

WUSKWATIM LANDS TRANSFER AGREEMENT made in duplicate this 28th day of June, 2006.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA,
represented herein by the Honourable Minister of Conservation
("Manitoba"),

- and -

**5022649 MANITOBA LTD. (the General Partner of the Wuskwatim Power
Limited Partnership on behalf of the Wuskwatim Power Limited Partnership)**

(the "Partnership")

Whereas:

- A. Manitoba and the Partnership are entering into this Agreement in order to provide for the transfer by Manitoba to the Partnership of lands required for the Wuskwatim Generating Station project and an Access Road to the Generating Station Site;
- B. Manitoba and Nisichawayasihk Cree Nation are, at the same time as this Agreement, entering into a Memorandum of Agreement that provides that where lands that are being transferred to the Partnership under this Agreement revert to Manitoba or are transferred back to Manitoba in accordance with this Agreement, those lands will be made available to Nisichawayasihk Cree Nation in accordance with the Memorandum of Agreement;

MANITOBA AND THE PARTNERSHIP AGREE AS FOLLOWS:

**1.00 TRANSFER OF GENERATING STATION SITE AND ACCESS ROAD SITE AND
CONSIDERATION FOR LANDS**

- 1.01 Subject to the terms of this Agreement and *The Crown Lands Act*, Manitoba agrees to transfer to the Partnership Lands ("the Lands") described as follows:

Site 1 – Generating Station Site

Parcels A, B, C, D, E, F, G, H, J as shown on a Plan of Survey No. 44574 PLTO, reserving to the Crown all provincial water powers and reserving to the Crown all mines and minerals, together with the right to enter, locate, mine for and remove minerals and all other estates, rights, interests ordinarily reserved to the Crown under The Crown Lands Act, but without reserving to the Crown the bed of the body of water below the ordinary high water mark and without reserving to the Crown a strip of land one and one-half chains in width measured from ordinary high water mark that are otherwise ordinarily reserved to the Crown under The Crown Lands Act, in Unsurveyed Sections 27 to 34 both inclusive and Government Road Allowances in 75-7 WPM and Unsurveyed Sections 3, 4, 5 and Government Road Allowances in 76-7 WPM.

Site 2 – Access Road Site

Parcel A as shown on Plan of Survey No. 44575 PLTO, reserving to the Crown all mines and minerals, together with the right to enter, locate, mine for and remove minerals and all other estates, rights and interests ordinarily reserved to the Crown under The Crown Lands Act, in Unsurveyed Section 19 and Government Road Allowance in 77-5 WPM, Unsurveyed Sections 5, 8, 9, 15, 16, 22, 23, 24 and Government Road Allowances in 77-6 WPM, Unsurveyed Sections 19, 30, 31, 32 and Government Road Allowances in 76-6 WPM and Unsurveyed Sections 2, 3, 11, 12, 13, 14, 24 and Government Road Allowances in 76-7 WPM.

and

Parcel A as shown on a Plan of Survey No. 44576 PLTO, reserving to the Crown all mines and minerals, together with the right to enter, locate, mine for and remove minerals and all other estates, rights and interests ordinarily reserved to the Crown under The Crown Lands Act, in Unsurveyed Sections 19, 29, 30, 32 and Government Road Allowances in 77-5 WPM, Unsurveyed Sections 5, 8, 17, 18, 19, 30, 31 and Government Road Allowances in 78-5 WPM and Unsurveyed Sections 5, 6, 7, 18, 19, 29, 30, 32 and Government Road Allowances in 79-5 WPM.

- 1.02 Subject to the terms of this Agreement, the purchase and sale of the Lands contemplated in this Agreement is to be completed and closed on the "Initial Closing Date" under the "Project Development Agreement" made between Manitoba Hydro, Nisichawayasihk Cree Nation, Taskinigahp Power Corporation, 5022649 Manitoba Ltd. and the Partnership unless the Parties agree in writing to a different date (the "Closing Date"), on which date vacant possession of the Lands is to be given to the Partnership to hold in accordance with a Declaration of Trust, by which 5022649 Manitoba Ltd is to hold the lands for and on behalf of the Wuskwatim Power Limited Partnership as a bare trustee.
- 1.03 The Partnership will pay as consideration for the transfer of the Lands:
- (a) an initial payment of \$25,000, to be paid by the Partnership to Manitoba on or before the Closing Date; and
 - (b) a final payment in accordance with Section 1.04.
- 1.04 The Partnership will, at the same time as it transfers to Manitoba the portion of the Generating Station Site that is not required for the operation of the Wuskwatim Generating Station in accordance with paragraph 8.02(c), make a final payment to Manitoba as additional consideration for the transfer of the Generating Station Site and the Access Road Site an amount equal to the total of:
- (a) the value as raw land of the lands retained by the Partnership from the Generating Station site and the Access Road site after the return of a portion of the Generating Station Site to Manitoba under subsection 8.02, to be determined on the basis of the value of the lands as of the date of this Agreement; plus
 - (b) the value of the timber on those lands, as provided by section 9 of *The Forest Act*, C.C.S.M, c. F150, to be determined on the basis of the value of the timber as of the date of this Agreement; plus

- (c) four per cent of the value as raw land of the lands transferred to Manitoba for each year or portion of a year between the date of this Agreement and the date those lands are transferred to Manitoba, determined on the basis of the value of the lands as of the date of this Agreement; minus
 - (d) the amount of the initial payment under paragraph 1.03(a).
- 1.05 The Partnership acknowledges that administrative fees in relation to this Agreement shall be paid by the Partnership, as prescribed by the Lands Administration Fees Regulation (M.R. 216/89) as amended from time to time.
- 1.06 The Partnership shall make all payments of the Purchase Price by certified cheque or money order made payable to the Minister of Finance and submitted to the Cashier's Office, Manitoba Conservation, Box 42, 200 Saulteaux Crescent, Winnipeg MB R3J 3W3, or to another address in accordance with any notice under subsection 10.10.
- 1.07 The purchase and sale of the Lands contemplated in this Agreement is conditional on the issuance to the Partnership of an Interim Licence under *The Water Power Act* C.C.S.M., c. W60 for the Wuskwatim Generating Station, to be constructed, operated and maintained on the Generating Station Site.
- 1.08 The Partnership agrees to be responsible for all fees and survey costs in respect of the Lands.
- 1.09 The Partnership shall pay all applicable land transfer taxes in respect of the transfer of the Lands from Manitoba to the Partnership.
- 1.10 The Partnership shall obtain any required licences, permits and approvals before starting any development activities on the Lands.
- 1.11 The Partnership shall comply with all federal, provincial and municipal laws and regulations.

