Department of Indian Affairs and Northern Development in Winnipeg, as many copies of the **Agreement** as may

reasonably be required,

- (ii) conduct at least one (1) public meeting of **Members** on **Reserve**, and at South Indian Lake, Thompson, Brandon and Winnipeg and at each such meeting fully explain the nature and significance of this **Agreement**, and
  - (iii) have its principal consultants and legal advisors present at the meetings specified in Article 16.2.1(a)(ii),
- (b) notice of each meeting shall be posted in not less than five (5) prominent, public locations on **Reserve**, including the Band offices, for meetings on **Reserve**, and in the Community Council Hall in South Indian Lake, for meetings at South Indian Lake, and announced at least once per week in each of the 2 weeks prior to the meeting, in the following media:
- i) The Winnipeg Free Press,
  - ii) The Winnipeg Sun,
  - iii) The Thompson Citizen,
  - iv) The Thompson Nickel Belt,
  - v) Native Communications Inc., Mikisew Morning, CBC North (radio), or any replacement programs on Radio and Television, and
  - vi) the public television channel operating on **Reserve**,

- (c) in each notice **Nelson House** shall:
  - i) give notice of the time, date and place of each meeting,
  - ii) advise where **Members** can review or obtain copies of this **Agreement** and related information, and
  - iii) advise **Members** of the time, date and polling places for the referendum and the advance poll,
- (d) prior to the date of the Referendum, **Chief and Council** shall provide to **Canada, Manitoba and Hydro** a **Council Resolution** with a copy of the newspaper notices attached, certifying that the provisions of Article 16.2.1(a) to 16.2.1(d) have been fulfilled;
- (e) a Referendum shall be conducted on **Reserve** with polls for voting at the Community Council Hall in South Indian Lake, 50 Selkirk Avenue in Thompson (formerly the Thompson Doughnut Shop), and the Department of Indian Affairs and Northern Development in Winnipeg, from 9:00 am to 8:00 pm on or about September 14, 1995 in accordance with the secret ballot procedures prescribed by sections 4 to 20 of the Indian Referendum Regulations, C.R.C. 1978, c. 957, (the "Referendum"), excepting that:
  - i) the term "elector" as used in that Regulation shall be read as "**Member**" eighteen (18) years of age or older,
  - ii) the date of the Referendum shall be deemed to be "the date

of the voting" for the purpose of subsection 4(1) of the said Regulations,

- iii) there shall be an advance poll to be held on **Reserve**, at South Indian Lake and in Brandon, on a Saturday at least two (2) weeks prior to the date of the Referendum,
  - iv) the day of the advance poll shall be set forth in the notice posted by the electoral officer under subsection 4(1) of the said Regulations, and
  - v) the advance poll shall be conducted substantially in accordance with the procedures for voting on the date of the Referendum with such modifications as may be reasonably necessary,
- (f) all **Members** eighteen (18) years of age or older shall be entitled to vote in the Referendum. A list of "electors" within the meaning of the Indian Act (Canada) shall be compiled separately from the list of other **Members** and the votes of each list of voters shall be separately tabulated and reported;
- (g) this **Agreement** shall be approved by the Referendum if:
- i) a majority of those **Members** eligible to vote, vote,
  - ii) a majority of votes cast approve this **Agreement**, and

- iii) a majority of the "electors" within the meaning of the Indian Act (Canada) approve this **Agreement**,
- (h) the Referendum will be conducted by **Canada**, who shall provide to **Nelson House, Manitoba** and **Hydro** a statement in a form similar to that required under Section 19 of the Indian Referendum Regulations, C.R.C. 1978, c.957, with the votes of each list of voters separately tabulated and reported; and
- (i) any appeals associated with the Referendum shall be dealt with in accordance with Sections 31 and 32 of the Indian Referendum Regulations, C.R.C. 1978, c.957.

16.2.2 **Agreement of No Force and Effect.** This **Agreement** shall be without force and effect and without prejudice to any of the **Parties**, unless and until it has been duly ratified and executed by all of the **Parties**, and the **Indenture**, which is to be concurrently executed, has been likewise executed.

the dates indicated below.

Signed, sealed and delivered )  
in the presence of: )

Valerie J. Matthews Lewis

**Councillor**

Elliot Green  
witness

on the 15 day of March, 1996

**Her Majesty the Queen in Right of the  
Province of Manitoba**

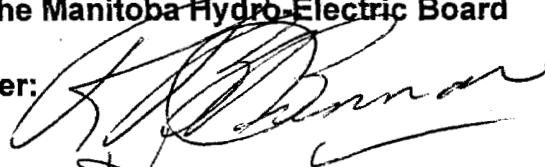
**Per:**

on the Sunday of March, 1996

Stan U Ash  
Witness

The Manitoba Hydro-Electric Board

Per:



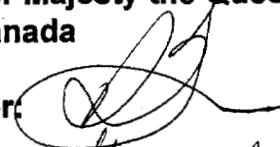
Per:



on the 15<sup>th</sup> day of March, 1996

Her Majesty the Queen in Right of  
Canada

Per:



on the 16<sup>th</sup> day of March, 1996



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## AMENDED ARTICLE 16

### 16.0 RATIFICATION AND EXECUTION

#### 16.1 INTRODUCTION

##### 16.1.1 Introduction. Whereas:

- (a) pursuant to the **Agreement**, a Referendum of **Members** was held in September;
- (b) contrary to the provisions of Article 16 of the **Agreement**:
  - (i) neither the advance poll nor the subsequent poll held at South Indian Lake was conducted as contemplated;
  - (ii) the votes of **Members** who were ordinarily resident on **Reserve** were not distinguished from the votes of **Members** ordinarily resident off **Reserve**; and
  - (iii) some notices required by the **Agreement** were either not given at all or were not in the proper form and content;
- (c) the majority of votes cast supported the **Agreement**;
- (d) the **Parties** have agreed that a further referendum should be held to ascertain the level of support of the **Members** for the **Agreement** as set forth in Article 16 as amended.

