
TRUST INDENTURE

between

**NISICHAWAYASIIK CREE NATION, AS REPRESENTED BY
CHIEF AND COUNCIL**

- and -

**JAMES WARREN, DIANE LINKLATER, AGNES M. SPENCE and
DARCY B. LINKLATER, JR.,**

- and -

THE CANADA TRUST COMPANY,

- and -

TASKINIGAHP POWER CORPORATION.

DATED JUNE 29, 2006.

THIS TRUST INDENTURE made this 29th day of June, 2006.

BETWEEN:

NISICHAWAYASIHK CREE NATION, as represented by Chief
and Council

(hereinafter called "NCN"),

of the First Part,

- and -

JAMES WARREN, DIANE LINKLATER, AGNES M. SPENCE and
DARCY B. LINKLATER, JR.,
(hereinafter called the "NCN Trustees"),

of the Second Part,

- and -

THE CANADA TRUST COMPANY, a corporation
incorporated under the laws of Canada,

(hereinafter called the "Corporate Trustee"),

of the Third Part,

- and -

TASKINIGAHP POWER CORPORATION, a corporation
incorporated under the laws of Manitoba

(hereinafter called "TPC")

of the Fourth Part,

Whereas **NCN, Hydro, TPC, the General Partner, and the Limited Partnership** entered into the **PDA** to develop, construct and operate the **Wuskwatim Project** and for the purpose of implementing certain agreements reached between the parties with respect to matters referred to in Article 8 of the **1996 NFA Implementation Agreement**;

And Whereas **TPC** was incorporated by **NCN** for the purpose of owning units in the **Limited Partnership**;

And Whereas **NCN** is the sole shareholder beneficially owning all of the issued and outstanding shares in the capital stock of **TPC** and therefore **NCN** may receive **Dividends** from **TPC**;

And Whereas in addition to **Dividends** from **TPC**, **NCN** will also receive **Settlement Proceeds** from the **Limited Partnership** and **Hydro**, **Transmission Benefits** from **Hydro** and may also receive **Dividend Loan Proceeds** from **Hydro**;

And Whereas **NCN** will irrevocably assign the **Dividends**, **Settlement Proceeds**, **Transmission Benefits** and **Dividend Loan Proceeds** to the **Trust** pursuant to the **Deeds of Assignment**;

And Whereas, **NCN**, **TPC** and the **Trustees** wish to settle the **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

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 **PDA** as necessary; and
- (e) references to Articles or Schedules mean Articles or Schedules of this **Indenture** unless otherwise indicated.

ARTICLE 2 - DEFINITIONS

2.1 **Definitions from PDA.** All defined terms in Article 1 of the **PDA** 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 **PDA** and which are also used in this **Indenture** have been repeated in Article 2.3. In the event of any conflict between the definitions used in the **PDA** and which are also used in this **Indenture**, the definitions in the **PDA** shall prevail.

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. Subject to section 2.1, for the purposes of 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 this Article 2.3:

Account means an account, including any sub-account established pursuant to this **Indenture**.

Applicant shall have the meaning ascribed thereto in Article 22.2 of this **Indenture**.

Arbitrator means an arbitrator appointed in accordance with the procedure set out in Article 22 of this **Indenture** to adjudicate a dispute among the **Parties**.

Assets means all **Dividends, Dividend Loan Proceeds, Settlement Proceeds, Transmission Benefits**, and all other property of every nature and kind of which the **Trust** acquires ownership.

Capital Works means any permanent structures or works erected, constructed, acquired or developed using **Funds Available**, but excludes single family houses.

Chief means the Chief of **NCN** elected and in office in accordance with the *NCN Election Code*, E-1, as amended from time to time.

Chief and Council means the Chief and Councillors elected and in office from time to time as the governing body of **NCN** pursuant to the *NCN Election Code* and recognized, for **NCN**, as the “council of the band” as defined in subsection 2 (1) of the *Indian Act (Canada)*.

Claims Officer means the person appointed by **Chief and Council** under Article 4.2 of the **NCN Adverse Effects Agreement** or in that person’s absence or incapacity, the alternate **Claims Officer**.

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

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 office and includes, where transitional obligations are being fulfilled and the context requires, both an outgoing and an incoming trustee.

Council Meeting means a duly convened meeting of **Chief and Council** at which a quorum is present in person or by telephone.

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

Deeds of Assignment means collectively: (a) the Deed of Assignment to be entered into among NCN, the **Trust** and TPC pursuant to which NCN will irrevocably assign to the **Trust**, the **Dividends, Settlement Proceeds, Transmission Benefits and Dividend Loan Proceeds**, substantially in the form attached as Schedule 16-1 to the **PDA**; and (b) the Deed of Assignment to be entered into between NCN and the **Trust** pursuant to which NCN will irrevocably assign to the **Trust**. NCN's entitlements under an agreement between NCN and the Province of Manitoba (the Water Power Rental/Land Payment Agreement).

Dispute shall have the meaning ascribed thereto in Article 22.2 of this **Indenture**.

Dispute Notice shall have the meaning ascribed thereto in Article 22.2 of this **Indenture**.

Dividends means all moneys and property in kind paid to NCN by TPC and which will be irrevocably assigned by NCN to the **Trust** pursuant to the **Deeds of Assignment**.

Dividend Loan Proceeds means the proceeds of all loans received by NCN from **Hydro** pursuant to the **NCN Financing Agreement** and which will be irrevocably assigned by NCN to the **Trust** pursuant to the **Deeds of Assignment**.

Funds Available means the aggregate of **Income** for the fiscal year and the amount by which the **Net Value of the Assets** at the end of the prior fiscal year exceeds fifty percent (50%) of the **Settlement Proceeds**.

General Partner means 5022649 Manitoba Ltd. in its capacity as general partner of the **Limited Partnership** pursuant to the terms of the **Limited Partnership Agreement**.

Growth Income means all income for a fiscal year of the **Trust** earned on funds in the **Seven Generations Growth Account** pursuant to Article 15.2, as calculated in accordance with section 3 of the *Income Tax Act (Canada)* without reference to subsections 75(2) or 104(6) thereof, except in making such calculation, there shall be excluded any gross-up of any dividend and there shall be included the entirety of any capital gain.

Hydro means the Manitoba Hydro-Electric Board.

Income means all income for a fiscal year of the **Trust**, except any **Growth Income** or **Resource Income** calculated in accordance with section 3 of the *Income Tax Act (Canada)* without reference to subsections 75(2) or 104(6) thereof, except in making such

calculation, there shall be excluded any gross-up of any dividend and there shall be included the entirety of any capital gain.

Indenture means this trust agreement.

Individual Proposals means programs, projects or initiatives proposed by one or more **Members**, other than **Chief and Council**.

1996 NFA Implementation Agreement means the agreement effective March 18, 1996, among NCN, Canada, Manitoba and **Hydro** to implement and resolve most of the outstanding obligations under the **NFA** and includes an Amending Agreement dated June 14, 1999, between NCN, **Hydro** and Canada in relation to the marina dock.

Integrated Power System means the system of hydraulic and a thermal electric generation and power transmission facilities owned and operated by **Hydro**, or in some circumstances, owned by **Hydro** in partnership with others and which is interconnected with other power utilities.

Limited Partnership means the Wuskwatim Power Limited Partnership established in accordance with the **Limited Partnership Agreement** for the purposes of owning and directly or indirectly designing, constructing, and operating and maintaining the **Wuskwatim Project**.

Limited Partnership Agreement means the amended and restated **Limited Partnership Agreement** in respect of the Wuskwatim Power Limited Partnership to be entered into between **Hydro**, **TPC** and the **General Partner**, substantially in the form attached as Schedule 1-1 to the **PDA**.

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** require a secret ballot vote, approve the matter voted upon.

Meeting of Members means a meeting of **Members** convened pursuant to the **Indenture** and unless otherwise specifically indicated, includes either a meeting on or off reserve, and shall include any annual general assembly of NCN.

Member means a person who at the relevant time is, or who has applied and is entitled to be, a member of NCN pursuant to the membership code established by and for NCN pursuant to section 10 of the *Indian Act* (Canada), which membership code has been in force and of effect since May 24, 1988, or pursuant to any successor membership code established pursuant to legislation or lawfully adopted by NCN and **Members** means the group of persons each of whom is a Member.

Multi-Year Plan means a plan which outlines NCN's priorities for social, economic and community development for the next four to five years, and any revisions thereto following the procedures set out in this **Indenture**.

Net Value of the Assets means the amount at any specific date by which the value of the **Assets** on that date, excluding any funds in the **Seven Generations Growth Account** and the **Resource Account**, exceeds all liabilities of the **Trust**, and where all property comprising **Assets** are valued as the lower of cost or fair market value.