- 1.12 The transfer of the Generating Station Site Lands does not include the transfer of any provincial water powers, and *The Water Power Act* C.C.S.M., c. W60 and regulations thereunder apply to the use of provincial water powers on the Generating Station Site.
- 1.13 Without limiting subsections 1.11 and 1.12, the Partnership shall comply with all conditions of
- (a) all licences affecting the Lands under *The Environment Act*, C.C.S.M. c. E125 or regulations thereunder; and
 - (b) all licences affecting the Lands under *The Water Power Act*, C.C.S.M. c. W60 or regulations thereunder.

2.00 REPRESENTATIONS AND WARRANTIES

- 2.01 Manitoba covenants, represents and warrants to the Partnership that:
- (a) Manitoba is the registered owner of the Lands and that Manitoba has good right, title and interest and authority to sell, assign and transfer the Lands to the Partnership and the Partnership's successors according to the true intent and meaning of this Agreement;
 - (b) the Partnership shall, on the Closing Date, have possession of and at all times peacefully and quietly have, hold, possess and enjoy the same and every part thereof, to and for its own use and benefit without any manner of hindrance, interruption, molestation, claim or demand whatsoever of, from or by Manitoba and with good and marketable title thereto, free and clear from and against all registered bargains, sales, gifts, grants, adverse claims, liens, charges and encumbrances of any nature or kind whatsoever, except those created or permitted by the Partnership or registered by Manitoba under Section 6.00;
 - (c) there is not now and there will not at the Closing Date be:
 - i) any agreement or option for the purchase of the Lands other than this Agreement;

- ii) any right-of-way or other easement however created upon, over or in respect of the Lands except as set out in Section 6.00;
 - iii) any subsisting lease or permit or agreement for a lease or permit affecting the Lands other than those held by the Partnership;
- (d) Manitoba has no notice of or knowledge of any restrictions or covenants affecting the Lands, except as noted above; and
- (e) Manitoba has not received notice of, nor is aware of any outstanding orders or directives relating to environmental matters or requiring any work, repairs, construction or capital expenditures with respect to the Lands.
- 2.02 The Partnership acknowledges that Manitoba makes no representations or warranties to the Partnership as to the fitness of the Lands for any particular purpose.
- 2.03 The parties acknowledge that there are not now and there will not be on the Closing Date any buildings, fixtures or chattels on the Lands, other than those owned by the Partnership and situated on the Lands as authorized by a Crown Lands permit.
- 2.04 After the Closing Date, Manitoba shall not be responsible for any municipal realty taxes, local improvements and assessment rates, or any other municipal or public charges, including utility charges, with respect to the Lands.

3.00 CLOSING DOCUMENTS

- 3.01 On or before the Closing Date, Manitoba shall deliver or cause to be delivered to the Partnership a Transfer of Land for the Generating Station Site in registerable form in favour of 5022649 Manitoba Ltd., which will be sufficient upon registration to vest title to a determinable fee simple interest in the Generating Station Site in the name of 5022649 Manitoba Ltd. for so long as the land is required for a hydro-electric generating station, free and clear of all registered claims, liens, charges and encumbrances of any nature or kind whatsoever, except those created or permitted by the Partnership or registered by Manitoba under Subsection 5.05 or Section 6.00.
- 3.02 On or before the Closing Date, Manitoba shall deliver or cause to be delivered to the Partnership a Transfer of Land for the Access Road Site in registerable form in favour of 5022649 Manitoba Ltd., which will be sufficient upon registration to vest title in the name of 5022649 Manitoba Ltd. to a determinable fee simple interest in the Access Road Site for so long as the land is required for a road to the Generating Station Site, free and clear of all registered claims, liens, charges and encumbrances of any nature or kind whatsoever, except those created or permitted by the Partnership or registered by Manitoba under Subsection 5.05 or Section 6.00.
- 3.03 The Partnership shall not be entitled to call for the production of any abstract of title or proof or evidence of title or any deeds, papers or documents relating to the said property other than those which are in the possession of Manitoba.
- 3.04 The Partnership shall register the Transfers of Land provided under Subsection 3.01 and 3.02 within 90 days after receipt from Manitoba.

4.00 TERMINATION

- 4.01 Without restricting any other remedies available, Manitoba may terminate this Agreement prior to the Closing Date if the Partnership fails to comply with any term or condition of this Agreement, and has not within thirty (30) days of receipt of notice in writing from Manitoba and prior to the Closing Date remedied that failure to comply.

- 4.02 Manitoba may terminate the Agreement prior to the Closing Date if the Partnership becomes bankrupt or insolvent.
- 4.03 Upon termination, unless expressly stated otherwise, this Agreement shall be of no further force or effect and the parties shall be released from all obligations under this Agreement.
- 4.04 Notice of termination of this Agreement under subsections 4.01 or 4.02 must be in writing and sent in accordance with subsection 10.10.