16.1.2 Article 16 Amended. The **Parties** agree that referendum procedures and criteria set forth in Article 16 of the **Agreement** shall apply to this further referendum, except insofar as the same are amended by the criteria and procedures set forth in this Amended Article 16.

16.1.3 Condition Precedent. Amended Article 16 sets forth the referendum procedures and criteria which the **Parties** agree would indicate a sufficient level of support from the **Members** for the **Agreement** and the referendum procedures and criteria outlined in Amended Article 16 are conditions precedent to execution of the **Agreement**.

16.1.4 Referendum Procedures and Criteria. The amended referendum procedures and criteria are as set out below:

- (a) prior to the first poll to be held on or about November 22, 1995, **Nelson House** shall make available at the Band office on **Reserve**, the Community Council Building in South Indian Lake, the offices of the MKO in Thompson, and the offices of the Department of Indian Affairs and Northern Development in Winnipeg, a reasonable number of copies of Amended Article 16 as **Chief and Council** reasonably believe may be required;
- (b) notice of the time, date and place of the polls for the referendum shall be given at least once per week in each of the weeks prior to each of the polls, in the following media:
  - i) The Winnipeg Free Press,
  - ii) The Winnipeg Sun,
  - iii) The Thompson Citizen,
  - iv) The Thompson Nickel Belt,
  - v) Native Communications Inc., Mikisew Morning and CBC North Radio or any replacement programs on radio and television, and
  - vi) the public television channel and radio station operating on **Reserve**;
- (c) in each notice **Nelson House** shall:

- i) advise where **Members** can review or obtain copies of Amended Article 16 and related information, and
  - ii) advise **Members** of the time, date and polling places of the polls for the referendum;
- (d) seven (7) days prior to the date of the referendum, **Chief and Council** shall provide to the Ratification Officer appointed by **Canada**, and to **Canada, Manitoba and Hydro** a **Resolution** with a copy of the newspaper notices attached, certifying that the provisions of Articles 3(a) to 3(c) of Amended Article 16 have been fulfilled;
- (e) if any irregularity in the notices is disclosed in the **Resolution**, **Nelson House** may provide further notice in consultation with the Ratification Officer;
- (f) the referendum shall be conducted with polls for voting:
  - (i) on **Reserve** and at the Manitoba Ministry of Natural Resources office , in South Indian Lake, on or about November 22, November 29 and December 6, 1995,
  - (ii) at unit No.1 The Plaza (formerly the Queen of Hearts) , in Thompson, and at the Department of Indian Affairs, in Winnipeg, on or about November 22 and December 6, 1995, and
  - (iii) at the University of Brandon, in Brandon, on November 22, 1995.

The polls shall be open for voting at the places and on the dates listed from 10:00 am to 9:00 pm.

- (g) The referendum shall be conducted in accordance with the secret ballot procedures prescribed by sections 4 to 20 of the Indian Referendum Regulations, C.R.C. 1978, c. 957, (the "Referendum"), excepting that:

- i) the term "elector" as used in that Regulation shall be read as meaning a **Member** who is eighteen (18) years of age or older,
  - ii) the date of the last poll being on or about December 6, 1995 being the last day for voting in the Referendum shall be deemed to be "the date of the voting" for the purpose of subsection 4(1) of the said Regulations,
  - iii) the dates for all polls shall be set forth in the notice posted by the electoral officer under subsection 4(1) of the said Regulations, and
  - iv) the polls held on or about November 22 shall be conducted substantially in accordance with the procedures for voting on or about December 6, being the last day for voting in the referendum with such modifications as may be reasonably necessary;
- (h) all **Members** eighteen (18) years of age or older shall be entitled to vote in the referendum. A list of the **Members** who are ordinarily resident on **Reserve** at the date of the referendum shall be compiled separately from the list of other **Members** and the votes of each list shall be separately tabulated and reported;
- (i) the **Agreement** as amended by Amended Article 16 shall have received a sufficient level of support in the referendum if:
- i) a majority of those **Members** eligible to vote, vote,
  - ii) a majority of votes cast support the **Agreement** as amended by Amended Article 16, and
  - iii) a majority of the electors ordinarily resident on **Reserve** support the **Agreement** as amended by Amended Article 16;
- (j) the referendum will be conducted by **Canada**, who shall provide to **Nelson**

**House, Manitoba and Hydro** a statement in a form similar to that required under Section 19 of the Indian Referendum Regulations, C.R.C. 1978, c.957, with the votes of each list of voters separately tabulated and reported; and

- (k) any appeals associated with the referendum shall be dealt with in accordance with Sections 31 and 32 of the Indian Referendum Regulations, C.R.C. 1978, c.957.

16.1.5            Review.            Following the referendum, if the results fail to meet any one or more of the criteria outlined in article 3(i), the **Parties** will convene to review the results and determine what further action, if any, is required.

16.1.6            Agreement of No Force and Effect.            The **Agreement** shall be without force and effect and without prejudice to any of the **Parties**, unless and until it has been executed by all of the **Parties**, and the **Indenture**, which is to be concurrently executed, has been likewise executed.