NCN means Nisichawayasihk Cree Nation, formerly known as Nelson House First Nation.

NCN Adverse Effects Agreement means the NCN Adverse Effects Agreement to be entered into between **NCN**, **Hydro**, the **Limited Partnership** and the **Trust**, substantially in the form attached as Schedule 11-1 to the **PDA**.

NCN Financing Agreement means the NCN Financing Agreement to be entered into between **NCN**, **TPC** and **Hydro**, substantially in the form attached as Schedule 5-2 to the **PDA**.

NCN Trustees means the individual trustee's signatory to the **Indenture** and their respective successors in office, in accordance with Article 6.

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

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

OPCN means O-Pipon-Na-Piwin Cree Nation, the First Nation comprised of former **Members** and others residing at South Indian Lake which was constituted as a band under the *Indian Act* (Canada), independent of **NCN**, on December 22, 2005.

PDA means the **Project Development Agreement** entered into between **NCN**, **Hydro**, **TPC**, the **General Partner** and the **Limited Partnership** dated the 26th day of June, 2006, including all Schedules and all amendments thereto and extensions thereof.

Party means any of **NCN** and the **Trustees**.

Reply shall have the meaning ascribed thereto in Article 22.3 of this **Indenture**.

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 **NCN**.

Resource Account means the account established under Article 12 of this **Indenture** and includes any amounts allocated to this account pursuant to this **Indenture**.

Resource Income means all income for a fiscal year of the **Trust** earned on funds allocated to the sub-account established within the **Resource Account** pursuant to Article 12.2.-, as calculated in accordance with section 3 of the *Income Tax Act (Canada)* without reference to subsections 75(2) or 104(6) thereof, except in making such calculation, there shall be excluded any gross-up of any dividend and there shall be included the entirety of any capital gain.

Resource Management Area means the area described in Schedule 6.1 of the **1996 NFA Implementation Agreement** and any agreed upon amendments thereto.

Respondent shall have the meaning ascribed thereto in Article 22.3 of this **Indenture**.

Seven Generations Account means the account established under Article 14 of this **Indenture** and includes any amounts allocated to this **Account** pursuant to this **Indenture**.

Seven Generations Growth Account means the sub-account established under Article 15 of this **Indenture** and includes any **Income** or other amounts allocated to this **Account** pursuant to this **Indenture**.

Settlement Proceeds means any amounts paid to **NCN** by the **Limited Partnership** or by **Hydro** pursuant to the **NCN Adverse Effects Agreement** and which will be irrevocably assigned by **NCN** to the **Trust** pursuant to the **Deed of Assignment**.

SIL Claim means a claim for loss or damage caused by a **Wuskwatim Adverse Effect** advanced by a **Wuskwatim Claimant** who, on the date the **Wuskwatim Adverse Effects Agreement** was signed, 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**;
- (b) was ordinarily resident at or near the Community of South Indian Lake regardless of where the damage or loss arose; or
- (c) is a member of **OPCN** whose reserve is or will be located at or near the existing Community of South Indian Lake, regardless of where the damage or loss arose;

provided that where the **Wuskwatim 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

and the scope of the **SIL Claim** will be limited to the interest of the members of such group or association who were so resident.

Taskinigahp Claims Account means the account established under Article 13 of this **Indenture** and administered in accordance with the **NCN Adverse Effects Agreement** and this **Indenture**.

Taskinigahp Community Development Account means the account established under Article 11 of this **Indenture** and includes any amounts allocated to this account pursuant to this **Indenture**.

TPC means Taskinigahp Power Corporation, a corporation incorporated under *The Corporations Act* (Manitoba).

Transmission Benefits means the amounts paid by **Hydro** to **NCN** from time to time pursuant to the Wuskwatim Transmission Development Fund provisions in the **PDA**, which amounts will be irrevocably assigned by **NCN** to the **Trust** pursuant to the **Deed of Assignment**, and allocated to the **Resource Account** pursuant to Article 10.

Trust means the trust to be known as Taskinigahp Trust created and settled on the terms and conditions set forth in this **Indenture**.

Trust Moneys means all payments of cash or kind to **NCN** or its designated agents from the **Trust**.

Trustees means collectively the **NCN Trustees** and the **Corporate Trustee**.

Wuskwatim Adverse Effects means the direct or indirect negative consequences of the **Wuskwatim Project** or the operation thereof by the **Limited Partnership**, and of the **Wuskwatim Project Related Transmission Facilities** 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 **NCN** or **Members**, and impacts on interests in and the exercise of rights in relation to lands, pursuits, activities, opportunities, lifestyles and assets of **NCN** or **Members**.

Wuskwatim Claimant means any of:

- (a) **Chief and Council;**
- (b) **NCN;**
- (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 **NCN** or **Members**;

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

Wuskwatim Project means the generation project described in the **PDA**.

Wuskwatim Project Related Transmission Facilities means the transmission project described in the **PDA**.

PART TWO: BASIC PROVISIONS

ARTICLE 3 - BASIC PROVISIONS

3.1 **Name.** The **Trust** created by this **Indenture** shall be known as the Taskinigahp Trust.

3.2 **Beneficiaries.** Subject to the terms of this **Indenture**, the beneficiaries of the **Trust** are **NCN** and **Members**. **Chief and Council** shall have the right to appoint as additional beneficiaries any corporation which is wholly owned and controlled by **NCN** by providing written notice to the **Trustees** after **Chief and Council** have obtained the necessary tax and other advice to support such decision, which advice shall be provided to the **Trustees** upon request.

3.3 **Community Involvement Process.** Except as specifically provided in this **Indenture** or the **NCN Adverse Effects Agreement**, the **Community Involvement Process** shall determine all uses of **Assets** and **Trust Moneys**.

3.4 **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 **Adverse Effects Agreement**.

3.5 **Fiscal Year.** The fiscal year of the **Trust** shall be from January 1 to December 31 in each year.

3.6 **Residence.** As it is the intention of the **Parties** that the **Trust** shall be situate on a reserve the **Trustees** shall take all reasonable steps to ensure, to the extent possible, that the **Trust** shall always be so situate. However, **Chief and Council**, or its designated agent, may maintain offices in centres not on a reserve in order to administer programs approved in accordance with Article 8 of this **Indenture**.

PART THREE: ROLES AND RESPONSIBILITIES

ARTICLE 4 - CHIEF AND COUNCIL

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

- (a) appoint successor **NCN Trustees** as provided in Article 6;
- (b) suspend **NCN Trustees** as provided in Article 6.5;
- (c) appoint successor **Corporate Trustees** as provided in Article 7;
- (d) administer the **Community Involvement Process** as provided in Article 8;
- (e) appoint the **Auditor** as provided in Article 9;
- (f) settle any unallocated **Funds Available** distributed to it, on the **Trustees** for deposit to the **Taskinigahp Community Development Account** or the **Seven Generations Account** in accordance with Article 10.4;
- (g) administer **Trust Moneys** as provided in Article 19;
- (h) administer the claims procedure as provided in Article 4 of the **NCN Adverse Effects Agreement**, the terms of which shall be deemed incorporated by reference in this **Indenture** and shall form a part hereof;
- (i) obtain and present reports on the administration of **Trust Moneys** as provided in Articles 20 and 21; and
- (j) perform any other duties given to **Chief and Council** by this **Indenture**.

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 this **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** held on **Reserve**; 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 Article 8, **Chief and Council** shall not pledge or forward commit **Assets** or **Trust Moneys** beyond the current fiscal year.

4.8 Liability of Chief and Councillors. 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**.

4.9 Suspension of Chief or Councillors. If pursuant to the *NCN Election Code* or any successor legislation, the **Chief** or a **Councillor** is suspended as a result of being charged with an indictable offence, that person shall not carry out any duties as a member of **Chief and Council** pursuant to this **Indenture** for the duration of the suspension.

ARTICLE 5 - TRUSTEES

5.1 Number of Trustees. The **Trust** shall have one (1) **Corporate Trustee**, and four (4) **NCN Trustees**.

5.2 Decisions by Trustees. Except where unanimity is required by law, decisions of the **Trustees** shall be by majority vote. If the **Corporate Trustee** has not voted in favour of the resolution, the **Corporate Trustee** may request the **Trustees** to reconsider the decision. If, after reconsideration the **Trustees** do not change the decision, the **Corporate Trustee** may require the **Trustees** to refer the question in writing with all necessary supporting information to the **Chief and Council** whose decision on the issue shall bind the **Trustees** provided always that no **Trustee** shall be bound to act contrary to law or contrary to the express provisions of this **Indenture**.

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** and the **Corporate Trustee** from time to time agrees to provide all access required for such purposes to a successor **Corporate Trustee**.

