



THE AGREEMENT BETWEEN:

**THE PICKEREL NARROWS COMMUNITY ASSOCIATION INC.
("Association")**

-and-

**THE MANITOBA HYDRO-ELECTRIC BOARD
("Manitoba Hydro")**

2006

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LIST OF PARTICIPATING MEMBERS

SCHEDULE D - BALLOT QUESTION

SCHEDULE E - RELEASE BY PARTICIPATING MEMBERS OF THE PICKEREL
NARROWS COMMUNITY ASSOCIATION ("ASSOCIATION")

THIS AGREEMENT made this ^{3RD} day of *November*, 2006

BETWEEN:

THE PICKEREL NARROWS COMMUNITY ASSOCIATION INC.
(the "**Association**")

OF THE FIRST PART,

- and -

THE MANITOBA HYDRO-ELECTRIC BOARD
(Manitoba Hydro)

OF THE SECOND PART.

MITIGATION AGREEMENT

WHEREAS **Manitoba Hydro** operates an electrical power system including the **Laurie River Project**, which system includes controlling water levels and flows of the Laurie River and generating electricity for the people of Manitoba;

AND WHEREAS the **Community** of Granville Lake is comprised of approximately 178 residents who are represented by the **Association**;

AND WHEREAS the **Association** has been incorporated pursuant to *The Corporations Act* (Manitoba) as a corporation without share capital for the purpose of representing, negotiating, advocating and, if necessary litigating on behalf of the **Members** of the corporation, (the "**Members**") who have suffered direct or indirect negative consequences of hydro-electric development on the water regime used by the **Members**;

AND WHEREAS the **Association** maintains that the operation of the **Project** caused **Adverse Effects** on lands, resources and waterways traditionally used in the exercise of aboriginal and treaty rights of the **Members**;

AND WHEREAS the **Association** made a submission to **Manitoba Hydro** requesting the development of measures to address and mitigate the impacts as they affect **Members**;

AND WHEREAS as a matter of policy **Manitoba Hydro** endeavours to resolve such issues where a practical and reasonable resolution can be found;

AND WHEREAS **Manitoba Hydro** and the **Association** made cooperative efforts to identify the **Adverse Effects**;

AND WHEREAS **Manitoba Hydro** and the **Association** entered into good faith negotiations to address the **Adverse Effects**;

AND WHEREAS **Manitoba Hydro** and the **Association** agree that mitigation of the **Adverse Effects** may be best accomplished through local decision making and control over the mitigation measures used;

AND WHEREAS the negotiations between **Manitoba Hydro** and the **Association** have reached a successful conclusion, through the mutually agreed upon establishment of the Mitigation Trust Fund, to be controlled and administered for the benefit of the **Members**, to provide for mitigation of the **Adverse Effects**;

AND WHEREAS the **Association** has accepted the terms of this **Agreement**, and thereby assumes all rights, benefits and obligations pursuant to this **Agreement**;

NOW THEREFORE WITNESS:

ARTICLE 1 AGREEMENT AND INTERPRETATION

1.1 **Agreement.** This **Agreement** consists of Articles 1 through 6, and includes the following schedules which are attached to this **Agreement**.

Article 1	Agreement and Interpretation
Article 2	Adverse Effects Mitigation Settlement
Article 3	Mitigation Trust Fund
Article 4	Releases and Indemnities
Article 5	General Matters
Article 6	Approval and Execution
Schedule A:	Trust Agreement
Schedule B:	Certificate of Independent Legal Advice
Schedule C:	Participating Membership List
Schedule D:	Ballot Question
Schedule E:	Form of Release

1.2 **Definitions.** For all purposes of this **Agreement**, capitalized words and phrases have the meaning set out below:

(a) **Adverse Effect** means a direct or indirect negative consequence of the **Project**, or the operation thereof by **Manitoba Hydro**, which consequences include, without limitation:

- (i) impacts on, or changes to, the physical, chemical or biological characteristics of the environment;
- (ii) risks or injuries to the health, safety, well-being, comfort or enjoyment of life by **Members** or **Granville Lake Resource Users**; and
- (iii) impacts on interests in and the exercise of rights, including aboriginal and treaty rights, in relation to lands, pursuits, activities, opportunities, lifestyles and assets of the **Association**, **Members** or **Granville Lake Resource Users**.

(b) **Agreement** means this **Agreement** and the attached Schedules;