5.00 LIABILITY OF MANITOBA

- 5.01 Manitoba will not be liable for any injury to the Partnership or to any officers, employees, or agents of the Partnership or for any damages to or loss of property of the Partnership or of the officers, employees, or agents of the Partnership caused by or in any way related to the performance of this Agreement.
- 5.02 Subsection 5.01 does not apply if the injury, damage, or loss was caused by wrongful or negligent acts of any officer or employee of Manitoba while acting within the scope of his or her duties.
- 5.03 Manitoba shall not be liable for any loss, costs, damages and expenses which the Partnership or its successors may at any time or times hereinafter sustain, incur, suffer or be part to, for or by reason or on account of any damage caused by ice whether to or in respect of the Lands or any building, improvement or chattel by whomsoever owned now or at any time hereafter thereon.
- 5.04 Pursuant to subsection 13(2) of *The Crown Lands Act*, C.C.S.M. c. C340, and this Agreement, Manitoba will not be liable to pay compensation for any damage to the Lands, or any buildings, fixtures or chattels or any improvements located on the Lands, which may occur at any time after the execution of this Agreement resulting from:
- (a) the raising or lowering by Manitoba of the level of any body of water adjacent to the Lands;

(b) the flooding or erosion of the Lands or a portion thereof, from any cause whatsoever; or

(c) the flow of any water, not amounting to flooding upon or adjacent to the Lands.

5.05 The restrictions on the liability to pay compensation in subsections 5.03 and 5.04 will constitute a right that runs with the Lands and Manitoba may file a caveat giving notice of this right in the appropriate Lands Titles Office against the Partnership's title to the Lands and any subdivided parcels of the Lands.

6.00 EASEMENTS AND RIGHTS OF ACCESS

6.01 The Generating Station Site will be transferred to the Partnership subject to an Easement ("the CRD Easement") granted by Manitoba to Manitoba Hydro over Lands below an Easement Line to be determined in the manner set out in Section 12.05 of the Manitoba Treaty Land Entitlement Framework Agreement, dated May 27, 1997. The CRD Easement Agreement will be substantially in the form set out in Schedule "A" to this Agreement.

6.02 On the Closing Date, in series after the transfer of the Generating Station Site, the Partnership will grant to Manitoba Hydro on a portion of the Generating Station Site to be defined an easement for a Transmission Corridor ("the Transmission Corridor Easement"). The Transmission Corridor Easement Agreement will be in a form agreed by the Partnership and Manitoba Hydro.

6.03 On the Closing Date, in series after the transfer of the Access Road Site, the Partnership will grant to Manitoba Hydro on a portion of the Access Road Site to be defined an easement for transmission lines ("the Access Road Transmission Easement"). The Access Road Transmission Easement Agreement will be in a form agreed by the Partnership and Manitoba Hydro.

6.04 The Partnership agrees that it will enable users of the waterway to travel around the obstruction to navigation arising from the construction and operation of the Wuskwatim

Generating Station on the Generating Station Site in accordance with the Access Management Plan for the Wuskwatim project that is to be filed with the Director of Environmental Approvals under the Environment Act licence for the Wuskwatim Generating Station project.

- 6.05 In accordance with section 32 of the Water Power Regulation (M.R. 25/88), and any amendments thereto, the Partnership shall at all times provide free access to the Generating Station Site to Manitoba, its officers, employees and agents for the purpose of ascertaining whether the terms and conditions of the Interim Licence issued under *The Water Power Act*, C.C.S.M. c. W60 are being satisfactorily being carried out by the Partnership.

7.00 ACCESS TO LANDS BY PARTNERSHIP BETWEEN DATE OF THIS AGREEMENT AND CLOSING DATE

- 7.01 Where the Partnership requests in writing that Manitoba authorize the Partnership to enter onto the Lands prior to the Closing Date, Manitoba will issue to the Partnership a permit to authorize entry onto and use of the Lands for the purpose of constructing, operating and maintaining the Wuskwatim Generating Station Site, subject to any terms and conditions that Manitoba considers appropriate.

8.00 RETURN OF UNNEEDED LANDS TO MANITOBA AND PAYMENT FOR LANDS

- 8.01 The Generating Station Site will be transferred to the Partnership as a determinable fee simple interest for so long as the Wuskwatim Generating Station Site is required for the purpose of a hydro-electric generating station.
- 8.02 Without limiting subsection 8.01, within 18 months of the completion of the construction of the Wuskwatim Generating Station, the Partnership will:
- (a) determine the portion of the Generating Station Site that is required for the operation of the Generating Station in consultation with Manitoba;
 - (b) provide for the survey of the portion of the Generating Station Site that is not required for the operation of the Wuskwatim Generating Station and provide for

the preparation of a Plan of Survey of those lands;

- (c) then transfer to Manitoba the portion of the Generating Station Site that is not required for the operation of the Wuskwatim Generating Station .

8.03 The Access Road Site will be transferred to the Partnership as a determinable fee simple interest to be held for so long as the land is required for a road to the Generating Station Site.

8.04 Manitoba shall be responsible for any land transfer taxes associated with the transfer back of any of the Lands to Manitoba in accordance with this Section 8.0.

8.05 Subject to subsection 8.02, the Partnership acknowledges and agrees that it will not alienate, sell or dispose of any of the Lands except with the consent of Manitoba, or failing such consent, an order of the Court of Queen's Bench and such disposition shall be subject to such terms and conditions as Manitoba or the Court may lay down for the protection of the hydro-electric generating station and its related works.

9.00 INDEMNITY

9.01 The Partnership shall use due care in the performance of its obligations under this Agreement to ensure that no person is injured, no property is damaged or lost and no rights are infringed.

9.02 The Partnership shall be solely responsible for:

- (a) any injury to persons (including death), damage or loss to property or infringement of rights caused by, or related to, the performance of this Agreement or the breach of any term or condition of this Agreement by the Partnership, or the officers, employees or agents of the Partnership;
- (b) any omission or wrongful or negligent act of the Partnership, or of the officers, employees or agents of the Partnership;

and shall save harmless and indemnify Manitoba, its officers, employees and agents

from and against all claims, liabilities and demands with respect to paragraphs (a) and (b).