5.5 No Encumbering. Except as provided in Article 8 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, which may be 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 Duties of the Trustees. The **Trustees** shall:

- (a) invest **Assets** in accordance with the provisions of this **Indenture**;
- (b) advance funds to **Chief and Council** or its designated agent only in accordance with the provisions of this **Indenture**;
- (c) perform any other duties required by this **Indenture**.

5.8 **Trustees' Meetings.** The **Trustees** shall meet on a reserve to conduct the business of the **Trust** and they may conduct such business by telephone, videoconferencing or using such other agreed upon technology, as long as the majority of **Trustees** are present on a reserve at the time business is conducted.

ARTICLE 6 - NCN TRUSTEES

6.1 **Appointment.** **Chief and Council** shall appoint one (1) of its members and three (3) other **Members** who meet the qualifications for **NCN Trustees** in accordance with Article 6.3, but no person who is a director or officer of **TPC** or a director or officer of the **General Partner** shall be appointed or remain in office as an **NCN Trustee**. The three (3) **NCN Trustees**, who are not members of **Chief and Council**, shall be appointed from a list of **Members** who have each been nominated on a Schedule 2 form by at least twenty-five (25) **Members**. **Chief and Council** shall not nominate or participate in the nomination of any **Member** other than a member of **Chief and Council** pursuant to this Article. If no **Members** are nominated **Chief and Council** shall in their sole discretion select and appoint three (3) **Members** who meet the qualifications in Article 6.3.

6.2 **Term of Appointment of Initial NCN Trustees.** Two of the inaugural **NCN Trustees** shall be appointed for a three (3) year term and two shall be appointed for a four (4) year term. Thereafter all **NCN Trustees** shall be appointed for four (4) year terms, but may be removed by **Chief and Council** for cause. An **NCN Trustee** may serve more than one term.

6.3 **Qualifications.** **NCN Trustees** shall be **Members**:

- (a) over eighteen (18) years of age;
- (b) eligible for fidelity bonding by a licensed surety as determined by the **Corporate Trustee**;
- (c) who have proven skills in finance and administration, with a post-secondary education or experience that has been determined by **Chief and Council** as equivalent to a post-secondary education; and
- (d) who have no criminal record for offences which involve

- (i) the dishonest deprivation of property;
- (ii) a breach of a position of trust or authority with respect to property;
- (iii) fraudulent intent;
- (iv) a criminal organization;
- (v) money laundering; or
- (vi) particulars related to gambling.

6.4 Criminal Record Check. For purposes of determining whether a **Member** qualifies under Article 6.3 (d), a criminal record shall consist of:

- (a) a record or an offence of which a person has been found guilty or to which a person has entered a plea of guilty, whether a discharge was granted or a conviction was entered; or
- (b) a record of an offence of which a person stands charged and is pending before any court.

6.5 Successor NCN Trustees. Where an NCN Trustee:

- (a) is unable or unwilling to act;
- (b) at any time fails to meet the requirements of Articles 6.1 and 6.3;
- (c) is convicted of an indictable offence or a Criminal Code offence related to property;
- (d) is an undischarged bankrupt; or
- (e) who is a member of **Chief and Council** does not seek re-election upon the expiry of that member's term of office or is defeated in a subsequent election,

that **NCN Trustee's** appointment shall be terminated by **Chief and Council** and upon such termination, **Chief and Council** shall immediately appoint a successor for the duration of the terminated trustee's term of office, and advise the remaining **Trustees** and **Members** accordingly.

6.6 Suspension of NCN Trustee. An NCN Trustee may be suspended by **Chief and Council** as a result of being charged with an indictable offence or a Criminal Code offence related to property and that decision shall be final and binding on the NCN Trustee and all **Members** and shall not be subject to arbitration pursuant to this **Indenture**. Following suspension the person shall not carry out any duties pursuant to this **Indenture** for the duration of the suspension. In the event an NCN Trustee is suspended, a member of **Chief and Council** shall be appointed to assume the duties of the NCN Trustee who has been suspended for the duration of the suspension, unless the charges have not been resolved twelve (12) months from the date of the suspension, in which case the suspended NCN Trustee shall be terminated and **Chief and Council** shall, forthwith, in their sole discretion select and appoint a successor NCN Trustee who meets the qualifications in Article 6.3.

6.7 Validity of Actions. Until resignation or termination under Articles 6.5, no action by the **Trustees** shall be invalid due solely to the ineligibility of an NCN Trustee.

6.8 Acceptance of Indenture. Prior to assuming office an NCN Trustee, other than the inaugural NCN Trustees, shall execute a Schedule 3 form and deposit it with the **Corporate Trustee**.

6.9 Trustees' Dealings with the Trust. An NCN 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.

6.10 General Duty of NCN Trustees. Every NCN 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 **NCN Adverse Effects Agreement** and in any other agreement to which the **Trust** is or may become a party.

6.11 Liability of NCN Trustees. NCN 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.

6.12 Disclosure of Conflicts of Interests. NCN 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 a group of **Members** generally, and is not related to being, or having been, a **NCN Trustee**.

6.13 **NCN Trustee Compensation.** **NCN Trustees** shall be entitled to reimbursement of expenses incurred in fulfilling their duties and shall receive a reasonable fee to be set by **Chief and Council** following the **Community Involvement Process** in Article 8. An **NCN Trustee** who is a **Chief** or a **Councillor** shall not be entitled to a fee under this **Indenture**, but is entitled to reimbursement of reasonable expenses incurred in fulfilling his or her duties as an **NCN Trustee**.

6.14 **No Power of Appointment.** The authority of an **NCN Trustee** under section 36 of *The Trustee Act* (Manitoba) or otherwise, to delegate execution or authority when absent from Manitoba 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.

ARTICLE 7 - CORPORATE TRUSTEE

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

- (a) shall be a corporation authorized to conduct the business of a trust company in Canada;
- (b) shall be able to meet the criteria for a member in good standing with the Canada Deposit Insurance Corporation; and
- (c) may 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 and upon appointment of the **Corporate Trustee** shall provide the **NCN Trustees** and **Chief and Council** with its mailing address and its telephone and facsimile numbers at this 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;
- (c) be discharged by **Chief and Council** upon thirty (30) days written notice to the **Corporate Trustee**;

- (d) become disqualified; or
- (e) be removed by a court of law;

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** and parties with whom the **Trust** has contractual commitments, of such appointment.

7.4 Vacancy. Where the position of **Corporate Trustee** is vacant for more than thirty (30) days, any **Member** or **NCN Trustee**, 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** including separate calculations for **Income, Growth Income and Resource Income**;
- (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 16;
- (g) advise **Chief and Council** of the amount of **Funds Available** to fund the **Accounts** 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 Articles 8.10 and 8.11;

- (ii) for any forward commitment of **Trust Moneys** under Article 8.13 to repay loans;
 - (iii) for the **Community Involvement Process** under Article 8;
 - (iv) in the amount necessary to maintain the minimum balance in the **Claims Account** required under Article 13.2;
 - (v) for the fees, if any, and reasonable expenses of the **NCN Trustees** under Article 6;
 - (vi) for the fees of the **Corporate Trustee** under Article 7;
 - (vii) for charges for administration of the **Trust** under Article 8.6(h);
 - (viii) for costs of litigation under Article 17(1)(e)
 - (ix) for costs of insurance under Article 17(1)(i);
 - (x) for indemnities payable under Article 17.4;
 - (xi) in any other amounts that the **Trust** is require to pay by law,
- (h) comply with the terms of this **Indenture** and the duties associated with this **Trust** contained in the **NCN Adverse Effects Agreement** or any other agreement to which the **Trust** is or may become a party;
 - (i) advise **Chief and Council** as to the amounts available for expenditure from **Transmission Benefits, Resource Income** from the **Resource Account**, the **Seven Generation Account** and the **Growth Income** from the **Seven Generations Growth Account**; and
 - (j) provide access to the records of the **Trust** on the reasonable request of **Chief and Council, Members** or any **Party**.

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 outgoing **Corporate Trustee** shall execute all documents and do all acts necessary to cause and complete such vesting in the successor **Corporate Trustee**.

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 interest 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 obligations of the **Trust** under the **NCN Adverse Effects Agreement** and under any other agreement to which the **Trust** is or may become a party.

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 the **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**.

ARTICLE 8 - COMMUNITY INVOLVEMENT PROCESS

8.1 Multi-Year Plan. Within thirty-six (36) months following the signing of this **Indenture**, **Chief and Council** shall hold at least three (3) **Meetings of Members** in order to determine community priorities for the development of a **Multi-Year Plan** with respect to programs, projects and initiatives for the use of projected **Funds Available** unless the construction of the **Wuskwatim Project** is delayed in accordance with the provisions in Article 2.6 of the **PDA**, in which case within twenty-four (24) months of the start or resumption of construction The **Multi-Year Plan** shall include information about potential sources of funding for the various programs, projects and initiatives, including funding from any other trusts or businesses operated by **NCN**. Prior to the meetings, **Chief and Council** shall give notice in accordance with Article 8.5.