- (c) **Association** means the Pickerel Narrows Community Association Inc., a corporation without share capital which has been incorporated in accordance with the laws of the Province of Manitoba to represent the interests of **Members**.
- (d) **Budget** means the proposed budget of intended expenditures for **Community Development Projects** and intended expenditures from the **Participating Member Account** as provided for in Article 7 of the **Trust Agreement**.
- (e) **Budgetary Process** means the procedure for review of a **Budget** as set out in Article 7 of the **Trust Agreement**.
- (f) **Community** means the **Community** of Granville Lake and includes a successor First Nation , if applicable.
- (g) **Community Development Account** means the trust account forming part of the **Granville Lake Mitigation Trust Fund**, to be used for **Community Development Projects**.
- (h) **Community Development Project** means the programs, activities, initiatives and works developed, implemented or constructed using funds from the **Community Development Account**.
- (i) **Date of this Agreement** means the date upon which the **Association** and **Manitoba Hydro**, upon being duly authorized, enter into, sign and seal this **Agreement**.
- (j) **Granville Lake Mitigation Trust Fund** means the trust fund referred to in, and to be administered in accordance with, this **Agreement** and the **Trust Agreement**, and consisting of the **Settlement Proceeds**.
- (k) **Granville Lake Resource Users** means those **Members** who use the lands, resources and waterways in the area in and around Granville Lake, primarily for the purposes of commercial fishing and trapping but also for other resource harvesting activities involving but not limited to: domestic and sport angling, medicinal plants, berries, wild rice.
- (l) **Laurie River Project** means an electrical power system including the existing generation, transmission and distribution facilities in the Laurie River watershed operated by **Manitoba Hydro** for the purpose of generating electricity for the ongoing benefit of the people of Manitoba.
- (m) **Manitoba Hydro** means the Manitoba Hydro-Electric Board.
- (n) **Members** means **Members** of the **Association** who consist of all persons who are ordinarily resident of the **Community** or the surrounding resource area during the period of January 1, 1997 and the **Date of the Agreement** and whose membership is accepted by the **Association**, any child of a **Member** and includes any person who subsequently becomes a **Member** by virtue of their membership being accepted by the **Association**.

- (o) **Participating Member** means a **Member** who is listed on Schedule “C”.
- (p) **Participating Member Account** means the trust account forming part of the **Granville Lake Mitigation Trust Fund** to be used for a one time per capita payment to a **Participating Member** or their estate.
- (q) **Project** 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, and includes the **Laurie River Project** to the extent such works have been physically developed, constructed and/or operated by or on behalf of **Manitoba Hydro** at 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 facilities.
 - Kelsey Generating Station.
 - Kettle Generating Station.
 - Long Spruce Generating Station.
 - Limestone Generating Station, including the Sundance Site.
- (r) **Trust** means the Trust created by the **Trust Agreement**.
- (s) **Trust Agreement** means the indenture attached as Schedule “A” appointing **Trustees** to hold the **Granville Lake Mitigation Trust Fund** and establishing the terms of the **Trust** which shall be in accordance with and comply with the provisions of this **Agreement**.
- (t) **Trustee** means a person who is named as a **Trustee** of the trust created by the **Trust Agreement**, or a person who subsequently becomes a **Trustee** of the trust created by the **Trust Agreement** in accordance with the terms of the **Trust Agreement**.
- (u) **Settlement Proceeds** means the monies paid by Hydro to the **Association** pursuant to section 2.1, including the monies to be settled on the Trustees for the benefit of **Members**, any property and money, and income earned on such property and money, as is from time to time acquired or accumulated by the Trust and includes any monies paid directly to the Association or a person designated by the Association pursuant to section 2.2.
- (v) **Unanticipated Adverse Effects** means those **Adverse Effects** which as of the **Date of this Agreement** were not foreseen, nor with the exercise of due diligence and concern, reasonably foreseeable.
- 1.3 Headings. The part, article and section headings in this **Agreement** are for reference and information purposes only, and shall not affect in any way the meaning or interpretation of this **Agreement**.

- 1.4 Numbers. 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.
- 1.5 Governing Law. This **Agreement** shall be governed by, and construed in accordance with, the federal and provincial laws in force from time to time in the Province of Manitoba.
- 1.6 Entire Agreement. This constitutes the entire agreement between the parties. The parties have endeavoured to make this **Agreement** as clear as possible. There shall be no presumption or special rule of interpretation in favour of or against any party.

ARTICLE 2 ADVERSE EFFECTS MITIGATION SETTLEMENT

- 2.1 Payment. **Manitoba Hydro** agrees to pay, in accordance with Article 3, the amount of \$1,678,000.00 to the **Association**, of which \$1,653,000 is to be settled on the Trustees. Such payment shall not be made until the Trust has been established and proof of same has been provided to **Manitoba Hydro**.
- 2.2 Advance Payment by Manitoba Hydro. The **Association** acknowledges that by agreement dated February 4, 2006, **Manitoba Hydro** paid \$25,000 directly to the Pickerel Narrows Construction Co. as an advance against the **Settlement Proceeds**.
- 2.3 Issue Resolution. The **Association** and **Manitoba Hydro** have worked together in a good faith effort to fully address and resolve all issues related to the **Adverse Effects** by entering into this **Agreement**. The **Association** and **Manitoba Hydro** intend that this **Agreement** addresses and satisfies the concerns of **Members**, including the specific concerns of **Granville Lake Resource Users**, relating to **Adverse Effects**, except for loss or damage arising from **Unanticipated Adverse Effects** and personal injury or death to the extent attributable to the **Project**.
- 2.4 Payment of Negotiation, Documentation and Approval Costs. The **Association** has been reimbursed by **Manitoba Hydro** for reasonable costs incurred in negotiating and concluding this **Agreement**, including the costs of legal and consulting services required for the informed participation of the **Association**. **Manitoba Hydro** is not responsible for any costs other than those specifically set out in this subsection 2.3.