9.03 This indemnification shall be absolute and unconditional and the Partnership's obligations hereunder shall not be released, reduced, impaired or prejudiced by any extension, waiver, assignment, consent, amendment or termination of any agreement, unless in writing signed by Manitoba.

10.00 GENERAL PROVISIONS

10.01 The Partnership shall not assign or transfer this Agreement or any part of the right or obligations under this Agreement without first obtaining written permission from Manitoba.

10.02 This Agreement is governed by, and is to be construed and interpreted in accordance with the laws of Manitoba and, to the extent they are applicable therein, Canada.

10.03 Nothing in this Agreement is intended to alter aboriginal or treaty right, including any aboriginal or treaty rights related to water, of Nisichawayasihk Cree Nation or other aboriginal peoples recognized or affirmed under section 35 of the *Constitution, Act, 1982*, except to the extent that Nisichawayasihk Cree Nation has expressly consented to this Agreement and the transactions contemplated by this Agreement on the terms and conditions set out in this Agreement.

10.04 Time shall be of the essence of this Agreement.

10.05 This Agreement is binding upon the parties and their respective heirs executors, administrators, successors and assigns.

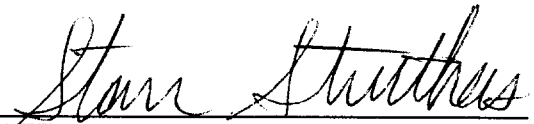
10.06 This document contains the entire agreement between the parties. There are no undertakings, representations, or promises, express or implied, other than those contained in this Agreement.

- 10.07 No amendment or change to, or modification of, this Agreement shall be valid unless it is in writing and signed by both parties.
- 10.08 The invalidity of any provision of this Agreement or any covenant herein contained shall not impair the validity of any other provision set out herein.
- 10.09 All of the covenants, rights, powers, privileges, liabilities, representations and warranties contained in this Agreement shall survive termination of this Agreement or the Closing Date, notwithstanding the closing, and shall continue and remain in full force and effect and shall not be merged in or superseded by any document, transfer or conveyance by Manitoba under this Agreement or by the issuance of title to the Lands in the name of the Partnership.
- 10.10 Any notice or other communication to the parties under this Agreement shall be in writing and shall be delivered personally or sent by registered mail, postage prepaid, or by way of facsimile as follows:
- | | |
|---|---|
| TO MANITOBA:
Manitoba Conservation, Lands Branch
Box 20000, 123 Main Street W.
Neepawa MB R0J 1H0
Attention: Director of Lands
Ph. (204) 476-7060
Fax (204) 476-7539 | TO THE PARTNERSHIP:
Wuskwatim Power Limited
Partnership
c/o 5022649 Manitoba Ltd.
Attention: President
3 rd Floor, 820 Taylor Avenue
Winnipeg MB R3C 2P4
Fax. (204) 474-4947 |
|---|---|
- 10.11 Any notice or communication given in accordance with subsection 10.10 of this Agreement shall be deemed to have been received by the party it is addressed to:
- (a) on the day delivered, if delivered personally;
 - (b) on the third business day after the date of mailing, if sent by prepaid registered mail; or
 - (c) within 24 hours after the date of transmission shown on the sender's confirmation of transmission notice, if sent by facsimile transmission.
- 10.12 Either party may change the address for notice or communication by notifying the other party in accordance with subsection 10.10.


10.13 If mail service is disrupted by labour controversy, notice shall be delivered personally.

Signed, sealed and delivered by the Minister of Conservation, or his duly authorized representative, on behalf of Manitoba, and by the duly authorized representatives of the Partnership on the dates noted below.

**for HER MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF MANITOBA
as represented by the Minister of
Conservation**


DATE: JUNE 28, 2020

**for 5022649 MANITOBA LTD. (the
General Partner of the Wuskwatim Power
Limited Partnership on behalf of the
Wuskwatim Power Limited Partnership)**


KEN R. F. ADAMS, CHAIRMAN

DATE: JUNE 28 2020

**Schedule "A" to Wuskwatim Lands Transfer Agreement
EASEMENT AGREEMENT**

THIS AGREEMENT made as of the _____ day of _____, 2006.
AMONG:

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

("Manitoba")

OF THE FIRST PART,

5022649 MANITOBA LTD. (the General Partner of the Wuskwatim Power Limited Partnership) on behalf of the Wuskwatim Power Limited Partnership)

OF THE SECOND PART,

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as "Hydro")

OF THE THIRD PART,

WHEREAS:

- A. The Minister of Conservation, Manitoba, has been authorized to enter into this Easement Agreement on behalf of Manitoba;
- B. The appropriate officers of Hydro have been authorized to enter into this Easement Agreement on behalf of Hydro;
- C. The appropriate officers of 5022649 Manitoba Ltd. (the General Partner of the Wuskwatim Power Limited Partnership) have been authorized to enter into this Easement Agreement on behalf of the Partnership;
- D. The Transferred Land which is subject to the Easement under this Easement Agreement is located in the Nelson House Resource Management Area;

NOW THEREFORE, in consideration of the mutual terms and conditions in this Easement Agreement, the parties hereby covenant and agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 Definitions.