8.2 Updating Multi-Year Plan. **Chief and Council** shall update the **Multi-Year Plan** at least once every three (3) years in accordance with the meeting procedures in Articles 8.1, 8.5 and 8.6.

8.3 Individual Proposals. **Members** may in the manner prescribed by **Chief and Council** or its designated agent, submit **Individual Proposals** to be funded by **Funds Available**. Such **Individual Proposals** shall contain the information required in Article 8.6 and such other

information as **Chief and Council** or its designated agent, acting reasonably, determine is necessary.

8.4 **Members Meeting.** At least once in every fiscal year of the **Trust, Chief and Council** shall hold a **Meeting of Members** to consider **Individual Proposals** and proposals from **Chief and Council** for the expenditure of annual **Funds Available**. Prior to the meeting, **Chief and Council** shall give notice in accordance with Article 8.5.

8.5 **Notice for Meeting of Members.** Notice for a **Meeting of Members** under Articles 8.1, 8.2 and 8.4 shall:

- (a) specify the time, place and purpose of the meeting;
- (b) be publicized at least seven (7) days before the proposed meeting, and in the case of a **Meeting of Members** on **Reserve**, by posting notices in public places on **Reserve**; and in the case of a **Meeting of Members** off **Reserve**, by placing a notice of the meeting in a newspaper of general circulation in the community where the meeting is to take place; or by other means reasonably likely to reach all adult **Members** resident at or frequenting the **Reserve** or the community off-reserve where the meeting is to be held;
- (c) indicate where the information and relevant documents referred to in Article 8.6 can be obtained or reviewed by **Members**.

8.6 **Disclosure Requirements.** **Chief and Council** shall make available to **Members** in accordance with Article 8.5:

- (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, and

- (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 written opinion prepared by an Architect, Professional Engineer or other qualified person, unless the cost of construction of such **Capital Work** shall 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) the anticipated **Transmission Benefits** and other proposed allocations to the **Resource Account** for the budget year, and how it is proposed such funds be spent in that year;
- (e) for proposed allocations to the **Seven Generations Account** in accordance with Article 8.15:
 - (i) the purpose for allocating funds,
 - (ii) proposed restrictions on use, if any;
- (f) for proposed allocations to the **Taskinigahp Community Development Account** or any sub-accounts established pursuant to Article 11.2, how it is proposed that the funds be spent in the year;
- (g) assessments of **Individual Proposals** conducted pursuant to Article 8.7;
- (h) the anticipated staff and proposed budgetary allocations and operating expenses to be paid from the **Taskinigahp Community Development Account** to administer the **Trust** and all **Trust Moneys**, including but not necessarily limited to the following:

- (i) monitoring programs, projects and initiatives which have been approved for funding;
- (ii) developing project performance monitoring and review procedures;
- (iii) developing guidelines and criteria for the information which is to be included in quarterly and yearly reports from **Chief and Council** regarding approved programs, projects and initiatives;
- (iv) conducting any necessary annual tours of each project funded by the **Trust** to review the status of same;
- (v) developing distinctive signage to identify programs, projects and initiatives supported by the **Trust**;
- (vi) producing and distributing newsletters to **Members** about programs, projects and initiatives supported by the **Trust**;
- (vii) assisting in the financial management of programs, projects and initiatives where it appears appropriate to do so;
- (viii) requesting and obtaining quarterly reports from all projects managers to ensure that the funds allocated are being used for the intended purposes and if not, to recommend to **Chief and Council** that approvals for the project be rescinded and funds returned to the **Account** from which they were withdrawn.

8.7 **Chief and Council to Assess Individual Proposals.** Upon receipt of an **Individual Proposal**, **Chief and Council** or its designated agent shall conduct an assessment of the **Individual Proposal** to assist in **Chief and Council's** consideration about whether to approve it for funding. Such assessments, which will be presented to a **Meeting of Members** as required under Article 8.4, shall be based on the following criteria:

- (a) the extent to which the **Individual Proposal** is consistent with the **Multi-Year Plan**;
- (b) the extent to which the **Individual Proposal** will provide both short term and long term benefits to the community, including long term employment opportunities;
- (c) whether any capital cost estimates are reasonable and are within the limitations set out in this **Indenture**;

- (d) whether any **Operation and Maintenance** estimates are reasonable and are within the limitations set out in this **Indenture**;
- (e) the alternate sources of funding that may be available to fund the **Individual Proposal** and the attempts made to obtain such alternate funding;
- (f) the amount of **Funds Available** for the fiscal year;
- (g) whether any potential conflicts of interest may be apparent in relation to the **Individual Proposal**;
- (h) any other reasonable criteria established by **Chief and Council** or its designated agents, as long as any such additional criteria are provided at least sixty (60) days in advance of any application process established for the submission of such **Individual Proposals**.

8.8 Budget Decisions. Following the **Meeting of Members** held pursuant to Article 8.4, **Chief and Council** at a public meeting shall, where applicable:

- (a) make a final decision on:
 - (i) the amounts of **Funds Available, Growth Income, and Resource Income** as it is advised by the **Corporate Trustee** under Articles 7.5(g) and 7.5 (i) respectively are available for expenditure;
 - (ii) the **Multi-Year Plan** or proposed changes to the plan;
 - (iii) the programs, projects and initiatives to be funded in each fiscal year, from the **Taskinigahp Community Development Account**, including **Individual Proposals**;
 - (iv) any allocation of Funds Available to the Resource Account, the Seven Generations Account and the Seven Generations Growth Account;
 - (v) any allocation to the **Taskinigahp Community Development** sub-accounts established pursuant to Article 11.3;
- (b) pass a **Council Resolution** confirming its decisions; and
- (c) request the release of **Trust Moneys** by way of Schedule 5, 6, 7 or 8.

8.9 Further disclosure to Members. If **Chief and Council** propose to vary in any material way from the information previously disclosed under Article 8.6 then, prior to requesting the release of the **Trust Moneys** under Article 8.8(c), **Chief and Council** shall make fresh disclosure with respect to those variations in accordance with Articles 8.5 and 8.6 and pass an amending **Council Resolution** under Article 8.8(b).

8.10 Paramount Consideration. Subject to Article 8.11, the **NCN Trustees** shall not make any payments from the **Trust** towards a new **Capital Work**, unless in the opinion of the **NCN Trustees** the anticipated future cost of **Operation and Maintenance** for that **Capital Work** and any amount forward committed under Article 8.13 can be funded entirely from:

- (a) **Funds Available;**
- (b) other reliable sources, including any funding committed by Canada or Manitoba.

8.11 Limitations on Expenditure of Funds Available. The **Operation and Maintenance** costs for all **Capital Works** and any loan repayments pursuant to Article 18.3, shall not exceed in any year 20% of the **Funds Available** where the **Funds Available** do not exceed \$4 million; 25 % where the **Funds Available** exceed \$4 million but do not exceed \$10 million; and 30% where the **Funds Available** exceed \$10 million but in no case shall the **Trust** fund more than five million dollars (\$5,000,000.00) in any year for **Operation and Maintenance** costs for **Capital Works** funded by the **Trust** and the repayment of any loans pursuant to Article 8.13.

8.12 Release of Funds. Where:

- (a) in the opinion of the **NCN Trustees** other sources of funding under Article 8.11 cannot reasonably be relied upon;
- (b) **Chief and Council** has fully disclosed the other sources of funding and the opinion of the **NCN Trustees** at a **Meeting of Members**; and
- (c) by a **Majority Vote**, approval is given to override the **Trustees'** opinion;

the **NCN Trustees**, subject to the limits referred to in Article 8.11, 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 6 form.

8.13 Loans Forward Commitment. Subject to the limits in Article 8.11 **Chief and Council** may forward commit up to \$300,000.00 per annum during the first three (3) years following the date this Indenture is signed, and thereafter this amount may be increased by no more than five (5%) per annum following a review by **Chief and Council** and the **Trustees**, if

both agree the amount should be increased, as long as the cumulative increases shall at no time permit more than one million dollars (\$1,000,000.00) per annum to be forward committed for repayment of principal and interest on a loan providing all of the following conditions are met:

- (a) the proceeds of the loan are exclusively used to acquire assets or property to be wholly owned and controlled by **NCN** or the **Trust**, directly or through a corporation;
- (b) the loan is secured by assets which do not form part of **Assets** or **Trust Moneys**;
- (c) there is no direct debit by the **Corporate Trustee** from, or direct or indirect recourse by the lender against, **Assets** or **Trust Moneys**; and
- (d) the forward commitment has been approved by **Chief and Council** under Article 8.8 and by the **NCN Trustees** under Articles 8.10 or 8.12.