ARTICLE 3 MITIGATION TRUST FUND

- 3.1 Trust Fund. Except as specifically provided herein, the **Settlement Proceeds** are not divisible into individual shares or benefits, and no **Member** may claim an individual share or benefit from the **Granville Lake Mitigation Trust Fund**. The **Granville Lake Mitigation Trust Fund** shall be held and administered pursuant to the terms of the **Trust Agreement** by the **Trustees** appointed pursuant to the **Trust Agreement**.
- 3.2 Payment of Funds. The payment contemplated in Article 2.1 shall be made by **Manitoba Hydro** to the **Association** to be settled on the **Trustees** in accordance with the following schedule and for uses in accordance with the terms of this **Agreement** and the **Trust**:

DATE	COMMUNITY DEVELOPMENT ACCOUNT	PARTICIPATING MEMBER ACCOUNT
w/i 30 days of Signing	\$ 50,000	\$178,000
Oct. 31, 2007	\$ 75,000	
Oct. 31, 2008	\$ 75,000	
Oct. 31, 2009	\$ 75,000	
Oct. 31, 2010	\$ 75,000	
Oct. 31, 2011	\$ 75,000	
Oct. 31, 2012	\$ 75,000	
Oct. 31, 2013	\$ 75,000	
Oct. 31, 2014	\$ 75,000	
Oct. 31, 2015	\$ 75,000	
Oct. 31, 2016	\$ 75,000	
Oct. 31, 2017	\$ 75,000	
Oct. 31, 2018	\$100,000	
Oct. 31, 2019	\$500,000	

- 3.3 Accounting Records. The **Trustees** shall be required to establish and maintain accounting records for the **Community Development Account** and the **Participating Member Account**.
- 3.4 Authorized Community Development Projects. The **Settlement Proceeds** allocated to the **Community Development Account** are to be used by the **Association** for the benefit of **Members**, for the following **Community Development Projects**, as more specifically set out in the **Trust Agreement**:

- (a) resource rehabilitation and development measures designed and intended to address **Adverse Effects** and support increased viability for traditional and commercial resource pursuits and other resource harvesting,
- (b) cultural and social support and development initiatives;
- (c) business and employment development undertakings;
- (d) development and maintenance of local **Community** infrastructure; and
- (e) administration of the trust, including technical and legal support and payment of taxes.

3.5 Authorized Use of Participating Members Account. The **Settlement Proceeds** allocated to the **Participating Members Account** are to be used by the **Association** for a one time per capita payment in the amount of one thousand (\$1000) dollars plus applicable interest, if any, to a **Participating Member** upon reaching his/her eighteenth birthday and on the condition that the **Participating Member** has executed a release in the form attached hereto as Schedule "E". For greater certainty, in the event that a **Participating member** dies prior to reaching his/her eighteenth birthday, or prior to the execution of this **Agreement** the **Association** shall cause the per capita payment to be paid to the estate of the deceased **Participating Member** and the executor of the estate shall sign the release in the form attached hereto as Schedule "E" on behalf of the deceased. The **Association** or the **Trustees**, as the case may be, shall forthwith provide a copy of the executed release to **Manitoba Hydro**.

3.6 Required Provisions as to Use and Administration of Mitigation Trust Fund. The following are general principles agreed to by the **Association** and **Manitoba Hydro** in relation to the use and administration of the **Granville Lake Mitigation Trust Fund**:

- (a) the use of the **Granville Lake Mitigation Trust Fund** shall require the preparation of a **Budget** to be approved through appropriate processes, as described more fully in the **Trust Agreement**, which shall, at a minimum, include:
 - (i) a description of the intended use of any funds in that year and, if applicable, future years;
 - (ii) a description of any costs, including, without limitation, operation and maintenance costs in relation to any capital work to be constructed with such funds and the anticipated source of funds available for such ongoing costs; and
 - (iii) a description of anticipated benefits;

- (b) encroachment on the capital of the **Community Development Account** for **Community Development Projects** only, shall be no more than \$500,000 dollars within 7 years from the **Date of this Agreement**, and there shall be no further encroachment thereafter on the capital remaining in the **Community Development Account**; and
- (c) the **Trustees** shall produce and make available to **Members** an annual, narrative report on the use of funds, including a statement of financial transactions and overall position for each account, within 120 days from the end of each fiscal year, until such time as the funds in the respective accounts are fully expended. Upon request, the **Trustees** shall provide a copy of the annual report to **Manitoba Hydro** as soon as reasonably practicable.

3.7 Management of Trust Fund. The **Trustees** are responsible for the disbursement and management of the funds in the **Granville Lake Mitigation Trust Fund** in accordance with this **Agreement** and the **Trust Agreement**.

ARTICLE 4 RELEASES AND INDEMNITIES

4.1 Satisfaction. This **Agreement** fully and completely satisfies and resolves any and all claims which the **Association** or its successors or assigns, including without limitation, a successor first nation comprised substantially of **Members**, may have had, now have or may in the future have, relating to **Adverse Effects** arising out of the past operation, and continued future operation of the **Project** by **Manitoba Hydro**, except for **Unanticipated Adverse Effects**, and the personal injury or death of a **Member**, to the extent attributable to the **Project**.