In this Easement Agreement, unless otherwise specifically provided, the following words and phrases when capitalized, whether in the plural, the singular or the possessive, will have the following meanings:

- a. “ASL” means above sea level as established by Geodetic Survey of Canada in accordance with Revision No. 3 (1971);
- b. “Easement” means the interest in land created by this Easement Agreement;
- c. “Easement Agreement” means this Agreement;
- d. “Easement Land” means the lands described in section 2.1 of this Easement Agreement;
- e. “Easement Line” means the line establishing the upper boundary of the Easement Land, which line has been established based upon certain processes and methodologies to reflect the margin of the effects of flooding, erosion, ice conditions, wind set-up and wave up-rush on the Easement Land;
- f. “General Partner” means 5022649 Manitoba Ltd.;
- g. “Partnership” means the Wuskwatim Power Limited Partnership as represented by the General Partner;
- h. “Project” means all those physical works related to hydro-electric development on the Churchill, Nelson, Rat and Burntwood River systems and the development of the Lake Winnipeg Regulation System north of the 53rd parallel, whether or not physically developed as of the date of this Easement Agreement, and without limiting the generality of the foregoing, includes all dams, dikes, channels, control

structures, excavations, generating stations, roads, transmission lines and other works forming part of, or related to, all aspects of such hydro-electric development;

- i. "Transferred Land" means the parcel of land to be transferred by Manitoba to the Partnership as a determinable fee simple interest, of which the Easement Land forms part, and which is described as follows:

Parcels A, B, C, D, E, F, G, H, J as shown on a Plan of Survey No. 44574 PLTO, reserving to the Crown all provincial water powers and reserving to the Crown all mines and minerals, together with the right to enter, locate, mine for and remove minerals and all other estates, rights, interests ordinarily reserved to the Crown under The Crown Lands Act, but without reserving to the Crown the bed of the body of water below the ordinary high water mark and without reserving to the Crown a strip of land one and one-half chains in width measured from ordinary high water mark that are otherwise ordinarily reserved to the Crown under The Crown Lands Act, in Unsurveyed Sections 27 to 34 both inclusive and Government Road Allowances in 75-7 WPM and Unsurveyed Sections 3, 4, 5 and Government Road Allowances in 76-7 WPM.

1.2 References to "the Partnership"

In this Easement Agreement, a reference to "the Partnership" is to be interpreted as a reference to the General Partner as a bare trustee for the Wuskwatim Power Limited Partnership.

ARTICLE 2 – EASEMENT LAND

2.1 Grant of Easement.

Manitoba hereby:

- a. grants to Hydro the right, liberty, privilege and easement in accordance with the terms and conditions in this Easement Agreement; and
- b. reserves to itself out of the transfer to the Partnership such administration and control as is required to assure to Manitoba the right, liberty, privilege and easement in accordance with the terms and conditions in this Agreement;

with respect to all the land described as:

[Insert legal description of lands between the Easement Line and the water boundary of the parcel of the Transferred Land.]

together with all land that may, through the process of accretion, become part of the Transferred Land.

2.2 Easement Granted for the Benefit of Project Structures.

The Easement granted to Hydro and reserved to Manitoba under section 2.1 is for the benefit of the lands on which the structures comprising the Project are located, which constitute the "Dominant Tenement" of the Easement.

2.3 Easement under clause 111(1)(a.1) of *The Real Property Act*.

The Easement granted to Hydro and reserved to Manitoba under section 2.1 is an interest in land and also constitutes a "right for the inundation and storage of water" within the meaning of clause 111(1)(a.1) of *The Real Property Act* (Manitoba). Hydro and Manitoba may file a caveat against the title of any parcel of land held by the Partnership that includes any of the Easement Land, to provide notice of that interest.

2.4 Easement to Hydro to Continue after Transfer to the Partnership

This Easement Agreement and the rights granted to Hydro under this Easement Agreement will come into effect upon the execution of this Easement Agreement and will continue in effect following the transfer of the Transferred Land to the Partnership.

2.5 Reservation of Interest by Manitoba to Continue after Transfer to the Partnership.

The interest reserved by Manitoba to itself out of the transfer to the Partnership of the Transferred Land will come into effect upon the transfer of the Transferred Land to the Partnership and will continue in effect following the transfer of the Transferred Land to the Partnership.

ARTICLE 3 – SCOPE OF EASEMENT

3.1 Rights and Privileges.

Hydro and Manitoba will have the right and privilege during the currency of this Easement Agreement to

- (a) regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land in accordance with, and subject to, the provisions of this Easement Agreement; and will and may peaceably hold and

enjoy the rights, privileges and easements hereby granted without obstruction, hindrance, molestation or interruption on the part of the Partnership; and

- (b) conduct work associated with bank protection, including, without limitation, the installation of gauges, weirs, meters, or other devices for water or water power measurements or for measuring the output of electrical or other form of energy.

3.2 Purposes of Easement.

The Easement granted in this Easement Agreement, to regulate the flow of, to inundate and store water on or over, and to affect from time to time, the Easement Land, is solely for purposes related and ancillary to the Project, in accordance with the provisions of this Easement Agreement.

3.3 Limitations.

This Easement Agreement does not grant to Hydro or Manitoba any rights to, or to the use of, the Easement Land, other than as expressly set forth in this Easement Agreement; and the Partnership may use or continue to use the Easement Land in any manner not contrary to the provisions of this Easement Agreement.

3.4 Exclusions from Grant of Easement

Nothing in this Easement Agreement will be deemed to vest in Hydro:

- (a) any title to the casual revenues of the provincial Crown;
- (b) any title to the mines, ores, metals, coal, slate, oil, gas, hydrocarbons, aggregate or other minerals in or under the land comprising the Easement Land;
- (c) any right to prevent the exploitation of such minerals by or with the permission of Manitoba in accordance with The Mines and Minerals Act (Manitoba).

ARTICLE 4 – ASSUMPTION OF RIGHTS AND OBLIGATIONS BY MANITOBA

4.1 Assumption by Manitoba.

In the event that Hydro ceases to:

- (a) be an agent of Manitoba; or
- (b) have effective legal authority and control over the operation of the Project;

and written notice thereof is given to the Partnership and all persons with registered interests in the Easement Land, then Manitoba will, effective on the date notice is given, assume all of the rights and obligations of Hydro under this Easement Agreement; but in any such event, the assumption by Manitoba of Hydro's rights and obligations under this Easement Agreement will not relieve Hydro of its obligations under this Easement Agreement.