The provisions of Article 21.4 do not apply to Article 8.13.

8.14 Alterations. Upon application of **Chief and Council**, the **NCN 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**.

8.15 Savings Decisions by Members. Subject to the terms of this **Indenture**, a **Majority Vote** at a **Meeting of Members** may:

- (a) require **Chief and Council** and the **Trustees** to deposit **Funds Available** to the **Seven Generations Account** or to the **Seven Generations Growth Account**;
- (b) impose restrictions on the use of those funds in the **Seven Generations Account**; and
- (c) subject to such restrictions, and any other restrictions imposed by this **Indenture**, authorize the expenditure of funds from the **Seven Generations Account**.

8.16 Changes to Restrictions. A restriction imposed under Article 8.15(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 8.5 and 8.6 of the **Trust**.

8.17 Distribution Payments to Members. Per capita distributions to **Members** shall not be paid from the **Trust** but this provision does not preclude payments to individual **Members** from programs, projects or initiatives approved through the **Community Involvement Process**. However, in any year where **Dividends** paid to the **Trust** are ten million dollars (\$10,000,000.00) or more, up to ten percent (10%) of the **Dividends** paid to the **Trust** in that year may be distributed to **Members** if such distribution is approved during the **Community Involvement Process** in Article 8.

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 designated agents. For greater certainty, only one **Auditor** shall be appointed even if **Chief and Council** appoints more than one designated agent to receive **Trust Moneys**.

9.2 Restrictions. Except as may be required under Article 17.3, where required by law, or where the **Trustees** agree unanimously that a payment is needed to protect **Assets** or to fund programs approved through the **Community Involvement Process**, no moneys shall be paid from the **Trust** while the office of the **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 21.1(b)(iii), conduct an annual audit of the financial statement for the **Operation and Maintenance** for each **Capital Work**; and

- (e) provide a management letter, if required.

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

PART FOUR: TRUST ACCOUNTS

ARTICLE 10 - RECEIPT AND ALLOCATION OF TRUST FUNDS

10.1 Settlement of Trust. To initially settle this Trust, NCN will pay and deliver to the Trustees the sum of one thousand dollars (\$1,000.00). Further, NCN agrees that it will execute the Deeds of Assignment and thereby irrevocably assign to the Trust, all Settlement Proceeds, Dividend Loan Proceeds, Dividends, Transmission Benefits and such other property and entitlements as are assigned to the Trust under the Deeds of Assignment.

10.2 Accounts of the Trust. The Trustees shall establish the Taskinigahp Community Development Account, the Resource Account, the Taskinigahp Claims Account, the Seven Generations Account and the Seven Generations Growth Account.

10.3 Funding of Accounts. The Trustees shall:

- (a) fund the Accounts from Funds Available in accordance with this Indenture;
- (b) allocate the Transmission Benefits to the Resource Account;
- (c) fund the Seven Generations Account in accordance with Articles 14.3; and
- (d) fund the Seven Generations Growth Account in accordance with Article 15.2.

10.4 Undistributed Income. The balance of any Income, Growth Income or Resource Income which remains undistributed on the last business day of a fiscal year shall be payable on demand 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 Taskinigahp Community Development Account, the Seven Generations Account or the Seven Generations Growth Account. If the funds are deposited to the Taskinigahp Community Development Account, they shall, subject to the Community Involvement Process, be spent in a subsequent fiscal year in addition to the Funds Available otherwise to be disbursed 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** which are distributed in a fiscal year shall be paid:

- (a) firstly out of the **Income** for the fiscal year; and
- (b) secondly out of **Assets** which are not **Income**, **Growth Income** or **Resource Income**.

10.7 Limitation. Subject to Article 10.5, moneys disbursed from the **Trust** in a fiscal year shall not, in aggregate, exceed:

- (a) amounts available and approved for disbursement from **Resource Income** pursuant to Article 12.2 and **Growth Income** pursuant to Article 15.3 and 15.4;
- (b) the **Funds Available**; and
- (c) amounts approved for expenditure through the **Community Involvement Process** but not paid to or expended by **Chief and Council** in a previous fiscal year.

ARTICLE 11 - COMMUNITY DEVELOPMENT ACCOUNT

11.1 Taskinigahp Community Development Account. The **Taskinigahp Community Development Account** shall be used:

- (a) to implement the **NCN Adverse Effects Agreement**, administer the **Trust** and conduct the **Community Involvement Process**;
- (b) for the economic, social, and cultural development of **NCN** and **Members**;
- (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) to distribute approved **Funds Available** to **Chief and Council** for allocation to the **Resource Account**, the **Seven Generations Account** and the **Seven Generations Growth Account**; and
- (g) For such other purposes approved by **Chief and Council** following the **Community Involvement Process**.

11.2 **Taskinigahp Community Development Sub-Accounts.** The **Trustees** shall establish and maintain separate records within the **Taskinigahp Community Development Account** and such other sub-accounts, as **Chief and Council** may from time to time direct.

ARTICLE 12 - RESOURCE ACCOUNT

12.1 **Uses of the Resource Account.** The **Resource Account** shall be used for resource development and management programs within the **Resource Management Area** and to fund NCN's activities in relation to the Resource Management Board outlined in Article 6 of the **1996 NFA Implementation Agreement**.

12.2 **Restrictions on Use of Transmission Benefits.** Seventy-five percent (75%) of the **Transmission Benefits** paid to the **Trust** annually shall be used to fund resource programs and activities. The remaining twenty-five (25%) of the **Transmission Benefits** paid to the **Trust** each year, shall be deposited to a sub-Account the **Trustees** shall establish within the **Resource Account**, and thereafter, the **Resource Income** on those funds shall also be used for the purposes set out in Article 12.1. Following the **Community Involvement Process**, **Chief and Council** may allocate a portion of the **Dividends** received in the year to the **Resource Account**, in which case those funds shall also be used for the purposes set out in Article 12.1.

ARTICLE 13 - TASKINIGAHP CLAIMS ACCOUNT

13.1 **Uses of the Taskinigahp Claims Account.** The Taskinigahp Claims Account shall be used for:

- (a) the payment of claims and costs in accordance with Article 4.3.10 of the **NCN Adverse Effects Agreement**;
- (b) the reasonable costs of the arbitrator arising out of claims under Article 5.3.14 of the **NCN Adverse Effects Agreement**;
- (c) the reasonable costs to investigate claims; and
- (d) payment of costs awarded to a **Claimant**.

13.2 **Minimum Balance.** Immediately upon payment of the initial **Settlement Proceeds** to the **Trust**, fifty thousand (\$50,000.00) dollars shall be paid into the **Taskinigahp Claims Account** from the **Settlement Proceeds**. Thereafter, the **Taskinigahp 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 **Taskinigahp 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 **Seven Generations Growth Account**.

13.3 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 **Taskinigahp Claims Account** may, by **Council Resolution** and the unanimous consent of the **NCN 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 **Taskinigahp Claims Account** may be increased by **Council Resolution** and the unanimous consent of the **NCN Trustees**.

13.4 Advance Payments. Upon request by **Council Resolution**, the **Trustees** shall release twenty-five thousand (\$25,000.00) dollars from the **Taskinigahp Claims Account** to **Chief and Council** or its designated agent for the payment of claims in accordance with the **NCN Adverse Effects Agreement**. Such **Trust Moneys** so advanced shall be deposited by **Chief and Council** or its designated agent 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**.

13.5 Payment by Trustees. If **Chief and Council** are unwilling or unable to comply with the provisions of Article 13.4 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 4 form to the **NCN Adverse Effects Agreement** signed by the **Claimant**.

13.6 No SIL Claims To Be Paid. The **Taskinigahp Claims Account** shall not be used to pay any **SIL Claim**.

ARTICLE 14 - SEVEN GENERATIONS ACCOUNT

14.1 Seven Generations Account. The **Seven Generations Account** shall hold funds for future uses and contingencies in accordance with Articles 8.15 and 8.16.

14.2 Investment Sub-Accounts. The **Trustees** shall establish and maintain separate records within the **Seven Generations Account** for:

- (a) funds deposited to the **Seven Generations Growth Account**;
- (b) amounts which are not available for disbursement in the fiscal year, but which are otherwise unrestricted; and
- (c) amounts on which restrictions have been placed by the **Community Involvement Process**.