4.2 No Release against other parties. **Manitoba Hydro** agrees that the terms of this **Agreement** do not constitute a remission, release, or discharge of Canada or Manitoba, or in any way prejudice or effect any action, proceeding, remedy, claim, or demand that the **Association** or the **Community**, or any **Members**, or any of them, may have against Canada or Manitoba in respect of any obligations and liabilities of Canada or Manitoba related to the **Project**.

4.3 Effectiveness of Community Development Projects. Subject to the **Budgetary Process**, the selection of specific programs, activities, initiatives and works to be funded from the **Community Development Account** for the purpose of mitigating the **Adverse Effects** on **Members** is wholly within the discretion of the **Trustees**. **Manitoba Hydro** is not responsible for and makes no warranty or representation in relation to:

- (a) the effectiveness of any **Community Development Project**; and
- (b) the fitness of any **Community Development Project** for the purposes intended by the **Trustees** or the **Members**.

- 4.4 Sufficiency. **Manitoba Hydro** does not make any warranty or representation as to the sufficiency of the **Settlement Proceeds**, to properly complete, equip, staff operate and maintain any **Community Development Project** and the **Association** fully indemnifies and saves harmless **Manitoba Hydro** in relation to all such matters.
- 4.5 No Ongoing Obligations. **Manitoba Hydro** shall not have any legal or beneficial interest in, or any further or ongoing obligation to fund any costs of operation, maintenance, repair or replacement, or any liability in respect of any **Community Development Project** constructed from **Settlement Proceeds** and the **Association** fully indemnifies and saves harmless **Manitoba Hydro** in relation to all such matters.

ARTICLE 5 GENERAL MATTERS

- 5.1 Party Meetings. Either the **Association** or **Manitoba Hydro** may, at anytime, request a meeting of the parties by providing not less than thirty (30) days written notice setting forth the date, time and place and reason for the meeting. The purpose of such a meeting shall be, in good faith, to attempt to resolve any issues between the parties in relation to, or arising from, this **Agreement** or the **Project**. In the event that such meeting has been requested and agreed to by the Parties, each Party shall bear its own costs in respect of such meeting.
- 5.2 Aboriginal and Treaty Rights. This **Agreement** shall not alter, diminish, or extinguish any aboriginal or treaty rights of the **Members**, which are recognized and affirmed under section 35 of the *Constitution Act, 1982*.
- 5.3 No Admission. This **Agreement** does not constitute an admission of liability on the part of **Manitoba Hydro**.
- 5.4 Independent Advice. The **Association** confirms that it has been independently advised by legal counsel, technical advisors and consultants of their choice with respect to all matters arising in connection with this **Agreement**. This **Agreement** has been jointly drafted, considered and revised by representatives of the parties, and authorized representatives of the **Community** have participated in the preparation of this **Agreement**. A certificate(s) of independent legal advice is attached as Schedule "B".
- 5.5 Contingency. No money paid under this **Agreement** shall be used to pay a contingency fee or bonus to any person in relation to, or as payment for, work done in negotiating, finalizing or documenting this **Agreement**.
- 5.6 Binding on Parties. This **Agreement** shall be binding upon and enure to the benefit of the parties and their respective successors and assigns.
- 5.7 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 other action as required, to more effectively complete any matter provided for in this **Agreement**.

- 5.8 Normal Programming. **Settlement Proceeds** shall not be considered a substitute for **Manitoba Hydro** programming available to the **Community** and **Members** under the normal program criteria and policies in effect from time to time.

6.0 APPROVAL AND EXECUTION

- 6.1 Introduction. Article 6.0 provides for the process of approving and executing this **Agreement**.

- 6.2 Approval of Agreement. Prior to the execution of this **Agreement**, the **Agreement** will be considered for approval by each of the **Parties** as follows:

- (a) by the **Community** and the **Association** in accordance with sections 6.3 to 6.7; and
- (b) by The Manitoba Hydro-Electric Board on behalf of **Manitoba Hydro**.

- 6.3 Public Meeting. Following the completion of the negotiation of this **Agreement**, the **Association** will convene one or more public meetings at each of Leaf Rapids and Granville Lake at which its consultants and legal advisor will explain the nature and significance of the **Agreement**. The **Association**, on behalf of the **Community** will give notice of such meeting(s) in accordance with the following:

- (a) notice of the meeting(s) will be posted in the Community Council offices, the nursing station, the school and at the town center in Leaf Rapids (bulletin board) at least two (2) weeks in advance of each meeting;
- (b) each notice will:
 - (i) give the time, date and place of the meeting;
 - (ii) advise where copies of the **Agreement** can be obtained or reviewed;
 - (iii) advise who is eligible to vote on whether or not to approve the **Agreement**; and
 - (iv) advise of the time, date and polling places for the vote to be held in accordance with sections 6.3 to 6.5; and

(c) **Manitoba Hydro** will be supplied with copies of the notices posted in accordance with paragraphs 6.3(a) and (b) at least five (5) days before the meeting.

6.4 Voters. **Members** or persons entitled to be **Members** who are 18 years of age on or before the date of the vote may vote on whether or not to approve this **Agreement**.

6.5 Ballot Question. The ballot question for the vote is set out in schedule D.

6.6 Approval. This **Agreement** will be approved by the **Community** and **Association** if, at the vote held in accordance with sections 6.3 to 6.5, a majority of the persons who are eligible to vote do so, and a majority of those who vote, vote "YES" to the ballot question in schedule "D".