4.2 Dispute.

If a dispute should arise between Manitoba and Hydro with respect to their respective obligations to the Partnership and all persons with a registered interest in the Easement Land under section 4.1, Manitoba will ensure such obligations are met.

**ARTICLE 5 – BANK AND EASEMENT LINE PROTECTION,
MAINTENANCE AND RELATED MATTERS**

5.1 Inspection, Protection and Maintenance by Hydro and the Partnership.

Hydro and the Partnership will each have the right to inspect, protect and maintain, at their own expense, the banks and shorelines forming part of the Easement Land.

5.2 Inspection, Protection and Maintenance by Hydro.

Subject to Article 6, Hydro will periodically inspect, protect and maintain the banks and shorelines within the Easement Land, to ensure that lands above the Easement Line, and not forming part of the Easement Land, are not damaged or impaired by erosion, slumping or other adverse impacts due to the use of the Easement Land for purposes of the Project.

5.3 Standards.

All bank protection, shoreline or maintenance work on Easement Land, performed under this Easement Agreement, will be done by Hydro at its own expense in a workmanlike fashion and in accordance with applicable engineering standards and with all applicable laws, except where that work is required as a result of the construction or operation of the Wuskwatim Generating Station.

5.4 Storage of Vehicles, Equipment and Other Chattels.

Except while work permitted under this Easement Agreement is in progress, Hydro, its agents, employees, contractors and sub-contractors will not leave, park or store any vehicles, equipment or other chattels on the Easement Land.

5.5 Damage caused by the Partnership.

Where damage is caused to bank protection put in place by Hydro, or like works constructed or placed by Hydro on the Easement Land, due to the negligence or deliberate act of the Partnership, the Partnership will, at its expense, restore such works to the reasonable satisfaction of Hydro.

5.6 Waste.

Hydro, its agents, employees, contractors and sub-contractors will not commit or permit the commission of any waste, spoilage or destruction on the Easement Land. Any waste, spoilage or destruction on the Easement Land as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement will not be a contravention of this section 5.6.

5.7 Removal of Debris or Waste Material.

Hydro will promptly remove debris or waste material placed or caused to be placed on the Easement Land by Hydro works or operations (other than the deposit of debris and waste as a result of the regulation of the flow of, the inundation and storage of water on or over, and the affecting from time to time, of the Easement Land permitted under this Easement Agreement); and in any event not later than seven (7) days after receipt of a written request to do so from the Partnership.

5.8 Disposal of Material.

Hydro will dispose of any material excavated or removed from the Easement Land in connection with any work permitted under this Easement Agreement or any work otherwise approved in writing by the Partnership, in such location as may reasonably be directed by the Partnership. If the Partnership has not provided such direction within fourteen (14) days of a request by Hydro for such direction, or in the event of an emergency, Hydro may dispose of any material excavated or removed from the Easement Land at a location off the lands held by the Partnership. Any such disposal will be in compliance with all applicable laws and regulations.

5.9 Location and Restoration of Easement Line.

In order that construction or other activities within the Easement Land or near the Easement Line can be appropriately located, Hydro will, if requested and reasonably required by the Partnership:

- (a) locate or restore the Easement Line;

- (b) establish or restore cut lines associated with the Easement Line; and
- (c) place, check or replace survey monuments.

5.10 Restoration of Survey Monuments by Hydro.

Hydro will ensure that all legal or control survey monuments are protected and not disturbed, damaged or destroyed in the course of any of its activities pursuant to this Easement Agreement. Where any monuments have been or are disturbed, damaged or destroyed as a result of Hydro activities or works related to the Project, including Project operations, Hydro will at its expense have such monuments replaced by a qualified Land Surveyor. This section 5.10 does not apply to legal or control survey monuments which have been lawfully inundated as of the date of this Easement Agreement.

5.11 Restoration of Survey Monuments by the Partnership.

Where survey monuments are disturbed as a result of deliberate or negligent actions of the Partnership, it will be the responsibility of the Partnership to restore or replace such monuments.

5.12 Non-Interference by Hydro.

Hydro will, insofar as it is reasonably practical to do so, conduct all work so as not to interfere with the ordinary use or uses of either the Easement Land or other lands held by the Partnership adjacent to the Easement Land.

5.13 Approvals

Any activities of Hydro permitted or required under Article 5 will be:

- (a) undertaken by Hydro in accordance with all applicable laws; and
- (b) subject to and conditional upon Hydro obtaining all necessary approvals, licenses and permits from all governmental authorities required in connection with such activities.

5.14 Force Majeure

Whenever and to the extent that any party shall be unable to fulfill, or shall be delayed or restricted in the fulfillment of, any obligation under Article 5 in respect of the doing of any work by reason of such party being unable to obtain the material, goods, equipment, service, utility or labour required to enable it to fulfill such obligation or by reason of any statute, law or Order-In-Council or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller or board, or any governmental department or officer or other authority or by reason of not being able to obtain any permission or authority required thereby, or by reason of any other cause beyond its reasonable control whether of the foregoing character or not, such party shall be entitled to extend the time for fulfillment of such obligation by a time equal to the duration of such delay or restriction, and the other parties shall not be entitled to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

ARTICLE 6 – ACCESS TO EASEMENT LAND

6.1 Easement for Access.

Subject to sections 6.2 to 6.4 inclusive, Hydro will have the right and privilege during the currency of this Easement Agreement to access the Easement Land over and upon the lands held by the Partnership, with or without vehicles, machinery and equipment for such inspections, bank protection, maintenance and other purposes authorized by this Easement Agreement, as Hydro at any time acting reasonably deems necessary or expedient.

6.2 Notice for Access.

Notice requirements for access will be as follows:

- (a) except in the case of an emergency, Hydro will give the Partnership not less than thirty (30) days written notice of the nature of bank protection, maintenance or other work to be performed on the Easement Land, and not less than ten (10) days written notice of inspections on Easement Land, or such other periods of notice as may be agreed upon by Hydro and the Partnership in writing; and
- (b) in the event of an emergency, Hydro will, as soon as possible after the need is identified, give the Partnership notice by telephone and, where a facsimile number is available, by facsimile, of the nature of the work to be performed on the Easement Land.