14.3 Funding of the Seven Generations Account. The **Seven Generations Account** may be funded:

- (a) by funds approved through the **Community Involvement Process** under Article 8;
- (b) as decided by a **Majority Vote** of a **Meeting of Members** under Article 8.15;
- (c) by transfers of excess funds from the **Taskinigahp Claims Account** under Article 13.2;
- (d) from payments from **Hydro** or the **Limited Partnership** pursuant to the **NCN Adverse Effects Agreement**; and
- (e) by transfers of unallocated portions of the **Funds Available** under Article 10.5 at the end of a fiscal year.

ARTICLE 15 - SEVEN GENERATIONS GROWTH ACCOUNT

15.1 Seven Generations Growth Account. The **Seven Generations Growth Account** shall hold funds saved for future generations or future uses as permitted by Article 15.3 and 15.4.

15.2 Funding of the Seven Generations Growth Account. Ten percent (10%) of **Dividends** paid to the **Trust** in any year, where the payment is less than ten million dollars (\$10,000,000.00), and twenty-five percent (25%), where the payment is more than ten million dollars (\$10,000,000.00) shall be deposited to the **Seven Generations Growth Account**, and for greater certainty shall not form part of **Funds Available**. Additional funds may be deposited to the **Seven Generations Growth Account** from **Funds Available** in accordance with Article 8.15 (a). Subject to Article 10.4, no funds in the **Seven Generations Growth Account** shall be spent until a minimum of one hundred million dollars (\$100,000,000.00) has been allocated to

the account, and thereafter the expenditure of funds in the account shall be subject to the restrictions in Articles 15.3 and 15.4.

15.3 Additional Individual Distributions. In addition to any distribution made pursuant to Article 8.17, once the balance of the **Seven Generations Growth Account** reaches a minimum of one hundred million dollars (\$100,000,000.00), additional annual distributions of up to ten percent (10%) of the **Growth Income** may be paid to **Members** in any year.

15.4 Expenditure of Growth Income. Once the threshold in Article 15.2 has been reached, thereafter the **Growth Income**, shall, subject to approval in accordance with the procedures in Article 8, be available for expenditure in addition to **Funds Available**.

ARTICLE 16 - INVESTMENT OF TRUST ASSETS

16.1 Investments. Subject to Article 16.2, the **Trustees** shall 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.

16.2 Seven Generations Account. The **Trustees** shall invest **Assets** of the **Seven Generations Account** and the **Seven Generations Growth Account** only in investments authorized by the *Pension Benefits Act (Canada)* as amended from time to time.

16.3 Location of Assets. The **Trustees** shall to the maximum extent possible maintain custody of all **Assets** on a reserve.

16.4 Investments Require Approval of NCN Trustees. Subject to Articles 16.5 and 16.6, the **Corporate Trustee** shall not invest any **Assets**, other than short term investments, without the prior approval of the **NCN Trustees**. The **Corporate Trustee** shall invest **Assets** 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 of deposits to those offered by the **Corporate Trustee** or its parents or subsidiaries, where such investments are proposed.

16.5 Market Changes. The **Corporate Trustee** may hold or sell an investment of the **Trust** without consultation with the **NCN 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 comply with Articles 16.4 and 16.6 is likely to result in a loss to the **Trust** of capital value or an opportunity for capital growth.

16.6 Notice Before Selling Investments. Subject to Article 16.5, the **Trustees** shall give **Chief and Council** and **Members** at least twenty-one (21) days notice in accordance with the procedures in Article 8.5 prior to selling any investments of the **Trust** and **Chief and Council** shall within fourteen (14) days of receipt of such notice hold a **Council Meeting** to discuss the matter and to provide any concerns or other relevant information to the **Trustees**. **Chief and Council** may request the **Trustees** to attend the **Council Meeting** to provide additional information, in which case the **Trustees** shall attend and provide the requested information.

ARTICLE 17 - TRUSTEES' POWERS

17.1 Power and Authorities. Subject to the investment provisions in Article 16, the **Trustees** may:

- (a) make, execute, acknowledge and deliver any agreements, with any person or corporation, concerning the **PDA**, any arrangements contemplated in the **PDA** or any **Asset** as the **Trustees** consider appropriate, including the acceptance of additional contributions and additional transfers of property from **NCN** or assigned by **NCN** to the **Trust**;
- (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 where possible on a reserve, which is a member in good standing with the Canada Deposit Insurance Corporation;
- (c) employ other trust companies, professional investment counsellors, solicitors, auditors, accountants and agents;
- (d) determine and pay, by direct debit from the **Taskinigahp Community Development Account**, the agreed fees of the **Corporate Trustee** properly incurred in the administration of this **Trust**;
- (e) institute, prosecute, defend or settle any suits or actions or other proceedings affecting them or the **Trust**;
- (f) 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 the **Trust**;
- (g) 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 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**;

- (h) 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**;
- (i) purchase, pay premiums on, and hold policies of insurance; and
- (j) following at least ten (10) business days notice to **Chief and Council**, pay any taxes payable in respect of any **Assets**.

17.2 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**.

17.3 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.

17.4 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 6.10 and 7.9.

17.5 Procedures for Indemnification. When requesting indemnification under Article 17.4, 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 **Taskinigahp Claims Account** and the indemnification has been approved by **Chief and Council**, or ordered by the **Arbitrator**.

ARTICLE 18 - PAYMENTS FROM THE TRUST

18.1 General Requirements. Prior to making any payment under Article 18 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 19 and 21;
- (c) received evidence, in a form acceptable to the **Trustees**, that the annual audit opinion required pursuant to Article 19.2 is not subject to a qualification as set out in Article 19.2, or any other qualification as would indicate a material breach of the **NCN Adverse Effects 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 8.10, the **Trustees** shall have no obligation or right to question the appropriateness of an expenditure approved by the **Community Involvement 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 immediately after such payment, the **Net Value of the Assets** will be not less than fifty percent (50%) of the **Settlement Proceeds**.

After complying with this Article 18.1 the **Trustees** shall make the necessary payments from a financial institution located on a reserve.

18.2 Disbursement of Funds Available. Subject to Article 18, the **Trustees** shall make payments to the **Chief and Council** or its designated agent, from the **Funds Available** as specified in a budget approved by the **Community Involvement Process**.

18.3 Taskinigahp Claims Account. The **Trustees** shall make payments from the **Taskinigahp Claims Account** to **Chief and Council** or to **Claimants** pursuant to Articles 4.3.10 and 5.3.5 of the **NCN Adverse Effects Agreement**. No payments shall be made from the **Taskinigahp Claims Account** in respect of an **SIL Claim**, in accordance with Article 4.1.2 of the **NCN Adverse Effects Agreement**.

18.4 Seven Generations Account. Prior to making payments from the **Seven Generations Account** and the **Seven Generations Growth 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 **Seven Generations Account**;
- (b) determine that the use proposed for the funds complies with the restrictions imposed by **Majority Vote** under Articles 8.15 and 8.16 or that there are sufficient unrestricted funds to make the payment.

18.5 Taskinigahp Community Development Account. Subject to Article 18.7, 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 10.5 and 10.7.

18.6 Payments from Sub-Accounts. Prior to making payments from any **Taskinigahp Community Development** sub-accounts established under Article 11.3, the **Trustees** shall receive a certificate from **Chief and Council**, and supporting documents in a Schedule 4 or 5 form as applicable.

18.7 Limitation on Disbursement of Funds. The **Trustees** shall not release a quarterly payment to **Chief and Council** or a designated agent, if more than one quarterly report required from **Chief and Council** or a designated agent pursuant to Article 21.1(a) is outstanding, but the **Trustees** shall release a quarterly payment to any designated agent who has complied with the

reporting requirements. If a report from a designated agent remains outstanding for more than three quarters, all payments to **Chief and Council** or its designated agents shall cease until the reporting requirements have been complied with.

18.8 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 19.2 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**.

18.9 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**.

18.10 Payments for Children. Distribution payments authorized in accordance with Articles 8.17 and 15.3 to any person under the age of eighteen (18) shall be held in the **Trust** until such person reaches eighteen (18). Upon reaching the age of eighteen (18), the **Member** shall apply to the **Trustees** for the payment to be made. Following verification that the person is a **Member** who has reached the age of majority and is entitled to payment of any distribution held in the **Trust**, the **Trustees** shall pay the **Member** the allocated amount with any interest less the cost of administration as determination by the **Corporate Trustee**. In the event a child who is entitled to receive a distribution dies before the child reaches eighteen, that child's distribution shall be paid to the child's parents or if the child has no parents then alive, to the child's siblings, in equal shares, on the express understanding none of these persons caused the death of the child.

18.11 Payment Absolute Discharge. Any moneys paid by the **Trustees** to **Chief and Council**, or its designated agent or pursuant to Articles 18.8 shall be a sufficient discharge to the **Trustees** with respect thereto.