6.7 Execution of Agreement by Community. Forthwith upon approval by the **Community** in accordance with section 6.6, the Mayor and Council of the **Community**, including the Headman and his Council, is to pass a resolution authorizing the execution of this **Agreement** by the **Association** on behalf of the **Community**, and is to deliver to **Manitoba Hydro** a certified copy of such Council Resolution.

6.8 Execution of Agreement by Manitoba Hydro. Forthwith upon completion of approval by the **Community** in accordance with section 6.7, **Manitoba Hydro** is to authorize its appropriate officers to execute this **Agreement** on behalf of **Manitoba Hydro**.

6.9 Agreement of No Force and Effect. This **Agreement** will be without force and effect and without prejudice to any of the Parties unless and until it has been duly approved and executed by all Parties in accordance with article 6.0.

IN WITNESS WHEREOF the parties have executed this **Agreement** on the 3RD day of November, 2006.

PICKEREL NARROWS COMMUNITY
ASSOCIATION INC

Per: _____

Per: _____

Per: _____

MANITOBA HYDRO-ELECTRIC BOARD

Per: _____

Per: _____

Article 1	Agreement and Schedules
Article 2	Name
Article 3	Interpretation
Article 4	Purposes of the Trust
Article 5	Commencement of Trust
Article 6	Accounts
Article 7	Budgetary Process
Article 8	Powers and Duties of Trustees
Article 9	Liability of Trustees
Article 10	Appointment of Trustees
Article 11	Original Trustees
Article 12	Procedural Matters
Article 13	Amendment of Trust Agreement
Article 14	Miscellaneous Provisions
Article 15	Acceptance of Trusts
Schedule A:	Acceptance of Trusteeship

2. **NAME**

2.1 This Trust shall be known as the Granville Lake Mitigation Trust ("Trust").

3. **INTERPRETATION**

3.1 For all purposes within this **Trust Agreement**, unless otherwise specifically provided, bolded words not defined herein have the meanings ascribed to them in the **Mitigation Agreement**. The following words and phrases, whether in the singular or plural, shall have the meaning ascribed to them by this Article:

- (a) Acceptance of Trusteeship means the document in the form appended as Schedule "A".
- (b) **Chairperson** means the chairperson of the Board of Trustees.
- (c) **Mitigation Agreement** means the agreement between **Manitoba Hydro** and the **Association** made as of November 3, 2006, to which this **Trust Agreement** is a schedule.
- (d) **Original Trustee** means a **Trustee** who is a party to this **Trust Agreement**.

3.2 The table of contents, and the part, article and title headings in this **Trust Agreement** are for convenience only, and have no legal significance or implication.

4. **PURPOSES OF THE TRUST**

4.1 The **Trustees** shall hold the **Granville Lake Mitigation Trust Fund** in trust and shall administer it for the benefit of the **Members**, including the **Granville Lake Resource Users**.

4.2 The **Trustees** may only spend funds from the **Granville Lake Mitigation Trust Fund** for the permitted purposes outlined below, which have been reviewed with, and approved by **Members** under the **Budgetary Process**.

4.3 The monies held in the **Community Development Account** are to be used for the benefit of **Members**, for the following **Community Development Projects**:

- (a) resource rehabilitation and development measures designed and intended to address **Adverse Effects** and support increased viability for traditional and commercial resource pursuits and other resource harvesting;
- (b) cultural and social support and development initiatives;
- (c) business and employment development undertakings;
- (d) development and maintenance of local community infrastructure; and
- (e) administration of the trust, including technical and legal support and payment of taxes.

4.4 The **Settlement Proceeds** allocated to the **Participating Members Account** are to be used by the **Association** for a one time per capita payment in the amount of one thousand (\$1000) dollars plus applicable interest, if any, to a **Participating Member** upon reaching his/her eighteenth birthday and on the condition that the **Participating Member** has executed a release in the form attached hereto as Schedule "E". For greater certainty, in the event that a **Participating member** dies prior to reaching his/her eighteenth birthday or prior to the execution of this **Agreement**, the **Association** shall cause the per capita payment to be paid to the estate of the deceased **Participating Member** and the executor of the estate shall sign the release in the form attached hereto as Schedule "E" on behalf of the deceased. The **Association** or the **Trustees**, as the case may be, shall forthwith provide a copy of the executed release to **Manitoba Hydro**.

4.5 Subject to paragraph 4.4 herein, the monies held in the **Granville Lake Mitigation Trust Fund** may not be used for the purposes of per capita payments to **Members**.

5. **COMMENCEMENT OF TRUST**

5.1 This **Trust** shall be deemed to have commenced on the date on which the **Association** as settlor delivers to the **Original Trustees** the property to be held in trust under this **Trust Agreement**.

6. **ACCOUNT**

6.1 The **Trustees** shall establish and maintain accounting records for the **Community Development Account** and the **Participating Member Account**.

7. **BUDGETARY PROCESS**

7.1 Subject to this Article, the **Trustees** may, in their discretion, pay out of the **Community Development Account**, money for a **Community Development Project**.