6.3 Other Means of Access.

Hydro will, where it is reasonable and practical to do so, enter upon or exit from the Easement Land for purposes authorized by this Easement Agreement by means that do not involve crossing the lands held by the Partnership. Where, in the opinion of Hydro, it is impossible or impractical to enter upon or exit from the Easement Land for purposes authorized under this Easement Agreement, except across the lands held by the Partnership, the notice under section 6.2 will include:

- (a) the proposed route across the lands held by the Partnership, which will be by means of existing roads, except where demonstrably impractical;
- (b) the earliest contemplated entry date; and
- (c) the estimated exit date.

6.4 Objection by the Partnership to Proposed Means of Access.

The Partnership may, within seven (7) days of receipt of a notice under section 6.3, object to the proposed access by notifying Hydro in writing of its objections. Promptly after Hydro's receipt of such a notice by the Partnership, the Partnership and Hydro will use their best efforts to resolve their differences, in the interests of both the Partnership and Hydro. In the event those differences cannot, in the opinion of either the Partnership or Hydro, be resolved within a reasonable time, either party may refer the matter to arbitration in accordance with The Arbitration Act (Manitoba). Except in the event of an emergency, Hydro will refrain from use of the proposed access until the application or action is conclusively disposed of by arbitration.

6.5 Non-Interference by the Partnership.

The Partnership covenants that it will take all reasonable steps to ensure that Hydro is able to exercise its rights of entry and exit as provided for in this Easement Agreement, without hindrance or interference.

ARTICLE 7 – PERMANENT WORKS, BUILDINGS, STRUCTURES AND IMPROVEMENTS ON EASEMENT LAND

7.1 Limitation on Construction by Hydro.

Hydro will not construct any permanent work, building, structure or improvement on the Easement Land, other than works of the nature described in paragraph 3(1)(b), without the prior written consent of the Partnership.

7.2 Construction by the Partnership.

The Partnership will not construct any permanent work, building, structure or improvement upon the Easement Land, which is or is not inundated, without the prior written consent of Hydro, which consent will not be unreasonably withheld.

ARTICLE 8 – ASSIGNMENT

8.1 Assignment or Encumbrance by Hydro.

Subject to Article 4 of this Easement Agreement, Hydro may assign or encumber its rights under this Easement Agreement. Promptly upon any such assignment, Hydro will give written notice to the Partnership. Hydro will remain liable for the performance of all of Hydro's covenants in the event of such assignment or encumbrance.

8.2 Assignment or Encumbrance by Manitoba.

Manitoba may assign or encumber its rights or assign its obligations, under this Easement Agreement. Promptly upon any such assignment or encumbrance, Manitoba will give written notice to the Partnership. Manitoba will remain liable for the performance of all of Manitoba's covenants in the event of such assignment or encumbrance, including those obligations of Hydro it is required to assume pursuant to this Easement Agreement.

8.3 Assignment by the Partnership.

The Partnership will not dispose of or alienate its interest in the Easement Land, except subject to this Easement Agreement. No alienation of the Easement Land will be permitted unless there are reservations in favour of Manitoba and Hydro of all of the rights and privileges to which Manitoba and Hydro are entitled under this Easement Agreement, including this provision in a form which binds assignees and successors in interest.

ARTICLE 9 – TAXES, LEVIES AND CHARGES

9.1 No Taxes, Levies or Charges.

The Easement hereby granted will be exercisable by Hydro without charge, rate, levy, assessment, licence, or fee or tax exigible by or payable to the Partnership in respect thereof, and this section 9.1 will be a full and sufficient exemption from any such charges.

9.2 Federal and Provincial Tax Excepted.

Section 9.1 is not intended to exempt Hydro from any applicable federal or provincial tax.

9.3 Indemnity of Hydro Regarding Levies and Charges.

Hydro will be responsible for, and will indemnify the Partnership with respect to any levies or charges assessed against the interest of Hydro in the Easement Land, or related to the use of the Easement Land by Hydro, its agents, employees, contractors and sub-contractors, where any such levies or charges are assessed pursuant to the laws of the Province of Manitoba, or are not within the scope of the provisions of section 9.1.

ARTICLE 10 – WARRANTIES OF POWER AND AUTHORITY

10.1 Warranty of Hydro.

Hydro warrants that it has full power and authority to enter into and be bound by this Easement Agreement, and that it is in compliance with all statutory requirements and Hydro by-laws in connection with the execution of this Easement Agreement.

10.2 Warranty of Manitoba.

Manitoba warrants that it has full partnership power and authority to enter into and be bound by this Easement Agreement.

10.3 Warranty of Partnership.

The Partnership warrants that it has full partnership power and authority, to be exercised by the General Partner for and on behalf of the Partnership, to enter into and be bound by this Easement Agreement.

10.4 Warranty of the Partnership re: Independent Legal Advice.

The Partnership acknowledges that the Partnership has been independently advised by legal counsel and advisors of its choice in relation to the provisions of this Easement Agreement.

ARTICLE 11 – WAIVER AND CORRECTION OF BREACH**11.1 Waiver by the Partnership.**

No waiver of any breach, by or on behalf of the Partnership, will take place or be binding made in writing by appropriate officers of the Partnership and provided to the other parties in accordance with section 13.7, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of the Partnership with respect to any future or other breach.

11.2 Waiver by Hydro.

No waiver of any breach, by or on behalf of Hydro, will take place or be binding unless made in writing by the Chair, President or Vice President of Hydro and provided to the other parties in accordance with section 13.7, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Hydro with respect to any future or other breach.