18.12 Indemnity. Notwithstanding anything contained in this **Indenture**, the **Trustees** shall honour the indemnity obligations under Article 7.3.1 of the **NCN Adverse Effects Agreement** and return any required moneys from the **Trust** to meet the indemnity obligation.

ARTICLE 19 - ADMINISTRATION OF FUNDS

19.1 Separate Trust Accounts. All **Trust Moneys** received by **Chief and Council**, or its designated agents, 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 established pursuant to this **Indenture** or other sources. However, **Chief and Council** or its designated agents may establish additional segregated trust accounts in an office of a financial institution located on a reserve, for **Trust Moneys** disbursed from the **Taskinigahp Community Development Account** or **Seven Generations Account**.

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

19.3 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 Involvement Process**.

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

19.5 Indirect Management. When authorized by the **Community Involvement 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 21.1.

PART FIVE: REPORTS AND AUDITS

ARTICLE 20 - TRUSTEES' REPORT

20.1 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;

- (b) any special audit reports and opinions requested by the **Trustees**; and
- (c) a narrative report on the expenditures from the **Trust** and the **Trust** operations including how the **Transmission Benefits** were used.

20.2 Required Meeting. If the **Trustees'** report signed by all **Trustees** is not provided as required in Article 20.1, **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.

ARTICLE 21 - REPORT ON APPLICATION OF TRUST MONEYS

21.1 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 systems utilized, with the standards established in Article 19.2, and
 - (iii) the audited financial statement for **Operation and Maintenance of Capital Works** for the purposes of Article 8.6 (c) (i).

21.2 Availability of Reports. The annual report required pursuant to Article 21.1 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**.

21.3 Members Meeting. Within thirty (30) days of the provision of the **Trustees'** report to **Chief and Council** pursuant to Article 20.1, and **Chief and Council's** report to the **Trustees** pursuant to Article 21.1, or such other date within the fiscal year as **Chief and Council** may determine, a **Meeting of Members** shall be held to discuss both reports. The **Trustees** and **Chief and Council** shall attend this meeting.

21.4 Non-compliance. If **Chief and Council** does not comply with the reporting provisions set out in Article 21, the **Trustees** shall suspend payment of **Trust Moneys** except for indemnities pursuant to the **Adverse Effects Agreement** or the **Indenture**, payments to satisfy **Claims** in accordance with the **Adverse Effects Agreement** and Article 13 of this **Indenture** or payments specifically approved by a **Majority Vote** of a **Meeting of Members**, until the required reports have been provided.

21.5 Required Meeting. If the report required by Article 21.1 is not provided to the **Trustees** within ninety (90) days after the end of the fiscal year, any **Member** may apply to the **Arbitrator** 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

ARTICLE 22 - DISPUTES AND ENFORCEMENT

22.1 Jurisdiction. All disputes and claims which arise between the **Parties** or between **Members** and a **Party** under this **Indenture** relating to the application, interpretation, meaning, alleged violation, performance or non-performance of this **Indenture** shall be settled by final and binding arbitration pursuant to the provisions of this Article 22, including without limitation a dispute about whether:

- (a) an **NCN Trustee** position is vacant; or
- (b) **Chief and Council**, a member of **Chief and Council** or a **Trustee** has violated the **NCN Adverse Effects Agreement** or this **Indenture**,

provided that there shall be no arbitration under this **Indenture** involving **Hydro** or the **Limited Partnership** or the **General Partner**.

22.2 Arbitration. A party (an "**Applicant**") who wants to settle a dispute, difference or claim or apprehended dispute, difference or claim referred to in Article 22.1 (a "**Dispute**") shall provide the party or parties against whom the **Dispute** is brought, a written notice (a "**Dispute Notice**") which shall contain the following:

- (a) the name of the respondent or respondents;
- (b) the name of the agreement under which the **Dispute** is brought;
- (c) a detailed description of the **Dispute**; and
- (d) the relief, remedy, redress or declaratory order sought.

A **Dispute Notice** shall be delivered within 30 days from when the **Applicant** knew or reasonably ought to have known of the existence of a **Dispute**, subject to the written agreement of the parties to extend this time limit. An **Applicant** who fails to deliver a **Dispute Notice** with respect to a **Dispute** within the prescribed period shall be deemed to have waived and abandoned the **Dispute**.

22.3 Reply. Each party who receives a **Dispute Notice** (a “**Respondent**”) shall, within 30 days of receiving the **Dispute Notice**, provide the **Applicant** with a written reply (a “**Reply**”), which sets out in detail the **Respondent’s** position with respect to the **Dispute**.

22.4 Referral to Chief Executive Officer. Within 30 days of the **Applicant’s** receipt of the **Reply**, if the **Dispute** has not been settled, the **Applicant** and each **Respondent** shall provide the **Dispute Notice** and **Reply** to its chief executive officer, or person having like authority. The chief executive officers or persons appointed by them respectively to act on their respective behalf’s with authority to settle the **Dispute**, shall meet and in good faith attempt to settle the **Dispute**. If no settlement is achieved within 30 days of the referral of the **Dispute** to the chief executive officers, the **Dispute** shall be referred to binding arbitration pursuant to the provisions of *The Arbitration Act* (Manitoba) and this Article 22, provided that if there is any inconsistency between the provisions of the said Act and the said sections, the provisions of the said sections shall prevail.

22.5 Appointment of Arbitrator. Subject to Article 22.6, an **Arbitrator** shall be appointed to adjudicate the dispute, using the following procedure:

- (a) the **Applicant** shall provide to each **Respondent** and each **Respondent** shall provide to the names, addresses and occupations of not more than three individuals, each of whom it would accept as an **Arbitrator**;
- (b) if any one of the persons on the list of proposed arbitrators is acceptable to the **Applicant** and each **Respondent** and is willing and able to act as the **Arbitrator**, then that person shall be appointed as the **Arbitrator** forthwith; and
- (c) if within 45 days of the referral of the **Dispute** to the chief executive officers the **Applicant** and each **Respondent** cannot agree upon a person to act as **Arbitrator**, any of them may request that the **Arbitrator** be appointed by the Chief Justice or the Associate Chief Justice of the Court of Queen’s Bench (Winnipeg Division) by application to the said court served on each of the other parties to the arbitration.

22.6 Qualifications of Arbitrator. An **Arbitrator** appointed pursuant to Article 22.5 shall:

- (a) be qualified to decide the particular matter in dispute;

- (b) not have a pecuniary interest in the particular matter in dispute; and
- (c) not have, within a period of one year prior to the date on which the matter was referred to arbitration pursuant to Article 22, acted or been a member of any firm which acted as solicitor, counsel or agent for any of the **Parties** or a **Member**.

22.7 Length of Hearing. The **Arbitrator** once appointed shall proceed expeditiously to hear and determine the question or questions in dispute as set out in the **Dispute and Reply**, subject to any reasonable delay due to, or resulting from, any unforeseen circumstances.

22.8 Place of Hearing. The **Arbitrator** shall determine the location of the hearing and it shall take place at such location, place and time as the parties may agree or as the **Arbitrator** shall fix. The law applicable to the arbitration shall be the laws of Manitoba and the laws of Canada applicable in Manitoba.

22.9 Powers of the Arbitrator. The **Arbitrator** may determine all questions of law, fact and jurisdiction and all matters of procedure relating to the arbitration. The **Arbitrator** shall have the right to grant legal and equitable relief and to award costs (including legal fees and the costs of the arbitration) and interest. Except as the parties to an arbitration otherwise expressly agree, the **Arbitrator** shall not have the authority or jurisdiction to change, alter, or amend this **Indenture**.

22.10 Counsel. Any party involved in an arbitration may be represented by counsel.

22.11 Evidence. Evidence submitted in an arbitration may be presented in writing or orally. The parties to an arbitration at a minimum shall disclose all relevant information and documents as would be compellable in a court of law. The **Arbitrator** may require relevant information and documents to be disclosed by any party, either prior to or during a hearing, except such documents as would not be compellable if the action were brought in a court of law.

22.12 Arbitrator's Award. The **Arbitrator** shall deliver the award within 90 days following the completion of the hearing unless the **Parties** agree otherwise.

22.13 Award Final. The decision of the **Arbitrator** shall be final and binding on all of the parties to the arbitration. The right of any affected party to appeal an award will be limited to a question of law, provided that leave is first obtained from the Court of Queen's Bench based on the criteria listed in Section 44 of *The Arbitration Act* (Manitoba).

22.14 Costs of the Arbitration. Each party to an arbitration shall bear its own costs and an equal share of the costs of the **Arbitrator**, subject to a different award as to costs by the **Arbitrator** made following the completion of the arbitration.

22.15 Performance of Obligations. Each party to an arbitration agrees to continue performing its obligations under this **Indenture** while any **Dispute** is being resolved or arbitrated, subject to any interim order to the contrary issued by the **Arbitrator**.