7.2 The Trustees may encroach upon the capital of the **Community Development Account** for **Community Development Projects** to no more than \$500,000 within 7 years from the Date of the Agreement. There shall be no further encroachment thereafter on the capital remaining in the **Community Development Account**.

7.3 In each year starting in 2006, after seeking applications from and consulting with the **Members** in any manner they consider appropriate, the **Trustees** shall prepare a **Budget**, which shall, at a minimum, include:

- (a) a description of the intended use of the funds in the **Community Development Account** in that year and, if applicable, future years;
- (b) a description of any costs, including, without limitation, operation and maintenance costs in relation to any capital work to be constructed with such funds, and the anticipated source of funds available for such ongoing costs;
- (c) a description of anticipated benefits; and
- (d) a description of the intended use of the funds in the **Participating Member Account** in that year and, if applicable, future years.

7.4 The **Trustees** shall give at least fourteen days notice to the **Members** of a meeting by posting the notice in a prominent location within the **Community**, which notice shall contain, at a minimum, the following information:

- (a) that the **Trustees** have prepared a **Budget**;
- (b) the time and place of a meeting of the **Trustees** and the **Members** to discuss the **Budget**; and
- (c) how the **Members** may obtain particulars of the **Budget** prior to the meeting.

7.5 At the meeting, the **Trustees** shall hear any **Member** who wishes to make a presentation, ask questions or state an objection.

- 7.6 The **Chairperson** is in charge of the conduct and procedure of the meeting.
- 7.7 The **Trustees** may establish rules of procedure for the conduct of the meeting.
- 7.8 At the conclusion of the meeting, or at a subsequent meeting of the **Trustees** and **Members**, after considering the views expressed at the meeting with the **Members**, the **Members** shall consider the **Budget** and may approve the **Budget** by a majority vote.
- 7.9 After approving a **Budget** under Article 7.8, the **Trustees** will authorize and make payments from the **Trust**, as set out in the **Budget** required to be proposed as contemplated in paragraph 7.3, which has been approved, by a majority of those **Members** eligible to vote and in attendance at a properly convened meeting, having first satisfied themselves that the expenditure is within the authorized uses of the **Trust** as set out in paragraphs 4.3 and 4.4 and that the amount of funds required to make the payment exist within the **Trust** and shall notify the **Members** in any manner they consider appropriate as soon as is reasonably practicable.

8. **POWERS AND DUTIES OF TRUSTEES**

- 8.1 The **Trustees** shall have, in addition to all other powers available to them by law, the following powers:
- (a) to receive and incorporate into the **Trust Fund**, money and property as may be contributed for such purpose;
 - (b) to invest money constituting the **Trust Fund** from time to time in such manner and in such investments as they consider advisable, provided that such investments are limited to investments authorized by law for Manitoba municipalities and provided that the funds constituting the **Participating Member Account** may only be invested in guaranteed investment certificates or other similar guaranteed investments;
 - (c) to exercise any rights incidental to the ownership of securities and other property;
 - (d) from time to time to sell, transfer, assign, exchange, convey, mortgage, lease or otherwise dispose of any of the securities and other property;
 - (e) to settle, compromise or submit to arbitration any claim, debts or damages due to or owing from the **Trust Fund** and to commence or defend any legal action or proceeding on behalf of the **Trust Fund**;
 - (f) to retain a lawyer, accountant, actuary or other professional consultant from time to time and to rely and act, or refrain from acting, on the information or advice furnished by such persons upon due consideration of such advice or information;

- (g) to pay for all reasonable and necessary expenses incurred by the **Trust** or in connection with the establishment, administration and operation of the **Trust**, including reimbursement of reasonable expenses necessarily incurred by **Trustees** in the performance of their functions; and
 - (h) to pay a **Trustee** an honorarium of no more than \$500 in each year.
- 8.2 Except where specifically provided otherwise in this **Trust Agreement**, the **Trustees** have a sole and absolute discretion in exercising any power.
- 8.3 Subject to Article 8.1(g) and (h), a **Trustee** may not be compensated for services to the Trust.
- 8.4 No expenditure, approval or authorization shall be made or given except with the approval of the **Trustees** at a properly constituted periodic or special meeting of the **Trustees**.
- 8.5 A **Trustee** may be a member of a class or group of persons who is a recipient of a payment from a **Granville Lake Mitigation Trust Fund**. In addition, this fact shall not be a bar to participation by the **Trustee** in the decision to make the payment.
- 8.6 The **Trustees** shall keep true, accurate and complete books of account and other records of all assets, liabilities and transactions of the **Trust**. All such records shall be available for inspection by any **Trustee** or **Member** or his or her agent at any time during normal business hours or at any meeting of the Board.

9. **LIABILITY OF TRUSTEES**

- 9.1 The **Trustees** shall not be liable in their personal capacity for any loss arising out of any act, omission or error in judgement in the execution of their powers and duties under this **Trust Agreement**, nor shall they be personally liable for any debt or liability incurred by or on behalf of the **Trust** or for any other liability, obligation or debt arising out of the administration or existence of the **Trust**; provided however that the **Trustees** are not exempted from personal liability for any debt, liability or obligation arising out of an act, omission or error in judgement of the **Trustees** acting in bad faith or through gross negligence or wilful misconduct.
- 9.2 The **Trustees** may from time to time consult the **Trust's** legal counsel and shall be indemnified and saved harmless by the **Trust** from any consequences of acting upon the advice of such counsel in respect of legal questions.