11.3 Waiver by Manitoba.

No waiver of any breach, by or on behalf of Manitoba, will take place or be binding unless made in writing by the Minister or Deputy Minister of the Government of Manitoba responsible for Hydro or for Conservation and provided to the other parties in accordance with section 13.7, and any waiver so expressed will extend only to the particular breach to which such waiver specifically relates, and will not be deemed to be a general waiver, or to limit or affect the rights of Manitoba with respect to any future or other breach.

ARTICLE 12 – LIABILITIES AND INDEMNIFICATION**12.1 Indemnity by Hydro re: Third Party Claims.**

Hydro will be responsible for and, at all times hereafter, will indemnify and save harmless the Partnership from and against all and any losses, claims, actions, damages, liabilities and expenses in connection with:

- (a) all actions, claims, and demands that may be made against the Partnership by reason of any act or omission by Hydro, in the exercise or purported exercise of the rights granted by this Easement Agreement, or occasioned by or attributable to anything done or omitted to be done by Hydro, its agents, employees,

contractors or sub-contractors in the exercise or purported exercise of the rights granted by this Easement Agreement;

- (b) any claims of any kind for loss, injury or damage to persons or property as a result of the presence or operation of vehicles, equipment or chattels of Hydro, its agents, employees, contractors or sub-contractors, on the Easement Land or access routes thereto; and
- (c) any actual or purported liens, encumbrances or charges which may attach to the Easement Land under the laws in force in the Province of Manitoba, where such liens, encumbrances or charges arise from the acts or omissions of Hydro, its agents, employees, contractors or sub-contractors;

provided that such indemnity shall not extend to or include any claims by any third party due in whole or in part from the Partnership granting, or purporting to grant, any rights in the Easement Land inconsistent with Hydro's rights hereunder.

12.2 Limitation on Indemnity by Hydro regarding Third Party Claims

The obligations of Hydro in connection with the indemnities referred to in section 12.1 are conditional upon the Partnership:

- (a) forthwith, upon becoming aware of such claim, giving notice to Hydro;
- (b) supporting any application by Hydro to be named as a party thereto; and
- (c) first having received from Hydro its consent to the terms of any settlement whether or not such settlement is submitted to a court of competent jurisdiction to be made an order of that Court.

12.3 Compensation by Hydro Regarding Hydro Acts.

Except as provided in section 12.4, Hydro will be liable to compensate the Partnership, and any persons claiming through or under the Partnership, for any and all damage done on lands held by the Partnership to any property, real or personal, of the Partnership, or any person claiming through or under the Partnership, caused by Hydro, its agents, employees, contractors or sub-contractors;

12.4 Limitation of Hydro's Liability under Section 12.3.

Hydro and Manitoba will not be liable to the Partnership, or any person claiming through or under the Partnership, with respect to any loss, damage, or injury to persons or property, arising out of their respective use of the Easement Land for any purpose authorized by this Easement Agreement, including, regulating the flow of, inundating and storing water on or over, or affecting from time to time, the Easement Land, within the terms and conditions prescribed in this Easement Agreement; but nothing herein will exculpate Hydro for any loss, damage or injury to persons or property, arising from the breach of any provision of this Easement Agreement or arising from the negligence or wilful misconduct of Hydro, its agents, employees, contractors and sub-contractors.

ARTICLE 13 – GENERAL PROVISIONS

13.1 Interpretation.

The division of this Easement Agreement into articles and sections is for convenience of reference only and will not affect the construction or interpretation of this Easement Agreement. Headings used in this Easement Agreement are for general guidance only and do not have substantive meaning so as to modify the text or the provisions of this Easement Agreement.

13.2 Extended Meanings.

Words importing the singular number include the plural and vice versa as the context may require. Words importing persons will include firms, governments and corporations, and vice versa, as the context may require.

13.3 Reference to Agreement.

The term "herein" and any similar expressions refer to this Easement Agreement and not to any particular article, paragraph or other portion of this Easement Agreement.

13.4 Further Assurances.

Each of the parties to this Easement Agreement will, from time to time, at another party's request and expense, and without further consideration, execute and deliver such other instruments of transfer, conveyance and assignment, and take such further action as the other may require, to complete more effectively any matter provided for in this Easement Agreement.

13.5 Enurement.

This Easement Agreement will enure to the benefit of, and be binding upon, the parties to this Easement Agreement and their respective heirs, successors and assigns.

13.6 Prohibited Assignment.

No part of this Easement Agreement may be assigned or otherwise transferred except as expressly provided for in this Easement Agreement.

13.7 Notice.

Whenever in this Easement Agreement it is required or permitted that notice be given by any party to this Easement Agreement to or on any other party to this Easement Agreement, such notice will be given in writing and forwarded by registered mail or transmitted by facsimile and confirmed by telephone, addressed as follows:

- a. to the Partnership at:

Wuskwatim Power Limited Partnership
c/o 5022649 Manitoba Ltd.
Attention: President
3rd Floor, 820 Taylor Avenue
Winnipeg MB R3C 2P4
Fax. (204) 474-4947

- b. to Hydro at the office of the General Counsel of Manitoba Hydro .

3rd Floor, 820 Taylor Avenue
Winnipeg MB R3C 2P4
Fax. (204) 474-4947

- c. to Manitoba at the office of the Deputy Minister of Conservation; and

Room 343 Legislative Building, 450 Broadway
Winnipeg, MB R3C 0V8
Fax. (204) 948-2403

A party whose address changes will promptly notify each other party of such change.

SIGNED, SEALED AND DELIVERED this date of , 2006

HER MAJESTY THE QUEEN IN THE
RIGHT OF THE PROVINCE OF
MANITOBA

Per:

Minister of Conservation

THE MANITOBA HYDRO-ELECTRIC
BOARD

Per:

Per:

5022649 MANITOBA LTD. (the
General Partner of the Wuskwatim
Power Limited Partnership on
behalf of the Wuskwatim Power
Limited Partnership)

Per

Per