22.16 Public Hearing. All hearings before the **Arbitrator** shall be open to the public.

22.17 Arbitrator's Undertaking. Upon appointment, every **Arbitrator** shall swear or affirm an undertaking in the form set forth in Schedule 5-1 to the **NCN Adverse Effects Agreement**.

22.18 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**.

22.19 Days. The word "days" wherever used in this Article 22 shall mean calendar days.

22.20 Disputed Vacancy. If a dispute arises between **Chief and Council** and any **NCN Trustee** as to whether a **NCN Trustee** position is vacant, the incumbent **NCN Trustee** shall remain in office until removed by the **Arbitrator** following which **Chief and Council** shall appoint a successor.

PART SEVEN: AMENDMENT AND TERMINATION

ARTICLE 23 - AMENDMENT AND TERMINATION

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

23.2 Application to Court. Subject to Article 23.3, **NCN** may apply to a court of competent jurisdiction to dissolve, amend, vary, add to, revise or modify the terms and conditions of this **Indenture**.

23.3 Consent of Members. Before applying to a court of competent jurisdiction under Article 23.2, **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 20.2, 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** who are entitled to vote where not less than fifty percent (50%) vote 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** who are entitled to vote where not less than fifty percent (50%) of all adult **Members** 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.

23.4 Effective Date of Amendment or Dissolution. A change in the **Trust** under Article 23.2 shall take effect only after all appeals are exhausted or the time for filing them has expired.

23.5 Uses of Trust Capital Upon Dissolution. Upon dissolution, an order of the court shall be sought to distribute **Assets** to **Chief and Council** to use for community development programs, initiatives, and investments, and all **Parties** agree to concur in any application or proceeding to obtain such an order.

23.6 Compliance. Upon being served with an order of the court dissolving the **Trust**, the **Trustees** shall, subject to Article 23.4, immediately comply with the court order.

PART EIGHT: GENERAL PROVISIONS

ARTICLE 24 - GENERAL PROVISIONS

24.1 Proper Law of Trust. This **Indenture** shall be governed and interpreted according to federal and provincial laws in force in Manitoba from time to time.

24.2 Assignment. The rights and obligations created by this **Indenture** may not be assigned.

24.3 Enurement. This **Trust** 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.

24.4 Indexing. Limits on any amounts specified in this **Indenture** may be adjusted annually by the **Trustees** based upon the **Consumer Price Index** with the exception of the minimum balance referred to in Article 15.3.

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Dated in the Province of Manitoba this 29th day of June, 2006.

NISICAWAYASIIK CREE NATION

[Signature]
Witness

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Jerry Primrose, Chief

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Witness

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Jimmy Hunter-Spence, Councillor

[Signature]
Witness

D'Arcy Linklater, Councillor

[Signature]
Witness

[Signature]
Shirley L. Linklater, Councillor

[Signature]
Witness

[Signature]
Agnes M. Spence, Councillor

[Signature]
Witness

[Signature]
William Elvis Thomas, Councillor

THE TASKINIGAHP TRUST

[Signature]
Witness

[Signature]
JAMES WARREN, Trustee

[Signature]
Witness

[Signature]
AGNES M. SPENCE, Trustee

[Signature]
Witness

[Signature]
DIANE LINKLATER, Trustee

[Signature]
Witness

[Signature]
DARCY B. LINKLATER, JR. Trustee

THE CANADA TRUST COMPANY, as corporate trustee of Taskinigahp Trust

Witness

Per: [Signature]

Name: BILL WILLMS
Title: VICE PRESIDENT- PRIVATE TRUST

Per: [Signature]

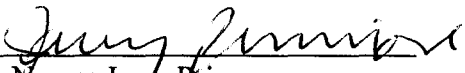
Name: ANITA SCHREINER
Title: TRUST OFFICER


~~ROYAL TRUST CORPORATION OF CANADA,~~
as a Trustee of the Taskinigahp Trust

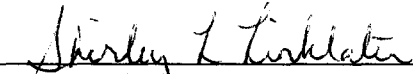
Per: _____
Name:
Title:

Per: _____
Name:
Title: _____

TASKINIGAHP POWER CORPORATION

Per: 
Name: Jerry Primrose
Title: President

Per: 
Name: William Elvis Thomas
Title: Vice-President

Per: 
Name: Shirley L. Linklater
Title: Secretary-Treasurer

Schedule 1

TASKINIGAHP TRUST

Undertaking and Acceptance of Chief or Councillor

I, _____, Chief/Councillor of the Nisichawayasihk Cree Nation ("NCN") 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 Taskinigahp Trust, with particular reference to the duties, responsibilities and liabilities of members of Chief and Council in the administration of the Trust, the Community Involvement 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 Taskinigahp Trust during my term of office.

DATED AT _____ on the _____ day of _____, _____.

Witness

Chief/Councillor

Schedule 2

TASKINIGAHP TRUST

I, _____, a Member of the Nisichawayasihk Cree Nation (“NCN”) wish to be appointed as an NCN Trustee. I am being nominated by the following people:

NAME	ADDRESS	TREATY NO.	SIGNATURE
------	---------	------------	-----------

who signed my nomination papers between _____ and _____, 2____.

DATED AT _____ on the _____ day of _____, 2____.

Witness

NCN Member

Schedule 3

TASKINIGAHP TRUST

Undertaking and Acceptance of NCN Trustee

I, _____, appointed by Chief and Councillor of the Nisichawayasihk Cree Nation (“NCN”) as a NCN 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 Trust Indenture establishing the Taskinigahp Trust, with particular reference to the duties, responsibilities and liabilities of NCN Trustees in the administration of the Trust, the Community Involvement 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 NCN Trustee under the Taskinigahp Trust during my term of office.

DATED AT _____ on the _____ day of _____, _____.

Witness

NCN Trustee

Schedule 4

TASKINIGAHP TRUST

Undertaking and Acceptance of Corporate Trustees

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 Trust Indenture establishing the Taskinigahp 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 5

TASKINIGAHP TRUST

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

TO: Corporate Trustee, Trustees of the Taskinigahp Trust

This is to certify that the budget attached hereto for the Funds Available 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 8.6, and if applicable Article 4.5, Article 8.9 and(or) 8.12(b) 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 8.5 of the Trust Indenture; and
3. _____ approved by Chief and Council as evidenced by the attached Council Resolution.

DATED AT Nelson House on the ____ day of _____, _____.

Chief

Councillor

Chief

Councillor

Chief

Councillor

Witness

Schedule 6

TASKINIGAHP TRUST

**Resolution of Chief and Council
Certificate of Disclosure and
Release of Funds for Capital Works
by Community Involvement Process**

TO: Corporate Trustee, Trustees of the Taskinigahp Trust

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

1. to the best of our information and belief the subject of true disclosure in full compliance with the disclosure requirements of Article 8.6, and if applicable Article 4.5, Article 8.9 and(or) 8.12(d) 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 8.5 of the Trust Indenture; and
3. approved by Majority Vote in accordance with the provisions of Article 8.12 and(or) 8.15 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 in accordance with Article 8.16 where these Articles apply.

DATED AT Nelson House on the _____ day of _____, _____.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Witness

Schedule 7

TASKINIGAHP TRUST

**Resolution of Chief and Council
Certificate of Disclosure and
Budget Approval by Community Involvement Process
for Seven Generations Account**

TO: Corporate Trustee, Trustees of the Taskinigahp Trust

This is to certify that the proposed expenditure plan attached hereto for the Seven Generations Account of the Taskinigahp 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 8.6, and if applicable Article 4.5, Article 8.9 and(or) 8.12(b) 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 8.5 of the Trust Indenture; and
3. approved by Majority Vote in accordance with the provisions of Article 8.12 and(or) 8.15 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 in accordance with Article 8.16 where these Articles apply.

DATED AT Nelson House on the _____ day of _____, _____.

Chief

Councillor

Chief

Councillor

Chief

Councillor

Witness

Schedule 8

TASKINIGAHP TRUST

**Resolution of Chief and Council
Certificate of Disclosure and
Budget Approval by Community Involvement Process
for Seven Generations Growth Account**

TO: Corporate Trustee, Trustees of the Taskinigahp Trust

This is to certify that the proposed expenditure plan attached hereto for the Seven Generations Account of the Taskinigahp 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 8.6, and if applicable Article 4.5, Article 8.9 and(or) 8.12(b) 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 8.5 of the Trust Indenture; and
3. approved by Majority Vote in accordance with the provisions of Article 8.12 and(or) 8.15 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 in accordance with Article 8.16 where these Articles apply.

DATED AT Nelson House on the _____ day of _____, _____.

Chief

Councillor

Chief

Councillor

Chief

Councillor

Witness