10. **APPOINTMENT OF TRUSTEES**

- 10.1 The Board of Trustees shall be made up of 3 **Trustees**.
- 10.2 The following persons are disqualified from being or remaining a Trustee:

- (a) a person who is less than 18 years of age;
 - (b) a person who is not permanently resident in or around the community of Granville Lake, Manitoba;
 - (c) a person who has been found to be of unsound mind by a court; or
 - (d) a person who has the status of a bankrupt.
- 10.3 The **Members** shall elect people to assume the role of **Trustees** at the annual general meeting of the **Association** by majority vote of eligible **Members** in attendance.
- 10.4 The appointment of a **Trustee** becomes effective upon the signing by that person of an **Acceptance of Trusteeship**.
- 10.5 The **Members** may revoke an appointment if the person appointed has not signed an **Acceptance of Trusteeship** within 10 days of the date of the appointment.
- 10.6 A **Trustee** shall not be removed from office except as provided in this **Trust Agreement**.
- 10.7 The Board and each **Trustee** shall serve until the next appointment of **Trustees** under Article 10.3, which shall take place no sooner than 3 years after the last appointment of **Trustees**, except as follows:
- (a) a **Trustee** ceases to be a **Trustee** upon becoming disqualified under Article 10.2;
 - (b) a **Trustee** who is appointed to fill a vacancy shall serve until the end of the term of the Board to which the person is appointed; or
 - (c) a **Trustee** may resign or be removed for cause under Article 10.9.
- 10.8 Where a **Trustee** no longer continues to act due to disqualification, removal for cause, resignation, or for any other reason, the directors of the **Association** shall fill the vacancy by appointing a **Trustee** without reference to the procedure in Article 10.3. The directors of the **Association** need not fill a vacancy if it occurs within 6 months of the expiry of the **Trustee's** term of office.
- 10.9 The directors of the **Association** may remove a **Trustee** for cause where the **Trustee** has:
- (a) misappropriated funds or property of the **Trust**;
 - (b) subject to Article 8.5, obtained or attempted to obtain any personal profit or benefit from any transaction directly or indirectly involving the **Trust**;

- (c) unreasonably neglected or refused to perform the duties assigned to him or her under this **Trust Agreement**;
- (d) acted in bad faith or in a manner detrimental to the **Trust** or the **Trust Agreement**; or failed to act in any way as required by the **Trust Agreement**; or
- (e) been absent for 3 consecutive meetings of the **Trustees** unless the absences are excused by the other **Trustees** (excluding the **Trustee** in question) at any of the 3 meetings, a prior meeting or the next meeting following the 3rd absence.

11. ORIGINAL TRUSTEES

- 11.1 The Original **Trustees** shall serve until new **Trustees** are appointed under Article 10.3, and shall have the powers and duties prescribed for **Trustees** under this **Trust Agreement**.
- 11.2 The **Members** shall elect the **Trustees** in accordance with Article 10.3 at its annual general meeting, to be held no later than June 30, 2007.

12. PROCEDURAL MATTERS

- 12.1 The **Trustees** shall have regular meetings in each year at a place of their choosing within the **Community**.
- 12.2 Any **Trustee** may call a special meeting of the **Trustees** by giving not less than fourteen days' written notice to the other **Trustees**. Any meeting at which all **Trustees** are present, and with respect to which all **Trustees** have waived notice, shall be valid irrespective of any failure to give notice under this Article.
- 12.3 The **Trustees** shall select 1 of their number as Chairperson and a **Trustee** or other person to be Secretary. The Chairperson shall preside over, and the Secretary shall record the business of, all meetings.
- 12.4 A quorum shall be 2 **Trustees**. Decisions of the **Trustees** shall be made by majority vote of the **Trustees** present.
- 12.5 Except as otherwise provided in this **Trust Agreement**, the most recent available edition of *Robert's Rules of Order* shall govern the procedures of the Board.

13. AMENDMENT OF TRUST AGREEMENT

- 13.1 The **Trust Agreement** may be amended by agreement between the **Association** and the **Trustees** where consented to, in writing, by **Manitoba Hydro**. If the **Association** is dissolved, then the **Trust Agreement** may be amended by agreement between the **Trustees** and **Manitoba Hydro**.

14. MISCELLANEOUS PROVISIONS

- 14.1 Except as provided in Article 7.5 and 7.10 any notice given to a person shall be sufficient if in writing and delivered to or sent by prepaid 1st class mail to the last address supplied by the person. A notice sent by 1st class mail shall be deemed to have been received on the earlier of the actual day of receipt or the 3rd day after the day of mailing.
- 14.2 Any question arising in connection with this **Trust** not specifically provided for in this **Trust Agreement** shall be left to the discretion of the **Trustees**.
- 14.3 The **Trustees** may seek judicial protection by any action or proceedings they may deem necessary to obtain judicial determination or declaratory judgement as to any question of construction of this **Trust Agreement** or instruction as to any action hereunder.
- 14.4 To the extent so determined in court, the costs and expenses of the **Trustees** of any action, suit or proceeding brought by or against the **Trustees** or any of them shall be paid from the **Community Development Account** (subject to Article 7.2), except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such **Trustees** were guilty of wilful misconduct or gross negligence in the performance of their duties, in which event such determined expenses and costs shall be the personal liability of the respective **Trustees**.
- 14.5 The situs of this Trust is Granville Lake in Manitoba.
- 14.6 Should any provision in this **Trust Agreement** be deemed or held to be unlawful or invalid for any reason, such fact shall not in itself render invalid or ineffective the **Trust** or any other provision of the **Trust Agreement**.

15. ACCEPTANCE OF TRUSTS

- 15.1 The Original **Trustees**, by joining in the execution of this **Trust Agreement**, signify their acceptance of this **Trust** and the duties and obligations set out hereunder.

IN WITNESS WHEREOF the parties have executed this **Trust Agreement** on the 3rd day of November , 2006

witness

Trustee

witness

Trustee

witness

Trustee

SCHEDULE "A" To the Trust Agreement

ACCEPTANCE OF TRUSTEESHIP

Having been elected as a Trustee in accordance with the Trust Agreement providing for the **Granville Lake Mitigation Trust Fund**, I hereby accept the trusts created and established by the Trust Agreement, agree to act as a Trustee under the Trust Agreement, and agree to administer the **Granville Lake Mitigation Trust Fund** in accordance with the terms of the Trust Agreement. If I cease to be a Trustee for any reason, I shall take any action required to give effect to the continuation of the Trust.

DATED this day of , 2006.

Witness

SCHEDULE "B"

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

In _____ 200* , the directors of the Pickerel Narrows Community Association Inc. retained the services of _____ to provide legal advice to Pickerel Narrows Community Association Inc.

I certifies as follows:

1. I am a member in good standing of the Law Society of Manitoba.
2. I have been retained by the directors of Pickerel Narrows Community Association Inc for the purpose of providing legal advice with respect to the **Association's** request to **Manitoba Hydro** to address and mitigate the impacts of the **Project** as they have affected its **Members**.
3. I have reviewed and contributed to the various drafts of the **Agreement**.
4. Prior to the execution of the **Agreement** by Pickerel Narrows Community Association Inc, I explained the nature and significance of the **Agreement** at meetings which were open to **Members** of Pickerel Narrows Community Association Inc.

DATED at Granville Lake, Manitoba this _____ day of _____, 2006

SCHEDULE "C"

PICKEREL NARROWS COMMUNITY ASSOCIATION INC.

LIST OF PARTICIPATING MEMBERS

SCHEDULE "D"

BALLOT QUESTION

Do you approve the proposed **Agreement** among the **Pickerel Narrows Community Association** and **Manitoba Hydro**?

Please mark your answer to the above question with an **X**.

YES

NO

SCHEDULE "E"

RELEASE BY PARTICIPATING MEMBERS OF THE PICKEREL NARROWS COMMUNITY ASSOCIATION ("Association")

I am 18 years of age or older and am currently a **Participating Member** of the **Association**.

I have assigned to the **Association** all rights which I have to claim for damages caused by the **Project**. I have authorized the **Association** to negotiate to resolve any claim for damages that I may have and to give releases and indemnities binding on me with respect to any claim for damages that I may have.

I am aware that, subject to individual releases being obtained and provided, a settlement has been reached by the **Association** and **Manitoba Hydro**, in connection with **Adverse Effects** caused by the **Project**. Under the terms of this settlement, **Manitoba Hydro** will advance or have advanced cash compensation in the total amount of one million six hundred and seventy eight thousand (\$1,678,000) dollars which sum includes a one-thousand (\$1000) dollar per capita payment to each **Participating Member**.

I have authorized, or agreed by my conduct to authorize, the **Association** to accept this settlement.

I understand that under the terms of the settlement, the **Association** shall or have received the \$1,678,000.00 referred to above, conditional upon individual releases being obtained, on the basis that the **Association** administer and use the monies which they receive in accordance with the terms of the settlement.

In consideration of the **Agreement** and the terms thereof including the payment to the **Association** of the **Settlement Proceeds** as set forth above, I hereby release **Manitoba Hydro** from all claims and debts which I have had, which I have now and which I may have in the future, respecting any loss or damage which I have suffered or which I may in the future suffer caused by or arising from the **Project**.

This release is subject to five exceptions. First, I do not release **Manitoba Hydro** for any **Unanticipated Adverse Effects**. Secondly, I do not release **Manitoba Hydro** from any personal injury or death caused by the **Project**. Thirdly, I do not release **Manitoba Hydro** from obligations under the **Agreement**. Fourthly, I do not release **Manitoba Hydro** from any liabilities arising out of breaches of the **Agreement**. Fifthly, I do not release **Manitoba Hydro** from damage caused by future negligence of **Manitoba Hydro**, or their employees.

I have read and understand the nature of this release or this release has been read to me and I understand the nature of this release.

Signed on this date: _____, 2006.

_____) _____
_____) _____
_____) _____
Witness _____)

Note: Terms in bold face type in this form have the meaning given to them in the PICKEREL NARROWS COMMUNITY ASSOCIATION MITIGATION AGREEMENT.